



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592PACIFIC STREET Brooklyn,NY 11217	Summons No: 000949359P et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- PENSKE TRUCK LEASING CO LP Hearing Date: 02/25/2026 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
000949359P	Sustained	09/12/2024	INTERSECTION OF W 49TH ST AND 9TH AVE Manhattan

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

Findings of Fact & Conclusions of Law

This remote hearing was conducted on February 25, 2026. Respondent (Penske Truck Leasing Co LP) appeared by authorized representative, Ilma Babu. Inspector Andy Guzman appeared for Petitioner (DEP).

Respondent was charged with a violation of 24-163. "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 Plate #3139979 idling for longer than three minutes from 9/12/2024 11:02:43 AM to 9/12/2024 11:06:44 AM at intersection of W 49th St and 9th Ave." See: Hearing Officer Exhibit #1 (Summons copy).

Mr. Guzman submitted Petitioner's evidence package including a photo of the side panel of the vehicle displaying Respondent's name, email address, and phone number; a photo of the license plate; and the redacted NYC Citizen Idling Complaint. See: Pet. Ex. #1-#3. Mr. Guzman also submitted a video (4 minutes and 1 second). All participants viewed the video.

Mr. Guzman stated that, in the video, there was no active loading/unloading, and there was no processing device in use during the 4 minute and 1 second video.

Ms. Babu rebutted. She contended that there was active work happening, and "At any time, they may need the lift." Ms. Babu also stated that "At the time of the video, there was no lift in use."

Based on the record before me, I sustain this summons. I credit the complainant's affirmed statement in the NYC Citizen Idling Complaint in which the citizen states, "I observed the motor vehicle stopped, standing or parked at the specified location on the mentioned date and time period. The vehicle's engine was idling and was not actively involved in any operational work, such as operating loading, unloading or processing equipment. During my observation, no equipment on the vehicle was in use."

I find that Respondent fails to credibly refute the factual allegations that are supported by Petitioner's evidence package. In addition, the video clearly shows the cited TRUCK idling for four (4) minutes and one (1) second with no active use of loading/unloading or processing devices. The video shows two (2) hand trucks on the roadway in back of the truck with the truck's rear door open. However, there was no on-going work that required the power of the engine to operate equipment. It is noted that Respondent's own representative conceded that there was no active work during the length of the video. Preparing to use the lift at "any time" is not a defense. Accordingly, I sustain this summons.

J. Beck-Wall

02/27/2026

02/27/2026

Joan B Beck-Wall, Judicial Hearing Officer

Date