

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

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_____AD3d_____

Submitted - December 1, 2017

WILLIAM F. MASTRO, J.P.
RUTH C. BALKIN
FRANCESCA E. CONNOLLY
LINDA CHRISTOPHER, JJ.

2016-12346

DECISION & ORDER

Clarimundo Mourato, appellant, v Suffolk County
Water Authority, respondent.

(Index No. 21142/15)

Bruce E. Cohen & Associates, P.C., Melville, NY, for appellant.

White Fleischner & Fino, LLP, New York, NY (Alisa Dultz of counsel), for
respondent.


In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Suffolk County (Pastorella, J.), dated September 29, 2016, which granted the defendant's motion pursuant to CPLR 3211(a)(5) to dismiss the complaint as time-barred.

ORDERED that the order is affirmed, with costs.

Contrary to the plaintiff's contention, the statute of limitations was not tolled during the period between the defendant's demand for a hearing pursuant to General Municipal Law § 50-h and that hearing (*see Baez v New York City Health & Hosps. Corp.*, 80 NY2d 571, 577; *Mayayev v Metropolitan Transp. Auth. Bus*, 74 AD3d 910, 911; *Mignott v New York City Health & Hosps. Corp.*, 250 AD2d 165, 171). Accordingly, the Supreme Court properly granted the defendant's motion pursuant to CPLR 3211(a)(5) to dismiss the complaint as time-barred.

MASTRO, J.P., BALKIN, CONNOLLY and CHRISTOPHER, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

March 21, 2018

MOURATO v SUFFOLK COUNTY WATER AUTHORITY