

**B.Z. Chiropractic, P.C. v Allstate Ins. Co.**

2019 NY Slip Op 34167(U)

April 11, 2019

Supreme Court, Queens County

Docket Number: 719878/2018

Judge: Laurence L. Love

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This opinion is uncorrected and not selected for official publication.

[\*1]

Short Form Order

NEW YORK SUPREME COURT - QUEENS COUNTY

Present: Laurence L. Love IAS PART 43  
Justice

FILED  
APR 22 2019  
COUNTY CLERK  
QUEENS COUNTY

B.Z. CHIROPRACTIC, P.C.,

Petitioner,

Index No.: 719878/2018  
Petition Submitted: 4/11/19

-against-

Seq. No.: 003  
Cal. No.: 01

ALLSTATE INSURANCE COMPANY,

Respondent.

The following papers numbered EF 24-43 read on this motion by respondent seeking leave pursuant to CPLR 2221(d) and (e) to renew and reargue Respondent Allstate Insurance Company's Cross-Petition to Dismiss with sanctions and penalties, and upon renewal and reargument, granting said cross-petition in full;

	Papers Numbered
Notice of Motion, Affirmation, Exhibits.....	EF 24-27
Affirmations in Opposition, Exhibits.....	EF 31-35
Affirmations in Reply, Exhibits.....	EF42-43

Upon the foregoing papers, it is ordered that this Respondent's motion determined as follows:

A motion to renew must be based upon new facts that were not offered in the prior motion, and the party must set forth a reasonable justification for the failure to present such facts in the prior motion (see, CPLR § 2221[e]; Delvecchio v. Bayside Chrysler Plymouth Jeep Eagle Inc., 271 AD2d 636 [2d Dept 2000]; McNeill v. Sandiford, 270 AD2d 467 [2d Dept 2000]; Shapiro v. State, 259 AD2d 753 [2d Dept 1999]); or the motion must demonstrate that there has been a change in the law that would change the prior determination (see, CPLR § 2221[e]; Delvecchio v. Bayside Chrysler Plymouth Jeep Eagle Inc., supra). Respondent's sole argument is that Petitioner previously sought identical relief under Index No. 707854/2018 and said petition was dismissed. As said Petition was properly dismissed for failure to properly serve Respondent with said Petition, Respondent's argument is without merit.

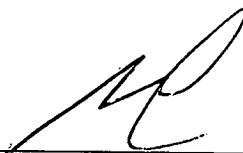
A motion to reargue is addressed to the sound discretion of the court and is designed to afford a party an opportunity to demonstrate that the court overlooked or misapprehended the relevant facts or misapplied controlling principles of law (see, Schneider v. Solowey, 141 AD2d 813 [2d Dept

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1988]; Rodney v. New York Pyrotechnic Products, Inc., 112 AD2d 410 [2d Dept 1985]). A “motion to reargue is not an opportunity to present new facts or arguments not previously offered, nor it is designed for litigants to present the same arguments already considered by the court” (see, Pryor v. Commonwealth Land Title Ins. Co., 17 AD3d 434 [2d Dept 2005]; Simon v. Mehryari, 16 AD3d 664 [2d Dept 2005]). Respondent fails to set forth any relevant facts that this Court overlooked or misapprehended, or any controlling principles of law that this Court misapplied.

Respondent’s motion is denied in its entirety for the reasons above.

Dated: April 11, 2019

  
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Laurence L. Love, J.S.C.