

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**  
**IN AND FOR NEW CASTLE COUNTY**

**Joanne Dudsak and Kelly Anne Muscle,** )

Plaintiff, )

v. )

**C.A. No.: N23C-08-135 FJJ**

**Christopher Koester, Larissa Jones and** )

**New Jersey Manufacturers Ins. Co.,** )

Defendants. )

**ORDER**

1. Defendants have moved for summary judgment on the issue of whether plaintiffs may introduce at trial as part to their special damages those amounts paid by New Jersey Manufacturers pursuant to a PIP policy issued in New Jersey covering plaintiffs.

2. In a related Court of Chancery action the Court has just issued a decision in *Allstate Insurance Company v. New Jersey Manufacturers Insurance Company* vacating a subrogation award in favor of NJM against Allstate the insurance carrier for the defendants in this case.

3. It is well settled Delaware law that an out of state plaintiff is not subject to the evidentiary strictures of 21 *Del. C.* §2118 (h).<sup>1</sup>

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<sup>1</sup> *Reed v. Hoffecker*, 616 A.2d 835 (Del. 1992).

4. Plaintiffs may introduce special damages even if some of those damages were paid by NJM under the NJM NJ PIP policy.

5. Defendants' Motion is DENIED.

**IT SO ORDERED** this 1st day of October, 2024.

*/s/ Francis J. Jones, Jr.*

Francis J. Jones, Jr., Judge

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