MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Telephonic Meeting
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, August 31, 2020 – 1:00 p.m.

Present: Dale L. Schultz  Chairman (Telephonic)
            Joseph M. Hennelly, Jr.  Vice Chair (Telephonic)
            Scott P. LeMarr  Commissioner (Telephonic)
            Steven J. Krenzel  Commissioner (Telephonic)
            James Ashley  Director (Telephonic)
            Caetano Testini  Chief Legal Counsel (Telephonic)
            Jason M. Porter  Deputy Director (Telephonic)
            Trevor Laky  Legislative Affairs Chief/Public Information Officer (Telephonic)
            Renee Pastor  Self Insurance (Telephonic)
            Charles Carpenter  Medical Resource Manager (Telephonic)
            Renee Englen  Medical Resource Office (Telephonic)
            Lisa Padgett  Labor Director (Telephonic)
            Victoria Kamm  Labor Supervisor (Telephonic)
            Jennifer Kainski  Labor Investigator (Telephonic)
            Jessie Atencio  ADOSH Director (Telephonic)
            Kara Dimas  Commission Secretary (Telephonic)

Chairman Schultz convened the meeting at 1:00 p.m. Also in attendance on the telephone, confirmed by roll call were Brad Bothun, Jerry Brown and Tony Rickoff (JBS Tolleson, Inc. dba JBS US); Robert Deheer and Robert Dishmon (Jim Brown & Sons Roofing Company, Incorporated dba JBS Roofing); and Greg Couet, Kristen Murphy and Kim Kuhn (Nail It Framing & Construction).

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. TMC Healthcare

Chairman Schultz complimented TMC Healthcare on their excellent experience modification factor.

Commissioner LeMarr moved to approve the Consent Agenda and Commissioner Krenzel seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.
Discussion and Action regarding the 2020/2021 Arizona Physicians’ and Pharmaceutical Fee Schedule.

Mr. Carpenter noted public hearings were held on June 25 and August 17, 2020 regarding proposed changes to the Fee Schedule and all written comments have been posted on the Medical Resource Office website. In addition to oral comments made during the public hearings, written comments were received from Arizona Counties Insurance Pool, Healthsystems, Mitchell Pharmacy Solutions, Concentra, Integration Group, Injured Workers Pharmacy, CopperPoint, Arizona Self-Insurers’ Association Reimbursement Consultants, Arizona Property Casualty Insurance Association, and the American Association of Payers, Administrators, and Networks. Public comments were largely supportive of the proposed changes in the Amended Staff Proposal. Following careful review and consideration of all public comments, staff recommends the Commission adopt the following changes/updates to the 2020/2021 Fee Schedule:

First, staff recommends the updated service codes, relative value units (RVUs) and reimbursement values as presented in the amended Excel tables published on the MRO webpage. The methodology used in computing reimbursement values has not changed from previous years and is outlined in detail in the Amended Staff Proposal. Staff recommends maintaining the RBRVS conversion factors used in the 2019/2020 Fee Schedule. The 2020-2021 Fee Schedule will continue to use CMS’s surgical global periods, assigned RVUs to consultation services, delineate codes that are unique to Arizona, and not incorporate a geographical adjustment factor. The recommended Fee Schedule does not apply a Stop-Gain, but does apply a Stop-Loss Cap to any service codes whose reimbursement values have incurred a decrease of greater than 50% since the transition to the RBRVS-based system.

Second, staff recommends that the Fee Schedule continue to designate Medi-Span® as the source to determine Average Wholesale Price (AWP) and determine reimbursement values for pharmaceutical products.

Third, changes are recommended throughout the 2020/2021 Fee Schedule guidelines to clarify the definition and usage of the terms “physician” and “healthcare provider.” These changes are intended to conform with the language used by CMS, which defines “physicians” as those healthcare providers who can provide Evaluation and Management services according to their scope of practice and Arizona law.

