



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.

HOME RUBBER COMPANY, LP,

Respondent.

OSHRC Docket No. 17-0138

BRIEFING NOTICE

The parties are requested to brief the following issues raised in Respondent's petition for discretionary review:

- (1) Did the judge err in characterizing the violations affirmed under Willful Citation 2, Items 1a and 1b (29 C.F.R. § 1910.95(g)(5)(i) (baseline audiogram) and 29 C.F.R. § 1910.95(g)(6) (annual audiogram)) as willful?
- (2) Did the judge err in affirming the violations alleged under the following citation items?
 - a. Serious Citation 1, Item 5 – 29 C.F.R. § 1910.147(c)(6)(i) (periodic inspection of energy control procedure);
 - b. Serious Citation 1, Item 9 – 29 C.F.R. § 1910.178(l)(4)(iii) (evaluation of powered industrial truck operator's performance);
 - c. Serious Citation 1, Item 13 – 29 C.F.R. § 1910.219(i)(2) (covering of bolts that extend beyond flange of shaft coupling);
 - d. Serious Citation 1, Items 15a, 15b, 15c, and 15d – 29 C.F.R. § 1910.303(b)(2) (installation and use of electrical equipment), 29 C.F.R. § 1910.303(b)(7)(iv) (no damaged parts that may adversely affect safe operation or mechanical strength of electrical equipment), 29 C.F.R. § 1910.305(b)(1)(ii) (effective closure of unused openings in electrical boxes), and 29 C.F.R. § 1910.305(b)(2)(i) (covering of outlet box); and
 - e. Serious Citation 1, Item 18 – 29 C.F.R. § 1910.1030(f)(2)(i) (Hepatitis B vaccination).

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 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 date of service.

BY DIRECTION OF THE COMMISSION

Dated: November 4, 2019

/s/ _____
John X. Cervený
Executive Secretary

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.