



**OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS**  
*Hearings Division*

**DECISION**

|                                                                                    |                                                                                                                                                                                                                                                                                                   |
|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>ILMA BABU - NACMIAS LAW FIRM PLLC</b><br>592PACIFIC STREET<br>NEW YORK,NY 11217 | <b>Summons No: 000884276P et al. (1 Summons)</b><br><br><b>DEPT OF ENVIRONMENTAL PROTECTION,</b><br><br><b>-against-</b><br><br><b>PENSKE TRUCK LEASING CORPORATION</b><br><br><b>Hearing Date: 12/22/2025</b><br><br><b>Hearing Location: Remote</b><br><br><b>Type of Hearing: By Telephone</b> |
|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                              |
|----------------------------------------------|
| <b>Total Penalty Amount:\$350.00</b>         |
| <b>Community Service(Hr): Not Applicable</b> |

| <b>SUMMONS #</b> | <b>SUMMARY DISPOSITION</b> | <b>DATE OF OCCURRENCE</b> | <b>PLACE OF OCCURRENCE</b>   |
|------------------|----------------------------|---------------------------|------------------------------|
| 000884276P       | Sustained                  | 09/21/2024                | 261 W. 33rd Street Manhattan |

| <b>LINE<br/>ITEM</b> | <b>OATH<br/>CODE</b> | <b>CODE<br/>SECTION/RULE</b> | <b>RESULT</b> | <b>PENALTY</b> |
|----------------------|----------------------|------------------------------|---------------|----------------|
| 1                    | BA51                 | 24 -163                      | Sustained     | \$350.00       |

**Findings of Fact & Conclusions of Law**

This telephone hearing was held on December 22, 2025. Petitioner, NYCDEP, appeared by Representative Antwan Gibbs. Respondent, Penske Truck Leasing Corporation, appeared by Ilma Babu, Authorized Representative.

This summons alleges a violation of NYC Administrative Code §24-163 (Idling of motor vehicle). In the summons, the Issuing Officer (IO) affirmed, as verified by a review of DEP records, that on 9/21/2024, a citizen-complainant observed a truck with NY License Plate # 50406NE, idling for longer than three minutes.

Mr. Gibbs relied on the sworn statements of the IO in the summons and he submitted the redacted complaint (P-1),

and two time and dated photos of the license plate and side of Respondent's truck taken by the citizen-complainant (P-2 & 3). He also submitted a 4 minute 23 second video which could not be uploaded as evidence due to the size of the file. The video was taken by the citizen-complainant at the time of the alleged violation and Inspector Gibbs stated that it depicts the Respondent's engine idling with audible engine noise. He noted that no lift gate was in operation during the video.

Ms. Babu testified that the video only depicted the front of the truck and there may have been people working in the back. She did not submit any evidence from Respondent to rebut the charge.

NYC Administrative Code § 24-163 states in relevant part that "No person shall cause or permit the engine of a motor vehicle to idle for longer than three minutes, unless the engine is used to operate a loading, unloading or processing device..."

I find that IO's affirmed statement in the summons was sufficient to establish a prima facie case of this violation. (See DEP v. Academy Lines LLC, Appeal No. 1900379 (May 16, 2019) and any insufficiency of the video was not fatal to the charge. (See Appeal No. 2300316, DEP v. Todd Harris Co., July 27, 2023.) I do not credit Ms. Bamu's testimony regarding the possibility of employees working at the back of the truck and I find that her statements were insufficient to establish a defense to this violation. I further find that Respondent permitted the idling of its engine for more than three minutes while parked. Respondent did not submit any documentation from the driver of the truck or any other evidence. To refute the idling charge, it was incumbent on Respondent to provide affirmative evidence, such as credible testimony or affidavits from the driver or other cognizant individuals, that the engine was not idling. (See Appeal No. 2300316. DEP v. Todd Harris Co., July 27, 2023.) I find that Respondent failed to prove that the engine was not idling, and that Respondent did not establish a valid defense to this charge. This violation is sustained and a penalty of \$350 is imposed

*Barbara Halper*

12/22/2025

12/22/2025

Barbara Halper, Judicial Hearing Officer

Date