Some personal identifiers have been redacted for privacy purposes.

United States of America
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
U.S. CUSTOM HOUSE
721 19TH STREET, ROOM 407
DENVER, COLORADO 80202-2517

SECRETARY OF LABOR, Complainant, v. J & G QUALITY CONSTRUCTION INC., Respondent.	OSHRC Docket No. 26-0231

DECISION AND ORDER OF DISMISSAL

This matter comes before the Court because of Respondent's failure to engage in the litigation process, which Respondent, itself, initiated when it contested the *Citation and Notification of Penalty* ("*Citation*") issued by Complainant. At some point after filing its *Notice of Contest,* Respondent stopped communicating with Complainant, failed to appear for pretrial telephone conference calls, failed to timely file an Answer, and failed to respond to the Court in any other way. Accordingly, based on the analysis provided below, the Court finds Respondent in DEFAULT and AFFIRMS the *Citation.*

Procedural History

Between August 26, 2025, and December 16, 2025, the United States Occupational Safety and Health Administration ("OSHA") inspected a construction site in Tinley Park, Illinois, under inspection number 1846586. As a result of that inspection, on December 17, 2025, OSHA issued a *Citation* to Respondent for alleged violations of the Occupational Safety and Health Act, 29 U.S.C. §§ 651, *et seq*. ("OSH Act"). The *Citation* alleged three Serious violations of OSHA's

construction safety standards,[1] and proposed a total penalty of $9,648. The *Citation* was addressed to Respondent at [redacted] Harwood Heights, IL 60706.

On January 27, 2026, Respondent submitted a *Notice of Contest* to the Occupational Safety and Health Review Commission ("Commission"). The *Notice of Contest* listed Respondent's address as [redacted] Chicago, IL 60634. On February 11, 2026, the Commission docketed this case and mailed Respondent a *Notice of Docketing and Instructions to Employer* to the Chicago address.

On March 9, 2026, the Court issued an *Order to Appear for Telephone Conference Call* for March 24, 2026. Respondent failed to appear for the conference call. On March 24, 2026, Complainant filed a *Request to Reschedule Conference Call*. The Court granted Complainant's Motion and rescheduled the conference call to April 13, 2026. Respondent failed to appear for the rescheduled conference call. On April 14, 2026, the Court issued an *Order Rescheduling Teleconference* to April 30, 2026. The *Order Rescheduling Teleconference* was sent via certified United States Postal Service ("USPS") mail, return receipt requested. The Court received the receipt for the Order, which showed it was signed for on April 17, 2026. Respondent failed again to appear for the rescheduled conference call.

On April 24, 2026, Complainant filed its *Complaint* and served Respondent at the address supplied by Respondent in its *Notice of Contest*. Based on the filing date of the *Complaint*, the *Answer* was due on May 15, 2026. To date, Respondent has not filed an *Answer*.

Notwithstanding Respondent's failure to file an *Answer*, on May 12, 2026, the Court issued

[1] More particularly: Citation 1, Item 1 alleged a Serious violation of 29 C.F.R. § 1926.102(a)(1) for failing to ensure employees wore appropriate eye or face protection while engaged in construction; Citation 1, Item 2 alleged a Serious violation of 29 C.F.R. § 1926.501(b)(13) for failing to ensure employees were protected from fall hazards while engaged in roofing activities; and Citation 1, Item 3 alleged a Serious violation of 29 C.F.R. § 1926.503(a)(1) for failing to train employees on fall hazards while engaged in roofing operations.

an Order to Show Cause to Respondent ("First Show Cause Order") directing Respondent to show cause, within ten (10) days, why the Court should not issue judgment against it for failing to appear for the pretrial telephone conference calls scheduled for March 24, 2026, April 13, 2026, and April 30, 2026. The First Show Cause Order was sent via USPS first-class mail and certified mail. Tracking information for the certified mailing (70113500000123425446) indicates it arrived at the USPS facility in Chicago on May 16, 2026, but never left the facility.

Therefore, on June 23, 2026, the Court issued another Order to Show Cause to Respondent ("Second Show Cause Order") directing Respondent to show cause, within ten (10) days, why the Court should not issue judgment against it for failing to appear for the pretrial telephone conference calls scheduled for March 24, 2026, April 13, 2026, and April 30, 2026. The Second Show Cause Order was sent via USPS first-class mail and certified mail. Tracking information for the certified mailing (9589071052703138104326) indicates it arrived at the USPS facility in Chicago on June 27, 2026, but never left the facility.

