



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

TIFFANY IRIZARRY - NACMIAS LAW FIRM, PLLC 592 PACIFIC STREET BROOKLYN, NY 11217	Summons No: 000879878X et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- PENSKE TRUCK LEASING CORPORATION Hearing Date: 07/28/2026 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$600.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000879878X	Sustained	03/20/2024	856 7 AVENUE Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA1F	24 -163	Sustained	\$600.00

Findings of Fact & Conclusions of Law

Auth. Rep. TIFFANY IRIZARRY appeared for Respondent PENSKE TRUCK LEASING CORPORATION.

DEP Rep. Insp. D. Parks appeared for Petitioner DEP.

On 3/20/24, at 856 7 AVENUE, Manhattan, the I/O issued this summons alleging a violation of 24-163 (third violation, opposed). Ms. Irizarry argued the vehicle from this instant summons is the same vehicle as the one in 000879848P and it was a third violation. Ms. Parks argued the maximum penalty that can be accrued for any truck is 3.

Ms. Parks submitted into the record P1 - Two prior underlying summons violation details to substantiate the third violation; two photographs identifying the cited vehicle, and redacted idling complaint form.

Here, Respondent is not shielded from liability just because there were prior violations and the instant truck was cited for a

third violation already. The prior violations substantiate the third violation designation here.

Ms. Parks also submitted into the record P2 - 3 min 26 second mark screenshot of the license plate.

Ms. Parks also emailed Respondent and the Court a 3 min 35 second time stamped video (reviewed by the Court in full after the hearing as well). Ms. Parks summarized into the record the video details, and noted audible engine noise, and noted lights are on, with no processing device in use.

Ms. Irizarry argued it is difficult to see a clear license plate in the video or pictures and therefore the summons is defective and should be dismissed.

Ms. Parks referred to P3 - OATH Appeal 2400031 ("In the decision sustaining the violation, the JHO credited the summons finding that the summons was not defective despite failing to provide the van's plate information because the plates were removed, and the van was identifiable by Respondent's name and address information printed on the front passenger door... In this regard, the Board finds it is therefore not a defense to the charge that the summons did not include the vehicle's license plate number where there is evidence in the record, as there is here, that the vehicle's license plates were intentionally concealed, as Respondent provided no explanation for the missing license plates.")

Here, upon review of the evidence, I find that the license plate can be read. I also credit the redacted idling complaint form which was submitted under penalty of perjury. Video evidence is not required to be submitted, but here in this case, does support the allegation. Further, the submitted OATH Appeal would apply here, if the plate were unreadable, but the Court is able to read the plate.

I credit the sworn testimony of the I/O and find that Petitioner has proven its case by a preponderance of the evidence.

Accordingly, the summons is SUSTAINED as a THIRD violation.



07/28/2026

07/28/2026

Joseph Fan, Judicial Hearing Officer

Date