

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

D29278  
Y/hu

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Argued - November 12, 2010

PETER B. SKELOS, J.P.  
JOSEPH COVELLO  
RUTH C. BALKIN  
SANDRA L. SGROI, JJ.

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2009-10035

DECISION & ORDER

Progressive Northeastern Insurance Company,  
appellant, v Rekha Lamba, et al., defendants, Daniel  
Lee, et al., respondents.

(Index No. 4177/09)

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Carman, Callahan & Ingham, LLP, Farmingdale, N.Y. (Michael F. Ingham of  
counsel), for appellant.

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

In an action for a judgment declaring that the plaintiff is not obligated to provide coverage to the defendants Rekha Lamba and The Reba Group, Inc., in an underlying personal injury action entitled *Lee v The Reba Group, Inc.*, pending in the Supreme Court, Suffolk County, under Index No. 24204/08, under a policy of insurance numbered 18003460-6 issued to the defendant Mohinder Lamba, the plaintiff appeals, as limited by its brief, from so much of an order of the Supreme Court, Suffolk County (Costello, J.), dated September 24, 2009, as granted that branch of the motion of the defendants Daniel Lee and Kelly Lee which was for summary judgment declaring that it is obligated to provide coverage, and denied its cross motion for summary judgment on the complaint.

ORDERED that the order is affirmed insofar as appealed from, with costs, and the matter is remitted to the Supreme Court, Suffolk County, for the entry of a judgment declaring that the plaintiff is required to provide coverage to Rekha Lamba and The Reba Group, Inc., in an underlying personal injury action entitled *Lee v The Reba Group, Inc.*, pending in the Supreme Court,

December 7, 2010

Page 1.

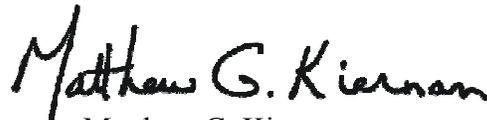
Suffolk County, under Index No. 24204/08 under a policy of insurance numbered 18003460-6 issued to the defendant Mohinder Lamba.

The Supreme Court properly determined that the plaintiff failed to provide notice of disclaimer of coverage “as soon as is reasonably possible” (Insurance Law § 3420[d][2]; *see First Fin. Ins. Co. v Jetco Contr. Corp.*, 1 NY3d 64, 68-69; *New York City Hous. Auth. v Underwriters at Lloyd’s, London*, 61 AD3d 726, 727) and, therefore, was estopped from disclaiming coverage.

Since this is a declaratory judgment action, we remit the matter to the Supreme Court, Suffolk County, for the entry of a judgment declaring that the plaintiff is required to provide coverage to Rekha Lamba and The Reba Group in the underlying action under the policy of insurance in question issued to the defendant Mohinder Lamba (*see Lanza v Wagner*, 11 NY2d 317, 334, *appeal dismissed* 371 US 74, *cert denied* 371 US 901).

SKELOS, J.P., COVELLO, BALKIN and SGROI, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court