

**FINAL ORDERS OF THE VIRGINIA COURTS
IN CONTESTED CASES ARISING UNDER THE
VIRGINIA OCCUPATIONAL SAFETY AND HEALTH ACT
2015**

Collins Contracting Company, C. Ray Davenport, Commissioner of Labor and Industry v.
Civil Action No. CL10-721 (Circuit Court of the County of Spotsylvania)

Community Systems, Inc., C. Ray Davenport, Commissioner of Labor and Industry v.
Civil Action No. CL15-473 (Circuit Court of the County of Arlington)

J. L.W. Associates of Virginia, Inc., C. Ray Davenport, Commissioner of Labor and Industry v.
Civil Action No. CL12000043 (Circuit Court of the County of Essex)

Precision Construction and Management Group, LLC d/b/a Precision Electrical &
Instrumentation, C. Ray Davenport, Commissioner of Labor and Industry v.
Civil Action No. 2014-09933 (Circuit Court of the County of Fairfax)

R & L Carriers Shared Services, LLC, C. Ray Davenport, Commissioner of Labor and Industry
v.
Case No. CL13000464-00 (Circuit Court of the County of Chesterfield)

R. S. Harritan & Company, Inc., C. Ray Davenport, Commissioner of Labor and Industry v.
Case No. CL14000381-00 (Circuit Court for the County of Southampton)

Tavares Concrete Company, Inc., C. Ray Davenport, Commissioner of Labor and Industry v.
Civil Action No. 2014-09931 (Circuit Court for the County of Fairfax)

Verizon Virginia, Inc., C. Ray Davenport, Commissioner of Labor and Industry v.
Civil Action No. CL2014-0004786 (Circuit Court for the County of Fairfax)

VIRGINIA:
IN THE CIRCUIT COURT OF THE COUNTY OF SPOTSYLVANIA

| | | |
|------------------------------------|---|---------------------------|
| C. RAY DAVENPORT |) | |
| Commissioner of Labor and Industry |) | |
| |) | |
| <i>Plaintiff,</i> |) | |
| |) | |
| v. |) | |
| |) | Civil Action No. CL10-721 |
| |) | |
| COLLINS CONTRACTING COMPANY |) | 312807993 |
| |) | |
| |) | |
| <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. That the citation attached to the Complaint is hereby amended as follows:
 - a) Serious Citation 1, Item 1a is reclassified as an other than serious violation with an assessed penalty of \$2,000.00.
 - b) Serious Citation 1, Item 1b is vacated.
 - c) Serious Citation 1, Item 2 is reclassified as an other than serious violation with an assessed penalty of \$2,000.00. The alleged violation description is amended to state:

1926.59(h)(1) as referenced by 1910.1200(h)(1): Located at the jobsite at the corner of Northeast and Overview Drive, Fredericksburg, VA, which is the future site of the Spotsylvania Regional HCA Medical Center, Collins Contracting Co. Inc. did not provide employees with effective information and training on the

hazardous chemicals gasoline and carbon monoxide in compliance with the hazard communications standard.

(a) On Jan 19, 2009, three employees were exposed to carbon monoxide generated from a gasoline operated water pump. Two employees were overcome by carbon monoxide resulting in carboxyhemoglobin levels of 19.2% and 18.4% (initially 23.4%). Employees were not provided effective hazard communication training ensuring that employees were aware of the severity of the danger associated with exposure to gasoline and carbon monoxide and the measures necessary to protect themselves.

d) Serious Citation 1, Items 3a, 3b and 3c are vacated.

e) Serious Citation 1, Item 4 is vacated

2. That the Defendant shall pay the total penalty of \$4,000.00 within fifteen (15) 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 312807993 noted on the payment;
3. That the Defendant shall withdraw its original notice of contest, and hereby waives its right to contest the remaining terms contained in this Order;
4. That the Defendant shall certify within fifteen (15) days of the entry date of this Order that all violations affirmed in this Order have been abated;
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 the Defendant will conduct a training session or sessions for its employees on the hazard communications standard, as set out in § 1910.1200(h) as made applicable by §

