



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592 PACIFIC STREET NEW YORK,NY 11217	Summons No: 000931581K et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- PENSKE LEASING AND RENTAL INC Hearing Date: 12/03/2025 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
000931581K	Sustained	06/20/2024	2990 BROADWAY AVE Manhattan

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

Findings of Fact & Conclusions of Law

This hearing was conducted remotely by telephone. Ilma Babu appeared for Respondent. Insp. Michael Grosso appeared for Petitioner Department of Environmental Protection (DEP). Respondent is charged with a violation of section 24-163 of the New York City Administrative Code.

Through email Petitioner provided an evidence packet with information and pictures regarding the vehicle (P. Exs. 1-4); and a video of the vehicle, P. Ex. 5, which due to its size was not uploaded and will instead be uploaded into this tribunal's shared digital folder.

Petitioner stated that the video showed the engine was on, the engine did not turn on which showed it was idling the entire recording and stated that on the vehicle's back there was no liftgate, only a stepping stool, which showed there was no processing device.

Respondent stated that for most of the recording one cannot see what is happening on the back of the truck, so it is not possible to determine if the truck was in use or not.

The summons sets a prima facie case, and a video may support Petitioner's case, but Petitioner does not have to submit a video into evidence. Respondent stated that the video did not suffice to show the vehicle was idling. Given the statement it was not idling Respondent now had to prove it by preponderance of the evidence that it was not idling. Respondent provided no evidence or testimony to support the statement that the vehicle was not idling.

I thus find that Respondent did not refute Petitioner's case or establish a defense to the violation.

The summons is thus sustained, and the statutory penalty is imposed.

Daniel A Vazquez

12/22/2025

12/22/2025

Daniel Vazquez-Diaz, Judicial Hearing Officer

Date