



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: 039540728N et al. (1 Summons) DEPT OF BUILDINGS, -against- FAISAL RASHID Hearing Date: 03/26/2026 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
039540728N	Dismissed	05/28/2025	551 LAFAYETTE AVENUE Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B2G5	BC 3301.13.7 through BC 3301.13.13	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

Petitioner NEW YORK CITY DEPARTMENT of BUILDINGS (DOB) was represented by DOB supervising attorney DANIEL BRICKMAN, ESQ.

Respondent FAISAL RASHID was represented by attorney PHOEBE DOSSETT, ESQ. of the Nacmias Law Firm, PLLC.

Respondent was charged with a Class 2 violation of § 3301.13.7 through § 3301.13.13 of the New York City Building Code (BC), found in Title 28 of the Administrative Code of the City of New York (Code), for failure of a construction superintendent to perform duties per code.

In the summons, the Issuing Officer affirmed observing on May 28, 2025, at 551 Lafayette Avenue in Brooklyn, "Construction Superintendent failed to perform duties per code. At the time of my inspection of a 4-story new building 2nd floor level, I observed 7 workers on jobsite, with no site safety orientation, no site safety plan, guard rails missing from decking, 1 competent person assigned to 2 sites, 1 super log book and 1 pre shift log. This creates a hazard for workers, public and property. Remedy: Perform Duties Stop all work entire jobsite, Superintend not performing his duties, Request CSE for reinspection."

In support, respondent submitted into evidence an affidavit from the competent person on the jobsite, MUHAMMAD MUDASSAR, stating that he was the designated competent person for approved Department of Buildings ("DOB") job #B08005181 for the project located at 551 Lafayette Avenue, Brooklyn, New York 11205; that he was on site as the competent person on May 28, 2025, when the DOB issued summonses 039540714M, 039540715Y, 039540716x, 03954717H, 039540718J, and 039540728N; that these summonses were issued after an inspection occurred at the active job site; that summons 039540728N was issued to construction superintendent RASHID FAISEL for failing to perform his construction superintendent duties as required by code; that construction was occurring as per the site safety plan for the job, guardrails were temporarily removed in accordance with the building code, workers on site had received their site safety orientation, and netting was not required between the sidewalk shed and fence, workers on site had received their site safety orientation, and that the respondent RASHID FAISEL was on site as the designated competent person in his absence from the site.

Respondent challenged service of the summons, arguing that the summons names a natural person on the Affirmation of Service, but used substituted service which is not available when not serving the respondent's usual place of abode, or their business address or their dwelling.

The issue here is whether the affirmation of service establishes that the IO made a reasonable attempt at personal service before resorting to Charter "affix and mail service."

Charter § 1049-a(d)(2) permits service of a summons by affixing it to a conspicuous place in the cited premises after making a reasonable attempt to deliver it to a person in the premises upon whom service may be made as provided in Article 3 of the New York Civil Practice Law and Rules (CPLR), followed by specified mailings. CPLR § 311-a (a) allows personal service on a limited liability company (LLC) by delivering the summons to: (i) any member of the limited liability company in this state if the management of the limited liability company is vested in its members, (ii) any manager of the limited liability company in New York State if the management of the limited liability company is vested in one or more managers, (iii) any other agent authorized by appointment to receive process, or (iv) any other person designated by the limited liability company to receive process.

CPLR § 311-a requires that service of process on any domestic or foreign LLC be made by delivering a copy personally to any member, manager, or other agent authorized or designated to receive service. "A reasonable attempt at service is established where, at the very least, the IO made attempts to ascertain whether anyone authorized to accept service on behalf of the respondent was present at the cited premises."

Here, the affirmation of service failed to establish a reasonable attempt. The affirmation of service states under Section A, "by delivering and leaving a true copy with MUHAMMAD MUDASSAR respondent personally." This is insufficient to establish a reasonable attempt at personal service.

CPLR § 308 provides, in pertinent part, that service on a natural person may be made by delivering the summons within the state to (1) the person to be served; or (2) a person of suitable age and discretion at the actual place of business, dwelling place, or usual place of abode of the person to be served.

Here, in contrast, involves service on competent person MUHAMMAD MUDASSAR. The competent person, MUHAMMAD MUDASSAR, is not the respondent, RASHID FAISEL, and the location where service was effectuated was not the respondent's actual place of business, dwelling place, or usual place of abode. Respondent's attorney argued that the summons should not have been served upon competent person MUHAMMAD MUDASSAR, but instead should have been posted.

Petitioner's attorney gave no opposition to the respondent's motion to dismiss. Respondent's motion to dismiss is GRANTED.

I find that the person served, MUHAMMAD MUDASSAR, is not the respondent RASHID FAISEL, and the location where service was effectuated was not the respondent's actual place of business, dwelling place, or usual place of abode. I find that service was not properly effectuated. The summons is DISMISSED.

Mark Goichman

04/06/2026

04/06/2026

Mark Goichman, Judicial Hearing Officer

Date

vehicle while parked, standing or stopped. As per DEP records, citizen observed TRUCK with NY license plate # 80091F idling for longer than three minutes from 1/26/2024 7:12:06 AM to 1/26/2024 7:15:15 AM at 280-282 8th Avenue."

Petitioner submitted the redacted complaint form (marked as P1), 2 photos (marked as P2), and a video (marked as P3) 3:00 long.

Respondent's representative claimed that there was active work going on and that the vehicle may have to be moved at any point.

Petitioner countered, contending that there is no exemption for idling in anticipation of moving the vehicle.

I credit the Issuing Officer's statements in the summons and the Petitioner's submitted evidence, which establish that the vehicle's engine had been idling for longer than three minutes. Respondent's claim that there was active work going on provides no defense, as Respondent submitted no evidence to establish that this vehicle had been engaged in any active commercial activity. There is a limited exemption provided to vehicles when the idling engine is used to operate a loading, unloading, or processing device. However, Respondent has not established this affirmative defense with sufficient and credible evidence. Respondent's claim that the vehicle may have to be moved at any point does not qualify as "loading, unloading or processing device". Respondent submitted no explanation for why the vehicle's engine could not be turned off until it had to be moved.

Based upon the foregoing hereinabove, the preponderance of the evidence establishes that the vehicle's engine had been idling impermissibly for more than three minutes in violation of §24-163, and I impose a standard penalty of \$350.00.

Wherefore, the summons is hereby sustained accordingly.

Sooyung Lee

04/07/2026

04/07/2026

Sooyung Lee, Judicial Hearing Officer

Date