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.

FIRST MARINE, LLC,

       Respondent.

OSHRC Docket Nos.
18-1287 & 18-1288

BRIEFING NOTICE

With respect to Citation 2, Item 2, the parties are requested to brief the following issues:

(1) Whether the judge erred in finding that the Secretary established a violation of the cited training provision, 29 C.F.R. § 1915.12(d)(1). Specifically, the parties should address whether the judge properly considered and weighed the testimony of First Marine employees and supervisors.

(2) Whether the judge erred in characterizing the violation as willful.

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 shall notify the Commission in accordance with Commission Rule 93. The time for filing any responsive briefs (or letters filed in lieu of briefs) shall commence on the date of service.

BY DIRECTION OF THE COMMISSION

Dated: May 27, 2021

/s/
John X. Cerveny
Executive Secretary

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[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.