1926.59(a) and on the confined space standard as set out in § 16VAC25-140-70 within sixty (60) days of the entry of the final order. Such training shall include the hazards presented by gasoline and carbon monoxide. The Defendant shall also outline its procedures for determining spaces are not permit required confined spaces and what steps it takes when re-classifying permit required confined spaces. Upon completion of the training, documentation of the training and the above confined space procedures shall be sent to:

Robert Feild
Department of Labor and Industry
600 East Main Street, Suite 207
Richmond, Virginia 23219

7. That the violations affirmed in paragraph 1 may only be used as the basis for a repeat citation for one year from the date of the entry of this agreed order.
8. That this Order shall be construed to advance the purpose of Virginia Code § 40.1-3;
9. 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;
10. That, 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;
11. Except for these proceedings, and matters arising out of these proceedings, and any other subsequent VOSH proceedings between the parties, nothing in this agreement nor any foregoing statements, findings or actions taken by the Defendant shall be deemed an admission by the Defendant of the allegations of the citation, said allegations having been specifically denied. Furthermore, the parties agree that the citation, as amended, does not make any charges either,

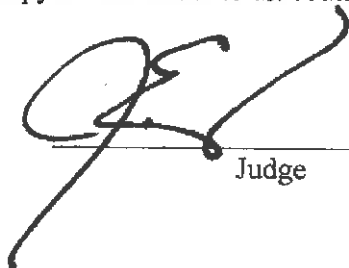
expressed or implied, that the conditions set forth were the cause or proximate cause of any accident or damages. The agreements, statements, findings and actions taken herein are made for the purpose of compromising and settling this matter economically and amicably, and they shall not be used for any other purpose whatsoever, except as herein stated.

12. That each party shall bear its own costs in this matter.

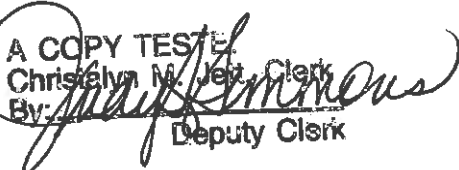
It is ORDERED, ADJUDGED, and DECREED that this matter be, and hereby is, dismissed with full prejudice and stricken from the docket of this Court.

Entered this 19th day of May 2015.

The Clerk shall send an attested copy of this Order to all counsel of record.




Judge

A COPY TESTE
Christalyn M. Jett, Clerk
By: 
Deputy Clerk

WE ASK FOR THIS:

C. RAY DAVENPORT, Commissioner of Labor and Industry



Robert B. Feild, Va. Bar No. 23864

Special Assistant Commonwealth's Attorney

County of Spotsylvania

600 East Main Street, Suite 207

Richmond, Virginia 23219

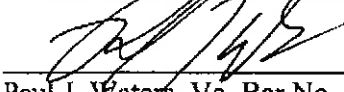
Telephone: (804) 786-4777

Facsimile: (804) 786-8418

Counsel for Commissioner Davenport

SEEN AND AGREED:

COLLINS CONTRACTING COMPANY



Paul J. Waters, Va. Bar No. 47923

Waters Law Group

1465 S. Fort Harrison, Suite 205

Clearwater, FL 33756

Phone 727-474-4736 x1

Facsimile 727-474-4606

Counsel for Collins Contracting Company

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF ARLINGTON

C. RAY DAVENPORT

Commissioner of Labor and Industry

Plaintiff,

v.

COMMUNITY SYSTEMS, INC.

Defendant.

)
)
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)
)
) Civil Action No. CL15-473
)
)
)
)
)

AGREED ORDER

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

1. That the citation attached to the Complaint is hereby amended as follows:
 - a) Serious Citation 1, Item 1 is vacated.
 - b) Serious Citation 1, Items 2a, 2b, 2c, 2d, 2e, 2f, and 2g are affirmed with an assessed penalty of \$2,100.00.
 - c) Serious Citation 1, Items 3a, 3b and 3c are vacated.
 - d) Other than serious Citation 2, Item 1 is affirmed with no penalty
2. That the Defendant shall pay the total penalty of \$2,100.00 within fifteen (15) 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 316954452 noted on the payment;
3. That the Defendant shall withdraw its original notice of contest, and hereby waives its

right to contest the remaining terms contained in this Order;

4. That the Defendant shall certify within fifteen (15) days of the entry date of this Order that all violations affirmed in this Order have been abated;
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 the Defendant will conduct a training session or sessions for its employees on the hazard communications standard, as set out in § 1910.1200(h) and on the bloodborne pathogens standard as set out in § 1910.1030(h) within sixty (60) days of the entry of the final order.

