

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

D17946  
W/prt

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

Argued - January 4, 2008

ROBERT A. SPOLZINO, J.P.  
ANITA R. FLORIO  
HOWARD MILLER  
THOMAS A. DICKERSON, JJ.

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2007-00209

DECISION & ORDER

In the Matter of New York Central Mutual Fire  
Insurance Company, respondent, v Simon  
Ljekocevic, appellant.

(Index No. 4023/06)

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Antin, Ehrlich & Epstein, P.C., New York, N.Y. (Jeffrey S. Antin and Joseph Ehrlich of counsel), for appellant.

Hiscock & Barclay, LLP, Albany, N.Y. (William C. Foster of counsel), for respondent.

In a proceeding pursuant to CPLR article 75 to stay arbitration of an underinsured motorist claim, the appeal is from an order of the Supreme Court, Dutchess County (Sproat, J.), dated November 22, 2006, which granted the petition.

ORDERED that the order is affirmed, with costs.

The appellant violated the terms of his insurance policy by failing to provide his notice of claim for underinsurance benefits "as soon as practicable" (*Rekemeyer v State Farm Mut. Auto. Ins. Co.*, 4 NY3d 468, 474; *see Matter of Metropolitan Prop. & Cas. Ins. Co. v Mancuso*, 93 NY2d 487, 495; *Matter of Continental Ins. Co. v Marshall*, 12 AD3d 508; *Interboro Mut. Indem. Ins. Co. v Brown*, 300 AD2d 660; *Nationwide Mut. Ins. Co. v DiGregorio*, 294 AD2d 579).

February 5, 2008

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MATTER OF NEW YORK CENTRAL MUTUAL FIRE  
INSURANCE COMPANY v LJEKOCEVIC

Accordingly, the Supreme Court properly granted the petition and permanently stayed arbitration.

SPOLZINO, J.P., FLORIO, MILLER and DICKERSON, 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