

**SHORT FORM ORDER**

**SUPREME COURT - STATE OF NEW YORK**

**Present:**

**HON. KENNETH A. DAVIS,**

**Justice**

TRIAL/IAS, PART 11  
NASSAU COUNTY

STATE FARM MUTUAL AUTOMOBILE INSURANCE  
COMPANY,

Plaintiff(s),

SUBMISSION DATE: 08/19/02

INDEX No.: 8890/02

-against-

CHIFFON DAVIDSON, JEFFERSON LASHLEY,  
EGBERT CAMPBELL, ALAIN LEVEILE,  
NATHANIEL ANDERSON, ZHI MING QUI and  
CHEN YI ZHOU,

MOTION SEQUENCE #1

Defendant(s).

The following papers read on this motion:

Notice of Motion/ Order to Show Cause.....	X
Answering Papers.....	X
Reply.....	X
Briefs: Plaintiff's/Petitioner's.....	
Defendant's/Respondent's.....	

Upon the foregoing papers, it is ordered that this Court grants an immediate stay of the action pending in Supreme Court, Kings County, under index number 2996/02, entitled EGBERT G. CAMPBELL and JACQUELINE CAMPBELL, plaintiffs, against CHIFFON K. DAVIDSON and JEFFERSON R. LASHLEY, defendants, and any and all other current and future proceedings, including but not limited to, uninsured/supplementary uninsured motorist lawsuits and arbitrations, arbitrations and lawsuits seeking to recover no-fault benefits and third-party lawsuits and arbitrations, pending the hearing and resolution of the declaratory judgment action in the above captioned matter is decided as follows.

A review of the documentation presented reveals that all necessary parties have been served with notice of this application. Accordingly, plaintiff is hereby awarded a default judgment as against the defendants with the exception of EGBERT CAMPBELL.

As to defendant EGBERT CAMPBELL, the Court finds that there are issues of fact that preclude the granting of summary judgment.


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Summary judgment is a drastic remedy and should only be granted where there are no triable issues of fact. Andre v. Pomeroy, 35 N.Y.2d 361. The goal of summary judgment is to issue find, rather than to issue determine. Hantz v. Fleischman, 155 A.D.2d 415. A motion for summary judgment should be granted if the evidence presented demonstrates that there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. Baly v. Chrysler Credit Corp., 94 A.D.2d 781. "In determining a motion for summary judgment, the court must ascertain whether there are any triable issues of fact in the proof laid bare by the parties' submissions of affidavits based on personal knowledge and documentary evidence, rather than in conclusory or speculative affidavits." Id. citing Behar v. Ordovery, 92 A.D.2d 557. In the instant matter, issues of fact exist as to whether defendant EGBERT CAMPBELL was involved in the alleged insurance fraud. Accordingly, the parties are hereby ordered to appear for a preliminary conference on the instant matter on November 13, 2002 at 2:30 p.m. on the lower level of the courthouse. Defendant is hereby ordered to serve an answer on plaintiff by October 25, 2002.

Submit judgment on notice.

This decision constitutes the order of the Court.

Dated: OCT 01 2002

  
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HON. KENNETH A. DAVIS J.S.C.

**ENTERED**

**OCT 04 2002**

**NASSAU COUNTY  
COUNTY CLERK'S OFFICE**