



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592 PACIFIC STREET Brooklyn, NY 11217	Summons No: 000887576K et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- P CITYWIDE CONTAINER SERVICE COR Hearing Date: 01/16/2026 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
000887576K	Sustained	11/04/2024	76 9 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 matter was heard remotely, via telephonic conference, on January 16, 2026. Respondent appeared via Ilma Babu, identified as the authorized representative for the named respondent. Petitioner waived their appearance.

The summons alleges a violation of NYC AC 24-163. The date of occurrence was November 4, 2024, at 7:30am.

Respondent enters the citizen video for this summons, as evidence; I accessed the video through petitioner's Idling Complaints search website, <https://nycidling.azurewebsites.net/idlingevidence>. The video is 3:20, time-stamped in accordance with the summons.

Respondent submits a picture, as evidence, testified to be a screenshot of an email thread between respondent's representative, and their client; the email notes that their vehicle require the engine to run for a time, in order for air brakes to build up sufficient pressure.

Respondent further testifies that the container on the vehicle is a trash bin, and that since the container is still being held, the vehicle's processing device is still in use.

I credit respondent's testimony, but find it insufficient to warrant dismissal of the charges. At the outset, respondent's testimony, and evidence, as to the vehicle charging its air brakes is not a defense, as this has been held to not qualify for the processing device exemption to the idling laws. See, e.g., DEP v. Colgate Scaffolding, Appeal No. 2400455 (May 30, 2024). Moreover, at around 3:05 of the video, the citizen shows the back of the vehicle, and my viewing of the video shows that while the receptacle might be attached to the processing device, it is at rest, on the bed of the vehicle, and is not actively being held, and no work is being performed. As such, the processing device is not in active use, and also does not qualify for an exemption to the idling laws.

As such, the summons is hereby sustained, and the statutory penalty is imposed.



01/16/2026

01/16/2026

Craig Messing, Judicial Hearing Officer

Date