

CORRECTED

NEW YORK CITY
OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
PUBLIC HEARING

ON PROPOSED RULES REGARDING:

- (1) APPEARANCES AND REPRESENTATION AT OATH HEARINGS,
- (2) CONDUCT OF REGISTERED REPRESENTATIVES AND ATTORNEYS AT
OATH HEARINGS, AND
- (3) CORRECTING CROSS-REFERENCES REGARDING CITY COMMISSION
ON HUMAN RIGHTS CASES

WEBEX VIDEO CONFERENCE

May 18, 2022

Time: 11:00 a.m. - 1:00 p.m.

May 18, 2022

MEMBERS PRESENT:

Joy A. Thompson, Esq. - Assistant General Counsel,
OATH

Elizabeth Nolan - OATH

Frank Ng, Esq. - Deputy General Counsel, OATH

Asim Rehman, Esq. - Commissioner/Chief Administrative Law
Judge, OATH, Chair/Executive Director, OATH ECB

ALSO PRESENT:

Peter Mazer, Esq. - MTOBT

Robert Hochman, Esq. - Cohen, Hochman & Allen

Lindsay Garroway, Esq. - Cohen, Hochman & Allen

Phoebe Dosset, Esq. - Nacmias Law, PLLC

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2 (The public meeting commenced at 11:00)

3 JOY A. THOMPSON, ESQ., ASSISTANT GENERAL
4 COUNSEL, OATH: Good morning. This is Joy
5 Thompson. I'm Assistant General Counsel with the
6 Office of Administrative Trials and Hearings.
7 I'm going to allow -- good morning. Welcome.
8 I'm just going to give a minute or two for anyone
9 else who cares to join our hearing this morning.
10 So we'll get started very shortly. It's 11:01.
11 I'm going to wait for 11:02.

12 Good morning. It is 11:02, and we will
13 get started. I noticed there is one individual
14 who has dialed in. I see that we have several of
15 our members are joining us today. So we will
16 officially start.

17 Again, my name is Joy Thompson. I am an
18 Assistant General Counsel with the Office of
19 Administrative Trials and Hearings, also known as
20 OATH. OATH is conducting this hearing in
21 accordance with the requirements of the City
22 Administrative Procedure Act, also known as CAPA.
23 The purpose of this hearing is to receive
24 comments from the public on three proposed rules.

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2 The first proposed rule is OATH's
3 proposed rule regarding appearances and
4 representation at OATH hearings. The second is
5 OATH's proposed rule regarding the conduct of
6 registered representatives and attorneys at OATH
7 hearings. And the third is OATH's proposed rule
8 correcting cross-references regarding City
9 Commission on Human Rights cases. During this
10 hearing, you will have the opportunity to comment
11 on each of these proposed rules.

12 I will start by introducing the first
13 proposed rule, which is OATH's proposed rule
14 regarding appearances and representation at
15 OATH's hearings. This proposed rule would
16 clarify procedures for appearances and
17 representation in OATH's Hearings Division.
18 Given the large volume of matters processed and
19 the added layers of complexity involved in
20 providing electronic and in person hearings, OATH
21 has found that it is critical to the continued
22 efficient running of the Tribunal that its staff
23 be afforded the preparatory time necessary to
24 ensure that the hearings are properly executed

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2 and recorded.

3 Accordingly, Section 1 of this proposed
4 rule would amend the section 6-09 of Title 48 of
5 the Rules of the City of New York to clarify what
6 constitutes a proper appearance before the
7 Hearings Division, either via remote means or in
8 person, and to renumber the provisions of the
9 section.

10 Section 2 of this proposed rule would
11 amend section 6-16 of Title 48 of the Rules of
12 the City of New York to add a new subsection (d),
13 which requires registered representatives and
14 attorneys appearing on behalf of respondents to
15 provide OATH with an executed authorization to
16 appear form before the hearing. This rule is
17 intended to prevent individuals from falsely
18 claiming to be a respondent's authorized
19 representative at an OATH hearing.

