

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, SECOND JUDICIAL DEPARTMENT

Kissoon v. State of New York

Kissoon, 2025 NY Slip Op 07292 (Appellate Division of the Supreme Court of the State of New York Second Judicial Department 2025) · No. 2024-02590 · Decided December 24, 2025

SUMMARY

The Appellate Division, Second Department affirmed the denial of the claimants' motion for leave to file a late claim against the State of New York under Court of Claims Act § 10(6). The court held that the claimants failed to demonstrate potential merit, notice of the essential facts underlying the claim, or a reasonable excuse for the delay.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Second Judicial Department
WRITING FOR THE COURT	Angela G. Iannacci, J.P.; Linda Christopher, J.; Lillian Wan, J.; James P. McCormack, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	December 24, 2025
DOCKET	2024-02590
DISPOSITION	affirmed
PROCEDURAL POSTURE	Claimants appealed from an order of the Court of Claims denying their motion for leave to file a late claim under Court of Claims Act § 10(6).
STANDARD OF REVIEW	Discretionary review of a motion for leave to file a late claim under Court of Claims Act § 10(6).
PRECEDENTIAL VALUE	published
PARTIES	Gaitree Kissoon, as administrator of the estate of Patricia Ramkissoon, K.R., by his mother and natural guardian Gaitree Kissoon, Naresh Ramkissoon, Dhapne Ramkissoon v. State of New York

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QUESTIONS PRESENTED

1. Whether the Court of Claims properly denied claimants' motion for leave to file a late claim under Court of Claims Act § 10(6).
2. Whether claimants demonstrated a potentially meritorious claim against the State based on alleged negligent maintenance, inspection, or repair of the guide rail.
3. Whether the State had notice of the essential facts constituting the proposed claim.
4. Whether claimants demonstrated a reasonable excuse for their delay in filing the claim.

HOLDINGS

1. A legally deficient proposed claim warrants denial of leave to file a late claim even if other statutory factors favor granting the motion.
2. Claimants failed to demonstrate a potentially meritorious claim because their expert's opinion that the allegedly defective guide rail was a proximate cause of the accident was speculative, conclusory, and unsupported by the record.
3. Claimants failed to demonstrate that the State had notice of the essential facts constituting the proposed negligence claim; notice of the accident alone was insufficient.
4. Claimants failed to demonstrate a reasonable excuse for their delay in filing the claim.

KEY QUOTATIONS

“However, if a claim is legally deficient, leave to file a late claim should be denied even if the other factors tend to favor the granting of the request” ([*2])

“Notice of the essential facts constituting the claim requires 'knowledge of the facts that underlie the legal theory or theories on which liability is predicated,' and not merely notice of the accident itself” ([*2])

FACTUAL BACKGROUND

In November 2020, a vehicle traveling westbound on the Southern State Parkway collided with another vehicle after its driver, traveling over the speed limit, attempted to change lanes and lost control. The vehicle left the roadway, crossed a guide rail, and struck an overpass in the center median. One passenger died and three others allegedly sustained injuries; the claimants alleged that a defective guide rail contributed to the accident.

PROCEDURAL HISTORY

Following a November 2020 motor-vehicle accident, claimants moved on February 24, 2022, for permission to file a late claim alleging that the State negligently failed to maintain, inspect, and repair a guide rail. The Court of Claims denied the motion on January 11, 2024. The Appellate Division affirmed that order with costs.

DISPOSITION

affirmed

CASES CITED

- Hersh v. State of New York, 230 AD3d 1304, 1305
- Dominguez v. State of New York, 218 AD3d 440, 441-442
- Qing Liu v. City Univ. of N.Y., 262 AD2d 473, 474
- Shah v. State of New York, 178 AD3d 871, 872-873
- Hyatt v. State of New York, 180 AD3d 764, 767
- Casey v. State of New York, 161 AD3d 720, 721-722
- Matter of Felice v. Eastport/South Manor Cent. School Dist., 50 AD3d 138, 148
- Matter of D'Agostino v. City of New York, 146 AD3d 880, 880-881
- Decker v. State of New York, 164 AD3d 650, 652

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