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

D15002
X/gts

_____AD3d_____ Argued - March 29, 2007

ROBERT W. SCHMIDT, J.P.
GLORIA GOLDSTEIN
STEVEN W. FISHER
ROBERT A. LIFSON, JJ.

2006-07852 DECISION & ORDER

Yvonne Oliver, et al., appellants, v State of New York (SUNY) Health Science Center at Brooklyn, a/k/a Downstate Medical Center, respondent.

(Claim No. 106469)

Peter E. Tangredi, White Plains, N.Y. (Stephen D. Chakwin, Jr., of counsel), for appellants.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Patrick Barnett-Mulligan and Jennifer Grace Miller of counsel), for respondent.

In a claim to recover damages for personal injuries, etc., the claimants appeal from an order of the Court of Claims (Waldon, J.), dated June 28, 2006, which granted the defendant's motion to dismiss the claim for failure to comply with Court of Claims Act § 11(b).

ORDERED that the order is reversed, on the law and the facts, with costs, and the motion to dismiss the claim for failure to comply with Court of Claims Act § 11(b) is denied.

The Court of Appeals has recently stated that a claim against the State "may always be amended at a later time, if necessary" (*Kolnacki v State of New York*, 8 NY3d 277, 281). Under the particular facts of this case, where the state hospital had full and complete knowledge of the facts upon which the claim was based even before the claim was filed, and where the verified bill of

particulars filed four months after the claim and well within the two-year statute of limitations, fully described each of the elements required by Court of Claims Act § 11(b), we deem the claim sufficient.

SCHMIDT, J.P., GOLDSTEIN, FISHER and LIFSON, JJ., concur.

ENTER:

James Edward Pelzer
Clerk of the Court