20 Sections 3 and 4 of this proposed rule
21 would amend sections 6-24 and 6-24(a) of Title 48
22 of the Rules of the City of New York to clarify
23 procedures established to ensure the timeliness
24 of appearances on 15 or more summonses. In order

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2 to make a timely appearance, a respondent's
3 attorney or representative must be available and
4 ready to proceed within three hours of the
5 scheduled hearing time for each summons. In
6 practice, however, respondents' representatives
7 schedule themselves to appear on more summonses
8 than they can handle within the three-hour
9 window.

10 The amendments in sections 3 and 4 of
11 this proposed rule would help OATH's Hearing
12 Division, Division, excuse me, efficiently and
13 timely process to completion the high volume of
14 matters heard by OATH's Hearings Division by
15 telephone, video conference or other similar
16 remote means, and provide personnel with
17 sufficient time to sort and assign matters.

18 OATH's proposed rule regarding
19 appearances and representation at OATH Hearings
20 was published in the City Record on April 14,
21 2022. OATH e-mailed the rule to the Speaker of
22 the City Council, every member of the City
23 Council, all community board managers, the news
24 media, as well as civic organizations. In

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2 addition, OATH posted the proposed rule on OATH's
3 website, the New York City Rules website, and the
4 City Records Online website. OATH has been
5 accepting written comments on the proposed rule
6 since the day it was published in the City
7 Record, and it will continue to accept written
8 comments through the close of business today.

9 At this hearing, you may present an oral
10 statement concerning this proposed rule. Before
11 you begin speaking, please identify yourself by
12 stating your name and affiliation, whether you
13 are with an agency, the media, etcetera. Speak
14 slowly and clearly so that your statement can be
15 accurately recorded. And please limit your
16 statement to no more than three minutes.

17 Shortly after today's hearing, all,
18 copies of all written comments received by OATH
19 concerning this proposed rule, and a summary of
20 the statements given today, will be made public
21 on OATH's website. And I'm going to read the
22 website address. It is long. I'll also post it
23 in the chat. The website address is
24 <https://www1.nyc.gov/site/oath/about/legal->

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2 resources-and-rule-making.page Again, I am going
3 to add this address in the chat so everyone can
4 access it.

5 Before issuing its final rule, please
6 know that OATH will carefully consider the
7 statements presented at today's hearing, as well
8 as all written comments received by the close of
9 business today.

10 Now, the floor is open for comments. At
11 this time, I will ask if you would indicate if
12 you have any comments to OATH's, the first rule,
13 which is OATH's proposed rule regarding
14 appearances and representation. Okay, sir?

15 MR. PETER MAZER: Yes

16 MS. THOMPSON: Could you please identify
17 yourself?

18 MR. MAZER: Sure. May I begin?

19 MS. THOMPSON: Yes, of course.

20 MR. MAZER: Okay, thank you. Good
21 morning. My name is Peter Mazer and I am General
22 Counsel to the Metropolitan Taxicab Board of
23 Trade. We are a 70-year-old association,
24 representing the owners and operators of licensed

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2 New York City medallion taxicabs. We operate a
3 full-service driver center that provides free
4 representation for taxicab drivers in traffic
5 court, criminal court and at OATH. During the
6 past five years, MTBOT attorneys have appeared at
7 OATH hearings on behalf of drivers in more than
8 4,800 TLC-related matters and has appeared at
9 OATH Trials and other OATH Hearings cases in
10 another 160 cases. I have represented drivers
11 personally in the vast majority of these
12 hearings.

13 I speak today against certain
14 provisions of the proposed rules under
15 consideration. First, I speak against the
16 requirement that attorneys be required to submit
17 written authorization before appearing at or
18 conducting business before the OATH Hearings
19 Division. This is a requirement already in place
20 on non-attorney representatives who, in many
21 cases, are acting as attorneys and may be
22 practicing law without a license. Under the
23 proposed rules, OATH would now require attorneys
24 to submit authorization forms signed by their

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2 clients before conducting business. This
3 requirement does not exist for attorneys
4 appearing at the OATH Trials Division.

