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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	94002429
Party	Applicant Richard A. Harris, a Professional Corporation
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Signature	/s/ Shauna L. Norton
Date	03/16/2015
Attachments	Reply brief.pdf(705337 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Richard A. Harris, a Professional Corporation,

v.

Ticket Busters, Inc., a New York Corporation,

CONCURRENT USE NO. 94002429

APPLICANT’S REPLY IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT AND OPPOSITION TO RESPONDENT’S CROSS-MOTION FOR PARTIAL SUMMARY JUDGMENT

Applicant, RICHARD A. HARRIS, a Professional Corporation (“Applicant” or “Harris”), by and through its attorneys of record, the law firm of Greenberg Traurig, LLP, hereby files this Reply in Support of its Motion for Summary Judgment (“Reply”) against respondent TICKET BUSTERS, INC. (“Respondent” or “TBI”). This Reply is based upon the points and authorities as identified below, the supporting exhibits attached hereto, the Declaration of Shauna L. Norton, Esq., attached hereto as **Exhibit 1**, and the Declaration of Richard Harris, Esq., attached hereto as **Exhibit 2**.

I. INTRODUCTION

Respondent’s opposition fails to raise any genuine issues of material fact that would preclude the Board from entering summary judgment in favor of Applicant and from finding that Applicant is entitled to a concurrent use registration of the mark TICKET BUSTERS throughout the entire United States with the exception of the city limits of New York City. In addition, Respondent is not entitled to partial summary judgment in its favor as it has not established by admissible evidence that its use of the TICKET BUSTERS mark extends beyond the city limits of New York City. As discussed in more detail below, the evidence before the Board shows (i) that the Respondent does not use its mark beyond the city limits of New York City, (ii) Respondent does not provide legal services under its TICKET BUSTERS mark, and (iii) based on the differences in the services provided by the parties under their respective marks and the

fact that the parties' geographic territories do not overlap, there would be no likelihood of confusion if Applicant were to receive the concurrent use registration it seeks. Accordingly, Applicant respectfully requests that the Board grant its summary judgment motion in its entirety.

II. STATEMENT OF UNDISPUTED FACTS

Applicant repeats and re-alleges the undisputed facts stated in its primary motion as if fully set forth herein. Further, Applicant adds the following additional undisputed facts:

1. Respondent acknowledges and admits that its business does not provide legal services under the mark TICKET BUSTERS. Indeed, Respondent dedicates an entire page of his opposition and cross motion to making the point that the services provided by his business may be conducted by non-lawyers and that the citations are handled by administrative tribunals. *See* Opposition at p. 4.

2. Subsequent to the filing of Applicant's concurrent use application for the mark TICKET BUSTERS, Respondent hired a licensed attorney. Nevertheless, the scope of services provided under Respondent's mark is measured at the time that Applicant filed its concurrent use application. At that time, Respondent did not and could not provide legal services under the TICKET BUSTERS mark.

3. Further, Respondent's website indicates that the geographic scope of its services is limited to the five boroughs of New York City.¹ Indeed, Respondent's website contains an express disclaimer that states the following:

This web site is an advertisement. The information on this web site **is not legal advice**, it is for informational purposes only. Viewing this web site does not imply or create an attorney-client relationship. You should speak directly with an attorney if you have legal concerns or questions. **Ticket Buster is not a law firm and we do not provide legal services of any kind. In no way do we represent ourselves as legal counsels in any shape, form or manner.**

See Printouts from Respondent's website, attached hereto as **Exhibit 3**. (Emphases added).

¹ Moreover, the attorney that is now associated with Respondent's business indicates that he only practices in the vicinity of New York City.

4. Non-criminal moving traffic violations received in the five boroughs of New York City, Buffalo, or Rochester are processed by the New York State DMV's Traffic Violations Bureau. *See* Printouts from the New York State Department of Motor Vehicles website, attached hereto as **Exhibit 4**.

