

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, April 24, 2025 – 1:00 p.m.

Present:	Dennis P. Kavanaugh	Chairman
	Joseph M. Hennelly, Jr.	Vice Chair
	D. Alan Everett	Commissioner
	Maria Cecilia Valdez	Commissioner
	Orion J. Godfrey	Commissioner
	Gaetano J. Testini	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
	Christina Lasater	Labor Supervisor
	Vincent Argana	Labor Investigator
	Kimberly Gooby	Labor Investigator
	Brian Hudson	ADOSH Director
	Brant Smith	ADOSH Deputy Director
	Victoria Medina	ADOSH Supervisor
	James Reitmeier	ADOSH Supervisor
	Anna Maria Stonerock	ADOSH Compliance
	Brian Mason	ADOSH Compliance
	Liam Bristol	ADOSH Compliance
	Mireya Gomez	ADOSH Compliance
	Adaysia Henderson	ADOSH Compliance
	Heather Warnock	ADOSH Compliance
	Bethany Votta	ADOSH Admin
	Andy Campbell	Chief Administrative Law Judge
	Jesus Carranza	UofA Intern for ALJ
	Paula Eaton	Administrative Law Judge
	Marilyn Carter	Human Resource Manager
	Kara Dimas	Commission Secretary

Chairman Kavanaugh convened the meeting at 1:06 p.m. In attendance, confirmed by roll call were Taylor Thomas (Snell and Wilmer); Lindsey Wheeler (Premier Risk Management); Guadalupe Matadamas (Positive Spray Foam LLC); and Michael Andersen and Lorena Sanchez-Zumph (City of Glendale). Also in attendance on the telephone, confirmed by roll call were Nitra Hawkins (City of Mesa); Nichole Gonzalez (City of Tempe); Carolyn Horton and Uyen Nguyen (Costco Wholesale Corporation).

Chairman Kavanaugh commented on his two-year anniversary with the Commission. He noted there were a few adjustments on today's Agenda, the City of Phoenix self-insurance renewal would be moved to the May 1st Agenda. The Youth Labor cases would be removed from the Consent Agenda and will be presented individually. He also noted that three ADOSH matters were

removed from today's Agenda for further review the two Diversified Roofing, LLC files and Wood Framing, LLC.

Approval of Minutes of April 10, 2025 Regular Meeting Minutes.

Commissioner Valdez moved to approve the Minutes of the April 10, 2025 regular session meeting and Commissioner Everett seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, 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.

a. Approval of Proposed Civil Penalties Against Uninsured Employers.

1. 2C24/25-0469 Gilbert Pizza, LLC dba Rosati's Pizza \$1,000

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

1. City of Glendale
2. City of Mesa
3. City of Phoenix
4. City of Tempe
5. Costco Wholesale Corporation

c. Approval of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties Less Than \$15,000.

1. RF-2025-KS402-0011 C S Construction, Inc.
2. CP-2025-JW184-0155 CLR Platinum Patriot Construction, LRC
Contracting, Remodel
3. UR-2025-EG419-0094 Complete Property Services, LLC
4. CP-2025-JW184-0149 National Upholstery Services, Inc.
5. PP-2025-JW184-0153 Universal Building Systems LLC
6. PP-2025-TN246-0001 Younger Brothers Components, Inc.

d. Approval of Proposed Youth Employment Penalty.

1. YL-2425-0038 Fred's Arena Bar & Steakhouse LLC
2. YL-2425-0035 Kennelly Family Concepts, Inc.
3. YL-2425-0048 Makai Corporation

As noted previously, the City of Phoenix self-insurance renewal will be moved to May 1st Agenda. The Youth Labor cases would be removed from the Consent Agenda and will be presented individually.

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

Discussion and Action of Proposed Youth Employment Penalty.

1. YL-2425-0038 Fred's Arena Bar & Steakhouse LLC

Ms. Spurgeon summarized the Labor Department's investigation into the youth employment claim. Ms. Spurgeon recommended that the Commission approve issuance of a Civil Penalty in the amount of \$1,000.00 for violation of A.R.S. § 23-236(A) and (B) and A.A.C. R20-5-905.

