

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Held at 800 West Washington Street  
Phoenix, Arizona 85007  
Thursday, September 28, 2023 – 1:00 p.m.

Present: Dennis P. Kavanaugh	Chairman
Scott P. LeMarr	Commissioner (Telephonic)
D. Alan Everett	Commissioner
Gaetano J. Testini	Director
Afshan Peimani	Chief Legal Counsel
Trevor Laky	Legislative Affairs Chief/Public Information Officer
Melissa Spurgeon	Interim Labor Director
Kimberly Gooby	Labor Investigator
Christina Lasater	Labor Investigator
Alissa Bodie	Labor Investigator
Amanda Schaar	Labor Investigator
Christina Sanchez	Labor Supervisor
Kara Dimas	Commission Secretary

Chairman Kavanaugh convened the meeting at 1:05 p.m. In attendance, confirmed by roll call was Anne Ryman (ABC15).

Chairman Kavanaugh noted that Item 6. the ADOSH penalties, will be continued to the next Commission Meeting on October 5, 2023.

Approval of Minutes of September 21, 2023 Regular Meeting Minutes.

Commissioner Everett moved to approve the Minutes of the September 21, 2023 regular session meeting and Commissioner LeMarr seconded the motion. Chairman Kavanaugh, Commissioner LeMarr and Commissioner Everett 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 Proposed Youth Employment Penalty.

1. YL-2324-0009 - Geotemps, Inc (\$800.00 civil penalty)

Commissioner Everett moved to approve the item on the Consent Agenda and Commissioner LeMarr seconded the motion. Chairman Kavanaugh, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

Discussion and Action regarding Appointment of Special Assistant to the Industrial Commission of Arizona.

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Ly Rakes

Director Testini requested a Resolution appointing Ms. Rakes as a Special Assistant in the Compliance Team.

Commissioner LeMarr moved to appoint Ms. Rakes as Special Assistant and Commissioner Everett seconded the motion. Chairman Kavanaugh, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

Discussion and Action regarding Proposed Retaliation Penalty.

1. RT-2223-0133 - The Steak-N-Stuff Restaurant & Tavern (\$646.02)

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 \$646.02 for violation of A.R.S. § 23-364.

Commissioner Everett moved to approve issuance of a Penalty for Retaliation in the amount of \$646.02 The Steak-N-Stuff Restaurant & Tavern. Commissioner LeMarr seconded the motion. Chairman Kavanaugh, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

2. RT-2223-0137 - Flagstaff Extreme, LLC (\$17,850.00)

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 \$17,850.00 for violation of A.R.S. § 23-364.

Commissioner Everett moved to approve issuance of a Penalty for Retaliation in the amount of \$17,850.00 to Flagstaff Extreme, LLC. Commissioner LeMarr seconded the motion. Chairman Kavanaugh, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

3. RT-2324-0005 - Southwest Airlines Co (\$15,900.00)

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 \$15,900.00 for violation of A.R.S. § 23-364.

Commissioner Everett moved to approve issuance of a Penalty for Retaliation in the amount of \$15,900.00 Southwest Airlines Co. Commissioner LeMarr seconded the motion. Chairman

Kavanaugh, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

4. RT-2324-0006 - Southwest Airlines Co (\$34,500.00)

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 \$34,500.00 for violation of A.R.S. § 23-364.

Commissioner LeMarr moved to approve issuance of a Penalty for Retaliation in the amount of \$34,500.00 to Southwest Airlines Co. Commissioner Everett seconded the motion. Chairman Kavanaugh, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

5. RT-2324-0010 - Southwest Airlines Co (\$20,250.00)

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 \$20,250.00 for violation of A.R.S. § 23-364.

Commissioner Everett moved to approve issuance of a Penalty for Retaliation in the amount of \$20,250.00 Southwest Airlines Co. Commissioner LeMarr seconded the motion. Chairman Kavanaugh, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

6. RT-2324-0017 - Southwest Airlines Co (\$16,050.00)

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 \$16,050.00 for violation of A.R.S. § 23-364.

Chairman Kavanaugh commented on finding 19, that Southwest Airlines confirmed the letter of instruction is still active and in the personnel file.

Commissioner Everett moved to approve issuance of a Penalty for Retaliation in the amount of \$16,050.00 to Southwest Airlines Co. Commissioner LeMarr seconded the motion. Chairman Kavanaugh, Commissioner LeMarr and Commissioner Everett voted in favor of the motion. The motion passed.

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

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All ADOSH citations were deferred to the next Commission Meeting.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through November 2023.

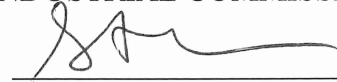
Public Comment.

There was no public comment.

The meeting was adjourned at 1:33 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By



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Gaetano J. Testini, Director

ATTEST:



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Kara Dimas, Commission Secretary