SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A—001329-24

HAYLIE SENAPE, Plaintiff/Appellant, -v- SOUTH AMBOY HIGH MIDDLE SCHOOL, SOUTH AMBOY PUBLIC SCHOOLS, CITY OF SOUTH AMBOY, MIDDLESEX COUNTY OFFICE OF EDUCATION, COUNTY OF MIDDLESEX, NEW JERSEY DEPARTMENT OF EDUCATION, STATE OF NEW JERSEY, MADELINE RONDON, JOHN DOES 1-10 AND ABC CORPS. 1-10, Defendant/Respondent.	:	CIVIL ACTION **ON APPEAL FROM** SUPERIOR COURT OF NEW JERSEY LAW DIVISION MIDDLESEX COUNTY DOCKET NO. MID-L-006378-24 **SAT BELOW** HON. BINA K. DESAI, J.S.C.

APPELLATE BRIEF ON BEHALF OF APPELLANT, HAYLIE SENAPE

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Date Submitted:
May 27, 2025

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PRELIMINARY STATEMENT

Plaintiff alleges that she suffered damages because South Amboy High Middle School Counselor, Madeline Rodon, told a friend of the Plaintiff that she had been sexually assaulted, that she had been taking medication and that he should no longer be friends with the Plaintiff. Plaintiff became aware of the contents of this improper conversation between Ms. Rodon and Plaintiff's friend on or about January 04, 2024. However, Plaintiff did not file a Motion for Leave to File a Late Notice of Claim until November 11, 2024. Therefore, Plaintiff now asks this Court to reverse the trial court's decision to deny Plaintiff's Motion for Leave to File a Late Notice of Claim.

PROCEDURAL HISTORY

Plaintiff filed a Motion for Leave to File a Late Notice of Claim on June November 11, 2024. (Pa003). Defendants, South Amboy High Middle School and South Amboy Public Schools, filed a Brief in Opposition to said motion. The Defendant, County of Middlesex, filed its Brief in Opposition the Motion for Leave to File a Late Notice of Claim. Finally, the Defendants, New Jersey Department of Education and State of New Jersey, filed a Brief in Opposition to the motion.

The Honorable Bina K. Desai, J.S.C. heard oral argument on Plaintiff's Motion for Leave to File a Late Notice of Claim on December 06, 2024. (1T)[1]. After oral argument, Judge Desai denied Plaintiff's Motion for Leave to File a Late Notice of Claim. (Pa001). Plaintiff filed a Notice of Appeal to this Court on January 13, 2025. (Pa025).

[1] 1T-December 06, 2024 Transcript

STATEMENT OF THE FACTS

On or about January 04, 2024, Plaintiff was communicating with an old friend that she had not spoken with in over one year by the name of Huzma Sohail. (Pa009). On that date, Mr. Sohail informed Plaintiff that South Amboy High Middle School Counselor, Madline Rondon, told Mr. Sohail that Plaintiff had been sexually assaulted, that she was taking medication, was a zombie and that he should avoid being her friend any further. (Pa009). This all occurred while Plaintiff was attending school at the South Amboy High Middle School.

When Plaintiff became aware of what Mr. Sohail was told, she began to experience depression, her anxiety became worse, she became introverted and would spend her time alone. (Pa009). Thereafter, Plaintiff was involved in a motor vehicle accident on June 27, 2024, which required her to go to the hospital on multiple occasions and attend physical therapy sessions for her lower back. (Pa009-Pa010). Moreover, during this time frame, Plaintiff's tenuous relationship with her mother became worse forcing her to stay with a friend. (Pa010).

STANDARD OF REVIEW

The standard of review for an appeal of a decision denying a Motion for Leave to File a Late Notice of Claim under the New Jersey Tort Claims Act is an abuse of discretion review. *O'Donnell v. N.J. Tpk. Auth.,* 236 N.J. 335, 344 (2019). The Appellate Court's apply the same standard of review to a trial court's determination that there were no extraordinary circumstances to permit the filing of a late notice of claim. *Jeffrey v. State,* 468 N.J. Super. 52, 58-59 (App. Div. 2021). "[A]n abuse of discretion 'arises when a decision is made without a rational explanation, inexplicably departed from established policies, or rested on an impermissible basis.'" *State v. R.Y.*, 242 N.J. 48, 65 (2020) (quoting *Flagg v. Essex Cnty. Prosecutor,* 171 N.J. 561, 571 (2002)).

LEGAL ARGUMENT

POINT I

THE TRIAL COURT ERRED WHEN IT DENIED PLAINTIFF'S MOTION FOR LEAVE TO FILE A LATE NOTICE OF CLAIM (Pa001)

The trial court abused its discretion when it determined that the Plaintiff failed to demonstrate exceptional circumstances as required by the New Jersey Tort Claims Act. 1T:17:1-4. The New Jersey Tort Claims Act provides that a Notice of Claim must be filed with the public entity within ninety (90) days of accrual of the cause of action, except as otherwise set forth in the saving provisions of *N.J.S.A.* 59:8-9. *N.J.S.A.* 59:8-8, entitled Time for Presentation of Claims, sets forth in pertinent part as follows:

> A claim relating to a cause of action for death or for injury or damage to person or to property shall be presented as provided in this chapter not later than the 90th day after accrual of the cause of action. After the expiration of six months from the date notice of claim is received, the claimant may file suit in an appropriate court of law. The claimant shall be forever barred from recovering against a public entity or public employee if:
>
> a. The claimant failed to file the claim with the public entity within 90 days of accrual of the claim except as otherwise provided in N.J.S.A. 59:8-9.

The purposes of the provisions set forth in *N.J.S.A.* 59:8-8 are: (1) to allow the public entity at least six months for administrative review with the opportunity to settle meritorious claims prior to the bringing of suit; (2) to provide the public entity with prompt notification of a claim in order to

adequately investigate the facts and prepare a defense; (3) to afford the entity a chance to correct the conditions or practices which gave rise to the claim; (4) to inform the state in advance as to the indebtedness or liability that it may be expected to meet. *Beauchamp v. Amedio,* 164 N.J. 111, 121-122 (2000).

