



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

**DECISION**

|                                                                                                      |                                                                                                                                                                                                                                                                            |
|------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Michael Sargon, Esq. - Nacmias Law Firm</b><br>592 Pacific Street 1st Floor<br>Brooklyn, NY 11217 | <b>Summons No: 039534157H et al. (1 Summons)</b><br><br><b>DEPT OF BUILDINGS,</b><br><br><b>-against-</b><br><br><b>AAA GENERAL CONSTRUCTION</b><br><br><b>Hearing Date: 06/26/2025</b><br><br><b>Hearing Location: Remote</b><br><br><b>Type of Hearing: By Telephone</b> |
|------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                              |
|----------------------------------------------|
| <b>Total Penalty Amount: \$2,500.00</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> |
|------------------|----------------------------|---------------------------|----------------------------|
| 039534157H       | Sustained                  | 11/04/2024                | 136-15 38 AVENUE Queens    |

| <b>LINE<br/>ITEM</b> | <b>OATH<br/>CODE</b> | <b>CODE<br/>SECTION/RULE</b> | <b>RESULT</b> | <b>PENALTY</b> |
|----------------------|----------------------|------------------------------|---------------|----------------|
| 1                    | B2P7                 | MISC .BC-CHAPTER 33          | Sustained     | \$2,500.00     |

**Findings of Fact & Conclusions of Law**

Michael Sargo, Esq. appears for the Respondent and Taylor Barje, Esq. appears for the Petitioner Department of Buildings (DOB). As an initial matter, Petitioner's attorney amends the Class 1 violation to a category 2, changing the OATH Code from B1P7 to B2P7 for a violation of Building Code Section 3308.6.1.4 entitled Alternative Systems. No objections from Respondent's counsel. For the reasons stated below, the modified violation is sustained.

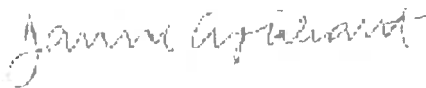
The sworn summons credibly states that the Issuing Officer (IO) observed in a nine-story building topped off with exterior walls, only cable systems, guardrails installed at perimeter, no horizontal netting installed or alternate system, creating a hazardous conditions for debris and material dislodgment. Remedy to comply with Code and stop all exterior work at Exposures 2, 3, and

4 within 10 feet. Petitioner also submits photographs showing the violating conditions, in addition to architectural plans for the netting, plus the safety plans for such netting.

Respondent's attorney states that the makeshift mesh indicated on the photos is acceptable, and that a safety risk was not present. In rebuttal, Petitioner's counsel states that any alternate systems need to be approved, pursuant to the Code, and there was no request for this alternate mesh.

Building Code 3308.6.1.4 **states that** Alternative systems may be used in lieu of horizontal safety netting in accordance with the requirements of Sections 3308.6.1.4.1 or 3308.6.1.4.2. Plus, **3308.6.1.4.2 states that** horizontal safety netting is not required at a location where an equivalent alternative system acceptable to the commissioner, including but not limited to cocoon systems or climbing formwork, covers the full height of the unenclosed perimeter at and above all levels where horizontal nets are required.

I find the IO's sworn summons clear, credible and specific. I also find that the photographs depict such violating conditions. As such, the DOB has established a prima facie case for this violation. Although Respondent's attorney points to alternative purported protection, it is clear that such makeshift mesh is not listed on the architectural plans, nor is there approval of such an alternative plan. As such, the summons is sustained.



06/26/2025

06/26/2025

Janine Azriliant, Hearing Officer

Date