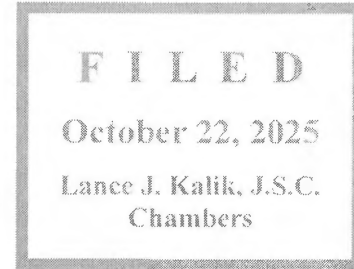


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SUPERIOR COURT OF NEW JERSEY  
SPECIAL CIVIL PART - SOMERSET COUNTY  
DOCKET NO. SOM-DC-000688-24

JUSTIN ZIMMERMAN, ACTING )  
COMMISSIONER OF THE NEW )  
JERSEY DEPARTMENT OF )  
BANKING AND INSURANCE, )  
Plaintiff, )  
v. )  
SAMIR KUMAR PATEL, )  
Defendant. )

Civil Action

**ORDER FOR FINAL JUDGMENT BY  
DEFAULT**

THIS MATTER HAVING BEEN opened to the Court on the  
application of Matthew J. Platkin, Attorney General of New  
Jersey, (by Richard E. Wegryn, Jr., Deputy Attorney General,  
appearing), attorney for Plaintiff, Justin Zimmerman,

Commissioner of the New Jersey Department of Banking and Insurance on a motion for final judgment by default; and

Defendant, Samir Kumar Patel ("Defendant"), having been duly served with a copy of the Summons and Complaint in the above-captioned action and default having been entered for failure to appear, answer, or otherwise defend;


This Court now finds that Defendant violated the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 to -30 ("Fraud Act"), specifically N.J.S.A. 17:33A-4(a)(4)(b) and N.J.S.A. 17:33A-4(a)(5), by knowingly providing false and misleading information concerning a material fact to MONY Life Insurance Company of America ("MONY" or "Equitable") in a December 17, 2019 application for individual life insurance; and

FINAL JUDGMENT is on this 6<sup>th</sup> day of October, 2025, entered in the amount of \$13,500.00 against Defendant Samir Kumar Patel and in favor of Plaintiff, Justin Zimmerman, Commissioner of the New Jersey Department of Banking and Insurance. This amount consists of: a \$5,000.00 civil penalty for one violation of the Fraud Act, pursuant to N.J.S.A. 17:33A-5(b); attorneys' fees of \$7,500.00, pursuant to N.J.S.A. 17:33A-5(b); and a statutory fraud surcharge of \$1,000.00 pursuant to N.J.S.A. 17:33A-5.1.

~~IT IS FURTHER ORDERED, that a copy of this Order be~~

~~served upon all parties within \_\_\_\_\_ days of the date of receipt.~~

**IT IS FURTHER ORDERED** that service of this Order shall be deemed effectuated upon all parties upon the upload to eCourts. Pursuant to Rule 1:5-1(a), a movant shall serve a copy of this Order on all parties not served electronically within seven days of the date of this Order.

  
Honorable Lance J. Kalik, J.S.C.

This motion was:

\_\_\_\_\_ Opposed

\_\_\_X\_\_\_ Unopposed

#### **Statement of Reasons**

Plaintiff filed a complaint on February 6, 2024. A summons was served on defendant by mail and the notice informed defendant that default would occur on March 19, 2024, if defendant did not file an answer or otherwise appear. See Rule 6:2-1. In or about July 2, 2024, defendant sought to vacate default, which was granted by Order dated July 22, 2024. Pursuant to that Order, defendant was required to file an Answer by July 31, 2024. Although defendant attempted to file an answer, it was rejected because it was not filed within the time required. On June 18, 2025, defendant sought again to vacate the default, which was denied by Order dated July 21, 2025. On September 18, 2025, plaintiff filed a motion for default judgment to be entered against defendant in the sum of \$13,500.00. Defendant did not file opposition to the motion.

