

Michael J. Marone, Esq. (017601987)  
**McElroy, Deutsch, Mulvaney & Carpenter, LLP**  
1300 Mount Kemble Avenue  
P.O. Box 2075  
Morristown, New Jersey 07962  
Tel.: (973) 993-8100  
*Attorneys for Defendant, New Jersey Manufacturers Insurance Company*

SAM MIKHAIL ON BEHALF OF QUALITY  
AUTO PAINTING CENTER OF ROSELLE,  
INC. d/b/a PRESTIGE AUTO BODY and  
BMR AUTOMOTIVE SERVICE, INC., on  
behalf of itself and others similarly situated,

Plaintiffs,

v.

NEW JERSEY MANUFACTURERS  
INSURANCE COMPANY,

Defendant.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: UNION COUNTY  
DOCKET NO.: UNN-L-1992-19

Civil Action

**NEW JERSEY MANUFACTURERS  
INSURANCE COMPANY’S ANSWER TO  
PLAINTIFFS’ COMPLAINT,  
DEMAND FOR TRIAL BY JURY, AND  
DEMAND FOR DOCUMENTS  
REFERRED TO IN THE COMPLAINT**

Defendant, New Jersey Manufacturers Insurance Company (“NJM”), by and through its attorneys, McElroy, Deutsch, Mulvaney & Carpenter, LLP, by way of Answer to the Complaint of Plaintiffs says:

**FIRST DEFENSE TO PARAGRAPHS ENTITLED  
“PRELIMINARY STATEMENT”**

1. NJM denies the allegations contained in Paragraph 1 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

2. NJM denies the allegations contained in Paragraph 2 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

3. NJM denies the allegations contained in Paragraph 3 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

4. NJM denies the allegations contained in Paragraph 4 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

5. NJM denies the allegations contained in Paragraph 5 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

**FIRST DEFENSE TO PARAGRAPHS ENTITLED**  
**“PARTIES”**

6. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 6 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

7. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 7 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

8. Admitted.

**FIRST DEFENSE TO PARAGRAPHS ENTITLED**  
**“FACTUAL BACKGROUND”**

9. The allegations contained in Paragraph 9 of the Complaint set forth improper legal conclusions to which no response is required. Insofar as the allegations contained in Paragraph 9 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

10. The allegations contained in Paragraph 10 of the Complaint set forth improper legal conclusions to which no response is required. Insofar as the allegations contained in Paragraph 10 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

11. The allegations contained in Paragraph 11 of the Complaint set forth improper legal conclusions to which no response is required. Insofar as the allegations contained in Paragraph 11 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

12. NJM denies the allegations contained in Paragraph 12 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

13. NJM denies the allegations contained in Paragraph 13 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

14. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 14 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

15. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 15 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

16. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 16 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

17. NJM denies the allegations contained in Paragraph 17 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

18. NJM denies the allegations contained in Paragraph 18 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

19. NJM denies the allegations contained in Paragraph 19 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

20. NJM denies the allegations contained in Paragraph 20 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

21. NJM denies the allegations contained in Paragraph 21 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

22. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 22 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

23. NJM denies the allegations contained in Paragraph 23 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

24. NJM denies the allegations contained in Paragraph 24 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

25. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 25 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

26. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 26 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

27. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 27 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

28. NJM denies the allegations contained in Paragraph 28 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

29. NJM denies the allegations contained in Paragraph 29 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

30. NJM denies the allegations contained in Paragraph 30 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

31. NJM denies the allegations contained in Paragraph 31 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

32. NJM denies the allegations contained in Paragraph 32 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

33. NJM denies the allegations contained in Paragraph 33 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

34. NJM denies the allegations contained in Paragraph 34 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

35. NJM denies the allegations contained in Paragraph 35 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

36. NJM denies the allegations contained in Paragraph 36 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

37. NJM denies the allegations contained in Paragraph 37 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

38. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 38 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

39. NJM denies the allegations contained in Paragraph 39 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

40. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 40 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 40 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

41. NJM denies the allegations contained in Paragraph 41 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

42. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 42 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 42 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

43. NJM denies the allegations contained in Paragraph 43 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

44. NJM denies the allegations contained in Paragraph 44 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

45. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 45 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

46. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 46 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

47. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 47 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

48. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 48 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 48 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

49. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 49 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

50. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 50 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 50 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

51. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 51 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 51 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

52. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 52 of the Complaint and therefore denies these allegations in

their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 52 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

53. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 53 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 53 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

54. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 54 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

55. NJM denies the allegations contained in Paragraph 55 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

56. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 56 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 56 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

57. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 57 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 57 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.



58. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 58 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 58 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

59. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 59 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

60. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 60 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

61. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 61 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 61 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

62. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 62 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 62 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

63. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 63 of the Complaint and therefore denies these allegations in

their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 63 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

64. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 64 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 64 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

65. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 65 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 65 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

66. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 66 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

67. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 67 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 67 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

68. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 68 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

69. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 69 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

70. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 70 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 70 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

71. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 71 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 71 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

72. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 72 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

73. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 73 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

74. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 74 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 74 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

75. The allegations contained in Paragraph 75 of the Complaint set forth improper legal conclusions to which no response is required. Insofar as the allegations contained in Paragraph 75 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

76. The allegations contained in Paragraph 76 of the Complaint set forth improper legal conclusions to which no response is required. Insofar as the allegations contained in Paragraph 76 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

77. The allegations contained in Paragraph 77 of the Complaint set forth improper legal conclusions to which no response is required. Insofar as the allegations contained in Paragraph 77 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

78. The allegations contained in Paragraph 78 of the Complaint set forth improper legal conclusions to which no response is required. Insofar as the allegations contained in Paragraph 78 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

79. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 79 of the Complaint and therefore denies these allegations in

their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 79 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

80. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 80 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 80 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

81. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 81 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 81 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

82. The allegations contained in Paragraph 82 of the Complaint set forth improper legal conclusions to which no response is required. Insofar as the allegations contained in Paragraph 82 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

83. The allegations contained in Paragraph 83 of the Complaint set forth improper legal conclusions to which no response is required. Insofar as the allegations contained in Paragraph 83 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

84. NJM denies the allegations contained in Paragraph 84 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

85. NJM denies the allegations contained in Paragraph 85 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

86. NJM denies the allegations contained in Paragraph 86 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

87. NJM denies the allegations contained in Paragraph 87 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

88. NJM denies the allegations contained in Paragraph 88 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

89. NJM denies the allegations contained in Paragraph 89 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

90. NJM denies the allegations contained in Paragraph 90 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

91. NJM denies the allegations contained in Paragraph 91 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

92. NJM denies the allegations contained in Paragraph 92 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

93. NJM denies the allegations contained in Paragraph 93 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

94. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 94 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

95. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 95 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

96. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 96 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 96 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

97. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 97 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

98. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 98 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

99. The allegations contained in Paragraph 99 of the Complaint set forth improper legal conclusions to which no response is required. Insofar as the allegations contained in Paragraph 99 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs. Additionally, NJM expressly denies making any “misrepresentation.”

100. The allegations contained in Paragraph 100 of the Complaint set forth improper legal conclusions to which no response is required. Insofar as the allegations contained in Paragraph 100 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

101. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 101 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

102. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 102 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 102 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

103. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 103 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 103 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

104. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 104 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 104 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

105. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 105 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 105 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.



106. The allegations contained in Paragraph 106 of the Complaint set forth improper legal conclusions to which no response is required. Insofar as the allegations contained in Paragraph 106 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

107. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 107 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

108. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 108 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

109. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 109 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 109 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

110. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 110 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 110 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

111. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 111 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

112. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 112 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 112 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

113. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 113 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Additionally, NJM expressly denies making any “misrepresentations.” Moreover, insofar as the allegations contained in Paragraph 113 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

114. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 114 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Additionally, NJM expressly denies making any “misrepresentation.” Moreover, insofar as the allegations contained in Paragraph 114 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

115. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 115 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

116. The allegations contained in Paragraph 116 of the Complaint set forth improper legal conclusions to which no response is required. Insofar as the allegations contained in

Paragraph 116 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

117. NJM denies the allegations contained in Paragraph 117 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

118. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 118 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

119. The allegations contained in Paragraph 119 of the Complaint set forth improper legal conclusions to which no response is required. Insofar as the allegations contained in Paragraph 119 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

120. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 120 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

121. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 121 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 121 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

122. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 122 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

123. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 123 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 123 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

124. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 124 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

125. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 125 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

126. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 126 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

127. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 127 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 127 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

128. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 128 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained

in Paragraph 128 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

129. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 129 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 129 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

130. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 130 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs. Moreover, insofar as the allegations contained in Paragraph 130 of the Complaint suggest or imply that NJM is liable to Plaintiffs, NJM denies these allegations and leaves Plaintiffs to their proofs.

