



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: 0219801488 et al. (1 Summons) NEW YORK CITY POLICE DEPT, -against- CITYWIDE CONTAINER SERVICE COR Hearing Date: 04/20/2026 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
0219801488	Dismissed	03/06/2025	113 East 31st Street between Lexington Ave and Park Ave. Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	ADC9	34RCNY 2-14(F)(6)	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

Respondent received an NYPD summons for a violation of Section 2-14(F)(6) of Title 34 of the New York City Rules. In the summons, the issuing officer (IO) stated that on March 6, 2025, he observed the above respondent failure to have the proper street protection under commercial refuse container. Respondent had a commercial refuse container on the street with no planking under the steel wheels.

In a phone in hearing, Mr. Michael Nacmias, attorney for Respondent and Petitioner NYPD agency representative, Mr Irving Pantin, appeared. Petitioner submitted one photo and the DOT permit, which is marked into evidence as Petitioner Exhibit A. Petitioner stated that there was no planking when the inspection occurred. Mr. Nacmias argued that when the Respondent

delivered the container, it had been placed on wooden planks. He also referenced an OATH appeal, where it was noted that the respondent does not have a duty to monitor the container. It is possible that the container was moved after its delivery. In support of his argument, Mr. Nacmias submitted an affidavit and a OATH appeal, which is marked into evidence as Respondent Exhibit A.

Here, I credit Mr. Nacmias's statement and evidence. In the affidavit, the Respondent stated that upon delivery, the container had proper street protection as it was on wooden planks. Further, as 34 RCNY § 2-14(f)(6) provides, in pertinent part, that "[t]he street shall be protected with proper covering (e.g., planking, skids, plating, or pneumatic tires) to prevent damage before containers are placed on the street....Protection must remain in place for the entire time the container remains on the roadway. Placement of all protection shall be done upon delivery by the owner of the container." The Board has previously held that a container company does not have a duty to monitor its container to ensure continuing compliance with the cited rule. See DOT v. Curbside Inc., Appeal No. 2000445 (May 21, 2020) (citing NYC v. Citywide Container Service, Corp., Appeal No. 1700895 (October 5, 2017)). AS noted in Appeal 2401456 DOT v. Citywide Container Service, Corp., the Board found that Respondent sufficiently refuted the charge by an affidavit establishing that street protection was provided when the cited refuse container was initially placed on the street. Similarly here, Mr. Nacmias has provided an affidavit that the Respondent did provide wood planks upon delivery of the container. As such, based on the foregoing, I dismiss the violation.



04/20/2026

04/20/2026

Lori Costello, Judicial Hearing Officer

Date



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Anthony Sargo, Esq. 592 Pacific Street Brooklyn, NY 11217	Summons No: 03774-25F0 et al. (1 Summons) DEPARTMENT OF HEALTH & MENTAL HYGIENE, -against- RESTAURANT EL AMBATENO I CORP Hearing Date: 04/21/2026 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$2,050.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
03774-25F0	Sustained	03/17/2025	338 KNICKERBOCKER AVENUE Brooklyn

LINE ITEM	OATH CODE	VIOL CODE	CODE SECTION/RI	CONDITION (SEVERITY)	RESULT	PENALTY
1	NA	02B	NYCHC 81.09(a)	2	Sustained	\$300.00
2	NA	02G	NYCHC 81.09(a)	2	Sustained	\$300.00
3	NA	04J	NYCHC 81.09(g)	1	Sustained	\$200.00
4	NA	05F	NYCHC 81.18	5	Sustained	\$350.00
5	NA	06C	NYCHC 81.07(i)	1	Sustained	\$200.00
6a	NA	06F	SSC 14-1.112(c)	2	Sustained	\$200.00
6b	NA	06F	NYCHC 81.27(c)	2	Sustained / Bundled with Line 6a	\$0.00
7a	NA	10F	NYCHC 81.17(e)(2)	3	Sustained	\$100.00

7b	NA	10F	NYCHC 81.17(e)(2)	3	Sustained / Bundled with Line 7a	\$0.00
7c	NA	10F	NYCHC 81.17(e)(3)	3	Sustained / Bundled with Line 7a	\$0.00
8	NA	10G	NYCHC 81.29(a)(3)(B)	4	Sustained	\$200.00
9	NA	10H	NYCHC 81.07(o)	1	Sustained	\$200.00

Findings of Fact & Conclusions of Law

Michael Sargo, Esq., appeared on behalf of the Respondent, Restaurant El Ambateno I Corp.

The summons alleges violations of:

Line Item 1, total condition 2: NYCHC 81.09(a) Time/Temperature Control for Safety hot food not held at or above 140 °F (60 °C), except during necessary preparation.

Line Item 2, total condition 2: NYCHC 81.09(a) Time/Temperature Control for Safety cold food, other than processed fish, not held at or below 41 °F (5 °C).

Line Item 3, total condition 2: NYCHC 81.09(g) Thermometer for measuring the temperature of food without adequate temperature ranges provided to measure temperatures of Time/Temperature Control for Safety Foods (TCS) during cooking, cooling, reheating, hot holding and cold holding.

Line Item 4, total condition 5: NYCHC 81.18 An adequate number of hot holding units for proper storage, transportation, display and service of Time/Temperature Control for Safety Foods (TCS) at required temperatures not provided.

Line Item 5 total condition 1: NYCHC 81.07(i) Supplies or equipment stored under or near source(s) of contamination.

Line Item 6a, total condition 2: SSC 14-1.112(c) A test kit or other device not provided and used.

Line Item 6b: NYCHC 81.27(c) Wiping cloth(s) improperly stored in that 2 moist wiping cloth(s) were not stored in sanitizing solution between uses.

Line Item 7a, total condition 3: NYCHC 81.17(e)(2), Walls, ceilings and their attached fixtures not properly constructed or maintained.

Line Item 7b: NYCHC 81.17(e)(2) Walls, ceilings and their attached fixtures not properly constructed or maintained.

Line Item 7c: NYCHC 81.17(e)(3) Non-food contact surface(s) or non-food contact equipment not properly maintained.

Line Item 8, total condition 4: NYCHC 81.29(a)(3) (B) Test kit for chemical sanitizer used during manual warewashing not accurate or used.

Line Item 9, total condition 1: NYCHC 81.07(o) Single service articles reused, not protected from contamination when transported, stored or dispensed or not used when required.

Mr. Sargo denied the summons but made no rebuttal.

The summons is sustained.

Sean Gralton

April 21, 2026

4/21/2026

Sean Gralton, Judicial Hearing Officer

Date