N.J.S.A. 59:8-9, entitled Notice of Late Claim, provides as follows:

> A claimant who fails to file notice of his claim within 90 days as provided in section 59:8-8 of this act, may, in the discretion of a judge of the Superior Court, be permitted to file such notice at any time within one year after the accrual of his claim provided that the public entity or the public employee has not been substantially prejudiced thereby. Application to the court for permission to file a late of notice of claim shall be made upon motion supported by affidavits based upon personal knowledge of the affiant showing sufficient reasons constituting extraordinary circumstances for his failure to file notice of claim within the period of time prescribed by section 59:8-8 of this act or to file a motion seeking leave to file a late notice of claim within a reasonable time thereafter; provided that in no event may any suit against a public entity or public employee arising under this act be filed later than two years from the time of the accrual of the claim.

The ninety-day notice of claim requirement set forth in 59:8-8, has a saving provision set forth in 59:8-9 which authorizes the court, in its discretion, to extend the time for the filing of a Notice of Claim within a period not exceeding one year following accrual of the cause of action. The trial court correctly determined that the accrual date of Plaintiff's claim was January 04, 2024. 1T:11:23-11:5. Plaintiff must establish that there were exceptional circumstances during the ninety-day time period beginning on the accrual date

to warrant leave to file a late notice of claim. *Beauchamp,* 164 N.J. at 118-119.

On or about January 04, 2024, Plaintiff was communicating with an old friend that she had not spoken with in over one year by the name of Huzma Sohail. (Pa009). On that date, Mr. Sohail informed Plaintiff that South Amboy High Middle School Counselor, Madline Rondon, told Mr. Sohail that Plaintiff had been sexually assaulted, that she was taking medication, was a zombie and that he should avoid being her friend any further. (Pa009). This all occurred while Plaintiff was attending school at the South Amboy High Middle School.

When Plaintiff became aware of what Mr. Sohail was told, she began to experience depression, her anxiety became worse, she became introverted and would spend her time alone. (Pa009). Thereafter, Plaintiff was involved in a motor vehicle accident on June 27, 2024, which required her to go to the hospital on multiple occasions and attend physical therapy sessions for her lower back. (Pa009-Pa010). Moreover, during this time frame in question, Plaintiff's tenuous relationship with her mother became worse forcing her to stay with a friend. (Pa010).

The trial court determine that the Defendants would not be prejudiced by granting Plaintiff's Motion for Leave to File a Late of Notice of Claim. 1T:13:17-23. Moreover, Plaintiff's Certification establishes sufficient reasons constituting

extraordinary circumstances for her failure to file a Notice of Claim within the period of time prescribed by section 59:8-8 of the Act. The trial court abused its discretion when it determined that the Plaintiff failed to demonstrate exceptional circumstances as required by the New Jersey Tort Claims Act. 1T:17:1-4. The denial of Plaintiff's motion permits the Defendants to avoid responsibility for the heinous actions of Madeline Rondon where there is no prejudice to Defendants' rights. Accordingly, it is respectfully requested that this Court reverse the trial court's decision to deny Plaintiff's Motion for Leave to File a Late of Notice of Claim.

CONCLUSION

Plaintiff therefore respectfully requests that this Court reverse the trial court's December 06, 2024 Order denying the Plaintiff's Motion for Leave to File a Late Notice of Claim. Accordingly, it is respectfully submitted that the trial court's decision to deny Plaintiff an opportunity to pursue her claims against the Defendants should be reversed.

Respectfully submitted

/s/ Fredrick L. Rubenstein

Fredrick L. Rubenstein

Dated: May 27, 2025

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HAYLIE SENAPE,

Plaintiff-Appellant,

v.

SOUTH AMBOY HIGH MIDDLE SCHOOL, SOUTH AMBOY PUBLIC SCHOOLS, CITY OF SOUTH AMBOY, MIDDLESEX COUNTY OFFICE OF EDUCATION, COUNTY OF MIDDLESEX, NEW JERSEY DEPARTMENT OF EDUCATION, STATE OF NEW JERSEY, MADELINE RONDON, JOHN DOES 1-10 AND ABC CORPS. 1-10,

Defendants- Respondents.

Superior Court of New Jersey
Appellate Division
Docket No.: A-001329-24

ON APPEAL FROM A FINAL ORDER OF THE SUPERIOR COURT OF NEW JERSEY, LAW DIVISION MIDDLESEX COUNTY DENYING PLAINTIFF'S REQUEST TO FILE LATE TORT CLAIM

Sat Below:
Hon. Bina K. Desai, J.S.C.

Superior Court of New Jersey
Law Division, Middlesex County
Docket No. MID-L-006378-24

BRIEF ON BEHALF OF RESPONDENT COUNTY OF MIDDLESEX

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PRELIMINARY STATEMENT

Having slept on her rights and dissatisfied with the trial court's December 6, 2024 decision, Plaintiff-Appellant Haylie Senape ("Senape") now seeks to appeal the trial court's order, arguing that the trial court erred in finding her alleged injuries did not constitute extraordinary circumstances.

Faced with the inexorable burden of proving extraordinary circumstances to demonstrate that her purported injuries had a consequential impact on her ability to pursue redress and attend to the filing of a notice of tort claim, Senape relied on three (3) statements in a certification:

- "When I became aware of what Mr. [S] was told, I began to experience depression, my anxiety became worse and I became introverted and would spend my time alone."
- "I was involved in a motor vehicle accident on June 27, 2024, which required me to go to the hospital on multiple occasions and attend physical therapy sessions for my lower back."
- "During this time frame my already tenuous relationship with my mother became worse forcing me to stay with a friend."

After reviewing her certification, the trial court correctly found that Senape failed to meet the heightened standard of extraordinary circumstances because her statements did not demonstrate a consequential impact on her ability to pursue

redress. In fact, the trial court properly found that the facts at issue were analogous to those in the New Jersey Supreme Court Case, *D.D. v. Univ. of Med. & Dentistry of N.J.*, 213 N.J. 130 (2013).

Because Senape cannot demonstrate that the trial court erred in rendering its decision, the trial court's order must be affirmed.

PROCEDURAL HISTORY

Senape's recitation of this action's procedural history is accurate. (Pb2).

COUNTERSTATEMENT OF FACTS

On or about January 4, 2024, Senape was communicating with a friend, "Mr. S."[1] (Pa010, ¶2). During those discussions, Senape contends she "became aware that the South Amboy Middle School Counselor, Madeline Rondon, informed Mr. [S] that [Senape] had been sexually assaulted," and as a result, was taking medication. (Pa010, ¶3). In support of her motion to file a notice of late tort claim, Senape submitted a certification attempting to demonstrate the basis for her delay, stating:

- "When I became aware of what Mr. [S] was told, I began to experience depression, my anxiety became worse and I became introverted and would spend my time alone."

