

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

D13328
T/cb

_____AD3d_____

Submitted - September 19, 2006

HOWARD MILLER, J.P.
STEPHEN G. CRANE
FRED T. SANTUCCI
ROBERT J. LUNN, JJ.

2005-10890

DECISION & ORDER

In the Matter of Lisa Fazio, appellant, v County
of Nassau, respondent.

(Index No. 9653/05)

Robert A. Litman, Brooklyn, N.Y., for appellant.

Lorna B. Goodman, County Attorney, Mineola, N.Y. (Karen Hutson of counsel), for
respondent.

In a proceeding pursuant to General Municipal Law § 50-e(5) for leave to serve a late
notice of claim, the petitioner appeals from an order of the Supreme Court, Nassau County (Dunne,
J.), entered October 4, 2005, which denied the petition.

ORDERED that the order is affirmed, with costs.

We agree with the Supreme Court that the petitioner failed to establish that she had
a reasonable excuse for much of the almost nine-month delay in serving the notice of claim (*see*
Matter of Finneran v City of New York, 228 AD2d 596, 596-597). Moreover, the record does not
support the petitioner's contention that the County of Nassau had actual knowledge of the essential
facts underlying her claim within 90 days of the accident and therefore would not be substantially
prejudiced in preparing a defense if the application were granted (*see Matter of Cattell v Town of*

Brookhaven, 21 AD3d 896; *Matter of Gillum v County of Nassau*, 284 AD2d 533). Accordingly, the Supreme Court providently exercised its discretion in denying the petition.

MILLER, J.P., CRANE, SANTUCCI and LUNN, JJ., concur.

ENTER:

A handwritten signature in cursive script that reads "James Edward Pelzer".

James Edward Pelzer
Clerk of the Court