



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592 PACIFIC STREET NEW YORK,NY 11217	Summons No: 000934995Y et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- PENSKE TRUCK LEASING CO LP Hearing Date: 12/19/2025 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
000934995Y	Sustained	02/05/2025	ON WEST 47TH STREET BETWEEN 5TH AVE AND 6TH AVE Manhattan

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

Findings of Fact & Conclusions of Law

The NYC Department of Environmental Protection (DEP) issued this summons to Respondent alleged a violation of NYC Administrative Code 24-163.

DEP waived appearance and relied on the allegations in the sworn to summons. The summons alleged that, respondent caused or permitted the idling of a motor vehicle parked, standing or stopped for over 3 minutes. As per DEP records, citizen observed TRUCK with MS License Plate #1AS7995 idling for longer than three minutes from 2/5/2025, 10:29:12 AM to 2/5/2025 10:33:26 AM at on W 47 Street between 5th Avenue and 6th Avenue in Manhattan.

Respondent appeared by counsel Ilma Babu, Esq. Respondent denied the allegations but did not submit any evidence in rebuttal.

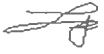
Discussion:

It is well established that, the sworn to affirmed statements in the summonses established petitioner's case with respect to all the charged violations. See 48 RCNY § 6-12(b) ("If the summons is sworn to under oath or affirmed under penalty of perjury, the summons will be admitted as prima facie evidence of the facts stated therein."). Once petitioner established its cases, the burden shifted to respondent to refute the charges or establish a defense. See 48 RCNY § 6-12(a); DOHMH v. Vicki Keitt-Trustee, Appeal No. 2301969 (February 29, 2024); DOB v. Manhattan 55 Group, LLC, Appeal No. 2500824 (July 31, 2025).

The allegations in the sworn to summons established a prima facie case of violation of AC 24-163 for the truck idling longer than three minutes.

At the hearing, Respondent's representative denied the allegations in the summons. However, Respondent did not present any evidence to dispute the alleged violative conditions as described in the summonses and did not present any legal arguments in its defense. Consequently, Respondent failed to refute the charges in the summonses.

Based on the foregoing, I find Respondent violated AC 24-163.



12/19/2025

12/19/2025

Kin Lau, Judicial Hearing Officer

Date