



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

Decision

LANCE CHEBIN - NACMIAS LAW FIRM 592 PACIFIC STREET NEW YORK, NY 11217	Summons# : 000835816X et al. (1 summonses) DEPT OF ENVIRONMENTAL PROTECTION, -against- THE PAY-O-MATIC CORP Hearing Date : 3/5/2025 Hearing Location : Remote Type of Hearing : By Telephone
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Total Penalty Amount : 350.00	Community Service(Hr): Not Applicable
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SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000835816X	Sustained	02/15/2024	East 47th Street between 5th Ave and Madison Ave,

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

Summons 000835816X charges a violation of Administrative Code §24-163, prohibiting the idling of a motor vehicle engine for longer than 3 minutes. The hearing was conducted on March 5, 2025. Petitioner appeared through Inspector John McLaughlin. Respondent appeared through authorized representative Lance Chebin.

The summons alleges that a citizen observed a truck with NY license plate 40688NC idling for longer than three minutes, specifically, from 2/15/2024 12:12:57 pm to 12:20:36 pm on East 47th Street between 5th Ave and Madison Ave. This was charged as a first offense.

In support of the summons, Petitioner played a video that was viewed during the hearing, and submitted the summons with service (Exhibit 1), the citizen complaint (Exhibit 2), and photographs (Exhibit 3).

Respondent argues that the Respondent is not the correct party because the truck says "Rapid Armor" on it, not Payomatic.

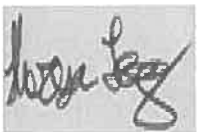
Petitioner states that the license plate is issued to the Payomatic corp. Petitioner's software program has access to the official license base database and runs the plate to find the vehicle's owner. In support, he provided Exhibit 4, search result showing that the license is registered to Payomatic.

Respondent has no rebuttal to the license plate submission.

Code § 24-163 prohibits idling a motor vehicle engine for longer than three minutes while parking, standing, or stopping, unless the engine is used to operate a loading, unloading or processing device.

Per § 6-12(b) of Title 48 of the Rules of the City of New York (RCNY), the issuing officer's summons, affirming under penalty of perjury that he verified Respondent's vehicle idled for longer than three minutes at the cited date, time and location, based on a review of DEP records, was sufficient to establish Petitioner's prima facie case. See DEP v. Academy Lines LLC, Appeal No. 1900379 (May 16, 2019). While Petitioner is not required to submit a video at the hearing, even where one is presented, it is not fatal to the summons that it does not clearly show the vehicle vibrating, producing visible emissions, or making audible engine noise. See DEP v. Hub Truck Rental Corp., Appeal No. 2001344 (February 11, 2021). Rather, per 48 RCNY § 6-12(a), once Petitioner established its prima facie case, the critical inquiry became whether any credible evidence in the record, such as testimony or an affidavit from the vehicle's driver, refuted Petitioner's case or otherwise established an affirmative defense. See DEP v. Citnalta Construction Corp., Appeal No. 2201191 (February 23, 2023). Respondent presented no such evidence here.

I find that the Respondent is properly named. Accordingly, the summons is sustained.



03/05/2025

03/05/2025

Theresa Leary, Hearing Officer

Date