

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

D27319  
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Submitted - April 15, 2010

REINALDO E. RIVERA, J.P.  
STEVEN W. FISHER  
ANITA R. FLORIO  
LEONARD B. AUSTIN, JJ.

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2009-03342

DECISION & ORDER

In the Matter of Jolieth Nelson, appellant, v Allstate  
Insurance Company, respondent.

(Index No. 17944/06)

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Jolieth Nelson, Brooklyn, N.Y., appellant pro se.

Stern & Montana, LLP, New York, N.Y. (Richard Montana of counsel), for  
respondent.

In a proceeding pursuant to CPLR article 75 to vacate an arbitration award, the petitioner appeals from an order of the Supreme Court, Kings County (Ruchelman, J.), dated March 3, 2009, which denied her motion for leave to renew her motion, in effect, to extend, nunc pro tunc, her time to serve the petition, which had been determined in an order of the same court dated September 26, 2006.

ORDERED that the order dated March 3, 2009, is affirmed, with costs.

A motion for leave to renew must be (1) based upon new facts not offered on the prior motion that would change the prior determination, and (2) set forth a reasonable justification for the failure to present such facts on the prior motion (*see* CPLR 2221[e][2], [3]; *Novosiadlyi v James*, 70 AD3d 793, 794; *Baldwin v Mateogarcia*, 66 AD3d 806, 806-807). Here, the new facts submitted by the petitioner did not warrant a change in the Supreme Court's original determination, and the petitioner did not offer a reasonable justification for her failure to present those facts when she made her initial motion. Accordingly, the Supreme Court properly denied the petitioner's motion for leave to renew (*see generally Development Strategies Co., LLC, Profit Sharing Plan v Astoria Equities*,

May 11, 2010

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MATTER OF NELSON v ALLSTATE INSURANCE COMPANY

*Inc.*, 71 AD3d 628; *Matter of Korman v Bellmore Pub. Schools*, 62 AD3d 882, 884).

The petitioner's remaining contentions either refer to matter dehors the record or are otherwise not properly before us on this appeal.

RIVERA, J.P., FISHER, FLORIO and AUSTIN, 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