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## NJCJI Applauds Court's Commitment to the Rule of Law in Complex Medical Malpractice Case

The New Jersey Supreme Court has today released [its opinion in the interesting medical malpractice case, \*DeMarco v. Stoddard\*](#). The 5-2 majority opinion overturned an Appellate Division decision that had treated medical malpractice insurance like auto insurance, and reaffirmed the court's commitment to applying the law as written.

“Unfortunately, insurance companies are sometimes caught between policy holders who fraudulently obtain coverage and innocent third parties who have been injured,” said NJCJI president Marcus Rayner. “The majority did an admirable job in looking to the underlying statute and applying the law as it exists, not as they may wish it to be. Though the dissenters argued otherwise, the statute was not on their side.”

The New Jersey Civil Justice Institute filed [an \*amicus curiae\* “friend of the court” brief in this case](#). We argued that malpractice insurance is significantly different from automobile insurance, and thus New Jersey's unique rules requiring automobile insurers to compensate innocent third parties, even when the insurance policy held by the tortfeasor is void, should not be extended to cases involving medical malpractice insurance. The statutory foundation that the automobile rule is built on is simply inapplicable to any other type of insurance, and the required statutory minimums for auto insurance are significantly lower (\$15/30K vs. \$1 million) than for medical malpractice insurance. The high court ruling aligns with our arguments.

Contact 609-392-6557 or [ekelchen@civiljusticenj.org](mailto:ekelchen@civiljusticenj.org) if you would like to speak to someone from NJCJI about the importance of this decision, and its impact on our state's business climate and medical and insurance communities.

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