



**STATE OF NEW YORK  
INSURANCE DEPARTMENT**  
25 BEAVER STREET  
NEW YORK, NEW YORK 10004

**NOTE: WITHDRAWN EFFECTIVE DECEMBER 4, 2003**

**Circular Letter No. 24 (2000)  
July 18, 2000**

**TO: All Motor Vehicle Self-insurers and Insurers Licensed to Write Motor Vehicle Insurance in New York State**

**RE: Insurance Department Regulation 68 Lawsuit**

Last year, the Insurance Department promulgated a revision to Insurance Department Regulation 68, the regulation that implements New York's no-fault law. This revision, which took effect on February 1, 2000, made adjustments to the manner in which no-fault claims are presented and processed in order to address practices that have resulted in fraud and abuse in the New York automobile insurance marketplace.

On June 9, 2000 Justice Phyllis Gangel-Jacob of the New York State Supreme Court issued an order and memorandum decision which declared the recent amendments to Regulation 68 "... null and void as contrary to law and lawful procedure, and their promulgation in violation of the State Administrative Procedures Act was unlawful, arbitrary, capricious and an abuse of discretion ... ."

Thereafter, on June 14, the Department filed a notice of appeal of Justice Gangel-Jacob's order to the Appellate Division, First Department and asserted an automatic stay of that order pursuant to New York Civil Practice Law & Rules Section 5519(a). On June 21, the Petitioners filed a motion with the Appellate Division to vacate the statutory stay. The Department opposed this motion and, in the alternative, requested that the Court issue a discretionary stay under the CPLR.

On July 17, the Appellate Division ordered that the Petitioners' motion "seeking vacatur of the purported statutory stay is denied as unnecessary." The Court also denied the Department's motion for a discretionary stay of the order. As a result, the Department's promulgation of the revision to Regulation 68 has been determined to be invalid, null and void pending the Department's appeal of that determination to the Appellate Division.

Insurers and self-insurers are expected to move as expeditiously as possible to bring forms and procedures into compliance with Justice Gangel-Jacob's order. To wit, insurers and self-insurers should follow the provisions of Regulation 68 which were in effect on January 31, 2000.

Please acknowledge receipt of this circular letter, no later than August 1, 2000, to:

Mr. Chris Maloney  
Senior Examiner  
Property Bureau  
New York State Insurance Department  
25 Beaver Street  
New York, New York 10004

Very truly yours,

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Mark Presser  
Assistant Deputy Superintendent & Chief  
Property Bureau