Upon completion of the training, documentation of the training:

Robert Feild
Department of Labor and Industry
600 East Main Street, Suite 207
Richmond, Virginia 23219

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;
9. That, 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;
10. Except for these proceedings, and matters arising out of these proceedings, and any other subsequent VOSH proceedings between the parties, nothing in this agreement nor any foregoing statements, findings or actions taken by the Defendant shall be deemed an admission by the

Defendant of the allegations of the citation, said allegations having been specifically denied. Furthermore, the parties agree that the citation, as amended, does not make any charges either, expressed or implied, that the conditions set forth were the cause or proximate cause of any accident or damages. The agreements, statements, findings and actions taken herein are made for the purpose of compromising and settling this matter economically and amicably, and they shall not be used for any other purpose whatsoever, except as herein stated.

11. That each party shall bear its own costs in this matter.

It is ORDERED, ADJUDGED, and DECREED that this matter be, and hereby is, dismissed with full prejudice and stricken from the docket of this Court.

Entered this 9th day of Sept 2015.

The Clerk shall send an attested copy of this Order to all counsel of record.



Judge

WE ASK FOR THIS:

C. RAY DAVENPORT, Commissioner of Labor and Industry

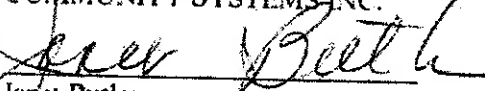


Robert B. Feild, Va. Bar No. 23864
Special Assistant Commonwealth's Attorney
County of Arlington
600 East Main Street, Suite 207
Richmond, Virginia 23219
Telephone: (804) 786-4777
Facsimile: (804) 786-8418

Counsel for Commissioner Davenport

SEEN AND AGREED:

COMMUNITY SYSTEMS INC.



Janet Butler
Chief Operating Officer
Community Systems, Inc.
7926 Jones Branch Drive
McLean, VA 22012
Phone 703-448-0606
Facsimile 703-448-0609

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF ESSEX

C. RAY DAVENPORT, Commissioner of)
 Labor and Industry,)
)
 Plaintiff,)
 v.)
)
 J.L.W. ASSOCIATES OF VIRGINIA, INC.)
)
)
 Defendant.)

CIVIL ACTION NO. - CL12000043

A True Copy
 Teste: Gayle J. Ashworth, Clerk
 By: Carlynn Spencer Deputy
 Date: 3-11-15
 Essex County Circuit Court

AGREED ORDER

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

1. That the citation attached to the Complaint is hereby amended as follows:
 - a) Serious Citation 1, Item 1 is vacated;
 - b) Serious Citation 1, Items 2a, 2b and 2b are reduced to Other than Serious with a penalty of \$675.00 for the grouped violations;
 - c) Serious Citation 1, Item 3 is reduced to Other than Serious with a penalty of \$405.00;
 - d) Serious Citation 1, Item 4 is reduced to Other than Serious with a penalty of \$405.00;
 - e) Serious Citation 1, Item 5 is reduced to Other than Serious with a penalty of \$675.00;
 - f) Serious Citation 1, Item 6 is reduced to Other than Serious with a penalty of \$405.00;
 - g) Serious Citation 1, Item 7 is vacated;
 - h) Serious Citation 1, Item 8 is vacated;
 - i) Serious Citation 1, Item 9 is vacated;
 - j) Serious Citation 1, Item 10 is vacated;
 - k) Serious Citation 1, Item 11 is affirmed with a reduced penalty of \$405.00;

- l) Serious Citation 1, Item 12 is reduced to Other than Serious with a penalty of \$675.00;
- m) Serious Citation 1, Item 13 is reduced to Other than Serious with a penalty of \$405.00;
- n) Serious Citation 1, Item 14 is vacated;
- o) Other than Serious Citation 2, Item 1 is affirmed;

2. That the Defendant shall pay the total penalty of \$4,050.00 within fifteen (15) 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 313638504 noted on the payment;

3. That the Defendant shall withdraw its original notice of contest, and hereby waives its right to contest the remaining terms contained in this Order;