5 The Traffic Violations Bureau, where I,
6 where I also practice, also seems to function
7 well without having attorneys provide
8 authorization letters from their clients. Even
9 in criminal court, I can appear as an attorney
10 and conduct business on behalf of my client by
11 filing a notice of appearance.

12 To be clear, what does it mean to be an
13 attorney of record at a TLC-related case before
14 the OATH Hearings Division? It doesn't mean that
15 I will get notices of scheduled or rescheduled
16 hearings. OATH doesn't send them to attorneys,
17 even if they refile documents with respect to the
18 specific case. It doesn't mean that I will get
19 copies of hearing officers' decisions when I've
20 appeared at a hearing. No, I don't get them
21 either. I don't get notices of appeals taken by
22 the Agency. And, usually, I only find out about
23 an appeal taken by a petitioner when OATH
24 reverses its decision and informs my client, not

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2 me. And since OATH's summonses tracker does not
3 cover TLC summons, I don't get notice of
4 scheduled hearing dates and times until the
5 published calendar for the week appears online,
6 usually on a Friday afternoon, when it is already
7 too late to schedule a remote hearing for a case
8 scheduled for Monday, Tuesday or Wednesday, even
9 if I am the attorney of record and have
10 previously appeared on the case.

11 I urge OATH to redraft the rules to
12 eliminate the authorization form requirement for
13 attorneys admitted to practice in New York. This
14 can be replaced with a notice of appearance form
15 that attorneys can file with OATH at the onset of
16 the case. At the same time, OATH should give
17 attorneys the usual courtesies that attorneys
18 receive in other tribunals, like copies of court
19 papers, decisions, adjournments, schedule notices
20 and the like. We all have e-mail addresses and
21 we can receive notices that way.

22 Second, while I understand the
23 difficulty in scheduling large numbers of cases,
24 the three-day notice requirement for appearing at

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2 a remote hearing is not workable. I'll give an
3 example.

4 Recently, I rescheduled a TLC-related
5 summons online. My reschedule request was
6 granted and I was advised that I would receive a
7 new hearing date by mail or e-mail. I did not,
8 but, instead, learned of the new hearing date
9 when the week's calendar was posted on Friday
10 afternoon. The hearing was scheduled for the
11 following Wednesday. I filed a request for a
12 remote hearing, but this was turned down because
13 I failed to give the requisite three days'
14 notice. It probably would have been turned down,
15 even if timely, because I had already submitted
16 my one e-mail that I would be entitled to, to
17 submit for that day's hearings. So my case was
18 defaulted.

19 I understand that a tribunal cannot
20 handle large volumes of cases without rules, but
21 there have to be exceptions when an attorney
22 receives late notice of a hearing. A limited
23 number of add-ons can be accommodated. Maybe
24 attorneys can add one late case occasionally, or

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2 one or two cases a week. Of course, the whole
3 situation could be avoided if attorneys who file
4 notices of appearance on cases be given notices
5 of the hearings and all correspondence from the
6 tribunal.

7 I practice before OATH nearly every day.
8 I want the tribunal to work and I want fair
9 hearings. While the tribunal has raised genuine
10 concerns, attorneys should be permitted to
11 represent their clients without the imposition of
12 unnecessary burdens and without being able --
13 unable to receive timely information needed to
14 defend their clients.

15 And I thank you for giving me the
16 opportunity to speak today, and I would be happy
17 to answer any questions that you may have. Thank
18 you.

19 MS. THOMPSON: Thank you so much, Mr.
20 Mazer. I just want to point out that we will not
21 be having, it's not so much a discussion. It's
22 to take comments. However, once again, your
23 comments will be reported, will be included with
24 any transcript, and, importantly to you, I know,

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2 will be considered in any final drafting of the
3 rules. So, thank you.

