

New Jersey Supreme Court Rules that Plaintiffs Cannot Recover as Economic Damages Medical Expenses in Excess of Their Chosen PIP Limits

Since the passage of the Automobile Insurance Cost Reduction Act (AICRA), New Jersey automobile drivers have had the option of choosing lower personal injury protection (PIP) coverage on their automobile insurance policies than the standard limit of \$250,000. However, since the passage of AICRA, it is unclear as to whether a person who chooses PIP coverage less than \$250,000 can submit to the jury as an economic damage medical expenses not paid by his automobile insurance carrier in a personal injury lawsuit. The issue seemed to have been resolved when the Appellate Division ruled that evidence of unreimbursed medical benefits incurred by a Plaintiff who has PIP limits of less than \$250,000 can be submitted to a jury as an economic loss in *Haines v. Taft* 450 N.J. Super. 295 (App. Div. 2017). However, on March 26, 2019, the Supreme Court of New Jersey is seeming to require New Jersey courts to take an "about face" on the issue when it reversed the Appellate Division's decision in *Joshua Haines v. Jacob W. Taft*. (A-13/14-17) (079600).

In *Haines*, the Supreme Court considered two cases in which a plaintiff was injured in a car accident. Both Plaintiffs were insured by a standard policy of automobile insurance that provided for \$15,000.00 in PIP coverage. Neither Plaintiff was able to sustain a claim for bodily injury due to the choice of the limitation on lawsuit option on his automobile policy. However, each plaintiff was suing for outstanding medical bills in excess of elective PIP coverage. One plaintiff incurred \$28,000.00 over the limit of \$15,000.00 and the other plaintiff incurred \$10,000.00 over his limit of \$15,000.00. In each case, the Trial Court barred the Plaintiffs from admitting evidence of their medical expenses that exceeded their \$15,000.00 PIP limits. However, the Appellate Division reversed the Trial Court's decisions and ruled that the evidence of medical expenses between \$15,000.00 and \$250,000.00 was not barred by N.J.S.A. 39:6A-12, and therefore, can be admissible as economic damages against the tortfeasor.

In their opinion, the Supreme Court stated that they were considering the issue of whether a Plaintiff who elected less than \$250,000 in the context of a stand-alone claim to be able to sue for only uncompensated medical expenses, in a case where the limitation-on-lawsuit policy option prevented a claim for bodily injury. They then analyzed the legislative intent of New Jersey's no-fault law to create automatic medical reimbursement for injured motor vehicle accident victims as well as manage medical costs. The Court then noted that a New Jersey automobile driver has the option of choosing \$250,000.00 in PIP benefits and should not, therefore, benefit in a lawsuit against a tortfeasor claiming as an economic loss (i.e. medical bills) that resulted from a decision to save money by purchasing lower PIP limits. After analyzing the issue, the Supreme Court reversed the Appellate Division's decision and ruled that the Plaintiffs are precluded from submitting evidence to the jury for medical bills incurred above their PIP limits.

Comment: In light of the Supreme Court's decision in *Haines*, it appears that a Plaintiff who chose lower PIP limits is now precluded from submitting evidence of unpaid medical bills up to \$250,000 to the jury as an economic loss. However, since the Supreme Court was clear that their decision was made in the context of a stand-alone claim to be able to sue for only uncompensated medical expenses in a case where the limitation-on-lawsuit policy option prevented a claim for bodily injury, we expect that Plaintiffs will make the argument that the *Haines* decision is limited and does not apply to cases where the limitation of the lawsuit defense is not an issue, such as where the tortfeasor is the operator of a commercial vehicle. Although we suggest that the *Haines* decision should be applied to all bodily cases, how Trial Courts will apply *Haines* is

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uncertain.