

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

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Submitted - March 13, 2007

HOWARD MILLER, J.P.
FRED T. SANTUCCI
ANITA R. FLORIO
ROBERT A. LIFSON, JJ.

2006-06337

DECISION & ORDER

Jennifer Clemente, respondent, v Carl Bongiorno &
Sons, Inc., appellant.

(Index No. 14741/03)

Hobbes & Tonetti (Sweetbaum & Sweetbaum, Lake Success, N.Y. [Marshall D. Sweetbaum] of counsel), for appellant.

Levidow, Levidow & Oberman, P.C., New York, N.Y. (Peter LoDuca of counsel),
for respondent.

In an action to recover damages for personal injuries, the defendant appeals from an order of the Supreme Court, Suffolk County (Baisley, J.), dated June 12, 2006, which denied its motion for leave to renew its prior motion for summary judgment dismissing the complaint, which had been denied in an order of the same court dated January 13, 2005.

ORDERED that the order is affirmed, with costs.

Under the circumstances of this case, the Supreme Court properly denied the defendant's motion for leave to renew since it failed to contain a reasonable justification as to why the additional facts it offered upon seeking leave to renew were not presented on the original motion (*see* CPLR 2221[e][2], [3]; *Walsh v Schmigelski*, 35 AD3d 849; *Elder v Elder*, 21 AD3d 1055; *Hart v City of New York*, 5 AD3d 438; *cf.*, *Lafferty v Eklecco, LLC*, 34 AD3d 754).

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In light of this determination we do not reach the appellant's remaining contentions.

MILLER, J.P., SANTUCCI, FLORIO and LIFSON, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court