131. NJM is without sufficient knowledge to admit or deny the truthfulness of the allegations contained in Paragraph 131 of the Complaint and therefore denies these allegations in their entirety and leaves Plaintiffs to their proofs.

**FIRST DEFENSE TO PARAGRAPHS ENTITLED**  
**“CLASS ALLEGATIONS”**

132. NJM denies the allegations contained in Paragraph 132 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

133. NJM denies the allegations contained in Paragraph 133 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

134. NJM denies the allegations contained in Paragraph 134 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

135. NJM denies the allegations contained in Paragraph 135 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

136. NJM denies the allegations contained in Paragraph 136 (a) – (i) of the Complaint in their entirety and leaves Plaintiffs to their proofs.

137. NJM denies the allegations contained in Paragraph 137 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

138. NJM denies the allegations contained in Paragraph 138 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

139. NJM denies the allegations contained in Paragraph 139 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

140. NJM denies the allegations contained in Paragraph 140 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

141. NJM denies the allegations contained in Paragraph 141 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

142. NJM denies the allegations contained in Paragraph 142 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

143. NJM denies the allegations contained in Paragraph 143 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

144. NJM denies the allegations contained in Paragraph 144 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

145. NJM denies the allegations contained in Paragraph 145 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

146. NJM denies the allegations contained in Paragraph 146 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

**FIRST DEFENSE TO PARAGRAPHS ENTITLED**  
**“FIRST CAUSE OF ACTION”**  
**“(Injurious Falsehood)”**

147. NJM repeats and reasserts each and every response to the allegations contained in all preceding Paragraphs as if set forth at length herein.

148. NJM denies the allegations contained in Paragraph 148 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

149. NJM denies the allegations contained in Paragraph 149 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

150. NJM denies the allegations contained in Paragraph 150 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

**WHEREFORE**, Defendant, New Jersey Manufacturers Insurance Company, hereby demands judgment dismissing Plaintiffs’ Complaint in its entirety, along with attorneys’ fees, costs of suit, and such other relief as the Court deems just and proper.

**FIRST DEFENSE TO PARAGRAPHS ENTITLED**  
**“SECOND CAUSE OF ACTION”**  
**“(Tortious Interference with Prospective Business Advantage)”**

151. NJM repeats and reasserts each and every response to the allegations contained in all preceding Paragraphs as if set forth at length herein.

152. NJM denies the allegations contained in Paragraph 152 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

153. NJM denies the allegations contained in Paragraph 153 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

154. NJM denies the allegations contained in Paragraph 154 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

155. NJM denies the allegations contained in Paragraph 155 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

156. NJM denies the allegations contained in Paragraph 156 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

**WHEREFORE**, Defendant, New Jersey Manufacturers Insurance Company, hereby demands judgment dismissing Plaintiffs' Complaint in its entirety, along with attorneys' fees, costs of suit, and such other relief as the Court deems just and proper.

**FIRST DEFENSE TO PARAGRAPHS ENTITLED**  
**"THIRD CAUSE OF ACTION"**

**"(Violations of the Consumer Fraud Act ("CFA"), N.J.S.A. 56:8-1, et seq.)"**

157. NJM repeats and reasserts each and every response to the allegations contained in all preceding Paragraphs as if set forth at length herein.

158. NJM denies the allegations contained in Paragraph 158 (i) – (iv) of the Complaint in their entirety and leaves Plaintiffs to their proofs.

159. NJM denies the allegations contained in Paragraph 159 (i) – (v) of the Complaint in their entirety and leaves Plaintiffs to their proofs.

160. NJM denies the allegations contained in Paragraph 160 (i) – (ix) of the Complaint in their entirety and leaves Plaintiffs to their proofs.

161. NJM denies the allegations contained in Paragraph 161 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

162. NJM denies the allegations contained in Paragraph 162 of the Complaint in their entirety and leaves Plaintiffs to their proofs.



163. NJM denies the allegations contained in Paragraph 163 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

164. NJM denies the allegations contained in Paragraph 164 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

165. NJM denies the allegations contained in Paragraph 165 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

166. NJM denies the allegations contained in Paragraph 166 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

167. NJM denies the allegations contained in Paragraph 167 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

**WHEREFORE**, Defendant, New Jersey Manufacturers Insurance Company, hereby demands judgment dismissing Plaintiffs' Complaint in its entirety, along with attorneys' fees, costs of suit, and such other relief as the Court deems just and proper.

