

Bond Case Briefs

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LIABILITY - NEW YORK

Grasso v. Nassau County

Supreme Court, Appellate Division, Second Department, New York - August 21, 2013 - N.Y.S.2d - 2013 N.Y. Slip Op. 05674

In plaintiffs' medical malpractice and wrongful death action against fire department, the Supreme Court granted department's motion to dismiss for failing to serve timely notice of claim. Plaintiffs appealed.

The Supreme Court, Appellate Division, held that the Supreme Court providently exercised its discretion in denying plaintiffs' application for leave to serve a late notice of claim.

No proposed notice of claim was submitted with plaintiffs' cross motion for leave to serve a late notice of claim. Plaintiffs' unsubstantiated claim of law office failure by their former attorney was not a reasonable excuse for their failure to serve a timely notice of claim. Fire department's presence at the accident did not establish department was aware of facts constituting the plaintiffs' claims. Plaintiffs failed to demonstrate that the more-than-one-year delay would not substantially prejudice department.