

SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: WALTER B. TOLUB

PART 15

Justice

In the Matter of the Application of
MEYERS VAN LINES, INC.,

INDEX NO.

2008
106753/2008

Petitioner,

For a Judgment Under CPLR Article 78,

-v-

MOTION DATE

THE CITY OF NEW YORK DEPARTMENT OF
FINANCE PARKING VIOLATIONS BUREAU

MOTION SEQ. NO:

004

Respondent.

MOTION CAL. NO.

The following papers, numbered 1 to _____ were read on this motion.

Notice of Motion/ Order to Show Cause — Affidavit

Answering Affidavits — Exhibits _____

Replying Affidavits _____

Cross-Motion: Yes

No
This judgment has now been entered by the County Clerk and notice of entry cannot be served based hereon. To obtain entry, counsel or authorized representative must appear in person at the Judgment Clerk's Desk (Room 1405).

PAPERS NUMBERED

This is an Article 78 proceeding which has now been fully submitted, as the Respondent has filed a Verified Answer to the Third Amended Petition.

The Petition is granted for the reasons set forth in the Court's decision of April 29, 2009 (Motion Sequence 002). Accordingly, it is

ADJUDGED AND DECLARED that the portion of Petitioner's Article 78 application which seeks an order annulling Respondent's denial of Petitioner's application to vacate the default judgments taken against them is granted, and the matter is remanded for reconsideration in accordance with this decision and judgment; and it is further

ADJUDGED AND DECLARED that Respondent's rule, RCNY 39-12(b)(3), which requires payment of the fines in full prior to the taking of an appeal, is unenforceable inasmuch as it exceeds the requirements of VTL 242(5), and it is further

ADJUDGED AND DECLARED that the balance of Petitioner's relief is denied.

This constitutes the decision, order and judgment of the Court and the Clerk of the Court is directed to enter Judgment accordingly.

Dated: 11/10/09

WALTER B. TOLUB, J.S.C.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION

Check if appropriate: DO NOT POST REFERENCE

MOTION CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):