

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

D27816  
G/kmg

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Argued - May 25, 2010

STEVEN W. FISHER, J.P.  
FRED T. SANTUCCI  
HOWARD MILLER  
PLUMMER E. LOTT, JJ.

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2009-07249

DECISION & ORDER

Robert Nioras, appellant, v Village of Rye Brook,  
et al., respondents.

(Index No. 5076/07)

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McCarthy Fingar LLP, White Plains, N.Y. (Joel Martin Aurnou and Stephen Davis of counsel), for appellant.

Gelardi & Randazzo, LLP, Rye Brook, N.Y. (James A. Randazzo, Edward F. Beane, and Karen Lee of counsel), for respondent.

In an action, inter alia, to recover damages for unjust enrichment, the plaintiff appeals from an order of the Supreme Court, Westchester County (Scheinkman, J.), entered June 23, 2009, which granted the defendants' motion for summary judgment dismissing the complaint for failure to comply with CPLR 9802, and denied his cross motion, inter alia, for summary judgment on the complaint.

ORDERED that the order is affirmed, with costs.

Contrary to the plaintiff's contention, the notice of claim requirements of CPLR 9802 apply to this action (*see* CPLR 9802; *Solow v Liebman*, 175 AD2d 867, 868-69; *see also Greco v Incorporated Vil. of Freeport*, 223 AD2d 674; *Martz v Incorporated Vil. of Val. Stream*, 210 AD2d 205; *Nassau County v Incorporated Vil. of Roslyn*, 182 AD2d 678, 679). Accordingly, the Supreme Court properly granted the defendants' motion for summary judgment dismissing the complaint for failure to comply with CPLR 9802.

June 15, 2010

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In light of our determination, we need not reach the plaintiff's remaining contentions.

FISHER, J.P., SANTUCCI, MILLER and LOTT, JJ., concur.

ENTER:

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

James Edward Pelzer  
Clerk of the Court