



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# : 039528214Y et al. (1 summonses) DEPT OF BUILDINGS, -against- BBB CONSTRUCTION INC Hearing Date : 7/15/2025 Hearing Location : Remote Type of Hearing : By Telephone
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Total Penalty Amount :	2,500.00	Community Service(Hr):	Not Applicable
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SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039528214Y	Sustained	05/02/2024	238 DEGRAW STREET, Brooklyn

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

Total Penalty for Summons: 2,500.00

Findings of Facts & Conclusions of Law

The summons alleges that that respondent violated Misc. BC Chapter 33, BC 3301.13.5, by having lack of supervision, a Class 2 violation, at 238 Degraw Street Brooklyn, on May 2, 2024. Phoebe Dossett, Esq., Nacmias Law Firm PLLC, appeared for the respondent BBB Construction. Jennifer Clouden, Esq., appeared for the petitioner DOB. Inspector L. James, #2797, the issuing officer, appeared for the petitioner DOB.

The respondent first moved to dismiss the summons for improper service.

The Affidavit/Affirmation of Service states that the issuing officer, using an alternate method of service pursuant to NYC Charter 1049-a(d)(2) (affix and mail), spoke to the foreman on site who advised him to post. He then posted the summons on the job site fence at the exposure 1 entrance gate.

The issuing officer testified that he had an independent recollection of serving this summons along with two others. The issuing officer said that he spoke to the foreman at the job site. He asked the foreman if he could accept service on behalf of the General Contractor. The foreman told him to post the summonses. The issuing officer said that he then asked the foreman if there was someone else within the vicinity of the site who could come and accept service. He said that he would wait 10-15 minutes to give someone a chance to show up. He waited 15 minutes and asked again. He was told that no one would be coming. He then posted the summons along with the two others. The issuing officer said that he did not recall the name of the person with whom he spoke, and did not put it in his notes. The person he talked to said he was the foreman and in charge of supervision.

I credit the issuing officer's sworn statement on the Affirmation of Service submitted with the summons. I credit the issuing officer's sworn testimony. I find that the issuing officer made a reasonable attempt to serve the summons as required. The respondent made no claim that it did not receive the summons as indicated. Accordingly, the respondent's motion to dismiss for improper service is denied.

Regarding the merits, the petitioner first relied on the issuing officer's sworn statement in the summons. The issuing officer stated that at the time of inspection of an active job site with 5 workers, upon request for the site construction superintendent or his designated competent person responsible for supervision none was available or provided. Petitioner provided 2 photos of the site (Pet. Exh). The issuing officer testified that the competent person returned shortly after he posted the summonses; he said that he had been at the Home Depot.

The respondent's representative said that the competent person was on site at the time. The respondent provided a copy of respondent's log showing this (Resp. Exh).

I credit the issuing officer's sworn statement in the summons. I credit the issuing officer's sworn testimony. I find that neither a construction superintendent nor a designated competent person was available at the time of inspection as described. I do not credit the respondent's documentary evidence. The respondent failed to provide a statement from someone with actual knowledge of events to refute the petitioner's claim. Accordingly, I find the petitioner proved its Class 2 violation by a preponderance of the evidence. I find the respondent is in violation. I impose the standard penalty.



07/23/2025

07/23/2025

Anthony Feldmesser, Hearing Officer

Date

**IF YOU ARE FOUND IN VIOLATION, AND ARE NOT ELIGIBLE OR DO NOT CHOOSE
COMMUNITY SERVICE, YOU MUST PAY THE PENALTY WITHIN 30 DAYS OF THE DECISION
DATE OR 35 DAYS IF MAILED.**

- To pay by mail, send a check or money order to the Dept. of Finance Commissioner, P.O. Box 2307, Peck Slip Station, New York, NY 10272. The check or money order should be made out to "Finance Commissioner, City of New York." Write the summons number on the check or money order.
- To pay in person, bring a check, money order or credit card and this decision to any OATH Hearings Division location between 8:30 a.m. to 4:30 p.m.
- To pay online using a credit or debit card, go to www.nyc.gov/citypay/oath

If you do not pay the penalty, the City may: (1) file papers with the Civil Court ("docket a judgment"), (2) charge you a late fee, and (3) continue attempts to collect the debt.

**CAN I DO
COMMUNITY
SERVICE?**

If your summons is for the type of offense that gives you a Community Service option you can choose to complete Community Service instead of paying a penalty. Your decision will give you that option. You have to complete your Community Service by the deadline in the decision or else you will end up owing the penalty. You can even do your Community Service on the day you receive your decision.

**COMPLETION OF
COMMUNITY
SERVICE**

The Help Center will arrange for you to complete your Community Service. The Help Center is run by the Ombudsperson/Pro Se Clerk at OATH and is located at each Hearing Division in all five boroughs. To schedule your Community Service, call, email or visit a Help Center location.

How to Contact the Help Center to Schedule Community Service:

Manhattan: (212) 436-0845 CSmanhattan@oath.nyc.gov
Brooklyn: (718) 923-6216 CSbrooklyn@oath.nyc.gov
Queens: (718) 393-6044 CSqueens@oath.nyc.gov
Bronx: (718) 503-5565 CSbronx@oath.nyc.gov
Staten Island: (718) 876-2314 CSstateniland@oath.nyc.gov

If you complete your Community Service by the deadline in the decision, you will receive a Certificate of Completion and will not have to pay a penalty. If you need an extension to complete your Community Service, please contact the Help Center.

If you do not complete your Community Service by the deadline, you will have to pay the penalty.

**NON-DISCLOSURE
FOR SUMMONSES
ELIGIBLE FOR
COMMUNITY
SERVICE**

If you either completed the Community Service or paid the penalty, OATH will remove your identifying information from public records related to your case.

If you do not complete the Community Service or pay the penalty, your identifying information may remain on public records related to your case.

**IF YOU DISAGREE
WITH THE DECISION,
YOU MAY APPEAL IT**

To submit your appeal, you **MUST** use OATH's online or mail-in appeal forms available on OATH's website at www.nyc.gov/oath/appeal. Instructions for filing an appeal may be found on the form and OATH's website.

Your appeal **MUST** be received by the OATH Hearings Division **within 30 days** of the decision date, or 35 days if the decision was mailed to you.

To appeal you **may need to** pay the full penalty stated in this decision.

- If you cannot pay because of financial hardship, you may ask to not pre-pay by submitting with your appeal a Financial Hardship Application, available on OATH's website.
- If you are eligible and choose to perform Community Service instead of paying the penalty, you do not have to pay the penalty or complete the Community Service to appeal.

**APPEAL BY
ENFORCEMENT
AGENCY**

If you wish to answer an appeal filed by an enforcement agency, you **MUST** use OATH's Response To Appeal form. Instructions for filing an answer may be found on the form and OATH's website.

Your answer must be received **within 30 days** of the date of the enforcement agency's appeal, or 35 days if it was mailed to you.

If the enforcement agency wins the appeal, you may have to pay a penalty or, if eligible, complete Community Service even if your case was originally dismissed after the hearing.

For more information,
visit OATH's website www.nyc.gov/oath
or call 1-844-OATH-NYC

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