

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Held at 800 West Washington Street  
Phoenix, Arizona 85007  
Thursday, May 2, 2024 – 1:00 p.m.

Present:	Dennis P. Kavanaugh	Chairman
	D. Alan Everett	Commissioner (Telephonic)
	Maria Cecilia Valdez	Commissioner
	Orion J. Godfrey	Commissioner
	Gaetano J. Testini	Executive Deputy Director
	Afshan Peimani	Chief Legal Counsel
	Lisa Padgett	Deputy Director (Telephonic)
	Charles Carpenter	Legislative Affairs Chief/Public Information Officer
	Sylvia Simpson	Chief Financial Officer
	Brian Hudson	ADOSH Director
	Phil Murphy	ADOSH Assistant Director
	Anna Maria Stonerock	ADOSH Admin
	Kara Dimas	Commission Secretary

Chairman Kavanaugh convened the meeting at 1:06 p.m. In attendance, confirmed by roll call were Stephanie Hefner (Snell and Wilmer); Brandon Dickerson (Coreslab Structures (Ariz) Inc.; Connie Cubillas (next of kin); and Rachel Brozina (Kids' Chance of Arizona). Also in attendance on the telephone, confirmed by roll call was Ivonne Cubillas Perez (next of kin).

Approval of Minutes of April 25, 2024 Regular Meeting Minutes.

Commissioner Valdez moved to approve the Minutes of the April 25, 2024 regular session meeting and Commissioner Godfrey seconded the motion. Chairman Kavanaugh, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey 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.

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- a. Approval of Requests for Renewal of Self-Insurance Authority.
    1. Heartland Express, Inc.
  - b. Approval of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties Less Than \$15,000.
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- 1. FR-2024-EG419-0029 3D Epoxy Rez, LLC
- 2. PP-2024-RS480-0103 J Ginger Masonry, L.P.
- 3. RF-2024-VM508-0026 Manheim Remarketing, Inc. dba Manheim Phoenix
- 4. RF-2024-T3633-0136 New Avondale Recycling Center Inc
- 5. CP-2023-JW184-0047 Power Contracting, LLC

Commissioner Godfrey moved to approve the items on the Consent Agenda and Commissioner Valdez seconded the motion. Chairman Kavanaugh, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey 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.

Coreslab Structures (Ariz) Inc.  
 519 East Frontage Road  
 Nogales, AZ 85621

Site Location: 5026 S 43rd Ave  
 Phoenix, AZ 85041  
 Inspection No: RF-2024-VM508-0027  
 Inspection Date: December 18, 2023

Referral  
 Years in Business: 35  
 Empl. Covered by Inspection: 8

SERIOUS – Citation 1 - Item 1a –

- a) Carpenter Shop: Employees were exposed to a Baileigh Professional Cabinet Table Saw (Model: TS-1248P-52; SN: 188851) while making cuts that was not furnished with a hood guard. 29 CFR 1910.213(c)(1)  
 Div. Proposal - \$15,625.00 Formula Amt. - \$15,625.00

SERIOUS – Citation 1 - Item 1b –

- a) Carpenter Shop: Employees were exposed to a Baileigh Professional Cabinet Table Saw (Model: TS-1248P-52; SN: 188851) that was not furnished with a material spreader while performing rip cuts. 29 CFR 1910.213(c)(2)  
 Div. Proposal - \$0.00 Formula Amt. - \$15,625.00

SERIOUS – Citation 1 - Item 1c –

- a) Carpenter Shop: Employees were exposed to a Baileigh Professional Cabinet Table Saw (Model: TS-1248P-52; SN: 188851) that was not furnished with kickback fingers while performing rip cuts. 29 CFR 1910.213 (c)(3)  
 Div. Proposal - \$0.00 Formula Amt. - \$15,625.00

TOTAL PENALTY - \$15,625.00 TOTAL FORMULA AMT. - \$46,875.00

Mr. Hudson discussed ADOSH's inspection, summarized the citation and proposed penalties, noting the 60% size reduction was removed.

Chairman Kavanaugh noted he had a request to speak from Mr. Dickerson.

Mr. Dickerson, the Health and Safety Coordinator, having moments to review the Citation questioned the date the file was submitted in relation to the abatement. He noted as of February 21, 2024 Coreslab had a virtual meeting with the inspector and the employer emailed proof of abatement.

Chairman Kavanaugh thanked Mr. Dickerson for his clarification.

Mr. Hudson commented that they would verify this information and make sure it is noted in the file.

