

Multi-Defendant Motor-Vehicle and Liability Claims with Medicaid-Preserving Recovery

Filed by —

FORUM New York (Queens Supreme Court); New York City municipal liability; New York no-fault insurance; New York Medicaid	
Date of loss June 14, 2024	TNC carrier bodily-injury policy limit \$1.25 million
CT read date June 14, 2024 (night of)	Truck company carrier combined single limit \$1 million
Discharge from Elmhurst June 15, 2024 (morning)	Client age 44 years old
Spinal fusion date June 21, 2024	General-practice firm engagement date July 2, 2024
Notice of Claim deadline (90-day window from loss) September 12, 2024 (Friday, September 11, 2024 in practice)	Counsel substitution date one week before conversation (approximately late August 2024)
Days remaining to serve Notice of Claim 14 days	311 complaint on dark signal logged approximately 4 hours before crash (June 14, 2024)
Rideshare vehicle auction scheduled approximately 10 days from conversation date	Seatbelt latch photographed June 15, 2024 (day after crash)

This matter resolves the preservation and coordinated recovery of motor-vehicle, municipal liability, and delayed-diagnosis claims while structuring net proceeds to maintain Medicaid eligibility and secure spinal-cord-level damages across multiple defendants and coverage layers.

BUCKET 01

PHYSICAL AND DOCUMENTARY EVIDENCE PRESERVATION

AUCTION CLOCK — wrong recipient

Confirm the yard's actual auction date/status rather than treating September 8 as a fixed, current deadline.

Leans on — b1: the notice-of-claim clocks that the TRO's downstream effects could touch are addressed there.

Leans on — b3: preserving evidence against the manufacturer bears on the release/settlement risk discussed there.

LODE 01

PHYSICAL AND DOCUMENTARY EVIDENCE PRESERVATION

MIXED — evidence-dependent

The physical rideshare vehicle is sitting at a salvage yard with an auction roughly ten days out; it is the sole evidence for an emerging products/seatbelt-defect claim (the client's son photographed a deformed latch plate) and for an EDR download.

CRESTS — leverage

- Chain of custody is solid only when every handler — yard, counsel, expert, trial — logs that what they received matches exactly what the prior handler said was transferred, same item and condition.
- Use witnessed handoffs with photos or video and a co-signed form at each transfer point, so no single weak link can be exploited by opposing counsel.

RIFTS — hazards

- A single missed entry, wrong date, or unverified handoff in the chain can go unnoticed until challenged in court, by which point the evidence's usability may already be lost.

LODE 02

CUSTODIAN-SPECIFIC PRESERVATION NOTICE

TEN-DAY AUCTION — wrong recipient

Confirm the salvage yard's actual auction date/status before treating September 8 as fixed and pending.

CRESTS — leverage

- Build one ranked list — latch plate, EDR data, photographs — ordered by which disappears soonest, rather than scattering preservation demands across separate letters.

RIFTS — hazards

- Confirm the salvage yard's actual auction date directly rather than asserting a specific September 8 date not established in the record.
- A court will not automatically accelerate the other side's response time just because a preservation notice was served — without an emergency TRO, objections can run on the normal calendar past the auction date.
- During any objection window after service, the yard's normal disposal cycle keeps running underneath the notice, unaffected by the pending dispute.
- Mapping out separate destruction timelines for the latch, the EDR, and other evidence does not by itself reveal which one is the real bottleneck — the timelines have to be actively compared side by side.
- Listing items without ranking urgency, or mapping timelines without comparing them, creates the appearance of full coverage while the fastest-disappearing evidence goes unprotected.

LODE 03

NOTICE-RECEIPT AND DUTY ATTACHMENT

MIXED — evidence-dependent

Right now, whoever is holding your damaged rideshare car has a legal duty to keep it safe and not destroy it—because anyone looking at the facts of your crash (T-boned by a box truck, serious spine injury).

CRESTS — leverage

- Get a signed receipt — certified-mail card, email confirmation, or a signed acknowledgment from someone with authority — proving the preservation letter was actually received by whoever controls the vehicle.
- Absent a formal receipt, police-report notations, insurer file notes, or the yard's own mail/email records can substitute as proof the letter arrived.
- Confirm the signer of any acknowledgment actually had authority to bind the salvage yard or the carrier — an unauthorized signature may not count as valid notice.
- Exactly when the preservation duty attached will ultimately be fixed by a judge weighing the T-bone impact and the surgical outcome, not by counsel's own assumption.

