OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

TIFFANY IRIZARRY - NACMIAS LAW FIRM, PLLC 592 PACIFIC STREET BROOKLYN,NY 11217	Summons# : 000957558H et al. (1 summonses) DEPT OF ENVIRONMENTAL PROTECTION, -against- ON PENSKE TRUCK LEASING CORPORATI Hearing Date : 9/8/2026 Hearing Location : Remote Type of Hearing : By Telephone

Total Penalty Amount : 0.00	**Community Service(Hr):** Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000957558H	Dismissed	02/04/2025	Smith St btw Bergen & Dean Sts, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	BA51	24 -163	Dismissed	0.00

Total Penalty for Summons: 0.00

Findings of Facts & Conclusions of Law

The Department of Environmental Protection (DEP) issued this Summons to Penske Truck Leasing Co LP. The Summons, based on a citizen complaint, charges that a vehicle owned or controlled by Penske was illegally idling for more than three minutes on the date and at the location indicated above. Senior Inspector Antwan Gibbs represented DEP at the remote hearing, and Tiffany Irizzary represented Penske.

In addition to relying on the Summons, Inspector Gibbs submitted in support a redacted copy of the complaint from the citizen complainant, photos of the license plate and truck panel, ownership information linking the vehicle to Penske, and a video taken and narrated by the citizen complaint which he said showed no activity for a three-minute period.

After the presentation, Ms. Irizzary said the lift platform was used to load and unload often enough so that there was no three-minute pause. She could not point to any periods on the tape, but my own reviews both at and after the hearing indicate that the lift was not in use, and the motor was running for a maximum of about 2:57 minutes from 1:45 to 4:42. The video was also extremely confusing because at times the vehicle was shown upside down with the gate not in sight and occasionally the vehicle was even shown from the front.

Accordingly, I find that DEP failed to establish according to the applicable standard of preponderance of the evidence that there was a violation. This Summons is dismissed.

09/08/2026 **09/08/2026**

Sara Piovia, Hearing Officer **Date**