

**FINAL ORDERS OF THE VIRGINIA COURTS
IN CONTESTED CASES ARISING UNDER THE
VIRGINIA OCCUPATIONAL SAFETY AND HEALTH ACT
2011**

Donna Dawe, d/b/a Certapro Painters, Courtney M. Malveaux, Commissioner of Labor and Industry v.

Case No. CL-2011-02731 (Fairfax County Circuit Court)

Eagle General Contracting, LLC, Courtney Malveaux, Commissioner of Labor and Industry v.

Case No. CL-20117095 (Fairfax County Circuit Court)

English Construction Company, Inc., C. Ray Davenport, Commissioner of Labor and Industry v.

Chancery No. 04000116 (Hanover County Circuit Court)

English Construction Company, Inc., Courtney Malveaux, Commissioner of Labor and Industry v.

Case No. CL-08-103 (Northumberland County Circuit Court)

Gumenick Homebuilding, LLC, Courtney M. Malveaux, Commissioner of Labor and Industry v.

Civil Action No. CL09-000164-00 (Henrico County Circuit Court)

McBar Industries, Inc. Courtney M. Malveaux, Commissioner of Labor and Industry v.

Civil Action No.: CL09-3114 (Chesterfield County Circuit Court)

McBar Industries, Inc. Courtney M. Malveaux, Commissioner of Labor and Industry v.

Civil Action No.: CL09-3116 (Chesterfield County Circuit Court)

Ricky's Tree Service, Courtney M. Malveaux, Commissioner of Labor and Industry v.

Civil Action No. CL10003174 (City of Alexandria Circuit Court)

Riggins Company, L.C., Courtney M. Malveaux, Commissioner of Labor and Industry v.

Civil Action No. CL11-653 (City of Norfolk Circuit Court)

Sawyer Project Management, Courtney M. Malveaux, Commissioner of Labor and Industry v.

Civil Action No. 11-CL-77 (City of Winchester Circuit Court)

ThyssenKrupp Elevator Corporation, C. Ray Davenport, Commissioner of Labor and Industry v.

Civil Action No. CL07002042-00 (Montgomery County Circuit Court)

William A. Hazel, Inc., C. Ray Davenport, Commissioner of Labor and Industry v.

Civil Action No. CL04074911-00 (Prince William County Circuit Court)

WE ASK FOR THIS:

Courtney M. Malveaux,
Commissioner of Labor and Industry

By John Murray
John J. Murray
Assistant Commonwealth's Attorney
4110 Chain Bridge Road, Room 123
Fairfax, Virginia 22030
703.246.2776
703.691.4004 (fax)

SEEN & AGREED
By Jeffrey S. Romanick
Jeffrey S. Romanick, Esquire, VABW #34761
Gross & Romanick, P.C.
3975 University Drive, Suite 410
Fairfax, VA 22030-2520
(703) 273-1400 (telephone)
(703) 385-9652 (facsimile)

A COPY TESTE:
JOHN J. FREY, CLERK
BY: Carlota Cantilo
Deputy Clerk 6/3/2011
Date: _____
Original retained in the office of
the Clerk of the Circuit Court of
Fairfax County, Virginia

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

COURTNEY MALVEAUX,)
 Commissioner of Labor and Industry,)
Plaintiff,)
 v.)
 EAGLE GENERAL CONTRACTING, LLC.)
Defendant.)

Case No. CL-2011-7095

2011 JUL - 8 AM 11:50
 JOHN T. FEELEY
 CLERK, CIRCUIT COURT
 FAIRFAX, VA
 MOTION'S DIRECT

DEFAULT JUDGMENT

This cause came to be heard upon Commissioner Malveaux's Motion for Default Judgment against Eagle General Contracting LLC, declaring that \$71,500.00 in proposed civil penalties arising from a contested Virginia Occupational Safety and Health (VOSH) citation, identified by VOSH Inspection Number 312332315 and as attached to the Commissioner's Complaint be upheld.

UPON CONSIDERATION WHEREOF, it appearing to the Court that more than twenty-one (21) days have elapsed since service of process on the Defendant and that no responsive pleadings have been filed by the Defendant, nor has an appearance been made in this action on its behalf, it is therefore

ADJUDGED, ORDERED, and DECREED that Plaintiff be awarded judgment by default in this cause against the Defendant, Eagle General Contracting, LLC, and affirming that Eagle General Contracting, LLC, be held liable for payment to the Commonwealth of Virginia for \$71,500.00 in civil penalties, arising from a contested Virginia Occupational Safety and Health (VOSH) citation as set out in Inspection No. 312332315. It is also ADJUDGED, ORDERED,

and DECREED that the Clerk of this Court shall strike this matter from the docket and place it among the ended civil cases.