4 Do we have another speaker, please?
5 And, again, just so you'll know where we are, we
6 are currently, the first item on the agenda is
7 the appearances rule. It seems, Mr. Mazer,
8 you've articulated quite a, for several of our
9 members. Okay.

10 MR. MAZER: Mm-mm.

11 MS. THOMPSON: Okay. So I will move on
12 to the next proposed rule. At this time, I will
13 introduce OATH's proposed --

14 MR. ROBERT HOCHMAN: I, I'm sorry.

15 MS. THOMPSON: Oh, so, sure. Yes,
16 please.

17 MS. LINDSAY GARROWAY: Let him come in
18 first.

19 MS. THOMPSON: Okay, so --

20 MR. HOCHMAN: Robert Hochman.

21 MS. THOMPSON: Okay. So, sir, what's
22 your name again?

23 MR. HOCHMAN: Robert Hochman, Cohen,
24 Hochman and Allen.

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2 MS. THOMPSON: Robert Hochman.

3 MR. HOCHMAN: Cohen, Hochman and Allen.

4 We appear before OATH every day. And we cover, -

5 -

6 MS. THOMPSON: Thank you.

7 MR. HOCHMAN: -- we cover anywhere
8 between 300 and 500 cases per week. I just want
9 to know, how is the three hours being defined?
10 Recently, one of my partners signed in at 9:05.
11 Her case was not called or assigned to a judge
12 until 12:05. She waited three hours. Now,
13 unfortunately, she had to bring her daughter to
14 daycare that morning, so she wasn't able to call
15 in at 8:15. She was, had to call in a little bit
16 later, around 9:05, and there were 30 people
17 ahead of her. In the past, when there were 30
18 respondents and you were doing live hearings,
19 you'd wait maybe about an hour and a half, two
20 hours. This time, she waited three hours and
21 then the Building Department attorney showed up
22 40 minutes later.

23 So, my comment is, how are you defining
24 the three hours? Are you putting the same time

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2 constraints upon the petitioner? Shouldn't they
3 have to appear within 30 minutes of a case being
4 given to an ALJ? Why is only the pressure being
5 put upon respondents' representatives? And then,
6 if you are getting near the end of the day and
7 you, you have a second call-in, you're being
8 threatened with default as opposed to just having
9 the matters rescheduled as a professional
10 courtesy. There's always a, an attitude lately,
11 as if there's a gotcha type of mentality. Oh,
12 well, you've, you've taken too long. We're going
13 to default you. Rather just professionally
14 and courteously rescheduling the matters so they
15 can be heard on a different day.

16 And I don't think attorneys overbook
17 during that three-hour period. I don't, I think
18 the three-hour period doesn't start the minute
19 the attorney signs in. They often wait, then
20 they wait for the judge, then they wait for the
21 judge to familiarize themselves, then they wait
22 for the petitioner to come in. Then, the
23 petitioner often takes 15 or 20 minutes to
24 research something and come back, and this all

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2 counts against the respondent representative when
3 it should actually count against petitioner's
4 representative or be added to the three-hour
5 timeframe.

6 I have nothing further. Thank you.

7 MS. THOMPSON: Thank you, Mr. Hochman.

8 At this time, I believe, Ms. Garroway, your name
9 is on. If you would please make your comments.
10 Thank you.

11 MS. GARROWAY: Yeah. Good morning, Ms.
12 Thompson. Good morning, everyone. Thank you for
13 hosting us at this comment session. I'm just
14 going to echo some of the points that were just
15 made, as I wholeheartedly agree.

16 My name is Lindsay Garroway. I'm also
17 from the law firm of Cohen, Hochman and Allen.
18 I've had the great pleasure of practicing before
19 OATH myself for 12 years, since 2010. And our
20 law firm has practiced before OATH for over 30
21 years now, so we are very pleased to be working
22 with the Court during this new time, with the new
23 changes that are happening. We applaud them for
24 making changes to the rules to make it work for

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2 the safety and health of everyone. However, I do
3 have some comments. I want to highlight some
4 problems with the new rule that we are troubled
5 by, particularly two points.

