

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU**

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In the Matter of the Application of,
GOVERNMENT EMPLOYEES INSURANCE
COMPANY to Stay Arbitration

Petitioners,

-against-

KHATEREH S. HAKIMIAN,
Respondent,

-and-

MASSACHUSETTS BAY INSURANCE COMPANY,
MARY CAMPOLONGO, and MELISSA
CAMPOLONGO,

Proposed Additional Respondents.

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Papers Read on this Motion:

Petitioner's Petition to Stay Arbitration	01
Respondent Hakimian's Opposition	xx
Petitioner's Reply	xx

Government Employees Insurance Company (hereinafter referred to as Geico) moves for an Order pursuant to CPLR§7503 (c) granting a permanent Stay of Arbitration in this matter, or in the alternative, a temporary Stay of Arbitration joining Massachusetts Bay Insurance Company, Mary K. Campolongo and Melissa A. Campolongo as additional Respondents pending a hearing on the issue of whether the Respondent Khatereh S. Hakimian was involved in an accident with a "hit and run vehicle," and whether Respondent timely reported the alleged "hit and run" accident to the police, and directing the Respondent to submit to an examination under oath and physical examinations, and to provide Petitioner with all medical records and authorizations.

The Respondent claimed in his demand for Arbitration that on June 3, 2007, he was involved in a "hit and run" accident where he was caused to sustain personal injuries. According to Geico, the Petitioner in the within matter, the Respondent failed to report the accident to the police within 24 hours pursuant to the policy of insurance between the parties.

Massachusetts Bay Insurance Company was the insurer of the motor vehicle, a 2003 Mitsubishi Gallant owned by Mary K. Campolongo and operated by Melissa A. Campolongo which is the vehicle the Respondent claims to have hit his car and left the scene of the accident.

**MICHELE M. WOODARD
J.S.C.**
TRIAL/IAS Part 16
Index No.:20827/07
Motion Seq. No.: 01

DECISION AND ORDER

The Respondent opposes the motion, claiming that the accident was promptly reported to the police at the scene when it occurred. According to the Respondent, the police report was amended upon her discovery that the police did not include the information correlating to the vehicle which fled the scene.

The Petitioner's application is **granted** to the extent that the arbitration is temporarily stayed to allow for discovery. It is further **ORDERED** that

1. Claimant is to submit to an Examination Under Oath within 60 days.
2. Claimant is to submit to an Independent Medical Exam within 60 days.

It is not an abuse of discretion to grant requested discovery to aid in Arbitration, when the Respondent has demonstrated that the documents are required to present a proper case to the arbiter, see *Matter of Mook v Emanuel*, 99 AD 2d 1003 (1st Dept 1984). It is further

ORDERED, that Massachusetts Bay Insurance Company, Mary Campolongo and Melissa Campolongo are joined to the matter as Additional Respondents. It is further

ORDERED, that the matter is referred to the Calendar Control Part for a framed issue hearing on the issues of whether the Respondents were involved in a "hit and run accident" and whether Respondent Khatereh S. Hakimian filed a police report within 24 hours of the alleged hit and run accident. Said Hearing shall be held on July 10, 2008.


Plaintiff shall file a Note of Issue, together with a copy of this Order, on all parties and shall serve copies of same, together with receipt of payment, upon the Calendar Clerk of this Court within twenty (20) days of the date of this Order.

The failure to file a Note of Issue or appear as directed may be deemed as abandonment of the claims giving rise to the hearing. The directive with respect to a hearing is t subject to the right of the Justice presiding in CCP II to refer the matter to a Justice, Judicial Hearing Officer, or a Court attorney, Referee, as he or she deems appropriate

This constitutes the **DECISION** and **ORDER** of the Court.

DATED: April 22, 2008
Mineola, N.Y.

ENTER:



HON. MICHELE M. WOODARD
J.S.C.

G:\ARBITRATION\Government Employees Insurance v. Kahimian and Massachusetts Bay Insurance Company

ENTERED

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COUNTY CLERK'S OFFICE