Fourth, staff recommends several revisions to the Introduction section, including the addition of statutory language to reinforce the timelines and expectations established by A.R.S. § 23-1062.01, the addition of a requirement that payers provide proof of valid contracts when contractual fee disputes with healthcare providers arise, and the addition of clarification that a “current invoice” for materials and supplies is one which is dated within one year of use. The addition of the language requiring payers to provide proof of a valid contract is intended to expedite resolution of disputes where a payer contends that the provider is bound to specified fees based on a contractual agreement with the payer. The clarification of “current invoice” is intended to prevent DME providers from billing for goods based on non-current purchase orders which may not reflect actual costs or values of the goods.

Fifth, staff recommends continued inclusion of four HCPCS codes that were adopted by the Commission in March 2020 in response to the spread of COVID-19. Two of the codes are for virtual check-ins by physicians and they represent changes to the Evaluation and Management section. The other two codes are used for lab testing to detect a COVID-19 infection and are found in the Pathology and Laboratory section.
Sixth, staff recommends clarification to the description of Arizona Service Code AZ099-005. This billing code is used when healthcare providers spend additional time completing workers' compensation insurance forms. During the course of typical treatment, healthcare providers are expected to properly document their work according to the laws governing their respective practices. Exams, re-exams, evaluations, and consultations are currently paid at a rate to compensate the healthcare provider for their time to document patient encounters. Arizona Service Code AZ099-005, however, was intended to be used in cases when additional paperwork is required either by the Commission, applicable payer, or third-party administrator, not as a means of increasing revenue based on standard medical documentation. Staff recommends the clarified language to ensure that the code can only be used when an additional form is either requested by a payer or required by the Commission.

Seventh, staff recommends the adoption of a standard for time-based services. The proposed language is found in the Physical Medicine Guidelines of the Fee Schedule and establishes that the Centers for Medicare and Medicaid Services (CMS) guidelines be used when billing and reimbursing time-based services. Adopting this standard ensures uniformity in the reimbursement of time-based services.

Eighth, staff recommends amending and revising portions of the Pharmaceutical Fee Schedule Guidelines. Staff recommends amendments to clarify the definitions of a "pharmacy accessible to the general public" and a "pharmacy not accessible to the general public" and to correct an inadvertent omission in Section VII(A)(1). The amendments also include a new, narrow exception to the general rule that would allow a pharmacy not accessible to the general public to dispense and receive payment for medications that are dispensed to an injured worker only during a compensability dispute that ultimately resolves in favor of the injured worker. This new exception will make it easier for injured workers whose claims have been denied to receive prescription medication services during the period of time in which they are protesting the denial of their claim.

Finally, staff recommends the addition of a few clarifying and/or non-substantive revisions in Sections III and VII of the Pharmaceutical Guidelines which are intended to resolve potential conflicts within the Guidelines and improve consistency. The revisions are intended to: (1) clarify that physician-administered medications need not be dispensed by a pharmacy accessible to the general public and a licensed pharmacist; (2) clarify that reimbursement for prescription medications should be based on the actual medication dispensed, except where other guidelines direct that reimbursement value be established based on a different medication or different dosage; and (3) clarify that the limitations on dispensing by physicians or pharmacies not accessible to the general public do not apply to dispensing during in-patient hospital care or upon discharge from in-patient hospital care.

Mr. Carpenter recommended the Commission adopt the proposed revisions to the Pharmaceutical Fee Schedule as presented.

Chairman Schultz read the recommended Resolution that the Commission would adopt.

Commissioner LeMarr moved to approve staff recommendations as presented and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Discussion and Action regarding Proposed Youth Employment Penalty.

1. CL-1819-0439 GLC Restaurants, Inc. dba McDonald’s
Ms. Padgett summarized the Labor Department's investigation, which included findings of various violations of A.R.S. § 23-232(A)(8)(b), A.R.S. § 23-233(A)(1), (A)(2), (A)(3) and (A)(4). Ms. Padgett recommended that the Commission approve issuance of a Civil Penalty in the amount of $1,000.00.