[1] Due to the potential identity of a minor, the name of Senape's friend has been abbreviated to preserve their identity.

- "I was involved in a motor vehicle accident on June 27, 2024, which required me to go to the hospital on multiple occasions and attend physical therapy sessions for my lower back."
- "During this time frame my already tenuous relationship with my mother became worse forcing me to stay with a friend."

(Pa010, ¶¶5-7).

Notably, Senape's motion to file a late tort claim came ten (10) months after being informed by Mr. S of the alleged comments made by Madeline Rondon. (Pa003; Pa010, ¶2). Senape's certification provided no further information or documentation regarding her alleged depression and the impact of same. (Pa009-Pa011). Senape's certification also failed to disclose how her relationship with her mother impacted the ability to file a claim. (Pa009-Pa011). Additionally, the purported motor vehicle accident on June 27, 2024 occurred outside the ninety (90) day notice period. (Pa010, ¶6).

In opposition to Senape's motion, Respondent County of Middlesex ("Middlesex") raised the aforementioned issues and highlighted during oral argument that this case:

> largely mirrors the D.D. Supreme Court case where we talk about anxiety depression. . . . when you look at the two cases, you know, the present case and the D.D. case, you know, they mirror each other. And the Supreme Court found in that instance, that her emotional state in that

> matter did not rise to extraordinary circumstances. That's what we have here.

(1T8:13-16).

Following oral argument, the Court rendered its decision and denied Senape's Motion, stating on the record, in part that:

> Here, the Court finds that plaintiff's assertions do not rise to the more exacting standard or finds or allow the Court to reach a condition that the conditions were severe or debilitating such that they contributed to the delay in timely filing as contemplated by the relevant case law. This is especially true when the plaintiff alleges that she already had some issues ahead of time. And that's not to say that they weren't exacerbated, but there's really no distinction as to what particularly was so severe, debilitating or otherwise note, to suggest she was not able to timely seek advice or file a tort claim notice.

(1T15:23-16:10).

LEGAL ARGUMENT

I. The Trial Court Properly Found That Senape Failed To Establish Extraordinary Circumstances To Warrant A Late Tort Claim Filing (1T13:17-16:10; Pa001)

Senape failed to demonstrate extraordinary circumstances to warrant a late notice of tort claim, and thus, the trial court's December 6, 2024 order should be affirmed.

"The 'guiding principle' of the TCA is 'that immunity from tort liability is the general rule and liability is the exception.'" *D.D. v. Univ. of Med. & Dentistry of*

N.J., 213 N.J. 130, 134 (2013) (*quoting Coyne v. State Dep't of Transp.*, 182 N.J. 481, 488 (2005)). "The New Jersey [TCA] imposes strict requirements upon litigants seeking to file claims against public entities." *McDade v. Siazon*, 208 N.J. 463, 468 (2011). The TCA requires that a notice of claim be filed within 90 days after the accrual of a cause of action. *See* N.J.S.A. 59:8-8(a).

The Legislature enacted the notice requirements of the TCA to serve several important goals: (1) to allow public entities prompt access to information so that a defense may be prepared; (2) to allow an opportunity for both parties to settle early without litigation; (3) to afford the public entity a chance to correct the conditions or practices which gave rise to the claims; and, (4) to inform the public entity in advance as to the indebtedness or liability that it may be expected to meet. *Beauchamp v. Amedio*, 164 N.J. 111, 121-22 (2000).

To foster these important public policies, the TCA carves out only a limited exception that, if satisfied, would allow a claimant to pursue his/her claim even though they failed to file a Notice of Claim within 90 days. N.J.S.A. 59:8-9 provides that leave to file a notice after the 90-day limit may be granted in the court's discretion only if there are sufficient reasons constituting extraordinary circumstances to justify the failure to timely file a claim and a late filing would not substantially prejudice the public entity. *See D.D.*, 213 N.J. at 147; *see also Lamb v. Global Landfill Reclaiming*, 111 N.J. 134, 146 (1988); *Ohlweiler v. Twp. of*

Chatham, 290 N.J. Super. 399, 493 (App. Div. 1996), *disapproved on other grounds*, *Beauchamp*, 164 N.J. at 121. Both prongs of the standard must be satisfied before the motion can be granted.

In 1994, the Legislature added the "extraordinary circumstances" requirement to N.J.S.A. 59:8-9 to stop the courts' practice of routinely granting leave to file late notices of claim, signaling "the end to a rule of liberality." *Zois v. New Jersey Sports & Exposition Authority*, 286 N.J. Super. 670, 675 (App. Div. 1996). The New Jersey Supreme Court echoed this sentiment, observing that the Legislature added the extraordinary circumstances requirement to the statute to "raise the bar for the filing of late notice from a 'fairly permissive standard' to a 'more demanding' one." *Beauchamp*, 164 N.J. at 188 (*quoting Lowe v. Zarghami*, 158 N.J. 606, 625 (1999)).

Under these parameters, the trial court's order denying Senape's motion for leave to file a late notice of claim must be affirmed. Indeed, Senape failed to demonstrate that she was incapacitated during the 90-day period.

It is well-settled that where a claimant attempts to demonstrate extraordinary circumstances by asserting that they were either physically or psychologically incapable of meeting the 90-day requirement, an expert opinion establishing the plaintiff's incapacity should be provided. *See D.D.*, 213 N.J. at 151-52; *O'Neill v. City of Newark,* 304 N.J. Super. 543, 553-55 (App. Div. 1997). Senape failed to

provide any expert opinion in support of her application to file a late tort claim notice.

By way of further explanation, Senape's application, like plaintiff's in *O'Neill,* fails to demonstrate extraordinary circumstances. In O'Neil, the plaintiff, a New Jersey Transit Police Officer, was shot in the leg in the line of duty. 304 N.J. Super. at 546. He lost all neurological function in his right leg as a result of the shooting. *Id.* at 553. He asserted that he had failed to file a timely notice of claim because in the months following his injury, he was focused on getting his leg examined and treated as well as receiving psychological counseling. *Id.* at 554. The court found that it could:

> appreciate that Plaintiff was justifiably preoccupied with getting his leg examined and treated after the accident, rather than with filing a lawsuit. However, this is insufficient reason to support a finding of extraordinary circumstances without an expert opinion that Plaintiff was incapable of contacting an attorney as any such inability is less than obvious.

Ibid.

