



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Nacmias, Esq. - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn,CA 11217	Summons No: 0217963828 et al. (1 Summons) NEW YORK CITY POLICE DEPT, -against- ALPHA DIALLO Hearing Date: 06/30/2025 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
0217963828	Dismissed	05/09/2025	junction blvd and horace harding Queens

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

Findings of Fact & Conclusions of Law

This hearing was conducted remotely by telephone. Petitioner, was not present for this hearing. Respondent appeared by his attorney Michael Nacmias. Respondent is charged with violating section 19-190(b) of New York City Administrative Code.

Mr. Nacmias argued that because the summons is not signed, it should be dismissed pursuant to appeal 1801238. Mr. Nacmias also stated that the Summons does not state that the Respondent was in a motor vehicle, the physical injury alleged is not clear, there is no allegation of who had the right of way and the summons therefore does not establish a prima facie case.

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.

	
06/30/2025	06/30/2025
Genna Rosten, Hearing Officer	Date