



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

ILMA BABU - NACMIAS LAW FIRM PLLC 592 PACIFIC STREET Brooklyn, NY 11217	Summons# : 000965729N et al. (1 summonses) DEPT OF ENVIRONMENTAL PROTECTION, -against- BLUETRITON BRANDS INC Hearing Date : 4/10/2026 Hearing Location : Remote Type of Hearing : By Telephone
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Total Penalty Amount : 350.00	Community Service(Hr): Not Applicable
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SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000965729N	Sustained	10/16/2024	23 WEST 47 STREET, Manhattan

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

Total Penalty for Summons: 350.00

Findings of Facts & Conclusions of Law

This matter was heard remotely, via telephonic conference, on April 10, 2026. Respondent appeared via Ilma Babu, identified as the authorized representative for the named respondent. Petitioner appeared via Monica Dorson.

The summons alleges a violation of NYC AC 24-163. The date of occurrence was October 16, 2024, at 6:56am.

Petitioner submits three documents, and a video, as evidence. Documents include: a composite picture of the vehicle's license plate, the side of vehicle, with respondent's name and DOT number visible, and a USDOT SAFER "snapshot," showing respondent's information; the redacted idling complaint; and a copy of the instant summons, and proof of service. The citizen video of the incident is a 4:04 video, time-stamped in accordance with the summons. Petitioner testifies that the video shows the engine audible throughout the video, clearly idling for longer than three minutes, with no apparent loading or unloading of passengers, use of processing equipment, or other activity that would require the engine to run; as such, petitioner contends that the violation should be sustained.

Respondent testifies that the lift is out, and "the door" is open, in the video, which "usually" means that work is being done. Respondent also notes that there was only one worker at the time.

Petitioner testifies that the lift being out is insufficient, and instead, it must be actively in "use or operation" in order to qualify for an exception. Petitioner testifies that the lift is first seen at 0:10 of the video, and never seen in use throughout the video.

I credit respondent's testimony, but find it insufficient to warrant dismissal of the charges, as petitioner correctly notes that the processing equipment at issue needs to be in active use, in order to qualify for an exception to the idling provisions. See Ultimate Signs & Designs Corp., supra; see also DEP v. Northeast Service, Appeal No. 2401107 (August 29, 2024) (respondent may not idle their engine for longer their engine in anticipation of work, "unless the running of the engine is necessary and proximate to the immediately consequent action of the processing device, and therefore an integral part of the active work being performed" (citations omitted).

As such, the summons is hereby sustained, and the statutory penalty is imposed.



04/10/2026

04/10/2026

Craig Messing, Hearing Officer

Date