On July 24, 2026, the Court issued another Order to Show Cause to Respondent ("Third Show Cause Order") vacating the two previous Show Cause Orders and directing Respondent to show cause, within fifteen (15) days, why the Court should not issue judgment against it for failing to appear for the pretrial telephone conference calls scheduled for March 24, 2026, April 13, 2026, and April 30, 2026. The Third Show Cause Order was sent via FedEx Express Saver and required a direct signature upon delivery. FedEx tracking information (873001692825) indicates delivery was attempted on July 31, 2026, August 3, 2026, and August 4, 2026. Delivery was never completed because, according to the shipment record, the "Customer [was] not available or business closed."

Analysis

A Commission judge has broad discretion in imposing sanctions for noncompliance with the judge's orders or the Commission's Rules of Procedure. *See Sealtite Corp*., 15 BNA OSHC 1130, 1134 (No. 88-1431, 1991). Commission Rule 101(a), which governs sanctions on parties who fail to obey the Commission's Rules of Procedure, states:

> When any party has failed to plead or otherwise proceed as provided by these rules or as required by the Commission or the Judge, the party may be declared to be in default either on the initiative of the Commission or the Judge, after having been afforded an opportunity to show cause why the party should not be declared to be in default, or on the motion of a party. Subsequently, the Commission or the Judge, in their discretion, may enter a decision against the defaulting party or strike any pleading or document not filed in accordance with these rules.

29 C.F.R. § 2200.101(a). The Commission has long held that dismissal is too harsh a sanction for failure to comply with certain prehearing orders unless the record shows contumacious conduct by the noncomplying party, prejudice to the opposing party, or a pattern of disregard for Commission proceedings. *See Architectural Glass & Metal Co.*, 19 BNA OSHC 1546, 1547 (No. 00-0389, 2001).

The undersigned finds the conduct of Respondent to be contumacious and illustrates a pattern of disregard for these proceedings. Respondent never registered with the Commission's E-File System nor requested an exemption as required by Commission Rule 8(c), never filed an Answer or responsive pleading as required by Commission Rule 34(b), never appeared for the ordered pretrial telephone conference calls scheduled, and never replied to the Court in any other way.

Respondent has not participated in this case over the last seven months despite numerous opportunities to do so. Respondent never notified the Court that the Chicago address provided was

out of date, nor did Respondent ever provide the Court with a forwarding address.[2] Respondent's absence since filing the *Notice of Contest* indicates to the Court that, were this matter to advance, Respondent would continue to protract this proceeding, which has not even made it to a first telephone conference. *See Pitt-Des Moines, Inc.*, 16 BNA OSHC 1429, 1430 (No. 90-1349, 1993) (length and reason for delay are factors to consider in determining whether sanctions are warranted).

Respondent's conduct in this case demonstrates a pattern of disregard for Commission rules and proceedings for which dismissal of its *Notice of Contest* is an appropriate sanction under Commission Rule 101(a). *See* 29 C.F.R. § 2200.101(a); *Ark. Abatement Servs. Corp.*, 17 BNA OSHC 1163, 1164 (No. 94-2210, 1995) ("[W]here a party's default indicates disrespect for, or indifference to, Commission proceedings, the party's claims properly are dismissed."); *Sealtite Corp.*, 15 BNA OSHC at 1134-35 (finding contumacious conduct was established where the employer engaged in a "consistent pattern of failure to respond [to the judge's orders and] of ignoring the issues of this case" and concluding the judge "did not abuse his discretion in imposing the sanction of dismissal"). The Court finds that Respondent's conduct displays a pattern of disregard for Commission proceedings and that, based on Respondent's inaction after repeated warnings, Respondent has abandoned this matter. Based on the foregoing considerations, the Court finds dismissal of Respondent's *Notice of Contest* is warranted.

[2] Respondent is responsible for alerting the Court to any changes to its contact information, including its address. *See* 29 C.F.R. § 2200.6 ("Any change in [contact] information shall be communicated promptly in writing to the Judge."). If Respondent failed to update its contact information with the Court, Respondent is "deemed to have waived its right to notice and service under these rules." *Id*.

ORDER

Respondent is found to be in DEFAULT, and its *Notice of Contest* is DISMISSED. The *Citation* issued to Respondent on December 17, 2025, as a result of OSHA inspection number 1846586, is AFFIRMED in its entirety and a penalty of $9,648 is ASSESSED.

SO ORDERED.

Dated: October 2, 2026
Denver, Colorado

/s/ Joshua R. Patrick
Joshua R. Patrick
Judge, OSHRC