



UNITED STATES OF AMERICA
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
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Washington, DC 20036-3419

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SECRETARY OF LABOR
Complainant,
v.
PAN BUILDING CORPORATION
Respondent.

**OSHRC DOCKET
NO. 93-3187**

**NOTICE OF DOCKETING
OF ADMINISTRATIVE LAW JUDGE'S DECISION**

The Administrative Law Judge's Report in the above referenced case was docketed with the Commission on March 30, 1994. The decision of the Judge will become a final order of the Commission on April 29, 1994 unless a Commission member directs review of the decision on or before that date. **ANY PARTY DESIRING REVIEW OF THE JUDGE'S DECISION BY THE COMMISSION MUST FILE A PETITION FOR DISCRETIONARY REVIEW.** Any such petition should be received by the Executive Secretary on or before April 19, 1994 in order to permit sufficient time for its review. See Commission Rule 91, 29 C.F.R. 2200.91.

All further pleadings or communications regarding this case shall be addressed to:

Executive Secretary
Occupational Safety and Health
Review Commission
1120 20th St. N.W., Suite 980
Washington, D.C. 20036-3419

Petitioning parties shall also mail a copy to:

Daniel J. Mick, Esq.
Counsel for Regional Trial Litigation
Office of the Solicitor, U.S. DOL
Room S4004
200 Constitution Avenue, N.W.
Washington, D.C. 20210

If a Direction for Review is issued by the Commission, then the Counsel for Regional Trial Litigation will represent the Department of Labor. Any party having questions about review rights may contact the Commission's Executive Secretary or call (202) 606-5400.

FOR THE COMMISSION

Ray H. Darling, Jr.
Executive Secretary

Date: March 30, 1994

DOCKET NO. 93-3187

NOTICE IS GIVEN TO THE FOLLOWING:

Daniel J. Mick, Esq.
Counsel for Regional Trial Litigation
Office of the Solicitor, U.S. DOL
Room S4004
200 Constitution Ave., N.W.
Washington, D.C. 20210

Marshall H. Harris, Esq.
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428 Forbes Avenue
Pittsburgh, PA 15219

Michael H. Schoenfeld
Administrative Law Judge
Occupational Safety and Health
Review Commission
One Lafayette Centre
1120 20th St. N.W., Suite 990
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SECRETARY OF LABOR,

Complainant,

v.

PAN BUILDING CORPORATION,

Respondent.

Docket No. 93-3187

Appearances:

Maureen A. Russo, Esquire
 Office of the Solicitor
 U.S. Department of Labor
 For Complainant

Michael E. Fiffik, Esquire
 Welch & Gold, P.C.
 Pittsburgh, PA
 For Respondent

Before : Administrative law Judge Michael H. Schoenfeld

DECISION AND ORDER

Background and Procedural History

This case arises under the Occupational Safety and Health Act of 1970, 29 U.S.C. §§ 651 - 678 (1970) ("the Act").

Having had its worksite inspected by a compliance officer of the Occupational Safety and Health Administration, Pan Building Corporation ("Respondent") was issued a citation on or about January 19, 1993 alleging 6 serious and 3 other than serious violations of the Act and proposing total monetary penalties of \$8,700. Respondent contested.

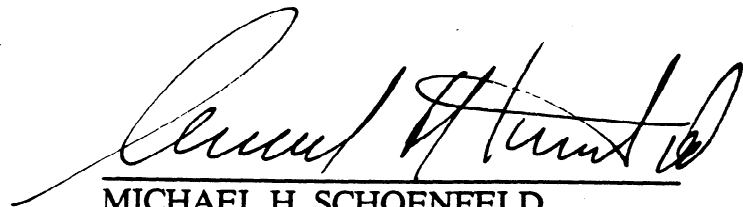
The Secretary moved to dismiss Respondent's Notice of Contest as having been untimely filed. Respondent opposed the dismissal arguing that its notice was valid in that

it had been misled by OSHA personnel or, in the alternative, that relief under Rule 60(b) of the Federal Rules of Civil Procedure was appropriate.

Pursuant to an order issued on February 14, 1994, the parties appeared on March 8, 1994, prepared to present evidence and argue the motion to dismiss. No affected employees claimed party status. After conference, the parties announced that a stipulated settlement had been reached. The Secretary withdrew the motion to dismiss the notice of contest and Respondent agreed to the affirmation of all alleged violations. The parties also stipulated that a total penalty of \$3,480.00 was appropriate.

ORDER

Pursuant to the stipulated settlement between the parties, the citations issued to Respondent on October 20, 1993 are AFFIRMED. A civil penalty of \$3,480.00 is assessed.



MICHAEL H. SCHOENFELD
Judge, OSHRC

Dated: **MAR 30 1994**
Washington, D.C.