

Hoffman v City of New York

2026 NY Slip Op 30057(U)

January 7, 2026

Supreme Court, New York County

Docket Number: Index No. 160228/2024

Judge: Lynn R. Kotler

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. LYNN R. KOTLER PART 08

Justice

-----X

JOSEPH HOFFMAN, AS MEMBER OF TICKET EXPERT, LLC, A-1 FOAM SPRAY INSULATION, INC., A & S CHAIR RENTAL, A & L DOORS AND HARDWARE, A1 IRON WORKS, and related entities who operate vehicles in the City of New York, and all others similarly situated,

Plaintiffs-Petitioners,

- v -

CITY OF NEW YORK, NEW YORK CITY DEPARTMENT OF FINANCE, NEW YORK CITY PARKING VIOLATIONS BUREAU OF NEW YORK CITY DEPARTMENT OF FINANCE, NEW YORK CITY PARKING VIOLATIONS BUREAU, and PRESTON NIBLACK as Commissioner, NEW YORK CITY DEPARTMENT OF FINANCE,

Defendants-Respondents.

-----X

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 37, 52, 53

were read on this motion to/for ARTICLE 78 (BODY OR OFFICER)

BACKGROUND

In this Article 78 proceeding, petitioners seek various relief related to two directives ("Directives") issued by respondents City of New York, New York City Department of Finance, its Commissioner, Preston Niblack, and New York City Parking Violations Bureau ("PVB") (collectively, "DOF").

On January 29, 2024, DOF emailed Ticket Expert the first Directive, which instructed Ticket Expert to schedule and adjudicate, by May 8, 2024, in-person hearings it had requested for 18,327 outstanding summonses, failing which DOF would convert the requested in-person hearings to mail hearings and adjudicate the summonses based on paper submissions (see NYSCEF Doc. No. 40).

per the first Directive (*see* NYSCEF Doc. No. 15 at ¶ 28). On August 12, 2024, DOF sent Ticket Expert the second Directive, instructing it to schedule and adjudicate requested in-person hearings for a further 12,759 outstanding summonses by October 18, 2024 (*see* NYSCEF Doc. No. 42). Ticket Expert unsuccessfully requested extensions to the deadlines set in both Directives (*see* NYSCEF Doc. No. 26 at ¶¶ 13 & 15).

Petitioners now challenge the Directives. Petitioners contend DOF's decision to convert requested in-person hearings to mail hearings was arbitrary and capricious and in violation of New York State Vehicle and Traffic Law ("VTL") § 237 and Rules of the City of New York ("RCNY") § 39-09. Petitioners seek an order enjoining enforcement of and nullifying the Directives, and vacating DOF's adjudication of Petitioners' summonses between January 29, 2024, and November 21, 2024. They further seek a TRO staying DOF's adjudication of Petitioners' remaining unadjudicated parking summonses pending the determination of the petition and an order directing DOF's adoption of new hearing procedures. Petitioners also purport to assert a claim for tortious interference with contract. DOF opposes the petition. The petition is denied.

DISCUSSION

In an Article 78 proceeding, the relevant inquiry is "whether a determination was made in violation of lawful procedure, was affected by an error of law or was arbitrary and capricious or an abuse of discretion" (CPLR 7803[3]; *see Matter of Nestle Waters N. Am., Inc. v City of NY*, 121 AD3d 124, 127 [1st Dept. 2014]). An action is arbitrary and capricious or an abuse of discretion "when it is taken without sound basis in reason or regard to the facts" (*Matter of Peckham v Calogero*, 12 NY3d 424, 431 [2009]; *see Heintz v Brown*, 80 NY2d 998, 1001 [1992], *citing Matter of Pell v. Board of Educ. of Union Free School Dist. No. 1 of Towns of Scarsdale & Mamaroneck. Westchester Countv*, 34 NY2d 222, 231 [1974]). "Ordinarily, courts will defer to construction given statutes and regulations by the agencies responsible for their administration, if said construction is not irrational or unreasonable" (*Minton v Domb*, 63 AD2d 36, 39 [1st Dept. 1978]; *see Matter of Nestle Waters N. Am., Inc.*, 121 AD3d at 127). "If a determination is rational it must be sustained even if the court concludes that another result would also have been rational" (*Adirondack Wild: Friends of the Forest Preserve v New York State Adirondack Park Agency*, 34 NY3d 184, 195 [2019]). "The petitioner has the burden of establishing that the actions of the agency were arbitrary and capricious" (*Royal Realty Co. v New York State Div. of Hous. and Community Renewal*, 161 AD2d 404, 405 [1st Dept. 1990]).

