

SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK

Present:

HON. THOMAS P. PHELAN,

Justice.

TRIAL/IAS PART 2
NASSAU COUNTY

In the Matter of the Application of TRAVELERS
PROPERTY CASUALTY COMPANY OF
AMERICA

Petitioner,

ORIGINAL RETURN DATE: 03/15/11
SUBMISSION DATE: 05/17/11
Index No. 002320/11

-against-

For an Order Staying the Arbitration Commenced
By MARCIA RICHARDS

MOTION SEQUENCE #1

Respondent,

-and against-

NEW SOUTH INSURANCE COMPANY a/k/a
GMAC INSURANCE, GMAC INSURANCE,
PROGRESSIVE PREFERRED INSURANCE
COMPANY, ALTHEA BURKS-FLOWERS,
LEROY FLOWERS and KEVIN FLOWERS,

Proposed Additional Respondents.

The following papers read on this motion:

Notice of Petition.....	1
Affirmation in Opposition.....	2, 3, 4
Reply Affirmation.....	5, 6

Application for an order (CPLR 7503) permanently staying an "uninsured motorist" arbitration is disposed of as indicated.

A hearing is required on the issue of offending vehicle coverage and the right to proceed to arbitration. The demanded arbitration is stayed pending resolution of the issues raised.

**RE: TRAVELERS PROPERTY CASUALTY COMPANY OF AMERICA
v. RICHARDS v. NEW SOUTH INSURANCE COMPANY, et al.**

Page 2

Subject to the discretion of the Justice there presiding, this matter shall appear on the calendar of

CALENDAR CONTROL PART for November 3, 2011, at 9:30 a.m.

NEW SOUTH INSURANCE COMPANY a/k/a GMAC INSURANCE, GMAC INSURANCE and PROGRESSIVE PREFERRED INSURANCE COMPANY, as a carriers claimed to have provided offending vehicle coverage, and ALTHEA BURKS-FLOWERS, LEROY FLOWERS and KEVIN FLOWERS, as their alleged insureds, are hereby added as necessary parties (see CPLR 1001) provided petitioner obtains jurisdiction over such parties pursuant to CPLR Art. 3 by service of a copy of this order and all papers upon which it is based within 20 days after entry. A failure to add such parties may result in a dismissal for the failure to add a necessary party (see CPLR 1003).

There shall be a response to the petition by added respondents. Such response shall be served no later than 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 the claims of non-coverage.

Petitioner shall serve and file a Note of Issue no later than 90 days after entry of this order and if it fails to do so, the action shall be deemed abandoned (see CPLR 3216). The Note of Issue shall be accompanied by a copy of this order and a statement that a copy of such order has been mailed to all parties to the original petition within 15 days after entry.

A copy of this order shall be served on the Clerk of the Calendar Control Part within 20 days after entry.

Should petitioner be denied a permanent stay of arbitration, disclosure in advance of arbitration shall be scheduled with all deliberate speed.

This decision constitutes the order of the court.

Dated: 7-19-11

HON THOMAS P. PHELAN

THOMAS P. PHELAN, J.S.C.

ENTERED
JUL 22 2011
NASSAU COUNTY
COUNTY CLERK'S OFFICE

**RE: TRAVELERS PROPERTY CASUALTY COMPANY OF AMERICA
v. RICHARDS v. NEW SOUTH INSURANCE COMPANY, et al.**

Page 3

Attorneys/Parties of Record:

The Law Offices of Karen C. Dodson
Attention: Richard P. McArthur, Esq.
Attorneys for Petitioner
100 Baylis Road, Suite 100
Melville, NY 11747

Law Office of Kenneth M. Mollins, P.C.
Attention: Leo Bevolas, Esq.
Attorneys for Respondent
425 Broad Hollow Road, Suite 215
Melville, NY 11747

McCabe Collins, McGeough & Fowler, LLP.
Attention: Teresa Campano, Esq.
Attorneys for Proposed Additional Respondents
GMAC and New South Insurance Company
346 Westbury Avenue, P.O. Box 9000
Carle Place, NY 11514

Law Offices of Teresa Girolamo
Attention: Teresa Girolamo, Esq.
Attorneys for Proposed Additional Respondent
Progressive Preferred Insurance Company
19 Jonah Road, Suite B
Miller Place, NY 11764

Althea Burks-Flwers
Proposed Additional Respondent
299 Rutland Road
Freeport, NY 11520

Leroy Flowers
Proposed Additional Respondent
299 Rutland Road
Freeport, NY 11520

Kevin Flowers
Proposed Additional Respondent
846 Bradley Street
West Hempstead, NY 11552

**RE: TRAVELERS PROPERTY CASUALTY COMPANY OF AMERICA
v. RICHARDS v. NEW SOUTH INSURANCE COMPANY, et al.**

Page 4

American Arbitration Association
65 Broadway, 15th Floor
New York, NY 10006
SUM/UM Division
Travelers Claim
HEE8966