

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

D13594  
X/cb

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

Argued - December 12, 2006

REINALDO E. RIVERA, J.P.  
ROBERT A. SPOLZINO  
DAVID S. RITTER  
DANIEL D. ANGIOLILLO, JJ.

2006-07440

DECISION & ORDER

In the Matter of United Services Automobile Association Property and Casualty Insurance Company, appellant, v Jane DeRosa, et al., respondents.

(Index No. 8521/06)

Neil L. Kanzer, Garden City, N.Y. (Steven T. Farmer of counsel), for appellant.

Schwartzapfel, Novick, Truhowsky & Marcus, P.C. (Alexander J. Wulwick, New York, N.Y., of counsel), for respondents.

In a proceeding pursuant to CPLR article 75 to stay arbitration of claims for uninsured/underinsured motorist benefits, United Services Automobile Association Property and Casualty Insurance Company appeals from an order of the Supreme Court, Suffolk County (Burke, J.), dated July 6, 2006, which denied the petition and dismissed the proceeding.

ORDERED that the order is affirmed, with costs.

Contrary to the appellant's contention, the respondents' demands for arbitration of their claims for uninsured/underinsured motorist benefits were not served in a manner intended to conceal their nature or to precipitate a default (*cf. Matter of Nationwide Ins. Co. v Singh*, 6 AD3d 441; *Matter of American Sec. Ins. Co. [Tabacchi]*, 95 AD2d 808; *Rider Ins. Co. v Marino*, 84 AD2d 832). Accordingly, since the appellant otherwise failed to seek a stay of arbitration within the relevant 20-day period, its petition was properly denied as untimely (*see CPLR 7503[c]*; *Matter of Steck [State Farm Ins. Co.]*, 89 NY2d 1082; *Matter of Government Employees Ins. Co. v Castillo-Gomez*, 34

January 30, 2007

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MATTER OF UNITED STATES AUTOMOBILE ASSOCIATION  
PROPERTY AND CASUALTY INSURANCE COMPANY v DEROSA

AD3d 477).

RIVERA, J.P., SPOLZINO, RITTER and ANGIOLILLO, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, looping initial "J".

James Edward Pelzer  
Clerk of the Court