



# OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

## Decision

LANCE CHEBIN - NACMIAS LAW FIRM  
592 PACIFIC STREET  
NEW YORK, NY 11217

Summons# : 000828227M et al. (4 summonses)

DEPT OF ENVIRONMENTAL PROTECTION,

-against-

PENSKE TRUCK LEASING CO LP

Hearing Date : 3/10/2025

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 1,050.00

Community Service(Hr): Not Applicable

| SUMMONS #  | SUMMARY<br>DISPOSITION | DATE OF OCCURRENCE | PLACE OF OCCURRENCE            |
|------------|------------------------|--------------------|--------------------------------|
| 000828227M | Sustained              | 11/14/2023         | 444 MADISON AVE.,<br>Manhattan |

| LINE ITEM | OATH CODE | CODE SECTION / RULE | RESULT    | PENALTY |
|-----------|-----------|---------------------|-----------|---------|
| 1         | BA51      | 24 -163             | Sustained | 350.00  |

Total Penalty for Summons: 350.00

| SUMMONS #  | SUMMARY<br>DISPOSITION | DATE OF OCCURRENCE | PLACE OF OCCURRENCE                                   |
|------------|------------------------|--------------------|-------------------------------------------------------|
| 000838351Z | Sustained              | 01/26/2024         | Court St. btw'n. Bergen &<br>Wykoff Streets, Brooklyn |

| LINE ITEM | OATH CODE | CODE SECTION / RULE | RESULT    | PENALTY |
|-----------|-----------|---------------------|-----------|---------|
| 1         | BA51      | 24 -163             | Sustained | 350.00  |

**Total Penalty for Summons: 350.00**

| SUMMONS #  | SUMMARY<br>DISPOSITION | DATE OF OCCURRENCE | PLACE OF OCCURRENCE    |
|------------|------------------------|--------------------|------------------------|
| 000838469Y | Dismissed              | 11/27/2023         | 185 7th AVE., Brooklyn |

| LINE ITEM | OATH CODE | CODE SECTION / RULE | RESULT    | PENALTY |
|-----------|-----------|---------------------|-----------|---------|
| 1         | BA1I      | 24-163 (F)          | Dismissed | 0.00    |

**Total Penalty for Summons: 0.00**

| SUMMONS #  | SUMMARY<br>DISPOSITION | DATE OF OCCURRENCE | PLACE OF OCCURRENCE                                      |
|------------|------------------------|--------------------|----------------------------------------------------------|
| 000841066R | Sustained              | 12/14/2023         | Albee Sqaure West btw'n.<br>Willoughby & Fulton Streets, |

| LINE ITEM | OATH CODE | CODE SECTION / RULE | RESULT    | PENALTY |
|-----------|-----------|---------------------|-----------|---------|
| 1         | BA51      | 24 -163             | Sustained | 350.00  |

**Total Penalty for Summons: 350.00**

**Findings of Facts & Conclusions of Law**

The respondent was represented by Lance Chebin. The petitioner was represented by Insp. Dantney Parks. The summonses all allege that the respondent's vehicles were observed idling for more than the legally permitted period without a valid reason.

As to summons # 000828227M, the summons alleges that the respondent's vehicle was observed idling for a period in excess of three minutes without a valid defense. The respondent denies that the named respondent is the proper party where the evidence presented by the petitioner notes that the truck and the DOT registration all refer to Corporate Coffee Systems, LLC. The only evidence connecting the named respondent to the vehicle in question is a screenshot of a DEP verification that the noted license plate belongs to the named respondent. Although the actual DMV record for the license plate was not presented, the respondent has not presented any evidence that would indicate that the information presented by the petitioner is inaccurate. As such, this summons is sustained.

As to summons # 000838469Y, the summons alleges that the respondent's vehicle was observed idling for a period in excess of one minute adjacent to a school without a valid defense. The respondent denied the violation as charged. The summons notes that the place of the alleged violation is 185 7th Avenue and that the noted school is located at 180 7th Avenue, on the other side of Seventh Avenue from the school. The evidence presented by the petitioner consists of the complaint form along with a video and stills taken from said video. It was noted that neither the video nor the photographs show the school where the respondent's vehicle was allegedly idling. Additionally, the citizen taking the video did not identify the location of the place of the alleged violation in the video. As the summons was issued for excessive idling while adjacent to a school, the petitioner must establish the location of the respondent's vehicle for a prima facie case to be shown. Therefore, I find that the petitioner has failed to establish the elements of the charged violation and this summons is dismissed.

As to summons # 000841066R, the summons alleges that the respondent's vehicle was observed idling for a period in excess of three minutes without a valid defense. The respondent notes that the lift gate is visible in the citizen's video and shows that it has some crates on it. The respondent argues that this indicates that the lift gate was in use at the time necessitating the vehicle's engine to be idling. However, it was noted that during the entirety of the video, the gate does not move, nor does anyone approach the lift gate. The fact that at some point, the lift gate will be moved to allow for either the removal or the storage of the crates is not dispositive where it is not actively in use at the time of the vehicle being observed idling. As such, this summons is sustained.

As to summons # 000838351Z, the summons alleges that the respondent's vehicle was observed idling for a period in excess of three minutes without a valid defense. The respondent has denied the charged violation but presented no argument or evidence to either rebut the charged violation or establish a valid defense thereto. As such, the summons is sustained, and the appropriate penalty assessed.

|                                                                                     |            |
|-------------------------------------------------------------------------------------|------------|
|  |            |
| 03/11/2025                                                                          | 03/11/2025 |
| Patricia Cardoso, Hearing Officer                                                   | Date       |