Vice Chair Hennelly moved to approve issuance of a Civil Penalty in the amount of $1,000.00 to GLC Restaurants, Inc. dba McDonald's. Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.


Ms. Padgett summarized the Labor Department's investigation, which included findings of various violations of A.R.S. § 23-231(A)(13), (A)(11) and (A)(7). Ms. Padgett recommended that the Commission approve issuance of a Civil Penalty in the amount of $300.00.

Commissioner Krenzel moved to approve issuance of a Civil Penalty in the amount of $300.00 to Home Depot, U.S.A., Inc. dba Home Depot. Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel 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 Schultz discussed the purpose of and process for the Commission's consideration of ADOSH citations and proposed penalties.

Artisan Roofing Systems, LLC
6985 N Camino Martin
Tucson, AZ 85704

Site Location: 1604 W Seabiscuit St
Tucson, AZ 85704

Inspection No: B8139 - 1480599
Inspection Date: 06/25/2020

Repeat Serious - Citation 1 - Item 1 -

a) 1604 W Seabiscuit St, Tucson, AZ 85704: Two employees were working on the roof of a new single story home without an adequate fall protection system install. 29 CFR 1926.501(b)(10)

Artisan Roofing Systems, LLC was previously cited for a violation of this Occupational Safety And Health Standard or its equivalent standard 29 CFR 1926.501(B)(10) which was contained in ADOSH Inspection Number 1427526, Citation Number 01, Item Number 01, issued on 01/09/20 and was final order on 02/04/20 and abated on 08/30/2019, with respect to a workplace located at 6543 S Diablo, Tucson, AZ.

Div. Proposal - $3,000.00  Formula Amt. - $1,500.00
TOTAL PENALTY - $3,000.00  TOTAL FORMULA AMT. - $1,500.00

Mr. Atencio discussed ADOSH's investigation, summarized the citation and proposed penalty, and reviewed the photographs.
Chairman Schultz checked if anyone on the phone would like to comment. There were no comments.

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

Hidden Hollow Construction Company Inc.
7443 N Fortuna Pl
Tucson, AZ 85741

Site Location: 7262 N Oracle Rd
Tucson, AZ 85704

Inspection No: R3180 - 1471008
Inspection Date: 03/24/2020

Complaint

Years in Business: 41
Empl. Covered by Inspection: 3

SERIOUS – Citation 1 - Item 1 –

a) 7262 N Oracle Rd, Tucson, AZ: Three employees were working in an excavation 7.5’ deep, 11.5’ wide, and 10’ long without training on the hazards associated with working in excavations. 29 CFR 1926.21(b)(2)
   Div. Proposal - $1,000.00
   Formula Amt. - $1,000.00

SERIOUS – Citation 1 - Item 2a –

a) 7262 N Oracle Rd, Tucson, AZ: Three employees were exposed to dirt and rocks falling into an excavation while they worked. 29 CFR 1926.100(a)
   Div. Proposal - 1,000.00
   Formula Amt. - $1,000.00

SERIOUS – Citation 1 - Item 2b –

a) 7262 N Oracle Rd, Tucson, AZ: The spoil piles were not 2’ away from the excavation edge. 29 CFR 1926.651(j)(2)
   Div. Proposal - $0.00
   Formula Amt. - $1,000.00

SERIOUS – Citation 1 - Item 3a –

a) 7262 N Oracle Rd, Tucson, AZ: Three employees worked in an excavation 7.5’ deep, 11.5’ wide, and 10’ long without a safe means of access and egress. 29 CFR 1926.651(e)(2)
   Div. Proposal - $1,000.00
   Formula Amt. - $1,000.00

SERIOUS – Citation 1 - Item 3b –

a) 7262 N Oracle Rd, Tucson, AZ: Employees used a 4’ high Husky brand fiberglass ladder, model and serial numbers unknown, that was not fully extended. 29 CFR 1926.1053(b)(4)
   Div. Proposal - $0.00
   Formula Amt. - $1,000.00

