



**OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS**  
Hearings Division

**DECISION**

|                                                                                     |                                                                                                                                                                                                                                                                                                   |
|-------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>ILMA BABU - NACMIAS LAW FIRM PLLC</b><br>592PACIFIC STREET<br>Brooklyn, NY 11217 | <b>Summons No:</b> 000888638L et al. (1 Summons)<br><br><b>DEPT OF ENVIRONMENTAL PROTECTION,</b><br><br><b>-against-</b><br><br><b>PENSKE TRUCK LEASING CORPORATION</b><br><br><b>Hearing Date:</b> 01/23/2026<br><br><b>Hearing Location:</b> Remote<br><br><b>Type of Hearing:</b> By Telephone |
|-------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                              |
|----------------------------------------------|
| <b>Total Penalty Amount:</b> \$350.00        |
| <b>Community Service(Hr):</b> Not Applicable |

| SUMMONS #  | SUMMARY DISPOSITION | DATE OF OCCURRENCE | PLACE OF OCCURRENCE                                            |
|------------|---------------------|--------------------|----------------------------------------------------------------|
| 000888638L | Sustained           | 10/07/2024         | ON W 120TH ST BETWEEN<br>BROADWAY & AMSTERDAM AVE<br>Manhattan |

| LINE<br>ITEM | OATH<br>CODE | CODE<br>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 Corp., 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 7:27 a.m. to 7:30 a.m., at West 120th Street between Broadway and Amsterdam Avenue, 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 Corp., 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; 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 in the beginning to middle of the video it shows the back open and a worker inside the truck. There also were many boxes and a dolly. At that moment the lift was not being used but the worker was getting ready to use it once he got the boxes that were going to be unloaded. The timing of the video was when Respondent was in the middle of a job. The engine was not idling while no one was there or the worker was just sitting in the truck. The worker was actively engaged in work and cannot be running back and forth in and out of the back of the truck to turn the engine on and off. According to Ms. Babu, the worker was getting the boxes ready to unload.

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 the sufficiency of Petitioner's video evidence. My review of the video showed that at the 48 second mark the citizen complainant showed the rear of the truck and the back of the truck was open and I could see a worker inside and many boxes. The majority of the video showed the front area of the truck and did not pan to the rear of the truck again. 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 and although we see on the video that the worker is preparing to load the boxes onto the lift gate, for the brief time that the rear of the truck was captured on video that lift gate was not in use. Nevertheless, Respondent challenged the video evidence and asserted that active work was taking place and the lift gate was going to be part of that active work. The citizen complainant did not go back to the rear of the truck so there is no video evidence to show that the lift gate was in use during the 3 minutes to warrant the exception to idling for a processing device in use. 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