

United States of America  
**OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**  
1120 20th Street, N.W., Ninth Floor  
Washington, DC 20036-3457

SECRETARY OF LABOR,

Complainant,

v.

DELEK REFINING, LTD.,

Respondent.

OSHRC Docket No. 08-1386

**ORDER AND SUPPLEMENTAL BRIEFING NOTICE**

On April 16, 2012, after briefing in this case had been completed, Respondent submitted a letter advising the Commission of a recent decision issued by the U.S. Court of Appeals for the D.C. Circuit. In the letter, Respondent asserts that the decision, *AKM LLC v. OSHRC*, 675 F.3d 752 (D.C. Cir. 2012) (“*Volks*”), requires dismissal of two citation items at issue on review. The Secretary filed an Opposition to Respondent’s letter and moved in the alternative that she be permitted to file a supplemental brief addressing the issues discussed in the letter. Respondent subsequently filed a Response to the Secretary’s Opposition.

The Commission sets aside these filings and requests that the parties file supplemental briefs addressing what effect, if any, the court’s decision in *Volks* has on this case.<sup>1</sup> All briefs are to be filed in accordance with Commission Rule 93, 29 C.F.R. § 2200.93, except that the supplemental briefs shall not exceed 15 pages in length and any reply brief shall not exceed 10 pages in length.<sup>2</sup> The first supplemental brief is to be filed by Respondent within 40 days of this

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<sup>1</sup> The parties are to limit their supplemental briefing to the issue specified in this Notice and not repeat arguments that have been previously presented in briefs filed with the Commission.

<sup>2</sup> The Commission requests that all briefs include an alphabetical table of authorities with references to the pages on which they are cited, and that an asterisk be placed in the left hand margin of the table to indicate those authorities on which the brief principally relies. The

notice. A party that does not intend to file a brief must notify the Commission in writing setting forth the reason therefor within the time for filing briefs, and shall serve a copy of the notice on all parties.

SO ORDERED.

BY DIRECTION OF THE COMMISSION

Dated: May 29, 2012

/s/  
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Ray H. Darling, Jr.  
Executive Secretary

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Commission also requests that copies of cited authority other than statutes, case law, law journal articles, and legal treatises be provided to the Commission and to the opposing party. Parties should be cautioned that these materials will be considered only if appropriate.