

## UNITED STATES OF AMERICA OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION 1825 K STREET NW

4TH FLOOR WASHINGTON. DC 20006-1246

> FAX COM (202) 634-4008 FTS (202) 634-4008

SECRETARY OF LABOR Complainant,

V.

CUSTOM SERVICES Respondent.

OSHRC DOCKET NO. 92-1708

### 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 February 10, 1993. The decision of the Judge will become a final order of the Commission on March 12, 1993 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 March 2, 1993 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
1825 K St. N.W., Room 401
Washington, D.C. 20006-1246

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 \$4004 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) 634-7950.

FOR THE COMMISSION

Date: February 10, 1993 Ray H./Darling, Jr. Executive Secretary

### DOCKET NO. 92-1708 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

Ms. Bobbye D. Spears Regional Solicitor Office of the Solicitor, U.S. DOL Suite 339 1371 Peachtree Street, N.E. Atlanta, GA 30309

Mr. C. M. Meyer, President Custom Services 1896 Kentucky Avenue Post Office Box 966 Winter Park, FL 32790

Nancy J. Spies Occupational Safety and Health Review Commission 1365 Peachtree St., N.E. Room 240 Atlanta, GA 30309 3119



# UNITED STATES OF AMERICA OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION 1365 PEACHTREE STREET, N.E., SUITE 240 ATLANTA, GEORGIA 30309-3119

PHONE: COM (404) 347-4197 FTS (404) 347-4197

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SECRETARY OF LABOR, Complainant,

V.

OSHRC Docket No.: 92-1708

CUSTOM SERVICES, Respondent.

Appearances:

Ann G. Paschall, Esquire
Office of the Solicitor
U. S. Department of Labor
Atlanta, Georgia
For Complainant

Cliff M. Meyer, President
Custom Services
Winter Park, Florida
For Respondent

Before: Administrative Law Judge Nancy J. Spies

#### **DECISION AND ORDER**

This proceeding is before the Occupational Safety and Health Review Commission for decision. On May 7, 1992, the Occupational Safety and Health Administration (OSHA) issued one serious citation to respondent, Custom Services. Respondent, by letter dated May 26, 1992, contested the citation.

A hearing was held on December 16, 1992, in Orlando, Florida, at which the parties appeared. Prior to presentation of the evidence in the case, the parties were afforded an opportunity to discuss settlement. The parties were successful in reaching agreement on all matters at issue in this case. The terms of the agreement were stated in open court on the record and are hereby adopted and incorporated into this decision and order.

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

- 1. Respondent, Custom Services, was at all times relevant to this proceeding engaged in a business affecting commerce and had employees within the meaning of Section 3(5) of the Occupational Safety and Health Act of 1970 (Act). The Commission has jurisdiction of the parties and the subject matter of this proceeding.
- 2. The Secretary withdraws Item No. 2 of Citation No. 1, the alleged violation of 29 C.F.R. § 1926.451(a)(3).
  - 3. The following violations are affirmed and penalties assessed:

Item No.	<u>Violation</u>	<b>Penalty</b>
1	29 C.F.R. § 1926.100(a)	\$325.00
3a	29 C.F.R. § 1926.451(a)(4)	325.00
<b>3</b> b	29 C.F.R. § 1926.451(d)(10)	
3c	29 C.F.R. § 1926.451(d)(10)	
4	29 C.F.R. § 1926.451(d)(3)	325.00
	<u>ORDER</u>	

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Based upon the foregoing decision, it is ORDERED that:

- 1. The serious citation issued on May 7, 1992, is vacated, modified and affirmed in accordance with the above.
  - 2. Penalties in the total amount of \$975.00 are assessed.

/s/ Nancy J. Spies
NANCY J. SPIES
Judge

Date: February 3, 1993