**FIRST DEFENSE TO PARAGRAPHS ENTITLED**  
**"FOURTH CAUSE OF ACTION"**

**“(Violations of the New Jersey Antitrust Act (“NJAA”), N.J.S.A. 56:9-3, *et seq.*)”**

168. NJM repeats and reasserts each and every response to the allegations contained in all preceding Paragraphs as if set forth at length herein.

169. NJM denies the allegations contained in Paragraph 169 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

170. NJM denies the allegations contained in Paragraph 170 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

171. NJM denies the allegations contained in Paragraph 171 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

172. NJM denies the allegations contained in Paragraph 172 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

173. NJM denies the allegations contained in Paragraph 173 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

174. NJM denies the allegations contained in Paragraph 174 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

175. NJM denies the allegations contained in Paragraph 175 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

**WHEREFORE**, Defendant, New Jersey Manufacturers Insurance Company, hereby demands judgment dismissing Plaintiffs' Complaint in its entirety, along with attorneys' fees, costs of suit, and such other relief as the Court deems just and proper.

**FIRST DEFENSE TO PARAGRAPHS ENTITLED**  
**"FIFTH CAUSE OF ACTION"**

**"(Violations of New Jersey Civil RICO ("RICO"), N.J.S.A. 2C:41-1, *et seq.*)"**

176. NJM repeats and reasserts each and every response to the allegations contained in all preceding Paragraphs as if set forth at length herein.

177. NJM denies the allegations contained in Paragraph 177 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

178. NJM denies the allegations contained in Paragraph 178 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

179. NJM denies the allegations contained in Paragraph 179 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

180. NJM denies the allegations contained in Paragraph 180 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

181. NJM denies the allegations contained in Paragraph 181 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

182. NJM denies the allegations contained in Paragraph 182 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

183. NJM denies the allegations contained in Paragraph 183 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

184. NJM denies the allegations contained in Paragraph 184 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

**WHEREFORE**, Defendant, New Jersey Manufacturers Insurance Company, hereby demands judgment dismissing Plaintiffs' Complaint in its entirety, along with attorneys' fees, costs of suit, and such other relief as the Court deems just and proper.

**FIRST DEFENSE TO PARAGRAPHS ENTITLED**  
**"SIXTH CAUSE OF ACTION"**  
**"(Injunctive Relief)"**

185. NJM repeats and reasserts each and every response to the allegations contained in all preceding Paragraphs as if set forth at length herein.

186. NJM denies the allegations contained in Paragraph 186 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

187. NJM denies the allegations contained in Paragraph 187 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

188. NJM denies the allegations contained in Paragraph 188 of the Complaint in their entirety and leaves Plaintiffs to their proofs.

**WHEREFORE**, Defendant, New Jersey Manufacturers Insurance Company, hereby demands judgment dismissing Plaintiffs' Complaint in its entirety, along with attorneys' fees, costs of suit, and such other relief as the Court deems just and proper.

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

Plaintiffs' Complaint is barred by the applicable statute of limitations.

**SECOND AFFIRMATIVE DEFENSE**

Plaintiffs' Complaint, and each Cause of Action asserted therein, fails to state a claim upon which relief can be granted, and NJM reserves the right to move at or before trial to dismiss Plaintiffs' Complaint and/or dismiss any portions of Plaintiffs' Complaint.

**THIRD AFFIRMATIVE DEFENSE**

Plaintiffs' Complaint is barred by the doctrines of Waiver, Laches, and Estoppel.

**FOURTH AFFIRMATIVE DEFENSE**

Any injuries and/or damages allegedly sustained by Plaintiffs were the result of acts or omissions of persons or forces over whom/which NJM exercised no control, supervision, or other dominion, and for whom/which NJM is not responsible.

**FIFTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred due to unavoidable consequences.

**SIXTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred because NJM neither committed, nor failed to commit any act that damaged Plaintiffs.

**SEVENTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred because no proximate causation exists between the alleged actions of NJM and the damages alleged by Plaintiffs.

**EIGHTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred and/or reduced by the collateral source doctrine.

**NINTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred by the Statute of Frauds.

**TENTH AFFIRMATIVE DEFENSE**

NJM fulfilled all of NJM's duties and obligations arising out of the alleged contract.

**ELEVENTH AFFIRMATIVE DEFENSE**

Plaintiffs' entire Complaint is barred by the Right to Choose Statute, N.J.S.A. 17:33B-36.1.

**TWELFTH AFFIRMATIVE DEFENSE**

Plaintiffs' entire Complaint is barred by the fact that the New Jersey Department of Banking and Insurance has exclusive jurisdiction over the allegations advanced in the Complaint.

