

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

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Submitted - April 5, 2007

HOWARD MILLER, J.P.  
DANIEL D. ANGIOLILLO  
EDWARD D. CARNI  
THOMAS A. DICKERSON, JJ.

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2006-08142

DECISION & ORDER

In the Matter of Progressive Northeastern Insurance  
Company, respondent, v Waseem Sheikh, et al.,  
appellants.

(Index No. 19563/05)

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Steven R. Smith, Garden City, N.Y., for appellants.

John C. Buratti, Yonkers, N.Y. (Michael A. Zarkower of counsel), for respondent.

In a proceeding pursuant to CPLR article 75 to permanently stay arbitration of a claim for uninsured motorist benefits, Waseem Sheikh, Shazia Sheikh, and Mariam Sheikh appeal from an order of the Supreme Court, Nassau County (Jaeger, J.), entered August 1, 2006, which, after a hearing, granted the petition.

ORDERED that the order is affirmed, with costs.

In reviewing a trial court's findings of fact following a nonjury trial, this court's authority "is as broad as that of the trial court" and includes the power to "render the judgment it finds warranted by the facts, taking into account in a close case the fact that the trial judge had the advantage of seeing the witnesses" (*Northern Westchester Professional Park Assoc. v Town of Bedford*, 60 NY2d 492, 499 [internal quotation marks and citations omitted]; *see Hall v Sinclair*, 35 AD3d 660; *Matter of Fasano v State of New York*, 113 AD2d 885, 888). We decline to disturb the Supreme Court's determination (*see Letterese v State of New York*, 33 AD3d 593; *Matter of Fasano v State of New York*, *supra*).

May 8, 2007

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The appellants' remaining contentions are without merit.

MILLER, J.P., ANGIOLILLO, CARNI and DICKERSON, JJ., concur.

ENTER:

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

James Edward Pelzer  
Clerk of the Court