

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

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Submitted - September 14, 2006

THOMAS A. ADAMS, J.P.  
PETER B. SKELOS  
STEVEN W. FISHER  
JOSEPH COVELLO, JJ.

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2005-11312

DECISION & ORDER

In the Matter of Transcontinental Insurance Company,  
a/k/a CNA Insurance Companies, petitioner-  
respondent, v Lamont Gibbs, respondent, Allstate  
Insurance Company, proposed additional respondent-  
appellant, et al., proposed additional respondents.

(Index No. 41300/04)

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Bruno, Gerbino & Soriano, LLP, Melville, N.Y. (Charles W. Benton of counsel), for  
proposed additional respondent-appellant.

Charles J. Siegel, New York, N.Y. (Alfred T. Lewyn of counsel), for petitioner-  
respondent.

In a proceeding pursuant to CPLR article 75 to permanently stay arbitration of an  
uninsured motorist claim, the proposed additional respondent Allstate Insurance Company appeals  
from an order of the Supreme Court, Kings County (Archer, J.H.O.), dated October 7, 2005, which,  
after a hearing, granted the petition.

ORDERED that the order is affirmed, with costs.

The Supreme Court properly determined that the proposed additional respondent  
Allstate Insurance Company (hereinafter Allstate) failed to effectuate the cancellation of a policy of  
insurance it issued to its insured, Lisa Cruz, because it failed to prove that a proper final premium bill

November 8, 2006

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a/k/a CNA INSURANCE COMPANIES v GIBBS

had been timely mailed to her (*see Lumberman's Mut. Cas. Co. v Gamble*, 250 AD2d 540; *Matter of Paramount Ins. Co. v Moctezuma*, 201 AD2d 652, 653; *Matter of Home Indem. Co. v Scricca*, 147 AD2d 697; *cf. Matter of Eagle Ins. Co. v Gervais*, 242 AD2d 572, 573). Allstate also failed to prove that its notice of cancellation to Cruz complied with the requirements of Vehicle and Traffic Law § 313(1)(a) (*see Duhs v Royal Globe Insurance Co.*, 63 AD2d 992).

Accordingly, the Supreme Court properly granted the petition to permanently stay arbitration of the uninsured motorist claim (*see Matter of Allstate Ins. Co. v Ramirez*, 208 AD2d 828).

ADAMS, J.P., SKELOS, FISHER and COVELLO, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court