

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

D30389  
H/kmb

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - February 23, 2011

PETER B. SKELOS, J.P.  
JOSEPH COVELLO  
RANDALL T. ENG  
CHERYL E. CHAMBERS  
SANDRA L. SGROI, JJ.

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2010-04753

DECISION & ORDER

In the Matter of Gregory Lewis, appellant, v  
City of New York, et al., respondents.

(Index No. 3298/10)

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Joseph N. Obiora, Jamaica, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Sharyn Rootenberg of  
counsel; Daniel Milstein on the brief), for respondents.

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, Queens County (Kerrigan, J.), dated April 7, 2010, which denied the petition.

ORDERED that the order is affirmed, with costs.

The Supreme Court did not improvidently exercise its discretion in denying the petition for leave to serve a late notice of claim. The petitioner failed to provide a reasonable excuse for his failure to timely serve a notice of claim (*see Matter of Felice v Eastport/South Manor Cent. School Dist.*, 50 AD3d 138, 150). Moreover, the evidence submitted by the petitioner along with his petition failed to establish that the City of New York had actual knowledge of the essential facts constituting his claims within 90 days following their accrual or a reasonable time thereafter (*see Williams v Nassau County Med. Ctr.*, 6 NY3d 531, 536; *Matter of Bush v City of New York*, 76 AD3d 628, 629; *Matter of Charles v City of New York*, 67 AD3d 793). Finally, the petitioner failed to establish that the delay in serving a notice of claim would not substantially prejudice the City (*see*

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*Williams v Nassau County Med. Ctr.*, 6 NY3d at 539; *Matter of Bush v City of New York*, 76 AD3d at 629; *Matter of Felice v Eastport/South Manor Cent. School Dist.*, 50 AD3d at 152-153).

SKELOS, J.P., COVELLO, ENG, CHAMBERS and SGROI, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court