

constituting the claim” (*Matter of Newcomb v Middle Country Cent. Sch. Dist.*, 28 NY3d 455, 461 [2016] [internal quotation marks omitted]). The New York City Police Department (NYPD) report on the accident indicated that the investigating officer was an NYPD transit officer who observed petitioner being taken to the hospital, and the report set forth specific contents of the police interview with the train operator about the accident. Additionally, petitioner demonstrated that NYCTA had the opportunity to investigate the essential facts in a timely manner, establishing that petitioner’s delay did not cause substantial prejudice to NYCTA (*see Matter of Mejia v New York City Tr. Auth.*, 224 AD3d 546 [1st Dept 2024]; *Johnson v New York City Tr. Auth.*, 278 AD2d 83 [1st Dept 2000]; *compare Alexander v New York City Tr. Auth.*, 200 AD3d 509, 510 [1st Dept 2021]). In response to petitioner’s showing, NYCTA offered no particularized evidence of prejudice (*see Clarke v New York City Tr. Auth.*, 222 AD3d 552, 553 [1st Dept 2023]).

Petitioner also offers a reasonable excuse for failing to serve a timely notice of claim. Medical records show that he remained in the hospital for 34 days and then required additional treatments thereafter. He also faced challenges attending to his new disability while housed in the City’s shelter system. We note that petitioner retained counsel approximately eight months after the accident, and that he fails to explain why counsel delayed in moving for leave to serve a late notice of claim. However, this failure is not dispositive given his showing of respondent’s actual knowledge of the incident, the absence of prejudice caused by the delay, and his reasonable excuse for his inaction in

the months immediately following his accident (*see Stampf v Metropolitan Transp. Auth.*, 57 AD3d 222, 223 [1st Dept 2008]).

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: May 7, 2024

A handwritten signature in black ink, appearing to read "Susanna Molina Rojas". The signature is written in a cursive, flowing style.

Susanna Molina Rojas
Clerk of the Court