Fournier Trucking, Inc. v. New Jersey Mfr. Ins. Co., Docket No. (N.J. App. Div. Apr. 9, 2020) (per curiam)

Unpublished decision affirming judgment in favor of carrier when carrier’s audit revealed the policyholder (a trucking business) had withheld material information about its operations and thereby underpaid its workers’ compensation premiums violating the workers’ compensation fraud statute, N.J.S.A. 34:15-57.4, and ordering the policyholder pay damages for unpaid premiums, plus interest, costs, and counsel fees. For 11 years, policyholder trucking business represented that it did not use subcontracted work or owner-operators, and never mentioned use of independent motor carriers. As part of a later audit to consider changing the coverage, carrier found a discrepancy in the number of drivers reported by the policyholder and the number of drivers listed in a federal licensing database and first learned policyholder used independent motor carriers. The Appellate Division affirmed the trial court’s finding that the policyholder’s use of independent contractors fell within the scope of subcontractors under the statute as subcontractors and independent contractors are not mutually exclusive terms. The independent motor carriers in question functioned as subcontractors so policyholder was obligated under N.J.S.A. 34:15-79 to assure their drivers had proper workers’ compensation coverage if the subcontractors failed to provide it. Trial court had ample evidence the policyholder made false and misleading statement causing it to avoid paying full premiums.