

Rodriguez v City Univ. of N.Y.
2021 NY Slip Op 33678(U)
April 8, 2021
Supreme Court, New York County
Docket Number: Index No. 152260/2021
Judge: Arthur F. Engoron
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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ARTHUR F. ENGORON PART IAS MOTION 37EFM

Justice

-----X

ERICA RODRIGUEZ,

Petitioner,

- v -

THE CITY UNIVERSITY OF NEW YORK, HOSTOS
COMMUNITY COLLEGE

Respondent.

-----X

INDEX NO. 152260/2021

MOTION DATE N/A

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19

were read on this motion to/for ORDER/JUDGMENT NUNC PRO TUNC

Upon the foregoing documents, petitioner's application to file a late notice of claim is denied, and the proceeding is dismissed, for the reasons set forth herein. The filing of a notice of claim is a condition precedent to bringing any New York State or New York City Human Rights Law claims against respondents. See McKie v LaGuardia Cmty. Coll./CUNY, 85 AD3d 453, 454 (1st Dept 2011) ("pursuant to the plain language of Education Law § 6224(1) ... the requirement of filing a notice of claim within 90 days as a condition precedent to bringing suit against a community college of the City University of New York (CUNY) applies to all claims asserted against such community college, not just tort or wrongful death claims"); see also Siegel v La Guardia Cmty. Coll., 2006 US Dist LEXIS 22931 (EDNY 2006), aff'd 249 F. App'x 850 (2d Cir. 1994). Moreover, petitioner has failed to meet her burden of demonstrating her entitlement to file a late notice of claim. Where "[t]he record shows that petitioner failed to provide a reasonable excuse for her failure to file a timely notice of claim," the petition should be denied, as "ignorance of the law is not a valid excuse." Todd v New York City Health & Hosps. Corp., 129 A.D.3d 433, 433 (1st Dept. 2015). Furthermore, petitioner has failed to demonstrate that respondents will not be prejudiced by the late filing, as litigation has replaced potential settlement talks.

The Clerk is hereby directed to enter judgment dismissing this proceeding.

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4/8/2021
DATE

ARTHUR F. ENGORON, J.S.C.

CHECK ONE:

[X] CASE DISPOSED

CASE DISPOSED

[] GRANTED

GRANTED

[X] DENIED

DENIED

APPLICATION:

[] SETTLE ORDER

SETTLE ORDER

CHECK IF APPROPRIATE:

[] INCLUDES TRANSFER/REASSIGN

INCLUDES TRANSFER/REASSIGN

[] NON-FINAL DISPOSITION

NON-FINAL DISPOSITION

[] GRANTED IN PART

GRANTED IN PART

[] OTHER

OTHER

[] SUBMIT ORDER

SUBMIT ORDER

[] FIDUCIARY APPOINTMENT

FIDUCIARY APPOINTMENT

[] REFERENCE

REFERENCE

152260/2021 RODRIGUEZ, ERICA vs. CITY UNIVERSITY OF NEW
Motion No. 001

Page 1 of 1