



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

Phoebe Dossett, Esq. - Nacmias Law Firm, PLLC 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons# : 039522932L et al. (1 summonses) DEPT OF BUILDINGS, -against- SAL BRUSCA INC. GC#025244 Hearing Date : 3/17/2025 Hearing Location : Remote Type of Hearing : By Telephone
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Total Penalty Amount : 1,000.00	Community Service(Hr): Not Applicable
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SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039522932L	Sustained	10/27/2023	75-36 65 DRIVE, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B211	BC 3307.7	Sustained	1,000.00

Total Penalty for Summons: 1,000.00

Findings of Facts & Conclusions of Law

The summons alleges that on 10/27/23, the Respondent, Sal Brusca Inc, was in violation of BC section 3307.7, Class 2, in that the Respondents job site fence was not constructed or maintained at 75-36 65th Drive, Queens, NY. The IO observed construction fence at exp #1 had missing viewing panels and plexiglass. As per code viewing panels are required every 25 linear feet per frontage of fence with plexiglass installed. The fence was not painted hunter green in one section.

Phoebe Dossett, Esq. appeared for Respondent. Rafeena Khairullah, Esq. appeared for Petitioner DOB with IO Gambrell #3083. Petitioner rested on the summons and provided photographs taken by the IO on the date of inspection (See Pet. Ex.).

Ms. Dossett did not deny the charge(s) but argued that the cited Respondent, as general contractor (GC) was an improper party, as the Respondent/GC had withdrawn from the job prior to the issuance of the summons. In support Ms. Dossett provided a new permit issued to A Guaman Construction Cor on 1/31/24 (See Res. Ex.).

Petitioner argued that the GC withdrew from the job after the issuance of the summons. According to DOB NOW the withdrawal was approved on 11/3/23 and the summons was issued on 10/27/23 (See Pet. Ex.).

At the time the summons was issued, the permit for the construction fence posted at the job site was issued to the Respondent as GC. While I credit Ms. Dossett's documentary evidence and testimony regarding the GC's withdrawal, the GC does appear to be the GC of record on the date the summons was issued. Further, Respondent did not show that the withdrawal occurred on or before the date of occurrence, the only documentary evidence provided was the permit dated 1/31/24, well after the summons was issued and the approved withdrawal dated approximately a week after the summons was issued. Respondent has not rebutted the charge. Accordingly, the summons is sustained, and the standard penalty amount is imposed.



03/21/2025

03/21/2025

Lara Bianchi, Hearing Officer

Date

IF YOU ARE FOUND IN VIOLATION, AND ARE NOT ELIGIBLE OR DO NOT CHOOSE COMMUNITY SERVICE, YOU MUST PAY THE PENALTY WITHIN 30 DAYS OF THE DECISION DATE OR 35 DAYS IF MAILED.

- To pay by mail, send a check or money order to the Dept. of Finance Commissioner, P.O. Box 2307, Peck Slip Station, New York, NY 10272. The check or money order should be made out to "Finance Commissioner, City of New York." Write the summons number on the check or money order.
- To pay in person, bring a check, money order or credit card and this decision to any OATH Hearings Division location between 8:30 a.m. to 4:30 p.m.
- To pay online using a credit or debit card, go to www.nyc.gov/citypay/oath

If you do not pay the penalty, the City may: (1) file papers with the Civil Court ("docket a judgment"), (2) charge you a late fee, and (3) continue attempts to collect the debt.

CAN I DO COMMUNITY SERVICE?

If your summons is for the type of offense that gives you a Community Service option you can choose to complete Community Service instead of paying a penalty. Your decision will give you that option. You have to complete your Community Service by the deadline in the decision or else you will end up owing the penalty. You can even do your Community Service on the day you receive your decision.

COMPLETION OF COMMUNITY SERVICE

The Help Center will arrange for you to complete your Community Service. The Help Center is run by the Ombudsperson/*Pro Se* Clerk at OATH and is located at each Hearing Division in all five boroughs. To schedule your Community Service, call, email or visit a Help Center location.

How to Contact the Help Center to Schedule Community Service:

Manhattan: (212) 436-0845 CSmanhattan@oath.nyc.gov
Brooklyn: (718) 923-6216 CSbrooklyn@oath.nyc.gov
Queens: (718) 393-6044 CSqueens@oath.nyc.gov
Bronx: (718) 503-5565 CSbronx@oath.nyc.gov
Staten Island: (718) 876-2314 CSstatenisland@oath.nyc.gov

If you complete your Community Service by the deadline in the decision, you will receive a Certificate of Completion and will not have to pay a penalty. If you need an extension to complete your Community Service, please contact the Help Center.

If you do not complete your Community Service by the deadline, you will have to pay the penalty.

NON-DISCLOSURE FOR SUMMONSES ELIGIBLE FOR COMMUNITY SERVICE

If you either completed the Community Service or paid the penalty, OATH will remove your identifying information from public records related to your case.

If you **do not** complete the Community Service or pay the penalty, your identifying information may remain on public records related to your case.

IF YOU DISAGREE WITH THE DECISION, YOU MAY APPEAL IT

To submit your appeal, you **MUST** use OATH's online or mail-in appeal forms available on OATH's website at www.nyc.gov/oath/appeal. Instructions for filing an appeal may be found on the form and OATH's website.

Your appeal **MUST** be received by the OATH Hearings Division **within 30 days** of the decision date, or 35 days if the decision was mailed to you.

To appeal you **may need to** pay the full penalty stated in this decision.

- If you cannot pay because of financial hardship, you may ask to not pre-pay by submitting with your appeal a Financial Hardship Application, available on OATH's website.
- If you are eligible and choose to perform Community Service instead of paying the penalty, you do not have to pay the penalty or complete the Community Service to appeal.

APPEAL BY ENFORCEMENT AGENCY

If you wish to answer an appeal filed by an enforcement agency, you **MUST** use OATH's Response To Appeal form. Instructions for filing an answer may be found on the form and OATH's website.

Your answer must be received **within 30 days** of the date of the enforcement agency's appeal, or 35 days if it was mailed to you.

If the enforcement agency wins the appeal, you may have to pay a penalty or, if eligible, complete Community Service even if your case was originally dismissed after the hearing.

For more information,
 visit OATH's website www.nyc.gov/oath
 or call 1-844-OATH-NYC

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