



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592 PACIFIC STREET Brooklyn, NY 11217	Summons No: 000956927J et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- NATIONAL DCP LLC Hearing Date: 03/19/2026 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: **\$440.00**

Community Service(Hr): **Not Applicable**

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000956927J	Sustained	03/19/2025	CANAL CANAL ST & CENTRE ST Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA1E	24 -163	Sustained	\$440.00

Findings of Fact & Conclusions of Law

The hearing was conducted by telephone on Court Call on March 19, 2026. Petitioner was represented by Inspector Monica Dorson. Respondent was represented by authorized representative Ilma Babu.

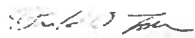
The summons charged a violation of 24-163 of the Administrative Code, idling a motor vehicle engine for longer than three minutes, charged as a third violation. Petitioner offered into evidence a redacted idling complaint, images captured by the citizen complainant, and disposition information on the prior violations, indicating that one prior was found in violation and the other was dismissed (Exhibit 1). Petitioner stated that, as the prior violation had not yet been adjudicated at the time the summons was issued, DEP took the position that it was a valid prior at that time and the summons should be sustained as a

third violation. Petitioner also provided a video, which was viewed during the hearing. The video was in excess of 10 minutes. Only the first approximately 4 minutes were viewed, which the time-stamp indicated included the time period alleged on the summons.

Respondent argued that the videographer did not show the back of the truck during the first portion of the video. Toward the end of the three minutes, it can be seen that the liftgate was down, and boxes were being removed from it. Respondent stated that it was possible that the liftgate was going up and down during the video. I note that earlier, when the liftgate was not visible, a person was seen pushing a handtruck away from the back of the truck with boxes, and the same person is engaged in the same activity, with some boxes on the handtruck and some remaining on the liftgate. It seems more likely that the liftgate was filled with the contents of the delivery and lowered, and then transported in as many trips with the handtruck as were necessary given the size of the delivery and the capacity of the handtruck. There was no noise during the video of the liftgate being lowered and raised, and respondent did not provide evidence or testimony that such was occurring, or even make a categorical representation to that effect.

The sworn statement of the issuing officer established a prima facie case. See DEP v. DHL, Appeal No. 2201413 (March 23, 2023). It then became respondent's burden to rebut the allegations or establish its affirmative defense. While respondent was entitled to argue that petitioner's supplemental evidence – the video – provided proof of its affirmative defense, its argument was not persuasive.

I credit the summons. The summons is sustained. As one of the prior summonses cited was found not to be in violation, the summons is sustained as a second violation.



03/22/2026

03/22/2026

Date

Donald Lash, Judicial Hearing Officer