SERIOUS – Citation 1 - Item 4 –

a) 7262 N Oracle Rd, Tucson, AZ: Three employees were working in an excavation 7.5’ deep, 11.5’ wide, and 10’ long without first inspected by a competent person. 29 CFR 1926.651(k)(1)
Div. Proposal - $1,000.00                         Formula Amt. - $1,000.00

SERIOUS – Citation 1 - Item 5 –

a) 7262 N Oracle Rd, Tucson, AZ: Three employees were working in an excavation 7.5’ deep, 11.5’ wide, and 10’ long without a protective system installed. 29 CFR 1926.651(a)(1)
Div. Proposal - $1,000.00                         Formula Amt. - $1,000.00
TOTAL PENALTY - $5,000.00                         TOTAL FORMULA AMT. - $7,000.00

Mr. Atencio discussed ADOSH’s investigation, summarized the citation and proposed penalties, and reviewed the photographs.

Commissioner Krenzel and Mr. Atencio discussed if the hazards were abated.

Chairman Schultz and Mr. Atencio discussed Photograph No. 3 and why there was no citation for fall protection.

Chairman Schultz checked if anyone on the phone would like to comment. There were no comments.

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

Jim Brown & Sons Roofing Company, Incorporated
dba JBS Roofing
5537 N 59th Ave
Glendale, AZ 85301

Site Location: 5831 E McLellan Rd
Mesa, AZ 85205
Inspection No: V4664 - 1479058
Inspection Date: 06/15/2020

Unprogrammed Related
Years in Business: 40
Empl. Covered by Inspection: 1

REPEAT-SERIOUS – Citation 1 - Item 1 –

a) 5831 E McLellan Rd., Mesa, AZ, 85205: One employee on a roof 11ft above the ground level was not using a fall protection system. 29 CFR 1926.501(b)(1)

The Jim Brown & Sons Roofing Company, Incorporated DBA JBS Roofing was previously cited for a violation of this Occupational Safety And Health Standard or its equivalent standard 1926.501(B)(10), which was contained in ADOSH Inspection Number 1263517, Citation Number 1, Item 1 and was affirmed as a final order on 3/30/2018, with respect to a workplace located at 840 W Oriole Way, Chandler, AZ, 85256, and abated on September 14, 2017.
Div. Proposal - $3,000.00                         Formula Amt. - $1,500.00
TOTAL PENALTY - $3,000.00                         TOTAL FORMULA AMT. - $1,500.00

Mr. Atencio discussed ADOSH’s investigation, summarized the citation and proposed penalty, and reviewed the photographs.
Mr. Dishmon stated that going forward the company will be looking at data from GPS to determine if the workers were actually active during the period of the citation.

Chairman Schultz noted Mr. Atencio would appreciate that additional information.

Chairman Schultz noted in Photograph No. 2 there was some type of warning system, with a red post with flags on the left and wondered about the placements of those, and let Mr. Dishmon know that he could submit any additional information to Mr. Atencio.

Commissioner LeMarr and Mr. Dishmon discussed that Joshua Roofing Crew LLC was a subcontractor brought in to provide the labor for JBS Roofing on the project.

Commissioner LeMarr and Mr. Atencio discussed that ADOSH will be recommending citations for the subcontractor company as well. Commissioner LeMarr confirmed with Mr. Atencio that this is a three tiered scenario with Mesa School District, JBS and Joshua Roofing Crew.

