

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

D36490
C/mv

_____AD3d_____

Argued - September 21, 2012

ANITA R. FLORIO, J.P.
THOMAS A. DICKERSON
SANDRA L. SGROI
ROBERT J. MILLER, JJ.

2011-11377

DECISION & ORDER

Payem Saghizadeh, respondent, v Castlepoint Insurance
Company, et al., defendants, Joseph F. Coluccio, appellant.

(Index No. 25041/09)

Wilson Elser Moskowitz Edelman & Dicker, LLP, White Plains, N.Y. (Nancy Quinn
Koba and Sheryl T. Parker of counsel), for appellant.

Aboulafia Law Firm, LLC, New York, N.Y. (Matthew S. Aboulafia and Jack
Glanzberg of counsel), for respondent.

In an action to recover damages for negligence and breach of a contract to procure
insurance, the defendant Joseph F. Coluccio appeals from an order of the Supreme Court, Kings
County (Solomon, J.), dated October 24, 2011, which denied his motion for leave to renew his prior
cross motion for summary judgment dismissing the complaint insofar as asserted against him, which
had been denied in an order of the same court dated February 3, 2011.

ORDERED that the order dated October 24, 2011, is affirmed, with costs.

A motion for leave to renew shall be based upon new facts not offered on the prior
motion that would change the prior determination and shall contain reasonable justification for the
failure to present such facts on the prior motion (*see* CPLR 2221[e][2], [3]). Here, the appellant,
Joseph F. Coluccio, failed to meet the requirements of CPLR 2221(e) with his submission of, inter
alia, the plaintiff's deposition testimony. Accordingly, the Supreme Court properly denied the
appellant's motion for leave to renew his prior cross motion for summary judgment dismissing the
complaint insofar as asserted against him.

November 21, 2012

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The appellant's remaining contentions are not properly before this Court.

FLORIO, J.P., DICKERSON, SGROI and MILLER, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court