

Short Form Order

NEW YORK SUPREME COURT - QUEENS COUNTY

Present: HONORABLE DUANE A. HART IA Part 18
Justice

_____ x Action No. 1
Index
HANZ ANDRE, et al. Number 13423 2004

- against - Motion
Date April 5, 2006

THE CITY OF NEW YORK, et al. Motion
Cal. Number _____

_____ x
GREEN BUS LINES, INC., et al. Action No. 2
Index No. 18770/04

- against -

THE CITY OF NEW YORK, et al.
_____ x

The following papers numbered 1 to 82 read on this motion in Action No. 1 by defendant The City of New York and cross motion by defendant AIG Claim Services for leave to renew and/or reargue the prior order of this court, dated August 18, 2005 and, upon renewal and/or reargument for an order vacating the court's prior order and separate motion in Action No. 2 by the plaintiffs and cross motions by defendants The City of New York and AIG Claims Services for summary judgment in their favor.

	Papers <u>Numbered</u>
Notices of Motion - Affidavits - Exhibits.....	1-6, 33-36
Notices of Cross Motion - Affidavits - Exhibits..	7-9, 37-43
Answering Affidavits - Exhibits.....	10-17, 44-53
Reply Affidavits.....	18-20, 54-59
Other.....	21-32, 60-82

Upon the foregoing papers it is ordered that the motions and cross motions are determined as follows:

A motion for leave to reargue is addressed to the sound discretion of the court which made the original determination (Hoey-Kennedy v Kennedy, 294 AD2d 573 [2002]). It is designed to afford the moving party an opportunity to show that the court overlooked or misapprehended the facts or the law or for some other reason mistakenly arrived at its earlier decision (CPLR 2221[d][2]; Diorio v City of New York, 202 AD2d 625 [1994]). It does not permit an unsuccessful party to again argue the same issues previously decided (see Pro Brokerage v Home Ins. Co., 99 AD2d 971 [1984]). Nor does it provide an unsuccessful party with another opportunity to present new or different arguments from those originally asserted (see Gellert & Rodner v Gem Community Mgt., 20 AD3d 388 [2005]; Amato v Lord & Taylor, Inc., 10 AD3d 374, 375 [2004]). Here, the movants have failed to demonstrate that the court overlooked or misapprehended the facts presented. Nor have they demonstrated that, for some other reason, the court mistakenly arrived at the prior decision. Accordingly, leave for reargument is denied.

The motion to renew is also denied since the movants failed to show that any purported new or additional facts were unavailable to them at the time of the original motion (see Pahl Equipment Corp. v Kassis, 182 AD2d 22 [1992]). In any event, the proposed new evidence would not have altered the court's prior determination had such evidence been previously submitted.

Finally, the motion and cross motions for summary judgment are denied since the movants failed to demonstrate the absence of material issues of fact relevant to their claims. (see generally Alvarez v Prospect Hospital, 68 NY2d 320 [1980]; Friends of Animals, Inc. v Associated Fur Manufacturers, Inc., 46 NY2d 1065 [1979]).

Dated: July 25, 2006

J.S.C.