Commissioner LeMarr moved to approve the citation and proposed penalty as presented and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Jim Brown & Sons Roofing Company, Incorporated
dba JBS Roofing
5537 N 59th Ave
Glendale, AZ 85301

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<tr>
<th>Complaint</th>
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<td>Empl. Covered by Inspection:</td>
<td>2</td>
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Site Location: 10919 N 76th Ave
Peoria, AZ 85345

Inspection No: E0782 - 1474828

Inspection Date: 05/11/2020

REPEAT-SERIOUS – Citation 1 - Item 1 –

a) 10919 N 76th Ave, Peoria, AZ 85345: Two employees were working on a roof that was 13 feet 10 inches were not using a fall protection system. 29 CFR 1926.501(b)(13)

The Jim Brown & Sons Roofing Company, Incorporated DBA JBS Roofing was previously cited for a violation of this Occupational Safety And Health Standard or its equivalent standard 1926.501(B)(10), which was contained in ADOSH Inspection Number 1263517, Citation Number 1, Item 1 and was affirmed as a final order on 3/30/2018, with respect to a workplace located at 840 W Oriole Way, Chandler, AZ, 85256, and abated on September 14, 2017.

Div. Proposal - $3,000.00  Formula Amt. - $1,500.00
TOTAL PENALTY - $3,000.00  TOTAL FORMULA AMT. - $1,500.00

Mr. Atencio discussed ADOSH’s investigation, summarized the citation and proposed penalty, and reviewed the photographs.

Commissioner Krenzel commended them on their training and safety program and working with the Roofing Contractors Association.

Commissioner Krenzel, Mr. Atencio and Mr. Dishmon discussed the PPE and fall protection being provided by the employer.
Mr. Atencio noted that JBS Roofing is active with the ICA Roofer’s Alliance and Mr. Dishmon routinely attends meetings to ensure a safer workplace.

Chairman Schultz, Mr. Dishmon and Mr. Atencio discussed the type of roofing material being tar/shingle.

Vice Chair Hennelly moved to approve the citation and proposed penalty as presented and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Chairman Schultz apologized for not getting the materials to JBS Roofing sooner, as Mr. Atencio and his team make every effort to both be transparent and provide the employers with information before the meetings.

JBS Tolleson, Inc. dba JBS USA
651 S 91st Ave
Tolleson, AZ 85353

Site Location: 651 S 91st Ave
Tolleson, AZ 85353
Inspection No: R2410 - 1478534
Inspection Date: 06/11/2020

SERIOUS – Citation 1 - Item 1 –

a) Hide Department: One employee was exposed to unsafe working conditions on a walking-working surface when walking above rotating tines.

b) Hide Department: One employee was exposed to unsafe working conditions on a walking-working surface when above a salt-brine solution cattle hide raceway. 29 CFR 1910.22(d)(2) Div. Proposal - $2,000.00 Formula Amt. - $2,000.00

SERIOUS – Citation 1 - Item 2 –

a) Hide Department: One employee was placing cattle hides on a rendering conveyor belt, serial and model numbers unknown, and was exposed to an ingoing nip point without a guard installed.

b) Hide Department: One employee was removing cattle hides from a flesher conveyor belt, serial and model numbers unknown, and exposed to an ingoing nip point without a guard installed.

c) Hide Department: Two employees were placing cattle hides on a conveyor belt with fabricated hooks, model and serial numbers unknown, and exposed to an ingoing nip point without a guard installed.

Div. Proposal - $2,000.00 Formula Amt. - $2,000.00
TOTAL PENALTY - $4,000.00 TOTAL FORMULA AMT. - $4,000.00

Mr. Atencio noted this was the first complaint regarding COVID and if the employer was providing enough training, PPE, administrative and engineering controls. He noted the complaints
were not valid but the inspection was expanded for machine guarding issues and discussed ADOSH’s investigation, summarized the citation and proposed penalties, and reviewed the photographs.

Commissioner LeMarr and Mr. Atencio discussed Photograph No. 5 and the yellow chain around the worker’s waist which Mr. Atencio stated looked like a plastic tool belt.

Vice Chair Hennelly asked about the source for guidelines or rules for COVID 19 protection, given that the CDC had issued guidelines which were not mandatory. Mr. Atencio noted ADOSH is looking to see if the employer is making good faith efforts to comply with the CDC guidelines and Arizona Department of Health Services and best practices of the general industry.

