

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

D25626
Y/hu

_____AD3d_____

Argued - October 23, 2009

STEVEN W. FISHER, J.P.
DANIEL D. ANGIOLILLO
RANDALL T. ENG
PLUMMER E. LOTT, JJ.

2008-10621

DECISION & ORDER

David B. Jacobs, appellant, v Michael Mostow,
et al., respondents, et al., defendants.

(Index No. 7715/07)

David B. Jacobs, Freeport, N.Y., appellant pro se.

Sokoloff Stern, LLP, Westbury, N.Y., for respondents Michael Mostow, Horace Williams, Herschel Williams, Arnold Goldberg, Roosevelt Union Free School District, Board of Education of the Roosevelt Union Free School District, and Glen Simmons.

In an action, inter alia, to recover damages for breach of contract, the plaintiff appeals from an order of the Supreme Court, Nassau County (Murphy, J.), dated September 30, 2008, which granted the motion of the defendants Michael Mostow, Horace Williams, Herschel Williams, Arnold Goldberg, Roosevelt Union Free School District, Board of Education of the Roosevelt Union Free School District, and Glen Simmons to dismiss the complaint insofar as asserted against them.

ORDERED that the order is affirmed, with costs.

In March 2001, the plaintiff commenced an action against the defendant Roosevelt Union Free School District and its various officials (hereinafter collectively the District). That case is pending. In April 2007, the plaintiff commenced the instant action, alleging virtually the same claims as in the 2001 action. The Supreme Court properly granted the District's motion to dismiss the complaint insofar as asserted against it because "there is another action pending between the same

parties for the same cause of action” (CPLR 3211[a][4]).

FISHER, J.P., ANGIOLILLO, ENG and LOTT, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, sweeping initial "J".

James Edward Pelzer
Clerk of the Court