Matter of State Farm Mut. Auto. Ins. Co. v Turner
2025 NY Slip Op 34462(U)
November 3, 2025
Supreme Court, New York County
Docket Number: Index No. 655440/2024
Judge: Verna L. Saunders
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. VERNA L. SAUNDERS, JSC** **PART 36**
Justice

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INDEX NO. 655440/2024

In the Matter of The Petition of STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,

Petitioner,

MOTION SEQ. NO. 001

- v -

DECISION + ORDER ON MOTION

For an Order staying the arbitration attempted to be had by KHALIA K. TURNER,

Respondent.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 9, 10, 11, 12, 13, 14, 15, 16

were read on this motion to/for **STAY**.

On October 26, 2021, respondent Khalia K. Turner was involved in a motor accident with an uninsured motor vehicle in Bronx County, New York. Petitioner insured the motor vehicle operated by respondent. Petitioner asserts that respondent allegedly mailed a Demand for Arbitration dated August 16, 2024, which petitioner received on October 2, 2024. According to petitioner, the policy it issued to respondent provided "uninsured/underinsured motorist coverage in the amount of $100,000 per person/$300,000 per accident" but such coverage is not ripe since respondent has not exhausted [her] available remedy against "the host vehicle's uninsured/underinsured motorist coverage." Petitioner relies on the Police Report and Medical Report generated after the accident to assert that respondent was occupying a United States Postal Services ("USPS") mail truck, a self-insured vehicle owned by the United States government, at the time of the accident. Petitioner notes that respondent has not provided any proof that the USPS mail truck she was occupying at the accident does not provide self-insured coverage for uninsured motorist benefits.

Furthermore, petitioner relies on Section B of the insurance policy issued to respondent, entitled "priority of coverage," to argue that its responsibility to provide coverage only applies after coverage exceeds the coverage contained in the U.S. government's self-insured limit. Petitioner contends that respondent must provide proof that she pursued an uninsured coverage claim against the U.S. Government and that a determination was made as to the U.S. Government's uninsured motorist coverage for the subject accident. Should respondent fail to provide the requested proof, petitioner urges the court to issue an order permanently staying the uninsured motorist arbitration because it is presumed that respondent's vehicle was insured. As an alternative, petitioner also urges the court to issue an order temporarily staying the arbitration demanded by respondent pending a hearing on the issues raised.

Also, petitioner contends that the arbitration should be stayed because certain discovery that it is entitled to under the insurance policy remains outstanding. Specifically, petitioner asserts that respondent has neither submitted to physical examinations nor has she provided authorization for medical records. According to petitioner, the discovery is necessary to acquire the material facts and circumstances underlying the subject vehicular accident. Lastly, plaintiff argues that it will be greatly prejudiced if the discovery is denied (NYSCEF Doc. No. 1, *petition*). Petitioner submits a copy of the discovery demands, medical record, demand for arbitration containing a tracking number and postmark date, and the subject insurance policy (NYSCEF Doc. Nos. 2-7).

In opposition, respondent contends that the application should be dismissed because, in addition to petitioner failing to submit *prima facie* proof that the offending vehicle was insured, it also fails to demonstrate that the petition is timely. According to respondent, the instant petition, dated October 14, 2024, is untimely because it was made more than twenty (20) days past August 16, 2024, the date listed on the Demand for Arbitration, in contravention of CPLR 7503(c). Respondent insists that petitioner's claim that it received the Demand for Arbitration on October 2, 2024, is unpersuasive insofar as the petition is merely verified by petitioner's counsel, who does not claim to have personal knowledge of the date petitioner received respondent's Demand for Arbitration. Further, the document petitioner submits as proof of receipt of the Demand for Arbitration was postmarked April 9, 2024, argues respondent, and by itself, does not conclusively establish that the listed tracking number pertains to the envelope containing the Demand for Arbitration at issue here.

Next, respondent posits that petitioner submits no Department of Motor Vehicle ("DMV") records in support of the contention that respondent's vehicle was insured on the date of the accident. Respondent notes that the police report, though not certified and thus, not in evidentiary form, does not provide insurance policy information or codes for any of the vehicles involved in the collision. Respondent relies on the police report submitted as part of the record to argue that her vehicle bore a NY license plate and not a U.S. Government plate, and that petitioner does not proffer any explanation to establish that respondent's vehicle, allegedly insured by the U.S. Government, was insured by a higher priority level of coverage. Respondent also contends that, because the medical records relied upon by petitioner are not being offered for purposes of diagnosis and treatment, they are inadmissible. According to respondent, merely because she was injured while in a "mail truck" does not establish that the vehicle is a USPS property belonging to the Federal government. If it is determined that respondent's vehicle was owned by USPS, respondent avers that petitioner has nonetheless failed to establish the U.S. government's responsibility for providing coverage. Lastly, respondent contends that, inasmuch as petitioner has not demonstrated extraordinary circumstances for the discovery sought, the request for discovery should be denied (NYSCEF Doc. No. 12, *opposition*). Respondent furnishes a copy of Khalia Turner's affidavit wherein she reiterates the facts of her accident (NYSCEF Doc. No. 13).

