

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

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CA 08-01595

PRESENT: SCUDDER, P.J., HURLBUTT, PERADOTTO, AND GORSKI, JJ.

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IN THE MATTER OF THE ARBITRATION BETWEEN  
TOWN OF CHEEKTOWAGA, PETITIONER-APPELLANT,

AND

MEMORANDUM AND ORDER

CHEEKTOWAGA POLICE CLUB, INC.,  
RESPONDENT-RESPONDENT.

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PHILLIPS LYTTLE LLP, BUFFALO (JAMES D. DONATHEN OF COUNSEL), FOR  
PETITIONER-APPELLANT.

ANTHONY J. DEMARIE, WILLIAMSVILLE, FOR RESPONDENT-RESPONDENT.

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Appeal from an order and judgment (one paper) of the Supreme Court, Erie County (Diane Y. Devlin, J.), entered April 30, 2008 in a proceeding pursuant to CPLR article 75. The order and judgment denied the petition for a permanent stay of arbitration.

It is hereby ORDERED that the order and judgment so appealed from is unanimously affirmed without costs.

Memorandum: Petitioner appeals from an order and judgment denying its petition for a permanent stay of arbitration pursuant to CPLR 7503 (b). We affirm. Respondent, the representative for Cheektowaga police officers below the rank of lieutenant, filed a demand for arbitration concerning petitioner's decision to promote one officer to the rank of lieutenant instead of a second officer, based on the second officer's residence outside the Town of Cheektowaga. Because neither party challenges the propriety of arbitrating such a dispute, the only issue before us is whether respondent's claim falls within the scope of the parties' collective bargaining agreement (CBA), and we conclude that it does inasmuch as it is reasonably related to the subject matter of the CBA (see *Matter of City of Watertown v Watertown Firefighters, Local 191*, 6 AD3d 1095; *Matter of Odessa-Montour Cent. School Dist. [Odessa-Montour Teachers Assn.]*, 271 AD2d 931, 932). "Where, as here, there is a broad arbitration clause and a 'reasonable relationship' between the subject matter of the dispute and the general subject matter of the parties' [CBA], the court 'should rule the matter arbitrable, and the arbitrator will then make a more exacting interpretation of the precise scope of the substantive provisions of the [CBA], and whether the subject matter of the dispute fits within them' " (*Matter of Van Scoy [Holder]*, 265 AD2d 806, 807-808, quoting *Matter of Board of Educ. of Watertown City*

*School Dist. [Watertown Educ. Assn.]*, 93 NY2d 132, 143).

Entered: February 6, 2009

JoAnn M. Wahl  
Clerk of the Court