

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D12283
O/cb

_____AD3d_____

Argued - September 7, 2006

ANITA R. FLORIO, J.P.
GABRIEL M. KRAUSMAN
DANIEL F. LUCIANO
PETER B. SKELOS, JJ.

2005-06802

DECISION & ORDER

Aileen Canty-Cleveland, etc., respondent, v New
York Congregational Nursing Center, Inc., appellant.

(Index No. 20783/04)

Ptashnik & Associates, New York, N.Y. (Kyriakoula Fatsis of counsel), for appellant.

Parker & Waichman, LLP (Arnold E. DiJoseph, P.C., New York, N.Y., of counsel),
for respondent.

In an action, inter alia, to recover damages for deprivation of rights pursuant to Public Health Law § 2801-d, the defendant appeals from so much of an order of the Supreme Court, Kings County (Jacobson, J.), dated May 1, 2005, as denied that branch of its motion which was for leave to renew and reargue a decision of the same court set forth in an unsigned transcript dated September 20, 2004.

ORDERED that the appeal is dismissed, without costs or disbursements.

The appeal must be dismissed because no appeal lies from of an order which denies leave to renew and reargue a decision (*see Trepel v Asian Pacific Express Corp.*, 16 AD3d 405; *Zabzhanskaya v Dinhofer*, 2 AD3d 521; *Island Holding LLC v O'Brien*, 305 AD2d 463; *Travelers*

Prop. Cas. v Powell, 289 AD2d 564; *Yan v Klein*, 266 AD2d 209; *Giardelli v Rainbow Apparel Distribution Ctr.*, 262 AD2d 603; *Tomasello v Choice Care Long Island*, 229 AD2d 527).

FLORIO, J.P., KRAUSMAN, LUCIANO and SKELOS, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, sweeping initial "J".

James Edward Pelzer
Clerk of the Court