6 I already submitted some written
7 comments, but just to add some additional points.
8 There are two aspects that really impede people's
9 ability to choose the attorney that they want and
10 we think OATH should, hopefully, reconsider these
11 points.

12 The first is the authorization letter.
13 From some of the reasons that Mr. Mazer commented
14 very clearly on, I agree that it is unnecessary
15 and redundant to have lawyers submit
16 authorization letters when New York State and the
17 Bar govern a lawyer's conduct in not representing
18 someone that they have not been retained by. So,
19 it, it seems a bit surprising, and also
20 counterproductive, for the Tribunal to add this
21 requirement for lawyers, when it seems like most
22 of the rule is being set forth in the interest of
23 moving the cases along more quickly and to
24 address certain time constraints. So, adding a

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2 written reschedule notice is going to be
3 counterproductive to that goal. So we think that
4 is unnecessary. It's certainly necessary for
5 non-attorney representatives, but for lawyers who
6 were already governed by their own ethics rules,
7 it's not necessary.

8 And, then, the other aspect that's,
9 that's hugely burdensome on respondents and their
10 lawyers is the three-day rule requirement. I
11 actually think that submission of lists three
12 business days in advance of the hearing date is
13 great for both sides, and I can absolutely
14 understand why the Court needs that for their
15 administrative staff constraints. However, there
16 must be an exception to add to the list, when
17 necessary.

18 I, all the time, clients try and seek to
19 hire me the day before their hearing or two days
20 before their hearing, and I am now, under the new
21 rules, put in the very uncomfortable position of
22 either turning them away and saying, no, you
23 cannot hire me as your counsel, despite the fact
24 that I am the lawyer of your choice. I have to

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2 say no to them and they can't hire the lawyer
3 they want. But they could, they would be free to
4 hire a different lawyer that's not a high-volume
5 person before OATH. That is unjust and unfair,
6 and also a great disservice to them. They,
7 instead, have to hire a lawyer that's not
8 familiar with the Court's procedures and is not
9 specialized in this area. But, also, they have
10 the option of appearing on their own and asking
11 the judge for the adjournment and hoping they get
12 it. They're in a very precarious situation and
13 not able to hire the lawyer.

14 So I'm not saying the three-day rule
15 shouldn't remain, but there must be an exception
16 added where attorneys can add to their lists the
17 day before when they are newly retained by
18 clients who very much want a lawyer of their
19 choice, from our firm or a different firm or any
20 of the high-volume firms. They must be granted
21 that exception.

22 In my experience, in the times I have
23 asked in the past for, for cases to be added to
24 my list the day before, the answer has been no.

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2 I don't know what criteria OATH considers.
3 Perhaps the rule should lay out what criteria an
4 exception will be granted for so that these
5 things are clearly set out.

6 Thank you very much.

7 MS. THOMPSON: Thank you, Ms. Garroway.
8 At this time, I'm going to ask if there is any
9 other comments to the first rule, which is the
10 proposed rule regarding appearances.

11 MS. PHOEBE DOSSET: I would like to make
12 one additional comment. This is Phoebe Dosset.
13 I'm an attorney with Nacmias Law. I --

14 MS. THOMPSON: Could you re-, could you
15 repeat where you're with, please? The firm.

16 MS. DOSSET: Nacmias, Nacmias Law, --

17 MS. THOMPSON: Thank you.

18 MS. DOSSET: -- PLLC. In the past two
19 years, I've had the privilege of working as a DOB
20 attorney at OATH, and now I have gone private and
21 take care of the respondents.

