



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: 0703800534 et al. (1 Summons) DEPT OF TRANSPORTATION, -against- P CITYWIDE CONTAINER SERVICE COR Hearing Date: 07/21/2025 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
0703800534	Dismissed	01/17/2025	264 Nassau Avenue Brooklyn

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

Inspector Keith White appeared for Petitioner, Department of Transportation. Attorney **Caroline Kane** appeared for Respondent, CITYWIDE CONTAINER SERVICE CORP, appeared for a hearing on July 21, 2025.

Respondent is charged with 34RCNY 2-14(f)(6).

Summons alleges that... contained on the roadway with all 4 steel wheels in direct contact with pavement...

Petitioner submitted photos, see Petitioner Exhibit 1, of condition observed and the permit, see Petitioner Exhibit 2. Petitioner

argued that the container was on the street with no street protection and the photo only indicates a piece of wood on one side..

Respondent moved to dismiss. Respondent argued that there was street protection when container was delivered and submitted an affidavit, see Respondent Exhibit A. Respondent argued that there is no obligation that they must monitor the container after delivery. Respondent relies on appeals decision NYC v. Citywide Container Service, Corp., Appeal No. 170089 (October 5, 2017).

Petitioner argued that the appeals submitted do not specify monitoring of the container on a street.

Respondent argued that the appeals decision is clear that duty to monitor street protection is not on the container company. Respondent argued that this is ongoing work so the person doing the work should monitor the container.

34RCNY 2-14(f)(6) provides that the 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 shall be placed directly under each steel wheel or roller of the container to adequately distribute the weight.

I credit the Respondent's argument and evidence. 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). Therefore, I find that the Respondent was not responsible for monitoring the container for street protection.

Accordingly, the summons is dismissed.

Iyayi Uwa

07/23/2025

07/23/2025

Iyayi Uwa, Hearing Officer

Date