



temporarily stay the UM arbitration demanded by the respondents pending their provision of such discovery.

Geico moves to reargue asserting, inter alia, that: (1) upon the receipt of the respondents' application for no-fault benefits, it sent a letter dated June 24, 2003, reserving its right to discovery; (2) although the respondents filed a Notice of Intention to Make Claim dated June 10, 2003, that notice did not indicate that the respondents intended to make a claim for UM benefits and was served with no-fault paperwork; (3) the respondents never made a formal claim for UM benefits until they demanded arbitration by demand dated March 16, 2004; (4) notice of the no-fault claim did not constitute notice of the UM claim; (5) as a result, in connection with the UM claim, it timely requested discovery by letter dated April 5, 2004; and, (6) its policy obligates the respondents to provide discovery prior to arbitration.

The respondents oppose the motion contending, inter alia, that they served a notice of intention to make a claim for UM benefits in June, 2003, and Geico failed to request any discovery until after they demanded arbitration.

The respondents' Notice of Intention to Make Claim, sworn to on June 10, 2003, appears to be on a form provided by Geico. Section 10 of that form asks the person making a claim to indicate the reason for the application. The reasons listed on the form are: "Uninsured Car," "Denial of Coverage" "Disclaimer," "Stolen Car," "Unidentified Car," "Uninsured Automobile Endorsement on your Policy" and "Qualified Person."

The respondents placed an "x" mark next to each such listed reason, and returned the Notice of Intention to Make Claim with the no-fault authorizations requested by Geico. In response, by letter dated June 24, 2003, Geico advised the respondents' attorney that because it believed the tortfeasor carried a policy of liability insurance with Allstate on the date of the accident, "it does not appear that your client has a valid claim for uninsured motorist benefits at this time."

In the same letter, Geico stated that if the respondents obtained proof that the tortfeasor was uninsured, they should provide Geico with documentation to substantiate the UM claim. Geico added that once it confirmed the validity of the respondents' SUM or UM claim, it might require them to provide

certain discovery.

Geico did not request discovery from the respondents for 10 months, until April 5, 2004, after it was served with the respondents ' demand for arbitration.

In view of these facts, the court grants the motion to reargue and, upon reargument, adheres to its original determination set forth in the order dated November 23, 2004 (see New York Cent. Mut Fire Ins. Co. v Gershovich, 1 AD3d 364 [2003]; Matter of Allstate Ins. Co. v Faulk, 250 AD2d 674 [1998]; Matter of Allstate Ins. Co. v Urena, 208 AD2d 623 [1994]; cf. Allstate Ins. Co. v Moya, 288 AD3d 309 [2001]; Metropolitan Prop & Cas. Ins. Co. v Keeney, 241 AD3d 455 [1997]).

Dated: March 7, 2005

---

J.S.C.