



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592 PACIFIC STREET Brooklyn, NY 11217	Summons No: 000898086L et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- PENSKE TRUCK LEASING CO LP Hearing Date: 12/12/2025 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
000898086L	Sustained	05/28/2024	118 2 AVENUE Brooklyn

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

Findings of Fact & Conclusions of Law

Summons 000898086L alleges a violation of § 24-163 of the Administrative Code of the City of New York (Code), for idling of motor vehicle engine for more than three minutes. The violation is charged as a first offense.

Petitioner, Department of Environmental Protection, waived its appearance.

Respondent, Penske Truck Leasing, appeared by ILMA BABU, authorized representative.

Respondent's representative argued that, based on her review of the complainant's video, which was provided by Petitioner

prior to hearing, the video shows the vehicle idling in a lumber yard with active work taking place/workers strapping down materials. You cannot tell from the video whether the cited vehicle was idling for longer than three minutes due to the excessive background noise, which, could be coming from another vehicle. The video shows a worker get into the vehicle, but you cannot tell if the engine is on. She contended Petitioner's evidence was insufficient to establish the charge.

Per § 6-12(b) of Title 48 of the Rules of the City of New York (RCNY), the summons, affirmed under penalty of perjury, was sufficient to establish Petitioner's prima facie case that Respondent's vehicle idled for longer than three minutes at the cited date, time, and location. See *DEP v. Academy Lines LLC*, Appeal No. 1900379 (May 16, 2019). Petitioner was not required to submit video evidence to prove its case. That the complainant's video does not depict the cited vehicle vibrating, producing visible emissions, or making audible engine noise does not establish a defense. See *DEP v. Hub Truck Rental Corp.*, Appeal No. 2001344 (February 11, 2021). Once Petitioner established its prima facie case, the critical inquiry became whether any credible evidence in the record, such as testimony or affidavits from the vehicle's driver, refuted its case or otherwise established an affirmative defense "by a preponderance of the evidence." See *DEP v. Citnalta Construction Corp.*, Appeal No. 2201191 (February 23, 2023). No such evidence was presented here.

I credit the IO's statements on the summons.

I find that the summons establishes the violation as charged and that Respondent's representative did not present sufficient evidence to refute the charge or establish a defense.

Accordingly, the summons is sustained and the first-offense civil penalty of \$350 is imposed.

K. Lawner

12/15/2025

12/15/2025

Kevin Lawner, Judicial Hearing Officer

Date