



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592 PACIFIC STREET, 1st floor Brooklyn, NY 11217	Summons No: 000892812J et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- PENSKE TRUCK LEASING CO LP Hearing Date: 03/02/2026 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$350.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000892812J	Sustained	04/29/2024	ON CROSBY ST BETWEEN PRINCE STREET and JERSEY STREET Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA51	24 -163	Sustained	\$350.00

Findings of Fact & Conclusions of Law

Summons # 000892812J was issued to respondent Penske Truck Leasing Co. LP for a violation of section 24-163; idling of a motor vehicle engine for more than three minutes, 1st offense.

Ilma Babu appeared for the respondent.

Michael Grosso appeared by email for the Petitioner, DEP and stated that there were no representatives available and the Department is relying on the summons.

The respondent submitted a copy of the video. See Respondent's Exhibit A.

The respondent stated that the back door of the truck is open; they must have been taking out products. Both the driver and employee are "packing up" to leave. The citizen did not show the back of the truck after that. The lift gate was up. They delivered what they had to and the two men were sitting in the front of the truck preparing to leave. The citizen did not record the men removing items from the truck, but you can assume they removed the items from the truck.

The summons and video are credited.

The respondent did not rebut the charge or provide a legally valid or meritorious defense.

The video lasted 3 minutes and 54 seconds and during that time there was continuous idling of the motor vehicle engine, and the engine sound was audible throughout the video. The lights were on in the truck. There were two men sitting in the front of the truck and were inside the truck the entire time of the video. The video panned to the rear of the truck where you saw the lift gate up. There was no loading or unloading of items and there was no processing device in operation. The truck drove off after 3 minutes and 30 seconds and the two men in the truck did not leave the truck the entire time of the video.

The fact that the two men may have been preparing to leave and that they may have previously removed items from the truck are not legally valid defenses and are not exemptions to section 24-163. There was no work going on involving the lift gate at the time the video camera was recording and there was no processing device in operation. The men were not "packing up" anything in the truck at the time the video was recording; the two men were inside the truck perhaps doing paperwork before the truck drove away.

Accordingly, the summons is sustained and a first offense penalty in the amount of \$350.00 is imposed.

Michelle Mason

03/03/2026

03/03/2026

Michelle Mason, Judicial Hearing Officer

Date