



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592PACIFIC STREET Brooklyn, NY 11217	Summons No: 000888637J et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- PENSKE TRUCK LEASING CORPORATION Hearing Date: 01/23/2026 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
000888637J	Sustained	10/07/2024	ON BROADWAY BETWEEN W 120TH ST & 116TH PLACE Manhattan

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

Findings of Fact & Conclusions of Law

Petitioner, NYC Department of Environmental Protection, issued a summons to Respondent, Penske Truck Leasing Corporation, for violating NYC Administrative Code Section 24-163, Idling of motor vehicle engine for more than 3 minutes – 1st offense, for a Truck with IN Plate # 3143703 observed on October 7, 2024, from 7:46 a.m. to 7:49 a.m., at Broadway between West 120th Street and West 116th Street, in New York, New York.

Section 24-163 states that "No person shall or permit the engine of a motor vehicle...to idle for longer than three minutes..." Section 24-163 (f) provides for exceptions when the engine is used to operate a processing device, for mechanical work, or to maintain appropriate temperature for passenger comfort.

At the hearing Petitioner, NYC Department of Environmental Protection, was represented by Inspector Monica Dorson. Ilma Babu appeared on behalf of Respondent, Penske Truck Leasing Corporation, as the authorized representative.

Petitioner submitted an evidence packet containing 2 photos of the vehicle identifying the license plate number and company name and logo; the redacted NYC Citizen's Idling Complaint and Acknowledgement; a copy of the summons and Affirmation of Service; DOSID Info; and a video taken by the civilian complainant (Petitioner's Exhibit 1). Inspector Dorson stated that on the video there is no processing device being used which would require the engine to be on, and there is audible engine noise throughout the video.

Ms. Babu denied the violation and challenged the video evidence. Respondent's rep asserted that the lift gate was out and work was being done. The worker can't keep jumping off the back of the truck to turn the engine on and off in the middle of a job, it makes no sense. Ms. Babu maintained that the lift gate is out, it was being used, assumption is that work is being done.

In response, Inspector Dorson stated that the lift gate has to be in use for this exception to apply. At the time the video was taken it did not show the lift gate in use.

I credit the testimony and evidence submitted by the Petitioner. Respondent challenged Petitioner's video evidence asserting that it showed that Respondent was in the process of loading and unloading as the lift gate was down. The exception to Section 24-163 is that the engine is idling in order for a processing device to operate. Here the processing device is the lift gate. Clearly, work was being done but during the 3-minute 20-second video we did not see the lift gate in use. My review of the video showed that the liftgate was down, there was a dolly and boxes, and I did not see a worker either in the cab of the truck or in the back of the truck. I do not find that the Respondent offered any valid evidence to establish that the lift gate was actually in use during the 3 minutes that Respondent's truck was observed with the engine idling.

Accordingly, this summons is Sustained.

Eva Marie Russo-Lane

02/10/2026

02/10/2026

Eva Marie Russo-Lane, Judicial Hearing Officer

Date