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This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 207 SSM 14
Mia Plaza, an Infant by Her
Mother and Natural Guardian,
Claribel Rodriguez,
Appellant,

v.

New York Health and Hospitals
Corporation (Jacobi Medical
Center),
Respondent.

Submitted by John M. Daly, for appellant.
Submitted by Janet L. Zaleon, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed,
with costs. The certified question should not be answered on the
ground that it is unnecessary.

Plaintiff admittedly served a late notice of claim

against defendant without seeking leave of court.

General Municipal Law § 50-e (1) requires that a claimant serve a notice of claim against a public corporation within 90 days after a tort claim arises. However, section 50-e (5) provides that a court, "in its discretion," may grant an application extending the time to serve a notice of claim as long as the application is made within the limitations period for commencing the action, including any tolls or extensions. CPLR 208 provides that "[i]f a person entitled to commence an action is under a disability because of infancy . . . at the time the cause of action accrues, and . . . the time otherwise limited [for commencing the action] is less than three years, the time shall be extended by the period of disability." Where a medical malpractice action accrues during infancy, the extension is limited to 10 years from the time of accrual (see CPLR 208).

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On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and certified question not answered on the ground that it is unnecessary, in a memorandum. Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

Decided June 26, 2013