The Clerk shall mail certified copies of this order to Defendant's registered agent, and to Plaintiff's counsel. Pursuant to Rule 1:13, endorsement shall be dispensed with.

JUDGE: Michael Dennis ENTER: 9/23/2011

I ask for this:

COURTNEY MALVEAUX,
Commissioner of Labor and Industry

By: John Murray
John J. Murray
Assistant Commonwealth's Attorney
Fairfax County
4110 Chain Bridge Road
Fairfax, VA 22030
703.246.2776
703.691.4004 (fax)

SEEN and Noticed and
Did not appear

GENERAL
EAGLE CONTRACTING, LLC
by HAZEM RAHIM

A COPY TESTE:
JOHN T. FREY, CLERK
BY: Risa Grayson
Deputy Clerk
Date: 9/26/11
Original retained in the office of
the Clerk of the Circuit Court of
Fairfax County, Virginia

(30) days of the date of entry of this order. Payment shall be made by check or money order, payable to the Treasurer of Virginia, with VOSH inspection number 305665341 noted on the payment.

3. Pursuant to *Virginia Administrative Code* § 16 VAC 25-60-40(1), English Construction Company, Inc., shall post a copy of this order for ten (10) consecutive days at a conspicuous place or location where notices to employees generally are posted.

4. English Construction Company, Inc., certifies that the affirmed violations referenced above in this Order were corrected and abated.

5. This Order is meant to settle the above contested claims, and is not to be considered an admission of liability by English Construction Company, Inc. Pursuant to Va. Code §40.1-51.3:2, the fact of an issuance of a citation, the voluntary payment of a civil penalty by a party, or the judicial assessment of a civil penalty under Chapter 3 of Title 40.1 of the Code of Virginia shall not be admissible in evidence in the trial of any action to recover for personal injury or property damage sustained by any party. This Order may be used for future enforcement proceedings and enforcement actions pursuant to Title 40.1 of the Code of Virginia. However, the affirmed violations may not be used as the basis for a repeat violation after the date of the entry of the order.

6. Each party will bear its own costs in this matter.

7. The Clerk shall strike this matter from the docket and place it among the ended civil cases. The Clerk shall send a certified copy of this order to the Special Assistant Commonwealth's Attorney and the Defendant's counsel.

Entered this 6th day of ^{May} April, 2011.

Robert Harris
Judge

We ask for this:

C. Ray Davenport,
Commissioner of Labor and Industry

By: Diane L. Duell
Diane L. Duell (VSB No. 27285)
Special Assistant Commonwealth's Attorney
Virginia Department of Labor & Industry
13 South 13th Street
Richmond, Virginia 23219-4101
804.786.4289
804.786.8418 (fax)

SEEN AND AGREED:

By: James H. Higginbotham, II
James H. Higginbotham, II (VSB No. 22283)
Post Office Box P-7000
Lynchburg, Virginia 24505
434.455.3180
434.455.3156 (fax)

Counsel for English Construction Company, Inc.

A COPY TESTE
FRANK D. HARGROVE, JR. CLERK
HANOVER CIRCUIT COURT
By Debra Stender
DEPUTY CLERK

(30) days of the date of entry of this order. Payment shall be made by check or money order, payable to the Treasurer of Virginia, with VOSH inspection number 311333561 noted on the payment.

3. Pursuant to *Virginia Administrative Code* § 16 VAC 25-60-40(1), English Construction Company, Inc., shall post a copy of this order for ten (10) consecutive days at a conspicuous place or location where notices to employees generally are posted.

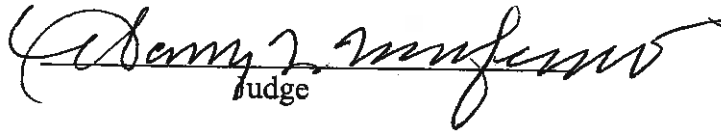
4. English Construction Company, Inc., certifies that the affirmed violations referenced above in this Order were corrected and abated.

5. This Order is meant to settle the above contested claims, and is not to be considered an admission of liability by English Construction Company, Inc. Pursuant to Va. Code §40.1-51.3:2, the fact of an issuance of a citation, the voluntary payment of a civil penalty by a party, or the judicial assessment of a civil penalty under Chapter 3 of Title 40.1 of the Code of Virginia shall not be admissible in evidence in the trial of any action to recover for personal injury or property damage sustained by any party. This Order may be used for future enforcement proceedings and enforcement actions pursuant to Title 40.1 of the Code of Virginia.

