

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

D25523  
C/kmg

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Argued - November 24, 2009

MARK C. DILLON, J.P.  
FRED T. SANTUCCI  
ANITA R. FLORIO  
L. PRISCILLA HALL, JJ.

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2009-02484

DECISION & ORDER

Harminder Singh, et al., appellants, v City of New York,  
et al., respondents (and another title).

(Index No. 2918/07)

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Peter Pearson Traub, New York, N.Y., for appellants.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Pamela Seider Dolgow,  
Craig Koster, and Susan Choi-Hausman of counsel), for respondents.

In an action to recover damages for personal injuries, etc., the plaintiffs appeal from an order of the Supreme Court, Kings County (Hurkin-Torres, J.), dated May 20, 2009, which granted that branch of the defendants' motion which, in effect, was to compel them to respond to additional discovery demands regarding the immigration status of the plaintiff Harminder Singh.

ORDERED that the order is reversed, on the law, on the facts, and in the exercise of discretion, with costs, and that branch of the defendants' motion which, in effect, was to compel the plaintiffs to respond to additional discovery demands regarding the immigration status of the plaintiff Harminder Singh is denied.

While the Supreme Court may, in its discretion, grant permission to conduct additional discovery after the filing of a note of issue and certificate of readiness where the moving party demonstrates that "unusual or unanticipated circumstances" developed subsequent to the filing which require additional pretrial proceedings to prevent substantial prejudice (*see* 22 NYCRR 202.21[d]; *Audiovox Corp. v Benyamini*, 265 AD2d 135, 138; *Futersak v Brinen*, 265 AD2d 452), here, the defendants failed to establish any such unusual or unanticipated circumstances that would warrant the

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additional post-note-of-issue discovery they sought (*see* 22 NYCRR 202.21[d]; *Audiovox Corp. v Benyamini*, 265 AD2d 135; *Futersak v Brinen*, 265 AD2d 452). The defendants also failed to establish that the denial of their request would cause them actual, substantial prejudice (*see Audiovox Corp. v Benyamini*, 265 AD2d at 139).

DILLON, J.P., SANTUCCI, FLORIO and HALL, 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