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C A S E A L E R T

APPELLATE DIVISION BARS DAMAGES BASE ON FRAUDULENT PROCUREMENT OF OUT-OF-STATE INSURANCE FOR A LOWER PREMIUM

Last month [Gina Stanziale](#) and [Alicia Langone](#) of Methfessel & Werbel represented the Insurance Council of New Jersey as *amicus curiae* in the matter of [Jeffrey E. Scholes v. Stephen M. Hausmann and Kimberly Logan](#), in which the Appellate Division barred an award of damages to a plaintiff who admittedly procured out-of-state automobile insurance in order to obtain a lower premium.

The Court found that although the injured plaintiff was insured in Florida, he was uninsured at the time of the accident for purposes of New Jersey insurance coverage. The plaintiff had lived in New Jersey for five years and garaged his vehicle in New Jersey yet his vehicle title, registration and insurance were procured in Florida and included a fictitious Florida address.

Under [N.J.S.A. 39:6A-4.5\(a\)](#), drivers must maintain Personal Injury Protection (PIP) coverage, and “shall have no cause of action for recovery of economic or non-

economic loss” stemming from an accident in its absence. Since the plaintiff’s vehicle was principally garaged in New Jersey, the automobile insurance policy would have to be approved by the Department of Banking and Insurance and carry at least \$15,000 in PIP coverage. The Florida policy had no such approval and provided only \$10,000 in PIP benefits. As such, the plaintiff was barred from recovering both economic and non-economic damages.

With this published decision the Appellate Division reiterates that anyone who seeks to circumvent the insurance laws by insuring a vehicle out-of-state, yet garaging it in New Jersey, will forfeit his or her right to economic and non-economic damages in a personal injury lawsuit.

Feel free to contact Partner [Gina Stanziale](#) with any questions about this important holding or its application to your New Jersey auto claims.

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