

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

D13861
X/cb

_____AD3d_____

Argued - January 16, 2007

WILLIAM F. MASTRO, J.P.
GLORIA GOLDSTEIN
ROBERT A. LIFSON
EDWARD D. CARNI, JJ.

2005-03327

DECISION & ORDER

Tymeik Williams, etc., appellant, v Nassau County
Medical Center, et al., respondents.

(Index No. 013710/03)

Fitzgerald & Fitzgerald, P.C., Yonkers, N.Y. (John E. Fitzgerald, John M. Daly, Eugene S. R. Pagano, Christopher J. Lennon, and Mitchell L. Gittin of counsel), for appellant.

Lorna B. Goodman, County Attorney, Mineola, N.Y. (Karen Hutson and David B. Goldin of counsel), for respondents.

In an action, inter alia, to recover damages for medical malpractice, the plaintiff appeals, as limited by his brief, from so much of an order of the Supreme Court, Nassau County (Parga, J.), dated March 11, 2005, as denied his motion for leave to renew his prior motion, in effect, for leave to serve a late notice of claim.

ORDERED that the order is affirmed insofar as appealed from, with costs.

A motion for leave to renew must be supported by new facts not offered on the prior motion that would change the prior determination, and the motion shall also contain a reasonable justification for the failure to present such facts on the prior motion (*see* CPLR 2221[e]; *Jacobs v Sabo*, 17 AD3d 321; *Hart v City of New York*, 5 AD3d 438). Here, the new facts proffered would not have changed the prior determination (*see Mountains Realty Corp. v Gelbelman*, 29 AD3d 874, 875; *Steinberg v Steinberg*, 15 AD3d 388, 389; *Kingston v Brookdale Hosp. & Med. Ctr.*, 4 AD3d 397, 398). Accordingly, the Supreme Court properly denied the plaintiff's motion for leave to renew

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his prior motion, in effect, for leave to serve a late notice of claim.

The parties' remaining contentions are without merit.

MASTRO, J.P., GOLDSTEIN, LIFSON and CARNI, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court