6. Each party will bear its own costs in this matter.

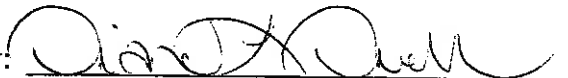
7. The Clerk shall strike this matter from the docket and place it among the ended civil cases. The Clerk shall send a certified copy of this order to the Special Assistant Commonwealth's Attorney and the Defendant's counsel.

Entered this 13 day of December, 2011.



Judge

We ask for this:

Courtney Malveaux,
Commissioner of Labor and Industry

By: 
Diane L. Duell (VSB No. 27285)
Special Assistant Commonwealth's Attorney
Virginia Department of Labor & Industry
13 South 13th Street
Richmond, Virginia 23219-4101
804.786.4289
804.786.8418 (fax)

SEEN AND AGREED:

By: 
James H. Higginbotham, II (VSB No. 22283)
Post Office Box P-7000
Lynchburg, Virginia 24505
434.455.3180
434.455.3156 (fax)

Counsel for English Construction Company, Inc.

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF HENRICO

COURTNEY M. MALVEAUX)
Commissioner of Labor and Industry,)
Plaintiff,)
v.) Civil Action No. CL09-000164-00
)
GUMENICK HOMEBUILDING, LLC,)
Defendant.)

FINAL ORDER

This matter came before the Court for trial on January 6, 2011 pursuant to *Va. Code* 40.1-49.4.E, based upon Gumenick Homebuilding's contest of two sets of Virginia Occupational Safety and Health (VOSH) citations and proposed penalties issued to it on July 24, 2007 and August 6, 2007 by the Commissioner of Labor and Industry. After hearing the evidence presented by both parties, the Court found that Commissioner Malveaux proved by a preponderance of the evidence with regard to the fall protection violations of §1926.501(b)(13) and the handrail violations of 1926.1052(c)(1)(i), issued on both dates, that the cited standards applied, that the defendant did not meet the requirements of the standards cited, that employees of the defendant or the defendant's subcontractors were exposed to the hazards and that the defendant knew or should have known of the existence of the hazards.

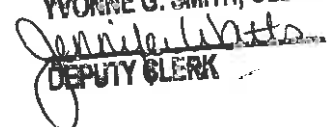
It is ORDERED, ADJUDGED, and DECREED that citation 1, items 1 and 2 from the citations issued July 24, 2007 as attached to the plaintiff's Complaint, citing *VOSH Standards for the Construction Industry* §1926.501(b)(13) (fall protection) and citation 1, item 2 - §1926.1052(c)(1)(i) (handrails) are affirmed. Citation 1, items 1 and 2 from the citations issued

August 6, 2007 as attached to the plaintiff's Complaint, citing *VOSH Standards for the Construction Industry* §1926.501(b)(13) (fall protection) and citation 1, item 2 - §1926.1052(c)(1)(i) (handrails) are also affirmed. Judgment is hereby entered in favor of the Plaintiff, Courtney M. Malveaux, Commissioner of Labor & Industry, in the amount of \$1,200.00.

Entered this 03 day of February 2011


for Barnett Miller, III
Judge

Seen:
Courtney M. Malveaux, Commissioner of Labor and Industry

A COPY TESTE:
YVONNE G. SMITH, CLERK

DEPUTY CLERK

By: Robert B Feild
Counsel

Robert B. Feild, (VSB No. 23864)
Special Assistant Attorney for the Commonwealth
13 South Thirteenth Street
County of Henrico
Richmond, Virginia 23219
Telephone: 804-786-4777
Facsimile: 804-786-8418

Seen and objected to
Gumenick Homebuilding, LLC

By: R L Vance
Counsel

R. Leonard Vance (VSB No. 15305)
P.O. Box 1591
Midlothian, Virginia, 23113
Telephone: (804) 690-0779
Counsel for Defendant

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF CHESTERFIELD

C. RAY DAVENPORT,)	
Commissioner of Labor and Industry,)	
<i>Plaintiff,</i>)	
v.)	Civil Action No. CL09-3114
)	
MCBAR INDUSTRIES, INC.,)	
<i>Defendant.</i>)	

AGREED ORDER

Upon agreement of the parties and for good cause shown, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

