



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592PACIFIC STREET Brooklyn, NY 11217	Summons No: 000940601N et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- WALL EXPRESS SERVICES LLC Hearing Date: 01/23/2026 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$440.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000940601N	Sustained	08/16/2024	INTERSECTION OF 2ND AVENUE AND 13th STREET Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA1E	24 -163	Sustained	\$440.00

Findings of Fact & Conclusions of Law

Petitioner, NYC Department of Environmental Protection, issued a summons to Respondent, Wall Express Services LLC, for violating NYC Administrative Code Section 24-163, Idling of motor vehicle engine for more than 3 minutes – 2nd offense, for a Truck with NJ Plate # XKS64 observed on August 16, 2024, from 1:19 p.m. to 1:23 p.m., at the intersection of 2nd Avenue and 13th Street, in Brooklyn, New York. The Issuing Officer noted on the summons that Respondent has 1 prior violation.

Section 24-163 states that “No person shall or permit the engine of a motor vehicle...to idle for longer than three minutes...”
Section 24-163 (f) provides for exceptions when the engine is used to operate a processing device, for mechanical work, or to

maintain appropriate temperature for passenger comfort.

At the hearing Petitioner, NYC Department of Environmental Protection, was represented by Inspector Monica Dorson. Ilma Babu appeared on behalf of Respondent, Wall Express Services LLC, as the authorized representative.

Petitioner submitted an evidence packet containing a 4-part photo collage identifying the license plate number and company name and logo; the redacted NYC Citizen's Idling Complaint; a copy of the summons and Affirmation of Service; prior summons 000755322X; and a video taken by the civilian complainant (Petitioner's Exhibit 1).

Ms. Babu denied the violation and challenged the video evidence. Respondent's rep asserted that there is no footage of the back of the truck, truck was in a loading and unloading zone, 2 workers working it was a 2-person job, workers tried to hurry and not be double parked, and there are other trucks so don't know where the engine noise came from.

In response, Inspector Dorson stated that as to the video challenge at the 11-second mark the lift gate is tucked away and not in use or operation, and the video gets 3 sides of the truck and if there is no processing equipment on the truck, there is no reason to show it. Additionally, the civilian complainant signed the Acknowledgement that the statements are true. Petitioner also cited Appeal No. 2400960 and submitted a copy as evidence (Petitioner's Exhibit 2). The Board held that the video is not fatal to the summons. Did the Respondent refute Petitioner's evidence or establish a defense with an affidavit from the driver etc.? Inspector Dorson maintained that the Petitioner met the burden of clear and convincing evidence.

In this decision, the Board held that "while Petitioner is not required to submit the citizen complainant's video at the hearing, even where a video has been presented, it is not fatal to the summons that it does not clearly show the vehicle vibrating, producing visible emissions, or making audible engine noise. See DEP v. Hub Truck Rental Corp. Appeal No. 2001344 (February 11, 2021). Rather, per 48 RCNY § 6-12(a), once Petitioner established its prima facie case, the critical inquiry became whether Respondent sustained its burden to refute Petitioner's evidence or otherwise establish a defense, such as by testimony or an affidavit from the vehicle's driver. See DEP v. Monarch Supply Corp p. 2 of 2 driver. See DEP v. Citnalta Construction Corp., Appeal No. 2201191 (January 26, 2023). The Board finds no such evidence was presented here. In the absence of probative evidence to contest Petitioner's case, the summons was properly sustained. See DEP v. Genco Lee Renovation Inc., Appeal No. 2200829 (September 29, 2022)."

I credit the testimony and evidence submitted by the Petitioner. Respondent challenged Petitioner's video evidence asserting that it showed just a part of the truck and was not a good video. Upon reviewing the video, there did not appear to be any processing device and Respondent did not assert that there was a processing device in use. I do not find that the Respondent established a valid defense. As the Appeal Board held "In the absence of probative evidence to contest Petitioner's case, the summons was properly sustained." Additionally, Ms. Babu did not contest the prior violation.

Accordingly, this summons is Sustained with the 2nd offense penalty imposed.

Eva Marie Russo-Lane

02/11/2026

02/11/2026

Eva Marie Russo-Lane, Judicial Hearing Officer

Date