4. That the Defendant will conduct a safety training course that will focus on the specific safety standards cited in VOSH inspection number 313638504 on September 22, 2009. The course will instruct all of the Defendant's field employees on how to recognize and avoid each of the hazards addressed by the cited standards. Such training shall take place within 6 months of the entry of this order. Upon completion of the training, documentation of the training shall be sent to:

Robert Feild
Department of Labor and Industry
600 East Main Street, Suite 207
Richmond, Virginia 23219

5. That the Defendant shall train each of its field employees hired subsequent to the training class conducted under paragraph 4 in a training course comparable to the course conducted under paragraph 4. Such training shall be conducted for field employees hired within three years of the entry of this order;


6. 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 central office 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;
9. That, 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;
10. Except for these proceedings, and matters arising out of these proceedings, and any other subsequent VOSH proceedings between the parties, nothing in this agreement nor any foregoing statements, findings or actions taken by the Defendant shall be deemed an admission by the Defendant of the allegations of the citation, said allegations having been specifically denied. Furthermore, the parties agree that the citation, as amended, does not make any charges either, expressed or implied, that the conditions set forth were the cause or proximate cause of any accident or damages. The agreements, statements, findings and actions taken herein are made for the purpose of compromising and settling this matter economically and amicably, and they shall not be used for any other purpose whatsoever, except as herein stated;
11. That each party shall bear its own costs in this matter.

It is ORDERED, ADJUDGED, and DECREED that this matter be, and hereby is, dismissed with full prejudice and stricken from the docket of this Court.

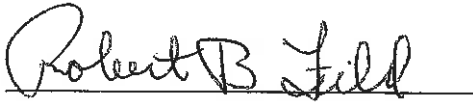
Entered this 11 day of MAR. 2015.

The Clerk shall send an attested copy of this Order to all counsel of record.


Judge

WE ASK FOR THIS:

C. RAY DAVENPORT, Commissioner of Labor and Industry

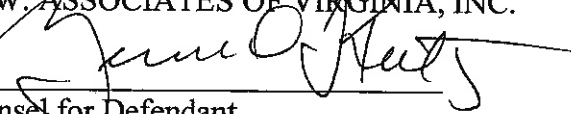


Robert B. Feild, VSB No. 23864
Special Assistant Commonwealth's Attorney
County of Essex
600 East Main Street, Suite 207
Richmond, Virginia 23219
Telephone: (804) 786-4777
Facsimile: (804) 786-8418

Counsel for Commissioner Davenport

SEEN AND AGREED:

J.L.W. ASSOCIATES OF VIRGINIA, INC.


Counsel for Defendant

Gerald I. Katz, VSB No. 15225
Gerald Katz, P. C.
2010 Corporate Ridge, Suite 700
McLean, Virginia 22102
Tel: 703-749-0542 (o)
Tel: 703-309-2922 (c)
Fax: 703-749-7719

Counsel for J.L.W. Associates of Virginia, Inc.

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF FAIRFAX

C. RAY DAVENPORT,)
Commissioner of Labor and Industry,)
Plaintiff,)

v.)

Civil Action No. 2014-09933

PRECISION CONSTRUCTION AND)
MANAGEMENT GROUP LLC)
d/b/a **PRECISION ELECTRICAL &**)
INSTRUMENTATION)
Defendant.)

AGREED ORDER

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

1. That the citation attached to the Complaint is hereby amended as follows:
 - a) Serious Citation 1, Item 1 is reclassified as an other than serious violation with an assessed penalty of \$1,500.00.
2. That the Defendant shall pay the total penalty of \$1,500.00 within fifteen (15) 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 317158871 noted on the payment.
3. That the Defendant shall withdraw its original notice of contest, and hereby waives its right to contest the remaining terms contained in this Order;
4. That the Defendant shall certify within fifteen (15) days of the entry date of this Order that all violations affirmed in this Order have been abated;

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;
8. That, 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;
9. Except for these proceedings, and matters arising out of these proceedings, and any other subsequent VOSH proceedings between the parties, nothing in this agreement nor any foregoing statements, findings or actions taken by the Defendant shall be deemed an admission by the Defendant of the allegations of the citation, said allegations having been specifically denied. Furthermore, the parties agree that the citation, as amended, does not make any charges either, expressed or implied, that the conditions set forth were the cause or proximate cause of any accident or damages. The agreements, statements, findings and actions taken herein are made for the purpose of compromising and settling this matter economically and amicably, and they shall not be used for any other purpose whatsoever, except as herein stated.
10. That each party shall bear its own costs in this matter.

