

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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CA 11-02280

PRESENT: SMITH, J.P., FAHEY, PERADOTTO, AND LINDLEY, JJ.

RENEE JONES, CLAIMANT-APPELLANT,

V

MEMORANDUM AND ORDER

CITY OF BUFFALO SCHOOL DISTRICT,
RESPONDENT-RESPONDENT.

CAMPBELL & SHELTON LLP, EDEN (R. COLIN CAMPBELL OF COUNSEL), FOR
CLAIMANT-APPELLANT.

Appeal from an order of the Supreme Court, Erie County (Diane Y. Devlin, J.), entered August 11, 2011 in a personal injury action. The order denied the motion of claimant to renew her prior application for leave to serve a late notice of claim.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: Claimant appeals from an order denying her motion to renew a prior application for leave to serve a late notice of claim. It is well settled that "[a] motion for leave to renew 'shall be based upon new facts not offered on the prior [application] that would change the prior determination' . . . , and 'shall contain reasonable justification for the failure to present such facts on the prior [application]' " (*Doe v North Tonawanda Cent. School Dist.*, 91 AD3d 1283, 1284). Here, "[t]he motion to renew was properly denied [inasmuch as claimant] failed to offer a valid excuse for failing to submit the new material on the original [application]" (*Linden v Moskowitz*, 294 AD2d 114, 116, *lv denied* 99 NY2d 505; see *Schilling v Malark*, 13 AD3d 1153, 1154).

Entered: April 20, 2012

Frances E. Cafarell
Clerk of the Court