
Civil Practice Update

All the Law That's Fit to Print

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Does Vacant Property Owner Owe A Duty To Warn A Patrolman Of A Dangerous Condition? For those of you who said no, you would be incorrect. In Rowe v. Mazel Thirty, 209 N.J. 35 (2012), plaintiff was part of a police initiative to check vacant apartment buildings. When he went to the basement of the subject property, the steps broke causing him injuries. The Supremes held that the landowner owed a duty to warn the police officer of any dangerous conditions of which the landowner knew or had reason to know and of which the police officer was reasonably unaware. The Supremes reasoned that the officer was a licensee. Ultimately, the Supremes reversed the grant of summary judgment and remanded for a determination on the officer's awareness of the dangerous condition. This is an interesting decision, and in our view, the balancing test created here is fair to all parties.

Are Medical Bills In Excess of \$15,000 Admissible At Trial Where Plaintiff Selected \$15,000 For PIP? For those of you who said yes, you would be correct! In Wise v. Marienski, 2011 N.J. Super. LEXIS 227 (Law Div. 2012), the defendant moved to bar evidence of plaintiffs' medical bills in excess of \$15,000 because they had selected the

\$15,000 of PIP. For starters, N.J.S.A. 39:6A-12 provides that the amount paid through PIP is not admissible at trial, but concludes that nothing stated in the section limits the right to recover for uncompensated economic losses. N.J.S.A. 39:6A-2(k) defines economic loss to include uncompensated medical expenses. The trial court in Union County first traced the history of the No Fault Act, and explained that AICRA (1998) permitted drivers to choose PIP lower than \$250,000 to reduce premiums to those drivers. The trial court held that the medical bills in excess of \$15,000 were recoverable because section 12 was designed to prevent double recovery, which was not happening in the case, and because AICRA was designed to create choice, which would be stunted if the statute was narrowly construed to prevent recovery of the medical bills. We agree with this decision because it correctly interprets the plain language of and executes the intent of AICRA.

Contributions. If you have an interesting case, rule interpretation, ethics issue, or civil-related story, please contact me at (201) 845-5962, (f) (201) 845-5973, or e-mail mjepstein@theepsteinlawfirm.com.

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