

Matter of Government Empl. Ins. Co. v Hendricks-Arjune
2019 NY Slip Op 32012(U)
June 27, 2019
Supreme Court, New York County
Docket Number: 651552/2019
Judge: Debra A. James
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTYPRESENT: HON. DEBRA A. JAMES

PART

IAS MOTION 59EFM

Justice

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INDEX NO.

651552/2019IN THE MATTER OF THE APPLICATION OF GOVERNMENT
EMPLOYEES INSURANCE COMPANY TO STAY ARBITRATION,

MOTION DATE

06/27/2019

Petitioner,

MOTION SEQ. NO.

001

- V -

MARGARET HENDRICKS-ARJUNE,

Respondent.,

and

CESA CARS INC. and AMERICAN TRANSIT INSURANCE
COMPANY,

DECISION AND ORDER

Proposed Additional Respondents.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 10, 16, 20, 21
were read on this motion to/forSTAYORDER

Upon the foregoing documents, it is

ORDERED that the petition to stay arbitration is granted to the extent that a framed hearing is directed of the issue as to coverage, i.e. whether the offending vehicle was in fact "uninsured" and the arbitration is stayed pending such trial; and it is further

This matter having come on before this court on June 27, 2019, on motion of the petitioner for an order granting a stay of arbitration, and the petitioner having appeared by

Vincent C. Gemma, Esq., and the respondents having appeared by Scott l. Wiss, Esq. and, Jacqueline I. Roman pursuant to CPLR 4212, the parties having consented to the appointment of a referee to hear and report, and it appearing to the court that an appointment on consent is appropriate , it is now hereby

ORDERED that a Judicial Hearing Officer ("JHO") or Special Referee shall be designated to hear and report to this court on the following issue of fact, which is hereby submitted to the JHO/Special Referee for such purpose

the issue of whether the offending vehicle, a 2016 Toyota bearing plate number T714904C was in fact "uninsured" on September 11, 2018; and it is further

ORDERED that the powers of the JHO/Special Referee shall not be limited beyond the limitations set forth in the CPLR and it is further

ORDERED that this matter is hereby referred to the Special Referee Clerk (Room 119, 646-386-3028 or spref@nycourts.gov) for placement at the earliest possible date upon the calendar of the Special Referees Part (Part SRP), which, in accordance with the Rules of that Part (which are posted on the website of this court at www.nycourts.gov/supctmanh at the "References" link), shall assign this matter at the initial appearance to an available

JHO/Special Referee to hear and report as specified above; and it is further

ORDERED that counsel shall immediately consult one another and counsel for petitioner shall, within 15 days from the date of this Order, submit to the Special Referee Clerk by fax (212-401-9186) or e-mail an Information Sheet (accessible at the "References" link on the court's website) containing all the information called for therein and that, as soon as practical thereafter, the Special Referee Clerk shall advise counsel for the parties of the date fixed for the appearance of the matter upon the calendar of the Special Referees Part; and it is further

ORDERED that the parties shall appear for the reference hearing, including with all witnesses and evidence they seek to present, and shall be ready to proceed with the hearing, on the date fixed by the Special Referee Clerk for the initial appearance in the Special Referees Part, subject only to any adjournment that may be authorized by the Special Referees Part in accordance with the Rules of that Part; and it is further

ORDERED that, except as otherwise directed by the assigned JHO/Special Referee for good cause shown, the trial of the issue specified above shall proceed from day to day until completion and counsel must arrange their schedules and those of their witnesses accordingly; and it is further

ORDERED that counsel shall file memoranda or other documents directed to the assigned JHO/Special Referee in accordance with the Uniform Rules of the Judicial Hearing Officers and the Special Referees (available at the "References" link on the court's website) by filing same with the New York State Courts Electronic Filing System (see Rule 2 of the Uniform Rules); and it is further

ORDERED that any motion to confirm or disaffirm the Report of the JHO/Special Referee shall be made within the time and in the manner specified in CPLR 4403 and Section 202.44 of the Uniform Rules for the Trial Courts; and it is further

ORDERED that, unless otherwise directed by this court in any Order that may be issued together with this Order of Reference to Hear and Report, the issues presented in any motion identified in the first paragraph hereof shall be held in abeyance pending submission of the Report of the JHO/Special Referee and the determination of this court thereon.

ORDERED that petitioner shall serve a copy of this order with notice of entry within 20 days of entry upon the attorneys for the respondent and the arbitrator, and upon the Clerk of the Court (60 Centre Street, Room 141B) and the Clerk of the General Clerk's Office (60 Centre Street, Room 119); and it is further

ORDERED that petitioner shall, within the aforesaid deadline, serve a copy of this order with notice of entry, together with copies of all papers previously served in the proceeding, upon

CESA CARS INC. and AMERICAN TRANSIT INSURANCE COMPANY, who upon such service shall be added as party respondents, and it is further

ORDERED that the caption of this proceeding is amended to reflect inclusion of such additional party respondents and the Clerk of the Court (Room 141B) and the Clerk of the General Clerk's Office (Room 119), upon service by petitioner on each of them of a copy of this order with notice of entry, shall mark their records to reflect the amendment; and it is further

ORDERED that such service upon the Clerk of the Court and the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website at the address www.nycourts.gov/supctmanh).

06/27/2019

DATE

Debra A. James
DEBRA A. JAMES, J.S.C.

CHECK ONE:

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CASE DISPOSED

☒

NON-FINAL DISPOSITION

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GRANTED

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DENIED

☒

GRANTED IN PART

☐

OTHER

APPLICATION:

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SETTLE ORDER

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SUBMIT ORDER

CHECK IF APPROPRIATE:

☐

INCLUDES TRANSFER/REASSIGN

☐

FIDUCIARY APPOINTMENT

☒

REFERENCE