

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

D12591  
O/cb

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - September 26, 2006

HOWARD MILLER, J.P.  
DAVID S. RITTER  
REINALDO E. RIVERA  
ROBERT A. LIFSON, JJ.

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2005-09969

DECISION & ORDER

In the Matter of Government Employees Insurance  
Company, respondent, v Boris Goldenberg, appellant.

(Index No. 80166/05)

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Efrom J. Gross (Ephrem Wertenteil, New York, N.Y., of counsel), for appellant.

Dariento & Lauzon (Connors & Connors, P.C., Staten Island, N.Y. [Robert J. Pfuhrer] of counsel), for respondent.

In a proceeding pursuant to CPLR article 75 to stay arbitration of a claim for uninsured motorist benefits, Boris Goldenberg appeals from an order of the Supreme Court, Richmond County (Cannizzaro, J.H.O.), dated August 31, 2005, which, after a hearing, granted the petition.

ORDERED that the order is affirmed, with costs.

Contrary to the appellant's contention, the Supreme Court was free to disbelieve the appellant's uncontroverted testimony on the issue of whether he timely reported the subject accident to the police (*see Matter of Nowakowski*, 2 NY2d 618, 622; *Mynarski v Ravo*, 72 AD2d 741). Under the facts of this case, we decline to disturb the Supreme Court's determination.

MILLER, J.P., RITTER, RIVERA and LIFSON, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

November 14, 2006

MATTER OF GOVERNMENT EMPLOYEES INSURANCE COMPANY v GOLDENBERG