1.
 - a. Serious Citation 1, Items 1a and 1b are affirmed with a reduced penalty of \$360.00 for the grouped violations;
 - b. Serious Citation 1, Items 2a and 2b are affirmed with a reduced penalty of \$140.00;
 - c. Serious Citation 1, Item 3 is affirmed with a reduced penalty of \$360.00.
 - d. Serious Citation 1, Item 4 is affirmed with a reduced penalty of \$360.00.
 - e. Serious Citation 1, Item 5 is affirmed with a reduced penalty of \$360.00.
 - f. Serious Citation 1, Item 6 is affirmed with a reduced penalty of \$180.00.
 - g. Other than Serious Citation 2, Item 1 is affirmed with no penalty.
2. McBar Industries (McBar) upon entry of this Agreed Order, will pay to the Commonwealth \$265.00 in partial payment of the penalties assessed for the above citations. The payment will be made in the form of a check or money order, payable to the Commonwealth of Virginia, with the VOSH inspection number (312568090) noted

on the payment.

b. Should McBar, between the entry of this order and three years from the entry of this order, violate any of the sections of the Virginia Occupational Safety and Health (VOSH) Standards for the Construction Industry that formed the basis for the citations affirmed by this agreement or the citations affirmed under the Agreed Order entered in Civil Action No. 09-3116 in the Circuit Court for the County of Chesterfield, McBar will pay a second partial payment of the total penalties assessed for the above citations in the amount of \$1,495.00 upon entry of a final order for such repeat or willful violations by the Commissioner of Labor and Industry. This penalty payment is in addition to and separate from any penalties that the Commissioner we may assess for the subsequent repeat or willful violations which trigger the partial payments addressed above. McBar's obligation to pay this partial payment will cease three years from the entry of this order, if McBar has satisfied all the requirements of this agreement and no triggering event has occurred. On that date, the remaining amount of the second partial penalty that has not yet become due and payable to the Commonwealth because of subsequent violations will be waived. The payment will be made in the form of a check or money order, payable to the Commonwealth of Virginia, with the VOSH inspection number (312568090) noted on the payment.

3. McBar certifies that the violations affirmed in this Order have been abated;
4. As further consideration for the modification of the terms of the original citation, McBar agrees to withdraw its original notice of contest and waives its right to contest the remaining terms contained in this Order.
5. That the Defendant shall post a copy of this Order for thirty consecutive days, beginning

from the date of entry of this Order, at its workplaces in Virginia in a conspicuous location where notices to its employees are generally posted;

6. That this Order shall be construed to advance the purpose of Virginia Code § 40.1-3;
7. That the Commissioner may use this Order in future enforcement proceedings and enforcement actions pursuant to Title 40.1 of the Code of Virginia, or any other authority, but that the violations affirmed as part of this order may not be used as the basis of a repeat citation one year after the date of entry of this Order;
8. The Employer represents that it is entering into this agreement of settlement in the spirit of conciliation and cooperation in an effort to avoid litigation. This agreement shall not be construed as an admission by the Employer of civil or criminal liability for any violation or penalty alleged by the Commissioner. By entering into this agreement, the Employer does not admit the truth of any alleged facts, any of the characterization of Employer's alleged conduct or any conclusions set forth in the citation(s) issued in this matter. Neither this agreement nor the Employer's consent to entry of a final order of the Commissioner pursuant to this agreement shall constitute an admission by the Employer of violation of the Virginia Occupational Safety and Health (VOSH) laws, regulations or standards promulgated thereunder. The Employer is entering into this agreement without any prejudice to its right to assert in any subsequent action or proceeding that any future existing conditions identical or similar to those alleged in the original citation do not violate the VOSH laws, regulations or standards promulgated thereunder. Under Virginia Code § 40.1-51.3:2, the fact of an issuance of a citation, the voluntary payment of a civil penalty by a party, or the judicial assessment of a civil penalty under Chapter 3 of Title 40.1 of the Code of Virginia shall not be admissible in evidence in the trial of any action

to recover for personal injury or property damage sustained by any party. The agreements, statements and actions taken herein are made solely for the purpose of settling this matter economically and amicably without further litigation and this Order shall not be used for any other purpose other than for future enforcement proceedings and enforcement actions pursuant to Title 40.1 of the Code of Virginia.

9. The Clerk shall strike this matter from the docket of this Court, place it among the ended chancery cases, and shall send an attested copy of this order to both counsel of record.

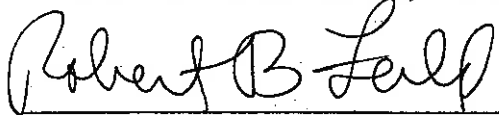
Entered this 3RD day of JUNE 2011.



