



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

LANCE CHEBIN - NACMIAS LAW FIRM 592 PACIFIC STREET NEW YORK, NY 11217	Summons No: 000842330L et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- PENSKE TRUCK LEASING CORP Hearing Date: 04/09/2025 Hearing Location: Remote Type of Hearing: By Telephone
--	--

Total Penalty Amount: \$440.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000842330L	Sustained	12/12/2023	600 AVENUE OF THE AMERICAS Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA1J	24-163 (F)	Sustained	\$440.00

Findings of Fact & Conclusions of Law

The respondent was represented by Lance Chebin. The petitioner was represented by Sr. Insp. John McLaughlin. The summons alleges that the respondent's vehicle was observed idling for more than one (1) minute while adjacent to a school without a valid reason. This was noted as a second offense.

The respondent's representative did not challenge the allegation of a prior conviction but argues that there is no evidence in the video of the presence of a school as noted in the summons. However, it was noted that the individual taking the video did state that the respondent's vehicle was observed parked in front of the noted pre-school. The respondent also argues that the video shows that the lift gate was on the ground, and although no gate activity is observed during the stated one-minute period, the

engine should be permitted to idle to allow the gate to be lifted as necessary.

I find that neither argument presented by the respondent establishes a valid defense to the charged violation. The complainant clearly states in the video that there is a school present at the location where the vehicle was observed idling. Absent evidence to the contrary, that is sufficient to establish the charged violation. As to the eventual need to lift the gate, it is not a defense where it is not in active use at the time of the observation. Its eventual need is not a valid defense. Therefore, the summons is sustained as written and the appropriate penalty assessed.



04/09/2025

04/09/2025

Patricia Cardoso, Hearing Officer

Date