



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Nacmias, Esq. - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 000803154J et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- CORPORATE EXPRESS INC Hearing Date: 10/28/2024 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$0.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000803154J	Dismissed	08/08/2023	130 EAST 42 STREET Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA51	24 -163	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

The sworn-to-summons alleges a violation of § 24-163 of the Administrative Code (Code) for idling of motor vehicle engine more than three minutes.

Authorized representative, Alfred Lin, for Respondent, Corporate Express Inc., was present. Martin Joyce appeared on behalf of Petitioner, Department of Environmental Protection (DEP). Respondent's representative waived the right to have an attorney present.

Petitioner's representative relied on the sworn-to-summons, photographs and video taken by a citizen, the citizen's complaint.

Respondent's representative argued the summons is materially defective, it has an incorrect place of occurrence and should be dismissed. The place of occurrence is on E 41 St, which is a one-way street as seen in Petitioner's video. E 42 st is a two-way street. Petitioner's representative agreed with Respondent, the cited place of occurrence is incorrect, however, argued it to be de minimis.

Applicable Law:

48 RCNY § 6-08 (c)(2) - A clear and concise statement sufficient to inform the Respondent with reasonable certainty and clarity of the essential facts alleged to constitute the violation or the violations charged, including the date, time where applicable, and place when and where such facts were observed.

The place of occurrence is incorrect. Petitioner has failed to comply with 48RCNY § 6-08 (c)(2). I find the summons is defective. Accordingly, summons is dismissed.

	
11/01/2024	11/01/2024
Paul Mendez, Hearing Officer	Date