

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

D17937  
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Argued - December 21, 2007

WILLIAM F. MASTRO, J.P.  
FRED T. SANTUCCI  
RUTH C. BALKIN  
THOMAS A. DICKERSON, JJ.

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2006-11661

DECISION & ORDER

In the Matter of John Kane, et al., respondents, v  
Richard Leistman, et al., appellants.

(Index No. 80135/06)

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Wallace D. Gossett, Brooklyn, N.Y. (Lawrence Heisler of counsel), for appellants.

Michael J. Doyle, P.C., New York, N.Y., for respondents.

In a proceeding, inter alia, pursuant to General Municipal Law § 50-e for leave to serve a late notice of claim, Richard Leistman and the New York City Transit Authority appeal, as limited by their brief, from so much of an order of the Supreme Court, Richmond County (McMahon, J.), dated October 27, 2006, as granted that branch of the petition which was to file a summons and complaint.

ORDERED that the order is affirmed insofar as appealed from, with costs.

The Supreme Court did not improvidently exercise its discretion in permitting the petitioners to file the summons and complaint attached to their petition for leave to serve a late notice of claim pursuant to General Municipal Law § 50-e (*see Giblin v Nassau County Med. Ctr.*, 61 NY2d 67, 72; *Shister v City of New York*, 309 AD2d 915; *Benejan v New York City Tr. Auth.*, 306 AD2d 1; *Cruz v City of New York*, 302 AD2d 553), and their subsequent action therefore was timely commenced (*see Public Authorities Law* § 1212[1], [2], [4]).

MASTRO, J.P., SANTUCCI, BALKIN and DICKERSON, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

February 13, 2008

MATTER OF KANE v LEISTMAN