



Under the circumstances, plaintiff's conclusory and unsubstantiated claim of law office failure does not constitute a reasonable excuse for the 20-month delay in pursuing the action. Further, plaintiff's inactivity between the time the action was marked off the calendar and defendant's motion to dismiss fails to rebut the presumption of abandonment that arose pursuant to CPLR 3404.

\* \* \* \* \*

On review of submissions pursuant to section 500.11 of the Rules, order reversed, with costs, plaintiff's cross motion to restore the action to the calendar denied, defendant's motion to dismiss the action as abandoned dismissed as unnecessary and certified question answered in the negative, in a memorandum. Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided September 11, 2008