OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

TIFFANY IRIZARRY - NACMIAS LAW FIRM, PLLC 592 PACIFIC STREET BROOKLYN,NY 11217	**Summons# : 000930600M et al. (1 summonses)** **DEPT OF ENVIRONMENTAL PROTECTION,** **-against-** **COFFEE ASSOCIATES INC** **Hearing Date :** 10/1/2026 **Hearing Location :** Remote **Type of Hearing :** By Telephone

Total Penalty Amount : 440.00	**Community Service(Hr):** Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000930600M	Sustained	08/05/2024	450 WEST 30 STREET, Manhattan

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

Total Penalty for Summons: 440.00

Findings of Facts & Conclusions of Law

The hearing was conducted via telephone conference call on October 1, 2026.

Respondent COFFEE ASSOCIATES INC. was represented by Tiffany Irizarry, authorized representative.

Inspector John P. McLaughlin appeared on behalf of petitioner DEP.

The summons charges: 24 -163 - IDLING OF MOTOR VEHICLE ENGINE MORE THAN THREE MINUTES – 2nd offense

Petitioner stated that they stand on the summons and citizen complaint as written. Further, petitioner submitted a video, documents, and photos as evidence of the facts of the violation.

Respondent reviewed the evidence presented by petitioner including the video. First, the respondent argues that most of the truck is not seen in the video and, therefore, the facts in the summons are not corroborated by the video and respondent is unable to make arguments regarding the facts. Next, respondent argues that the location on the summons is incorrect. As seen in the video, the truck is located at approximately 488 West 30th Street, not 450 West 30th Street as stated in the summons.

Per § 6-12(b) of Title 48 of the Rules of the City of New York (RCNY), the IO's summons, affirmed under penalty of perjury that the IO verified Respondent's vehicle idled for longer than three minutes at the cited date, time, and location based on a review of DEP records, was sufficient to establish petitioner's prima facie case. See DEP v. Visual Citi Inc., Appeal No. 2401600 (December 19, 2024) and DEP v. Academy Lines LLC, Appeal No. 1900379 (May 16, 2019). 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).

Also, the exact location of the vehicle is not relevant to whether Petitioner has presented a prima facie case. See DEP v. The Shubert Organization Inc., Appeal No. 2200258 (May 26, 2022); DEP v. William Hird & Co., Inc., Appeal No. 2000292 (May 21, 2020) ("the precise location of the vehicle had no bearing on whether it was idling for more than 3 minutes in violation of Code § 24-163"). Respondent offered no evidence to indicate that the cited vehicle shown in the video of the citizen complainant and identified as belonging to respondent through the name and address of the vehicle business was not idling during the noted period. To the extent that the idling may have occurred at that time at location on the same block somewhere between 450 and 488 West 30th Street is de minimus error, if error at all. Accordingly, I find that the summons sufficiently identified the date, time, and location of the idling.

As such, I credit that the summons makes out a valid charge against the respondent. I also credit that the respondent did not establish a valid defense. The IO's statement in the summons, affirmed under penalty of perjury, that the IO verified respondent's vehicle idled for longer than three minutes at the cited date, time, and location based on a review of DEP records, was sufficient to establish petitioner's prima facie case. The respondent provided no actual evidence of what happened in this specific circumstance that would rebut the facts as stated in the summons.

The summons is sustained and the penalty for a second offense is imposed.



10/07/2026 **10/07/2026**

James Klein, Hearing Officer **Date**