The court further noted that a claimant has the "obligation to seek legal advice as to his remedies, as long as he was physically and psychologically capable." *Id.* at 553. In fact, the court stated that claimant's "physical incapacitation and confinement to his home in the days before and after his October surgery cannot be said to have prevented him from contacting an attorney or otherwise acting to protect his rights." *Ibid.* Even if the claimant benefitted or would have benefitted from counseling or

other treatment immediately after the accident, the court found that "does not mean he could not function sufficiently to appreciate the need to seek advice as to possible liability for his injuries." *Id.* at 554.

In *D.D.*, the New Jersey Supreme Court addressed the degree of medical proofs needed to satisfy the extraordinary circumstances threshold. There, the claimant claimed that she was in "absolute shock" after the disclosure of her personal information on the internet by the defendant's staff. *D.D.*, 213 N.J. at 150. Claimant claimed that she was depressed, stressed, and anxious. *Ibid.* The Court directed that when in engaging in the analysis of extraordinary circumstances, "the court's focus must be directed to the evidence that relates to plaintiff's circumstances as they were during the ninety-day time period." *Ibid*. This is precisely what the trial court did here.

Similar to this appeal, in support of claimant's application to file a late notice of claim in *D.D.,* claimant submitted certifications identifying the emotional and physical symptoms preventing her from filing a timely notice. *Id.* at 138. In her certification, claimant, D.D, provided no documentary evidence to support the statements contained in her certification. *Id.* at 138-39. Later, she submitted a second certification and attached a doctor's note attesting to her anxiety and hypertension. *Ibid.* However, claimant provided no documentary evidence to support the statements in her certifications. *Ibid.* As a result, the Supreme Court found that

claimant failed to meet her burden, as she did not provide sufficient medical evidence to show that her injuries prevented her from contacting an attorney in the 90-day period. *Id.* at 150-51.

O'Neil and *D.D.* make clear that the threshold for establishing extraordinary circumstances under N.J.S.A. 59:8-9 is exceptionally high. Indeed, a claimant alleging that she was nearly incapacitated must provide substantial evidence to support such contention.

Notably absent from Senape's moving papers were any facts or evidence to substantiate incapacitation. Senape relied upon three statements in her certification in an attempt to demonstrate extraordinary circumstances:

- "When I became aware of what Mr. [S] was told, I began to experience depression, my anxiety became worse and I became introverted and would spend my time alone."
- "Thereafter, I was involved in a motor vehicle accident on June 27, 2024, which required me to go to the hospital on multiple occasions and attend physical therapy sessions for my lower back."
- "Moreover, during this time frame my already tenuous relationship with my mother became worse forcing me to stay with a friend."

(Pa010, ¶¶5-7).

However, Senape's facts offered in support of her motion and appellate brief do not meet the required threshold to demonstrate incapacitation. The trial court correctly evaluated the facts and found that:

> Plaintiff's motion argues that the delay in filing the timely notice was based on the plaintiff suffering from depression and worsening anxiety after learning of the incident.
>
> Counsel today also advised me that the plaintiff was about 20 years old when this happened, which would be another consideration that the Court can consider.
>
> In the application which includes the plaintiff's certification, she describes further that she had a car accident at some point and had treatment thereafter.
>
> But I note that that car accident actually occurred after the initial 90 days had accrued and so that would not provide any justification as to why the accident contributed to the failure to file the timely claim in 90 days.
>
> Similarly the plaintiff describes that she has issues, ongoing issues with her mother or the relationship with her mother including perhaps being displaced from her home.
>
> But again it doesn't identify any time line as to whether or not that occurred within the initial 90 days and how, if any way, that impacted or, or prevented her ability from filing a notice timely.
>
> As it pertains to the depression and anxiety, plaintiff does not again provide sufficient detail as required to develop an extraordinary circumstances.
>
> As our Court has noted, medical conditions meet the extraordinary standard if they are severe or debilitating. And that's D.D. versus University of Medicine and Dentistry of NJ, 213 NJ 130 at 149, a 2013 case.

> That case and other cases interpreting the concept of these medical conditions and whether they meet the exceptional circumstances, focus on the severity of the medical condition and the consequential impact on the claimant's very ability to pursue redress and attend to the filing of a claim. That's D.D. at 150.
>
> Lesser complaints or lesser allegations would not meet the standard required to file a late claim.

(1T14:6-15:22).

Thus, the trial court did not err when it evaluated the facts and evidence presented by Senape and found that the alleged injuries did not give rise to extraordinary circumstances.

CONCLUSION

For these reasons, this Court should affirm the trial court's order denying Senape's Motion for Leave to file Late Notice of Tort Claim.

Respectfully Submitted,

/s/ Louis A. Felicetta, Esq.

Dated: June 23, 2025 LOUIS A. FELICETTA, ESQ.

HAYLIE SENAPE Plaintiff V. SOUTH AMBOY HIGH MIDDLE SCHOO, SOUTH AMBOY PUBLIC SCHOOLS, CITY OF SOUTH AMBOY, MIDDLESEX COUNTY OFFICE OF EDUCATION, COUNTY OF MIDDLESEX, NEW JERSEY DEPARTMENT OF EDUCATION, STATE OF NEW JERSEY, MADELINE RONDON, JOHN DOES 1-10 AND ABC CORPS. 1-10 Defendant	SUPERIOR COURT OF NEW JERSEY APPELLATE DIVISION DOCKET NO.: A-001329-24 CIVIL ACTION SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MIDDLESEX COUNTY DOCKET NO.: MID-L-6378-24 Sat Below: Honorable Bina K. Desai, J.S.C.

SOUTH AMBOY BOARD OF EDUCATION'S RESPONDENT BRIEF

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PROCEDURAL HISTORY AND STATEMENT OF FACTS

South Amboy Board of Education will rely upon appellant's procedural history and statement of facts.

SCOPE OF APPELLATE REVIEW

The Tort Claims Act states that review of a trial court's application of the extraordinary circumstance's exception to the tort claims notice requirement must be done under an abuse of discretion standard. O'Donnell v. N.J. Tpk. Auth. 236 N.J. 335, 344 (2019); see N.J.S.A. 59:8-9 (leaving it up to "the discretion of a judge of the Superior Court" when determining whether a late notice may be filed).

