



BenchNOTES Newsletter

December 2023

Trials Division

Personnel

Suspension recommended.

ALJ Seon Jeong Lee recommended a 49-day suspension for an assistant deputy warden who ordered a correction officer under her command to perform personal errands for her. [*Dep't of Correction v. Martinez*](#), OATH Index No. 1899/23 (Nov. 3, 2023), *modified on penalty*, Comm'r Dec. (Nov. 22, 2023) (49-day penalty adopted but modified to vacation days or compensatory time rather than suspension).

[Read more about *Dep't of Correction v. Martinez* and other Personnel cases.](#)

Licensing

Continued License Suspension Recommended.

ALJ Astrid B. Gloade recommended continuing the license suspension of a taxi driver arrested for failing to register as a sex offender. [*Taxi & Limousine Comm'n v. Saini*](#), OATH Index No. 592/24 (Nov. 21, 2023), *adopted*, Comm'r Dec. (Nov. 28, 2023).

[Read more about *Taxi & Limousine Comm'n v. Saini*.](#)

Worker Protection

Penalties recommended for violation of Earned Sick and Safe Time Act.

ALJ Kara J. Miller recommended penalties against an employer for numerous violations of the Earned Sick and Safe Time Act, including a total civil penalty of \$16,200, plus monetary relief totaling \$8,355 to three employees who were not permitted to use paid sick leave. [*Dep't of Consumer and Worker Protection v. KC Beauty Corp.*](#), OATH Index No. 271/22 (Nov. 3, 2023).

[Read more about *Dep't of Consumer and Worker Protection v. KC Beauty Corp.*](#)

Appeals from the Hearings Division

An appeal decision affirmed a hearing decision sustaining a violation against a business for emitting noise from a sound reproduction device used for commercial or business advertising purposes, but modified the penalties imposed. At the hearing, respondent admitted to the conduct underlying the violations and the hearing officer assessed a penalty of \$440 for each violation. The appeal decision found that there was credible testimony that the violating conduct had ceased, warranting the Board to exercise its power to remit the civil penalties in full. [*Dietmar Detering, CC v. Mr. Tech Variedades*](#), Appeal No. 2301298 (November 30, 2023).

An appeal decision modified a hearing decision sustaining a charge against respondent for violating a Department of Transportation rule requiring its permittees to post signage warning of a steel plate in a roadway during the Winter Moratorium period. At the hearing, respondent argued that the charge could not be sustained because it was not a “permittee” since its permit had expired, and that it was not required to post signage because it had not installed the steel plate during the Winter Moratorium period. The hearing officer *sua sponte* amended the charge to one requiring permittees to obtain permits for any changes to regulatory signs. The appeal decision found the hearing officer’s amendment of the charge was improper because such amendment may be made only upon motion of a party. The appeal decision further found although respondent did not have an active permit at the time of the violation, as the party responsible for installing the steel plate, it was also responsible for posting warning signage as long as the plate was in the roadway, regardless of when the steel plate was installed. [*DOT v. Consolidated Edison*](#), Appeal No. 2301017 (November 30, 2023).

An appeal decision reversed a hearing decision sustaining a violation against a building owner for failing to maintain a building in a safe and code-compliant manner. The summons stated the issuing officer observed an illegal wooden structure on the property which had been erected by the previous owner. The appeal decision found that where the basis of the charge is work without a permit, a defense of pre-existing condition is available, which respondent established because it was undisputed that the wooden structure was installed by the previous owner. [*DOB v. Stanton William A*](#), Appeal No. 2301307 (November 30, 2023).

This is the NYC.gov news you requested for:
BenchNOTES

[Unsubscribe](#) or [Manage your email preferences](#)

[Comment on this news service](#)

PLEASE DO NOT REPLY TO THIS MESSAGE!