Chairman Kavanaugh and Ms. Spurgeon discussed the new hindrance rule, noting it is rare for an employer to refuse our investigation and because they hindered the investigation staff does not have information to determine what the youths were doing. They also discussed that Labor Department is implementing as part of their process a check to make sure the company has workers' compensation insurance. This employer does have a valid policy.

Vice Chair Hennelly and Ms. Spurgeon discussed the investigation into the potential violation will continue if this penalty is approved.

Vice Chair Hennelly moved to approve issuance of a penalty in the amount of \$1,000.00 to Fred's Arena Bar & Steakhouse LLC. Commissioner Valdez seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

2. YL-2425-0035 Kennelly Family Concepts, Inc.

Ms. Spurgeon summarized the Labor Department's investigation into the youth employment claim. Ms. Spurgeon recommended that the Commission approve issuance of a Civil Penalty in the amount of \$600.00 for violation of A.R.S. § 23-233.

Chairman Kavanaugh and Ms. Spurgeon discussed issuing a penalty for one instance even though there were 99 incidents. Chairman Kavanaugh suggested at some point explore modifying the statute.

Chairman Kavanaugh asked if the Commissioners had any questions.

Commissioner Everett moved to approve issuance of a penalty in the amount of \$600.00 to Kennelly Family Concepts, Inc. Commissioner Valdez seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

3. YL-2425-0048 Makai Corporation

Ms. Spurgeon summarized the Labor Department's investigation into the youth employment claim. Ms. Spurgeon recommended that the Commission approve issuance of a Civil Penalty in the amount of \$700.00 for violation of A.R.S. § 23-233.

Chairman Kavanaugh and Ms. Gooby discussed the employer's comment for defense or excuse.

Chairman Kavanaugh asked if the Commissioners had any questions.

Commissioner Godfrey moved to approve issuance of a penalty in the amount of \$700.00 to Makai Corporation. Vice Chair Hennelly seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Chairman Kavanaugh commented he appreciated having the discussion seeing the trend across the country and appreciates the work the Labor Division does to continue to get the word out to so many of these industries and looking into the structure of the penalties.

Discussion and Action regarding Proposed Retaliation Penalty.

1. RT2425-0104 Primp and Blow Waterfront, L.L.C.

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 \$20,844.66 for violation of A.R.S. § 23-364.

Chairman Kavanaugh asked if the Commissioners had any questions.

Commissioner Valdez moved to approve issuance of a Penalty for Retaliation in the amount of \$20,844.66 to Primp and Blow Waterfront, L.L.C. Commissioner Godfrey seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, 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.

Franklin Foods, Inc.	Complaint	
2500 North Military Trail STE 320	Years in Business:	14
Boca Raton, FL 33431	Empl. Covered by Inspection:	70
Site Location:	1221 West Gila Bend Highway	
	Casa Grande, AZ 85193	
Inspection No:	CP-2025-TN246-0010	
Inspection Date:	March 18, 2025	

SERIOUS – Citation 1 - Item 1a –

- a) 711 West Madison Street, Phoenix: One employee was required to use Polyurethane Foam A-Component to spray foam a roof without a safety data sheet readily accessible. 29 CFR 1910.1200(g)(8)

Positive Spray Foam LLC was previously cited for a violation of this Occupational Safety and Health Standard, safety data sheets, which was contained in ADOSH Inspection Number 1529713, Citation Number 2, Item Number 1, and was affirmed as a final order on 10/22/2021 and abated on 5/12/2021 with respect to a workplace located at 102 W Maryland Ave, Phoenix, AZ 85012.

Div. Proposal - \$6,914.00

Formula Amt. - \$6,914.00

REPEAT-SERIOUS – Citation 2 - Item 2 –

- a) Roof: Two employees were spray foaming a commercial roof that was approximately 19' above the ground and were not provided with fall protection training. 29 CFR 1926.503(a)(1)

Positive Spray Foam LLC was previously cited for a violation of this Occupational Safety And Health Standard, fall protection training, which was contained in ADOSH Inspection Number 1529713, Citation Number 2, Item Number 1, and was affirmed as a final order on 10/22/2021 and abated on 5/12/2021 with respect to a workplace located at 102 W Maryland Ave, Phoenix, AZ 85012.

