

BenchNOTES Newsletter

May 2018

The documents below are in PDF format. [Download the Adobe Reader](#).

Personnel

Provocation did not excuse use of force.

Emergency medical technician (“EMT”) twice struck a handcuffed, emotionally disturbed patient after the patient had spat at her.

[*Fire Dep’t v. Serrano*](#), OATH Index No. 584/18 (Mar. 21, 2018).

[Read more about *Fire Dep’t v. Serrano*.](#)

Practice and Procedure

Trial notice had wrong address.

Petitioner must notify the charged worker with the date, time and place of the trial. ALJ Susan J. Pogoda dismissed charges without prejudice where the notice gave the wrong address for the trial location.

[*Dep’t of Sanitation v. Gaudin*](#), OATH Index No. 1676/18, mem. dec. (Mar. 26, 2018).

[Read more about *Dep’t of Sanitation v. Gaudin*](#)

Contracts

Contractor not entitled to additional compensation.

Dispute arose out of a contract to construct bioswales adjacent to City sidewalks to improve drainage of storm water runoff.

[*Rocco Agotino Landscape & General Contractor Corp. v. Dep’t of Design & Construction*](#), OATH Index No. 2456/17, mem. dec. (Mar. 12, 2018).

[Read more about *Rocco Agotino Landscape & General Contractor Corp. v. Dep’t of Design & Construction*](#)

Vehicle Retention

Police Department may retain car.

Respondent sought return of car seized by the Police Department following his arrest for driving while ability impaired by alcohol.

[Police Dep't v. Bernard](#), OATH Index No. 1838/18, mem. dec. (Mar. 12, 2018).

[Read more about Police Dep't v. Bernard](#)

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