

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

D20068
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_____AD3d_____

Submitted - June 12, 2008

ROBERT A. SPOLZINO, J.P.
STEVEN W. FISHER
EDWARD D. CARNI
THOMAS A. DICKERSON, JJ.

2007-06967

DECISION & ORDER

In the Matter of Malik Figgs, respondent, v County
of Suffolk, appellant.

(Index No. 01330/07)

Christine Malafi, County Attorney, Hauppauge, N.Y. (Marcia J. Lynn of counsel), for
appellant.

Garcia & Stallone, Melville, N.Y. (Karl Zamurs of counsel), for respondent.

In a proceeding for leave to serve an amended notice of claim pursuant to General
Municipal Law § 50-e(6), the County of Suffolk appeals from an order of the Supreme Court, Suffolk
County (Baisley, J.), dated June 27, 2007, which granted the petition.

ORDERED that the order is affirmed, with costs.

“General Municipal Law § 50-e(6) authorizes a court, in its discretion, to grant leave
to serve an amended notice of claim where the error in the original notice of claim was made in good
faith, and where the other party has not been prejudiced thereby” (*Gatewood v Poughkeepsie Hous.
Auth.*, 28 AD3d 515, 515; *see Matter of Puzio v City of New York*, 24 AD3d 679). Here, the
Supreme Court properly granted the petition for leave to serve an amended notice of claim pursuant
to General Municipal Law § 50-e(6) to correct the fact that the original notice of claim was not
“sworn to by or on behalf” of the petitioner (General Municipal Law § 50-e[2]; *see Smith v Scott*, 294
AD2d 11, 20; *Mahoney v Town of Oyster Bay*, 71 AD2d 879).

September 2, 2008

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The appellant's remaining contentions are without merit.

SPOLZINO, J.P., FISHER, CARNI and DICKERSON, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court