

**Niyazov v Morales**

2007 NY Slip Op 30209(U)

February 23, 2007

Supreme Court, Queens County

Docket Number: 0021774

Judge: Duane A. Hart

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Short Form Order

NEW YORK SUPREME COURT - QUEENS COUNTY

Present: HONORABLE DUANE A. HART IA Part 18  
Justice

	<u>x</u>		
YAKOV NIYAZOV		Index Number <u>21774</u>	2005
		Motion Date <u>October 25,</u>	2006
- against -		Motion Cal. Number <u>18</u>	
CARLOS A. MORALES, et al.	<u>x</u>		

The following papers numbered 1 to 8 read on this motion by the defendant to vacate an arbitration award, dated April 24, 2006, pursuant to CPLR 7511 and cross motion by the plaintiff to confirm the arbitrator's award pursuant to CPLR 7510.

	<u>Papers Numbered</u>
Notice of Motion - Affidavits - Exhibits .....	1-4
Notice of Cross Motion - Affidavits - Exhibits ...	5-8

Upon the foregoing papers it is ordered that the motion and cross motion are determined as follows:

The plaintiff commenced this action to recover damages for serious personal injuries he allegedly sustained as a result of a two-car motor vehicle accident. Subsequently, the parties agreed to resolve the plaintiff's claims through binding arbitration. According to the parties' dispute resolution agreement, a binding arbitration would be held regarding the issues of both liability and damages with parameters of \$0 to \$50,000. A full hearing was conducted by the arbitrator on April 18, 2006. By decision dated April 24, 2006, the arbitrator found that the defendant was 85% liable for the happening of the accident and awarded the plaintiff a sum of \$4,000, which included the determined comparative negligence of the plaintiff.

An arbitration award may be vacated only if "it violates a strong public policy, is irrational, or clearly exceeds a specifically enumerated limitation on the arbitrator's power" (Matter of Board of Education of Arlington Cent. School Dist. v

Arlington Teachers Assn., 78 NY2d 33 [1991]). CPLR 7511(b)(1) provides the following enumerated grounds for vacating an arbitration award:

(1) The award shall be vacated on the application of a party who either participated in the arbitration or was served with a notice of intention to arbitrate if the court finds the rights of that party were prejudiced by:

(i) corruption, fraud or misconduct in procuring the award; or

(ii) partiality of an arbitrator appointed as a neutral, except where the award was by confession; or

(iii) an arbitrator, or agency or person making the award exceeded his power or so imperfectly executed it that a final and definite award upon the subject matter was not made; or

(iv) failure to follow the procure of this article, unless the party applying to vacate the award continued with the arbitration notice of the defect and without objection.

"[T]he purpose of arbitration is to allow final, binding resolution of parties' claims without resorting to the courts. [Thus,] the scope of review of an arbitration decision is extremely limited. As a result, great deference is given to any arbitration award" (In re Broadcast Music, Inc., 13 Misc 3d 1228(A) [2005]). None of the defendant's contentions overcome the great deference afforded by courts to decisions made in arbitration. The arbitration award under review was not arbitrary, capricious or irrational (see CPLR 7511[b][1][ii]). Further, the defendant did not meet his burden of establishing by clear and convincing evidence, that any impropriety on the part of the arbitration prejudiced his rights or the integrity of the arbitration process (see Mounier v American Transit Ins. Co., \_\_\_ AD2d \_\_\_ [2007]).

Accordingly, the motion to vacate the arbitration award is denied and the cross motion to confirm the award is granted.

Dated: February 23, 2007

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J.S.C.