Judge

WE ASK FOR THIS:

COURTNEY MALVEAUX, Commissioner of Labor and Industry



Robert B. Feild
Special Assistant Commonwealth's Attorney
County of Chesterfield
13 South Thirteenth Street
Richmond, Virginia 23219
Telephone: (804) 786-4777
Facsimile: (804) 786-8418

Counsel for Commissioner Malveaux

A COPY TESTE:
JUDY L. WORTHINGTON, CLERK

BY 

DEPUTY CLERK

6-2-11
Date

*ENDORSEMENT OF BARNEY McLAUGHLIN,
PRESIDENT OF McBAR INDUSTRIES, APPEARS
ON THE FOLLOWING PAGE OF THIS ORDER.*

affirmed by this agreement or the citations affirmed under the Agreed Order entered in Civil Action No. 09-3114 in the Circuit Court for the County of Chesterfield, McBar will pay a second partial payment of the total penalties assessed for the above citations in the amount of \$10,505.00 upon entry of a final order for such repeat or willful violations by the Commissioner of Labor and Industry. This penalty payment is in addition to and separate from any penalties that the Commissioner we may assess for the subsequent repeat or willful violations which trigger the partial payments addressed above. McBar's obligation to pay this partial payment will cease three years from the entry of this order, if McBar has satisfied all the requirements of this agreement and no triggering event has occurred. On that date, the remaining amount of the second partial penalty that has not yet become due and payable to the Commonwealth because of subsequent violations will be waived. The payment will be made in the form of a check or money order, payable to the Commonwealth of Virginia, with the VOSH inspection number (312565005) noted on the payment.

3. a. From the date that this order is entered, McBar shall supply the Department with a list of all of its job sites for a period of three years. McBar agrees to allow for a compliance inspection of its workplace during this three year period. The list of McBar job sites shall be sent to:

Thomas R. Rozman, Region Director
Virginia Department of Labor & Industry
North Run Business Park
1570 E. Parham Road
Richmond, Virginia 23228-3166

- b. McBar shall contact the Consultation Division of the Virginia Department of

Labor and Industry and arrange for a comprehensive safety and health site survey. This comprehensive survey shall take place when McBar has reestablished its business. McBar is required to notify the Consultation Division and make arrangements for the survey within 30 - 60 days prior to the start of its first job. The notification for the consultation survey shall be made to:

Warren E. Rice, Consultation Services Manager
Virginia Department of Labor and Industry
13 South Thirteenth Street
Richmond, VA 23219
804-786-6613

- c. Should McBar, between the entry of this order and three years from the entry of this order, fail to comply with above subparagraphs 3a. or 3b. McBar will pay a third partial payment of the total penalties assessed for the above citations in the amount of \$5,000.00. McBar's obligation to pay this partial payment will cease three years from the entry of this order, if McBar has satisfied all the requirements of this agreement and no triggering event has occurred. On that date, the remaining amount of the second partial penalty that has not yet become due and payable to the Commonwealth because of subsequent violations will be waived. The payment will be made in the form of a check or money order, payable to the Commonwealth of Virginia, with the VOSH inspection number (312565005) noted on the payment.
4. McBar certifies that the violations affirmed in this Order have been abated;
5. As further consideration for the modification of the terms of the original citation, McBar agrees to withdraw its original notice of contest and waives its right to contest the remaining terms contained in this Order.

6. That the Defendant shall post a copy of this Order for thirty consecutive days, beginning from the date of entry of this Order, at its workplaces in Virginia in a conspicuous location where notices to its employees are generally posted;
7. That this Order shall be construed to advance the purpose of Virginia Code § 40.1-3;
8. That the Commissioner may use this Order in future enforcement proceedings and enforcement actions pursuant to Title 40.1 of the Code of Virginia, or any other authority, but that the violations affirmed as part of this order may not be used as the basis of a repeat citation one year after the date of entry of this Order;
9. The Employer represents that it is entering into this agreement of settlement in the spirit of conciliation and cooperation in an effort to avoid litigation. This agreement shall not be construed as an admission by the Employer of civil or criminal liability for any violation or penalty alleged by the Commissioner. By entering into this agreement, the Employer does not admit the truth of any alleged facts, any of the characterization of Employer's alleged conduct or any conclusions set forth in the citation(s) issued in this matter. Neither this agreement nor the Employer's consent to entry of a final order of the Commissioner pursuant to this agreement shall constitute an admission by the Employer of violation of the Virginia Occupational Safety and Health (VOSH) laws, regulations or standards promulgated thereunder. The Employer is entering into this agreement without any prejudice to its right to assert in any subsequent action or proceeding that any future existing conditions identical or similar to those alleged in the original citation do not violate the VOSH laws, regulations or standards promulgated thereunder. Under Virginia Code § 40.1-51.3:2, the fact of an issuance of a citation, the voluntary payment of a civil penalty by a party, or the judicial assessment of a civil penalty under Chapter 3 of Title

40.1 of the Code of Virginia shall not be admissible in evidence in the trial of any action to recover for personal injury or property damage sustained by any party. The agreements, statements and actions taken herein are made solely for the purpose of settling this matter economically and amicably without further litigation and this Order shall not be used for any other purpose other than for future enforcement proceedings and enforcement actions pursuant to Title 40.1 of the Code of Virginia.

