

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

M87916  
E/sl

MARK C. DILLON, J.P.  
HOWARD MILLER  
JOHN M. LEVENTHAL  
CHERYL E. CHAMBERS, JJ.

---

2008-01917

DECISION & ORDER ON MOTION

Moran Enterprises, Inc., appellant,  
v Margaret Hurst, et al., respondents.

(Index No. 4634/07)

---

Motion by the respondents Heath Berger and Steinberg, Fineo, Berger & Fishoff, P.C., on an appeal from an order of the Supreme Court, Nassau County, entered January 17, 2008, to strike Point III of the reply brief on the ground that the argument contained therein is improperly raised for the first time in the reply brief.

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

ORDERED that the motion is granted to the extent that the first five paragraphs of Point III of the reply brief, beginning with the words "All Respondents" and ending with the words "still in effect" are stricken, and have not been considered in the determination of the appeal, and the motion is otherwise denied.

DILLON, J.P., MILLER, LEVENTHAL and CHAMBERS, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

November 2, 2009

MORAN ENTERPRISES, INC. v HURST