



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Phoebe Dossett, Esq. - Nacmias Law Firm, PLLC 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 035717672Z et al. (1 Summons) DEPT OF BUILDINGS, -against- SCOTTI JR PHILIP A Hearing Date: 07/27/2026 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$0.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
035717672Z	Dismissed	10/17/2025	1889 Broadway Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B1E4	28-302 .5	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

The summons was issued on October 17, 2025, with a return date of January 8, 2026. Hearing was adjourned for the issuing Officer (IO).

Attorney Ralph Mondiello appeared for Petitioner, Department of Buildings, and Attorney Phoebe Dosette appeared for Respondent, Philip A. Scotti Jr., for a hearing on July 27, 2026. IO Nabil Isaac appeared for Petitioner.

Respondent is charged with NYC Administrative Code Section 28-302.5. The allegation is designated as a Class 1 immediately hazardous condition.

Summons alleges that "...failure to provide adequate safety measures, such as shed, netting,, etc, where required to protect and secure public safety from documented unsafe facade...unextended sidewalk shed till end of ex.4 west where observed a damaged...fallen/deflected metal cornice..."

Petitioner submitted photos, see Petitioner of condition observed.

Petitioner examined the IO. IO testified that there were no safety measures for unsafe area right above a restaurant. IO testified that the sidewalk shed was not extended to cover the unsafe façade.

Respondent cross examined the IO. IO testified that the condition is in exposure 4. IO testified that the violation is for inadequate safety measures.

Respondent moved to dismiss because service of the summons was defective. Respondent argued that the IO asked if anyone was authorized to accept service however the named Respondent is a natural person. Respondent argued that the IO gave the summons to another person however the summons was not served upon Respondent at their place of abode or place of business. Respondent relied on appeals decision DOB v. Alfred Popaj, Appeal No. 2401823 (January 30, 2025). Respondent also moved to dismiss since they are an improper party named. Respondent submitted a deed, see Respondent Exhibit A, and HPD records, see Respondent Exhibit B, to establish that the property is owned by "West 63 Empire". Respondent argued that they are just a tenant.

Petitioner argued that IO relied on the person when served and person stated that they were authorized to accept service. Petitioner argued that Department of Finance records, see Petitioner Exhibit 2, indicate Respondent's name.

Respondent argued that the Department of Finance property profiled are not reliable.

New York City Administrative Code Section 28-302.5 provides, in pertinent part, that Upon the notification to the department of an unsafe condition, the owner, the owner's agent or the person in charge shall immediately commence such repairs, reinforcements or other measures as may be required to secure public safety and to make the building's exterior walls or appurtenances thereof conform to the provisions of this code...The commissioner may grant further extensions of time to complete the repairs required to remove an unsafe condition upon receipt and review of an application for a further extension submitted by the registered design professional together with such further documentation as may be prescribed by rule.

I credit the Respondent's argument and evidence. The CPLR states that personal service upon a natural person may be made by serving either the respondent himself or a person of suitable age and discretion at the respondent's actual place of business, dwelling place or usual place of abode. I find that service was not proper because there is no indication from the summons nor the IO's supplemental testimony that service occurred at Respondent's actual place of business, dwelling place or usual place of abode. I further find that the named Respondent was not properly named since there is no indication they are the owner of the cited premise.

Accordingly, the summons is dismissed.

Iyayi Uwa

08/05/2026

08/05/2026

Iyayi Uwa, Judicial Hearing Officer

Date