



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

MABEL OGHOJAFOR - NACMIAS LAW FIRM PPLC 592 PACIFIC STREET BROOKLYN, NY 11217	Summons No: 000830554M et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- PENSKE TRUCK LEASING CO LP Hearing Date: 01/23/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$350.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000830554M	Sustained	01/26/2024	On Ave C between E. 12th Street and E. 11th Street Manhattan

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

Findings of Fact & Conclusions of Law

Respondent **PENSKE TRUCK LEASING CO LP** appeared at a remote telephonic hearing on 1/23/2025 by its authorized representative Ms. Mabel Oghojafor of the Nacmias Law Firm.

Petitioner NYC Dept. of Environmental Protection appeared by Insp. Michael Grosso.

Respondent is charged with a violation of NYC Adm. Code 24-163 for allegedly causing or permitting the engine of the vehicle cited in the Summons to idle for more than 3 minutes while parked, standing, or stopped.

Insp. Grosso submitted the following evidence on behalf of Petitioner: 4min 28sec video, Redacted Idling Complaint; 2 photos. (Petitioner's Exhibits 1-3)

Ms. Oghojafor moved to dismiss the Summons arguing that Respondent leased the cited vehicle to another entity; Respondent was not operating it at the time this Summons was issued; and that the Summons should have been issued to the lessee of the vehicle.

Insp. Grosso argued in opposition to Respondent's motion to dismiss that either the lessor or the lessee can properly be charged.

The Board in *DEP v. Penske Truck Leasing, Co.*, Appeal No. 2400124 (March 28, 2024) held that "either the lessor or the lessee can be properly charged with this violation. See *DEP v. Daylight Transport LLC*, Appeal No. 2201531 (March 23, 2023). Therefore, Respondent, as owner of the cited vehicle, was properly named."

Respondent's motion to dismiss is denied as I find that Respondent, as lessor, is a proper party to this Summons.

I credit the allegations in the Summons and Petitioner's evidence and find Respondent in violation.

Accordingly, the Summons is sustained, and the approved penalty is imposed.



01/23/2025

01/23/2025

Jerilyn F. Rubin, Hearing Officer

Date