



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592 PACIFIC STREET Brooklyn, NY 11217	Summons No: 000979289X et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- PENSKE TRUCK LEASING AND RENTAL INC Hearing Date: 05/20/2026 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$350.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000979289X	Sustained	12/28/2024	810 Eight Ave Manhattan

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

Findings of Fact & Conclusions of Law

This hearing was conducted remotely by telephone. Ilma Babu appeared for Respondent. Insp. Monica Dorson appeared for Petitioner Department of Environmental Protection (DEP). Respondent is charged with a violation of section 24-163 of the New York City Administrative Code.

Through email Petitioner provided an evidence packet with information and a picture regarding the vehicle (P. Exs. 1-); and a video of the vehicle, P. Ex. 5, which due to its size was not uploaded and will instead be uploaded into this tribunal's shared digital folder.

Petitioner stated that the video showed the engine was idling for more than three minutes with no loading or unloading or processing equipment that required idling and requested that the summons be sustained.

Respondent stated that in the video one could see products and an open trunk, that they were making deliveries and work was being done, and they may have been inside of the vehicle organizing the product. Respondent also stated that the video quality was not good and argued evidence was insufficient and it was hard to understand what was being shown.

Petitioner stated that the video was not necessary to establish a prima facie case, and this video was clear and convincing enough for the charge to be sustained. Petitioner added that the videographer circled the vehicle many times and one could see a dormant liftgate dormant, that was not in use or operation when the video was taken. In the Idling Complaint the citizen had indicated that all statements were true and accurate. The liftgate was down and idling was over three minutes.

Per OATH Rules at 48 RCNY section 6-12(b), a summons that is sworn to under oath or affirmed under penalty of perjury is prima facie evidence of the facts stated in the summons. This summons was affirmed under penalty of perjury.

Petitioner may provide a video into evidence but does not have to do so. That the video is not of good quality does not constitute by itself a defense to the charge.

Respondent stated that there may have been an explanation in why they were idling in that they were organizing things inside the vehicle. Things that would later be delivered.

Respondent did not state that a processing device was in use inside the vehicle, or how a processing device would be in use to organize things inside the vehicle.

That they may have been organizing things that they would soon take out of the vehicle using a processing device, would also not be a defense, as "The law does not allow vehicles to run their engines in excess of three minutes in anticipation of, or preparatory to, activities that might be exempt from the idling restrictions." Hunter Severini v. Tri Power Electrical LLC, Appeal No. 2201030 (2022), at 2 (citations omitted).

Respondent did not provide any documents or testimony to support the possibility that they were indeed using a processing device.

I find that Respondent did not refute Petitioner's case or establish a defense to the violation.

The summons is thus sustained, and the statutory penalty is imposed.

Daniel A. Vazquez

05/29/2026

05/29/2026

Daniel Vazquez-Diaz, Judicial Hearing Officer

Date