



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Caroline Kane, Esq. - Nacmias Law Firm, PLLC 592 Pacific Street, 1st Floor Brooklyn, NY 11217	Summons No: 039091560H et al. (1 Summons) DEPT OF BUILDINGS, -against- TOVY SCHWARTZ Hearing Date: 06/13/2025 Hearing Location: Remote Type of Hearing: By Telephone
--	---

Total Penalty Amount: \$0.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039091560H	Dismissed	08/01/2023	1718 63 STREET Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B2A7	28-116.1	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

Attorney Caroline Kane, Esq. appeared for Respondent TOVY SCHWARTZ. I/O A. Francis (DOB 2999) appeared and testified.

Attorney Deanna Burbridge, Esq. appeared for Petitioner DOB.

On 8/1/23, at 156 WAVERLY PLACE, Manhattan, the I/O issued this summons alleging a violation 28-301.1 (Class 1).

Ms. Burbridge submitted into the record P1 – two photographs taken by the I/O

As to service, upon questioning by Ms. Burbridge, I/O Francis testified she took the photographs in P1. I/O Francis testified she was refused access and informed the gentleman in the photograph she could issue a summons and he said to do whatever she needed. I/O Francis testified he was not authorized to accept service and she posted it.

Upon cross-examination by Ms. Kane, I/O Francis testified she asked him if he was authorized to accept service and he said he was the security for the site.

Ms. Kane submitted into the record R1 – OATH Appeal 2000817 and 2201255 (arguing that the Board's standard for serving an individual is to inquire if they are of suitable age and discretion and ask if they are willing or able to accept the summons. Here, the I/O asked if he was authorized to accept service (which would be correct for a corporation, not for an individual).

Ms. Burbridge submitted into the record P2 - Appeal No. 1200493, arguing the I/O's testimony is that she tried to approach this male twice and he denied her. The only person she encountered was hostile towards her and gave her no access to the job site and after she posted it, he called someone but it was too late at that point.

Here, the I/O's testimony is credible, but based on that credible testimony, I find Ms. Kane's argument persuasive as the required inquiries were not made by the I/O as to service. Upon being denied entry by the security guard, the I/O did not ask the proper questions of the security guard, and therefore service is defective. Procedure must be followed and it is incumbent on the I/O to follow the required steps for service.

Accordingly, the summons is DISMISSED.



06/16/2025

06/16/2025

Date

Joseph Fan, Hearing Officer