10. The Clerk shall strike this matter from the docket of this Court, place it among the ended cases, and shall send an attested copy of this order to counsel of record and the president of McBar Industries, Inc.

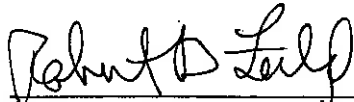
Entered this 3RD day of JUNE 2011.



Judge

WE ASK FOR THIS:

COURTNEY MALVEAUX, Commissioner of Labor and Industry



Robert B. Feild

Special Assistant Commonwealth's Attorney
County of Chesterfield
13 South Thirteenth Street
Richmond, Virginia 23219
Telephone: (804) 786-4777
Facsimile: (804) 786-8418

Counsel for Commissioner Malveaux

A COPY TESTE:
JUDY L. WORTHINGTON, CLERK

BY 
DEPUTY CLERK

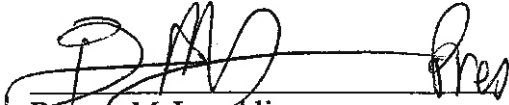
6-2-11

Date

*ENDORSEMENT OF BARNEY McBAUGHMAN,
PRESIDENT OF McBAR INDUSTRIES, APPEARS
ON THE FOLLOWING PAGE OF THIS ORDER.*

SEEN AND AGREED:

MCBAR INDUSTRIES, INC.

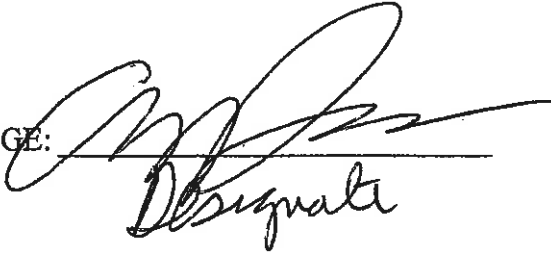


Barney McLaughlin
President
McBar Industries
14856 Perch Point Rd
Chester VA 23836

6-2-11
Date

Court shall strike this matter from the docket and place it among the ended civil cases. The Clerk shall mail certified copies of this order to the State Corporation Commission on behalf of the Defendant and to Courtney M. Malveaux, Commissioner of Labor and Industry, at 13 South Thirteenth Street, Richmond, Virginia 23219. Pursuant to *Rule 1:13*, endorsement by defense counsel shall be dispensed with.

JUDGE:


Designate

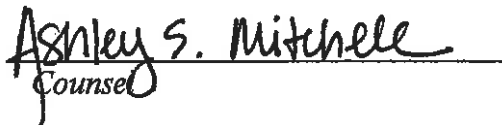
ENTER:

March 23, 2011

I ASK FOR THIS:

COURTNEY M. MALVEAUX,
Commissioner of Labor and Industry

By:


Counsel

Ashley E. Mitchell (VSB # 74216)
Special Assistant Commonwealth's Attorney
Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219-4101
804.786.6760 phone
804.786.8418 fax
ashley.mitchell@doli.virginia.gov

A COPY TESTE:
EDWARD SEMONIAN, CLERK

BY  DEPUTY CLERK

CERTIFIED THIS 23 DAY OF March, 2011

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

COURTNEY M. MALVEAUX,)	
Commissioner of Labor and Industry,)	
<i>Plaintiff,</i>)	
v.)	Civil Action No. CL11-653
)	
RIGGINS COMPANY L.C.)	
<i>Defendant.</i>)	

AGREED ORDER

Upon agreement of the parties and for good cause shown, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

1.
 - a. Serious Citation 1, Item 1 is affirmed with a penalty of \$1,050.00;
 - b. Serious Citation 1, Item 2 is affirmed with a penalty of \$7,000.00;
 - c. Willful Citation 2, Item 1 is reduced to a Serious Citation with a reduced penalty of \$7,000.00.
 - d. Other than Serious Citation 3, Item 1 is affirmed with no penalty.
2. Riggins Company L.C. (Riggins) upon entry of this Agreed Order, will pay to the Commonwealth \$15,050.00 in payment of the penalties assessed for the above citations. The payment will be made in the form of a check or money order, payable to the Commonwealth of Virginia, with the VOSH inspection number (313943706) noted on the payment.
3. Riggins certifies that the violations affirmed in this Order have been abated;
4. As further consideration for the modification of the terms of the original citation, Riggins


agrees to withdraw its original notice of contest and waives its right to contest the remaining terms contained in this Order.

