



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: 000830248Y et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- MALCA-AMIT ARMORED INC Hearing Date: 02/06/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: **\$600.00**

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

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000830248Y	Sustained	01/23/2024	1607 BROADWAY Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA1F	24 -163	Sustained	\$600.00

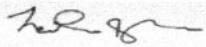
Findings of Fact & Conclusions of Law

Michael Nacmias, attorney for Respondent, MALCA AMIT ARMED INC appeared at the telephone hearing on February 6, 2025. Martin Joyce appeared on behalf of petitioner DEP.

The respondent is charged with code section 24-163 for vehicle idling for more than 3 minutes, third offense. Petitioner's representative submitted an evidence package. See Petitioner's Exhibit. Respondent's attorney disputed the violation and stated that there was idling because they were pulled over for a traffic stop and police instructed Respondent to leave the vehicle.

I credit the summons details and find that the Petitioner has established a valid charge against the respondent. Per § 6-12(b) of Title 48 of the Rules of the City of New York (RCNY), a summons affirmed under penalty of perjury will be admitted as prima facie evidence of the facts stated. Code § 24-163 provides an exemption when idling occurs because the vehicle's engine was being "used to operate a loading, unloading or processing device." Once Petitioner established its case it became Respondent's burden to disprove the violation or establish an affirmative defense. See 48 RCNY § 6-12(a). Here, Respondent's argument that they were stopped for traffic, is not a sufficient defense to idling. Therefore, I find Respondent in violation and impose the third offense penalty of \$600.

Accordingly, the summons is sustained.

	
02/11/2025	02/11/2025
Nanika Shaw, Hearing Officer	Date