



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

ILMA BABU - NACMIAS LAW FIRM PLLC
592 PACIFIC STREET
Brooklyn, NY 11217

Summons# : 000939191L et al. (1 summonses)

DEPT OF ENVIRONMENTAL PROTECTION,

-against-

L INC PENSKE LEASING AND TRUCK RENTA

Hearing Date : 6/16/2026

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 350.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000939191L	Sustained	07/25/2024	ON WEST 48 ST BTWN BROADWAY / 8 AVE,

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	BA51	24 -163	Sustained	350.00

Total Penalty for Summons: 350.00

Findings of Facts & Conclusions of Law

Petitioner appeared through Omar Torress. Respondent appeared through registered representative Ilma Babu.

Summons 000939191L charged a violation of Administrative Code 24-163, prohibiting the idling of a motor vehicle engine for longer than 3 minutes. A citizen observed a truck with NY license plate 51598NE idling on 7/25/2024 from 5:13:31 pm to 5:17:22 pm on West 48 Street between Broadway and 8 Avenue.

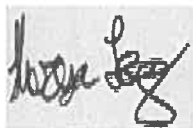
This was charged as a first offense.

In support of the summons, Petitioner played a video that was viewed during the hearing, and submitted the citizen complaint (Exhibit 1), and photo stills from the video (Exhibit 2). Petitioner argued that there is three minutes of idling after the worker clears the area. The lift gate does not move.

Respondent argued there was insufficient evidence because the video angle was bad.

Per § 6-12(b) of Title 48 of the Rules of the City of New York (RCNY), the issuing officer's summons, affirming under penalty of perjury that he 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. Academy Lines LLC, Appeal No. 1900379 (May 16, 2019). While Petitioner is not required to submit a video at the hearing, even where one is 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 any credible evidence in the record, such as testimony or an affidavit from the vehicle's driver, refuted Petitioner's case or otherwise established an affirmative defense. See DEP v. Citnalta Construction Corp., Appeal No. 2201191 (February 23, 2023). Respondent presented no such evidence here. Merely contesting the sufficiency of the video submitted by the citizen-complainant is insufficient to refute the violation. See DEP v. TM & T Service Station, Inc., Appeal No. 1901827 (March 19, 2020).

The summons is sustained and the standard penalty for a first offense will be imposed.



06/22/2026

06/22/2026

Theresa Leary, Hearing Officer

Date



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division
Decision

ILMA BABU - NACMIAS LAW FIRM PLLC 592 PACIFIC STREET Brooklyn, NY 11217	Summons# : 000939183L et al. (1 summonses) DEPT OF ENVIRONMENTAL PROTECTION, -against- L INC PENSKE LEASING AND TRUCK RENTA Hearing Date : 6/16/2026 Hearing Location : Remote Type of Hearing : By Telephone
--	--

Total Penalty Amount : 350.00	Community Service(Hr): Not Applicable
--------------------------------------	--

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000939183L	Sustained	07/11/2024	ON WEST 48TH ST BTWN 8TH AVE / BROADWAY,

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	BA51	24 -163	Sustained	350.00

Total Penalty for Summons: 350.00

Findings of Facts & Conclusions of Law

Petitioner appeared through Omar Torress. Respondent appeared through registered representative Ilma Babu.

Summons 000939183L charged a violation of Administrative Code 24-163, prohibiting the idling of a motor vehicle engine for longer than 3 minutes. A citizen observed a truck with NY license plate 51612NE idling on 7/11/2024 from 4:49:12 pm to 4:53:15 pm on West 48th Street between 8th Avenue and Broadway.

This was charged as a first offense.

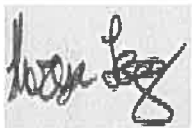
In support of the summons, Petitioner played a video that was viewed during the hearing, and submitted the citizen complaint (Exhibit 1), and photo stills from the video (Exhibit 2).

Petitioner argued that the lift gate was down, but not in use during the video. Respondent argued that the fact that the lift gate is down means there was working taking place.

Code § 24-163 prohibits idling a motor vehicle engine for longer than three minutes while parking, standing, or stopping, unless the engine is used to operate a loading, unloading or processing device. The processing device must be actively in use during the time specified on the summons to qualify for the processing device exception. See *DEP v. Approved Storage & Waste Hauling Inc.*, Appeal No. 2001382 (January 14, 2021).

The issuing officer's affirmed statement established a prima facie case of the violation. See 48 RCNY § 6-12(b). Respondent has not established a defense to the charge.

The summons is sustained and the standard penalty for a first offense will be imposed.



06/22/2026

06/22/2026

Theresa Leary, Hearing Officer

Date