It is ORDERED, ADJUDGED, and DECREED that this matter be, and hereby is,
dismissed with full prejudice and stricken from the docket of this Court.

Entered this 19 day of June 2015.

The Clerk shall send an attested copy of this Order to all counsel of record.



Judge

WE ASK FOR THIS:

C. RAY DAVENPORT, Commissioner of Labor and Industry



Robert B. Feild
Special Assistant Commonwealth's Attorney
County of Fairfax
600 East Main Street, Suite 207
Richmond, Virginia 23219
Telephone: (804) 786-4777
Facsimile: (804) 786-8418

Counsel for Commissioner Davenport

SEEN AND AGREED:

PRECISION CONSTRUCTION AND MANAGEMENT GROUP LLC
d/b/a PRECISION ELECTRICAL & INSTRUMENTATION.



K. Brett Marston, Esquire
Gentry Locke
10 Franklin Road S. E., Suite 800
P.O. Box 40013
Roanoke, Virginia 24022-0013
Phone 540-983-9300
Facsimile 540-983-9400
Counsel for Precision Construction and Management Group LLC
d/b/a Precision Electrical & Instrumentation

A COPY TESTE:
JOHN T. FREY, CLERK

BY: 
Deputy Clerk

Date: 6/24/15
Original retained in the office of
the Clerk of the Circuit Court of
Fairfax County, Virginia

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF CHESTERFIELD

C. RAY DAVENPORT,
Commissioner of Labor and Industry

Plaintiff,

v.

R&L CARRIERS SHARED SERVICES, LLC,

Defendant.

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)
)
) Case No. CL13000464-00
)
)
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AGREED FINAL ORDER

WHEREAS, on or about February 17, 2012, the Commissioner of Labor and Industry issued citations to the defendant, R&L Carriers Shared Services, LLC (“R&L Carriers”), alleging two serious and one non-serious violations of the Virginia Occupational Safety and Health Standards (VOSH) for the Construction Industry, and proposing civil penalties of \$5,250.00; and

WHEREAS, R&L Carriers filed within 15 working days from the date of the receipt of the citation, a written notice contesting the violations and proposed penalties, as provided for in § 40.1-49.4, of the *Code of Virginia*;

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-b and Citation 1, Item 2 are grouped into one serious violation. The combined proposed penalty of \$5,250 is reduced to \$1,500, and
 - b. Citation 2, item 1 is upheld as a non-serious violation, with no penalty.

2. R&L Carriers shall pay the total penalty of \$1,500 within thirty (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 316261049 noted on the payment.

3. Pursuant to *Virginia Administrative Code* § 16 VAC 25-60-40(1), R&L Carriers 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. R&L Carriers 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 or violation of any law by R & L Carriers. 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.

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 22nd day of April, 2015.



Judge


A COPY TESTE:
WENDY S. HUGHES, CLERK

BY: 

DEPUTY CLERK

We ask for this:

C. RAY DAVENPORT,
Commissioner of Labor and Industry

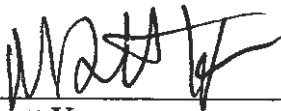
By: 
Alfred B. Albiston (VSB #29851)
Special Assistant Commonwealth Attorney
Chesterfield County
c/o Department of Labor and Industry
600 East Main Street, Suite 207
Richmond, Virginia 23219

804.786.6760
804.786.6418 fax
albiston.alfred@dol.gov

Counsel for Commissioner of Labor and Industry

Seen and Agreed:

R&L CARRIERS SHARED SERVICES, LLC

By: 
M. Scott Young
Christian F. Henel
Thompson Hine LLP
312 Walnut Street, 14th Floor
Cincinnati, OH 45202
513.352.6617
513.241.4771 (fax)

Counsel for R&L Carriers Shared Services, LLC

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF SOUTHAMPTON

| | | |
|--|---|------------------------|
| C. RAY DAVENPORT, |) | |
| Commissioner of Labor and Industry, |) | |
| |) | |
| <i>Plaintiff,</i> |) | |
| v. |) | Case No. CL14000381-00 |
| |) | |
| R. S. HARRITAN & COMPANY, INC., |) | |
| |) | |
| <i>Defendant.</i> |) | |