5. Traffic tickets received outside the five boroughs of New York City, Buffalo, or Rochester are handled in the criminal or traffic court where the incident took place. Because these tickets are handled in a court of law, non-lawyers may not represent third parties regarding the disposition of their tickets. *See id.*

6. As such, it is undisputed that, at least at the time the application was filed, Respondent could not provide its traffic ticket services to customers that received their tickets in any jurisdiction other than the five boroughs of New York City, Buffalo, or Rochester.²

7. Parking tickets received in New York City are handled by the NYC Parking Violations Bureau. *See* Opposition at p. 4.

8. Building code violations received in New York City are handled by NYC Environmental Control Board. *See* Opposition at p. 4

9. Applicant handles both noncriminal and criminal traffic violations, including but not limited to, driving under the influence, warrants, and other criminal defense matters. These matters are processed in a court of law where non-lawyers may not represent defendants in such matters. *See* **Exhibit 2**, Declaration of Richard Harris, Esq., at ¶ 3.

10. The services provided by Applicant under its TICKET BUSTERS mark are legal services and are required to be provided by licensed attorneys. *See id.* ¶ 4.

11. The services provided by Respondent are not legal services.

12. Respondent has submitted no evidence demonstrating that it provides any services under its TICKET BUSTERS mark beyond New York City.

Based on the above, it is clear that there is no disputed issue of fact as to the geographic

² Buffalo is located in the far western part of New York State and Rochester is located in the central northwestern part of New York State, both of which are many hours' drive from Respondent's place of business in Flushing, New York. Respondent has not shown that he provide services in these areas and based on their distance from Flushing, New York, it is reasonable to conclude that he simply provides no traffic ticket services in these areas.

scope of Respondent's use of its TICKET BUSTERS mark. Moreover, because it is undisputed that Respondent does not provide legal services under his TICKET BUSTERS mark and did not do so during time period relevant to this proceeding, there is no likelihood of consumer confusion, even if Applicant were to use its mark in other areas of New York State. Accordingly, as Applicant has shown that it is entitled to its concurrent use registration for the TICKET BUSTERS mark throughout the entire United States with the exception of the New York City limit, Applicant is entitled to summary judgment as a matter of law.

II. LEGAL ARGUMENT

A party, such as Applicant, is entitled to summary judgment as a matter of law when it has demonstrated that there are no genuine issues of material fact in dispute. *See* Fed. R. Civ. P. 56(c). Although the Board must view the facts in the light most favorable to the non-moving party, a party seeking to avoid summary judgment "may not rest on mere denials or conclusory assertions, but . . . must proffer countering evidence... as . . . provided in Fed. R. Civ. P. 56, showing that there is a genuine factual dispute for trial." *See Celotex Corp. v. Catrett*, 477 U.S. 317, 106 S. Ct. 2548 (1986). Further, the absence of any documentary evidence regarding use or intent to use a trademark is sufficient to prove that a lack of such use or intention to use. *See Commodore Electronics Ltd. v. CBM Kabushiki Kaisha*, 26 USPQ.2d 1503, 1507 (TTAB 1993).

Here, Respondent fails to raise any material issue of fact regarding the geographic scope of use of its TICKET BUSTERS mark, namely, that it uses the mark beyond the limits of New York City or has any bona fide intention to expand its use. Given the failure to support the self-serving statements made by its owner with any documentary evidence showing that its geographic scope of use *actually* extends beyond the city limit of New York City, Respondent has essentially conceded that Applicant should be entitled to registration of its TICKET BUSTERS mark throughout the entire United States with the exception of the New York City limit.

A. THE EVIDENCE BEFORE THE BOARD DEMONSTRATES THAT RESPONDENT DOES NOT HAVE RIGHTS IN ITS TICKET BUSTERS MARK BEYOND THE FIVE BOROUGHES OF NEW YORK CITY.

Not only has Respondent failed to provide any evidence showing that it uses its mark throughout New York State, but the evidence before the Board, including printouts from Respondent's own website, actually shows that Respondent's use is (and always has been) limited to New York City. Indeed, Respondent has one single location in Flushing, New York where it provides its ticket-handling services. *See* Exhibit 3. Respondent has not expanded to any other locations since it began using its mark in 2003 and thus, its use has remained static for the last twelve years. *See id.* Further, the "About Us" page of Respondent's website states that its business "provides exceptional consulting services in managing parking tickets, traffic tickets, restaurant violations, leadpaint violations and building violation resolution in New York City." *See id.* (emphasis added). Moreover, the biographical information for the sole attorney that now works for Respondent states that "[f]rom 1995 to date, [Mr. Turkiewicz] has been operating a law practice in the New York City vicinity, focusing in the areas of vehicle and traffic law and criminal defense." *See id.*

In addition, Respondent acknowledges that the owner is a non-lawyer and that it only provides its consulting services under the TICKET BUSTERS mark in connection with matters that are handled in administrative tribunals. *See* Opposition at p. 4. Further research confirmed that such administrative tribunals as they relate to building code and parking violations are located in New York City and that with regard to traffic tickets, such administrative tribunals only exist in New York State for tickets received in the five boroughs of New York City, Buffalo and Rochester. *See id.*; *see also* Exhibit 4. Therefore, based on this evidence, it is undisputed that Respondent only provides its ticket consulting services in the five boroughs of New York City.

B. THERE ARE NO GENUINE ISSUES OF MATERIAL FACT REGARDING APPLICANT'S ENTITLEMENT TO ITS CONCURRENT USE REGISTRATION.

Applicant incorporates the arguments made in its primary motion demonstrating that it is entitled to the concurrent use registration that it seeks. In particular, in its motion, Applicant has

shown that it was lawfully using the TICKET BUSTERS mark in commerce as of the date it filed its application and that there will be no likelihood of confusion if Applicant were to receive its concurrent use registration with the territorial restrictions contained therein.

Further, Respondent has presented no evidence to raise a genuine issue of material fact showing that Applicant is not entitled to its concurrent use registration. To the contrary, Respondent's opposition confirms that the services provided by Applicant and Respondent under their respective marks are distinguishable and thus, no likelihood of confusion will result, even if there were some overlap in the geographic areas where the marks are used. Indeed, Respondent has acknowledged that it does not provide legal services and that the services it provides are handled in administrative tribunals where non-lawyers may represent individuals before such tribunals. *See* Opposition at p. 4. In contrast, the services provided by Applicant are provided by licensed attorneys. *See* Exhibit 2 at ¶ 4. In fact, the Board has previously noted the distinction between legal services which are provided by lawyers and consulting services provided by non-lawyers:

The legal services industry is governed by its own ethical rules, and any provider of legal services must be licensed by the state in which he or she practices. The legal services industry is a highly specialized and regulated industry that offers its services to sophisticated individuals and businesses. Business consultation, on the other hand, operates in a different field that legal services [and] is not governed by a specific ethical code or licensure requirement.

In re Holland & Hart, LLP, 2014 WL 5788049 at *5 (TTAB Oct. 16, 2014).

Here, the evidence before the Board makes it clear that the services provided by Respondent are not legal services. Indeed, Respondent stresses the fact that its services are rendered by non-lawyers in administrative tribunals. *See* Opposition at p. 4. Moreover, Respondent's website has a disclaimer that expressly states, that:

This web site is an advertisement. The information on this web site **is not legal advice**, it is for informational purposes only. Viewing this web site does not imply or create an attorney-client relationship. You should speak directly with an attorney if you

have legal concerns or questions. **Ticket Buster is not a law firm and we do not provide legal services of any kind. In no way do we represent ourselves as legal counsels in any shape, form or manner.**

See **Exhibit 3** (Emphases added). Therefore, the dissimilar services provided by the parties, coupled with the fact that the respective services are not provided in overlapping geographic territories, leads to the conclusions that there is no likelihood of confusion that would result from the concurrent use of these marks.

Accordingly, Respondent has not raised any issue of material fact to show that there would be a likelihood of confusion between Respondent's and Applicant's marks if Applicant were granted its concurrent use registration with the geographic restriction set forth therein. Therefore, summary judgment in favor of Applicant is appropriate and should be granted.

III. CONCLUSION

Based upon the foregoing, Applicant believes it is entitled to summary judgment finding it is entitled to a concurrent use registration for the entire United States except for within the geographic area of the New York City limits. Further, for similar reasons, Respondent's cross-motion for partial summary judgment should be denied.

DATED: March 16, 2015.

GREENBERG TRAURIG, LLP

/s/ Shauna L. Norton

Lauri S. Thompson

Shauna L. Norton

3773 Howard Hughes Parkway, Suite 400N

Las Vegas, Nevada 89169

*Counsel for Concurrent Use Plaintiff Richard A.
Harris, a Professional Corporation*

CERTIFICATE OF SERVICE

I hereby certify that on March 16, 2015, I served the aforementioned **APPLICANT'S REPLY IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT AND OPPOSITION TO CROSS MOTION FOR PARTIAL SUMMARY JUDGMENT** on:

Jing Gao
Ticket Busters, Inc.
42-78 Main Street, Suite 2B
Flushing, NY 11355

by causing a full, true, and correct copy thereof to be sent by the following indicated method or methods, on the date set forth below:

- x by mailing in a sealed, first-class postage-prepaid envelope, addressed to the last-known office address of the attorney, and deposited with the United States Postal Service at Las Vegas, Nevada.

/s/ Cynthia L. Ney

An employee of Greenberg Traurig, LLP

Exhibit 1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

**Richard A. Harris, a Professional
Corporation,**

v.

**Ticket Busters, Inc., a New York
Corporation,**

CONCURRENT USE NO. 94002429

DECLARATION OF SHAUNA L. NORTON, ESQ. IN SUPPORT OF
APPLICANT'S REPLY IN SUPPORT OF ITS
MOTION FOR SUMMARY JUDGMENT

I, Shauna L. Norton, Esq., declare under penalty of perjury under the laws of the United States as follows:

1. I am an associate with the law firm of Greenberg Traurig, LLP, Applicant's counsel of record in this case and I have personal knowledge of the facts set forth in this declaration.

2. This declaration is made in support of Applicant's Reply in Support of its Motion for Summary Judgment.

3. I verify that the documents attached to the Reply are the original documents, or true and accurate copies of the original documents.

Executed this 16th day of March, 2015.

/s/ Shauna L. Norton _____
SHAUNA L. NORTON, ESQ.

Exhibit 2

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**Richard A. Harris, a Professional
Corporation,**

v.

**Ticket Busters, Inc., a New York
Corporation,**

CONCURRENT USE NO. 94002429

**DECLARATION OF RICHARD A. HARRIS, ESQ. IN SUPPORT OF
APPLICANT'S REPLY IN SUPPORT OF ITS
MOTION FOR SUMMARY JUDGMENT**

I, Richard A. Harris, Esq., declare under penalty of perjury under the laws of the United States as follows:

1. I am the owner of Richard A. Harris, a Professional Corporation, the Applicant in the above-captioned concurrent use proceeding.
2. This declaration is made in support of Applicant's Reply in Support of its Motion for Summary Judgment.
3. My law firm handles both noncriminal and criminal traffic violations, including but not limited to, driving under the influence, warrants, and other criminal defense matters. These matters are processed in a court of law where non-lawyers may not represent defendants in such matters.
4. As such, all of the services provided by my firm under the TICKET BUSTERS mark are legal services and thus, are required to be provided by licensed attorneys.

Executed this 16th day of March, 2015.



RICHARD A. HARRIS, ESQ.

Exhibit 3



42-78 Main Street Suite 2B | Flushing, NY 11355

Phone (718) 888-1411 | Fax (718) 799-5320

About Us

Traffic Violations
Building Violations
Leadpaint Violations
DOH-Restaurant
About Us
Contact Us

Founded in 2003 by a group of professionals, Ticket Busters Inc. provides exceptional consulting services in managing parking tickets, traffic tickets, restaurant violations, leadpaint violations and building violation resolution in New York City. Our mission is to provide distinctive quality and unparalleled customer service as we strive to gain the respect and trust of our customers, supplier, partner vendors and the whole industry. Being proud of our roots, we provide our best effort to improve the quality of life and welfare of all New Yorkers.

We serve more than 1,500 clients annually in dismissing unjust tickets, reducing penalties, fines and towing fees. Ticket Busters Inc. is a New York City Parking Violation Bureau licensed broker. In addition to our employees, our contract attorneys, which include a former NYC Parking Violation Bureau judge, have at least 25 years experience in fighting various traffic litigations. We also have expertise in handling building violation cases. For example, we provide a full range of building professionals including engineers, architects, plumbers, electricians and expatiators as consultants to help our clients solve building violation cases. Therefore, we have successfully helped our clients save hundreds of thousands traffic and building expenses.

Attorney Info



Hal Turkiewicz, Esq. is a lifelong resident of New York City. He graduated from the State University of New York at Albany. Upon completion of his degree at S.U.N.Y Albany, he returned home to New York City to pursue his law degree at the University of Hofstra Law School.

He was admitted to practice law in the Courts of the State of New York in 1995.

From 1995 to date, he has been operating a law practice in the New York City vicinity, focusing in the areas of vehicle and traffic law and criminal defense.

College: **State University of New York at Albany, Albany, NY**

Law School: **Hofstra University School of Law, Hempstead, NY**

Admitted: **New York State**

Area of Practice: **Anywhere in New York State**



42-78 Main Street Suite 2B | Flushing, NY 11355

Phone (718) 888-1411 | Fax (718) 799-5320

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Exhibit 4

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Español (Disclaimer)

Languages

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INDIVIDUALS

ORGANIZATIONS

TOP ONLINE SERVICES

DRIVER LICENSE & LEARNER PERMIT

ID CARD FOR NON-DRIVERS

COMMERCIAL DRIVER LICENSE (CDL)

REGISTRATIONS & TITLES

CUSTOM PLATES

INSURANCE

DMV RECORDS

TICKETS, POINTS & PENALTIES

FORMS

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MORE INFO

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/ TICKETS RECEIVED OUTSIDE BUFFALO, ROCHESTER OR NEW YORK CITY ▼

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Tickets received outside Buffalo, Rochester or New York City

Traffic tickets not issued in Buffalo, Rochester and New York City

Traffic tickets that are issued outside of Buffalo, Rochester, and New York City are processed in the criminal or traffic court of the city, county, town or village where the alleged offense took place. To answer these types of traffic tickets, contact the court directly.

Traffic tickets issued in Buffalo, Rochester and New York City are handled by the DMV's Traffic Violations Bureau (TVB). Tickets issued for parking violations are not handled by DMV.

No matter where you receive a traffic ticket, follow the instructions on the back of the ticket and be sure to answer the ticket on time.

What happens if I do not answer a traffic ticket?

If you do not answer a traffic ticket on time, your driver license will be suspended. It is a crime to drive with a suspended license. A suspension for the failure to answer a ticket does not indicate that you are guilty of the charge. The suspension only indicates that you failed to answer the ticket. To remove the suspension, you must contact the court to

- answer the ticket
- pay a \$70 suspension termination fee

- Facebook
- Twitter
- YouTube
- Flickr



- Address change
- Commercial Driver License (CDL)
- Custom plates
- Get driver license
- Renew license
- Replace license or permit
- Renew registration
- Replace title certificate
- Schedule a road test
- Suspensions & revocations
- Tickets in Buffalo, Rochester or New York City
- Tickets outside Buffalo, Rochester or New York City
- Vehicle registration & title

ORGANIZATIONS

- Bulk Driver Manual orders
- Certified vehicle inspectors
- Dealers & transporters
- Driver education providers
- Driving school instructors
- Driving schools
- Employers of bus drivers (Article 19-A)
- International Registration Plan (IRP)
- Point/Insurance Reduction Course providers
- Pre-licensing course providers
- Repair & body shops
- Vehicle inspection stations

ABOUT THE DMV

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- DMV records
- DMV regulations
- Forms
- Governor's Traffic Safety Committee 
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- News & publications
- NYS Vehicle & Traffic Law
- Statistics



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INTRODUCTION

If you are issued a ticket for a non-criminal moving traffic violation in the five boroughs of **New York City, Buffalo or Rochester**, it will be handled by a New York State Department of Motor Vehicles (DMV) Traffic Violations Bureau (TVB). This allows courts in these areas to concentrate on criminal cases, including driving offenses, such as driving while intoxicated and driving while suspended or revoked (aggravated unlicensed operation). However, TVBs **do not** handle parking violations.

If you plead not guilty to a traffic ticket in one of these TVB areas, your case will be heard by a DMV Administrative Law Judge (ALJ), an experienced attorney with special training in the Vehicle and Traffic Law. An ALJ has the authority to decide whether or not you are guilty and to set a fine if you are found guilty. An ALJ also has the authority to revoke or suspend your driver license and/or auto registration when required by law or when the ALJ believes it is in the interest of traffic safety.

Just as in traffic courts in other areas of the state, you may present witnesses and evidence at a hearing before an ALJ and be represented by an attorney.

IF YOU ARE ISSUED A TICKET

Don't delay! Follow the instructions on the ticket for the plea you wish to make, and act promptly.

If you don't answer the ticket in the time allowed, your driver license will be suspended. Later, you could be found guilty of the charge because of your failure to respond (a default conviction). Your license would be suspended for not paying the fine and a judgment would be entered against you.

Driving with a suspended license is a crime. A felony conviction may result in fines of up to \$5,000, jail, probation, or confiscation of your vehicle. As the number of suspensions you have increases, the penalties also increase. A driver is suspended for *each* ticket not answered and *each* fine not paid.

To Plead Not Guilty - Use the [Traffic Ticket Pleas, Hearings and Payments online transaction](#) ^[1] or read the "not guilty" instructions and check the "not guilty" box on the back of the ticket. Fill in the requested information, sign it, and, *within 15 days of the recorded violation date*, mail the ticket to the Albany address listed. DMV will send you a letter telling you when and where to go for your hearing. If you are hearing impaired and require an interpreter, include a request for one when you mail your not guilty plea. An interpreter will be assigned to your hearing at no charge to you.

ATTEND YOUR HEARING

Hearings are open to the public. You may go to any TVB office to watch hearings so you know what to expect at yours.

To Plead Guilty - Use the [Traffic Ticket Pleas, Hearings and Payments online transaction](#) ^[1] or read the instructions and check the "guilty" box on the back of the ticket. Fill in the requested information, sign it and, *within 15 days*, either mail it with your payment to the Albany address listed on the ticket or bring your payment to any TVB office. You may pay the fine and surcharge by Visa or Mastercard, or by a check or money order payable to the Commissioner of Motor Vehicles. Include the total fines and surcharges listed on the ticket for your violation(s).

You may not plead guilty by mail if the charge against you will result in license or registration suspension or revocation upon conviction (such as driving without insurance or a third speeding violation within 18 months). If you plead guilty to such a charge by mail, you will be notified that you must go to the TVB to answer the charge in person.

Your Address - If your mailing address is different from the address written on the front of the ticket, please write the correct mailing address in the space provided on the back of the ticket.

TO POSTPONE YOUR HEARING

You may request your traffic ticket hearing to be postponed and rescheduled to a different date. For the ticket's first postponement, the appropriate TVB must receive your request by mail **at least 10 days** before the date of the scheduled hearing. You may also make your postponement request in person at that office or by telephone at least one day before your hearing date. If it would be a second or subsequent postponement for the same ticket, your request must be made in person at the appropriate TVB office **at least one day** before your hearing date. Your request for a second or subsequent postponement also must include a "good cause," which is the reason you want the hearing rescheduled. Your "good cause" is subject to approval by a TVB Administrative

Law Judge.

For a traffic ticket issued within New York City: Mail your request to the Albany, NY, address on your ticket - the office must receive your request **at least ten days** before the date of your scheduled hearing. You also may make your request in person at any TVB office in New York City, or telephone the TVB at (718)-488-5710, **at least one day** before the date of your scheduled hearing.

For a traffic ticket to be answered to a TVB outside New York City: Mail your request to the TVB office indicated on your ticket. The office must receive your request **at least ten days** before the scheduled hearing date. You also may make your request in person to that TVB office or by telephone **at least one day** before the date of your scheduled hearing

WHAT HAPPENS AT YOUR HEARING

You are considered innocent of the charge against you unless you are proven guilty at your hearing. You cannot be found guilty unless there is "clear and convincing evidence" that you committed the violation.

If you find it hard to understand English, you may bring someone to help you. Tell the ALJ, before the hearing starts, that someone who speaks your native language and English is there to interpret.

The ALJ will listen to sworn testimony from the police officer, who will explain why you were given the ticket. Then, you or your attorney may ask the officer questions. You also may bring witnesses to testify for you and written evidence. The judge may ask witnesses questions to better understand their testimony.

You do not have to testify but you may if you wish. You cannot be found guilty just because you do not testify.

When all of the evidence and testimony have been given, the ALJ will decide whether or not you are guilty. That decision will be based only on the evidence and testimony presented at the hearing and what the law states. If the ALJ decides the charge against you was not proven by clear and convincing evidence, you will be found not guilty. If the charge is proven and you are found guilty, the judge will set a fine. Your license or registration also may be suspended or revoked, depending on the violation and your overall driving record.

APPEALS

If you believe the ALJ's decision was incorrect based on the facts and the law, you may file an appeal. You can [determine if you can file an appeal online](#) ^[2] or download [Traffic Violations Bureau Appeal form](#) ^[3] (AA-33) from the DMV web site. The appeal form is also available at TVB offices. Read the instructions carefully. If you wish, your attorney may help you file the appeal. Remember to include a payment for the appeal fees. An appeal must be filed *within 30 days of the decision*, and the appeal form and fees must be sent to:

Appeals Processing Unit
DMV
P.O. Box 2935
Albany, N.Y. 12220-0935

PARKING AND PEDESTRIAN VIOLATIONS

The State Department of Motor Vehicles Traffic Violations Bureaus **do not** handle parking tickets or violations by pedestrians. These are usually handled by a local parking violations bureau or court.

LICENSE SUSPENSION AND REVOCATION

The most common reasons your license may be suspended or revoked due to motor vehicle violations follow. Remember, your license also will be suspended if you do not answer a ticket or pay a fine. An ALJ has the authority to suspend or revoke your license for violations other than those listed.

Speeding/Misdemeanors — If you commit three speeding and/or misdemeanor traffic violations within 18 months, your license will be revoked for at least six months.

New Driver Probation — You are on license probation for six months after you pass a road test. If you are found guilty of committing any two moving

violations during your probation period, your license will be suspended for 60 days. It will also be suspended for 60 days if you are found guilty of committing a single, more serious violation during the probation period, including speeding, tailgating, unauthorized racing or reckless driving. **For violations committed on or after November 1, 2014** - If you are found guilty of committing a texting/cell phone violation during the probation period, your license will be suspended for 120 days. (For texting/cell phone violations committed between July 1, 2013 and October 31, 2014, your probationary license will be suspended for 60 days.)

If you are a holder of a probationary/junior license or learner permit and you are charged with a cell phone/texting violation on or after July 1, 2013, you cannot plead by mail or online. You must appear for a hearing in a TVB office.

Points — Most traffic violations carry violation points. The points will be added to your record using the date the violation occurred, not the date you are found guilty. If your violation points in any 18-month period add up to 11 or more, your license may be revoked or suspended following a hearing.

The ALJ usually holds the point hearing immediately after you are found guilty of a violation that brings your total to 11 or more points in 18 months. On the following panel is a list of common violations and the number of points for each.

Taking a DMV-approved accident prevention course can reduce your point total by up to four points and reduce your auto liability and collision insurance premiums by 10% for three years. Ask for more information at any motor vehicle office.

Violation Points

VIOLATION	POINTS
Speeding (MPH over posted limit)	
1 to 10	3
11 to 20	4
21 to 30	6
31 to 40	8
Over 40	11
Reckless driving	5
Failed to stop for school bus	5
Followed too closely (tailgating)	4
Inadequate brakes (private car)	4
Inadequate Brakes (employer's vehicle)	2
Failed to yield right-of-way	3
Disobeying traffic control signal, STOP sign or YIELD sign	3
Railroad crossing violation	3
Improper passing, changing lane unsafely	3
Driving left of center, in wrong direction	3
Leaving scene of property damage incident	3
Child safety restraint violation	3
Improper cell phone use	5
Use of portable electronic device ("texting")	5
Any other moving violation	2

LET US HEAR FROM YOU

We welcome your suggestions for improving TVB services and operations. Please write your suggestions and leave them at a TVB office or mail them to:

Director
Office of Traffic Violations
Department of Motor Vehicles
6 Empire State Plaza, Albany, NY 12228

or to

Supervising ALJ
Office of Traffic Violations
801 Axinn Avenue
Garden City, NY 11530

TRAFFIC VIOLATIONS BUREAU ADDRESSES AND PHONE NUMBERS ^[4]

Additional information can be found at:

Tickets received in Buffalo, Rochester or New York City ^[1]

Andrew M. Cuomo, Governor
J. David Sampson, Executive Deputy Commissioner

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Return to DMV Publications ^[5]

Source URL (retrieved on Mar 11 2015 - 4:23pm): <http://dmv.ny.gov/brochure/traffic-violations-bureau>

Links:

- [1] <http://dmv.ny.gov/node/1372>
- [2] <http://dmv.ny.gov/node/1375>
- [3] <http://dmv.ny.gov/forms/aa33.pdf>
- [4] <http://dmv.ny.gov/node/1376>
- [5] <http://dmv.ny.gov/node/1889>