



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

.MICHAEL NACMIAS - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 000606813L et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- CITYWIDE CONTAINER SERVICE Hearing Date: 11/12/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$1,200.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000606813L	Sustained	08/21/2025	107 WEST 68TH STREET Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BABM	24-146 (B)	Sustained	\$1,200.00

Findings of Fact & Conclusions of Law

This remote hearing was conducted on November 12, 2025. Respondent (Citywide Container Service) appeared by authorized representative, Nora Brown. Michael Grosso appeared for Petitioner (DEP).

Respondent was charged with a repeat (3rd and subsequent offense) violation of 24-146(b). "As per citizen's 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 (LIC NY PL #41398PF-a garbage truck) in violation of Section 24-146(b) of the NYC Air Code. 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 predicate summonses are #000604223M and 000605147Y. See: Hearing Officer Exhibit #1 (Summons copy).

Mr. Grosso submitted Petitioner's evidence package including a photograph of the cited truck's front license plate; a copy of the summons and Affidavit/Certificate of Service, and a video (57 seconds). All participants viewed the video.

Mr. Grosso stated that you can see the containers being dumped into the back of the cited garbage truck and the dust coming out. Debris must be watered down in the containers (to the point where the water is running down the sides of the containers), and the back of the truck should also be watered down. As the debris is being poured in, you can see the dust.

Ms. Brown stated that, in the video, you can see the garbage coming down-but the video does not show water dripping down the sides of the containers because the videographer was too far off. Ms. Brown also submitted a copy of Respondent's Dust Mitigation Plan. She noted that the Plan describes dust mitigation procedures including the hosing down. See: Resp. Ex. A.

Mr. Grosso rebutted. He referred again to the video and noted that you can see a container (after its contents were dumped into the back of the truck), and you can still see the dust. The container was not watered or properly watered.

Ms. Brown did not contest the predicate violations.

Based on the record before me, I find that Respondent fails to credibly refute the factual allegations. The video plainly shows a worker dumping the contents of a container into the back of the cited garbage truck. As the worker completes the dumping and moves back (away from the rear of the garbage truck), dust is clearly seen being emitted from the container and moving upward "into the public right of way." Moreover, even if it is true that Respondent had a Dust Mitigation Plan containing proper procedures for dust mitigation, this truth does not provide Respondent with a legally valid defense. The fact remains that, at the time and place of the cited occurrence, the plan procedures were not implemented or were not properly implemented. Accordingly, I sustain this summons.

J. Beck-Wall

11/13/2025

11/13/2025

Joan B Beck-Wall, Judicial Hearing Officer

Date