AGREED FINAL ORDER

WHEREAS, on or about February 4, 2013, plaintiff C. Ray Davenport, Commissioner of Labor and Industry ("Commissioner") issued two citations to defendant, R. S. Harritan & Company, Inc. ("Harritan"), alleging one Serious and one Willful violation of the Virginia Occupational Safety and Health Standards (VOSH) for the Construction Industry, and proposing \$59,850.00 in civil penalties; and

WHEREAS, Harritan filed within 15 working days from the date of the receipt of the citations, a written notice contesting the violations and proposed penalties, as provided for in § 40.1-49.4, of the *Code of Virginia*;

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

1. Harritan, its officers, agents, and those persons in active concert or participation with them agree to take the following actions:
 - a. Harritan shall require each person it currently employs at the level of foreman or higher, who has not attended such training within the last year, to attend an OSHA approved 30-Hour Construction Industry Outreach Training

Program within one hundred fifty (150) days of entry of this Agreed Order. At the end of this 150 day period, Harritan shall forward all Student Completion Cards, or other certification of such completed training to the VOSH Tidewater Region Safety Director, either by mail to Department of Labor and Industry, 6363 Center Drive, Ste. 101, Norfolk, VA 23502, by email to Buckingham.jeannie@dol.gov, or by fax to (757) 455-0899, and noting VOSH inspection number 316654326 on the correspondence. Harritan will also require any person whom it hires or promotes to foreman level or above in the next two years of entry of this Agreed Order to attend this same training, within ninety (90) days of their placement. Appropriate mail and email addresses, and fax numbers for the Commissioner's Tidewater Regional office are also maintained and updated on the state agency website at www.doli.virginia.gov.

b. For a period of two years after entry of this Agreed Order, Harritan shall notify beforehand the VOSH Tidewater Regional Safety Director via either email or fax (as identified above), of every construction project Harritan undertakes within the enforcement jurisdiction of the Commissioner, and which is projected to take more than one week to complete. Such notification shall include the address and projected working dates for each project.

c. Within three weeks of the entry of this Agreed Order, and subject to the Commissioner's prior review and approval, Harritan will create, adopt and distribute an "Incident Safety Alert," describing the circumstances under which the underlying workplace accident occurred, and restating the safety requirements and responsibilities for employees and their employers, and explaining how the use of fall protection measures in accordance with applicable

rules could have prevented this accident from occurring. The Alert shall also reiterate that employees on R.S. Harritan sites are authorized to stop work that they believe is unsafe, without retribution, and that while all employees are responsible for working safely, supervisors are specifically charged with, and expected to enforce compliance with safety requirements. Harritan agrees to post this Incident Safety Alert at all its jobsites, distribute copies to all its employees, and to the unions from which it gets its employees, and forward copies to other contractors connected to Harritan's reporting group working in the Commonwealth of Virginia.

d. Harritan also agrees to post at all its jobsites, and forward copies to union halls and/or other contractors connected to Harritan's business, copies of the Commissioner's brochure and poster addressing Employee Misclassification; copies of which are also maintained on and available from the state agency website at www.doli.virginia.gov.

2. Furthermore, each of the violations and civil penalties are amended and affirmed as follows:

- a. **Citation 1, Item 1** is affirmed as a Serious violation. The proposed penalty of \$3,150.00 is reduced to \$2,300.00;
- b. **Citation 2, Item 1** is amended from a Willful to a Serious violation. The proposed penalty of \$56,700.00 is reduced to \$42,700.00.

Within two weeks of the entry of this Agreed Order, Harritan will submit \$45,000.00 in payment of the penalties, as adjusted and assessed for the above two violations.

Payment shall be presented to any office of the Department of Labor and Industry, in the form of a check or money order, payable to the "Treasurer of Virginia," with the VOSH inspection number (316654326) noted on the instrument.

3. The parties certify that the affirmed violations referenced above in this Order were each corrected and abated.
4. Pursuant to *Virginia Administrative Code* § 16 VAC 25-60-40(1), Harritan shall post a copy of this Agreed Order for ten (10) consecutive days at a conspicuous place or location on all its jobsites where notices to its employees generally are posted.
5. This Agreed Order is meant to settle the above contested claims, and is not to be considered an admission of liability by Harritan. 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. Each party will bear its own attorneys' fee, costs and other expenses in this matter.
6. All citation violations and penalties, as modified above, including all new obligations contained in this Agreed Order, are a final order of the Commissioner of Labor and Industry.
7. The Court shall maintain jurisdiction over this matter for the purposes of enforcing this Agreed Order.
8. 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 to the Defendant at their addresses provided below.

Entered this 24th day of June, 2015.

I certify that the document to which this authentication is affixed is a true copy of a record in the Southampton Circuit Court, I have custody of the document and am the custodian of that record.

Richard L. Francis, Clerk

Richard L. Francis DC
Southampton Circuit Court


The Hon. L. Wayne Farmer, Judge

We ask for this:

C. RAY DAVENPORT,
Commissioner of Labor and Industry



Alfred B. Albiston (VSB # 29851)
Special Assistant Commonwealth's Attorney
County of Southampton
Department of Labor and Industry
600 East Main Street, Ste. 207
Richmond, Virginia 23219

804.786.6760
804.786.8418 fax
Albiston.alfred@dol.gov

Counsel for Plaintiff

Seen and Agreed:

R. S. HARRITAN & COMPANY, INC.



Kishka McClain (VSB # 46861)
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8010 Towers Crescent Dr., Suite 300
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Ronald W. Taylor
Thomas H. Strong
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(410) 244-7400
(410) 244-7742 fax
RWTaylor@Venable.com

Counsel for Defendant

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF FAIRFAX

C. RAY DAVENPORT, _____)
Commissioner of Labor and Industry,)
Plaintiff,)
v.)
TAVARES CONCRETE COMPANY, INC.,)
Defendant.)

Civil Action No. 2014-09931

316313212

ORDER

This matter came before the Court on Commissioner C. Ray Davenport's ("Commissioner") Motion for Nonsuit pursuant to Va. Code § 8.01-380, and IT APPEARING that on November 18, 2013, the Commissioner filed a Complaint against Tavares Concrete Company, Inc., that a nonsuit was taken to this cause on June 4, 2014, and that the defendant, Tavares Concrete Company, Inc., has not filed a cross-bill, it is therefore ADJUDGED, ORDERED AND DECREED that the Commissioner's motion is GRANTED and that this matter be and hereby is nonsuited with full prejudice to the filing of another action concerning any of the matters involved, it is FURTHERMORE ORDERED that the Clerk will strike this matter from the docket of this Court, and place it among the ended cases.

Enter:



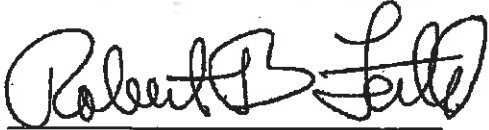
Judge

Date:

5/28/2015

I ask for this:

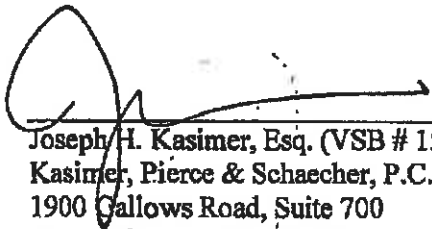
C. RAY DAVENPORT,
Commissioner of Labor and Industry



Robert B. Feild (VSB # 23864)
Special Assistant Commonwealth's Attorney
600 East Main Street
Richmond, VA 23219
Phone: 804-786-4777
Fax: 804-786-8418

Counsel for Commissioner Davenport

Seen and Agreed



Joseph H. Kasimer, Esq. (VSB # 15171)
Kasimer, Pierce & Schaecher, P.C.
1900 Gallows Road, Suite 700
Tysons Corner, VA 22182
Phone: 703-893-3914
Fax: 571-405-6757

Counsel for Tavares Concrete Company, Inc.

A COPY TESTE:
JOHN T. FREY, CLERK

BY: 
Deputy Clerk

Date: 06/03/15
Original retained in the office of
the Clerk of the Circuit Court of
Fairfax County, Virginia

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF FAIRFAX

C. RAY DAVENPORT, Commissioner of
Labor and Industry,

Plaintiff,
v.

