

September 26, 2019

Partner Eric D. Suben Obtains Order Vacating Arbitration Award

Related Attorneys: Eric D. Suben

On September 20, 2019, Traub Lieberman partner Eric D. Suben successfully secured an order vacating an arbitration award against the insurer of a business whose employee was involved in an automotive accident resulting in injuries to a pedestrian. The employee was driving the vehicle in connection with his work for the insured car-painting company; however, the car was owned by a car dealership. While the employer's insurer defended the employee and the car-painting company in the underlying lawsuit and settled the suit on their behalf, the car dealer's insurer was statutorily required to pay no-fault benefits to the injured pedestrian. The car dealer's insurer-initiated arbitration pursuant to New York Insurance Law § 5105 to obtain reimbursement of first-party benefits from the employer's insurer. Ultimately, the arbitrator awarded full reimbursement against the employer's insurer, specifically finding—despite the fact that the policy did not contain an endorsement providing no-fault coverage—that the employer's policy at issue was required under New York law to provide no-fault benefits.

Traub Lieberman initiated a special proceeding pursuant to Article 75 of the New York Civil Practice Law and Rules, challenging the arbitration award on two grounds: 1) the employer's insurer received no notice of the arbitration; and 2) the arbitrator's award lacked a rational basis because by statute, only an "owner's policy" is required to include no-fault coverage and the employer was not the owner of the vehicle at issue. The owner's insurer cross-moved to confirm the arbitration award, arguing that notice was sufficient and the decision should be upheld under the highly deferential standard embodied in Article 75.

At oral argument, that court found that while the owner's insurer had notified the employer's insurer of its intent to seek reimbursement, there was no evidence that the employer's insurer received notice of the arbitration. Although the owner's insurer was afforded the opportunity to supplement the record with evidence that such notice was provided, it was unable to do so. Accordingly, the court vacated the arbitration award without reaching the statutory issue, notwithstanding mandated judicial deference and relaxed due process standards applicable to arbitration pursuant to Article 75.