



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.

ANTHONY MARANO CO.,

Respondent.

OSHRC Docket No. 19-0622

AMENDED BRIEFING NOTICE AND SCHEDULE

The briefing notice is amended to include the issue of the appropriate penalty for each citation item, if the parties choose to address it. The first brief is now due within 40 days of this amended notice. The full, corrected briefing notice is as follows.

The parties are requested to brief the following issues:

- (1) Did the judge err in affirming Citation 1, Item 1, as a sanction for Respondent's failure to comply with an order requiring the production of documents for *in camera* review?
- (2) With respect to Citation 1, Item 2, did the judge err in finding the cited standard, 29 C.F.R. § 1910.147(d) (lockout/tagout procedures), applies? Specifically, the parties are requested to brief the following:
 - a. Did the judge err in finding that the cited work activities constitute "servicing and/or maintenance" outside of normal production? *See* 29 C.F.R. § 1910.147(a)(2)(i), (ii)?
 - b. Did the judge err in finding the minor servicing exception does not apply? *See* 29 C.F.R. § 1910.147(a)(2)(ii)(B) (note)?
- (3) Did the judge err in affirming Citation 2, Item 1?

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 accordance with Commission Rule 93. The time for filing any responsive briefs (or letters filed in lieu of briefs) shall commence on the date of service.

BY DIRECTION OF THE COMMISSION

Dated: March 11, 2022

/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.