Chairman Schultz commented that it seemed from the information presented that there are a number of things which the Commission is expected to consider in setting penalty amounts. Chairman Schultz and Mr. Atencio discussed the employer being cooperative with the inspector at the time of the inspection, abating the nip points in a timely and adequate manner, and taking voluntary action to improve their safety program and promoting workplace safety in the community in terms of their excellent safety programs and their COVID safety program. Mr. Atencio noted the program for machine guarding is extensive, and references to Subpart O to show the reason of what and why it is important to guard things. Chairman Schultz commented that they make a good faith effort to implement an effective safety program or better like a VPP approach to safety and overall commitment to workplace safety, noting the plant is 422,272 square foot operation with many potential hazards and have both an effective written and implemented program.

Chairman Schultz asked if the representative from JBS would like to answer questions. Mr. Brown noted he is the general manager and thanked the Chairman for his comments and they do take safety extremely seriously.

Commissioner LeMarr noted his question regarding the yellow chain around the employee’s waist. Mr. Brown noted it is a plastic chain and used around the waist to hold certain tools and commonly used throughout the facility, they use the plastic which will break away easily in case it does get caught.

Chairman Schultz described the photograph of the rendering conveyor belt and asked what happened at the end of the belt. Mr. Brown described the process.

Chairman Schultz asked about another photograph with a worker standing at the end of a fleshing conveyor belt and asked about what he would be doing and how often they would be there because he is the employee most exposed to the nip point. Mr. Brown explained they do have a person standing there to ensure the hides are properly hung on the chain conveyor, and that everything found by the inspector was immediately corrected that evening and guarded correctly.

Chairman Schultz asked about the cleaning of the conveyors. Mr. Brown replied that because it is not a food production department the machinery in that department is cleaned by a team and have procedures and policies to follow and is washed down with hot water hoses every night.

Chairman Schultz asked where the potential exposure is on the walkway over the salt brine. Mr. Atencio noted it would be behind, and based on the interviews, the round pad has buttons and cut-off switches that would put employees outside of the guardrail system.
Commissioner LeMarr moved to amend the Citation in light of the employer’s quick abatement of the two conditions found, by proposing a 25% reduction for good faith for all items for a total penalty to $3,000.00. Commissioner Krenzel seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Load Star Builders LLC
20849 E Saddle Way
Queen Creek, AZ 85142

Complaint
Years in Business: 3
Empl. Covered by Inspection: 5

Site Location: 25310 S Saint Ruben Ct
Gilbert, AZ 85298

Inspection No: V4346 - 1468541
Inspection Date: 03/06/2020

REPEAT-SERIOUS – Citation 1 - Item 1 –

a) 25310 S Saint Ruben Ct, Gilbert, AZ, 85298: Four employees were decking the roof of a residential building and were exposed to a 14ft fall without fall protection. 29 CFR 1926.501(b)(13)

Load Star Builders LLC was previously cited for a violation of this Occupational Safety And Health standard or its equivalent standard 1926.501(B)(13), which was contained in ADOSH Inspection Number 1392216, Citation Number 1, Item 1 and was affirmed as a final order on 12/31/2019, with respect to a workplace located at 3929 S Cavalier Dr., Gilbert, AZ 85297, and was abated on 10/18/2019.
Div. Proposal - $2,000.00
Formula Amt. - $1,000.00

REPEAT-SERIOUS – Citation 1 - Item 2 –

a) 25310 S Saint Ruben Ct, Gilbert, AZ 85298: Four employees were decking the roof of a residential building without fall protection training. 29 CFR 1926.503(a)(1)

Load Star Builders LLC was previously cited for a violation of this Occupational Safety And Health standard or its equivalent standard 1926.503(A)(1), which was contained in ADOSH Inspection Number 1392216, Citation Number 1, Item 2 and was affirmed as a final order on 12/31/2019, abated on 11/15/2019 with respect to a workplace located at 3929 S Cavalier Dr., Gilbert, AZ 85297.
Div. Proposal - $2,000.00
Formula Amt. - $1,000.00