Div. Proposal - \$6,914.00

Formula Amt. - \$6,914.00

SERIOUS – Citation 3 - Item 1a –

- a) 711 West Madison Street, Phoenix: Two employees were required to wear a Honeywell 7700 half mask respirator while using Polyurethane Foam A-Component to apply spray foam to a roof without a written respiratory protection program. 29 CFR 1910.134(c)(1)

Div. Proposal - \$3,457.00

Formula Amt. - \$3,457.00

SERIOUS – Citation 3 - Item 1b –

- a) 711 West Madison Street, Phoenix: Two employees were required to wear a Honeywell 7700 face mask respirator while using Polyurethane Foam A-Component to apply spray foam to a roof without being medically evaluated. 29 CFR 1910.134(e)(1)

Div. Proposal - \$0.00

Formula Amt. - \$3,457.00

SERIOUS – Citation 1 - Item 1c –

- a) 711 West Madison Street, Phoenix: Two employees were required to wear a Honeywell 7700 face mask respirator while using Polyurethane Foam A-Component to apply spray foam to a roof without receiving a fit test. 29 CFR 1910.134(f)(1)

Div. Proposal - \$0.00

Formula Amt. - \$3,457.00

SERIOUS – Citation 3 - Item 1d –

- a) 711 West Madison Street, Phoenix: Two employees were required to wear a Honeywell 7700 half mask respirator while using Polyurethane Foam A-Component to apply spray foam to a roof without receiving respiratory protection training. 29 CFR 1910.134(k)(3)

Div. Proposal - \$0.00

Formula Amt. - \$3,457.00

a) 711 West Madison Street, Phoenix: Two employees used Polyurethane Foam A-Component while a written hazard communication program was not developed or implemented. 29 CFR 1910.1200(e)(1)	
Div. Proposal - \$3,457.00	Formula Amt. - \$3,457.00

a) 711 West Madison Street, Phoenix: One employee used Polyurethane Foam A-Component without receiving hazard communication training. 29 CFR 1910.1200(h)(1)
Div. Proposal - \$3,457.00 Formula Amt. - \$3,457.00

a) 711 West Madison Street, Phoenix: Two employees used a Werner aluminum extension ladder to access a 19' high roof, with a hose for spraying foam being supported by the top rung of the ladder and it was not secured to prevent displacement from the movement of the hose as work was being performed. 29 CFR 1926.1053(b)(8)
Div. Proposal - \$3,457.00 Formula Amt. - \$3,457.00

a) 711 West Madison Street, Phoenix: One employee used a Werner aluminum ladder to access a 19' high roof without receiving ladder training. 29 CFR 1926.1060(a)

Div. Proposal -	\$3,457.00	Formula Amt. -	\$3,457.00
TOTAL PENALTY -	\$57,899.00	TOTAL FORMULA AMT. -	\$68,270.00

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

Discussion and/or Action regarding the consideration of candidates for appointment to the position of Administrative Law Judge pursuant to A.R.S. § 23-108.02(A). The Commission may move into Executive Session for the purposes described in A.R.S. § 38-431.03(A)(1) and (A)(3)._____

Chairman Kavanaugh agreed and appreciated all of the work and assessments by the interviewing panel.

Vice Chair Hennelly moved to accept Judge Campbell's recommendation to extend an offer to candidate 1. Commissioner Everett seconded the motion. Chairman Kavanaugh noted this is not an easy task and these are important jobs in a competitive market. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through June 2025.

Mr. Carpenter updated the Commissioners noting that bill 1551 was signed by the Governor, and the others are still at the Legislature and have not passed on.

Mr. Carpenter commented April 28, 2025, is International Workers' Memorial Day, the ICA will be recognizing employers that have been doing exceptional work within the workers' compensation, and ADOSH space.

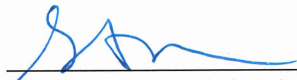
Public Comment.

There was no public comment.

The meeting was adjourned at 2:04 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


Gaetano J. Testini, Director

ATTEST:


Kara Dimas, Commission Secretary