

American Tr. Ins. Co. v Metro Health Care Partners

2026 NY Slip Op 30426(U)

January 29, 2026

Supreme Court, New York County

Docket Number: Index No. 650704/2025

Judge: Phaedra Perry-Bond

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. PHAEDRA F. PERRY PART 35

Justice

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INDEX NO. 650704/2025

AMERICAN TRANSIT INSURANCE COMPANY,

MOTION DATE 02/06/2025

Petitioner,

MOTION SEQ. NO. 001

- v -

METRO HEALTH CARE PARTNERS, A/A/O NICOLE SABATER,

DECISION + ORDER ON MOTION

Respondents.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21

were read on this motion to/for VACATE - DECISION/ORDER/JUDGMENT/AWARD.

Upon the foregoing documents, it is

Upon the foregoing documents, the Court denies Petitioner American Transit Insurance Company's ("Petitioner") petition to vacate the arbitration award issued by Arbitrator Marianne C. Zack, ("Arbitrator Zack") dated October 18, 2024, in favor of Respondent Metro Health Care Partners, A/A/O Nicole Sabater ("Respondent"), and affirmed by master arbitrator Jeffrey Grob, ("Master Arbitrator Grob") on December 9, 2024. Respondent's cross-petition to confirm the arbitration award and for attorneys' fees is granted.

Petitioner refused to pay certain medical bills from Respondent alleging that the claimants treated condition, and alleged injuries were not causally related to the accident based on an opinion from biomechanical science expert, Omid Komari's (P.H.D.) report dated May 4, 2022. In addition, they denied all future no-fault benefits based on report for exam from Dr. Krol on 12/14/21.

On July 11, 2021, Nicole Sabater was injured in an automobile accident, requiring medical services. Respondent provided medical treatment to Ms. Sabater from August 8, 2022, through September 15, 2022. In consideration for services provided by Respondent, an assignment of benefits form was executed authorizing Respondent to collect reimbursement directly from the insurance provider. Respondent submitted the bills, totaling \$4533.13, to the Petitioner who denied the claims.

Respondent filed for arbitration with the American Arbitration Association (AAA) and was assigned the case number 17-23-1293-0036. In her award, Arbitrator Zack cited law regarding Petitioner's burden to set forth a factual basis and medical rationale for their opinion, that the services were not medically necessary, and she further explained why Petitioner's medical report failed to support their denial and ruled in Respondent's favor.

Master Arbitrator Grob upheld Arbitrator Zack's decision stating that the necessity argument made by Petitioner ignored the deficiencies in the Kroll report referenced by Arbitrator Zack. With regards to the lack of causality defense, the Master Arbitrator found that the lower arbitration record contained Petitioner's biomechanical report and because the report was not considered by Arbitrator Zack, the matter was remanded solely for consideration of the Komari report in the context of the carrier's founded belief defense.

Arbitrator Zack considered the Komari report and found it did not offer an alternative cause of the EIP's injuries, a required standard. She found that Petitioner failed to offer proof that the impact of the collision was not a hard hit, which was described by the EIP at the EUO.

Petitioner appealed again and Master Arbitrator Grob upheld the award finding that Arbitrator Zack determinations of fact, based on a discretionary review of the evidence, could not be reconsidered on appeal. Master Arbitrator Grob also reasoned that biomechanical engineers

are not qualified to render opinions regarding injury causation and awarded reimbursement of the claims in the amount of \$4,533.13, along with statutory interest, computed from March 29, 2023, at a rate of 2% per month, statutory attorneys' fees pursuant to 11 NYCRR 65-4.6(d) and \$40.00 filing fee.

In the context of no-fault arbitrations, an arbitrator's decision will not be vacated where it is rationally based (*Petrofsky v Allstate Ins. Co.*, 54 NY2d 207 [1981]). An Article 75 proceeding is not an opportunity for "judicial second-guessing" of an arbitrator's findings, and courts are bound by the arbitrator's factual findings (*Metropolitan Transportation Auth. v Westfield Fulton Center, LLC*, 228 AD3d 435, 436 [1st Dept 2024]). Here, the Court finds the master arbitrator's affirmance of the lower arbitrator's award was not irrational and was based in the applicable no-fault regulations (*see, e.g. Global Liberty Ins. Co. v Cambridge Medical, P.C.*, 193 AD3d 573 [1st Dept 2021]). When presented with conflicting evidence, it is up to the arbitrator to evaluate and weigh which evidence is determinative (*Brown & Williamson Tobacco Corp. v Chesley*, 7 AD3d 368, 373-74 [1st Dept 2004] citing *Hackett v Millbank, Tweed, Hadley & McCloy*, 86 NY2d 146 [1995]).

Based on the record before the Court, there is no basis to vacate the arbitration award in favor of Petitioner. Arbitrator Zack's award is rationally based, grounded in factual findings, based on sound and well-reasoned analysis of the evidence submitted and upon the proper application of the pertinent laws and regulations, which this Court is not permitted to disturb. Therefore, the petition is denied.

Because Respondent successfully defended this petition to vacate an arbitration award, it is entitled to attorneys' fees pursuant to 11 NYCRR § 65-4.10(j)(4) (*see also American Transit Ins. Co. v Rutland Med. PC*, 224 AD3d 531, 531 [1st Dept 2024]). Moreover, the fee award is in

an amount fixed by the Court adjudicating the matter (*see Matter of Country-Wide Ins. Co. v TC Acupuncture P.C.*, 172 AD3d 598 [1st Dept 2019; *see also Matter of Country-Wide Ins. Co. v Bay Needle Care Acupuncture, P.C.*, 162 AD3d 407, 408 [1st Dept 2018])). Therefore, the Petitioner's argument about a statutory cap on fees is incorrect and misplaced. Moreover, the Court finds that Respondents attorney's 2.6 hours spent opposing the Petition is reasonable. The Court also finds the requested hourly fee of \$500 to be reasonable. Thus, Respondent's cross-petition for a fee award of \$1300.00 is granted.

Accordingly, it is hereby,

ORDERED that Petitioner American Transit Insurance Company's petition to vacate the arbitration award issued by Arbitrator Marianne Zack dated October 18, 2024, in favor of Respondent Metro Healthcare Partners/Nicole Sabater, and affirmed by Master Arbitrator Grob is denied; and it is further

ORDERED that within ten days of entry of this Decision and Order, Respondent Metro Healthcare Partners/Nicloe Sabater shall submit a proposed order and judgment granting Respondent Metro Healthcare Partner's cross-petition and granting it a judgment against Petitioner American Transit Insurance Company for the amount awarded (\$4,533.13) plus statutory interest at the rate of 2% per month from March 29, 2023 as awarded by Arbitrator Marianne Zack plus the attorney's fees awarded herein (\$1300.00) and the Master Arbitrators fee of \$260.00; and it is further

ORDERED that the proposed order and judgment shall be submitted via e-mail to SFC-Part35-Clerk@nycourts.gov; and it is further

[The remainder of this page is intentionally left blank.]

ORDERED that within ten days of entry, counsel for Respondent shall serve a copy of this Decision and Order, with notice of entry, on all parties via NYSCEF.

This constitutes the Decision and Order of the Court.

1/29/26
DATE


HON. PHAEDRA PERRY-BOND, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: