



# Taxi and TLC-Licensee Cases

A Guide to Your Trial at the  
OATH Trials Division



OFFICE OF  
ADMINISTRATIVE  
TRIALS AND HEARINGS

100 Church Street, 12<sup>th</sup> Floor  
New York, NY

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## **IMPORTANT DISCLAIMER**

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**IMPORTANT NOTE: THERE ARE MULTIPLE TRIBUNALS THAT HANDLE TLC-RELATED CASES. BE SURE YOU ARE GOING TO THE RIGHT PLACE.** This pamphlet is **ONLY** for cases heard at the OATH Trials Division, 100 Church Street, New York, NY. Check your paperwork and go to the address on the paperwork you get from TLC.

## Taxi and TLC-Licensee Cases Heard At OATH

OATH hears different types of cases brought by the Taxi and Limousine Commission (TLC). These cases are about TLC-issued licenses of yellow cab drivers, for-hire-vehicle drivers, medallion owners, base owners, and others.

These cases can be about TLC taking away a license and/or requiring **\$** money fines. Many violations also result automatically in **points** on a TLC license. Repeat violations can increase the points and could lead to loss of a TLC license. Charges can involve:

- ➡ Arrest of a TLC-licensed driver.
- ➡ Whether a TLC-licensed driver is fit to drive (drug tests; criminal convictions; fraud).
- ➡ Failure to comply with TLC orders.
- ➡ Charging passengers too much money for fares.
- ➡ Complaints by passengers or others that a driver acted badly.
- ➡ Accident victims who want money set aside before an owner sells a medallion.

These cases are not about whether you can keep your driver's license that was issued by the New York State Department of Motor Vehicles (DMV).



### Should I Get A Lawyer?

We encourage you to **get a lawyer** or other **knowledgeable representative** to help you at OATH. You have the right to appear with a lawyer or representative at OATH.

## Some Important Definitions:

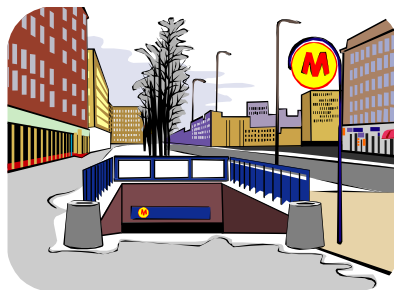
### ▶ WHAT IS SUSPENSION?

- “**Suspension**” means the loss of a TLC license until some time in the future.

### ▶ WHAT IS REVOCATION?

- “**Revocation**” means the loss of a TLC license. It will never be restored. A driver whose license is revoked has to wait a period of time to apply to TLC for a new license and show that the reasons the license was revoked no longer apply. If you choose to surrender your license and apply for a new one, there is no guarantee that TLC will give you a new license. Reapplication is a separate process that happens at TLC. It does not happen at OATH.

## Where Do I Go?



**Office of Administrative Trials & Hearings**  
**100 Church Street**  
**12th Floor**  
**New York, NY 10007**

**Tel#:** 1-844-OATH-NYC  
(1-844-628-4692)

**Fax#:** (212) 933-3079  
**E-mail:** [oathcal@oath.nyc.gov](mailto:oathcal@oath.nyc.gov)

## Be On Time



### ♦ WHAT HAPPENS IF I AM LATE?


Be on time for your trial. If you are late, a trial could take place without you and a penalty could be imposed against you.

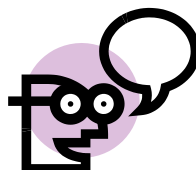
### ♦ HOW CAN I RESCHEDULE?

If you cannot get to a scheduled conference or trial, you must call or email the TLC representative named on the trial notice and OATH as soon as possible. Both you and the TLC person must be on the phone call. You can ask the judge if you can come to OATH on another date.

## Will You Need An Interpreter?



If you need an  **interpreter**, OATH will provide one for free. OATH uses interpreters by phone. They talk on a speaker phone in the trial room.





## What Is A Conference?

Before the trial begins, a judge will meet with you and someone from TLC to see if the case can be settled. This is called a **conference**.

- ▶ You may appear at the conference with or without a lawyer or other representative of your choice.
- ▶ If you choose to exercise your right to be represented, you must make your own arrangements with a lawyer or representative.
  - This means you are responsible for asking about whether the lawyer or representative will charge you 💰 money. You must also be sure to give any notices about your OATH case to your lawyer or representative.
- ▶ The conference judge will explain what happens at OATH and discuss ways you and TLC can settle your case.
- ▶ You can ask questions.
- ▶ You may settle your case with TLC if you want to, but you do not have to settle. It is up to you. Settlement is voluntary. It takes both sides, you and the TLC, to make a settlement.



- ▶ Settlement terms can be offered by either you or TLC. You and TLC can accept or reject the offers. The judge will work with both sides to see whether there are terms that are acceptable to both you and TLC.
- ▶ **Examples** of different, possible settlement terms are: surrender of a license; fines; guilty pleas affecting the number of points on the TLC license; anger management classes; restitution; suspension of a license; withdrawal of the matter, with or without conditions; suspension of a license may be lifted. There is no guarantee that you will get any particular settlement terms. These are only examples.
- ▶ TLC may ask a complaining witness for his or her views about a particular settlement, but the witness is not a party to any settlement between TLC and you.
- ▶ If you don't settle, you can have your trial. You have the right to a trial.



## What Is A Trial?

### How Can I Prepare For My Trial?

- ✓ If your case is not settled in the conference, a different judge will hold a trial. The trial is like a court trial.
- ✓ Bring any documents, witnesses, or other evidence that you think can help your case.
- ✓ Before you come for your trial, you and TLC can ask each other for documents about your case. These requests should be in writing.
  - For example, you can ask for copies of all documents TLC will show to the judge in your trial.
- ✓ You can also ask the judge to sign a document called a **subpoena** that will require **witnesses** to come to your trial. You can also ask for a subpoena that requires someone to give you **documents**.
- ✓ You may appear at the trial with or without a lawyer or other representative of your choice.
- ✓ You must make your own arrangements with a lawyer or other representative.
  - This means you are responsible for asking about whether the lawyer or representative will charge you 💰

money. You must also be sure to give any notices about your OATH case to your lawyer or representative.

## What Happens During My Trial?

- ✓ Both you and TLC may make **opening statements**. An opening statement is a summary of what you plan to prove.
- ✓ Then TLC will present evidence and call witnesses to testify. The witnesses are sworn in. That means they take an oath to tell the truth.
- ✓ TLC's lawyer will ask the witnesses **direct** questions about what happened.
  - ▶ These are open-ended questions like, "Who, What, When, Where, How? What did you see? What did you hear? What do you know?"
- ✓ Then you have the right to ask questions of witnesses the TLC calls to the witness stand. This is called **cross-examination**.
  - ▶ These can be **leading** questions that ask the witness to answer yes or no to something you state. These questions can begin, for example, with "Isn't it true that. . . ?" Or leading questions can end with words like, ". . . isn't that correct?" or ". . . , right?"
- ✓ After TLC presents its evidence, then it is your turn to offer evidence and call witnesses. Your witnesses will also be under oath. You can ask **direct** questions of your witnesses.
- ✓ When you are done with your questions, TLC may then **cross-examine** your witnesses.
- ✓ If you appear without an attorney, and you testify, the judge will swear you in and then ask you to give your statement under oath.

- ✓ The judge may ask questions of you or any witness.
- ✓ You may testify. You will be under oath to tell the truth, like all the other witnesses. Then TLC's lawyer can ask you questions.
- ✓ Finally, both sides may make **closing statements**. A closing is a summary of what you think you have proved. You can ask the judge for the result you want.

### Can I get more time?

- ▶ If you need more time, you have the right to ask the judge for more time. This is called an **adjournment**. You can ask for more time if you want to get an attorney or representative or have another good reason to delay the trial.
- ▶ The judge will ask the TLC attorney if he or she agrees to the adjournment. TLC may or may not agree to a delay.
- ▶ The judge will decide whether or not you can come back another day.

## What Happens After The Trial?

In most cases, the judge will send a report and recommendation to the TLC Chairperson, who will make the final decision about your case. It will look like this:

***Taxi & Limousine Comm'n v. John Doe***  
OATH Index No. 9999/08 (March 20, 2008)

Respondent driver did not assault passenger, but did use profanity. ALJ recommends dismissal of charge one and penalty on charge two.

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**NEW YORK CITY OFFICE OF  
ADMINISTRATIVE TRIALS AND HEARINGS**

*In the Matter of*  
**TAXI AND LIMOUSINE COMMISSION**  
*Petitioner*  
*-against-*  
**JOHN DOE**  
*Respondent*

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**REPORT AND RECOMMENDATION**

**MONICA MASON**, *Administrative Law Judge*

This license revocation proceeding was referred by petitioner, the Taxi and Limousine Commission, pursuant to the New York City Administrative Code and the Taxi and Limousine Commission's For Hire Vehicle Rules. Respondent John Doe, a licensed for hire driver, is charged with assaulting, verbally harassing, and unlawfully imprisoning a passenger, as well as destroying the passenger's property, in violation of the For Hire Vehicle Rules, 35 RCNY, sections 6-18(f), (i), and (d)(2) (Pet. Ex. 1).

- ◆ You will receive a copy of the report and recommendation in the mail.
- ◆ The judge's decision is also posted on the internet.
- ◆ You may make written comments to the Chairperson before the Chairperson makes the final decision.

- ◆ If TLC rules against you, you may appeal TLC's final decision to the New York State Supreme Court.
  - ◆ There is an exception: In the case of passenger or consumer complaints, you must appeal first to the full Commission before going to New York State Supreme Court.



## What You Should Know About Particular Kinds of TLC Cases Heard At OATH



### 1. Arrest Cases

If you are arrested by the police, the TLC receives from the state a notice that you were arrested. TLC may suspend your license first, and then give you a trial at OATH. TLC can do that under its rules and because of its concerns about the public safety. If your license is suspended because you were arrested, you have the right to a trial to try to get your license reinstated.

### What happens at my trial if I don't settle?

- The TLC may show a copy of the arrest notice to the judge to prove that you have been arrested for the charges listed on that paper.
- The question in this case is whether your license will stay suspended until the criminal case is finished. The judge will make a report and recommendation to the TLC about that. You may wish to consult with your criminal attorney before appearing at OATH, especially if criminal charges are still pending.

- The TLC must persuade the judge that the charges underlying your arrest, if taken as true, demonstrate that the continuation of the license while you are awaiting a decision on the criminal charges **“would pose a direct and substantial threat to the health or safety of the public.”**
  - For example, TLC may argue that drunk driving or assault charges are very related to the job of driving members of the public on public roadways.
- You can tell your side of the story or have your lawyer argue it for you.

### Should I use evidence?

- It’s up to you. You need to decide what evidence to present.
- Among other things, you may offer evidence showing:
  - what was going on when you were arrested,
  - that you were not the person who was arrested,
  - that you were not in fact arrested for one or more of the charges shown in the arrest report,
  - that the charges were reduced or dismissed after the arrest, or
  - that even if the arrest charges are true, you do not pose a threat to the public safety.
  - If you know that the criminal charges will be reduced or dismissed, tell the TLC attorney, who



may then consider whether to lift the suspension of your license.

- You may have other facts about the arrest that you want the judge to know.

## Should I testify?

- Again, it's up to you. You may have a hard decision to make about whether to testify.
- It is best to consult a lawyer about the decision whether or not to testify at your OATH trial.
- You have the right under the Fifth Amendment of the Constitution not to testify if your testimony would tend to show that you are guilty of a crime.
- But if you choose not to testify at OATH, the OATH judge may find that your silence means that your testimony would not be favorable to you -- that you agree with what TLC has said.
- **Any testimony you give at OATH can be used against you in your criminal case.**
- Although your refusal to testify cannot be held against you in your **criminal** case, the suspension trial at OATH is different. These are **civil**, administrative proceedings at OATH.

## What happens after my trial?

- ✓ The judge will issue a Report and Recommendation.
- ✓ You have a right to submit to TLC written comments on the Report and Recommendation.
- ✓ TLC will make a final determination.
- ✓ If the TLC rules against you, your license will stay suspended.
- ✓ If you win, the TLC may restore your license.



## 2. Fitness Cases

**Fitness cases usually involve the possible loss of a TLC license after:**

- ◆ **A driver has failed a drug test.**
  - ◆ **A criminal conviction; or**
  - ◆ **Fraud.**
- Before your TLC license can be taken away, you have a right to a fitness trial.

## What happens at my trial if I don't settle?

### ▶ Were You Charged With Failing A Drug Test?

- ◆ At the trial, TLC may submit proof of the positive drug test to try to show that you have used illegal drugs and should not hold a TLC license.
- ◆ The TLC must persuade the judge that the positive drug test makes you unfit to hold a TLC license.
- ◆ You can tell your side of the story or have your lawyer argue it for you.

### Should I use evidence?

- ◆ If you are taking prescription medications which may have caused the positive drug test, you should send copies of the prescriptions immediately to the medical review service as directed on the notice you received from TLC.
- ◆ If the medical review service reports that the prescription drug did not result in the positive test, the trial will likely proceed.
- ◆ If the medical review service reports that the prescription drug caused the positive test result, TLC may re-evaluate your case. (It is possible, depending on the prescription, that the prescription may resolve the case.)
- ◆ You have the right to review the lab report in a drug test case to make sure that you are the same person who was tested and that lab procedures were followed.
- ◆ You can decide whether you want to explain to the judge how you think you tested positive for an illegal drug.

- ◆ You can tell your side of the story or have your lawyer argue it for you.

### ▶ **Were you charged with having a criminal conviction?**

- ◆ The TLC may submit proof of a criminal conviction.
- ◆ The TLC must persuade the judge that your criminal conviction makes you unfit to hold a TLC license.
- ◆ Tell the judge if you know your conviction has been overturned on appeal.
- ◆ You may also let the judge know how much time has passed since your conviction and whether anything has changed in your life since then.
- ◆ You can tell your side of the story or have your lawyer argue it for you.

### ▶ **Were you charged with fraud?**

- ◆ TLC may try to prove your identification papers are false or that you used another driver's license, and that dishonest dealings make you unfit to hold a TLC license.
- ◆ Fraud cases can involve a driver who files false identification papers, or uses a license belonging to someone else because the driver is suspended or cannot produce proper identification.
- ◆ There may be a mistake about who is who. If so, you can explain at your trial. You can also bring witnesses who know you.
- ◆ You can tell your side of the story or have your lawyer argue it for you.

## What happens after my trial?

- ✓ The judge will issue a Report and Recommendation.
- ✓ You have a right to submit to TLC written comments on the Report and Recommendation.
- ✓ TLC will make a final determination.
- ✓ If the TLC rules against you, your license may be revoked or suspended, and TLC may impose other penalties and/or money fines. Points may be assessed in some cases.
- ✓ If you win at trial and TLC agrees with the judge's recommendation, your license will not be taken away.



### 3. Compliance Cases

**Compliance cases usually involve a claim that a driver or a medallion owner or base owner failed to follow a directive from the TLC. For example:**

- ◆ **Failure to give information about a fare or a trip,**
- ◆ **Failure to give documentation requested by TLC or law enforcement agencies,**
- ◆ **Failure to pay a small claims or other court judgment,**
- ◆ **Failure to show up for a TLC interview, or**

## ◆ Failure to give information about child support.

- Before your TLC license can be suspended you have a right to a trial.

### Should I use evidence?

- ◆ Bring documentation to the trial if you have papers that show that you have already followed or will follow the TLC's directive.
- ◆ You can tell your side of the story or have your lawyer argue it for you.

### What happens after my trial?

- ✓ The judge will issue a Report and Recommendation.
- ✓ You have a right to submit to TLC written comments on the Report and Recommendation.
- ✓ TLC will make a final determination.
- ✓ If the TLC rules against you, your license may be suspended, and TLC may impose money fines and points on your TLC license.
- ✓ If you win at trial and TLC agrees with the judge's recommendation, your license will not be taken away.



## 4. Overcharge Cases

**Overcharge cases involve the revocation or suspension of a TLC license for charging passengers the out-of-town rate for trips that begin and end in-town, or for any other type of overcharge. Passengers may complain to TLC that a TLC-licensed driver charged them too much money.**

- Before your TLC license can be taken away you have a right to a trial.

### **What happens at my trial if I don't settle?**

- ▶ TLC may use GPS computer records to try to show that you charged passengers too much money.
- ▶ Some of these cases are about the rates on the meter. The out-of-town rate is known as "Rate 4."
- ▶ You can review the GPS records to see if they seem correct to you. If you believe you see errors, you can call them to the judge's attention.
- ▶ A lawyer can help you figure out if you have any other basis to fight the case.
- ▶ You can tell your side of the story or have your lawyer argue it for you.

## What happens after my trial?

- ✓ The judge will issue a Report and Recommendation.
- ✓ You have a right to submit to TLC written comments on the Report and Recommendation.
- ✓ TLC will make a final determination.
- ✓ If the TLC rules against you, your license may be revoked or suspended, and TLC may impose other penalties and/or money fines. Points may be assessed in some cases.
- ✓ If you win at trial and TLC agrees with the judge's recommendation, your license will not be taken away.



## 5. Passenger Complaint Cases

Passenger complaint cases usually involve claims by members of the public or TLC representatives that a driver has verbally harassed, threatened, or assaulted them.

- Before your TLC license can be taken away you have a right to a trial.

## What happens at my trial if I don't settle?

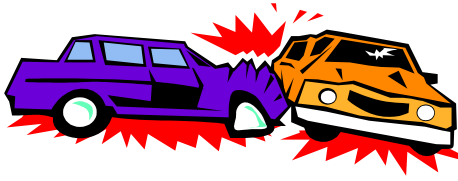
- ▶ Usually, the person complaining will testify at the trial about what happened.
- ▶ You have the right to testify and tell your side of the story or have your lawyer argue it for you.
- ▶ The TLC must persuade the judge that continued licensure **“presents a threat to public health, safety, or welfare.”**



- ▶ If there is also a criminal case against you, you need to decide whether or not to testify. It is up to you. It is best to ask an attorney to help you with this decision.
- ▶ You also have the right to ask questions of the complaining witness and other TLC witnesses if they testify.

## **What happens after my trial?**

- ✓ The judge will issue a Report and Recommendation.
- ✓ You have a right to submit to TLC written comments on the Report and Recommendation.
- ✓ TLC's Chairperson will make a final determination.
- ✓ You have the right to appeal from the Chairperson to the full Commission.
- ✓ If the TLC rules against you, your license may be revoked or suspended, and TLC may impose other penalties and/or money fines. Points may be assessed in some cases.
- ✓ If you win at trial and TLC agrees with the judge's recommendation, your license will not be taken away.



## 6. Accident Cases

**Accident cases usually involve the sale or transfer of a medallion by an owner at some point after there has been an accident involving the taxi.**

- A passenger, pedestrian, or other driver may be making a claim for personal injuries.
- By law, TLC cannot permit a medallion to be sold until there is a review of whether money must be set aside (in what is called an “escrow” account) for someone who got hurt in an accident -- in case the owner’s insurance is not enough to pay the person who was injured in the accident.
- The OATH judge will decide the amount of money to be set aside. The amount could be zero or more.
- At the trial the parties should provide evidence about what injuries occurred and how much they might be worth in a personal injury case.
- Usually, the parties can settle these cases by agreeing to an escrow amount. There may be other possible settlement terms.
- If the case goes to trial, the judge will issue a final decision, which can be appealed in New York State Supreme Court.

## **LEGAL SERVICES**

You may wish to contact your local bar association or legal services provider to see if you can find a lawyer who will take your case at no charge or for a negotiated fee. You may try calling the numbers below:

### **Legal Aid Society - 212-577-3300**

The Legal Aid Society provides free legal services to low-income clients. To contact the Legal Aid Society, you can call 212-577-3398.

### **Lawyer Referral Service of the City Bar Association - 212-626-7373**

A staff lawyer or paralegal will answer the phone and help you to find a way to handle your legal problem. There is no charge for talking to the lawyer or staff of the City Bar Association, but any lawyer to whom they refer you may charge you money. Staff lawyers can be reached at (212) 626-7373.

This partial listing of legal service organizations is provided as a public service.

**OATH DOES NOT GIVE LEGAL ADVICE AND DOES NOT RECOMMEND ANY PARTICULAR ATTORNEY OR ORGANIZATION.**

## MORE INFORMATION

You can read more about OATH and look at case law and rules by visiting OATH's website:

<http://www.nyc.gov/html/oath/html/home/home.shtml>

OATH's decisions can also be found for free at [www.citylaw.org](http://www.citylaw.org). Follow the links starting on the home page with "[CityAdmin Online Library](#)." Then click on "OATH," and scroll down to enter the words you want to search to find cases.

You can read more information about TLC including TLC's rules by visiting TLC's website: [www.nyc.gov/taxi](http://www.nyc.gov/taxi)

