

**SHORT FORM ORDER**

**SUPREME COURT - STATE OF NEW YORK  
COUNTY OF NASSAU - PART 25**

**Present: HON. WILLIAM R. LaMARCA  
Justice**

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**In the Matter of the Application for an Order  
Staying the Arbitration Between**

**Motion Sequence #001, #002  
Submitted May 5, 2005**

**AIU INSURANCE COMPANY,**

**Petitioner,**

**INDEX NO: 5070/05**

**-against-**

**HECTOR RODRIGUEZ,**

**Respondent,**

**-and-**

**MARIA E. FELDER, GOVERNMENT EMPLOYERS  
INSURANCE COMPANY, and METROPOLITAN  
GROUP PROPERTY AND CASUALTY INSURANCE  
COMPANY,**

**Proposed Additional Respondents.**

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**The following papers were read on this motion:**

**Notice of Petition and Petition (# 001).....1  
Respondent's Affirmation in Opposition.....2  
Affirmation in Reply .....3  
Notice of Motion/Order to Show Cause (# 002).....4  
GEICO's Affirmation in Opposition.....5  
Affirmation in Reply .....6**

Petitioner, AIU INSURANCE COMPANY (hereinafter referred to as "AIU"), moves for an order, pursuant to CPLR Article 75, staying arbitration of an alleged uninsured vehicle claim and adding the proposed additional respondents as named herein. In a following motion, AIU moves for stay of the scheduled arbitration pending determination of the underlying petition. Said Order to Show Cause, dated May 9, 2005, contained a temporary stay of the scheduled arbitration. Respondent, HECTOR RODRIGUEZ (hereinafter referred to as "RODRIGUEZ") and Proposed Respondent, GOVERNMENT EMPLOYEES INSURANCE COMPANY (hereinafter referred to as "GEICO"), in part oppose the motions which are determined as follows:

RODRIGUEZ has demanded arbitration based upon an uninsured motorist claim on his behalf by reason of his being the owner and driver of a 1991 Toyota car insured by GEICO, involved in an accident on June 6, 2002 in the vicinity of Nassau Road and Babylon Turnpike, Hempstead, New York. The petitioner states that the accident allegedly took place between the car operated by RODRIGUEZ and a 1991 Toyota owned and operated by Proposed Respondent, MARIA E. FELDER (hereinafter referred to as "FELDER"). It is alleged that, at the time of the accident, the FELDER automobile was insured by GEICO and/or Proposed Respondent, METROPOLITAN GROUP PROPERTY AND CASUALTY INSURANCE COMPANY (hereinafter referred to as "METROPOLITAN"). AIU annexes a copy of the Police Accident Report and the Department of Motor Vehicles Record Abstract designating said companies, in support of its application. It is AIU's position that neither GEICO nor METROPOLITAN have come forward with admissible evidence to establish that no policy of insurance was in place at the time of the accident and that a framed issue hearing is necessary to determine whether insurance for the

FELDER vehicle exists or whether there is a right to arbitration.

FELDER states that she cannot proffer any additional evidence at this time with respect to insurance and joins in the request for a temporary stay until the issues of coverage are determined. After a careful reading of the submissions herein, it is the judgment of the Court that a hearing is required on the issue of whether there is a right to proceed to arbitration and whether there is insurance coverage for the FELDER automobile with GEICO, METROPOLITAN or any other company. Accordingly, it is hereby

**ORDERED**, that AIU's petition for a stay of the demanded arbitration is granted pending resolution of the issues raised herein; and it is further

**ORDERED**, that subject to the discretion of the Justice there presiding, this matter shall appear on the calendar of Calendar Control Part on September 14, 2005 at 9:30 A.M., for assignment to a framed issue hearing. All carriers claimed to have provided offending vehicle coverage and their insureds are hereby added as necessary parties (see CPLR 1001) provided petitioner obtains jurisdiction over such parties by service of a copy of this order and all of the papers upon which it is based, pursuant to CPLR Article 3, within twenty (20) days after entry; and it is further

**ORDERED**, that there shall be a response to the petition by the added respondents no later than twenty (20) days after jurisdiction has been obtained. The response by purported insurers shall include copies of all documentation and affidavits relied upon in support of any claim of non-coverage; and it is further

**ORDERED**, that petitioner shall serve and file a Note of Issue no later than sixty (60) days after entry of this order. A copy of this order shall accompany the Note of Issue when

filed, together with proof that a copy of the order has been mailed to all parties to the original petition within fifteen (15) days after entry. A copy of this order shall be served on the Clerk of the Calendar Control Part within twenty (20) days after entry.

All further requested relief not specifically granted is denied.

This constitutes the decision and order of the Court.

Dated: June 9, 2005

  
WILLIAM R. LaMARCA, J.S.C.

TO: Samuel K. Rubin, Esq.  
Attorney for Petitioner  
PO Box 9040  
Bethpage, NY 11714-9040

The Bongiorno Law Firm  
Attorneys for Respondent Hector Rodriguez  
250 Mineola Boulevard  
Mineola, NY 11501

Maria E. Felder  
Proposed Additional Respondent Pro Se  
61 Oakland Street  
Hempstead, NY 11550

Government Employers Insurance Company  
Proposed Additional Respondent Pro Se  
750 Woodbury Road  
Woodbury, NY 11797

Metropolitan Group Property and Casualty Insurance Company  
Proposed Additional Respondent Pro Se  
700 Quaker Lane  
PO Box 350  
Warwick, RI 02887

American Arbitration Association  
1633 Broadway, 10<sup>th</sup> Floor  
New York, NY 10019

**ENTERED**

**JUN 17 2005**

**NASSAU COUNTY  
COUNTY CLERK'S OFFICE**