5. That the Defendant shall post a copy of this Order for ten consecutive days, beginning from the date of entry of this Order, at its workplaces in Virginia in a conspicuous location where notices to its employees are generally posted;
6. That this Order shall be construed to advance the purpose of Virginia Code § 40.1-3;
7. That the Commissioner may use this Order in future enforcement proceedings and enforcement actions pursuant to Title 40.1 of the Code of Virginia, or any other authority, but that the violations affirmed as part of this order may not be used as the basis of a repeat citation one year after the date of entry of this Order;
8. The Employer represents that it is entering into this agreement of settlement in the spirit of conciliation and cooperation in an effort to avoid litigation. This agreement shall not be construed as an admission by the Employer of civil or criminal liability for any violation or penalty alleged by the Commissioner. By entering into this agreement, the Employer does not admit the truth of any alleged facts, any of the characterization of Employer's alleged conduct or any conclusions set forth in the citation(s) issued in this matter. Neither this agreement nor the Employer's consent to entry of a final order of the Commissioner pursuant to this agreement shall constitute an admission by the Employer of violation of the Virginia Occupational Safety and Health (VOSH) laws, regulations or standards promulgated thereunder. The Employer is entering into this agreement without any prejudice to its right to assert in any subsequent action or proceeding that any future existing conditions identical or similar to those alleged in the original citation do not violate the VOSH laws, regulations or standards promulgated thereunder. Under Virginia

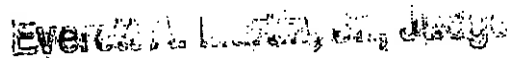
Code § 40.1-51.3:2, the fact of an issuance of a citation, the voluntary payment of a civil penalty by a party, or the judicial assessment of a civil penalty under Chapter 3 of Title 40.1 of the Code of Virginia shall not be admissible in evidence in the trial of any action to recover for personal injury or property damage sustained by any party. The agreements, statements and actions taken herein are made solely for the purpose of settling this matter economically and amicably without further litigation and this Order shall not be used for any other purpose other than for future enforcement proceedings and enforcement actions pursuant to Title 40.1 of the Code of Virginia.

9. The Clerk shall strike this matter from the docket of this Court, place it among the ended cases, and shall send an attested copy of this order to counsel of record.

Entered this 3rd day of Oct. 2011.



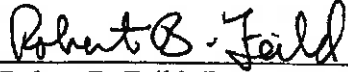
Judge





WE ASK FOR THIS:

COURTNEY MALVEAUX, Commissioner of Labor and Industry



Robert B. Feild, Esq. (VSB # 23864)
Special Assistant Commonwealth's Attorney
County of Chesterfield
13 South Thirteenth Street
Richmond, Virginia 23219
Telephone: (804) 786-4777
Facsimile: (804) 786-8418

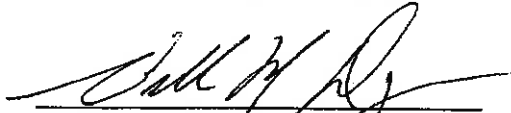
9-28-11

Date

Counsel for Commissioner Malveaux

SEEN AND AGREED:

RIGGINS COMPANY L.C.




Michael L. Sterling, Esq. (VSB # 25145)
William M. Dozier, Esq. (VSB # 17645)
Vandevanter Black LLP
101 W. Main Street
World Trade Center, Ste. 500
Norfolk, VA 23510
Telephone: (757) 446-8600
Facsimile: (757) 446-8670

9/26/11

Date

Enter:


Judge
3/17/11

Date:

I ask for this:

COURTNEY M. MALVEAUX,
Commissioner of Labor and Industry

By: 

Alexander R. Iden
Commonwealth's Attorney
5 North Kent St.
Winchester, Virginia 22601
(540) 667-5770 *phone*
(540) 665-9087 *fax*

A COPY TESTE:



CLERK-DEPUTY CLERK
WINCHESTER CIRCUIT COURT

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF MONTGOMERY

C. RAY DAVENPORT,)	
Commissioner of Labor and Industry)	
)	
Plaintiff)	
)	
v.)	Civil Action No. CL07002042-00
)	
THYSSENKRUPP ELEVATOR)	
CORPORATION)	
)	
Defendant.)	

AGREED ORDER

WHEREAS, on or about September 9, 2004, the Commissioner issued a citation to the Defendant, ThyssenKrupp Elevator Corporation, alleging serious violations of the Virginia Occupational Safety and Health Standards for the Construction Industry and proposing a civil penalty of \$10,000.00;

WHEREAS, ThyssenKrupp Elevator Corporation, within 15 working days from the date of the receipt of the citation, filed a written notice contesting the Citation and proposed penalties, as provided for in § 40.1-49.4, of the *Code of Virginia*; and

Upon agreement of the parties and for good cause shown, it is hereby ADJUDGED, ORDERED, and DECREED as follows:


1. That the citation attached to the Complaint is hereby amended as follows:
 - a. Citation 1, Item 1a and Citation 1, Item 1b are vacated, along with the \$5,000.00 proposed penalty.
 - b. Citation 1, Item 2 is vacated along with the \$5000 proposed penalty.

2. Pursuant to *Virginia Administrative Code* § 16 VAC 25-60-40.1, ThyssenKrupp Elevator Corporation, shall post a copy of this order for ten (10) consecutive days at its workplace in Virginia in a conspicuous location where notices to employees generally are posted.

3. Each party will bear its own costs in this matter.

4. The Clerk shall strike this matter from the docket and place it among the ended civil cases. The Clerk shall certify copies of this order to the Special Assistant Commonwealth's Attorney and the Defendant's counsel.

Entered this 28 day of April, 2011.




Judge


We ask for this:

C. Ray Davenport,
Commissioner of Labor and Industry

Virginia Department of Labor & Industry
13 South 13th Street
Richmond, Virginia 23219-4101
804.786.4289
804.786.8418 (fax)

By: 

Diane L. Duell (VSB No. 27285)
Special Assistant Commonwealth's Attorney

By: 

Paul J. Waters (VSB No. 47923)
AKERMAN SENTERFITT
Sun Trust Financial Center, Suite 1700
401 East Jackson Street
Tampa, Florida 23602-5803
813.223.7333
813.223.2837 (fax)

Counsel for ThyssenKrupp Elevator

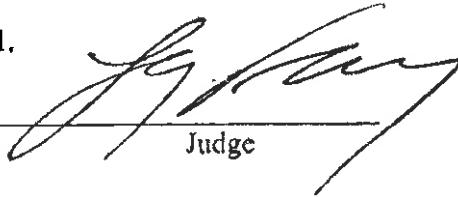
A Copy – Teste:
ERICA W. WILLIAMS
Circuit Court Montgomery County, Virginia

By: 
_____, Deputy Clerk

3. Each party will bear its own costs in this matter.

4. The Clerk shall strike this matter from the docket and place it among the ended civil cases. The Clerk shall certify copies of this order to the Special Assistant Commonwealth's Attorney and the Defendant's counsel.

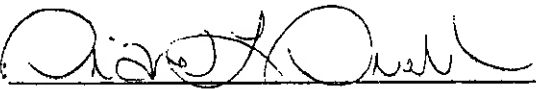
Entered this 20 day of April, 2011.



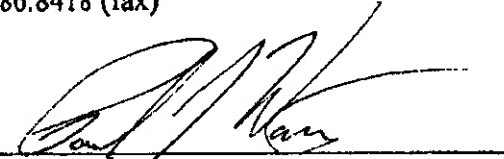
Judge

We ask for this:

C. Ray Davenport,
Commissioner of Labor and Industry

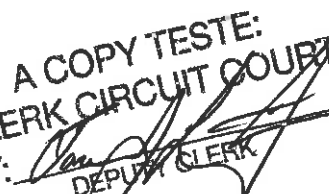
By: 

Diane L. Duell (VSB No. 27285)
Special Assistant Commonwealth's Attorney
Virginia Department of Labor & Industry
13 South 13th Street
Richmond, Virginia 23219-4101
804.786.4289
804.786.8418 (fax)

By: 

Paul J. Waters (VSB No. 47923)
AKERMAN SENTERFITT
Sun Trust Financial Center, Suite 1700
401 East Jackson Street
Tampa, Florida 23602-5803
813.223.7333
813.223.2837 (fax)

Counsel for William A. Hazel, Inc.

A COPY TESTE:
CLERK CIRCUIT COURT
BY: 
DEPUTY CLERK