

**Farmers Group Prop. & Cas. Ins. Co. v Edwards**

2025 NY Slip Op 33160(U)

August 20, 2025

Supreme Court, New York County

Docket Number: Index No. 655500/2024

Judge: Judy H. Kim

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

**PRESENT: HON. JUDY H. KIM PART 04**

*Justice*

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FARMERS GROUP PROPERTY AND CASUALTY  
INSURANCE COMPANY,

Petitioner,

- v -

KEITH EDWARDS,

Defendant.

-----X

INDEX NO. 655500/2024

MOTION DATE 10/17/2024

MOTION SEQ. NO. 001

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23

were read on this motion for STAY.

Upon the foregoing documents, the petition to stay the uninsured motorist arbitration between petitioner and respondent is granted to the limited extent that the arbitration is temporarily stayed pending petitioner’s independent medical examination and is otherwise denied.

In its notice of petition, petitioner Farmers Group Property and Casualty Insurance Company (“Farmers”) seeks an order, pursuant to CPLR 7503(c)(1), permanently staying the uninsured motorist arbitration arising out Edwards’ alleged motor vehicle collision on May 31, 2024, on the grounds that the respondent is not a resident relative of the Farmers’ insured as required under the Farmers policy. In the alternative, Farmers seeks an order temporarily staying the uninsured motorist arbitration pending a framed issue hearing to determine whether respondent failed to attend an examination under oath (“EUO”) or (in the event the Court declines to grant a stay on either of the foregoing grounds) pending respondent’s production of HIPAA complaint authorizations and appearance at an independent medical examination (“IME”). In its petition,

however, Farmers argues that the arbitration should be permanently stayed because petitioner “has been unable to verify [respondent’s] claim the insured vehicle was struck by an unidentified vehicle prior to the insured vehicle striking the rear of a truck” and because “respondent[] repeatedly failed to attend [his] examinations under oath in connection with the subject claim” (NYSCEF Doc No. 1, petition at ¶¶8, 20).

Respondent opposes the petition, arguing that it should be denied because he has rebutted each of petitioner’s claimed issues of fact. Specifically, he submits a demand for proof of claim Farmers sent to his counsel, dated June 20, 2024, in which Farmers acknowledges that respondent is the named insured on the policy (NYSCEF Doc No. 22, Farmers’ acknowledgment), contrary to petitioner’s assertion herein that respondent is not a “resident relative” of the insured. Respondent also submits the transcript from his EUO on October 31, 2024 (NYSCEF Doc No. 19, EUO Transcript), and argues that no framed issue hearing as to whether he appeared for an EUO is necessary. Finally, he submits HIPAA authorizations that were sent to petitioner on November 13, 2024 (NYSCEF Doc No. 20, authorizations), and represents that Farmers has not previously demanded an IME. Respondent also cross-moves for an order directing the parties to appear for a framed issue hearing on the issue of respondent’s alleged non-contact with a motor vehicle, in the event this court declines to deny the petition.

### DISCUSSION

“[A]n insurer seeking a stay of arbitration has the burden of establishing evidentiary facts sufficient to warrant a stay” (*Matter of Empire Mut. Ins. Co. (Greaney)*, 156 AD2d 154, 155 [1st Dept 1989]). Petitioner’s conclusory claim that it “has been unable to verify [respondent’s] claim the insured vehicle was struck by an unidentified vehicle prior to the insured vehicle striking the rear of a truck” is insufficient to carry petitioner’s burden (*Progressive Specialty Ins. Co. v*

*Guzmarino*, 170 AD3d 416, 417 [1st Dept 2019]). In addition, Farmers' claims that respondent was not a "resident relative" and failed to appear for an EUO have been conclusively rebutted by respondent. Accordingly, "there are no genuine triable issues of fact justifying a stay" pursuant to CPLR 7503 (*In re New York Cent. Mut. Fire Ins. Co.*, 34 AD3d 333 [1st Dept 2006]).

However, that branch of petitioner's motion which seeks a temporary stay pending respondent's independent medical examination, pursuant to CPLR 3102, is granted. Respondent is obligated, under his policy with petitioner, to cooperate with petitioner in its investigation of his claim (NYSCEF Doc No. 4, policy at 19) and a temporary stay of arbitration to permit such compliance is appropriate (*see Matter of USAA Ins. Co. v Armstrong*, 124 AD3d 1383, 1384 [4th Dept 2015] *lv to appeal dismissed* 124 AD3d 1383 [2016]). To the extent respondent argues that such relief should be precluded by petitioner's failure to notice an IME before commencing this special proceeding, this failure is explained by the fact that respondent's EUO was held two weeks after the petition was filed and respondent's production of post-EUO demands and HIPAA authorizations in November 2024.

Accordingly, it is

**ORDERED** and **ADJUDGED** that the petition is granted to the limited extent that the arbitration is temporarily stayed pending the completion of respondent's independent medical examination, and is otherwise denied; and it is further

**ORDERED** that respondent's independent medical examination is to be noticed within twenty days of the date of this order and is to be held within sixty days of the date of this order; and it is further

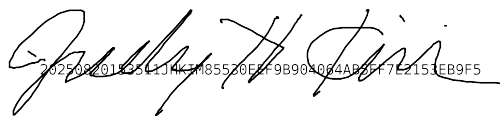
**ORDERED** that respondent is directed to provide petitioner all previously demanded authorizations, to the extent not already provided, within fifteen days of the date of this order; and it is further

**ORDERED** that respondent’s cross motion is denied as mooted by the foregoing; and it is further

**ORDERED** that respondent shall, within ten days of the date of this decision and order, serve a copy of same, with notice of entry, upon petitioner as well as the Clerk of the Court, who is directed to enter judgment accordingly; and it is further

**ORDERED** that such service upon the Clerk of the Court 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 this court's website).

This constitutes the decision, order, and judgment of the Court.



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**8/20/2025**

**DATE**

**HON. JUDY H. KIM, J.S.C.**

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE