



**OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS**  
Hearings Division

**Decision**

|                                                                                   |                                                                                                                                                                                                                                                                                                    |
|-----------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>LANCE CHEBIN - NACMIAS LAW FIRM</b><br>592 PACIFIC STREET<br>BROOKLYN,NY 11217 | <b>Summons# : 000847832Y et al. (1 summonses)</b><br><br><b>DEPT OF ENVIRONMENTAL PROTECTION,</b><br><br><b>-against-</b><br><br><b>MAQUETTE FINE ART SERVICES LLC</b><br><br><b>Hearing Date : 4/28/2025</b><br><br><b>Hearing Location : Remote</b><br><br><b>Type of Hearing : By Telephone</b> |
|-----------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                      |                                              |
|--------------------------------------|----------------------------------------------|
| <b>Total Penalty Amount : 350.00</b> | <b>Community Service(Hr): Not Applicable</b> |
|--------------------------------------|----------------------------------------------|

| <b>SUMMONS #</b> | <b>SUMMARY DISPOSITION</b> | <b>DATE OF OCCURRENCE</b> | <b>PLACE OF OCCURRENCE</b> |
|------------------|----------------------------|---------------------------|----------------------------|
| 000847832Y       | Sustained                  | 01/02/2024                | 151 W 17 St, Manhattan     |

| <b>LINE ITEM</b> | <b>OATH CODE</b> | <b>CODE SECTION / RULE</b> | <b>RESULT</b> | <b>PENALTY</b> |
|------------------|------------------|----------------------------|---------------|----------------|
| 1                | BA1I             | 24-163 (F)                 | Sustained     | 350.00         |

**Total Penalty for Summons: 350.00**

**Findings of Facts & Conclusions of Law**

This matter was heard remotely, via telephonic conference, on April 28, 2025. Respondent appeared via Lance Chebin, identified as the authorized representative for the named respondent, authorized to appear on their behalf. Petitioner appeared via Leah Smith.

The summons alleges a violation of NYC AC 24-163(f). The date of occurrence was December 17, 2024, at 5:45pm.

Petitioner submits seven documents, and a video, as evidence. The documents include: a picture of the vehicle's license plate; a picture of the side of vehicle, with respondent's name and DOT number visible; a SAFER snapshot; the redacted idling complaint; a copy of the instant summons, and proof of service, and a screenshot from a map, with handwritten notes showing the location of the school, and its relation to the place of occurrence. Also submitted is a copy of DEP v. Fedex Ground Package System Inc., Appeal No. 2100309 (May 20, 2021), with added highlights, which petitioner testifies holds that an "owner" of a vehicle is broadly defined in the Code, and includes "any other person who has regular control of the equipment or apparatus."

The citizen video of the incident; it is a 1:43 video, time-stamped in accordance with the summons. Petitioner testifies that the video shows the engine audible throughout the video, clearly idling for longer than one minute, with no apparent loading or unloading, use of processing equipment, or other activity that would require the engine to run; petitioner notes that the vehicle has two processing devices, a refrigeration unit and a lift gate, but neither were in use, and further, the refrigeration unit does not need to utilize the engine to operate. As such, petitioner contends that the violation should be sustained.

Respondent testifies that the evidence provided by the citizen themselves does not show that the vehicle is idling near a school.

Petitioner reiterates that they submitted evidence of the school's location, and testifies that the place of occurrence was "adjacent" to a school. Petitioner also testifies that complaints submitted after January 27, 2025, will be required to show the school, in 24-163(f) complaints.

I credit respondent's testimony, but find it insufficient to warrant dismissal of the charges. 24-182 governs a citizen's complaint to petitioner, which specifically states that this must be "in a form prescribed by the department." The department's website, <https://www.nyc.gov/site/dep/environment/idling-citizens-air-complaint-program.page>, does indeed note that after January 27, 2025, the school (or park) must be shown, in a complaint under 24-163(f). However, 24-163(f) itself does not require any such evidence; it does provide for an "affirmative defense" that the school or park was not easily identifiable as such, but respondent does not make that argument here, and petitioner does submit credible evidence that the cited school was located on the same block as the place of occurrence.

As such, the summons is hereby sustained, and the statutory penalty imposed.