22 To add to what Ms. Garroway said, I
23 think this three-day rule, it, it not only
24 affects our clientele, but if someone from Cohen,

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2 Hochman, Allen cannot take a case from a client
3 because the three-day rule appla- applies to
4 them, it applies to every firm. So, effect-,
5 we're effectively disenfranchising potential
6 respondents from seeking any legal counsel
7 whatsoever. So I think this is a bigger and more
8 comprehensive issue as far as New York City
9 citizens being able to obtain the representation
10 they need at an OATH, at an OATH hearing. So I
11 just wanted to make that bigger point, as well.

12 MS. THOMPSON: Thank you, Ms. Dosset.
13 Any other comments to the appearances rule at
14 this time? Okay. Alright. I believe that that
15 completes the comments for -- is, there's a
16 number, 917. Is someone trying to say something?
17 Okay, maybe that's just background noise. I
18 would encourage everyone, if they are not
19 speaking, to just mute, just to cut down on any
20 background noise.

21 And so we will, we'll go on to our next
22 item. At this time, I will introduce OATH's
23 proposed rule regarding the conduct of registered
24 representatives and attorneys at OATH hearings.

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2 This proposed rule would amend OATH's rules of
3 practice located in subchapter F of Chapter 6 of
4 Title 48 of the Rules of the City of New York,
5 governing the conduct of registered
6 representatives and attorneys appearing before
7 OATH's Hearings Division. These amendments would
8 require registered representatives to have proper
9 authorization when representing respondents and
10 to be familiar with the relevant facts and
11 applicable law under- underlying a summons.

12 These amendments also would clarify and
13 address the types of misconduct and patterns of
14 misconduct, particularly those involving
15 dishonesty and integrity, such as registered
16 representatives who misrepresent themselves as
17 attorneys, file false documents, and make
18 statements they know, or should know, not to be
19 true, as well as soliciting on OATH's premises.

20 Section 1 of this proposed rule would
21 add the following amendments to Section 6-23 of
22 subchapter F of Chapter 6 of Title 48 of the
23 Rules of the City of New York. It would define a
24 representative as an individual who is not

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2 attorney -- not an attorney -- admitted to
3 practice in the State of New York, but who is
4 authorized by a respondent to appear on behalf of
5 that respondent. It would require a registered
6 representative to register every two years and
7 clarify that the representative must submit proof
8 of identity to register. It removes the
9 statement concerning the consequences of failing
10 to register, since registration is con-, is now a
11 condition of appearance at the tribunal. The
12 rule would require the representatives to
13 accurately represent the representative's
14 qualifications and services. It would clarify
15 the obligation of registered representative to
16 exercise due diligence, including demonstrating
17 knowledge of the facts and subject matter of the
18 summons, complying with adjournment and
19 rescheduled hearing dates, and ensuring that oral
20 and written statements and documents submitted
21 to the tribunal are authentic and correct. It
22 would require that a registered representative
23 act in the respondent's best interests and avoid
24 any conflicts that would

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2 impair the representative's ability to do so, and
3 it would require, and it would acqui-, require,
4 excuse me, the submission of an authorized to
5 appear form.

6 Section 2 of this proposed rule would
7 add the following amendments to section 6-25 of
8 subchapter F of Chapter 6 of Title 48 of the
9 Rules of the City of New York. It would clarify
10 what constitutes misconduct by using consistent
11 terminology; it would prohibit the making of
12 fraudulent, false or misleading statements to the
13 Tribunal; it would create a rebuttable pre-
14 presumption that the exchange of money at the
15 Tribunal is evidence of solicitation; it
16 prohibits falsely representing to be an attorney
17 or government employee; prohibit acting in a
18 fashion that demon-, that demonstrates a lack of
19 integrity in the representation of parties;
20 substitute paragraph (f) for former paragraph 1
21 of subdivision (b) concerning ex parte
22 communication; move former paragraph 2 of
23 subdivision (b) concerning communicating with a
24 hearing officer to influence a decision; move

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2 that paragraph to paragraph 6 of subdivision (a);
3 subject respondents and witnesses, in addition to
4 attorneys and representatives, to penalties for
5 misconduct; and subject attorneys, in addition to
6 representatives, to summary suspension or bar.
7 These proposed amendments represent important
8 steps in OATH's continuing efforts to identify
9 and stop impersonators and fraud, facilitate
10 professionalism and efficiency, and protect the
11 integrity of OATH proceedings.

