



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

LANCE CHEBIN - NACMIAS LAW FIRM 592 PACIFIC STREET Brooklyn, NY 11217	Summons No: 000867247L et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- ANY PENSKE LEASING AND RENTAL COMP Hearing Date: 05/20/2025 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
000867247L	Dismissed	01/16/2024	ON E 72ND ST BETWEEN PARK AVE AN 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 for Respondent

DEP Expressly Waive Appearance

The summons alleges unlawful idling for longer than 3 minutes. Respondent submitted a video where I was able to hear idling for longer than 3 minutes, but Respondent denied the violation because a wrong named respondent was named. The video shows the name Morris Storage on the side of the truck. The named Respondent is Penske Leasing. No evidence was submitted that Respondent is a title holder or registered owner. The redacted idling complaint, also submitted by the

respondent states that the plate was owned or operated by Morris Moving Corp. In DEP v. Flag Waterproofing, Appeal No. 2301287 (Nov. 30, 2023) the Appeals Division explained:

Code § 24-180(b)(2) provides that a summons alleging violation of Code § 24-163 may be issued to "[a]n owner of the equipment in violation." An "owner" is broadly defined to include a lessee of the equipment, operator, or any other person who has regular control of the equipment or apparatus. See Code § 24-104. Contrary to the JHO's finding, then, a responsible party is not limited to a vehicle's title holder. . . .Here, the images and video showed that Respondent's red and white logo and name, "Flag Waterproofing & Restoration Company," were prominently displayed on the driver side door and elsewhereBased on similar identifying marks, the Board has found that the named respondent was holding itself out as operating the cited vehicle and therefore was a proper party to be charged.

Here, no evidence was submitted linking Respondent to the vehicle or the plates. For example, no DMV evidence was submitted. As Morris Storage is not the named respondent and no other evidence was submitted, the summons is dismissed.

	
05/20/2025	05/20/2025
Mitchell Rubinstein, Hearing Officer	Date