"A court abuses its discretion when its 'decision is made without a rational explanation, inexplicably departed from established policies, or rested on an impermissible basis.'" State v. Chavies, 247 N.J. 245, 247 (2021) (quoting State v. R.Y. 242 N.J. 48, 65 (2020)). "When examining a trial court's exercise of discretionary authority, we reverse only when the exercise of discretion was 'manifestly unjust' under the circumstances." Newark Monitoring Ledger Co. v. N.J. Sports & Exposition Auth. 423 N.J. Super. 140, 174 (App. Div. 2011) (quoting Union City, Improvement Auth. v. Araki, LLC, 392 N.J. Super. 141, 149 (App. Div. 2007)).

LEGAL ARGUMENT

POINT I

PLAINTIFF HAS FAILED TO SHOW THAT THE TRIAL COURT ABUSED ITS DISCRETION IN DETERMINING PLAINTIFF FAILED TO MEET THE EXTRAORDINARY CIRCUMSTANCES STANDARD FOR FILING A LATE TORT CLAIMS NOTICE

The Trial Court's determination that plaintiff did not establish the existence of extraordinary conditions under N.J.S.A. 59:8-9 was correct and even more pertinent to appellate review, did not constitute an abuse of discretion. Notably, the appellant's brief does not even put forth an argument that the Trial Court abused its discretion, instead merely contending that the decision was incorrect.

The standard of review for a decision denying a motion for leave to file a late notice of claim under the New Jersey Tort Claims Act is abuse of discretion. O' Donnell v. N.J. Tpk. Auth. 236 N.J. 335, 344 (2019). "Abuse of discretion 'arises when a decision is made without a rational explanation, inexplicably departed from established policies, or rested on an impermissible basis.'" State v. R.Y. 242, N.J. 48, 65 (2020) (quoting Flagg v. Essex Cnty, Prosecutor, 171 N.J. 561, 571 (200)).

The New Jersey Tort Claims Act, N.J.S.A. 59:1–1 to :12–3, is the statutory mechanism through which the New Jersey Legislature effected a waiver of sovereign immunity. D.D. v. Univ. of Med. & Dentistry of New

Jersey, 213 N.J. 130, 133 (2013). That waiver is not unlimited, but is bound by the Legislature's declaration of purpose, see N.J.S.A. 59:1–2, and enforced through the application of numerous express limitations embodied in the statute's provisions. D.D., 213 N.J. at 133. Although the legislative declaration observes that part of the purpose for enacting the statute was to address the harsh consequences of strictly applying the common law contours of sovereign immunity, New Jersey Courts have recognized that the "guiding principle" of the Tort Claims Act is "that 'immunity from tort liability is the general rule and liability is the exception.'" Coyne v. State Dep't of Transp., 182 N.J. 481, 488 (2005) (quoting Garrison v. Twp. of Middletown, 154 N.J. 282, 286 (1998)).

Far from a broad waiver of sovereign immunity, the Act was the response of the legislative and executive branches to this Court's abrogation of that traditional common law doctrine. See Velez v. City of Jersey City, 180 N.J. 284, 288 (2004) (describing legislative history). And it is for this reason that New Jersey Courts have often described the Tort Claims Act as the means through which the Legislature "re-establishe[d]" sovereign immunity. Id. at 289; see also Ogborne v. Mercer Cemetery Corp., 197 N.J. 448, 457 (2009); Smith v. Fireworks by Girone, Inc., 180 N.J. 199, 207 (2004); Alston v. City of Camden, 168 N.J. 170, 176 (2001).

Among the most important limitations that the Act imposes on would-be claimants are the ones that are found in the statutory provisions that govern a claimant's obligation to file a notice of tort claim as a prerequisite to initiating litigation. D.D., 213 N.J. at 133 (citing N.J.S.A. 59:8–1 to –11). N.J.S.A. 59:8-8 specifically states:

> A claim relating to a cause of action for death or for injury or damage to person or to property shall be presented as provided in this chapter not later than the 90th day after accrual of the cause of action. After the expiration of six months from the date notice of claim is received, the claimant may file suit in an appropriate court of law.
>
> N.J.S.A. 59:8-8.

As a prerequisite to suit against a public entity, the TCA requires presentation of the claim in accordance with its provisions. N.J.S.A. 59:8-3. Pursuant to the N.J.S.A. 59:8-8, a complaining party must provide a public entity with notice of a "'claim relating to a cause of action for . . . injury or damage to person or property' against a public entity or public employee." Velez v. City of Jersey City, 180 N.J. 284, 293 (2004) (quoting N.J.S.A. 59:8-8). "A suit will be dismissed if the claimant did not provide a notice of claim to the entity within ninety days of the 'accrual of a cause of action.'" Lassoff v. State of New Jersey, 414 F.Supp.2d 483 (D.N.J. 2006) (quoting N.J.S.A 59:8-8).

The ninety (90) day notice requirement enables a public entity to undertake a prompt investigation while witnesses are available and the facts are still fresh. Ventola v. New Jersey Veteran's Mem'l Home, 164 N.J. 74, 76 (2000). The notice is also intended to allow the government entity or agency to evaluate its potential liability and exposure prior to commencement of the lawsuit, take appropriate actions to correct a defective condition or practice, and engage in settlement negotiations if such are appropriate. Newberry v. Twp. of Pemberton, 319 N.J. Super. 671, 675-76 (App. Div. 1999).

The "harshness" of the ninety-day requirement is alleviated by the statutory provision that allows the late filing of a notice of a claim under limited circumstances. Rogers v. Cape May Cnty. Office of Pub. Def., 208 N.J. 414, 420 (2011). That provision fixes the manner of seeking relief and the ground on which it may be granted:

> A claimant who fails to file notice of his claim within 90 days as provided in section 59:8–8 of this act, may, in the discretion of a judge of the Superior Court, be permitted to file such notice at any time within one year after the accrual of his claim provided that the public entity or the public employee has not been substantially prejudiced thereby. **Application to the court for permission to file a late notice of claim shall be made upon motion supported by affidavits based upon personal knowledge of the affiant showing sufficient reasons constituting extraordinary**

> **circumstances for his failure to file notice of claim within the period of time prescribed by section 59:8–8 of this act or to file a motion seeking leave to file a late notice of claim within a reasonable time thereafter**; provided that in no event may any suit against a public entity or a public employee arising under this act be filed later than two years from the time of the accrual of the claim.
>
> N.J.S.A. 59:8–9 (emphasis added).