#### **Violations of the Insurance Fraud Prevention Act**

Plaintiff seeks default judgment for one violation of the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 to 30 ("NJIFPA"). The certification from Shama Persons, an investigator with the New Jersey Department of Banking and Insurance, Bureau of Fraud Deterrence, made on personal knowledge, that was filed in support of plaintiff's motion for default judgment, provides a detailed summary of defendant's purported violation of the NJIFPA. In sum, Investigator Persons provides proof that defendant made material misrepresentations in connection with an application for life insurance from MONY Life Insurance Company of America ("MONY") in the face amount of \$250,000. MONY subsequently rescinded the policy based on those material misrepresentations.

Plaintiff's applications also includes proof of the amounts due under the Act, as required by Rule 6:3-3(a) with respect to the amount due. Plaintiff also certified that it served a copy of the motion on the defaulting party by regular and/or certified mail, and that defendant is not a minor or mentally incapacitated person, as required by Rule 6:3-3(c). Finally, plaintiff provided a certification, with supporting documentation, that defendant is not currently serving in the military. See Rule 1:5-7.

Plaintiff submits that defendant violated N.J.S.A. 17:33A-4(a)(4)(b) and -4(a)(5) by knowingly making false and misleading statements concerning a material fact, and knowingly concealing or failing to disclose material facts, for the purpose of obtaining an insurance policy. Plaintiff's un rebutted proofs establish that defendant has violated the NJIFPA. Violations of the NJIFPA subject the violator to a civil penalty of up to \$5,000 for the first offense, \$10,000 for the second offense, and \$15,000 for each subsequent offense. N.J.S.A. 17:33A-5(b). Plaintiff seeks \$5,000 be assessed against defendant for a first offense, and plaintiff's request is granted. Plaintiff also seeks \$1,000 for a statutory surcharge pursuant to N.J.S.A. 17:33A-5.1, which is also granted.

#### Plaintiff's Request for Attorney's Fees and Costs

Plaintiff also seeks attorney's fees and costs in the amount of \$7,500.00. Plaintiff seeks attorneys' fees and costs pursuant to N.J.S.A. 17:33A-5 (b), which authorizes a court to award costs and reasonable attorneys' fees to the commissioner. See Rule 4:42-9(a)(8).

RPC 1.5(a) mandates that "[a] lawyer's fee shall be reasonable" and "in determining the reasonableness of a fee," the court is to consider the following factors:

A lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee. The factors to be considered in determining the propriety of a fee include the following:

- (1) whether the fee is fixed or contingent;
- (2) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

- (3) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- (4) the fee customarily charged in the locality for similar legal services;
- (5) the amount involved and the results obtained;
- (6) the time limitations imposed by the client or by the circumstances;
- (7) the nature and length of the professional relationship with the client; and
- (8) the experience, reputation, and ability of the lawyer or lawyers performing the services.

"Ultimately, 'the attorney bears the burden of establishing the fairness and reasonableness of' a fee arrangement. Arbus, Maybruch & Goode, LLC v. Cohen, 475 N.J. Super. 509, 515-16 (App. Div. 2023). This burden is satisfied by a preponderance of the evidence. Kopec v. Moers, 470 N.J. Super. 133, 158 (App. Div. 2022). The court should consider the lodestar, or the number of hours reasonably expended by the party's counsel in the litigation multiplied by their reasonable hourly rate. Litton Industries Inc., v. IMO Industries, Inc., 200 N.J. 386 (2009). The lodestar amount is the most significant element in the award of a reasonable fee because that function requires the trial court to evaluate carefully and critically the aggregate hours and specific hourly rates advanced by counsel for the prevailing party to support the fee application. Rendine v. Pantzer, 141 N.J. 292, 335 (1995). The court "should not accept passively the submissions of counsel to support the lodestar amount." Id. "[T]he attorney's presentation of billable hours should be set forth in sufficient detail to permit the trial court to ascertain the manner in which the billable hours were divided among the various counsel." Id.

