

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

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_____AD3d_____

Submitted - November 19, 2009

A. GAIL PRUDENTI, P.J.
JOSEPH COVELLO
PLUMMER E. LOTT
SANDRA L. SGROI, JJ.

2008-10235

DECISION & ORDER

Diana Blumberg, appellant, v Landmark Colony
at Oyster Bay Homeowner's Association, Inc.,
et al., respondents.

(Index No. 6486/07)

Dean Lakis, Garden City, N.Y., for appellant.

Miranda Sambursky Slone Sklarin Verveniotis LLP, Mineola, N.Y. (Adam I. Kleinberg and Matthew J. Mehnert of counsel), for respondents.

In an action, inter alia, in effect, to recover damages for breach of contract, the plaintiff appeals from an order of the Supreme Court, Nassau County (Spinola, J.), dated September 17, 2008, which granted the defendants' motion for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with costs.

The defendants demonstrated their entitlement to judgment as a matter of law by establishing that the plaintiff's causes of action regarding the defendants' alleged failure to maintain her condominium unit in accordance with the bylaws of the condominium association are barred by the doctrine of collateral estoppel, as the plaintiff's claims based on the same alleged failure were dismissed in a prior action (*see Beuchel v Bain*, 97 NY2d 295, 303-304, *cert denied* 535 US 1096), and that the plaintiff's remaining cause of action has been rendered academic. In opposition, the

December 15, 2009

Page 1.

BLUMBERG v LANDMARK COLONY AT OYSTER BAY
HOMEOWNER'S ASSOCIATION, INC.

plaintiff failed to raise a triable issue of fact (*see Alvarez v Prospect Hosp.*, 68 NY2d 320, 324). Accordingly, the Supreme Court properly granted the defendants' motion for summary judgment dismissing the complaint.

PRUDENTI, P.J., COVELLO, LOTT and SGROI, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court