

**SUPREME COURT OF THE STATE OF NEW YORK**  
*Appellate Division, Fourth Judicial Department*

765

CA 16-02218

PRESENT: CENTRA, J.P., PERADOTTO, CARNI, NEMOYER, AND CURRAN, JJ.

---

JANE DOE, PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

ONONDAGA COUNTY, ONONDAGA COUNTY DEPARTMENT OF  
SOCIAL SERVICES, DEFENDANTS-APPELLANTS,  
ET AL., DEFENDANTS.

---

ROBERT A. DURR, COUNTY ATTORNEY, SYRACUSE (CAROL L. RHINEHART OF  
COUNSEL), FOR DEFENDANTS-APPELLANTS.

MARK D. GORIS, CAZENOVA, FOR PLAINTIFF-RESPONDENT.

---

Appeal from an order of the Supreme Court, Onondaga County  
(Spencer J. Ludington, A.J.), entered July 20, 2016. The order denied  
the motion of defendants Onondaga County and Onondaga County  
Department of Social Services to dismiss the complaint against them.

It is hereby ORDERED that the order so appealed from is  
unanimously affirmed without costs.

Memorandum: Plaintiff commenced this action seeking damages for  
injuries that she sustained as a result of her placement by  
defendants-appellants (defendants) in a foster home where she was  
subjected to sexual abuse. Contrary to defendants' contention,  
Supreme Court properly denied their motion seeking dismissal of the  
complaint against them based upon plaintiff's alleged failure to  
comply with their demand for a hearing pursuant to General Municipal  
Law § 50-h. " 'It is well settled that a plaintiff who has not  
complied with General Municipal Law § 50-h [(5)] is precluded from  
maintaining an action against a [county]' " (*Legal Servs. for the  
Elderly, Disabled, or Disadvantaged of W. N.Y., Inc. v County of Erie*,  
125 AD3d 1321, 1322; see *Gravius v County of Erie*, 85 AD3d 1545, 1545,  
*appeal dismissed* 17 NY3d 896; *Kemp v County of Suffolk*, 61 AD3d 937,  
938, *lv denied* 14 NY3d 703). Here, however, plaintiff complied with  
the statute inasmuch as, after defendants demanded a General Municipal  
Law § 50-h hearing, she requested and was granted an adjournment of  
the hearing. Contrary to defendants' contention, it was incumbent  
upon them to reschedule the adjourned hearing (see § 50-h [5]; *October  
v Town of Greenburgh*, 55 AD3d 704, 704-705; *Page v City of Niagara  
Falls*, 277 AD2d 1047, 1048; cf. *Bernoudy v County of Westchester*, 40

AD3d 896, 897).

Entered: June 9, 2017

Frances E. Cafarell  
Clerk of the Court