RIFTS — hazards

- If the yard's actual data-overwrite or crush cycle is shorter than assumed, the EDR or physical evidence can legally vanish before a corrected demand even arrives, with no fault attaching to the yard.
- Confirming the yard's true purge schedule requires contacting them, but that contact is itself the demand — there is no way to learn the real timeline before acting on incomplete information.
- The preservation letter sent to the TNC's bodily-injury adjuster may sit unconfirmed indefinitely — a missing return receipt creates an undetected gap in the preservation record.
- Who currently owns the duty to preserve the vehicle cannot be pinned down until it is known who actually paid the property-damage claim, and that fact is not yet available.
- The evidence-preservation timeline currently assumes standard industry overwrite cycles for the video loop and black box, not this yard's actual (unknown) schedule.
- Ranking which evidence to save first using an assumed industry-standard cycle, before confirming the yard's real schedule, risks prioritizing the wrong item.

BUCKET 02

PRE-SUIT STATUTORY DEADLINES

NOTICE DEADLINE CLOSFS FIRST

Treat the malpractice clock's start date (June 14, June 21, or discovery) as an open question, and correct the crash year to 2024.

Leans on — b3: the injury's permanent-disability outcome feeds settlement valuation but is not re-detailed there.

Leans on — b2: the OSC/TRO's contemplated downstream effects on the City/hospital claims are carried in the evidence bucket.

LODE 04

PRE-SUIT STATUTORY DEADLINES

MIXED — evidence-dependent

Client is a 44-year-old home health aide injured June 14 as a rear-seat passenger in a rideshare vehicle T-boned by a regional grocery distributor's refrigerated box truck at an intersection with a dark (non-functioning) traffic signal.

CRESTS — leverage

- A hospital may be vicariously liable for independent-contractor physicians where the patient sought treatment from the hospital and the physician was provided by it (Mduba v.
- The delayed-diagnosis malpractice claim against NYC Health + Hospitals and/or the affiliate radiology employer has not been taken: nothing has been served on H+H and the radiologist's employer is unknown (f13, f16).
- When the malpractice suit is eventually filed, obtain a certified e-filing confirmation or certified-mail receipt so the filing date is independently provable against the 2.5-year clock.

RIFTS — hazards

- Any additional malpractice-based claim would run on its own 2.5-year period from its own accrual date, not a 'three-year' clock — under CPLR 214-a.

LODE 05

LATE-NOTICE LEAVE APPLICATION

LATE-NOTICE SAFETY VALVE — factors only

If the Notice of Claim deadline is missed, a late-notice application to the court turns on three merits factors, not on how forgiving the judge happens to feel.

CRESTS — leverage

- The three merits factors under GML §50-e(5) are whether the municipality/hospital acquired actual knowledge of the facts within 90.
- If the application itself is submitted on time but the clerk's office is slow to stamp it, that clerical lag does not count against the client.
- Once a judge rules on a late-notice application, the signed order is the docketed proof of what was decided and when.

RIFTS — hazards

- Verify whether the September 12, 2024 Notice of Claim deadline was actually met before treating any '14 days remaining' framing as current.

LODE 06

NOTICE FORM AND ELEMENT CHECKLIST

CONTENT DEFECTS CAN KILL NOTICE

Verify current status of the September 12, 2024 Notice of Claim deadline rather than treating September 12, 2026 as upcoming.

CRESTS — leverage

- Courts are generally more forgiving of an imprecise/ approximate damages statement than of a total omission of the damages amount, since the amount claimed is an enumerated statutory element
- If the City or H+H challenges the notice as incomplete, the court's written ruling becomes the record of exactly what passed and what needs fixing.
- A court ruling on a notice-content dispute will state which sufficiency standard it applied and its conclusion, giving a roadmap for any correction.
- New York does not permit a loose 'overall fairness' balancing test to excuse the omission of the hospital's identity or the nature of the injury; such omissions render a notice of claim legally insufficient regardless of how clear the rest of the notice is

RIFTS — hazards

- The statute lists required elements but does not rank which omissions are fatal, so each defect gets tested against its own line of case law rather than a single uniform rule.
- No single decision sets a uniform strict-or-lenient rule for all notice defects — each type of mistake is governed by its own separately-decided line of cases, so a ruling on one defect cannot be assumed to control another.

BUCKET 03

SETTLEMENT, COVERAGE, AND RECOVERY STRUCTURING

CONDITIONAL OFFER — release risk to others

A verbal \$1.25 million TNC offer conditioned on releasing the driver, a confirmed \$1 million truck-company combined single limit with excess unconfirmed, and an untended son's UIM policy must all be mapped before any release is signed.

