

General Municipal Law Section 50-e: Amending Notice of Claim Subsequent to Expiration of Filing Period

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since a summons and complaint may not be served until thirty days after the filing of a notice of claim,²⁵ the plaintiff urged that such statutory stay should not be included within the running of the statute of limitations. The court ruled for plaintiff on both points and, pursuant to CPLR 204(a), extended the statute of limitations for a period equal to the time lost through the stay of the proceedings by the court and the statutory prohibition.

It is also interesting to note that many authorities, such as the Transit Authority, have separate statutes of limitations rather than a standard limitation as provided in Section 50-i of the General Municipal Law. In the instant case, the statute of limitations for the Transit Authority is one year and thirty days as opposed to one year and ninety days for city or municipal governments.²⁶ A statute of limitations applicable to all municipalities and public authorities would be more expedient and reasonable.

General Municipal Law Section 50-e: Amending notice of claim subsequent to expiration of filing period.

As a condition precedent to the right to maintain an action against a public corporation, *e.g.*, city, town or municipality, a notice of claim must be filed within ninety days after the claim accrues.²⁷ The notice of claim filed in *Montana v. Incorporated Village of Lynbrook*²⁸ was defective because it failed to specify the damage and the manner in which the claim arose. The court, in accordance with the discretion established by Section 50-e of the General Municipal Law, allowed a subsequent amendment to the notice of claim.²⁹ A construction of the provisions permitting amendment of most faulty filings unless prejudice is shown against the public corporation, will, in many cases, prevent hardship to a claimant. The rule of thumb is to file a notice of claim in accordance with whatever facts are available, concentrating on filing within the ninety-day period rather than strict compliance with the required contents.

General Municipal Law Section 50-e: New period for filing notice of claim allowed in fraud action extraneous to the original tort.

In *Orsell v. Board of Educ.*,³⁰ the infant plaintiff, upon requesting information from defendant's representative regarding a

²⁵ N.Y. PUB. AUTH. LAW § 1212(1).

²⁶ Compare N.Y. PUB. AUTH. LAW § 1212, with N.Y. MUNIC. LAW § 50-i.

²⁷ N.Y. MUNIC. LAW § 50-e.

²⁸ 23 App. Div. 2d 585, 256 N.Y.S.2d 651 (2d Dep't 1965).

²⁹ N.Y. MUNIC. LAW § 50-e(6).

³⁰ 23 App. Div. 2d 703, 256 N.Y.S.2d 970 (3d Dep't 1965).