04/28/2025

04/28/2025

Craig Messing, Hearing Officer

Date

**IF YOU ARE FOUND IN VIOLATION, AND ARE NOT ELIGIBLE OR DO NOT CHOOSE COMMUNITY SERVICE, YOU MUST PAY THE PENALTY WITHIN 30 DAYS OF THE DECISION DATE OR 35 DAYS IF MAILED.**

- To pay by mail, send a check or money order to the Dept. of Finance Commissioner, P.O. Box 2307, Peck Slip Station, New York, NY 10272. The check or money order should be made out to "Finance Commissioner, City of New York." Write the summons number on the check or money order.
- To pay in person, bring a check, money order or credit card and this decision to any OATH Hearings Division location between 8:30 a.m. to 4:30 p.m.
- To pay online using a credit or debit card, go to [www.nyc.gov/citypay/oath](http://www.nyc.gov/citypay/oath)

If you do not pay the penalty, the City may: (1) file papers with the Civil Court ("docket a judgment"), (2) charge you a late fee, and (3) continue attempts to collect the debt.

**CAN I DO COMMUNITY SERVICE?**

If your summons is for the type of offense that gives you a Community Service option you can choose to complete Community Service instead of paying a penalty. Your decision will give you that option. You have to complete your Community Service by the deadline in the decision or else you will end up owing the penalty. You can even do your Community Service on the day you receive your decision.

**COMPLETION OF COMMUNITY SERVICE**

The Help Center will arrange for you to complete your Community Service. The Help Center is run by the Ombudsperson/*Pro Se* Clerk at OATH and is located at each Hearing Division in all five boroughs. To schedule your Community Service, call, email or visit a Help Center location.

**How to Contact the Help Center to Schedule Community Service:**

Manhattan: (212) 436-0845 CSmanhattan@oath.nyc.gov  
 Brooklyn: (718) 923-6216 CSbrooklyn@oath.nyc.gov  
 Queens: (718) 393-6044 CSqueens@oath.nyc.gov  
 Bronx: (718) 503-5565 CSbronx@oath.nyc.gov  
 Staten Island: (718) 876-2314 CSstatenisland@oath.nyc.gov

If you complete your Community Service by the deadline in the decision, you will receive a Certificate of Completion and will not have to pay a penalty. If you need an extension to complete your Community Service, please contact the Help Center.

**If you do not complete your Community Service by the deadline, you will have to pay the penalty.**

**NON-DISCLOSURE FOR SUMMONSES ELIGIBLE FOR COMMUNITY SERVICE**

If you either completed the Community Service or paid the penalty, OATH will remove your identifying information from public records related to your case.

If you do not complete the Community Service or pay the penalty, your identifying information may remain on public records related to your case.

**IF YOU DISAGREE WITH THE DECISION, YOU MAY APPEAL IT**

To submit your appeal, you **MUST** use OATH's online or mail-in appeal forms available on OATH's website at [www.nyc.gov/oath/appeal](http://www.nyc.gov/oath/appeal). Instructions for filing an appeal may be found on the form and OATH's website.

Your appeal **MUST** be received by the OATH Hearings Division **within 30 days** of the decision date, or 35 days if the decision was mailed to you.

To appeal you **may need** to pay the full penalty stated in this decision.

- If you cannot pay because of financial hardship, you may ask to not pre-pay by submitting with your appeal a Financial Hardship Application, available on OATH's website.
- If you are eligible and choose to perform Community Service instead of paying the penalty, you do not have to pay the penalty or complete the Community Service to appeal.

**APPEAL BY ENFORCEMENT AGENCY**

If you wish to answer an appeal filed by an enforcement agency, you **MUST** use OATH's Response To Appeal form. Instructions for filing an answer may be found on the form and OATH's website.

Your answer must be received **within 30 days** of the date of the enforcement agency's appeal, or 35 days if it was mailed to you.

If the enforcement agency wins the appeal, you may have to pay a penalty or, if eligible, complete Community Service even if your case was originally dismissed after the hearing.

For more information,  
 visit OATH's website [www.nyc.gov/oath](http://www.nyc.gov/oath)  
 or call 1-845-OATH-NYC

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