Petitioners fail to carry their burden of demonstrating that the DOF's Directives were in violation of lawful procedure, arbitrary and capricious, or an abuse of discretion. Contrary to Petitioners' contention, the Directives are not arbitrary and capricious, as DOF demonstrates a rational basis for their issuance. DOF explains that by January 2024, it was severely burdened by a backlog of tens of thousands of outstanding summonses. Indeed, by this time, Ticket Expert had a total of 52,544 outstanding summonses, the second highest balance of all brokers (*see*

NYSCEF Doc. No. 26 at ¶ 10 & n.1). DOF determined to address this backlog by issuing the Directives requiring Ticket Expert and others similarly situated to promptly adjudicate their outstanding summonses from the previous 18 months (*id.* at ¶ 13). The Directives thus rationally served DOF’s legitimate interest in managing the burdens created by the backlog of unheard contested summonses and in preventing the accrual of further backlogs. Further, the Directives did not, as Petitioners contend, deprive Petitioners of due process, as the conversion of in-person hearings to mail hearings still afforded Petitioners the same opportunity to be heard, albeit in writing rather than orally.

Petitioners argument that the RCNY does not authorize DOF to clear a backlog of summonses by converting in-person hearings to mail hearings (*see* NYSCEF Doc. No. 15 at ¶¶ 50-53) is similarly unavailing. DOF’s authority to change the format of a hearing is properly construed from the PVB Director’s broad discretion to determine the location, time schedule, and format of hearings (19 RCNY § 39-08 [a] and [b]), and to denominate certain classes of violations as appropriate for mail hearings and prescribe procedures for such adjudication (19 RCNY § 39-15). Additionally, ALJs adjudicating contested parking summonses may convert, *sua sponte*, an in-person hearing into a mail hearing if a broker does not appear for the in-person hearing at the appointed time or otherwise fails to proceed (19 RCNY § 39-09 [7] [iv]).

It is well settled that “[a]n agency’s interpretation of a statute it is charged with implementing is entitled to deference if not irrational or unreasonable” (*Matter of Nestle Waters N. Am., Inc.*, 121 AD3d at 127; *see Minton*, 63 AD2d at 39) and “should be upheld” (*Howard v Wyman*, 28 NY2d 434, 438 [1971]). DOF’s determination, pursuant to 19 RCNY §§ 39-08 and 39-15, that the summonses subject to the Directives—long-outstanding summonses issued to commercial vehicle owners for which an in-person hearing was requested but not timely scheduled—qualify as a class of violations appropriate for mail hearings, is neither unreasonable nor irrational. As such, it is entitled to deference and should be upheld (*see Howard v Wyman*, 28 NY2d at 438; *Matter of Nestle Waters N. Am., Inc.*, 121 AD3d at 127).

Also unavailing are Petitioners’ contentions that the Directives violate the VTL because the statute does not expressly provide for or contemplate mail hearings and because a mail hearing does not comport with the requirement of VTL § 237 (6) that PVB maintain transcripts for all hearings (*see* NYSCEF Doc. No. 15 at ¶¶ 59-62). Under VTL § 237 (3), the PVB has broad power to adopt rules governing the conduct of hearings. Further, VTL § 237 (6) does not, as Petitioners contend, create an absolute right to a hearing transcript (*see* NYSCEF Doc. No. 15 at ¶ 68), and thereby implicitly require that summonses be adjudicated exclusively via live hearings. Rather, the plain meaning of VTL § 237 (6) requires the PVB to prepare hearing transcripts for record-keeping purposes. Logic dictates that this transcript requirement is inapplicable in mail-hearing cases because there is no oral argument to transcribe, and the record is complete upon submission of the papers.

