

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

M79518  
E/sl

WILLIAM F. MASTRO, J.P.  
HOWARD MILLER  
EDWARD D. CARNI  
WILLIAM E. McCARTHY, JJ.

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2008-01934

DECISION & ORDER ON MOTION

Adam Armellino, etc., et al., appellants,  
v Jason Thomase, etc., et al., defendants,  
Oceanside Union Free School District,  
respondent.

(Index No. 10943/03)

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Motion by the respondent on an appeal from an order of the Supreme Court, Nassau County, entered January 9, 2008, to strike pages 214.1 and 214.2 of the record on appeal, containing certain photographs, and references to those photographs in the appellants' brief, on the ground that they contain or refer to matter de hors the record. Cross motion by the appellants to enlarge the record to include the two photographs.

Upon the papers filed in support of the motion and cross motion, and the papers filed in opposition thereto, it is

ORDERED that the motion is granted; and it is further,

ORDERED that the following material is stricken:

- (1) pages 214.1 and 214.2 of the record on appeal;
- (2) on page 1 of the appellants' brief, beginning with the words "Photographs depicting the area" through the end of the paragraph on page 2;
- (3) on page 4 of the appellants' brief, the citations "214.1 and 214.2"; and it is further,

December 5, 2008

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ORDERED that on or before December 29, 2008, the appellants shall delete or remove the stricken material from the copies of the record on appeal and/or the appellants' brief filed with the Clerk of the court; and it is further,

ORDERED that the cross motion is denied.

MASTRO, J.P., MILLER, CARNI and McCARTHY, 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