



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

LANCE CHEBIN - NACMIAS LAW FIRM 592 PACIFIC STREET NEW YORK, NY 11217	Summons No: 000852306K et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- PENSKE TRUCK LEASING CO LP Hearing Date: 04/24/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$0.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000852306K	Dismissed	09/18/2023	West 35th St between 8th & 9th Avenue Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA51	24 -163	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

Lance Chebin appeared as an authorized representative on behalf of Respondent Penske Truck Leasing Co. LP.

Inspector Leah Smith appeared on behalf of Petitioner, Dept. of Environmental Protection.

Petitioner charges AC 24-163. Petitioner alleges the respondent was observed with its motor vehicle idling while parked standing or stopped in excess of 3 minutes. According to DEP records, a citizen observed respondent's truck with IN Lic. Plate No. 2849872. (1st offense).

Inspector Smith produced 3 photographs including the company name on the side and license plate number of the vehicle, redacted idling complaint, video showing the lift gate up and then lowered during the first 34 seconds of the video, however Inspector Smith argues the lift gate is not being used throughout a 3 minute duration in the video.

Mr. Chebin admits that respondent owns the subject vehicle and it was idling at the time of the summons but states it is subject to an exception because the vehicle was operating a liftgate device at the time of the idling. He argues the lift gate was in use 40 seconds after the start of the video throughout the video.

I credit respondent's evidence and find it rebuts petitioner's evidence. I do not credit petitioner's evidence and find respondent is not in violation.

Accordingly, this summons is dismissed.

Deborah Mbabazi

04/29/2025

04/29/2025

Deborah Mbabazi, Hearing Officer

Date