In reply, petitioner asserts that the instant petition is timely, and respondent has not provided proof demonstrating that the Demand for Arbitration was served and received at an earlier date. According to petitioner, to the extent respondent submits an affidavit wherein she stated that she was inside of the USPS truck at the time of the accident, a certified police report is

not necessary, especially since respondent has not produced any proof that she purchased uninsured motorist coverage against the USPS truck, which is a self-insured entity. Petitioner reiterates that coverage under its policy, a lower priority policy, is available only to the extent that it exceeds the coverage of a higher priority policy, which the U.S. Government offers. Lastly, petitioner insists that it is entitled to discovery pursuant to the terms and conditions of its insurance policy (NYSCEF Doc. No. 14, *reply*). Petitioner attaches a copy of the USPS tracking of the Demand for Arbitration delivery and the affirmation of Christi Wren, petitioner's Claims Specialist, confirming the USPS delivery of the Demand for Arbitration (NYSCEF Doc. Nos. 15-16).

"'On the initial application for a stay of arbitration, the burden rests on the party seeking the stay to establish the existence of evidentiary facts, sufficient to conclude that there is a genuine preliminary issue'" (*Matter of Progressive Specialty Ins. Co. v Guzmarino*, 170 AD3d 416, 417 [1st Dept 2019], quoting *Matter of Hereford Ins. Co. v Vazquez*, 158 AD3d 470, 471 [1st Dept 2018]).

Pursuant to CPLR 7503(c), "[a] petition to stay arbitration must be brought within 20 days of service of the demand for arbitration. This limitation is strictly enforced and a court has no jurisdiction to entertain an untimely application" (*Matter of Allcity Ins. Co. [Vitucci]*, 151 AD2d 430, 430 [1st Dept 1989]).

CPLR 3102(c) provides that "disclosure to aid in bringing an action, to preserve information or to aid in arbitration, may be obtained, but only by court order." The Court of Appeals has found that "[w]hile a court may order disclosure to aid in arbitration...courts will not order disclosure except under extraordinary circumstances" (*De Sapio v Kohlmeyer*, 35 NY2d 402, 406 [1974]). Moreover, "court-ordered disclosure is not justified except where it is absolutely necessary for the protection of the rights of a party" (*International Components Corp. v Klaiber*, 54 AD2d 550, 551 [1st Dept 1976])

Here, the application is denied as untimely. While it is undisputed that the Demand for Arbitration sent to petitioner was dated August 16, 2024, petitioner fails to demonstrate that the instant application was made within twenty (20) days after receipt of same in compliance with CPLR 7503(c). It is alleged in the petition that petitioner received respondent's Demand for Arbitration on October 2, 2024, but the petition lacks evidentiary value insofar as it is not verified by someone with personal knowledge of the facts (see CPLR 3215; *Martinez v Reiner*, 104 AD3d 477, 478 [1st Dept 2013]; *Beltre v Babu*, 32 AD3d 722, 723 [1st Dept 2006]). The document that petitioner submits as proof of receipt of respondent's Demand for Arbitration, a scanned copy of an envelope bearing respondent counsel's address, appears to have been postmarked April 9, 2024, a significantly earlier date than the August 2024 demand. This envelope, alone, is not conclusive proof that it contained the subject demand and was therefore timely. Further, the affirmation of Christi Wren, petitioner's Claims Specialist, submitted in reply is not properly before the court, since the purpose of reply papers is to address arguments made in opposition and not to remedy deficiencies in petitioner's prima facie showing (see *Migdol v City of New York*, 291 AD2d 201, 201 [1st Dept 2002]). Given that the limitation imposed by CPLR 7503(c) is strictly enforced, this court has no jurisdiction to entertain this

untimely application (see *Matter of Government Empls. Ins. Co. v Giamo*, 115 AD3d 458, 458 [1st Dept 2014]).

In any event, petitioner has not shown that the limited exceptions to the twenty-day limitations period for filing a petition to stay arbitration is applicable here. To the extent petitioner does not contend that the instant petition to stay arbitration is based on an assertion that the parties never agreed to arbitrate (see *Matter of Government Empls. Ins. Co. v De Liriano*, 237 AD3d 613, 613 [1st Dept 2025]; *Matter of GEICO Gen. Ins. Co. v Glazer*, 173 AD3d 499, 499 [2019]), petitioner's reliance on CPLR 3102(c), which expressly empowers the court to direct disclosure in aid of arbitration, is misplaced in light of the untimely petition under CPLR 7503(c) (see *Glazer*, 173 AD3d at 500). All other arguments have been considered and are without merit. Accordingly, it is hereby

ORDERED and **ADJUDGED** that the petition is denied as untimely; and it is further

ORDERED that, within twenty (20) days after this decision and order is uploaded to NYSCEF, counsel for respondent shall serve a copy of this decision and order, with notice of entry, upon petitioner; and it is further

This constitutes the decision and order of this court.

November 3, 2025

HON. VERNA L. SAUNDERS, JSC

CHECK ONE:							
	[X]	CASE DISPOSED		[ ]	NON-FINAL DISPOSITION		
	[ ]	GRANTED	[X] DENIED	[ ]	GRANTED IN PART	[ ]	OTHER