12 OATH's proposed rule regarding the
13 conduct of registered representatives and
14 attorneys was published in the City Record on
15 April 14, 2022. OATH e-mailed the rule to the
16 Speaker of the City Council, every member of the
17 City Council, all community board members --
18 excuse me, all community board managers, the news
19 media, as well as civic organizations. In
20 addition, OATH posted the proposed rule on OATH's
21 website, the New York City Rules website, and the
22 City Records Online website. Again, OATH has
23 been accepting written comments on this proposed
24 rule since the date it was published in the City

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2 Record and will continue to accept written
3 comments through the close of business today.

4 At this hearing, you may present an oral
5 statement concerning this proposed rule. And,
6 once again I remind you, please state your name
7 and affiliation, please speak slowly and clearly
8 so that your statement can be accurately
9 recorded, and please limit your statement to no
10 more than three minutes. Again, now the floor is
11 open for comments to OATH's proposed rule
12 regarding the conduct of registered
13 representatives and attorneys at OATH Hearings.

14 And, again, I have added to the chat, in
15 case there is a desire to add a written comment
16 by close of business today at 5:00 p.m., there is
17 a website address. I'll add it again for those
18 who may have joined the meeting a little later.
19 And, again, we're now taking comments on OATH's
20 proposed rule regarding the conduct of parties
21 before the Tribunal.

22 MS. GARROWAY: I'll make a comment.

23 MS. THOMPSON: May I ask, is this Ms.
24 Garroway?

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2 MS. GARROWAY: Yes.

3 MS. THOMPSON: Please.

4 MS. GARROWAY: Thank you, Ms. Thompson.
5 Again, Lindsay Garroway from Cohen, Hochman and
6 Allen. Good morning. I am, I am legitimately
7 confused by a portion of the rule that I hope
8 OATH will elaborate or clarify. Perhaps an
9 amendment is necessary to clarify.

10 Section 48 RCNY 6-25 Subsection
11 (16) is the language that says, talks about
12 abandonment of cases and it seems to require that
13 an attorney alert the Tribunal to the fact that
14 they will no longer be appearing on a case or it
15 will be considered abandonment and that could
16 constitute misconduct. I am legitimately
17 confused about how this will be enforced or what
18 this means, particularly because it seems to
19 contradict the three-day list requirement, which
20 is, that constitutes an attorney's notice of
21 appearance. So if an attorney did not file a
22 summons within their list, they have not filed a
23 notice of appearance on it. So I, I'm not quite
24 sure how that, how that jibes with the other,

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2 this aspect of the rule.

3 So I would res-, I wish I could ask a
4 question, but this is only comments. So I would
5 strongly urge or request that OATH either
6 elaborate on, within the rule of how they intend
7 to enforce this or what they intend to use this,
8 this tool for, or specify more clearly what they
9 mean by this type of misconduct so that lawyers
10 like myself have proper guidance and can be sure
11 not to violate OATH's rules in this capacity.
12 Certainly, some sort of clarification or
13 elaboration is necessary here. Thank you.

14 MS. THOMPSON: Thank you again, Ms.
15 Garroway. Are there any other comments to the
16 proposed -- oh, yes, Mr., I believe you are Mr.
17 Mazer. Yes.

18 MR. MAZER: Yes, hi. I just want to
19 follow up and just add something that Ms.
20 Garroway mentioned, which is a concern of that
21 particular san- section. Dealing with the Taxi
22 and Limousine Commission, what I typically find
23 is that I publish my list of cases, as I am
24 required to do, three days or more in advance.

