



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

ILMA BABU - NACMIAS LAW FIRM PLLC
592 PACIFIC STREET
Brooklyn, NY 11217

Summons# : 000887638R et al. (2 summonses)

DEPT OF ENVIRONMENTAL PROTECTION,

-against-

DHL EXPRESS USA INC

Hearing Date : 1/16/2026

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 1,200.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000887638R	Sustained	07/17/2024	50 Jay St, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	BA1F	24 -163	Sustained	600.00

Total Penalty for Summons: 600.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000887639Z	Sustained	07/17/2024	56 Jay St, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	BA1F	24 -163	Sustained	600.00

Total Penalty for Summons: 600.00

Findings of Facts & Conclusions of Law

This matter was heard remotely, via telephonic conference, on January 16, 2026. Respondent appeared via Ilma Babu, identified as the authorized representative for the named respondent. Petitioner waived their appearance.

000887638R

The summons alleges a violation of NYC AC 24-163. The date of occurrence was July 17, 2024, at 2:28pm.

This is noted to be a third offense, with underlying summonses 000787602R and 000787603Z. Respondent does not contest the repeat designation.

Respondent enters the citizen video for this summons, as evidence; I accessed the video through petitioner's Idling Complaints search website, <https://nycidling.azurewebsites.net/idlingevidence>. The video is 3:34, time-stamped in accordance with the summons.

Respondent testifies that work is being done across the street from the vehicle, and they "may need to keep the engine running, to move as needed," since the street was "narrowed" due to the ongoing construction. Respondent describes this as a "special situation."

I credit respondent's testimony, but find it insufficient to warrant dismissal of the charges, as it has long been held that there is no "running in anticipation" exception to the idling laws. Accord, e.g., DEP v. Ultimate Signs & Designs Corp., Appeal No. 2200825 (September 29, 2022); DEP v. Northeast Service, Appeal No. 2401107 (August 29, 2024). Moreover, the need to move the vehicle is, of itself, neither a processing device, nor a temperature control system, the two exceptions recognized under 15 RCNY 39-01.

As such, the summons is hereby sustained, and the statutory penalty is imposed.

000887639Z

The summons alleges a violation of NYC AC 24-163. The date of occurrence was July 17, 2024, at 2:39pm.

This is noted to be a third offense, with underlying summonses 000787602R and 000787603Z. Respondent does not contest the repeat designation.

Respondent enters the citizen video for this summons, as evidence; I accessed the video through petitioner's Idling Complaints search website, <https://nycidling.azurewebsites.net/idlingevidence>. The video is 4:42, time-stamped in accordance with the summons.

Respondent testifies that there was ample ambient sound in the video, and thus, the engine sound was not clearly audible, and moreover, that the vehicle's exhaust was not visible in the video.

I credit respondent's testimony, but find it insufficient to warrant dismissal of the charges. While there is significant ambient noise in the video, I find that the citizen establishes the sound of a vehicle's engine at the start of the video, and this sound remains audible – even if drowned out for a time – throughout the video, with no intervening sound to indicate that the engine in question may have been turned off, or back on, which would be distinctive. Then, at the end of the video, approaches the cited vehicle, confirming that the engine noise was emanating from that vehicle.

As such, the summons is hereby sustained, and the statutory penalty is imposed.



01/16/2026

01/16/2026

Craig Messing, Judicial Hearing Officer

Date