



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Nacmias, Esq. - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 039536430Z et al. (1 Summons) DEPT OF BUILDINGS, -against- IX CONSTRUCTION INC Hearing Date: 06/15/2026 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$2,500.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039536430Z	Sustained	01/29/2025	28-16 42 ROAD Queens

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B2P7	Misc. BC—Chapter 33	Sustained	\$2,500.00

Findings of Fact & Conclusions of Law

Summons # 039536430Z was issued to respondent IX Construction Inc. for a violation of section Misc. BC Chapter 33; Miscellaneous violations. 3307.2 streets, sidewalks, as well as walkways and pathways. I observed an adequate pathway provided in the street for pedestrians @ expos. 1. No protection from vehicle traffic, jersey barriers not filled with water or sand, pathway not fully enclosed, ramp not code compliant creating tripping hazard. Netting used as divider from construction.

Attorney Frank Tamborino appeared for the respondent.

Taylor Barje appeared for the Petitioner, DOB.

I/O Jerry Williams appeared for the Petitioner, DOB.

The hearing was adjourned because the respondent had a service challenge.

The Petitioner submitted the affidavit of service and an appeals case. See Petitioner's Exhibit 1.

The affidavit of service states, "Individual or Partnership-personal service by delivering and leaving a true copy with David Allen respondent personally." The "Individual or Partnership" box was checked off on the affidavit of service.

The I/O stated that he recalled writing and serving the summons. He tried to serve the summons. He knocked on the door. A construction supervisor came down. The I/O asked the construction supervisor if he was authorized to accept service on behalf of the respondent and the construction supervisor said "yes". The I/O served him. The I/O stated that he checked the wrong box, but he knew he did serve the summons correctly.

The Petitioner stated that checking the wrong box is acceptable if it is served to the right party.

The Petitioner submitted an appeals case, DOB V. HK Firm 2, LLC, Appeal No. 2301496 (January 25, 2024. The Board held that "where the IO completes the wrong section of the affirmation of service, it is deemed immaterial where it can be established that he delivered the summons to a proper person to receive service under the CPLR."

The respondent moved to dismiss the summons stating that the affidavit was incorrect because the respondent was not an individual or partnership.

I find that service was proper.

The I/O knocked on the door, A construction supervisor came down and said he was authorized to accept service on behalf of the respondent, and he was served.

The fact that the I/O checked the wrong box on the affidavit is immaterial, since the summons was served on a person authorized to accept service of process on behalf of the respondent.

The merits of the case were not challenged.

The summons is credited.

The testimony of the I/O and evidence submitted are credited.

Accordingly, the summons is sustained and a standard penalty in the amount of \$2,500.00 is imposed.

	
06/16/2026	06/16/2026
Michelle Mason, Judicial Hearing Officer	Date