



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592PACIFIC STREET BROOKLYN,NY 11217	Summons No: 000884527K et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- PENSKE TRUCK LEASING CO LP Hearing Date: 12/23/2025 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
000884527K	Sustained	06/21/2024	ON RANDALL AVENUE BETWEEN LONGFELLOW AVENUE AND BRYANT AVENUE Bronx

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

Findings of Fact & Conclusions of Law

The hearing on summons number 000884527K was conducted via telephone conference call on December 23, 2025.

Respondent PENSKE TRUCK LEASING CO LP appeared at the hearing through attorney Ilma Babu. Petitioner Department of Environmental Protection, by Michael Grosso, waived its appearance via email due to a lack of available representatives.

The Issuing Officer alleges in the summons that Respondent violated New York City Administrative Code 24-163 for idling a motor vehicle engine for more than three minutes. It is indicated as a first offense.

Respondent takes issue with the video taken by the citizen complainant and notes that the back of the truck is not visible. Respondent argues that viewers cannot be sure that work is not being done.

I credit the statements contained in the summons and find a violation of 24-163 as alleged. I find that the summons itself establishes a prima facie case.

Per 48 RCNY § 6-12(a), once a prima facie case is established, the critical inquiry becomes whether any credible evidence in the record, such as testimony or affidavits from the vehicle's driver, refutes Petitioner's case or otherwise establishes an affirmative defense "by a preponderance of the evidence." See *DEP v. Citnalta Construction Corp.*, Appeal No. 2201191 (February 23, 2023).

Here, simply because a video does not show the rear of the vehicle does not in itself establish a defense. In addition, the videographer walks to the back of the vehicle at the 3:55 mark and there is no visible activity taking place. I find that Respondent failed to provide any additional evidence, such as testimony or affidavits, to refute the charge or otherwise establish a defense. Accordingly, the summons is sustained, and the standard penalty imposed.



12/23/2025

12/23/2025

Alexandra Saker, Judicial Hearing Officer

Date