

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

Matter of Corr v Nassau BOCES

2026 NY Slip Op 01508 · No. 2024-06147 · Decided March 18, 2026

SUMMARY

The Appellate Division, Second Department affirmed the denial of a petition for leave to serve a late notice of claim against Nassau BOCES under General Municipal Law § 50-e(5). The court held that the petitioner offered no reasonable excuse for the delay, Nassau BOCES lacked timely actual knowledge of the essential facts constituting the claim, and the petitioner failed to show that the delay would not substantially prejudice the respondent.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Valerie Brathwaite Nelson, J.P.; William G. Ford, J.; Helen Voutsinas, J.; Laurence L. Love, J.
JURISDICTION	New York Appellate Division, Second Department
DECIDED	March 18, 2026
DOCKET	2024-06147
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order denying a petition for leave to serve a late notice of claim and, in effect, dismissing the proceeding.
STANDARD OF REVIEW	Whether the Supreme Court providently exercised its discretion in denying leave to serve a late notice of claim.
PRECEDENTIAL VALUE	published
PARTIES	Michael Corr v. Nassau BOCES

TOPICS

- municipal law
- civil procedure
- appellate procedure
- remedies
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the petitioner established grounds under General Municipal Law § 50-e(5) for leave to serve a late notice of claim.
2. Whether the Supreme Court providently exercised its discretion in denying the petition and effectively dismissing the proceeding.

HOLDINGS

1. Leave to serve a late notice of claim was properly denied because the petitioner offered no reasonable excuse for the delay, failed to establish that Nassau BOCES acquired timely actual knowledge of the essential facts constituting the claim, and failed to meet his initial burden of showing that the delay would not substantially prejudice Nassau BOCES.

KEY QUOTATIONS

"Neither the presence nor absence of any one factor is determinative, although it is generally recognized that the question of whether the municipality timely acquired actual knowledge is of great importance"

FACTUAL BACKGROUND

On April 13, 2022, Michael Corr allegedly was injured when the vehicle he was operating was struck by a vehicle owned by Nassau BOCES and operated by Eric Falkenstrom. Corr did not timely serve a notice of claim within 90 days. He served a notice of claim on May 4, 2023 and then sought leave to serve it late, but failed to provide an excuse for the delay, failed to show that Nassau BOCES timely acquired actual knowledge that he had sustained serious injuries caused by its employee's negligence, and failed to meet his initial burden of showing that the delay would not substantially prejudice Nassau BOCES.

PROCEDURAL HISTORY

The petitioner allegedly suffered injuries in an April 13, 2022 motor-vehicle accident involving a vehicle owned by Nassau BOCES. He served a notice of claim on May 4, 2023 and commenced a General Municipal Law § 50-e(5) proceeding on May 8, 2023 seeking leave to serve a late notice of claim. The Supreme Court, Nassau County, denied the petition and effectively dismissed the proceeding; the Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- Matter of Ippolito v City of New York, 230 AD3d 683, 683-684
- Matter of Simpson v City of New York, 222 AD3d 986, 986
- Matter of C.N. v City of New York, 208 AD3d 784, 785

- Matter of Roman v New York City Hous. Auth., 212 AD3d 816, 818
- Matter of Grandberry v City of New York, 206 AD3d 654, 655-656
- Matter of Molme v New York City Tr. Auth., 177 AD3d 601, 602
- Matter of Harding v Yonkers Cent. Sch. Dist., 170 AD3d 725, 726
- Matter of Charles v County of Orange, N.Y., 164 AD3d 1232, 1233
- Matter of Ramos v Board of Educ. of the City of N.Y., 148 AD3d 909, 912
- Matter of Anderson v City of New York, 237 AD3d 927, 928

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