



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

Decision

Michael Nacmias, Esq. - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons# : 000844281N et al. (2 summonses) DEPT OF ENVIRONMENTAL PROTECTION, -against- RAPID ARMORED Hearing Date : 6/2/2025 Hearing Location : Remote Type of Hearing : By Telephone
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Total Penalty Amount :	840.00	Community Service(Hr):	Not Applicable
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SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000604910Y	Sustained	12/27/2024	, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	BA08	24 -112	Sustained	400.00

Total Penalty for Summons: 400.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000844281N	Sustained	04/01/2024	HORACE HARDING EXP btw SPRINGFIELD BLVD and

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	BA1F	24 -163	Sustained	440.00

Total Penalty for Summons: 440.00

Findings of Facts & Conclusions of Law

A hearing was conducted by telephone on June 2, 2025. Michael Nacmias, Esq. appeared for the respondent. Antwan Gibbs appeared for the petitioner. The summons ending in 81N alleged a violation of NYC Admin. Code sec. 24-163 in that the respondent's truck was idling for longer than three minutes while parked or standing. This violation was noted as a third offense with prior summonses having been issued under 000819222Z and 000794163J. The petitioner presented an evidence packet, which included a video nearly eight minutes in length, of the respondent's truck idling while parked. The respondent argued that the previous summons ending in 63J, which the petitioner counted as a prior offense, had yet to be adjudicated and, therefore, should not count as a prior offense for purposes of the instant summons. I agree with the respondent. As the prior summons ending in 63J is yet to be adjudicated, it remains to be seen whether that was indeed an offense; if it is dismissed, it would not count as a prior offense. The respondent also speculated that even though the video shows one armored truck operator eating a meal in the vehicle, the other operator may very well have been working and, therefore, required the engine to be running. The respondent, however, presented no evidence to support this belief. The summons is, therefore, upheld as a repeated second offense, and a penalty of \$440.

As to summons ending in 10Y, the summons alleged a violation of NYC Admin. Code sec. 24-112 in that the respondent attached an unauthorized placard "Armored truck exempt from NYC Idling regulations" to the rear of their truck. The petitioner presented an evidence packet, which included photographs and video, of the alleged unauthorized placard. The respondent argued that the alleged placard was akin to a bumper sticker and not an unauthorized placard. Sec. 24-112(b) states, "No person shall make, reproduce or alter or cause to be made, reproduced or altered a permit, certificate or other document issued by the commissioner or required by this code if the purpose of such reproduction or alteration is to evade or violate any provision of this code or any other law." Based on the evidence presented by the petitioner, the alleged placard described in the summons is not actually a placard; rather, it is a sticker that was placed on the back of the vehicle several inches above the license plate. Although the sticker possessed no indicia that it had been issued by the DEP, it was made and attached to the armored truck in order to create the appearance that it was somehow exempt from NYC idling regulations. In this case, the respondent made an illegitimate document required by the Administrative Code in an attempt to evade NYC idling laws.

The respondent also argued that service on respondent was defective because the wrong address for the respondent was listed on the summons. However, the affidavit of service shows that the petitioner served the New York State Secretary of State, which under the State's Business Corporation Law, is the designated agent of service for domestic corporations. Service is complete when the Secretary of State is served. This argument, therefore, has no merit. The summons ending in 10Y is, therefore, upheld, and a penalty of \$400 is imposed.



06/03/2025

06/03/2025

Chin Ho Cheng, 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

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. 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
or call 1-844-OATH-NYC

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