After evaluating the hourly rate, the court must then determine the reasonableness of the number of hours worked. Id. at 337. To determine the reasonableness of the hourly rate, the court must compute the rate to that of similar services for lawyers of reasonably comparable skill, experience, and reputation. Id. The determination of the reasonable rate need not be unnecessarily complex or protracted but the court "should satisfy itself that the assigned hourly rates are fair, realistic, and accurate, or should make appropriate adjustments." Id. Where time entries note an unreasonable number of hours expended for tasks such as "routine correspondence and preparation of routine pleadings," for example, there is a need for "critical review of the certification to be supplied by counsel." Scullion v. State Farm Ins. Co., 345 N.J. Super. 431, 441 (App. Div. 2001).

Regarding permitted costs, Rule 4:42-8(a), which applies to Special Civil Part matters pursuant to Rule 6:6-1, generally entitles a prevailing party to certain costs. Costs are permitted to a prevailing party even if there is an "incomplete success." Gallo v. Salesian Soc'y, 290 N.J. Super. 616, 660 (App. Div. 1996). "[A] prevailing party may be denied an award of costs only for 'special reasons.'" Knight v. AAA Midatlantic Ins. Co., 394 N.J. Super. 333, 337 (App. Div. 2007).

In support of its application, plaintiff's counsel submitted a certification of legal fees and costs incurred. The certification provides that attorney bills at an hourly rate is \$300.00, and that the normal hourly rate for paralegal time is \$75.00.

The hourly rates of \$300.00 charged for attorney and \$75.00 for paralegal time are reasonable and similar to rates charged in the relevant community. The National Law Journal Billing Survey for 2015 provides that the median hourly rate in New Jersey was \$400 for a partner, \$325.00 for an of counsel, and \$298.00 for an associate. The court also notes that the survey lists the rates charged in 2015, which was seven years ago. Therefore, the court finds that the hourly rates charged by is reasonable and fall within the "prevailing market rates in the relevant community." Rendine, 141 N.J. at 337.

In evaluating the Rule 1.5(a) factors, the fees that counsel charged plaintiff are based on the lodestar for the tasks performed.

The amount charged is fixed, and is not contingent. Rule 1.5(a)(1).

This matter began in 2021, and required the attorneys and staff to spend a significant amount of time prosecuting this case. This matter required plaintiff's counsel to obtain proofs regarding defendant's alleged violations of the NJIFPA and respond to two separate applications to vacate default. With respect to the time spent, the total time spent by Assistant Attorney General Raymond Chance of .5 hours, Deputy Attorney General Eleanor Heck of 34.6 hours, Deputy Attorney General Richard Wegryn of .9 hours, and Attorney Assistant Julie Burk of 6.0 hours, are reasonable given the discrete tasks performed by each. Deputy Attorney General Richard Wegryn certified that the Commissioner is entitled to the total amount of \$11,250.00, but seeks reimbursement in the amount of \$7,500.00.

Counsel certified that Rule 1.5(a)(3) did not apply to the subject matter of this case.

As noted above, the rates charged by counsel are similar to rates customarily charged in the locality. Rule 1.5(a)(4).

The amount in dispute is \$6,000.00 in statutory penalties and charges and plaintiff was successful by default. Rule 1.5(a)(5).

Counsel certified that there was no particular time limitation involved in this matter. Rule 1.5(a)(6).

Counsel certified that each of the lawyers involved in the case have at least three years of legal experience and are skilled lawyers representing a State agency. Rule 1.5(a)(7) and (8).

Therefore, the application for attorney's fees is granted in the amount of \$7,500, representing 36 hours times \$300 per hour, and 6.0 hours times \$75 per hour. As noted above the total amount is \$11,250.00, but counsel is only seeking \$7,500.00.

For the reasons stated above, plaintiff's request for attorney's fees and costs in the amount of \$7,500.00 is granted.

The proposed form of order has been modified with additional language added in bold face and/or other proposed language stricken.