

Jaquez v Board of Elections in the City of N.Y.

2025 NY Slip Op 34315(U)

November 12, 2025

Supreme Court, New York County

Docket Number: Index No. 150363/2025

Judge: Phaedra F. Perry-Bond

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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. PHAEDRA F. PERRY-BOND PART 35
Justice

-----X	INDEX NO.	150363/2025
STEPHANIE JAQUEZ,	MOTION DATE	01/09/2025
Plaintiff,	MOTION SEQ. NO.	001

- v -

BOARD OF ELECTIONS IN THE CITY OF NEW YORK,
COMMISSIONERS OF ELECTIONS IN THE CITY OF NEW
YORK, MICHAEL J. RYAN

**DECISION + ORDER ON
MOTION**

Defendant.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 001) 5, 8, 9, 11, 12, 13
were read on this motion to/for MISCELLANEOUS

BACKGROUND

Petitioner (Stephanie Jaquez) (Petitioner) moves pursuant to § 50-e(5) of the General Municipal Law to serve and file a late notice of Claim (NOE) against the Respondents, Board of Elections in the City of New York, (BOE) Commissioners of Elections in the City of New York, (Commissioners) and Michael J. Ryans (Mr. Ryan), (collectively Respondents), and granting the Petitioner an Order directing the attached NOC be deemed served upon Respondents *nunc pro tunc*. For the reasons discussed, the motion is granted.

On July 24, 2024, Petitioner resigned from her position as Associate General Counsel from the BOE alleging hostile work environment. Before resigning, Petitioner met with BOE General Counsel and two BOE Commissioners to discuss her allegations in further detail on July 12, 2024. After her resignation, Petitioner sent a lengthy email detailing the alleged behavior, to BOE General Counsel and two BOE Commissioners. Petitioner's email was believed to have been shared with the entire Board of BOE Commissioners.

On August 5, 2024, Petitioner submitted a formal complaint to the New York City Department of Investigations (DOI). Thereafter, DOI conducted an extensive investigation into Petitioner's allegations between August 2, 2024, and October 8, 2024. The investigation consisted of reviewing BOE policies and procedures; analyzing BOE issued mobile devices; interviewing fourteen (14) BOE personnel, including Petitioner, Mr. Ryan and members of senior staff and BOE Commissioners. Petitioner argues that believing the investigation would be confidential, she felt it best to allow the investigation to proceed before taking any further action.

On January 6, 2025, Petitioner was provided an embargoed copy of the DOI report and was informed it would be released to the public. The report found, amongst other things:

- That Mr. Ryan had created a hostile work environment and had harassed Petitioner along with another BOE employee
- That BOE had failed to have proper procedures and EEO policies in place in accordance with the standard set by New York City,
- That BOE failed to provide an appropriate reporting structure for confidential complaints, or complaints regarding BOE leadership, and that this likely prohibited an employee to report allegations without involvement and potential interference from Mr. Ryan.

On January 8, 2025, the DOI released a truncated report along with a press release. On that same day, served her NOC on the BOE. The instant matter and the proposed OSC followed on January 9, 2025.

DISCUSSION

Petitioner argues that Respondents cannot be prejudiced by the timing of the filing, which is based upon events that were timely and extensively reported to BOE leadership, including the BOE Commissioners and which was immediately investigated by the DOI. Petitioner argues that Respondents had acquired actual knowledge of the essential facts constituting Petitioner's claim within 90 days after the claim arose.

Respondents argue that a key factor in deciding to allow leave to file a late NOC is whether Petitioner had demonstrated a reasonable excuse for failure to serve a timely notice of claim. They argue that Petitioner's claims, that she did not file a public NOC because she thought that the investigation was confidential and that she was prohibited from speaking about it until the investigation concluded is an insufficient reason for failing to timely file the NOC. They argue that Petitioner's impressions and conclusions are of no import to the requirement to serve a timely NOC and that Petitioner's erroneous impression that she could not file a NOC during a DOI investigation is indistinguishable from ignorance of the NOC requirement, which is not a reasonable excuse. They further argue that Petitioner failed to establish BOE was on notice as to her specific claims, rather than just complaints about Mr. Ryan's behavior. They claim that Respondents would be greatly prejudiced in that the relief would expose the BOE to significantly increased liability based on potential tort claims including emotional distress damages of which BOE was never put on notice and to which the Petitioner would otherwise not be entitled to seek.

LEGAL ANALYSIS

Pursuant to General Municipal Law § 50-e (1) (a), a party seeking to sue a public corporation, must serve a notice of claim on the prospective defendant "within ninety days after the claim arises."² General Municipal Law § 50-e (5) permits a court, in its discretion, to extend the time for a petitioner to serve a notice of claim.³ The statute requires the court to consider whether the public corporation "acquired actual knowledge of the essential facts constituting the claim within [90 days after the accrual of the claim] or within a reasonable time thereafter" (General Municipal Law § 50-e [5]; see *Williams v Nassau County Med. Ctr.*, 6 NY3d 531, 538-539 [2006]). Additionally, the statute requires the court to consider "all other relevant facts and circumstances" and provides a "non-exhaustive list of factors that the court should weigh". One factor the court must consider

is "whether the delay in serving the notice of claim substantially prejudiced the public corporation in maintaining its defense on the merits" (General Municipal Law § 50-e [5]); *Matter of Newcomb v Middle Country Cent. Sch. Dist.*, 28 NY3d 455).

