



**OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS**  
*Hearings Division*

**DECISION**

|                                                                                                       |                                                                                                                                                                                                                                                                          |
|-------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Michael Nacmias, Esq. - Nacmias Law Firm</b><br>592 Pacific Street 1st Floor<br>Brooklyn, CA 11217 | <b>Summons No: 0216990474 et al. (1 Summons)</b><br><br><b>NEW YORK CITY POLICE DEPT,</b><br><br><b>-against-</b><br><br><b>GALYNA GORBATA</b><br><br><b>Hearing Date: 07/21/2025</b><br><br><b>Hearing Location: Remote</b><br><br><b>Type of Hearing: By Telephone</b> |
|-------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                              |
|----------------------------------------------|
| <b>Total Penalty Amount: \$0.00</b>          |
| <b>Community Service(Hr): Not Applicable</b> |

| <b>SUMMONS #</b> | <b>SUMMARY DISPOSITION</b> | <b>DATE OF OCCURRENCE</b> | <b>PLACE OF OCCURRENCE</b>    |
|------------------|----------------------------|---------------------------|-------------------------------|
| 0216990474       | Dismissed                  | 05/30/2025                | AVENUE O I/O E 12 ST Brooklyn |

| <b>LINE<br/>ITEM</b> | <b>OATH<br/>CODE</b> | <b>CODE<br/>SECTION/RULE</b> | <b>RESULT</b> | <b>PENALTY</b> |
|----------------------|----------------------|------------------------------|---------------|----------------|
| 1                    | AD6L                 | AC 19-190(B)                 | Dismiss       | \$0.00         |

**Findings of Fact & Conclusions of Law**

Respondent was charged with failure to yield right of way in violation of Code 19-190(b). The Respondent's attorney Michael Namias appeared. The Petitioner did not appear. Respondent's attorney waived the right to an interpreter and to the issuing officer/inspector. Respondent argues that the summons is defective as the affidavit of service page is blank. Further, he argued that the summons cannot establish a prima facie case as the recorded observations of physical injury alone did not establish that an actual physical injury was present as the description was conclusory and failed to meet the definition of a physical injury as stated in NYS Penal Law.

Code § 19-190(b) makes it unlawful for the driver of a motor vehicle to fail to yield to a pedestrian who has the right of way "and

whose motor vehicle causes contact with a pedestrian . . . and thereby causes physical injury." In NYPD v. Hershel Rosenfeld, Appeal No. 1900526 (June 27, 2019) the Board held that where the IO never alleged that Respondent's vehicle made contact with the pedestrian or that the pedestrian was in the crosswalk or had the right of way the summons must be dismissed. This summons does not establish a prima facie case as there is no allegation that the pedestrian had the right of way . Further the summons is defective as the affidavit of service page is blank. The Board has stated in NYPD v. Ajaz B. Kiani, Appeal No. 1801238 (June 18, 2020), that upon Respondent's challenge to service, Petitioner failed to establish proper service where the purported proof of service on the reverse side of the summons was left blank and not signed and Petitioner did not appear at the hearing to supplement its proof of service. Accordingly , the summons is defective on its face and it is dismissed.



07/21/2025

07/21/2025

Genna Rosten, Hearing Officer

Date