

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

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_____AD3d_____

Argued - January 5, 2009

ROBERT A. SPOLZINO, J.P.
FRED T. SANTUCCI
JOHN M. LEVENTHAL
CHERYL E. CHAMBERS, JJ.

2007-09947

DECISION & ORDER

Debra Grant-Reason, respondent, v State
Farm Insurance Companies, appellant, et al.,
defendants.

(Index No. 26299/03)

Bruno, Gerbino & Soriano, LLP (Rivkin Radler, LLP, Uniondale, N.Y. [Evan H. Krinick, Cheryl F. Korman, and Merril S. Biscone], of counsel), for appellant.

Albert Ghunney, Jamaica, N.Y. (Diamond and Diamond, LLC [Stuart Diamond], of counsel), for respondent.

In an action, inter alia, to recover damages for breach of an insurance contract, the defendant State Farm Insurance Companies appeals from an order of the Supreme Court, Kings County (Steinhardt, J.), dated August 15, 2007, which, after a jury trial, sua sponte, in effect, pursuant to CPLR 4404(a), set aside the jury verdict in favor of the defendant State Farm Insurance Companies and granted a new trial on all issues.

ORDERED that on the Court's own motion, the notice of appeal is treated as an application for leave to appeal, and leave to appeal is granted (*see* CPLR 5701[c]); and it is further,

ORDERED the order is affirmed, with costs.

March 24, 2009

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GRANT-REASON v STATE FARM INSURANCE COMPANIES

The Supreme Court correctly set aside the jury verdict and granted a new trial on all issues (*see Audige v New York City Tr. Auth.*, 149 AD2d 555). The verdict was not supported by a fair interpretation of the evidence (*see Saks & Co. v Continental Ins. Co.*, 23 NY2d 161).

SPOLZINO, J.P., SANTUCCI, LEVENTHAL and CHAMBERS, 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