The Court of Appeals has held that the burden initially rests on the petitioner to show that the late notice will not substantially prejudice the public corporation. Such a showing need not be extensive, but the petitioner must present some evidence or plausible argument that supports a finding of no substantial prejudice. *Id* at 467.

A claimant's failure to file a timely notice of claim is not necessarily fatal. Courts have broad discretion to extend the 90-day time limitation "in exceptional cases" upon consideration of all relevant factors, provided the statute of limitations of one year and 90 days has not already expired (see *Beary v Rye*, 44 NY2d 398 [1978]; see General Municipal Law § 50-e [5]). In determining whether to grant or deny leave to serve a late notice of claim, the court must consider "in particular" whether the municipality "acquired actual knowledge of the essential facts constituting the claim within [90 days of the claim's accrual] or within a reasonable time thereafter" (General Municipal Law § 50-e [5]; *Newcomb*, 28 NY3d at 466-467). Courts are to place "great weight" on this factor (*Beary*, 44 NY2d at 412), which the party seeking leave has the burden of establishing through the submission of nonspeculative evidence (*Washington v City of New York*, 532 NYS2d 361 [1988]; *Dalton v Akron Cent. Schools*, 107 AD3d 1517-1519 [4th Dept 2013], *affd* 22 NY3d 1000 [2013]).

In addition to actual knowledge, the courts must consider "all other relevant facts and circumstances" (General Municipal Law § 50-e [5]), and "the presence or absence of any one factor is not determinative" (*Matter of Morris v County of Suffolk*, 88 AD2d 956, 957 [2d Dept 1982], *affd* 58 NY2d 767 [1982]). One oft-cited factor is whether the municipality is substantially prejudiced by service of the late notice of claim (see General Municipal Law § 50-e [5]). Under the burden-shifting framework established in *Newcomb*, the petitioner has the initial burden to present "some evidence or plausible argument that supports a finding of no substantial prejudice" (28 NY3d at 466) and, if such a showing is made, the burden shifts to the municipality "to rebut that showing with particularized evidence" (*id.* at 467).

Courts also commonly consider whether the petitioner had a reasonable excuse for failing to serve a timely notice of claim. While the statute does not explicitly provide for the consideration of that factor, the statute is non-exhaustive and this factor has firmly taken root in the case law (*Matter of Simpson v City of New York*, 222 AD3d 986 [2d Dept 2023]; *Arnold v Town of Camillus*, 202 NYS3d 839 [4th Dept 2023]; *Matter of Benavides v New York City Health & Hosps. Corp.*, 97 NYS3d 493 [1st Dept 2023]; *Matter of Doe v Elmira City Sch. Dist.*, 177 NYS3d 749 [3d Dept 2022]; *Dalton*, 107 AD3d at 1518; citing *Matter of Jaime v. City of New York*, 41 NY3d 531). The presence or absence of any one factor, however, is not determinative, (*Bertone Commissioning v City of New York*, 27 AD3d 222 [1st Dept 2006]).

In this matter, Petitioner has shown that Respondents had actual knowledge of the essential facts underlying the claim within 90 days after the claim arose. The Petitioner raised the allegations of Mr. Ryan's conduct with BOE General Counsel in early July 2024 and met with BOE General Counsel and two BOE commissioners on July 12, 2024, to discuss Petitioner's initial report in detail. Respondents do not dispute this fact. Moreover, Petitioner provided a written formal complaint via email to the General Counsel and two BOE commissioners which was shared with the entire BOE Board of Commissioners, another fact that Respondents do not dispute. The Petitioner filed her NOC immediately after the DOI report was made public – three months after the October 22, 2024, deadline to file the NOC.

There is little doubt that Respondents had actual knowledge of the pertinent facts constituting the claim.

While Petitioner's contention that she believed that filing any public notice would be detrimental to Petitioner's investigation, that alone is not a reasonable excuse for not having filed the NOC within the 90-day time requirement, especially since Petitioner is an attorney. Notwithstanding, her failure to establish a reasonable excuse, the failure is not fatal (*Matter of Thomas v City of New York*, 118 AD3d 537, 538, [1st Dept 2014]).

Moreover, Respondents would not be prejudiced because they possessed details of the Petitioner's claims within 90 days of accrual, they participated in a thorough investigation into Petitioner's claims and were given a copy of the DOI investigation report. Further, the formal

complaint that was Petitioner submitted the day after her resignation was shared with the entire BOE Commissioners. Therefore, it is

ORDERED that Petitioner's motion for leave to serve and file a late Notice of Claim is granted *nunc pro tunc*, and it is further

ORDERED that the attached Notice of Claim be deemed served upon Respondents *nunc pro tunc*.

This constitutes the Decision and Order of the Court.

Dated: 11/12/25



HON. PHAEDRA F. PERRY-BOND
J.S.C.