Leans on — b1: the notice-of-claim/malpractice-accrual clocks constrain the timing within which any release decision must be made.

Leans on — b2: the vehicle/EDR evidence and its custody dispute bear on the manufacturer's exposure referenced here.

LODE 07

DEMAND INSTRUMENT AUTHORITY

GLOBAL RELEASE RISK — comparative fault

Accepting the TNC's release before mapping the truck company's and City's exposure risks leaving the driver's share of fault attached to a released party and weakening both claims.

CRESTS — leverage

- Before sending any formal demand, put the recipient, the exact response deadline, the required payment method, and every condition on the letter's face, and verify the checklist before sending.

RIFTS — hazards

- Once a demand letter is sent, it is frozen — if the adjuster's authority is later cut back, the sent letter cannot adapt to that change.
- The work needed to assess release effects on the truck company and City takes time, and during that time the TNC adjuster's authority or reserves can quietly shift against the client.
- Every fact in a demand — names, deadlines, terms — is only accurate as of the day it is sent; changed circumstances afterward are not automatically reflected.

LODE 08

MEDICAID PROPORTIONAL PAYBACK

MEDICAID PAYBACK — priority claim

Because the client is on Medicaid managed care, any recovery is subject to a statutory Medicaid payback that the client wants limited to the medical-expense share rather than gross proceeds, and that right has its own procedural deadlines.

CRESTS — leverage

- Medicaid's repayment right is a statutory priority claim on traceable settlement proceeds, not one item to be ranked at the client's discretion alongside taxes and other liens — under 42 U.S.C.
- A court's damage-category allocation binds Medicaid only if Medicaid was a party to or consented to that proceeding; absent that, Medicaid retains its own statutory right to contest the ratio through negotiation or a fair hearing — under Wos v.
- Do not release any settlement funds until a signed Medicaid release is in hand; only then is Medicaid's claim resolved.

RIFTS — hazards

- Verify the Medicaid managed care plan's/DOH's actual third-party-recovery default and rebuttal procedure before asserting this rule as governing.
- Confirm with the Medicaid plan/DOH whether such a hearing deadline and lock-in rule actually exists before relying on it.
- Medicaid's statutory priority does not win its turn — if settlement funds remain traceable, Medicaid can claim them ahead of other liens regardless of sequencing.
- Verify the actual notice and response procedure Medicaid's plan/DOH uses when rejecting a proposed payback ratio.
- Confirm whether Medicaid's workday posture and deadline mechanics work this way before treating the 'false impression' risk as established.
- Verify whether such a distinct procedural filing deadline exists under the Medicaid plan's/DOH's rules.
- Medicaid can dispute the 'full case value' used to compute the proportional share, and has an incentive to undervalue it to enlarge its own percentage.

LODE 09

STACKED LIMITS RECONCILIATION

COVERAGE MAP — unconfirmed layers

The confirmed \$1.25 million TNC limit and \$1 million truck-company combined single limit are only part of the picture until the truck company's excess coverage, the son's UIM stacking status, and any anti-stacking provisions are confirmed in writing.

CRESTS — leverage

- Counsel may rely on a reasonably diligent coverage investigation to value the case for settlement purposes
- Only treat the coverage map as final once each carrier — TNC, truck company, son's SUM insurer — has confirmed in writing that its policy is active and that the relevant party is covered, including a letter addressing the truck company's unconfirmed excess.
- The document to seek is a signed election form adding stacked coverage (if the son paid for it), not a waiver of default stacking right, since NY defaults to non-stacking absent such an election — under 11 NYCRR 60-2.3(f) (Reg).
- Treat the risk that the attorney looks into an asset method as a reason to act early, not as an certainty about carrier behavior.
- There is no no-fault requirement that the trip's purpose match the scope of any permission granted; that 'scope of permission' analysis belongs to liability/permissive-use law, not first-party PIP claims

RIFTS — hazards

- Counsel must affirmatively locate anti-stacking provisions in carrier files; non-stacking is NY's automatic default for SUM, and absence of signed waiver does not help client.
- Printed anti-stacking language in the policy is legally sufficient on its own because it merely restates the statutory default; it is stacking (not anti-stacking) that would require a separately signed election — under 11 NYCRR 60-2.3(f) (Reg).
- Payment order among the \$1.25M TNC limit, \$1M truck CSL, and son's UIM coverage can shift based on policy text and case law governing whether offset subtracts the TNC limit or amount actually 'confirmed'.
- A coverage item marked 'capped' may only mean no exclusion was found on file, not that one was ruled out—that gap should be closed before finalizing coverage.
- Because no-fault passenger coverage is based on occupancy, not permission, the accident record's silence on permission is immaterial; there is no separate 'permission' fact the claimant must independently prove for PIP benefits
- Whether an anti-stacking waiver exists in the TNC's or truck carrier's file cannot be confirmed from documents on hand—an unverified gap.

