

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

D30381  
O/kmb

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Argued - February 7, 2011

REINALDO E. RIVERA, J.P.  
RUTH C. BALKIN  
JOHN M. LEVENTHAL  
L. PRISCILLA HALL, JJ.

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2010-05809

DECISION & ORDER

In the Matter of Greenburgh Central School District  
No. 7, et al., appellants, v Westchester County Human  
Rights Commission, respondent.

(Index No. 26456/09)

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Rutherford & Christie, LLP, New York, N.Y. (Lewis R. Silverman of counsel), for appellants.

Robert F. Meehan, County Attorney, White Plains, N.Y. (Mary Lynn Nicolas-Brewster and Justin Adin), for respondent.

In a proceeding pursuant to CPLR article 78 to review a determination of the Westchester County Human Rights Commission dated July 10, 2009, which, after a hearing, confirmed the determination of an Administrative Law Judge dated June 22, 2009, finding that the petitioners engaged in unlawful age discrimination in violation of the Westchester County Human Rights Law and imposing a monetary penalty, the petitioners appeal from a judgment of the Supreme Court, Westchester County (Capeci, J.), dated April 28, 2010, which granted that branch of the respondent's motion which was to dismiss the proceeding for lack of personal jurisdiction and denied that branch of their cross motion which was to extend the time to serve the notice of petition and petition, and dismissed the proceeding for lack of personal jurisdiction.

ORDERED that the judgment is affirmed, with costs.

It is undisputed that the petitioners failed to properly serve the respondent with the notice of petition and petition in accordance with CPLR 312 (*see Matter of Heinisch v Goehring*, 121 AD2d 721). The petitioners failed to demonstrate good cause for an extension of time to serve,

March 15, 2011

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and failed to show that such an extension is warranted in the interest of justice (*see* CPLR 306-b). Among other things, the petitioners failed to demonstrate diligence in their attempt at service, and failed to demonstrate a potentially meritorious argument in support of the petition. Accordingly, the Supreme Court properly granted that branch of the respondent's motion which was to dismiss the proceeding for lack of personal jurisdiction and denied that branch of the petitioners' cross motion which was to extend the time to serve the notice of petition and petition (*see Leader v Maroney, Ponzini & Spencer*, 97 NY2d 95, 105-106; *Calloway v Wells*, 79 AD3d 786; *Redman v South Is. Orthopaedic Group, P.C.*, 78 AD3d 1147).

RIVERA, J.P., BALKIN, LEVENTHAL and HALL, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court