

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: July 16, 2026

CV-25-1239

In the Matter of HALLE E. PRICE,
Appellant,

v

MEMORANDUM AND ORDER

NEW YORK STATE BOARD OF
LAW EXAMINERS,
Respondent.

Calendar Date: May 27, 2026

Before: Aarons, J.P., Pritzker, Ceresia, Fisher and McShan, JJ.

Frankfurt Kurnit Klein & Selz PC, New York City (Tyler Maulsby of counsel), for appellant.

Letitia James, Attorney General, Albany (Kevin C. Hu of counsel), for respondent.

Ceresia, J.

Appeal from a judgment of the Supreme Court (Christina Ryba, J.), entered July 31, 2025 in Albany County, which, among other things, in a proceeding pursuant to CPLR article 78, denied petitioner's cross-motion to extend the time for service of the petition.

Petitioner commenced this CPLR article 78 proceeding to review a determination by respondent that petitioner had committed misconduct while sitting for the New York State Bar Exam. Respondent moved to dismiss the petition for failure to effectuate proper service. Petitioner then filed a cross-motion for an extension of time to serve, which

respondent opposed. Supreme Court granted respondent's motion and denied petitioner's cross-motion. Petitioner appeals.

In a CPLR article 78 proceeding against a state agency, service of process must be made upon the respondent agency and the Attorney General within 15 days after the four-month statute of limitations expires (*see* CPLR 306-b; 307 [2]; 7804 [c]). Upon motion, Supreme Court may grant an extension of time for service for good cause shown or in the interest of justice (*see* CPLR 306-b). Here, petitioner sought relief in the interest of justice. "Whether to grant an extension in the interest of justice 'requires a careful judicial analysis of the factual setting of the case and a balancing of the competing interests presented by the parties. Unlike an extension request premised on good cause, a [petitioner] need not establish reasonably diligent efforts at service as a threshold matter. However, the court may consider diligence, or lack thereof, along with any other relevant factor in making its determination, including expiration of the statute of limitations, the meritorious nature of the cause of action, the length of delay in service, the promptness of a [petitioner]'s request for the extension of time, and prejudice to the [respondent]' " (*Stevens v CG Ellis Corp.*, 236 AD3d 1132, 1134 [3d Dept 2025] [brackets omitted], quoting *Leader v Maroney, Ponzini & Spencer*, 97 NY2d 95, 105-106 [2001]; *see Deutsche Bank Natl. Trust Co. v Groder*, 247 AD3d 1143, 1145 [2d Dept 2026]; *U.S. Bank N.A. v Kaufman*, 187 AD3d 1456, 1458 [3d Dept 2020]).

Initially, having considered petitioner's proffered reasons for serving the Attorney General in the wrong county and failing to serve respondent altogether (*see* CPLR 307 [1], [2]; 7804 [c]), we find them to be insufficient to demonstrate the exercise of reasonable diligence (*see Matter of Certified Collision Experts, Inc. v New York State Dept. of Motor Vehs.*, 232 AD3d 783, 784 [2d Dept 2024]). Nevertheless, several other factors warrant granting an extension of time, including two that were not analyzed below: the prejudice to respondent and the merits of the petition. With regard to prejudice, respondent made no particular showing as to how any prejudice would inure if petitioner were granted an extension of time; indeed, respondent conceded at oral argument that it would not be prejudiced. As for the merits, petitioner set forth a potentially meritorious cause of action through submission of a verified petition along with an expert affirmation (*see Waring v Town of Hempstead Indus. Dev. Agency*, 244 AD3d 786, 788 [2d Dept 2025]; *Dujany v Gould*, 63 AD3d 1496, 1498 [3d Dept 2009]; compare *Matter of Davis v ACS-Kings*, 244 AD3d 850, 851 [2d Dept 2025]).

Turning to the remaining factors, the statute of limitations had expired by the time that petitioner learned of the defects in service, a factor that weighs in her favor (*see*

Kane v Mount Pleasant Cent. Sch. Dist., 242 AD3d 847, 849 [2d Dept 2025]; *JPMorgan Chase Bank N.A. v Kelleher*, 188 AD3d 1484, 1486 [3d Dept 2020], *affd* 37 NY3d 1038 [2021]), as respondent also conceded at oral argument. Further, there was no lengthy delay in service and petitioner promptly requested an extension (*see Dujany v Gould*, 63 AD3d at 1498). Based upon the foregoing, the interest of justice dictates that petitioner be granted an extension of time for service (*see U.S. Bank N.A. v Kaufman*, 187 AD3d at 1458; *Heath v Normile*, 131 AD3d 754, 755-756 [3d Dept 2015]).

Aarons, J.P., Pritzker, Fisher and McShan, JJ., concur.

ORDERED that the judgment is reversed, on the law, with costs; respondent's motion denied, petitioner's cross-motion granted, complaint reinstated, and petitioner's time to serve the notice of petition and petition is extended to 30 days from the date of this Court's decision.

ENTER:

A handwritten signature in black ink, reading "Robert D. Mayberger". The signature is written in a cursive, flowing style with a large, stylized "R" and "M".

Robert D. Mayberger
Clerk of the Court