

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

D33358  
Y/prt

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

Argued - November 21, 2011

DANIEL D. ANGIOLILLO, J.P.  
THOMAS A. DICKERSON  
PLUMMER E. LOTT  
ROBERT J. MILLER, JJ.

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2010-10095

DECISION & ORDER

In the Matter of Progressive Specialty Insurance  
Company, appellant, v Stephen Alexis, et al.,  
respondents-respondents, et al., respondents.

(Index No. 1583/10)

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Adams, Hanson, Finder, Hughes, Rego, Kaplan and Fishbein, Yonkers, N.Y.  
(Michael A. Zarkower of counsel), for appellant.

Dinerman Bergam & Dinerman, LLP, New York, N.Y. (Barry M. Dinerman of  
counsel), for respondents-respondents.

In a proceeding pursuant to CPLR article 75 to stay arbitration of an uninsured  
motorist claim, the petitioner appeals, as limited by its brief, from so much of an order of the  
Supreme Court, Orange County (Onofry, J.), dated September 3, 2010, as denied that branch of the  
petition which was to direct disclosure in aid of arbitration pursuant to CPLR 3102(c).

ORDERED that the order is affirmed insofar as appealed from, with costs.

The petitioner commenced this proceeding to stay arbitration of an uninsured motorist  
claim. As part of its application, the petitioner requested disclosure in aid of arbitration pursuant to  
CPLR 3102(c).

The Supreme Court properly denied that branch of the petition which was to direct  
disclosure in aid of arbitration pursuant to CPLR 3102(c), as the petitioner failed to demonstrate that  
“extraordinary circumstances” existed such that this relief would be absolutely necessary for the

December 20, 2011

Page 1.

MATTER OF PROGRESSIVE SPECIALTY INSURANCE COMPANY v ALEXIS

protection of its rights (*De Sapio v Kohlmeyer*, 35 NY2d 402, 406 [internal quotation marks omitted]; see *Matter of Government Empls. Ins. Co. v Morris*, 83 AD3d 709, 710; *Matter of Travelers Indem. Co. v United Diagnostic Imaging, P.C.*, 73 AD3d 791, 791-792).

ANGIOLILLO, J.P., DICKERSON, LOTT and MILLER, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court