



## WESTCHESTER COUNTY SUPREME COURT FINDS THAT EMPLOYER MEDICAL PRACTICE IS ENTITLED TO RECEIVE MLMIC DEMUTUALIZATION FUNDS

On July 5, 2019, the Supreme Court of Westchester County issued a trial-court level decision in the case, *Maple Medical LLP v. Scott*, Index No. 51103/2019, concerning entitlement to MLMIC funds distributed in connection with MLMIC’s purchase last fall by National Indemnity Company, a Berkshire Hathaway subsidiary. This is the first trial-court level decision since the Appellate Division, First Department’s April 4, 2019 decision in *In re Schaffer, Schonholz & Drossman, LLP v. Title*, 96 N.Y.S.3d 526 (1st Dep’t 2019).

In this lawsuit, plaintiff multispecialty medical practice brought various claims against defendant physician employee seeking to establish its entitlement to funds distributed pursuant to the MLMIC purchase in connection with a policy under which the physician was insured but for which the practice paid the premiums. The physician asserted a counterclaim for a declaratory judgment for turnover of the MLMIC funds and moved for summary judgment. The practice cross-moved for summary judgment on its complaint against physician for the release of the same funds to the practice.

Justice Lawrence H. Ecker denied the physician’s motion for summary judgment and granted the practice’s motion for the MLMIC monies. In reaching its decision, the Court found that the issue presented and facts in this case were identical to those in *Schaffer*, in which the First Department found that a policyholder physician would be unjustly enriched should she, and not the radiology practice that had paid the premiums for the policy in question, be awarded the disputed MLMIC funds. Bound by the doctrine of stare decisis which required the Court to apply precedent established in another Appellate Department, the Court found in favor of the practice, holding that “the conclusions drawn in the First Department’s [*Schaffer*] decision are persuasive, and that a similar holding in this action based upon the principles of unjust enrichment is warranted.”

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For more information on this decision and other matters relating to the MLMIC demutualization, please contact a member of our [Litigation and Arbitration Group](#) or the [Garfunkel Wild attorney](#) with whom you regularly work.

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