

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

D27178  
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Argued - March 29, 2010

JOSEPH COVELLO, J.P.  
FRED T. SANTUCCI  
DANIEL D. ANGIOLILLO  
THOMAS A. DICKERSON, JJ.

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2009-01035

DECISION & ORDER

Harvey Fishbein, appellant, v Abraham Chaimovitz,  
et al., respondents.

(Index No. 20894/05)

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Jeffrey Levitt, Amityville, N.Y., for appellant.

Speyer & Perlberg, LLP, Melville, N.Y. (Thomas E. Scott and Dennis M. Perlberg  
of counsel), for respondents.

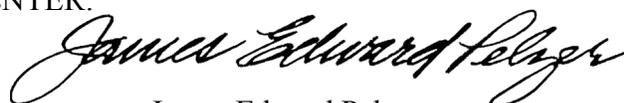
In an action, inter alia, to recover damages for breach of contract, the plaintiff appeals from a judgment of the Supreme Court, Suffolk County (Pines, J.), entered December 18, 2008, which, after a nonjury trial, is in favor of the defendants and against him, dismissing the complaint.

ORDERED that the judgment is affirmed, with costs.

In reviewing a determination made after a nonjury trial, the power of this Court is as broad as that of the trial court, and this Court may render the judgment it finds warranted by the facts, bearing in mind that in a close case, the trial judge had the advantage of seeing the witnesses (*see Northern Westchester Professional Park Assoc. v Town of Bedford*, 60 NY2d 492, 499; *A-Tech Concrete Co., Inc. v Tilcon N.Y., Inc.*, 60 AD3d 603, 604). We discern no basis to disturb the Supreme Court's determination.

COVELLO, J.P., SANTUCCI, ANGIOLILLO and DICKERSON, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

May 4, 2010

FISHBEIN v CHAIMOVITZ