

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

D19373  
C/hu

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Argued - April 10, 2008

REINALDO E. RIVERA, J.P.  
FRED T. SANTUCCI  
RANDALL T. ENG  
CHERYL E. CHAMBERS, JJ.

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2007-07930

DECISION & ORDER

In the Matter of Government Employees Insurance  
Company, respondent, v Eliezer Steinmetz, appellant.

(Index No. 10091/06)

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Subin Associates LLP, New York, N.Y. (Herbert S. Subin and Brooke Lombardi of counsel), for appellant.

O'Connor, McGuinness, Conte, Doyle & Oleson, White Plains, N.Y. (Montgomery L. Effinger of counsel), for respondent.

In a proceeding pursuant to CPLR article 75 to permanently stay arbitration of a claim for uninsured motorist benefits, Eliezer Steinmetz appeals from an order of the Supreme Court, Rockland County (Nelson, J.), dated July 30, 2007, which, after a hearing, granted the petition.

ORDERED that the order is affirmed, with costs.

“Where, as here, a case is tried without a jury, this Court’s power to review the evidence is as broad as that of the trial court, ‘taking into account in a close case the fact that the trial judge had the advantage of seeing the witnesses’” (*Terry v State of New York*, 39 AD3d 846, 846, quoting *Northern Westchester Professional Park Assoc. v Town of Bedford*, 60 NY2d 492, 494). We decline to disturb the Supreme Court’s finding that there was no physical contact between the appellant’s vehicle and an alleged hit-and-run vehicle (*see Matter of Progressive Northeastern Ins. Co. v Sheikh*, 40 AD3d 763, 764; *Matter of Metropolitan Prop. and Cas. Co. v Sands*, 5 AD3d 601, 602).

RIVERA, J.P., SANTUCCI, ENG and CHAMBERS, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

May 27, 2008

MATTER OF GOVERNMENT EMPLOYEES INSURANCE COMPANY v STEINMETZ