

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

D26554  
G/ct

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - February 19, 2010

MARK C. DILLON, J.P.  
FRED T. SANTUCCI  
RUTH C. BALKIN  
SANDRA L. SGROI, JJ.

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2009-05554

DECISION & ORDER

In the Matter of Charles Dun-Zheng Yan, appellant,  
v Orin R. Kitzes, etc., et al., respondents.

(Claim No. 115269)

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Charles Dun-Zheng Yan, Flushing, N.Y., appellant pro se.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Peter H. Schiff and Robert M. Goldfarb of counsel), for respondents.

In purported claims which were dismissed by orders of the Court of Claims (Nadel, J.), dated May 1, 2007 and July 3, 2008, respectively, the claimant appeals from an order of the Court of Claims (Nadel J.), entered May 7, 2009, which denied his motion for “an order to hold a preliminary conference.”

ORDERED that the order is affirmed, with costs.

The claimant’s purported claims were dismissed by orders of the Court of Claims dated May 1, 2007, and July 3, 2008, respectively. Despite these orders, the claimant subsequently submitted motion papers to the court, in connection with the dismissed claims, for “an order to hold a preliminary conference.” Under such circumstances, the court properly concluded that it was “without jurisdiction to entertain . . . the motion, or to grant the relief requested” (*see generally* CPLR 304; *Matter of Fry v Village of Tarrytown*, 89 NY2d 714; *Fulton v State of New York*, 35 AD3d 977).

DILLON, J.P., SANTUCCI, BALKIN and SGROI, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

March 16, 2010

MATTER OF DUN-ZHENG YAN v KITZES