

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Five Towns Physicians PC
(Applicant)

- and -

LM General Insurance Company
(Respondent)

AAA Case No. 17-24-1365-4352

Applicant's File No. DK23-422489

Insurer's Claim File No. AB94952790004

NAIC No. 23035

ARBITRATION AWARD

I, Anne Malone, 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: EIP

1. Hearing(s) held on 04/13/2026
Declared closed by the arbitrator on 04/13/2026

Jennifer Raheb, Esq. from Korsunskiy Legal Group, P.C. participated virtually for the Applicant

Elvira Messina, Esq. from Callinan & Smith LLP participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **\$469.99**, 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

The 23 year old EIP reported involvement in a motor vehicle accident on October 3, 2023; claimed related injury and underwent ultrasound of the lumbar spine, bilateral shoulders and knees and right elbow provided by the applicant on October 11, 2023.

The claim was denied by the respondent on the grounds that there was no coverage for this claim/loss because the subject incident resulted from an intentional act.

The issues to be determined at the hearing is whether the respondent established its coverage defense based on fraud.

4. Findings, Conclusions, and Basis Therefor

This decision is based upon the documents reviewed in the Modria File as well as the arguments made by counsel and/or representative at the arbitration hearing. Only the arguments presented at the hearing are preserved in this decision; all other arguments not presented at the hearing are considered waived.

To support its denial based on fraud and material misrepresentation the respondent submitted the affirmation of Amanda Semmel, an SIU investigator employed by the respondent. The affirmation includes the following information obtained during the investigation of this claim:

- i The incident occurred within minutes of the initiation of the trip;
- ii The location of the incident is known by insurance companies as a "hotspot" for targeting livery vehicles; See Exhibit "2".
- iii The adverse vehicle fled the scene; See Exhibit "2."
- iv Both passengers in the insured vehicle sought extensive medical treatment from the same providers despite refusing medical attention at the scene; and
- v The medical services incommensurable with the low-velocity collision and the vehicle's minor damage; see Exhibit "3."

As part of the investigation into the subject claim, Respondent sought both [EIP] and [other passenger] Examinations Under Oath.

The EUOs were held and a transcript of the testimony was submitted. The submissions also include the comprehensive affirmation by Ms. Semel which includes a detailed recitation of the testimony and her assessment of the contradictions and the truthfulness of both of the witnesses.

Ms. Semel concluded that:

[The EIP and passenger] provided contradictory testimonies.

Initially, [other passenger] indicated that he met up with [EIP] at an unknown location in downtown Manhattan and they had

taken Uber to Valley Stream. In contrast, [EIP] testified that they got together in the Valley Stream area. [EIP] and [other passenger] provided differing testimony regarding the frequency of meetups at the purported address the evening of the incident, with [EIP] claiming [other passenger] had been there before and [other passenger] denying that he had never been to the address previously. Further, [other passenger] denied that there was any discussion about modifying the trip, contrary to [EIP] testimony. Finally, [EIP] and [other passenger] provided conflicting information regarding the timing of the incident, as the incident occurred within moments of the Uber ride's beginning. Notably, neither individual saw the impact, and both provided very minimal descriptions of the location of the incident.

Based on the totality of its investigation, Liberty Mutual formed a founded belief that the subject incident resulted from an intentional act consistent with an elaborate fraudulent scheme targeting livery drivers to obtain pecuniary gain at the expense of insurance companies and the public at large.

The respondent supported its position with relevant case law including the following:

The holding in Metro Medical Diagnostics v. Eagle, 293 A.D.2d 751, 752 (N.Y. App. Div. 2d Dept. 2002) which determined that "A deliberate collision caused in furtherance of an insurance fraud scheme is not a covered accident."

In addition, the courts in New York have consistently held that an automobile incident that is the product of a staged or cause-of-event is not a covered loss under the applicable policy of insurance. See Allstate v. Massre, 789 N.Y.S.2d. 206 (N.Y. App. Div. 2d Dept. 2005); State Farm v. Laguerre, 305 A.D.2d 490 (N.Y. App. Div. 2d Dept. 2003.)

In addition, the case law supports the fact that an insurance carrier is not precluded from raising, at any time, the fact that an automobile incident was not the product of a covered event, as "coverage" is a non-waivable matter. See Central General Hospital v. Chubb Group of Insurance Companies, 90 N.Y.2d 195 (N.Y. 1997); Zappone v. Home Insurance Company, 55 N.Y.2d 131 (N.Y. 1982.)

The applicant did not submit any evidence or caselaw to refute the evidence submitted by the respondent.

After a review of the EUO testimony and other submissions, based on the totality of the evidence submitted, I find that the respondent has established that there were material misrepresentations on the part of the EIP and [other passenger], that the accident was "staged" and the defense of fraud was supported by caselaw and the circumstances of the subject incident.

Accordingly, the claim is dismissed with prejudice.

Any further issues submitted in the record are held to be moot and/or waived insofar as they were not raised at the time of this hearing. This decision is in full disposition of all claims for no-fault benefits presently before this Arbitrator.

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 claim is DENIED in its entirety

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

State of CT

SS :

County of Fairfield

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

04/23/2026

(Dated)

Anne Malone

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:
87ce2f1fdaefae6244f3785f38db58bb

Electronically Signed

Your name: Anne Malone
Signed on: 04/23/2026