As originally enacted, the statute did not condition leave for late filing on a showing of extraordinary circumstances, but fixed instead a lower threshold that the court was authorized to use in granting relief. See Lowe v. Zarghami, 158 N.J. 606, 625–26 (1999). That earlier standard permitted the court to grant leave for the late filing of a notice if the court found that plaintiff had "sufficient reasons" for failing to meet the ninety-day deadline. L. 1972, c. 45, § 59:8–9 ("showing sufficient reasons for his failure to file notice"); see In re Roy, 142 N.J. Super. 594, 597–99 (App.Div.) (setting forth and explaining statutory standard), certif. denied, 71 N.J. 504 (1976).

In 1994, however, the Legislature amended the Act and replaced that standard, substituting instead the language now used in the statute that conditions relief on plaintiff's demonstration of "extraordinary circumstances." L. 1994, c. 49, § 5. As the Supreme Court of New Jersey has recognized, in amending the statute, the Legislature intended to "raise

the bar for the filing of late notice [,]" Rogers, 208 N.J. at 428, by eliminating what had previously been "a fairly permissive standard[,]" Lowe, 158 N.J. at 625, and imposing in its place a "more demanding" one, ibid.

Although the Legislature did "not define what circumstances are to be considered 'extraordinary' and necessarily [left] it for a case-by-case determination[,]" id. at 626 (internal quotations and citations omitted), there can be no doubt but that its intent was to create a more exacting standard than the one that courts had used prior to the amendment, see, e.g., Zois v. N.J. Sports & Expo. Auth., 286 N.J. Super. 670, 675 (App.Div.1996) (observing that statutory change "suggested that the amendment may have signaled the end to a rule of liberality").

Published authority from our Appellate Division has generally concluded that medical conditions meet the extraordinary circumstances standard if they are severe or debilitating. See, e.g., Mendez v. So. Jersey Transp. Auth., 416 N.J. Super. 525, 533 (App.Div.2010) (relying in part on severe injuries sustained in motor vehicle accident that required hospitalization); R.L. v. State–Operated School Dist., 387 N.J. Super. 331, 341 (App.Div.2006).

The consistent theme of these decisions is the severity of the medical condition and the consequential impact on the claimant's very ability to pursue redress and attend to the filing of a claim. D.D., 213 N.J. at 150. Lesser complaints of a medical nature have been held to fall short of the Act's high standard. See, e.g., S.P. v. Collier High School, 319 N.J. Super. 452, 466 (App.Div.1999) (concluding that female high school student's youth, ignorance and learning disability, even when coupled with assurances that her complaint about sexual abuse by another student would be addressed by school authorities, did not constitute extraordinary circumstances); cf. Keller v. Cnty. of Somerset, 137 N.J. Super. 1, 7 n. 4 (App.Div.1975) (construing pre–1994 statute and rejecting as unsupported trial court's finding that mother's emotional strain following her son's death was debilitating in part because she continued to operate her business and discussed her son's accident with many others thereafter).

"[N]either inattention nor incompetence of counsel meets the extraordinary circumstances test devised by the Legislature." D.D., 213 N.J. at 135. In D.D., the plaintiff was the founder of a non-profit community organization who had disclosed confidential health information to defendants, who, in turn, disclosed such information in a press release. Id. at 135-36. Plaintiff therefore promptly contacted an attorney, who was

unresponsive for months, causing her to retain a different attorney and file a motion for leave to file a late notice of tort claim. Id. at 136. In her certification supporting her motion, plaintiff described her reaction to learning about the dissemination of her personal information, explaining that the late notice of tort claim was file because she was:

> In absolute shock. After that, I began exhibiting medical symptoms as a result of increased stress and anxiety, including but not limited to elevated blood pressure, fatigue, insomnia, depression and general anxiety. Other health issues have been exacerbated as a result of the increased stress and anxiety.
>
> Id. at 137-38.

Further, she asserted that at the time, her "primary concern was dealing with [her] medical conditions without regard to a potential lawsuit against defendants." Id. at 138. The New Jersey Supreme Court ultimately found that, when "[v]iewed objectively, plaintiff's asserted medical and emotional conditions [were] not severe, debilitating, or uncommon; for the most part they [were] vaguely described complaints of stress and emotional strain that would quite ordinarily follow from learning that one's personal information had found its way to the internet." Id. at 150.

Here, the cause of action arose on January 4, 2024, and plaintiff's motion to file a late notice of tort claim was filed on November 11, 2024,

more than 90 days following the accrual of plaintiff's cause of action. Pursuant to N.J.S.A. 59:8-8, plaintiff's claim is therefore barred.

Though late notices of tort claim are permitted in limited circumstances, plaintiff here has not demonstrated that exceptional circumstances existed to justify filing a late notice of tort claim. Specifically, plaintiff has not demonstrated any medical or emotional condition that was severe, debilitating, or uncommon. R.L., 387 N.J. Super. at 341 (finding extraordinary circumstances test met by high school student who contracted HIV infection from sexual relationship with teacher and who was preoccupied with thoughts of death); Maher, 384 N.J. Super. at 189–90 (recognizing that medical condition of cook who contracted staph infection that was so severe that she was treated by induced coma and not expected to survive sufficed for extraordinary circumstances test).

Plaintiff's general complaints of depression and anxiety are fall woefully short of the above criteria. Rather, plaintiff's claim of emotional distress is more akin to that of the distress experienced by the plaintiff in D.D., which was found by the New Jersey Supreme Court to be insufficient to meet the extraordinary circumstances standard in that case.

Another reason offered by the plaintiff for her failure to comply with the statutory requirement was that she was involved in a motor vehicle

accident on June 27, 2024. However, the 90-day period had already expired by that point and therefore that has no relevance to this issue.

The Trial Court rationally applied the governing law to the subject facts:

> "The requirement to prove extraordinary circumstances in support of a motion to file a late claim was added by our legislature with the purpose to raise the bar for filing of a law notice and in order to require a more demanding standard. That's Bayer versus Township of Union, 414 N.J. Super. 238 at 259, a 2010 Appellate Division case. The determination as to what meets a requirement of extraordinary circumstances has to be determined on a case by case basis, Lowe versus Zarghami, 158 N.J. 606 at 626."
>
> 1T12:8-118.

The Trial Court acknowledged plaintiff's arguments regarding depression and worsening anxiety after learning of the incident, her relatively young age, and the above-referenced motor vehicle accident. 1T14:6-22. The Trial Court held that plaintiff's assertions did not rise to the more exacting standard and did not reach a condition that was severe or debilitating such that they contributed to the delay in timely filing as contemplated by the relevant case law. 1T15:21-T16:10.