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

Z Valencia Brothers Framing, LLC	Fatality/Catastrophe
230 West Villa Theresa Drive	Years in Business: 6
Phoenix, AZ 85023	Empl. Covered by Inspection: 4
Site Location: 1935 W Hide Trail	
Phoenix, AZ 85085	
Inspection No: FC-2024-EG419-0026	
Inspection Date: November 9, 2023	

REPEAT-SERIOUS – Citation 1 - Item 1 –

- a) 1935 W Hide Trail Phoenix: Three employees installing trusses were exposed to falls at an approximate height of 10' 7" without the use of fall protection. 29 CFR 1926.501(b)(13)

Z Valencia Brothers Framing, LLC was previously cited for a violation of the Occupational Safety and Health Standard or its equivalent Standard 29 CFR 1926.501(b)(13) which was contained in the ADOSH inspection 1473494, citation number 1, item number 1 and was affirmed as a final order on October 26, 2020, and abated on September 8, 2020, with respect to a workplace location at 41 N 109th Dr., Avondale, AZ, 85323.

Div. Proposal - \$11,162.00                      Formula Amt. - \$11,162.00

NON-SERIOUS – Citation 2

1) 29 CFR 1904.39(a)(1): The employer did not report within 8-hours the death of an employee resulting from a work-related incident. PROPOSED PENALTY \$1,000.00 (Per ADOSH Director)

2) 29 CFR 1904(a)(2): The employer did not report within 24-hours a work-related incident resulting in in-patient hospitalization, amputation or the loss of an eye. PROPOSED PENALTY \$1,000.00 (Per ADOSH Director)

3) 29 CFR 1926.100(a): Employees working in areas where there is a possible danger of head injury from impact, or from falling or flying objects, or from electrical shock and burns, shall be protected by protective helmets.

TOTAL PENALTY - \$13,162.00                      TOTAL FORMULA AMT. - \$13,162.00

Mr. Hudson discussed ADOSH's inspection, summarized the citation and proposed penalties.

Chairman Kavanaugh confirmed there was no size adjustment applied in this matter because of the nature of the penalty.

Chairman Kavanaugh checked if anyone would like to comment.

Ms. Cubillas and Ms. Perez Cubillas commented in Spanish. Commissioner Valdez translated noting the current difficult family situation and wanted to make sure injustice does not happen to anyone else. Commissioner Valdez offered condolences to the family.

Chairman Kavanaugh asked staff to provide assistant to see what remedies are available under workers' compensation.

Chairman Kavanaugh asked Mr. Hudson and Mr. Murphy, since this is a repeat serious violation will this potentially trigger the application of the civil penalty provision payable to the worker's family and something to consider and return to the Commission at a later date.

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

#### Public Comment.

Ms. Brozina, President of Kids' Chance of Arizona, an attorney who represents employers in workers' compensation matters expressed her gratitude to the Industrial Commission of Arizona, who has been a wonderful proponent of their mission to ease the financial burden of attending college for the families of severely or fatally injured workers. Kids' Chance of Arizona has been in existence for almost 30 years and have awarded nearly \$915,000.00 in scholarships and benefited nearly 400 scholarship recipients. She has served on the scholarship committee for several years and had the pleasure of working with the scholarship recipients and from their engagement with the families and students, they do have a meaningful impact on their lives and noted several career fields the recipients have chosen. She wanted to express her gratitude and let the Commission know they are perpetually looking to find potential scholarship recipients. The primary goal is to do a significant amount of outreach to the families who could benefit from the support they can provide. She asked the Commission to continue its efforts through the Claims Division to reach out to the families of fatally injured workers.

Chairman Kavanaugh thanked Ms. Brozina. He noted he was around when Kids' Chance of Arizona started and it has delivered over the years on the promises to help families and kids. Kids' Chance is an important story and part of the 100 years of the Industrial Commission we are celebrating next year and want to make sure it is part of what we tell. It is truly a success story.

There was no other public comment.

#### Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through June 2024.

Mr. Carpenter announced that May 13, 2024 will be ICA Recognition Day at 10:00 in the Auditorium and will recognize those entities who are leaders in the Arizona workers' compensation system and recognizing insurance carriers and employers who have gone above and beyond the norm.

Mr. Testini noted that Michael Kennington has been appointed by the Governor to fill a long time vacant position with the Special Fund Investment Committee to fill the self-insurance role.

Mr. Testini invited the Commissioners to the Employee Appreciation Lunch on May 9 in the Phoenix office and May 10 in the Tucson office.

Mr. Testini noted that next week will be Heat Safety Awareness Week, look for social media posts regarding heat safety awareness.

The meeting was adjourned at 1:42 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By

  
Gaetano J. Testini, Executive Deputy Director

ATTEST:

  
Kara Dimas, Commission Secretary