

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, February 22, 2024 – 1:00 p.m.

Present:	Dennis P. Kavanaugh	Chairman
	Joseph M. Hennelly, Jr.	Vice Chair
	D. Alan Everett	Commissioner
	Maria Cecilia Valdez	Commissioner
	Gaetano J. Testini	Executive Deputy Director
	Afshan Peimani	Chief Legal Counsel
	Lisa Padgett	Deputy Director
	Charles Carpenter	Legislative Affairs Chief/Public Information Officer
	Renee Pastor	Self-Insurance (Telephonic)
	Melissa Spurgeon	Labor Director
	Kimberly Gooby	Labor Investigator
	Phil Murphy	ADOSH Interim Director
	Taryn North	ADOSH Compliance
	Victoria Medina	ADOSH Compliance
	Anna Maria Stonerock	ADOSH Admin
	Kara Dimas	Commission Secretary

Chairman Kavanaugh convened the meeting at 1:10 p.m. Chairman Kavanaugh noted the passing of Larry Leiberman on February 21, 2024, a former Industrial Commission Administrative Law Judge and a long time workers' compensation attorney. In attendance, confirmed by roll call were Stephanie Hefner (Snell and Wilmer); Dr. Mark Amols (New Direction Fertility Centers, LLC); and Steven Coffin (Attorney for employer Greystar Management Services Limited Partnership) (Pace·Selden·Gilman·Marks). Also in attendance on the telephone, confirmed by roll call was Nitra Hawkins (City of Mesa).

Approval of Minutes of February 15, 2024 Regular Meeting Minutes.

Commissioner Valdez moved to approve the Minutes of the February 15, 2024 regular session meeting and Commissioner Everett seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Consent Agenda:

All items following under this agenda item are consent matters and will be considered by a single motion with no discussion unless a Commissioner asks to remove an item on the consent agenda to be discussed and voted on separately. The Commission may move into Executive Session under A.R.S. § 38-431.03(A)(2) to discuss records exempt by law from public inspection. Legal action involving a final vote or decision shall not be taken in Executive Session. If such action is required, then it will be taken in General Session.

- a. Approval of Requests for Renewal of Self-Insurance Authority.

1. City of Mesa
- b. Approval of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties Less Than \$15,000.
 1. Doege Development LLC - PP-2023-JL680-0023
 2. Gleason Roofing LLC CP-2024-JW184-0038
 3. MyLand Company, Inc. CP-2024-EG419-0024
 4. Wolverine Daylight, LLC PP-2003-JL-680-0024

Vice Chair Hennelly moved to approve the items on the Consent Agenda and Commissioner Everett seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Discussion and Action regarding Proposed Retaliation Penalty.

1. RT-2324-0071 Surveillance Security, Inc.

Ms. Spurgeon summarized the Labor Department’s investigation into the Earned Paid Sick Time (EPST) Retaliation claim. Ms. Spurgeon recommended that the Commission approve issuance of a Penalty in the amount of \$20,462.83 for violation of A.R.S. § 23-364 (\$10,462.83 for lost hourly wages and holiday pay and \$10,000.00 to deter future violations).

Chairman Kavanaugh and Ms. Peimani discussed that there was no conflict of interest despite Surveillance Security, Inc. contracting with the Industrial Commission because the relationship does not relieve the employer’s responsibility to comply with Arizona Labor Laws.

Commissioner Valdez moved to approve issuance of a Penalty for Retaliation in the amount of \$20,462.83 to Surveillance Security, Inc. Vice Chair Hennelly seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Discussion and Action of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties.

Chairman Kavanaugh discussed the purpose of and process for the Commission’s consideration of ADOSH citations and proposed penalties.

<p>Greystar Management Services Limited Partnership 16220 North 7th Street Phoenix, AZ 85022</p> <hr/> <p>Site Location: 16220 N 7th St Phoenix, AZ 85022</p> <p>Inspection No: UR-2023-JW184-0034</p> <p>Inspection Date: September 22, 2023</p>	<p>Unprogrammed Related Years in Business: 30 Empl. Covered by Inspection: 3</p>
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SERIOUS – Citation 1 - Item 1 –

- a) Building 47 Roof: Three employees were troubleshooting a Goodman air conditioning unit model # and serial # unknown on the roof of a three story apartment complex, approximately 32' above the ground without a fall protection system in place. 29 CFR 1910.28(b)(1)(i)
Div. Proposal - \$11,162.00 Formula Amt. - \$11,162.00

SERIOUS – Citation 1 - Item 2 –

- a) Building 47 Roof: Three employees were troubleshooting a Goodman air conditioning unit model # and serial # unknown on the flat roof of a three story apartment complex, approximately 32' above the ground without having received fall protection training. 29 CFR 1910.30(a)(1)
Div. Proposal - \$11,162.00 Formula Amt. - \$11,162.00
TOTAL PENALTY - \$22,324.00 TOTAL FORMULA AMT. - \$22,324.00

Mr. Murphy discussed ADOSH’s inspection, summarized the citation and proposed penalties.

Chairman Kavanaugh asked if this citation was related to one on the prior Agenda and this Citation is against the management company. Mr. Murphy confirmed and noted this file was not ready to bring at the same time.

Commissioner Everett clarified that the fatality is what initiated the inspection and Mr. Murphy confirmed.

Commissioner Everett asked about the employees on the roof. Mr. Murphy noted that there were two scenarios and that Greystar Management initially went up to identify and troubleshoot.

Chairman Kavanaugh confirmed that this inspection involved the employees of Greystar Management.

Chairman Kavanaugh noted he did not have a request to speak.

Commissioner Everett moved to approve the citation and proposed penalties as presented and Commissioner Valdez seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

New Direction Fertility Centers, PLLC
1760 E Pecos Rd, Ste 532
Gilbert, AZ 85295

Complaint
Years in Business: 10
Empl. Covered by Inspection: 9

Site Location: 1760 E Pecos Rd, Ste 532
Gilbert, AZ 85295
Inspection No: CP-2023-TN976-0011
Inspection Date: September 27, 2023

SERIOUS – Citation 1 - Item 1a –

- a) Phlebotomy Area: Three employees are exposed to needle stick hazards, while required to remove the hub from the needlestick before placing the needlestick in the sharps container. 29 CFR 1910.1030(d)(2)(vii)(A)
Div. Proposal - \$10,938.00 Formula Amt. - \$10,938.00

Vice Chair Hennelly stated, with everyone's understanding that this is just the start of the process and the company will have an opportunity to present abatement documentation, he moved to approve the citation and proposed penalties as presented and Commissioner Everett seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Chairman Kavanaugh thanked Dr. Amols and noted his comments were appreciated and hopefully you will have a discussion with staff as the process moves ahead.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through April 2024.

Mr. Testini commented that the Physicians and Pharmaceutical Fee Schedule Public Hearing will be March 7, 2024 and the proposed changes are posted on the Industrial Commission website under the MRO Office.

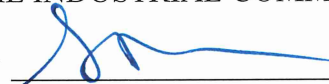
Public Comment.

There was no public comment.

The meeting was adjourned at 1:51 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By



Gaetano J. Testini, Executive Deputy Director

ATTEST:



Kara Dimas, Commission Secretary