Therefore, because DOF's issuance of the Directives had a rational basis and complied with the RCNY and VTL, the petition is denied.

Tortious Interference with Contract Claim

“To enable authorities to investigate, collect evidence and evaluate the merit of a claim, persons seeking to recover in tort against a municipality are required, as a *precondition to suit*, to serve a notice of claim” (*Brown v City of New York*, 95 NY2d 389, 392 [2000] [emphasis added]; see General Municipal Law § 50-e). For tort claims against the City of New York, notices of claim must be served upon the comptroller within 90 days after the claim arises (New York City Administrative Code § 7-201 [a]; General Municipal Law § 50-e).

Petitioners claim that, by directly contacting Ticket Expert's clients to alert them to the Directive's adjudication deadlines, DOF tortiously interfered with the contracts between Ticket Expert and its clients (NYSCEF Doc. No. 15 ¶ 70-72). However, Petitioners fail to demonstrate that they filed a notice of claim with the comptroller prior to filing this petition. Petitioners' tort claim is therefore denied.

Petitioner Hoffman Lacks Standing

DOF contends that petitioner Hoffman lacks standing to make this petition. The court agrees. Petitioners allege no direct injury to Hoffman because of the Directives, let alone an injury that falls within the zone of interests that the relevant provisions of the RCNY and VLT are intended to protect (see *Society of Plastics Indus. v County of Suffolk*, 77 NY2d 761, 769, 773 [1991]). As such, petitioner Hoffman lacks standing to make this petition.

Petitioner's Remaining Requests for Relief

Petitioners request the court order DOF to implement other, alternative procedures “that can increase the efficiency and speed of adjudication,” such as virtual hearings and an e-filing system (NYSCEF Doc. No. 15 at ¶ 75). Petitioners' request is denied. The court cannot interfere with DOF's rational exercise of its discretion (see *Matter of Pell v Board of Educ. of Union Free School Dist. No. 1 of Towns of Scarsdale & Mamaroneck, Westchester County*, 34 NY2d 222, 231 [1974]), including by directing DOF how to exercise its discretion.

Petitioners' arguments relating to notice of hearing requirements under VTL 240 § (1), raised for the first time in reply (see NYSCEF Doc. No. 48 at ¶¶ 24-25), are not considered (see *Bransten v State of New York*, 40 Misc.3d 512, 527 [1st Dept. 2013] [“Arguments raised for the first time in reply are not to be considered.”]).

Petitioners' request for a TRO staying DOF's adjudication of their remaining unadjudicated parking summonses pending the determination of the petition is denied as moot.

The court has considered Petitioners' additional arguments, even if not specifically addressed herein, and find them unavailing.

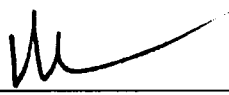
CONCLUSION

Accordingly, it is

ORDERED that the petition is denied and the proceeding is dismissed; and it is further

ORDERED that the Clerk shall enter judgment accordingly.

Any requested relief not expressly addressed herein has nonetheless been considered and is hereby expressly denied. This constitutes the Decision and Order of the court.

<u>1/7/2026</u> DATE	<input checked="" type="checkbox"/> CASE DISPOSED <input type="checkbox"/> GRANTED APPLICATION: <input type="checkbox"/> SETTLE ORDER CHECK IF APPROPRIATE: <input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input checked="" type="checkbox"/> DENIED <input type="checkbox"/> NON-FINAL DISPOSITION <input type="checkbox"/> GRANTED IN PART <input type="checkbox"/> SUBMIT ORDER <input type="checkbox"/> FIDUCIARY APPOINTMENT	 LYNN R. KOTLER, J.S.C. <input type="checkbox"/> OTHER <input type="checkbox"/> REFERENCE
-------------------------	--	---	--