PRESCRIPTIONS

- 01
- File the emergency vehicle-preservation motion before the salvage auction. Confirm the VIN, yard identity, and actual auction date/status before filing on the assumption these facts are already in hand.
- 02
- Redirect the preservation demand to whoever actually controls the vehicle. The existing letter went to the TNC's bodily-injury adjuster; the salvage yard clerk said only 'we'd need something from the insurer,' and nothing confirms the letter reached anyone with authority over the car. Send a parallel preservation demand today to the truck company's carrier's property-damage desk and directly to the salvage yard by its stock number.
- 03
- Hold the TNC's conditional offer open without accepting or rejecting it. Send the planned letter acknowledging the call, demanding the \$1.25 million offer in writing with its conditions, the policy and declarations page, and a stated response date — and say nothing about the driver or release language. Do not execute any release of the driver or the TNC until the vehicle is secured, the truck company's excess coverage is confirmed or ruled out, and the effect of a driver release on the truck company's and City's comparative-fault defenses is understood.
- 04
- Tender notice to the son's UIM carrier and request his stacking election. Notify the son's insurer of the claim now so any later settlement with the TNC or truck company is not read as prejudicing his consent rights, and request his signed election form adding stacked coverage, since non-stacking is New York's default absent that election [#f428c8].
- 05
- Obtain the prior firm's file and resolve its fee lien. Secure the general-practice firm's complete fee and representation letter — only the retainer is currently in hand — to determine lien priority and any consent-to-substitution terms before any settlement is structured, since that firm's fee claim will attach to any recovery.
- 06
- Defer settlement structuring until the coverage map is complete. Hold the supplemental-needs-trust-plus-structure plan and the Medicaid payback negotiation (targeting the medical-expense share rather than gross recovery) until the TNC, truck company, son's UIM, and any City or malpractice recovery are confirmed, since Medicaid's repayment right is a statutory priority claim on traceable proceeds that cannot be sequenced against a partial coverage picture [#b80aa2].

THE BOTTOM LINE

On the live decision — whether to accept the TNC's verbal, conditional offer of its \$1.25 million limit now — the surviving tree answers no. The offer is unwritten, has no stated expiration beyond 'while I have authority,' and is conditioned on releasing both the driver and the TNC; accepting it before the vehicle is secured risks losing the seatbelt-latch and EDR evidence to the September 8, 2026 salvage auction, and releasing the driver risks letting the truck company and the City argue his fault share left with him, undermining the confirmed \$1 million truck combined single limit and the signal-outage claim. The record does not yet establish who holds title to the vehicle (TNC physical-damage desk versus the truck company's property-damage carrier), what excess coverage sits above the truck company's \$1 million limit, or what the son's UIM policy will contribute — each a live blocker to knowing what a release would actually cost. The correct sequence is to secure the vehicle by TRO, serve Notice of Claim on the City and H+H by the register's resolved September 12, 2026 date, and demand the TNC's offer in writing with defined terms and an expiration, before any release is signed.

NOT COVERED

- 1 line(s) of analysis were removed before this plan was finalised (ungrounded 1).
- Items removed at review: "A judge rules on a motion and officially calculates when you found out (or should have — " (not anchored); "The calendar date equal to the fixed accrual date plus the applicable statutory period — " (not anchored); "We're anchoring your deadline to June 20" (not anchored); "The observable event is production of the consent record " (consistency frame); "Serve Notice of Claim on the City and NYC Health + Hospitals by the register's resolved — " (consistency frame); "Notify the home health agency's workers' compensation carrier " (consistency frame); "Engage malpractice and products-liability co-counsel now " (foreclosed); "Pull Elmhurst's radiologist credentialing information " (foreclosed); "Verify the 311 complaint and route the seatbelt latch evidence " (consistency frame).
- The knowledge base has no material addressing 3 fact(s) this matter establishes: TRO decision needed this week; Undisclosed workers' comp claim / subrogation risk; Truck carrier may control vehicle title, not TNC. These are gaps in the knowledge base, not findings against them — nothing here analyses them because there is nothing to analyse them with.
- 3 strand(s) of the intake belong to no section of this plan — a further concern-domain may be missing; they stand on the ledger as an open question.