



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Nacmias, Esq. - Nacmias Law Firm 592 Pacific Street suite 276 Brooklyn, CA 11217	Summons No: 0198140150 et al. (1 Summons) NEW YORK CITY POLICE DEPT, -against- STEPHAN C MALLEZ Hearing Date: 05/19/2025 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
0198140150	Dismissed	03/30/2025	east 36 street / 3 avenue 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

Respondent was charged with failure to yield right of way in violation of Code 19-190(b). The Respondent's attorney Michael Nacmias 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 there is no allegation that the pedestrian had the right of way, no observation that the respondent was driving a motor vehicle and 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.

	
05/19/2025	05/19/2025
Genna Rosten, Hearing Officer	Date