

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

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_____AD3d_____

Submitted - March 10, 2008

REINALDO E. RIVERA, J.P.
FRED T. SANTUCCI
THOMAS A. DICKERSON
ARIEL E. BELEN, JJ.

2007-04229

DECISION & ORDER

Trina Bussey, et al., respondents, v City of New York,
appellant, et al., defendant.

(Index No. 25130/06)

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Francis F. Caputo and
Susan Paulson of counsel), for appellant.

In an action to recover damages for personal injuries, etc., the defendant City of New York appeals from an order of the Supreme Court, Kings County (Battaglia, J.), dated March 28, 2007, which granted the plaintiffs' motion for leave to serve a late notice of claim pursuant to General Municipal Law § 50-e(5).

ORDERED that the order is affirmed, without costs or disbursements.

Under the facts of this case, the Supreme Court providently exercised its discretion in granting the plaintiffs' motion for leave to serve a late notice of claim pursuant to General Municipal Law § 50-e(5). The defendant City of New York acquired notice of the essential facts of the subject incident within a reasonable time after the statutory 90-day-period following the accident (*see Matter of March v Town of Wappinger*, 29 AD3d 998; *cf. Matter of National Sur. Corp. v Town of Greenburgh*, 266 AD2d 550). Moreover, the City was not prejudiced by the short delay (*see Lossino v New York City Tr. Auth.*, 264 AD3d 383).

RIVERA, J.P., SANTUCCI, DICKERSON and BELEN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

April 22, 2008

BUSSEY v CITY OF NEW YORK