VERIZON VIRGINIA, INC.

Defendant.

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CIVIL ACTION NO. –
CL2014-0004786

AGREED ORDER

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

1. That the citation attached to the Complaint is hereby amended as follows:
 - a) Serious Citation 1, Items 1a and 1b are vacated;
 - b) Serious Citation 1, Item 2 is vacated;
 - c) Serious Citation 1, Item 3 is affirmed with a penalty of \$2,100.00;
2. That the Defendant will pay the total penalty of \$2,100.00 within twenty-one (21) 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 316470889 noted on the payment;
3. That the Defendant will withdraw its original notice of contest, and hereby waives its right to contest the remaining terms contained in this Order;
4. That the Defendant will provide safety training on the training module previously provided to the Department entitled, Asbestos Awareness, and the requirements included under

paragraph 6 of this Agreed Order. The course will instruct all of the Defendant's field employees on how to recognize and avoid each of the hazards addressed by the cited standards. Such training shall take place within 6 months of the entry of this order for all employees not trained on the module within one year prior to the date of the entry of this order. Training on the additional requirement included in paragraph 6 of this Agreed Order shall take place within 6 months of the entry of this order. Upon completion of the training, documentation of the training shall be sent to:

Robert Feild
Department of Labor and Industry
600 East Main Street, Suite 207
Richmond, Virginia 23219

5. That the Defendant will train each of its field employees hired subsequent to the training conducted under paragraph 4 in a training course comparable to the training conducted under paragraph 4. Such training shall be conducted for field employees hired within three years of the entry of this order;

6. That the Defendant will mark the manhole that was the subject of the inspection and all other manholes where asbestos is discovered after the entry of this order with a sign reasonably calculated to last for the useful life of the manhole. The marking will notify the employees that the manhole had asbestos containing material (ACM) in it and that the ACM has been removed. Such marking will be attached in a position that employees entering the manhole will readily discover. The Defendant will train its employees on markings set out in this paragraph as part of the training conducted under paragraphs 4 and 5. Prior to the removal of the asbestos containing material the Defendant or the Defendant's contractor shall meet the requirements of 1926.1101(k)(7).

7. That the Defendant will post a copy of this Order for ten consecutive days, beginning from

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

8. That this Order shall be construed to advance the purpose of Virginia Code § 40.1-3;

9. 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;

10. That, 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;

11. Except for these proceedings, and matters arising out of these proceedings, and any other subsequent VOSH proceedings between the parties, nothing in this agreement nor any foregoing statements, findings or actions taken by the Defendant shall be deemed an admission by the Defendant of the allegations of the citation, said allegations having been specifically denied. Furthermore, the parties agree that the citation, as amended, does not make any charges either, expressed or implied, that the conditions set forth were the cause or proximate cause of any accident or damages. The agreements, statements, findings and actions taken herein are made for the purpose of compromising and settling this matter economically and amicably, and they shall not be used for any other purpose whatsoever, except as herein stated;

12. That each party shall bear its own costs in this matter.

It is ORDERED, ADJUDGED, and DECREED that this matter be, and hereby is, dismissed with full prejudice and stricken from the docket of this Court.

Entered this 5th day of February 2015.

The Clerk shall send an attested copy of this Order to all counsel of record.

Robert J. Smith
Judge

WE ASK FOR THIS:

C. RAY DAVENPORT, Commissioner of Labor and Industry

John Murray
John Murray
Assistant Commonwealth's Attorney
County of Fairfax
4110 Chain Bridge Road
Fairfax, Virginia 22030
Telephone: (703) 246-2776
Facsimile: (703) 691-4004

Counsel for Commissioner Davenport

SEEN AND AGREED:

VERIZON VIRGINIA, INC.

Heidi L. Gunst
Counsel for Defendant

Jacqueline M. Holmes
Heidi L. Gunst
Jones Day
51 Louisiana Avenue, N.W.
Washington, D. C. 20001-2113
Tel: 202-879-3939
Fax: 202-626-1700

Counsel for Verizon Virginia, Inc.

A COPY TESTE:
JOHN T. FREY, CLERK

BY: Charlyl Beary
Deputy Clerk

Date: 4/28/15

Original retained in the office of
the Clerk of the Circuit Court of
Fairfax County, Virginia