



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592 PACIFIC STREET Brooklyn, NY 11217	Summons No: 000946168Z et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- PENSKE TRUCK LEASING CO LP Hearing Date: 02/11/2026 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
000946168Z	Sustained	08/26/2024	9 WEST 42 STREET Manhattan

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

Findings of Fact & Conclusions of Law

Ilma Babu appeared on behalf of the Respondent, Penske Truck Leasing Co Lp.

The Petitioner waived appearance by email.

The summons alleges a violation of NYC Administrative Code 24-163, idling of motor vehicle engine for more than three minutes, 1st offense, Respondent caused or permitted the idling of a motor vehicle while parked, standing, or stopped. As per DEP records, citizen observed truck with IN license plat #3443452 idling for longer than three minutes from 8/26/2024 11:14:11 PM to 8/26/2024 11:17:34 PM at 9 W 42nd St.

Ms Babu presented the video taken by the citizen complainant. Ms Babu asserted that the sound heard is not from the cited vehicle and that it is impossible to hear the engine sound at all.

The Board states in *DEP v. J & R Tours Ltd.* Appeal No. 2401556 (December 19, 2024): "Per § 6-12(b) of Title 48 of the Rules of the City of New York (RCNY), the IO's summons, affirmed under penalty of perjury that the IO verified Respondent's vehicle idled for longer than three minutes at the cited date, time, and location based on a review of DEP records, was sufficient to establish Petitioner's prima facie case. See *DEP v. Academy Lines LLC*, Appeal No. 1900379 (May 16, 2019). Per 48 RCNY § 6-12(a), once Petitioner established its prima facie case, the critical inquiry became whether any credible evidence in the record refuted its case or otherwise established an affirmative defense for Respondent "by a preponderance of the evidence." See *DEP v. Citnalta Construction Corp.*, Appeal No. 2201191 (February 23, 2023)."

In this case, the Respondent provided no evidence to refute the valid prima case established in the summons.

The summons is sustained.

Sean Gralton

02/11/2026

02/11/2026

Sean Gralton, Judicial Hearing Officer

Date