

**Matter of Vereen v Motor Veh. Acc.
Indem. Corp.**

2007 NY Slip Op 30208(U)

February 15, 2007

Supreme Court, Queens County

Docket Number: 0021721

Judge: Duane A. Hart

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Short Form Order(h)

NEW YORK SUPREME COURT - QUEENS COUNTY

Present: Honorable, DUANE A. HART IAS PART 18
Justice

In the Matter of the Application of
LARRY VEREEN,

Plaintiff,

-against-

THE MOTOR VEHICLE ACCIDENT
INDEMNIFICATION CORPORATION,

Defendant.

Index No: 21721/06

Motion Date:
November 22, 2006

Cal. No.: 35

The following papers numbered 1 to 8 read on this motion.

	<u>PAPERS NUMBERED</u>
Notice of Motion-Affidavits-Exhibits	1 - 4
Answering Affidavits-Exhibits.....	5 - 8
Replying Affidavits.....	

Petitioner alleges that on April 13, 2006, as a pedestrian, he was crossing the street at the intersection of Front Street and Greengrove Avenue, Nassau County, when he was struck by an automobile. After the accident, says petitioner, the automobile fled the scene.

Thereafter, petitioner, within ninety (90) days of the accident, notified Motor Vehicle Accident Indemnification Corporation (MVAIC). He now seeks an order allowing him to bring an action against MVAIC to recover for the serious injuries he says he suffered from the accident.

In support of his motion, he asserts that at the time of the accident, he did not own a motor vehicle nor did any member of his household own one that was insured at the time of the accident. He states that at the time of the accident he was a pedestrian and concludes that under the circumstances he is eligible to seek compensation from MVAIC.

The motion is unopposed.

Insurance Law, Section 5201, outlines the purpose of MVAIC. Under the section, the legislature found that the system of financial security mandated by the vehicle and traffic laws as a condition of registration had not accomplished its purpose of "securing the innocent victims" of automobile accidents "recompense for the injury and financial loss inflicted upon them..." because the act made no provision for paying for the loss they suffer in injury and death through no fault of their own.

Thus, the statute mandates that MVAIC should compensate those individuals who were hurt by: uninsured vehicles registered in another state; unidentified vehicles which leave the scene of an accident; vehicles registered in New York but, which were not insured at the time of the accident; stolen vehicles; vehicles operated without the owner's consent; vehicles that are insured but, where the insurer denied coverage or disclaims liability and unregistered motor vehicles.

The section also mandates that no-fault benefits, covering basic economic loss, be provided for qualified persons. Qualified persons are defined as New York State residents, not including an uninsured driver, and/or owner of an uninsured vehicle, his/her spouse, where the spouse is a passenger and, his/her legal representative. Also covered are residents of sister states, territory or federal district, foreign countries and Canada, where there are similar offerings to residents of New York. See Insurance Law, Section 5202(b).

Section 5218 of the Insurance Law outlines the procedure to be followed in a hit and run accident, where it cannot be determined who owned or was operating the vehicle or where it has been shown, that the party who operated the vehicle did not have the owners consent.

In such a situation, petitioner, on notice, may ask the court for an order permitting an action against MVAIC. The court

may grant the petition if it is satisfied that the requirements of the section have been met e.g. petitioner complied with the notice procedure in a timely manner; petitioner is a qualified person as defined by the statute; petitioner was not operating the vehicle at the time of the accident, reasonable but unsuccessful efforts have been made to locate the owner/operator and the application is not being made on behalf of an insurer.

There being no opposition, petitioner's motion is granted.

Dated: February 15, 2007

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J.S.C.