



BenchNOTES Newsletter

December 2020

OATH NEWS

ALJ Spooner retires from OATH: In late November, ALJ John Spooner retired from OATH after having served as an Administrative Law Judge since 1989.

[Read more about OATH News](#)

COVID-19 Update

Pursuant to an order of the Chief Administrative Law Judge, all hearings, trials, and other OATH operations are being conducted by telephone, videoconferencing, online, or mail, and OATH will only allow in-person appearances in limited, pre-approved circumstances. Individuals may only enter OATH offices if the agency has approved your or your representative's request because there is a compelling need for an in-person proceeding and the proceeding can be conducted while providing sufficient social distancing and other public health protections to comply with state and local government public health guidelines. For more information, read [OATH's public flyer](#).

Trials Division

Featured agency decision

Discrimination based on perceived immigration status.

In a recent decision, the New York City Commission on Human Rights adopted ALJ John B. Spooner's finding of housing discrimination based on a tenant's perceived immigration status, but increased the damages awarded to the complainant.

[***Comm'n on Human Rights ex rel. Ondaan v. Lysius***](#), OATH Index No. 2801/18 (Sept. 12, 2019), *modified*, Comm'n Dec. and Order (Nov. 24, 2020).

[**Read more about *Comm'n on Human Rights ex rel. Ondaan v. Lysius*, OATH Index No. 2801/18 \(Sept. 12, 2019\), *modified*, Comm'n Dec. and Order \(Nov. 24, 2020\).**](#)

Licensing

Unknowing ingestion defense to positive drug test.

ALJ Faye Lewis recommended against revoking a Taxi and Limousine Commission license despite a positive marijuana test, finding that the driver had consumed THC in a tea product that is legal under federal law.

[***Taxi & Limousine Comm'n v. Jimenez***](#), OATH Index No. 2201/20 (Nov. 5, 2020), adopted, Comm'r Dec. (Nov. 30, 2020).

[**Read more about *Taxi & Limousine Comm'n v. Jimenez*, OATH Index No. 2201/20 \(Nov. 5, 2020\), adopted, Comm'r Dec. \(Nov. 30, 2020\).**](#)

Sick leave law

Security firm charged with sick leave law violations.

An action was brought by the New York City Department of Consumer and Worker Protection against a security services company and its owner for violating the Earned Safe and Sick Time Act by failing to provide sick time to employees, firing employees in retaliation for taking sick time and failing to provide employees with written notice of their rights.

[Dep't of Consumer and Worker Protection v. J&O Security Services, Inc. and Osagie](#), OATH Index No. 2830/18 (Nov. 5, 2020).

[Read more about Dep't of Consumer and Worker Protection v. J&O Security Services, Inc. and Osagie](#), OATH Index No. 2830/18 (Nov. 5, 2020).

Personnel

Suspension recommended for employee who disrupted workplace.

ALJ Ingrid M. Addison recommended a 30-day suspension of a Human Resources Administration employee following a physical encounter with a co-worker, use of aggressive language and expletives, and creating a disturbance that resulted in the NYPD being called to respond to the agency's workplace.

[Dep't of Social Services \(Human Resources Admin.\) v. Thompson](#), OATH Index No. 1598/20 (Nov. 2, 2020).

[Read more about Dep't of Social Services \(Human Resources Admin.\) v. Thompson](#), OATH Index No. 1598/20 (Nov. 2, 2020).

Vehicle retention

ALJ orders PD to return seized car.

In a proceeding filed by the NYPD to retain a vehicle seized as the alleged instrumentality of a crime, ALJ Kara J. Miller determined that the NYPD failed to demonstrate reasonable suspicion for the initial vehicle stop.

[***Police Dep't v. Hudson***](#), OATH Index No. 721/21, mem. dec. (Nov. 19, 2020).

[Read more about ***Police Dep't v. Hudson***, OATH Index No. 721/21, mem. dec. \(Nov. 19, 2020\).](#)

Appeals Division decisions (appeals from the Hearings Division)

The Appeals Division affirmed a hearing officer's decision finding that the respondent had illegally altered her one-family home for occupancy as four single-room-occupancy hotel rooms.

[**DOB v. Chang Liu, Appeal No. 2000762 \(Nov. 12, 2020\).**](#)

[Read more about **DOB v. Chang Liu, Appeal No. 2000762 \(Nov. 12, 2020\).**](#)

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