



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

JOSHUA SANTIS - NACMIAS LAW FIRM PLLC 592 PACIFIC STREET NEW YORK, NY 11217	Summons No: 000914836Z et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- R A FONTANILLAS LLC Hearing Date: 07/28/2025 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
000914836Z	Sustained	07/12/2024	ON W 85TH ST BET BWAY & WEST END AVE Manhattan

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

Findings of Fact & Conclusions of Law

Joshua Santis, attorney, appeared on behalf of the Respondent, R A Fontanillas LLC, and John McLaughlin appeared on behalf of the Petitioner, DEP, at a remote hearing held on 7/28/2025.

Respondent was charged with idling a truck with NY license plate #38201NE for more than three (3) minutes on W 85th Street between Broadway and West End Avenue, Manhattan in violation of AC 24-163. .

AC 24-163 provides that:

No person shall cause or permit the engine of a motor vehicle, other than a legally authorized emergency motor vehicle, to idle longer than three minutes...unless the engine is used to operate a loading, unloading, or processing device.

Mr. McLaughlin submitted a video (viewed by all), photographs of the side of the vehicle with company name, front license plate, worker on roof of truck, and Idling Complaint. (Ex 1).

Mr. Santis stated that out of fairness the violation should be dismissed. Mr. Santis argued that Respondent did not intentionally idle the vehicle which the video and 1 photograph shows. Mr. Santis stated that the video shows the driver was locked out of the vehicle and that the driver enlisted help from another person in trying to open the passenger door without a key.

In *DEP v. All Boro Cleaning, Appeal No. 2401328 (Oct. 31, 2024)* the Board held that human error of the driver locking the key in the vehicle and thus foreclosing the driver's ability to shut off the engine is not a valid defense to the idling statute.

I credit Petitioner's sworn statement and evidence and find they establish the vehicle idled for longer than 3 minutes in violation of the cited section of law. I further find that Respondent failed to establish a valid defense.

Accordingly, I find Respondent in violation of the cited section of law and impose the mandatory penalty.



07/31/2025

07/31/2025

Janet Gawthrop, Hearing Officer

Date