

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

D57178
G/htr

_____AD3d_____

Submitted - June 22, 2018

ALAN D. SCHEINKMAN, P.J.
WILLIAM F. MASTRO
BETSY BARROS
FRANCESCA E. CONNOLLY, JJ.

2016-13157

DECISION & ORDER

Robert Williams, appellant, v City University
of New York, respondent.

Robert Williams, Bronx, NY, appellant pro se.

Barbara D. Underwood, Attorney General, New York, NY (Andrew W. Amend
and Mark H. Shawhan of counsel), for respondent.

In a claim, inter alia, to recover damages for breach of contract, the claimant appeals from an order of the Court of Claims (Thomas H. Scuccimarra, J.), dated October 4, 2016. The order denied the claimant's motion pursuant to Court of Claims Act § 10(6) for leave to file a late claim against the City University of New York.

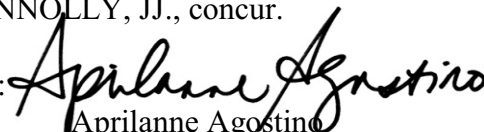
ORDERED that the order is affirmed, with costs.

The Court of Claims providently exercised its discretion in denying the claimant's motion to file a late claim. We agree with the court's determination, upon weighing the statutory factors set forth in Court of Claims Act § 10(6), that the claimant failed to establish that his delay was excusable (*see Olsen v State of New York*, 45 AD3d 824, 824; *Anderson v City Univ. of N.Y. at Queens Coll.*, 8 AD3d 413, 414; *Matter of E.K. v State of New York*, 235 AD2d 540, 541). Further, the claimant failed to adequately set forth sufficient facts demonstrating that his claim was meritorious (*see Olsen v State of New York*, 45 AD3d at 824; *Matter of E.K. v State of New York*, 235 AD2d at 541).

The claimant's remaining contention, raised for the first time on appeal, is not properly before us.

SCHEINKMAN, P.J., MASTRO, BARROS and CONNOLLY, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

November 7, 2018

WILLIAMS v CITY UNIVERSITY OF NEW YORK