



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Frank Tamberino, Esq. - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 0703842536 et al. (1 Summons) DEPT OF TRANSPORTATION, -against- CANIDO BASONAS CONSTRUCTION SERVICES LLC Hearing Date: 06/23/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$250.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
0703842536	Sustained	03/20/2025	23 23 WEST 73 STREET BTWN CENTRAL Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	AD14	A.C. 19-121(B)(6)	Sustained	\$250.00

Findings of Fact & Conclusions of Law

Michelle Heard appeared for Petitioner. Attorney Frank Tamberino appeared on behalf of Respondent.

The issuing officer charged a violation of Administrative Code § 19-121(b)(6) for failure to protect street from construction materials. Specifically, they observed a yellow construction debris container on the roadway with 1 of the 4 steel rollers in direct contact with the asphalt roadway. Respondent failed to provide full adequate street protection underneath their construction equipment on the roadway as required.

In support of the summons, Petitioner provided Exhibit 1, photos.

Respondent's representative argued that the Petitioner did not make their case. Of their photos, only one shows a steel roller in direct contact with the asphalt and that picture did not show Respondent's insignia on it. Respondent also provided Exhibit A, a printout from unknown origin. Respondent states it shows that another company, Yu Hua Construction, had a permit on that street for a debris container. He argues this company may have been the permit holder for the debris container with the steel roller in direct contact with the asphalt roadway.

The issuing officer's affirmed statement established a prima facie case of the violation. See 48 RCNY § 6-12(b). The burden of proof then shifts to Respondent to refute Petitioner's case or establish a defense. See 48 RCNY § 6-12(a).

I do not credit Respondent's exhibit. It does not show its source, and much of the text is cut off.

Accordingly, the summons is sustained.



06/24/2025

06/24/2025

Theresa Leary, Hearing Officer

Date