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2 Many times, those cases will, in fact, be
3 settled, that I will, my clients will take
4 settlement offers from the Taxi and Limousine
5 Commission. So we don't go forward with the
6 hearings, but I don't want to be, I mean the
7 Tribunal may look at that and say that that's
8 abandonment.

9 We don't really, I mean the TLC is not
10 prosecuting the cases. The TLC, in fact, is
11 withdrawing those summonses. But I don't want to
12 be tripped up and be considered to do something
13 that's violative of OATH rules or engaging in
14 some sort of misconduct because I simply
15 neglected to inform the Tribunal that I will no
16 longer be going on cases that have, in fact, been
17 settled. I just want to make sure that that's,
18 that it's clear that if you settle a case before
19 the, the hearing date that you're not abandoning
20 the case in, in the strict sense of the word,
21 because you've pretty much done what your client
22 wanted you to do by settling it. Just wanted to
23 add that point.

24 MS. THOMPSON: Thank you, Mr. Mazer.

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2 Are there any further comments to this proposed
3 rule regarding the conduct? Thank you so much.
4 That said, we will continue with our agenda.

5 At this time, I will introduce the final
6 rule for today, OATH's proposed rule regarding
7 the -- excuse me. I lost my place here. Pardon
8 me. OATH's proposed rule correcting cross-
9 references regarding City Commission on Human
10 Rights cases. This proposed rule would amend
11 Sections 2-23, 2-24, 2-28 and 2-31 of OATH's
12 Rules of Practice located in subchapter C of
13 Chapter 2 of Title 48 of the Rules of the City of
14 New York.

15 The City Commission on Human Rights
16 recently updated its rules and OATH simply aims
17 to update its references to those rules for
18 consistency's sake. OATH's proposed rule
19 correcting cross references regarding City
20 Commission on Human Rights cases was published in
21 the City Record on April 15, 2022. OATH e-mailed
22 the rule to the Speaker of the City Council,
23 every member of the City Council, all community
24 board managers, the news media, as well as civic

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2 organizations. In addition, OATH posted the
3 proposed rule on OATH's website, the New York
4 City Rules website, and the City Records Online
5 website. OATH has been accepting written
6 comments on this proposed rule since the date it
7 was published in the City Record and will
8 continue to accept written comments through the
9 close of business today.

10 Now, at this hearing, you may present an
11 oral statement concerning this proposed rule.
12 Again, please state your name and affiliation,
13 speak slowly and clearly, and limit your
14 statement to no more than three minutes. Now, at
15 this time, the floor is open for comments and
16 response to OATH's proposed rule correcting
17 cross-references regarding City Commission on
18 Human Rights cases. I heard what may have been
19 some background noise. Okay. I do not believe
20 we have any comments for this third rule.

21 So, once again, shortly after today's
22 hearing, copies of all written comments received
23 by OATH concerning these proposed rules and a
24 summary of the statements given today will be

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2 made available to the public on OATH's website.
3 Again, the website address, I'll put one more
4 time. I believe we have a few people joined us.
5 That web address is in the chat.

6 Before issuing its final rules, OATH
7 will carefully consider the statements presented
8 at today's hearing, as well as all written
9 comments received by the close of business today
10 at 5:00 p.m. At this point, as there are no
11 further comments on these three proposed rules,
12 this meeting, this public hearing, is now
13 adjourned. Thank you for attending and please
14 stay safe and well. Take care.

15 (The public meeting concluded at 11:39
16 a.m.)

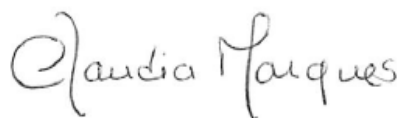
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OATH Public Hearing, May 18, 2022

CERTIFICATE OF ACCURACY

I, Claudia Marques, certify that the foregoing transcript of OATH Public Hearing on Proposed Rules on May 18, 2022, was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



Claudia Marques

Date: June 1, 2022

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**Reviewed and corrected by Elizabeth Nolan,
General Counsel's Office.**

June 7, 2022