



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.	:	OSHRC Docket No. 04-0781
	:	
MARTIN C. HECK BRICK	:	
CONTRACTING CO.,	:	
Respondent	:	

APPEARANCES:

Ian Eliasoph, Attorney; Charles F. James, Counsel for Appellate Litigation for Occupational Safety and Health; Daniel J. Mick, Counsel for Regional Trial Litigation; Joseph M. Woodward, Associate Solicitor for Occupational Safety and Health; Howard M. Radzely, Solicitor of Labor; Department of Labor, Washington, DC
For the Complainant

Donald W. Jones, Esq.; Austin E. Williamson, Esq.; Hulston, Jones & Marsh, Springfield, MO
For the Respondent

DECISION

Before: RAILTON, Chairman; ROGERS and THOMPSON, Commissioners.

BY THE COMMISSION:

The issue on review before the Commission is whether Martin C. Heck Contracting Company (Heck) is entitled to an award for fees and expenses under the Equal Access to Justice Act (EAJA), 5 U.S.C. § 504. This case arose as a result of an inspection conducted on February 25, 2004, by compliance officer (CO) Larry O. Davidson from the Occupational Safety and Health Administration (OSHA) at a worksite in Troy, Missouri, where Heck was engaged in masonry work on a bank building. The Secretary issued Heck a citation alleging a repeat violation of 29 C.F.R. § 1926.451(g)(1) for failing to provide employees with adequate fall protection while working on a scaffold more than 10 feet above a lower level and a non-serious violation of 29 C.F.R.



