



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Nacmias, Esq. - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 000606389L et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- P CITYWIDE CONTAINER SERVICE COR Hearing Date: 09/17/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$800.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000606389L	Sustained	06/17/2025	205 WEST 28TH ST Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BABL	24-146 (B)	Sustained	\$800.00

Findings of Fact & Conclusions of Law

The hearing was conducted by telephone via Court Call on September 17, 2025. Andy Guzman represented Petitioner. Respondent appeared through authorized representative Nora Brown.

The summons charges a repeat violation of Administrative Code §24-146(b). The issuing officer affirmed observing: "As per citizen complaint – Respondent allowed or permitted (Dust) to become airborne without taking precautions, causing construction materials to generate dust into the public right of way while transporting such materials into a garbage truck Source of particulate emissions (dust) from workers dumping construction materials without any mitigation allowing dust to become air-borne, causing an annoyance and discomfort to pedestrians in the public right of way." The summons also listed a

prior summons.

Petitioner supported the summons with the following evidence: Photos showing identifying information and workers loading the rear of a garbage truck and a 2m 16s video showing loading with resultant dust and no steps taken to contain dust such as water to hose down rear as debris was loaded. Respondent did not contest the allegations of the summons but did argue that Petitioner failed to provide evidence in support of the listed prior violation. Respondent, however, offered no evidence that the prior summons was not issued to the same respondent within two years of the current violation involving the same equipment.

Code § 24-146(b) provides: "No person shall cause or permit any material that may generate dust to be transported or stored without taking such precautions as may be ordered by the commissioner or as established by the rules of the department to prevent dust from becoming air-borne."

I credit the affirmed allegations of the summons and Petitioner's evidence and find Petitioner established its prima facie case. Regarding the prior violation, the sworn citation to the summons number and the same section of law is sufficient to carry Petitioner's burden. See DEP v. Northeast Service Interiors, Appeal No. 2401761 (April 24, 2025). Respondent consequently failed to rebut the summons regarding the prior violation.

The summons therefore is sustained.

Michael Gallagher

09/18/2025

09/18/2025

Michael Gallagher, Hearing Officer

Date