

## GML § 50-e: Service of Notice on Water District Not Required

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"honest claims may still be defeated on a technicality rather than on the merits."<sup>90</sup>

*GML § 50-e: Service of notice on water district not required.*

General Municipal Law section 50-i requires that the notice, contemplated by section 50-e, is to be given when plaintiff intends to bring an action against "a city, county, town, village, fire district or school district. . . ."

In *Martin v. Town of Esopus*,<sup>91</sup> plaintiff allegedly failed to serve a notice of claim upon the defendant Port Ewen Water District. Upon a motion to dismiss the complaint the court reasoned that section 50-i was intended to qualify the reference to public corporations contained in section 50-e. As a water district is not directly covered by 50-i, the court concluded that no notice of claim was required to be served on the water district.

The decision is in accord with current case law holding a water district to be without the scope of section 50-i.<sup>92</sup>

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<sup>90</sup> 58 Misc. 2d at 261, 295 N.Y.S.2d at 133 (Sup. Ct. Nassau County 1968). See also *The Quarterly Survey of New York Practice*, 43 Sr. JOHN'S L. REV. 498, 532-33 (1969).

<sup>91</sup> 57 Misc. 2d 487, 293 N.Y.S.2d 571 (Sup. Ct. Albany County 1968).

<sup>92</sup> *Harrigan v. Town of Smithtown*, 54 Misc. 2d 793, 283 N.Y.S.2d 424 (Sup. Ct. Suffolk County 1967).