

American Arbitration Association  
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Brooklyn Medical Practice, PC  
(Applicant)

- and -

American Transit Insurance Company  
(Respondent)

AAA Case No. 17-24-1351-6058

Applicant's File No. AR24-24217

Insurer's Claim File No. 1093873

NAIC No. 16616

### **ARBITRATION AWARD**

I, Camille Nieves, the undersigned arbitrator, designated by the American Arbitration Association pursuant to the Rules for New York State No-Fault Arbitration, adopted pursuant to regulations promulgated by the Superintendent of Insurance, having been duly sworn, and having heard the proofs and allegations of the parties make the following **AWARD**:

Injured Person(s) hereinafter referred to as: Eligible Injured Person (OF)

1. Hearing(s) held on 11/11/2024  
Declared closed by the arbitrator on 11/11/2024

Alek Beynenson from The Beynenson Law Firm, PC participated virtually for the Applicant

American Transit from American Transit Insurance Company participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **\$3,936.00**, was NOT AMENDED at the oral hearing.  
Stipulations WERE NOT made by the parties regarding the issues to be determined.
3. Summary of Issues in Dispute

Applicant seeks reimbursement for therapeutic treatment from 2/15/21 to 12/27/21 following a motor vehicle accident on 2/6/21. The charges were denied based on Workers' Compensation. The EIP is a 32 year old male driver.

4. Findings, Conclusions, and Basis Therefor

Applicant seeks reimbursement for therapeutic treatment from 2/15/21 to 12/27/21 following a motor vehicle accident on 2/6/21. The charges were denied based on Workers' Compensation. The EIP is a 32 year old male driver.

In case no. 17-22-1258-2886 another Arbitrator deemed the defense not sustainable based on the absence of an NF2. The award in 17-20-1175-5749 based on the same facts was upheld by a Master Arbitrator.

I find the matter is subject to the doctrine of issue preclusion based on collateral estoppel.

The bill for 12/2/21 to 12/7/21 was also denied based on 45 days which respondent concedes is due and owing as applicant submits adequate proof of timely mailing.

No fee schedule issues were raised.

The charges are awarded.

5. Optional imposition of administrative costs on Applicant.  
Applicable for arbitration requests filed on and after March 1, 2002.

I do NOT impose the administrative costs of arbitration to the applicant, in the amount established for the current calendar year by the Designated Organization.

6. **I find as follows with regard to the policy issues before me:**

- The policy was not in force on the date of the accident
- The applicant was excluded under policy conditions or exclusions
- The applicant violated policy conditions, resulting in exclusion from coverage
- The applicant was not an "eligible injured person"
- The conditions for MVAIC eligibility were not met
- The injured person was not a "qualified person" (under the MVAIC)
- The applicant's injuries didn't arise out of the "use or operation" of a motor vehicle
- The respondent is not subject to the jurisdiction of the New York No-Fault arbitration forum

Accordingly, the applicant is AWARDED the following:

A.

		<b>Claim</b>	
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<b>Medical</b>		<b>From/To</b>	<b>Amount</b>	<b>Status</b>
	<b>Brooklyn Medical Practice, PC</b>	<b>02/15/21 - 02/15/21</b>	<b>\$149.78</b>	<b>Awarded: \$149.78</b>
	<b>Brooklyn Medical Practice, PC</b>	<b>02/16/21 - 02/28/21</b>	<b>\$269.12</b>	<b>Awarded: \$269.12</b>
	<b>Brooklyn Medical Practice, PC</b>	<b>03/01/21 - 03/17/21</b>	<b>\$452.42</b>	<b>Awarded: \$452.42</b>
	<b>Brooklyn Medical Practice, PC</b>	<b>06/01/21 - 06/29/21</b>	<b>\$724.28</b>	<b>Awarded: \$724.28</b>
	<b>Brooklyn Medical Practice, PC</b>	<b>07/02/21 - 07/28/21</b>	<b>\$573.53</b>	<b>Awarded: \$573.53</b>
	<b>Brooklyn Medical Practice, PC</b>	<b>08/01/21 - 08/24/21</b>	<b>\$269.12</b>	<b>Awarded: \$269.12</b>
	<b>Brooklyn Medical Practice, PC</b>	<b>09/08/21 - 09/29/21</b>	<b>\$241.24</b>	<b>Awarded: \$241.24</b>
	<b>Brooklyn Medical Practice, PC</b>	<b>10/03/21 - 10/31/21</b>	<b>\$430.05</b>	<b>Awarded: \$430.05</b>
	<b>Brooklyn Medical Practice, PC</b>	<b>11/01/21 - 11/30/21</b>	<b>\$430.05</b>	<b>Awarded: \$430.05</b>
	<b>Brooklyn Medical Practice, PC</b>	<b>12/02/21 - 12/27/21</b>	<b>\$396.41</b>	<b>Awarded: \$396.41</b>
<b>Total</b>			<b>\$3,936.00</b>	<b>Awarded: \$3,936.00</b>

B. The insurer shall also compute and pay the applicant interest set forth below. 06/11/2024 is the date that interest shall accrue from. This is a relevant date only to the extent set forth below.

Interest shall be computed from the date of filing at a rate of 2% per month, simple, ending with the date of payment of the award.

C. Attorney's Fees

The insurer shall also pay the applicant for attorney's fees as set forth below

Pursuant to 11 NYCRR 65-4.6, 20% of the amount of first party benefits, plus interest thereon, subject to a maximum of \$1360.00.

D. The respondent shall also pay the applicant forty dollars (\$40) to reimburse the applicant for the fee paid to the Designated Organization, unless the fee was previously returned pursuant to an earlier award.

This award is in full settlement of all no-fault benefit claims submitted to this arbitrator.

State of FL  
SS :  
County of Seminole

I, Camille Nieves, do hereby affirm upon my oath as arbitrator that I am the individual described in and who executed this instrument, which is my award.

11/12/2024  
(Dated)

Camille Nieves

**IMPORTANT NOTICE**

*This award is payable within 30 calendar days of the date of transmittal of award to parties.*

*This award is final and binding unless modified or vacated by a master arbitrator. Insurance Department Regulation No. 68 (11 NYCRR 65-4.10) contains time limits and grounds upon which this award may be appealed to a master arbitrator. An appeal to a master arbitrator must be made within 21 days after the mailing of this award. All insurers have copies of the regulation. Applicants may obtain a copy from the Insurance Department.*

**ELECTRONIC SIGNATURE**

**Document Name:** Final Award Form  
**Unique Modria Document ID:**  
a8937d63c4078e49c9d4e021350d2b19

**Electronically Signed**

Your name: Camille Nieves  
Signed on: 11/12/2024