



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.

QUICK TRANSPORT OF ARKANSAS, LLC,

Respondent.

OSHRC Docket No. 14-0844

BRIEFING NOTICE

The Commission requests that the parties brief the following issues regarding the alleged violation of section 5(a)(1) of the Occupational Safety and Health Act of 1970, 29 U.S.C. § 654(a)(1):

(1) Did the Secretary show that using propane torches to thaw frozen valves on tankers at Respondent's worksite presented an explosion hazard to employees? In addressing this issue, the parties are requested to discuss whether the judge erred in holding that, in order to establish an explosion hazard, the Secretary was required to show that the tankers actually contained sufficient quantities of hydrocarbons or toxic and/or flammable or combustible gases or vapors to produce an explosion.

(2) If so, did the Secretary establish the remaining elements of a § 5(a)(1) violation, specifically that (a) Respondent or its industry recognized the explosion hazard; (b) Respondent had either actual or constructive knowledge of the hazardous condition; (c) a feasible means of abatement existed to eliminate or materially reduce the explosion hazard; and (d) the explosion hazard was likely to cause death or serious injury?

The parties are advised that when the merits or characterization of an item are before the Commission for review, 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 who does not intend to file a brief must notify 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

Commission in writing setting forth the reason therefor 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: July 28, 2015

/s/

John X. Cervený
Executive Secretary

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, 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.