

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

D24100
O/prt

_____AD3d_____

Argued - June 12, 2009

WILLIAM F. MASTRO, J.P.
THOMAS A. DICKERSON
RANDALL T. ENG
L. PRISCILLA HALL, JJ.

2008-01643

DECISION & ORDER

In the Matter of Metlife Auto & Home, respondent,
v Debra Zampino, appellant.

(Index No. 13067/07)

Economou & Economou, P.C., Syosset, N.Y. (David J. Tetlak and Albert J. Galatan of counsel), for appellant.

Shayne, Dachs, Corker, Sauer & Dachs, LLP, Mineola, N.Y. (Jonathan A. Dachs of counsel), for respondent.

In a proceeding pursuant to CPLR article 75 to permanently stay arbitration of a claim for uninsured motorist benefits, Debra Zampino appeals from an order of the Supreme Court, Nassau County (Galasso, J.), dated January 29, 2008, which directed a hearing to determine the petitioner's subrogation rights.

ORDERED that the appeal from the order is dismissed, without costs or disbursements.

The appeal from the order must be dismissed, as no appeal lies as of right from an order which directs a hearing to aid in the disposition of a motion and leave to appeal has not been granted (*see Hochhauser v Electric Insurance Co.*, 46 AD3d 174, 185), and, in any event, the order was superseded by an order of the same court entered August 8, 2008 (*see Matter of MetLife Auto*

September 15, 2009

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& Home v Zampino, _____AD3d_____, Appellate Division Docket No. 2008-08717, decided herewith).

MASTRO, J.P., DICKERSON, ENG and HALL, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court