



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

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

Summons# : 000887606M et al. (1 summonses)

DEPT OF ENVIRONMENTAL PROTECTION,

-against-

PENSKE TRUCK LEASING CORPORATI

Hearing Date : 1/16/2026

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 350.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000887606M	Sustained	10/01/2024	W 113TH ST btw BROADWAY and

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 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.

The summons alleges a violation of NYC AC 24-163. The date of occurrence was October 1, 2024, at 7:33am.

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 3:59, time-stamped in accordance with the summons.

Respondent testifies that the lift gate is down, and there is a dolly present. Respondent notes that the lift gate needs to be seen moving, but respondent notes that with the dolly present, there was likely work being done in the back of the vehicle, and the citizen video does not show exactly what work is being done in the back of the vehicle.

I credit respondent's testimony, but find it insufficient to warrant dismissal of the charges. At the outset, respondent's testimony that the citizen's video does not show that there was not work being performed, misstates the burden of proof in this matter; ; petitioner in fact makes its prima facie case on the face of the summons, and the burden then shifts to respondent to refute this case. See, generally, DEP v. Monarch Supply Corp., Appeal No. 2400960 (July 25, 2024). Moreover, respondent's testimony that there may have been work being done in the back of the truck is not sufficient to warrant a dismissal, only the active use of the lift gate would qualify for a processing device exemption, and respondent does not argue that it is seen in use, nor did I find it to be in use, during the video.

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