

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

D32702
H/nl

_____AD3d_____

Argued - September 15, 2011

REINALDO E. RIVERA, J.P.
L. PRISCILLA HALL
LEONARD B. AUSTIN
SHERI S. ROMAN, JJ.

2010-00640

DECISION & ORDER

Helen Gurman, et al., respondents, v Daphne M.N.
Fotiades, et al., appellants.

(Index No. 273/02)

Daphne M.N. Fotiades, Great Neck, N.Y., appellant pro se.

David Moskoff, Great Neck, N.Y., appellant pro se.

Malen & Associates, P.C., Westbury, N.Y. (Jeffrey Wolstein of counsel), for
respondents.

In an action to recover on two instruments for the payment of money only, brought by motion for summary judgment in lieu of complaint pursuant to CPLR 3213, the defendants separately appeal from an order of the Supreme Court, Suffolk County (Pastorella, J.), dated November 30, 2009, which denied their motion for leave to renew their prior motion to vacate a judgment of the same court (Klein, J.), entered August 13, 2003, which, upon their default in opposing the motion, was in favor of the plaintiffs and against them in the principal sum of \$20,000.

ORDERED that the order is affirmed, with costs.

The Supreme Court properly denied the defendants' motion for leave to renew their prior motion to vacate a judgment entered upon their default in opposing the plaintiffs' motion for summary judgment in lieu of complaint. The defendants failed to present "new facts not offered on the prior motion that would change the prior determination" (CPLR 2211[e][2]; *see Levitin v A.R.B.*

December 20, 2011

Page 1.

GURMAN v FOTIADES

Mgt. Servs., Inc., 48 AD3d 759).

RIVERA, J.P., HALL, AUSTIN and ROMAN, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court