

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

D33221
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_____AD3d_____

Submitted - November 21, 2011

DANIEL D. ANGIOLILLO, J.P.
THOMAS A. DICKERSON
PLUMMER E. LOTT
ROBERT J. MILLER, JJ.

2011-02642

DECISION & ORDER

Johanna Hernandez, respondent, v 35-55 73rd
Street, LLC, et al., appellants.

(Index No. 17631/08)

Lester Schwab Katz & Dwyer, LLP, New York, N.Y. (Howard R. Cohen of counsel),
for appellant 35-55 73rd Street, LLC.

Stewart H. Friedman, Garden City, N.Y. (William L. Bonifati of counsel), for
appellant A&S Tile & Marble, Inc.

Gorayeb & Associates, P.C., New York, N.Y. (Roy A. Kuriloff and John Shaw of
counsel), for respondent.

In an action to recover damages for personal injuries, the defendant 35-55 73rd Street, LLC, appeals, as limited by its brief, from so much of an order of the Supreme Court, Queens County (Agate, J.), dated February 8, 2011, as denied, as untimely, its motion for summary judgment dismissing the complaint insofar as asserted against it, and the defendant A&S Tile & Marble, Inc., separately appeals, as limited by its brief, from so much of the same order as denied, as untimely, its separate motion for summary judgment dismissing the complaint insofar as asserted against it.

ORDERED that the order is affirmed insofar as appealed from, with one bill of costs payable by the appellants to the plaintiff.

The Supreme Court correctly denied, as untimely, the summary judgment motion of the defendant 35-55 73rd Street, LLC, and the separate summary judgment motion of the defendant

December 13, 2011

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A&S Tile & Marble, Inc., which were made returnable 12 and 54 days, respectively, beyond the deadline fixed by the Supreme Court in a so-ordered stipulation, as the defendants failed to demonstrate good cause for the delay (*see* CPLR 2004, 3212[a]; *Brill v City of New York*, 2 NY3d 648, 652; *Anderson v Kantares*, 51 AD3d 954, 954; *Jackson v Jamaica First Parking, LLC*, 49 AD3d 501, 501; *DiBenedetto v Lowe's Home Ctrs., Inc.*, 43 AD3d 853, 853).

In light of the foregoing, we need not reach the defendants' remaining contentions.

ANGIOLILLO, J.P., DICKERSON, LOTT and MILLER, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court