

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

D34594  
C/hu

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

Argued - March 2, 2012

ANITA R. FLORIO, J.P.  
PLUMMER E. LOTT  
SANDRA L. SGROI  
ROBERT J. MILLER, JJ.

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2011-05926

DECISION & ORDER

In the Matter of Government Employees Insurance  
Company, petitioner-respondent, v Ana Cristina  
Tuzzo, et al., respondents, Hereford Insurance  
Company, et al., appellants.

(Index No. 16590/10)

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Lawrence R. Miles, Long Island City, N.Y., for appellant Hereford Insurance  
Company.

Nancy L. Isserlis, Long Island City, N.Y. (Francis M. Cerniglia of counsel), for  
appellant Manuel Santana.

Gail S. Lauzon (Montfort, Healy, McGuire & Salley, Garden City, N.Y. [Donald S.  
Neuman, Jr.], of counsel), for petitioner-respondent.

In a proceeding pursuant to CPLR article 75 to permanently stay arbitration of an  
uninsured motorist claim, Hereford Insurance Company and Manuel Santana separately appeal from  
a judgment of the Supreme Court, Nassau County (Sher, J.), entered March 25, 2011, which, after  
a framed-issue hearing, granted the petition and permanently stayed arbitration.

ORDERED that the judgment is affirmed, with one bill of costs.

Where, as here, a case is determined after a hearing held before a Justice of the  
Supreme Court, this Court's power to review the evidence is as broad as that of the Supreme Court,  
taking into account in a close case the fact that the Supreme Court had the advantage of seeing the

April 17, 2012

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witnesses (see *Northern Westchester Professional Park Assoc. v Town of Bedford*, 60 NY2d 492, 499; *Matter of Government Employees Ins. Co. v Albino*, 91 AD3d 870, 871; *Matter of Allstate Ins. Co. v Tae Hong Ji*, 81 AD3d 940, 940). We decline to disturb the Supreme Court's determination, made after a framed-issue hearing, that there was no physical contact between the insured vehicle and an alleged hit-and-run vehicle (see *Matter of Government Empls. Ins. Co. v Albino*, 91 AD3d at 871; *Matter of Allstate Ins. Co. v Tae Hong Ji*, 81 AD3d at 940; *Matter of Government Employees Ins. Co. v Steinmetz*, 51 AD3d 1022, 1022). Accordingly, the Supreme Court properly granted the petition and permanently stayed arbitration.

FLORIO, J.P., LOTT, SGROI and MILLER, JJ., concur.

ENTER:

A handwritten signature in black ink, appearing to read "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino  
Clerk of the Court