REPEAT-NON-SERIOUS – Citation 2 - Item 1 –

a) 25310 S Saint Ruben Ct, Gilbert, AZ 85298: The employer did not provide the OSHA 300 Log within four hours of request. 29 CFR 1904.40(a)

Load Star Builders LLC was previously cited for a violation of this Occupational Safety And Health standard or its equivalent standard 1904.40(a), which was contained in ADOSH Inspection Number 1392216, Citation Number 2, Item 1 and was affirmed as a final order on 12/31/2019, with respect to a workplace located at 20849 E Saddle Way, Queen Creek, AZ 85142, and was abated on 4/30/2019.
Div. Proposal - $800.00
Formula Amt. - $400.00
REPEAT-NON-SERIOUS – Citation 2 - Item 2 –

a) 25310 S Saint Ruben Ct, Gilbert, AZ 85298: Five employees were exposed to trip hazards as construction materials were not kept clear from worksite passageways. 29 CFR 1926.25(a)

Load Star Builders LLC was previously cited for a violation of this Occupational Safety And Health standard or its equivalent standard 1926.25(a), which was contained in ADOSH Inspection Number 1392216, Citation Number 2, Item 1 and was affirmed as a final order on 12/31/2019, with respect to a workplace located at 20849 E Saddle Way, Queen Creek, AZ 85142, and was abated on 4/30/2019.

Div. Proposal - $160.00  
Formula Amt. - $80.00

TOTAL PENALTY - $4,960.00  
TOTAL FORMULA AMT. - $2,480.00

Mr. Atencio discussed ADOSH’s investigation, summarized the citations and proposed penalties, and reviewed the photographs.

Chairman Schultz checked if anyone on the phone would like to comment. There were no comments.

Commissioner Krenzel moved to approve the citations and proposed penalties as presented and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Nail It Framing and Construction LLC
18664 N 84th Dr
Peoria, AZ 85382
Referral

Site Location: 15591 W Roosevelt St
Goodyear, AZ 85338
Years in Business: 3

Inspection No: 12479 - 1468460
Empl. Covered by Inspection: 4
Inspection Date: 03/09/2020

SERIOUS – Citation 1 - Item 1 –

a) 15991 W Roosevelt St, Goodyear, AZ, 85338: Two employees were exposed to a 22’ X 24’ wood wall panel that was not rigged to prevent it from falling when lifted. 29 CFR 1926.1425(e)(1)

Div. Proposal - $1,000.00  
Formula Amt. - $1,000.00

TOTAL PENALTY - $1,000.00  
TOTAL FORMULA AMT. - $1,000.00

Mr. Atencio discussed ADOSH’s investigation, summarized the citation and proposed penalty, and reviewed the photographs.

Commissioner LeMarr and Mr. Atencio discussed the possibility of a multi-employer citation but based on information that the crane did not have any direct relationship to the rigging the crane service and general contractor were not cited.

Mr. Couto, the owner of Nail It, who suffered the traumatic brain injury, noted he closed his company down, and remains under doctor’s care for the head injury and memory loss. He noted he has been in the industry for over 25 years, but this is all new to him. He just wanted to let the Commission know his status and thanked the Commission for the opportunity.
Chairman Schultz thanked them for joining us but hates to hear of any business disappearing because the goal of the Industrial Commission is to support the business community of Arizona as well as the employees by creating safe places to work.

Commissioner Krenzel moved to approve the citation and proposed penalty as presented and Commission LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through November 2020.

Public Comment.

There was no public comment.

Commissioner LeMarr moved to adjourn and Commissioner Krenzel seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion and the meeting was adjourned at 2:54 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By 

James Ashley, Director

ATTEST:

Kara Dimas, Commission Secretary