



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: 0219773474 et al. (1 Summons) NEW YORK CITY POLICE DEPT, -against- ZONG YANG Hearing Date: 03/12/2025 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
0219773474	Dismissed	01/20/2025	75 35 -31 Avenue Queens

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	AD6L	AC 19-190(B)	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

The hearing was conducted by telephone on 3/12/25. Attorney Michael Nacmias appeared on behalf of Respondent appeared on behalf of Respondent and there was no appearance on behalf of petitioner.

The summons charges Respondent with failure to yield right of way in violation of Code 19-190(b) stating that Respondent did strike a pedestrian with a car at the above location.

Respondent argues that the summons cannot establish a prima facie case as there is no allegation of physical injury to the pedestrian and the affidavit of service is blank.

Code § 19-190(b) makes it unlawful for the driver of a motor vehicle to fail to yield to a pedestrian who has the right of way "and whose motor vehicle causes contact with a pedestrian . . . and thereby causes physical injury." In NYPD v. Hershel Rosenfeld, Appeal No. 1900526 (June 27, 2019) the Board held that where the IO never alleged that Respondent's vehicle made contact with the pedestrian or that the pedestrian was in the crosswalk or had the right of way the summons must be dismissed. This summons does not establish a prima facie case as there is no allegation that the pedestrian had the right of way. Further the summons is defective as the affidavit of service page is blank. The Board has stated in NYPD v. Ajaz B. Kiani, Appeal No. 1801238 (June 18, 2020), that upon Respondent's challenge to service, Petitioner failed to establish proper service where the purported proof of service on the reverse side of the summons was left blank and not signed and Petitioner did not appear at the hearing to supplement its proof of service. Accordingly, the summons is defective on its face and it is dismissed.



03/12/2025

03/12/2025

Elyse Post, Hearing Officer

Date