In short, the Trial Court's finding of the absence of extraordinary circumstances was both correct, but more importantly could not be deemed an abuse of discretion.

CONCLUSION

Based on the foregoing, it is respectfully requested that the Trial Court's denial plaintiff's motion for leave to file a late notice of claim be affirmed.

Respectfully submitted,

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Dated: June 26, 2025

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June 30, 2025

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Re: Haylie Senape v. South Amboy High Middle School, South Amboy Public Schools, City of South Amboy, Middlesex County Office of Education, County of Middlesex, New Jersey Department of Education, State of New Jersey, and Madeline Rondon
Docket No.: A-1329-24

On Appeal from a Final Order Entered in the Superior Court of New Jersey, Law Division, Middlesex County
Docket No.: MID-L-6378-24

Sat Below: Hon. Bina K. Desai, J.S.C.

Letter Brief on Behalf of Respondents, New Jersey Department of Education and State of New Jersey

Dear Ms. Hanley:

Please accept this letter brief on behalf of Respondents, New Jersey Department of Education and State of New Jersey (State Defendants), in opposition to the merits brief of Appellant, Haylie Senape, in this matter.

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PROCEDURAL HISTORY AND COUNTERSTATEMENT OF FACTS[1]

On November 11, 2024, Appellant, Haylie Senape, filed a motion seeking leave to file late notices of claim against various public-entity defendants, including the State Defendants, in connection with an alleged disclosure of personal information by a former school counselor. (Aa3-25).[2] Senape alleged in the motion that on January 4, 2024, a friend told her that a counselor at South Amboy High Middle School had disclosed to the friend that Senape had been sexually assaulted and was taking medication, and was a "zombie," and further

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[1] The procedural history and counterstatement of facts are combined for efficiency and the court's convenience.

[2] "Aa" refers to appellant's appendix; "Ab" refers to appellant's brief; and "T" refers to the transcript of oral argument of Senape's motion held on December 6, 2024.

advised the friend that he should avoid being friends with Senape. (Aa10). After receiving this information, Senape began to experience depression and worsened anxiety and "would spend [her] time alone." Ibid.

Senape did not serve any notice of tort claim regarding these allegations for over ten months, on November 11, 2024 — the same date she filed her motion to file late notices of claim. (Aa3-8; Aa13-15). In support of her motion, Senape offered the following explanations for her failure to file timely notices of claim: she had depression and worsened anxiety; she was involved in a motor vehicle accident on June 27, 2024, which resulted in subsequent physical therapy treatment; and she had a tenuous relationship with her mother that became worse, "forcing [her] to stay with a friend." (Aa10; T6:4-15). State Defendants, along with the South Amboy and County defendants, opposed the motion. (T7:8-10:8).

After hearing oral argument from the parties on December 6, 2024, the trial court denied Senape's motion, finding that Senape had failed to demonstrate extraordinary circumstances justifying the failure to file timely notices. (Aa1-2; T17:1-4). As a preliminary matter, the court noted that the accrual date of the claim, January 4, 2024, was not in dispute. (T11:23-12:2). Citing D.D. v. University of Medicine and Dentistry of New Jersey, 213 N.J. 130, 149 (2013), the court then explained that a medical condition may suffice as an extraordinary

circumstance excusing an untimely notice of claim if it is "severe or debilitating," but "[l]esser complaints . . . would not meet the standard." (T15:9-22). The court found that Senape did not provide sufficient detail of any alleged depression and anxiety—or the extent to which this pre-existing condition was worsened by the subject incident—to support a conclusion that such a condition contributed to the delay in filing timely notices of claim. (T15:6-16:10).

Regarding Senape's claim that a car accident contributed to her failure to file timely notices, the court noted that the June 27, 2024 accident did not occur until after the ninety-day period during which the notices were due. (T14:14-22). Similarly, the court rejected Senape's claim that her relationship with her mother prevented her from filing timely notices of claim, finding that Senape did not assert whether such issues arose during or after the ninety-day period following this incident, or how this impacted her ability to file timely notices. (T14:23-15:5). The court thus denied Senape's motion for failure to establish "extraordinary circumstances" for the late filing of notice. (T17:1-4).

This appeal followed.

ARGUMENT

THE TRIAL COURT PROPERLY DENIED APPELLANT'S REQUEST FOR LEAVE TO FILE LATE NOTICES OF CLAIM BASED ON THE FAILURE TO DEMONSTRATE EXTRAORDINARY CIRCUMSTANCES.

A trial court's finding of a failure to demonstrate extraordinary circumstances to warrant leave to file a late notice of claim is reviewed for abuse of discretion. D.D., 213 N.J. at 147. "By its terms, [N.J.S.A. 59:8-9] commits the authority to grant a plaintiff's motion for leave to file late notice 'to the sound discretion of the trial court, and [its decision] will be sustained on appeal in the absence of a showing of an abuse thereof.'" Ibid. (quoting Lamb v. Global Landfill Reclaiming, 111 N.J. 134, 146 (1988) (second alteration in original)).

The New Jersey Tort Claims Act (TCA) requires that all actions brought against a public entity be preceded by providing the public entity with notice of one's claims. N.J.S.A. 59:8-3. Notice must be filed within ninety days of a claim's accrual or the claimant will be "forever barred." N.J.S.A. 59:8-8. The purpose of the ninety-day deadline is to "compel a claimant to expose his intention and information early in the process in order to permit the public entity to undertake an investigation while witnesses are available and the facts are fresh." Lutz v. Twp. of Gloucester, 153 N.J. Super. 461, 466 (App. Div. 1977).

Once beyond the ninety-day deadline, a claimant may seek leave to file a late notice of claim by motion filed within one year of the date of accrual of the cause of action, with a showing of "sufficient reasons constituting extraordinary circumstances" for the failure to file a timely notice and that the public entity has not been substantially prejudiced. N.J.S.A. 59:8-9. The "extraordinary circumstances" requirement, added to the statue in 1994, signaled "a change in the treatment of late notices of claim." Zois v. N.J. Sports & Exposition Auth., 286 N.J. Super. 670, 675 (App. Div. 1996). In so doing, the Legislature intended to "raise the bar for the filing of late notice." Rogers v. Cape May County Off. of the Pub. Def., 208 N.J. 414, 428 (2011). Thus, the proofs necessary to justify the late filing of a tort claims notice must not be "merely sufficient," but instead "extraordinary." D.D., 213 N.J. at 149.