**THIRTEENTH AFFIRMATIVE DEFENSE**

Plaintiffs' entire Complaint is barred by the fact that there is no private right of action under the Insurance Trade Practices Act, N.J.S.A. 17:29B-1 to -19, or the regulations adopted by the New Jersey Department of Banking and Insurance pursuant to the Insurance Trade Practices Act, N.J.A.C. 11:3-10.1 to -10.10.

**FOURTEENTH AFFIRMATIVE DEFENSE**

Plaintiffs' New Jersey's Consumer Fraud Act claims are barred, as New Jersey's Consumer Fraud Act is inapplicable to the payment of insurance benefits. See, e.g., Pierzga v.

Ohio Cas. Grp. of Ins. Companies, 208 N.J. Super. 40 (App. Div.), certif. denied, 104 N.J. 399 (1986).

**FIFTEENTH AFFIRMATIVE DEFENSE**

Plaintiffs' New Jersey's Consumer Fraud Act claims are barred, as Plaintiffs do not qualify as "consumers" under the New Jersey's Consumer Fraud Act.

**SIXTEENTH AFFIRMATIVE DEFENSE**

Plaintiffs' New Jersey's Consumer Fraud Act claims are barred, as this litigation does not involve NJM's sale or advertisement of any merchandise or real estate as required by N.J.S.A. 56:8-2.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

Plaintiffs' New Jersey Civil Racketeer Influenced and Corrupt Organizations Act claims are barred by Plaintiffs' failure and inability to satisfy the "distinctiveness" requirement of the New Jersey Civil Racketeer Influenced and Corrupt Organizations Act.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

Plaintiffs' Injurious Falsehood claims are unsustainable as a matter of law, as Plaintiffs have not and cannot identify a "false statement" that was allegedly published by NJM.

**NINETEENTH AFFIRMATIVE DEFENSE**

Plaintiffs' Tortious Interference with Prospective Business Advantage claims are unsustainable as a matter of law because, among other reasons: (1) Plaintiffs did not have any protectable right or reasonable expectation of economic advantage; (2) NJM did not intentionally, maliciously, unjustifiably, or inexcusably interfere with Plaintiffs' business; and (3) even if it could be rationally argued that Plaintiffs had a protectable right or reasonable

expectation of economic advantage, which NJM expressly denies, NJM would most certainly be a party to the prospective economic relationship.

#### **TWENTIETH AFFIRMATIVE DEFENSE**

Plaintiffs' Complaint fails to plead facts sufficient to certify a class action pursuant to R. 4:32 of the New Jersey Court Rules because, inter alia: the putative class is not so numerous that joinder of all members is impracticable; there are no questions of law or fact common to the putative class; the claims of the proposed representative parties are not typical of the claims of the putative class; the proposed representative parties and counsel cannot fairly and adequately protect the interests of the class; and this action does not satisfy any of the possible types of class actions set forth in R. 4:32-1(b) of the New Jersey Court Rules. Accordingly, this lawsuit is not properly advanced as a class action.

#### **TWENTY-FIRST AFFIRMATIVE DEFENSE**

NJM reserves the right to supplement these Affirmative Defenses based upon continuing investigation and discovery.

#### **DEMAND FOR TRIAL BY JURY**

Demand is made for trial by a jury on all issues.

#### **DESIGNATION OF TRIAL COUNSEL**

**PLEASE TAKE NOTICE** that pursuant to Rule 4:25-4, Michael J. Marone, Esq., is hereby designated trial counsel.

#### **DEMAND FOR DOCUMENTS REFERRED TO IN THE COMPLAINT**

Pursuant to R. 4:18-2, demand is hereby made that Plaintiffs produce a true, accurate, and complete copy of any and all documents and recordings referenced or identified in the Complaint within five (5) days.

**CERTIFICATIONS**

Pursuant to R. 4:5-1(b)(2), I hereby certify that to the best of my knowledge the matter in controversy is not the subject of any pending or anticipated lawsuit or arbitration proceeding, and that no other action or arbitration is anticipated. This party knows of no other party that should be joined at this time.

I hereby certify that this pleading was filed and served within the time periods provided by the New Jersey Court Rules, by stipulation attached hereto, and/or by Order of the Court.

**MCELROY, DEUTSCH, MULVANEY & CARPENTER, LLP**  
*Attorneys for Defendant, New Jersey Manufacturers Insurance Company*

By: \_\_\_\_\_  
*s/ Michael J. Marone*  
Michael J. Marone

Dated: December 2, 2019