

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

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Submitted - November 7, 2012

MARK C. DILLON, J.P.  
L. PRISCILLA HALL  
SHERI S. ROMAN  
JEFFREY A. COHEN, JJ.

2011-08362

DECISION & ORDER

Eileen Hughes, appellant, v Welsbach Electric  
Company, et al., respondents.

(Index No. 15150/06)

Braff, Harris & Sukoneck, New York, N.Y. (Jennifer H. Wilson and Jennifer R. Harris of counsel), for appellant.

London Fischer LLP, New York, N.Y. (Michael J. Carro and Thomas P. Jaffa of counsel), for respondents.

In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Nassau County (Marber, J.), entered July 27, 2011, which denied her motion for leave to renew and reargue her opposition to the defendants' motion for summary judgment dismissing the complaint on the ground that she did not sustain a serious injury within the meaning of Insurance Law § 5102(d) as a result of the subject accident, which had been granted in an order of the same court dated April 7, 2010.

ORDERED that the appeal from so much of the order entered July 27, 2011, as denied that branch of the plaintiff's motion which was for leave to reargue is dismissed, as no appeal lies from an order denying reargument; and it is further,

ORDERED that the order entered July 27, 2011, is affirmed insofar as reviewed; and it is further,

ORDERED that one bill of costs is awarded to the defendants.

December 5, 2012

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HUGHES v WELSBACH ELECTRIC COMPANY

“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” (*Marrero v Crystal Nails*, 77 AD3d 798, 799; *see* CPLR 2221[e]; *Behar v Quaker Ridge Golf Club, Inc.*, 95 AD3d 808, 809; *Countrywide Home Loans Servicing, LP v Albert*, 78 AD3d 985, 986). Here, the Supreme Court properly denied that branch of the plaintiff’s motion which was for leave to renew her opposition to the defendants’ motion for summary judgment, as the new evidence offered on the motion would not have changed the prior determination (*see* CPLR 2221[e][2]; *Arthur J. Gallagher & Co. v Marchese*, 96 AD3d 791, 792; *Behar v Quaker Ridge Golf Club, Inc.*, 95 AD3d at 809; *Grossman v New York Life Ins., Co.*, 90 AD3d 990, 992).

DILLON, J.P., HALL, ROMAN and COHEN, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court