



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: 0214809257 et al. (1 Summons) NEW YORK CITY POLICE DEPT, -against- ANDRES G PENUELA RAMOS Hearing Date: 10/30/2024 Hearing Location: Remote Type of Hearing: By Telephone
---	--

Total Penalty Amount: \$0.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
0214809257	Dismissed	09/09/2024	West 51st St and 7th Ave Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	AD6L	AC 19-190(B)	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

The hearing was conducted by telephone on October 30, 2024. Petitioner did not appear. Respondent was represented by Michael Nacmias, Esq.

The summons charged a violation of Administrative Code 19-190(b) and alleged the issuing officer was informed by Ryan Beaty that Mr. Beaty observed motorist fail to yield to pedestrian in a marked crosswalk.

Respondent's counsel made two motions for dismissal. Respondent first challenged service, noting that the affidavit of service was blank. Respondent then argued that the summons does not establish a prima facie case as it does not allege that the

pedestrian suffered a physical injury – a necessary element of the charge.

I find that dismissal is warranted as the affidavit of service was completely blank. Under 48 RCNY 6-08(a)(1), petitioner is required to file proof of service with OATH. Petitioner did not appear to offer supplemental testimony. Service is thus deemed defective. See NYPD v. J. Doe, Appeal No. 2200921 (August 30, 2022). I also find that the summons is defective as it did not establish that the pedestrian suffered a physical injury.

Accordingly, the summons is dismissed.



10/30/2024

10/30/2024

Hannah Pinto, Hearing Officer

Date