



BenchNOTES Newsletter

November 2020

OATH NEWS

OATH text message reminder initiative sees success: In early November, OATH reported that more than 1,000 people have subscribed for text message reminders about their upcoming OATH hearings, since the program launched agencywide in September.

[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](#).

APPEALS DIVISION DECISIONS (appeals from the Hearings Division)

The Appeals Division affirmed a hearing officer's decision finding that the respondent had not established a COVID-19 emergency defense to a violation for failure to clean 18 inches into the street.

[Dep't of Sanitation v. Nyarady, Appeal No. 2000976 \(Oct. 8, 2020\).](#)

[Read more about Dep't of Sanitation v. Nyarady, Appeal No. 2000976 \(Oct. 8, 2020\).](#)

Trials Division

Licensing

ALJ recommends lifting of cab driver's suspension.

The Taxi & Limousine Commission suspended a taxi driver's license in connection with his arrest for assault.

[Taxi & Limousine Comm'n v. Livov](#), OATH Index No. 513/21 (Oct. 30, 2020).

[Read more about Taxi & Limousine Comm'n v. Livov, OATH Index No. 513/21 \(Oct. 30, 2020\).](#)

Personnel

EMT found to have used vulgarity.

The Fire Department alleged that an Emergency Medical Technician ("EMT") used vulgar language while responding to a work-related question posed by a hospital triage nurse, in violation of six Department rules.

[Fire Dep't v. Butscher](#), OATH Index No. 1798/20 (Oct. 15, 2020).

[Read more about Fire Dep't v. Butscher, OATH Index No. 1798/20 \(Oct. 15, 2020\).](#)

Practice and procedure

ALJ vacates party's default.

In a proceeding under the Loft Law in which a tenant had applied for protected occupancy status, the building owner failed to timely answer and was declared to be in default.

[**Matter of Falcheck**](#), OATH Index Nos. 1252/20 & 1253/20, mem. dec. (Oct. 14, 2020).

[**Read more about Matter of Falcheck, OATH Index Nos. 1252/20 & 1253/20, mem. dec. \(Oct. 14, 2020\).**](#)

Vehicle Retention

ALJ orders PD to return seized car.

The Police Department sought to retain a car it seized in connection with the car owner's arrest pending a forfeiture hearing.

[**Police Dep't v. Munchez**](#), OATH Index No. 372/21, mem. dec. (Oct. 13, 2020).

[**Read more about Police Dep't v. Munchez, OATH Index No. 372/21, mem. dec. \(Oct. 13, 2020\)**](#)

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