



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

LANCE CHEBIN - NACMIAS LAW FIRM 592 PACIFIC STREET NEW YORK, NY 11217	Summons No: 000824592M et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- COMPLETE EQUIPMENT RENTALS LLC Hearing Date: 04/30/2025 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
000824592M	Sustained	12/19/2023	130 WEST 47TH STREET Manhattan

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

Findings of Fact & Conclusions of Law

The violation is sustained.

The Respondent, COMPLETE EQUIPMENT RENTALS LLC, appeared by its authorized representative, Lance Chebin - Nacmias Law Firm. The Petitioner, NYC DEPARTMENT OF ENVIRONMENTAL PROTECTION, appeared by its representative, Inspector Leah Smith.

The summons alleges a third offense a violation of NYC Air Pollution Control Code Section 24-163, Idling of a Motor Vehicle engine over three (3) minutes. The Issuing Officer specifically alleges in details of the violation that the charge was based on a

Citizen Complaint alleging that Respondent's truck with NJ license plate #AW894W was idling for longer than three (3) minutes on December 19, 2023 beginning at 10:20:12 AM at 130 West 47th Street in Manhattan. The summons alleges two (2) prior summonses that were issued to the same Respondent, for the same vehicle and for the same infraction.

Petitioner's representative relied on the summons for Petitioner's main case and produced the following evidence in support: 1) a redacted idling complaint form (Px1), 2) a photograph of the subject vehicle's license plate (Px2); 3) a photograph of the driver side of the subject vehicle including the name of the company (Px3), 4) an idling summons affidavit (Px4), 5) the complaint histories for the predicate summonses (Px5 and Px6) and 6) a video taken by the complaining citizen of the violating condition including what appears to be the sound of an idling vehicle (Px7).

Respondent's representative denied the existence of the violating condition and stated that the truck was using its lift gate of loading and unloading. NYC APC Section 24-163(2) provides for an exception from the anti-idling provision for "vehicles whose engine is used to operate a loading, unloading or *processing device*" (emphasis added). Additionally, Respondent's representative requested that the summons be considered a second offense rather than a third offense.

Petitioner's representative stated that video (Px7) does not support the processing device exception under 24-163(2) as the lift gate is not in use. Respondent's representative conceded that some of the footage displayed material being unloaded from the truck but at no point in the video does the Respondent appear to be using the lift gate. Respondent's representative refused to amend the summons to a second offense as the documentation and the proximity in time of the violations supported the instant summons being considered a third offense.

Upon review of the video evidence the Judicial Hearing Officer concurs with Petitioner's representative's analysis that the lift gate was not being used as the time the Respondent's vehicle was seen idling.

I find on the Petitioner's credible case that the violating condition described in the summons existed and the standard penalty for a third offense is imposed.

The summons is sustained.

Jamin Sewell

04/30/2025

04/30/2025

Jamin Sewell, Hearing Officer

Date