



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division
Decision

ILMA BABU - NACMIAS LAW FIRM PLLC 592 PACIFIC STREET Brooklyn, NY 11217	Summons# : 000607410L et al. (2 summonses) DEPT OF ENVIRONMENTAL PROTECTION, -against- CITYWIDE CONTAINER SERVICES Hearing Date : 1/21/2026 Hearing Location : Remote Type of Hearing : By Telephone
--	---

Total Penalty Amount :	0.00	Community Service(Hr):	Not Applicable
-------------------------------	-------------	-------------------------------	-----------------------

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000607405R	Dismissed	08/21/2025	22 EAST 40 STREET, Manhattan

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	BA31	24-146 (B)	Dismissed	0.00

Total Penalty for Summons: 0.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000607410L	Dismissed	09/10/2025	136 WEWST 48TH STREET, Manhattan

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	BABM	24-146 (B)	Dismissed	0.00

Total Penalty for Summons: 0.00

Findings of Facts & Conclusions of Law

The hearing was held on January 21, 2026. ILMA BABU appeared on behalf of Respondent. Senior Insp. Monica Dorson appeared on behalf of DEP. The summonses ending in 05R and 10L charges a violation of 24-146 (B) DUST ALLOWED TO BECOME AIRBORNE.

Petitioner provided an evidence packet containing the original citizen complaint acknowledged by the citizen and a video showing the Respondent workers loading debris into a truck.

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 airborne." Once Petitioner established its prima facie case, the critical inquiry became whether any credible evidence in the record, such as testimony or affidavits from the Respondent's employees present at the time of violation, refuted its case, or otherwise established an affirmative defense "by a preponderance of the evidence." See DEP v. Citnalta Construction Corp., Appeal No. 2201191 (February 23, 2023); 48 RCNY § 6-12(a).

Respondent denies the violation and argues reasonable efforts were made to mitigate the airborne dust. Respondent provides an employee affidavit that states the debris and materials were hosed down prior to being placed in the truck, during and after completion to prevent dust from going airborne. In the video there is no evidence of dust and debris being airborne. In the video the employees are spraying the debris with water to eliminate dust.

Respondent has presented a credible defense. I credit Respondent testimony and evidence .

Therefore, summonses ending in 05R and 10L are dismissed.

 01/21/2026 01/21/2026	
Eric Howard, Judicial Hearing Officer	Date