

**Matter of Government Empls. Ins. Co. v
Taveras-Garcia**

2025 NY Slip Op 34179(U)

October 29, 2025

Supreme Court, New York County

Docket Number: Index No. 653701/2023

Judge: John J. Kelley

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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. JOHN J. KELLEY PART 56M

Justice

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In the Matter of
GOVERNMENT EMPLOYEES INSURANCE COMPANY,

Petitioner,

INDEX NO. 653701/2023

MOTION DATE 11/17/2023
10/03/2025

MOTION SEQ. NO. 001, 002

- v -

DANNY TAVERAS-GARCIA and DORY GARCIA,

Respondents,

JOSEPH L. LEE and PROGRESSIVE GROUP OF
INSURANCE COMPANIES,

Additional Respondents.

**SUPPLEMENTAL DECISION
AND ORDER ON MOTION,
DECISION AND ORDER ON
MOTION, AND JUDGMENT**

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 23

were read on this motion to/for STAY OF ARBITRATION .

The following e-filed documents, listed by NYSCEF document number (Motion 002) 24, 25, 26, 27, 28, 29

were read on this motion to/for CONFIRM/DISAPPROVE AWARD/REPORT .

This is a proceeding pursuant to CPLR 7503, pursuant to which the petitioner, Government Employees Insurance Company (GEICO), sought a permanent stay of the arbitration of a claim for uninsured (UI)/supplemental underinsured motorist (SUM) benefits that had been demanded by the respondents Danny Taveras-Garcia and Dory Garcia (together the claimants), or, in the alternative, a temporary stay of the UI/SUM arbitration followed by a framed-issue hearing to determine the issue of coverage (MOT SEQ 001). In an order dated March 28, 2024, this court temporarily stayed the arbitration and referred the matter to a referee to conduct a framed-issue hearing on the issue of whether a hit-and-run or unidentified vehicle

was involved in the April 9, 2023 motor vehicle accident that is the subject of this proceeding and, hence, whether there was insurance coverage available to cover the non-economic losses allegedly sustained by the claimants other than the UI/SUM benefits under the insurance policy that GEICO had issued to them. Specifically, the court referred the framed-issue hearing to a referee to hear and report on that issue. The court also permitted the joinder of Progressive Group of Insurance Companies (Progressive) and its insured, Joseph L. Lee, as additional respondents in this proceeding.

Progressive now moves pursuant to CPLR 4403 to confirm the report of Special Referee Jeremy R. Feinberg, dated May 20, 2025, in which he concluded that an unidentified or hit-and-run vehicle was indeed involved in a three-vehicle accident in which the claimants allegedly were injured. The motion is granted, without opposition, the report is confirmed, the petition is thereupon denied, and the proceeding is dismissed.

Special Referee Feinberg conducted the hearing on December 19, 2024 and February 10, 2025, at which both the claimants and Lee testified. S.R. Feinberg credited Lee's testimony that, as Lee was driving his sports utility vehicle on a one-lane on-ramp to New Jersey Route 4, near Belle Avenue in Teaneck, New Jersey, Lee came to a complete stop immediately behind the claimants' Honda Accord, when a black Chevrolet Blazer struck Lee's vehicle from behind, propelling Lee's vehicle into the claimants' vehicle. S.R. Feinberg further credited Lee's testimony that the operator of the Blazer immediately backed up after striking his vehicle, made a U-turn, and fled from the scene. Although both of the claimants testified that they did not observe the third vehicle, S.R. Feinberg did not completely discount their testimony as unreliable, but found that, based on their limited vantage point during the accident, their testimony was not inconsistent with Lee's testimony concerning the involvement of a third vehicle, particularly because the police accident report referable to the collision included contemporaneous statements from Lee that a third vehicle was involved in the collision.

S.R. Feinberg thus concluded that an unidentified, hit-and-run vehicle was involved in the accident. Based on his findings, the court concludes that he, in effect, found that the operator of that vehicle was at fault in the happening of the accident.

As a general rule, the court should not disturb the findings of a referee, and the report should be confirmed if the referee's findings are supported by the record, the referee has clearly defined the issues, and has resolved matters of credibility (*see Board of Mgrs. of Boro Park Vil.-Phase I Condominium v Boro Park Townhouse Assoc.*, 284 AD2d 237, 237-238 [1st Dept 2001]; *Freedman v Freedman*, 211 AD2d 580, 580 [1st Dept 1995]). The court concludes that S.R. Feinberg's findings as to how the subject accident occurred, whether a vehicle other than those insured by GEICO and Progressive was involved in the subject accident, and whether the operator of that vehicle was at fault in the happening of the accident, are supported by the record, that S.R. Feinberg clearly defined the issues referred to him, and that he reasonably resolved all matters involving the credibility of the claims and defenses.

In light of the foregoing, it is,

ORDERED that the motion of the additional respondent Progressive Group of Insurance Companies to confirm the report of Special Referee Jeremy R. Feinberg, dated May 20, 2025 (MOT SEQ 002), is granted, without opposition, and the report is confirmed; and it is further,


ORDERED that, upon the confirmation of the report, that branch of the petition which sought a permanent stay of the arbitration demanded by the respondents Danny Taveras-Garcia and Dory Garcia is denied; and it is further,

ORDERED that the petitioner Government Employees Insurance Company and the respondents Danny Taveras-Garcia and Dory Garcia shall forthwith proceed to arbitration of those respondents' claims for uninsured/supplemental underinsured motorists benefits in connection with the subject April 9, 2023 motor vehicle accident; and it is,

ADJUDGED that the proceeding is dismissed.

This constitutes the Supplemental Decision and Order on Motion, the Decision and Order on Motion, and the Judgment of the court.

10/29/2025
DATE


JOHN J. KELLEY, J.S.C.

MOTION 001:	<input checked="" type="checkbox"/>	CASE DISPOSED		<input type="checkbox"/>	NON-FINAL DISPOSITION	
	<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/>	DENIED	<input type="checkbox"/>	OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER			<input type="checkbox"/>	REFERENCE
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN			<input type="checkbox"/>	REFERENCE
MOTION 002:	<input checked="" type="checkbox"/>	CASE DISPOSED		<input type="checkbox"/>	NON-FINAL DISPOSITION	
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED	<input type="checkbox"/>	OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER			<input type="checkbox"/>	REFERENCE
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN			<input type="checkbox"/>	REFERENCE