In analyzing an application for leave to file a late notice of claim, a trial court must first determine the date on which the claim accrued, and then ascertain whether the claim was filed within ninety days of the date of accrual and, if not, determine if the claimant has demonstrated extraordinary circumstances that justify the late notice. Beauchamp v. Amedio, 164 N.J. 111, 118-19 (2000). Whether a claimant has demonstrated extraordinary circumstances is a fact-specific inquiry. McDade v. Siazon, 208 N.J. 463, 477 (2011).

Where medical conditions are asserted as proof of extraordinary circumstances, the court should consider "the severity of the medical condition and the consequential impact on the claimant's very ability to pursue redress and attend to the filing of the claim." See D.D., 213 N.J. at 150. Notably, "the court's focus must be directed to the evidence that relates to the plaintiff's circumstances as they were during the ninety-day time period, because that is the time during which the notice should have been filed." Id. at 151. A medical condition may satisfy the extraordinary circumstances test if it is "severe or debilitating." Id. at 149-50 (citing Mendez v. S. Jersey Transp. Auth., 416 N.J. Super. 525, 533-36 (App. Div. 2010) (satisfying extraordinary circumstances test where plaintiffs unconscious at accident scene, suffered severe head trauma requiring ambulance transport, spent considerable time in hospitals and rehabilitation facilities, and had no recollection of events occurring immediately before or after accident); Maher v. Cnty. of Mercer, 384 N.J. Super. 182, 189-90 (App. Div. 2006) (constituting extraordinary circumstances where severe staph infection treated with induced coma with little chance of survival)). Anything falling short of a severe and debilitating condition does not satisfy the extraordinary-circumstances standard. D.D., 213 N.J. at 150.

Notably, in D.D., the court rejected a claim that depression and anxiety constituted extraordinary circumstances to warrant leave to file a late notice of

claim. Ibid. Similar to Senape, the plaintiff alleged that her failure to file a timely notice was, in part, due to "increased stress and anxiety," in addition to "elevated blood pressure, fatigue, insomnia, depression and general anxiety" that resulted when sensitive personal information was disclosed online without her permission. Id. at 137-38. She also alleged that "[o]ther health issues" had been exacerbated following the incident. Id. at 138. The court noted that the plaintiff did not initially provide further detail about any medical treatment, nor did she offer documentary evidence to support her statements in her supporting certification. Ibid.

In a second submission, the plaintiff presented a doctor's note that stated that she had hypertension that "worsened because of anxiety and acute stress reaction," and that "the recent stressors" required her to take blood pressure medication and caused her difficulty concentrating and insomnia. Id. at 138-39. The plaintiff also offered a second certification in which she stated that she had developed "serious hypertension" requiring medication, respiratory insufficiency, insomnia, blurred vision, and lack of concentration, id. at 138, and that the incident adversely affected her relationships with family, friends, and colleagues, id. at 139.

The court concluded that such proofs were insufficient to satisfy the extraordinary-circumstances test, finding no evidence of any "severe,

debilitating, or uncommon" condition but rather "vaguely described complaints of stress and emotional strain." Id. at 150. The court noted the lack of medical evidence to support her claim, dismissing the proffered doctor's note given its lack of discussion of the severity of the plaintiff's conditions and its acknowledgement that her conditions were not expected to be permanent. Id. The court further explained that both the doctor's note and the plaintiff's own statements were "not tied to the relevant time frame." Id. at 151. Lastly, the court noted the lack of proof that the plaintiff's conditions impeded her ability to file a timely notice of claim. Ibid.

Here, the trial court did not abuse its discretion in concluding that Senape failed to satisfy the significant burden of demonstrating extraordinary circumstances to warrant leave to file late notices of claim. (T17:1-4). First, Senape admits that the accrual date of her claim, January 4, 2024, is not at issue and was correctly applied by the trial court. (Ab6; T11:23-12:2). Thus, the trial court properly proceeded to an analysis of whether Senape offered sufficient proof of extraordinary circumstances—namely, proof of a severe, debilitating medical condition—to justify her failure to comply with the mandate of the TCA, aptly concluding that she did not. (T12:8-17:4).

Senape's proffered explanation for her failure to file timely tort claims notices should be rejected when she has offered nothing more than a self-serving

certification comprised of "vaguely described complaints of stress and emotional strain." (Aa9-11; Ab3, Ab7). Although she claims to have experienced depression and worsened anxiety following the subject incident (Aa10), she failed to present any medical evidence of such conditions, let alone evidence as to the severity of them. She has not introduced any medical documentation or report from a physician to suggest that she was physically unable to pursue her claim. Moreover, as recognized by the trial court, Senape offered no explanation as to how these alleged conditions impeded her ability to seek counsel and file timely notices of claim. (T15:23-16:10).

Without this information, the court could not find that her alleged conditions were so severe or debilitating that they had a consequential impact on the ability to pursue her claim. Just as the claimant in D.D. could not establish extraordinary circumstances without proof of the severity of alleged depression and anxiety there, among other evidential deficiencies, Senape here likewise cannot make such a showing with even lesser proofs.

Similarly, Senape's additional attempts to justify her lack of compliance with the TCA—that she was involved in a motor vehicle accident on June 27, 2024, and that she had a tenuous relationship with her mother (Aa10)—do not suffice as evidence of extraordinary circumstances either. As the trial court noted, the alleged car accident of June 27, 2024, did not occur until after the

ninety-day notice period already expired.[3] (T14:14-22). Therefore, regardless of whether Senape required medical treatment following the accident, that could not have contributed to her failure to file notices of claim prior to April 4, 2024.

Regarding her strained relationship with her mother and her living situation, Senape likewise failed to offer any evidence to establish (1) that this occurred during the relevant time period, or (2) how this prevented her from filing notices of claim. Indeed, in Senape's own certification she did not identify when she was forced to "stay with a friend" or make any indication whether that occurred between January 4, 2024, and April 4, 2024, and she made no attempt to explain how those circumstances contributed to her failure to file notices of claim. (Aa10).

Absent such information, the trial court could not determine that any circumstances existed during the ninety-day period following the accrual date of this action excusing her failure to comply with the TCA's notice provision. Because Senape has failed to demonstrate that extraordinary circumstances prevented her from filing timely notices of claim, the trial court's denial of her application was proper.

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[3] With an accrual date of January 4, 2024, the ninety-day period expired on April 4, 2024.

CONCLUSION

For these reasons, the court should affirm the trial court's denial of Senape's motion for leave to file late notices of claim.

Respectfully submitted,

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