



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.

CECO CONCRETE CONSTRUCTION, LLC,

Respondent.

OSHRC Docket No. 17-0483

BRIEFING NOTICE

The parties are requested to brief the issues presented in the Respondent's petition for discretionary review, and in particular:

- (1) Whether the judge erred in finding that the Secretary met his burden of proof as set forth in *Worcester Steel Erectors, Inc.*, 16 BNA OSHC 1409 (No. 89-1206, 1993) with regard to the violation alleged under 29 C.F.R. § 1926.703(a)(1) (general formwork requirements) in Serious Citation 1, Item 3; and
- (2) Whether the judge erred in finding that the Secretary established that Respondent violated the "secured when necessary" requirement in 29 C.F.R. § 1926.703(b)(6) (shoring and reshoring) as alleged in Serious Citation 1, Item 4.

The parties are advised that when a case is directed for review to consider either the merits or characterization of an item, the appropriateness of the penalty is also subject to review. Accordingly, the parties may address the amount of the penalty if they so choose.

All briefs are to be filed in accordance with Commission Rule 93.¹ The first brief is to be filed within 40 days of this notice. A party not intending to file a brief must notify the Commission in writing within the applicable time for filing briefs, and shall serve a copy on all other parties. The time for filing briefs (or similar notices of intent) of opposing parties shall commence on the

¹ 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 Commission also requests that copies of cited authority, other than statutes, regulations, 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.

date of service.

BY DIRECTION OF THE COMMISSION

JOHN X. CERVENY
EXECUTIVE SECRETARY

Dated: December 19, 2018

/s/
Susan M. Chagrin
Deputy Executive Secretary