



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division
Decision

ILMA BABU - NACMIAS LAW FIRM PLLC 592PACIFIC STREET NEW YORK, NY 11217	Summons# : 000898456J et al. (1 summonses) DEPT OF ENVIRONMENTAL PROTECTION, -against- PENSKE TRUCK LEASING CORPORATION Hearing Date : 12/22/2025 Hearing Location : Remote Type of Hearing : By Telephone
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Total Penalty Amount : 350.00	Community Service(Hr): Not Applicable
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SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000898456J	Sustained	09/23/2024	242 W. 44 STREET, Manhattan

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

Total Penalty for Summons: 350.00

Findings of Facts & 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 9/23/2024, a citizen-complainant observed a truck with IN License Plate # 3459206, 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), the USDOT Company Snapshot (P-2), and two time and dated photos of the license plate and side of Respondent's truck taken by the citizen-complainant (P-3 & 4). He also submitted a 3 minute 28 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.

Ms. Babu testified when the video was taken there was too much noise and it was impossible to determine if the engine was idling. She argued that when the video was taken, the civilian was too far away from the truck to capture the sound of the engine. She did not submit any evidence from Respondent to rebut the charge.

Mr. Gibbs noted that the noise depicted in the video increases at the front of the video.

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. Babu's testimony regarding the inability to determine if the Respondent's engine was idling. 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.



12/22/2025

12/22/2025

Barbara Halper, Judicial Hearing Officer

Date

**IF YOU ARE FOUND IN VIOLATION, AND ARE NOT ELIGIBLE OR DO NOT CHOOSE
COMMUNITY SERVICE, YOU MUST PAY THE PENALTY WITHIN 30 DAYS OF THE DECISION
DATE OR 35 DAYS IF MAILED.**

- To pay by mail, send a check or money order to the Dept. of Finance Commissioner, P.O. Box 2307, Peck Slip Station, New York, NY 10272. The check or money order should be made out to "Finance Commissioner, City of New York." Write the summons number on the check or money order.
- To pay in person, bring a check, money order or credit card and this decision to any OATH Hearings Division location between 8:30 a.m. to 4:30 p.m.
- To pay online using a credit or debit card, go to www.nyc.gov/citypay/oath

If you do not pay the penalty, the City may: (1) file papers with the Civil Court ("docket a judgment"), (2) charge you a late fee, and (3) continue attempts to collect the debt.

**CAN I DO
COMMUNITY
SERVICE?**

If your summons is for the type of offense that gives you a Community Service option you can choose to complete Community Service instead of paying a penalty. Your decision will give you that option. You have to complete your Community Service by the deadline in the decision or else you will end up owing the penalty. You can even do your Community Service on the day you receive your decision.

**COMPLETION OF
COMMUNITY
SERVICE**

The Help Center will arrange for you to complete your Community Service. The Help Center is run by the Ombudsperson/*Pro Se* Clerk at OATH and is located at each Hearing Division in all five boroughs. To schedule your Community Service, call, email or visit a Help Center location.

How to Contact the Help Center to Schedule Community Service:

Manhattan: (212) 436-0845 CSmanhattan@oath.nyc.gov
Brooklyn: (718) 923-6216 CSbrooklyn@oath.nyc.gov
Queens: (718) 393-6044 CSqueens@oath.nyc.gov
Bronx: (718) 503-5565 CSbronx@oath.nyc.gov
Staten Island: (718) 876-2314 CSstatenisland@oath.nyc.gov

If you complete your Community Service by the deadline in the decision, you will receive a Certificate of Completion and will not have to pay a penalty. If you need an extension to complete your Community Service, please contact the Help Center.

If you do not complete your Community Service by the deadline, you will have to pay the penalty.

**NON-DISCLOSURE
FOR SUMMONSES
ELIGIBLE FOR
COMMUNITY
SERVICE**

If you either completed the Community Service or paid the penalty, OATH will remove your identifying information from public records related to your case.

If you do not complete the Community Service or pay the penalty, your identifying information may remain on public records related to your case.

**IF YOU DISAGREE
WITH THE DECISION,
YOU MAY APPEAL IT**

To submit your appeal, you **MUST** use OATH's online or mail-in appeal forms available on OATH's website at www.nyc.gov/oath/appeal. Instructions for filing an appeal may be found on the form and OATH's website.

Your appeal **MUST** be received by the OATH Hearings Division **within 30 days** of the decision date, or 35 days if the decision was mailed to you.

To appeal you **may need to** pay the full penalty stated in this decision.

- If you cannot pay because of financial hardship, you may ask to not pre-pay by submitting with your appeal a Financial Hardship Application, available on OATH's website.
- If you are eligible and choose to perform Community Service instead of paying the penalty, you do not have to pay the penalty or complete the Community Service to appeal.

**APPEAL BY
ENFORCEMENT
AGENCY**

If you wish to answer an appeal filed by an enforcement agency, you **MUST** use OATH's Response To Appeal form. Instructions for filing an answer may be found on the form and OATH's website.

Your answer must be received **within 30 days** of the date of the enforcement agency's appeal, or 35 days if it was mailed to you.

If the enforcement agency wins the appeal, you may have to pay a penalty or, if eligible, complete Community Service even if your case was originally dismissed after the hearing.

**For more information,
visit OATH's website www.nyc.gov/oath
or call 1-844-OATH-NYC**

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