

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

D20085  
Y/hu

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Argued - April 24, 2008

A. GAIL PRUDENTI, P.J.  
HOWARD MILLER  
EDWARD D. CARNI  
CHERYL E. CHAMBERS, JJ.

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2007-05380

DECISION & ORDER

Ira Weitzenberg, et al., plaintiffs, Roberta Miller,  
appellant, v Nassau County Department of Recreation  
and Parks, et al., respondents.

(Index No. 28936/92)

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Louis D. Stober, Jr., LLC, Garden City, N.Y., for appellant.

Lorna B. Goodman, County Attorney, Mineola, N.Y. (Dennis J. Saffran of counsel),  
for respondents.

In an action, inter alia, for reinstatement and back pay, the plaintiff Roberta Miller  
appeals from an order of the Supreme Court, Nassau County (Bucaria, J.), dated April 18, 2007,  
which denied her third motion for leave to renew a prior motion for class certification.

ORDERED that the order is affirmed, with costs.

The Supreme Court properly denied the third motion of the plaintiff Roberta Miller  
for leave to renew a prior motion for class certification. “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” (*Williams v Nassau County Med. Ctr.*, 37 AD3d 594, 594; *see Ellner v Schwed*, 48  
AD3d 739, 740; CPLR 2221[e]). Here, we agree with the Supreme Court that the purportedly new  
facts were not sufficient to change the prior determination. In addition, Miller failed to offer a  
reasonable justification for the failure to present those facts in the context of prior motions she made

for class certification, two of which have been the subject of appeals to this Court (*see Weitzenberg v Nassau County Dept. of Recreation & Parks*, 29 AD3d 682; *Weitzenberg v Nassau County Dept. of Recreation & Parks*, 249 AD2d 538).

Miller's remaining contentions are without merit

PRUDENTI, P.J., MILLER, CARNI and CHAMBERS, 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