

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

D32300  
H/prt

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Submitted - September 7, 2011

PETER B. SKELOS, J.P.  
DANIEL D. ANGIOLILLO  
PLUMMER E. LOTT  
SHERI S. ROMAN, JJ.

2010-08552

DECISION & ORDER

In the Matter of Estate of Josephine Curreri, appellant,  
v New York City Housing Authority, respondent.

(Index No. 1077/10)

Philip J. Rizzuto, P.C., Carle Place, N.Y. (Kristen N. Reed of counsel), for appellant.

Wilson Elser Moskowitz Edelman & Dicker LLP, New York, N.Y. (Patrick J. Lawless and Richard E. Lerner of counsel), for respondent.

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, Kings County (Solomon, J.), dated July 15, 2010, which denied the petition.

ORDERED that the order is affirmed, with costs.

The petition for leave to serve a late notice of claim was made about 1 year and 10 months after the subject accident occurred, and about 8 months after the appointment of an administrator of the Estate of Josephine Curreri. The papers submitted in support of the petition did not contain a proposed notice of claim, which was not in compliance with General Municipal Law § 50-e(7). This alone was a sufficient basis upon which to deny the petition (*see* General Municipal Law § 50-e[7]; *Matter of Narcisse v Incorporated Vil. of Cent. Islip*, 36 AD3d 920, 922; *Matter of Scott v Huntington Union Free School Dist.*, 29 AD3d 1010, 1010; *Losavio v Stein*, 98 AD2d 742). Furthermore, the petitioner failed to establish that the respondent had actual knowledge of the essential facts constituting the claim within the time specified in General Municipal Law § 50-e(1)(a) or within a reasonable time thereafter, and that the delay would not substantially prejudice the

respondent in maintaining its defense on the merits (*see* General Municipal Law § 50-e[5]; *Nappi v County of Suffolk*, 79 AD3d 990, 992; *Matter of Felice v Eastport/South Manor Cent. School Dist.*, 50 AD3d 138, 153; *Matter of Acosta v City of New York*, 39 AD3d 629, 630). Moreover, the petitioner failed to proffer a reasonable excuse for the delay (*see Matter of Grant v Nassau County Indus. Dev. Agency*, 60 AD3d 946, 947; *Matter of Gillum v County of Nassau*, 284 AD2d 533; *Matter of Deegan v City of New York*, 227 AD2d 620).

SKELOS, J.P., ANGIOLILLO, LOTT and ROMAN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan  
Clerk of the Court