

**FINAL ORDERS OF THE VIRGINIA COURTS  
IN CONTESTED CASES ARISING UNDER THE  
VIRGINIA OCCUPATIONAL SAFETY AND HEALTH ACT  
2018**

EQT Corporation, C. Ray Davenport, Commissioner of Labor and Industry v. Case No. CL14000167-00 (Circuit Court of the County of Dickenson)  
Opinion and Final Order

Faulconer Construction Co., C. Ray Davenport, Commissioner of Labor and Industry v. Case No. CL18000767-00 (Circuit Court of the County of Montgomery)

Finley Asphalt & Sealing, Inc., C. Ray Davenport, Commissioner of Labor and Industry v. Case No. CL17011668-00 (Circuit Court of the County of Fairfax)

Hawkins-Graves, Inc., C. Ray Davenport, Commissioner of Labor and Industry v. Case No. CL17000952-00 (Circuit Court of the County of Campbell)

Home Depot, U.S.A., Inc., C. Ray Davenport, Commissioner of Labor and Industry v., Case No. CL13001535-00 (Circuit Court of the County of Hanover)

Lighting Maintenance, Inc., C. Ray Davenport, Commissioner of Labor and Industry v., Case No. CL170155572-00 (Circuit Court of the County of Fairfax)

Miller & Long Concrete Construction, C. Ray Davenport, Commissioner of Labor and Industry v., Case No. CL17001898-00 (Circuit Court of the County of Arlington)

Rockingham Construction Co., C. Ray Davenport, Commissioner of Labor and Industry v., Case No. CL17000515-00 (Circuit Court of the City of Charlottesville)

United Parcel Service, Inc., C. Ray Davenport, Commissioner of Labor and Industry v., Case No. CL13001580-00 (Circuit Court of the City of Roanoke)

VIRGINIA:

IN THE CIRCUIT COURT OF DICKENSON COUNTY

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

Plaintiff, )

v. )

Case No. CL14-167

EQT GATHERING, LLC, )

Defendant. )

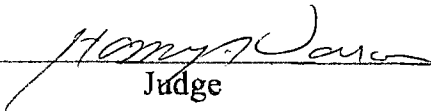
FINAL ORDER

On February 5, 2018, came the parties, by their respective counsel, upon Defendant's Motion for Summary Judgment, which Motion was argued by counsel. The Motion was fully briefed. For the reasons stated in the Court's Letter Opinion dated March 8, 2018, and for the reasons stated by Defendant on the record, the Defendant's Motion for Summary Judgment is granted.

It is accordingly ORDERED that Defendant's Motion for Summary Judgment be, and it hereby is, GRANTED. It is FURTHER ORDERED that Plaintiff's action herein be, and the same is hereby, DISMISSED WITH PREJUDICE and stricken from the docket of the Court.

The Clerk shall send attested copies of this Order to counsel of record.


ENTER: this 30<sup>th</sup> day of March, 2018.

  
\_\_\_\_\_  
Judge

Copies to Counsel 04-02-18.


**Seen and Objected to for the Reasons Stated on the Record:**

**Alfred B. Albiston**  
**VS** B No. 29851  
**Dickenson County Special Assistant**  
**Commonwealth's Attorney**  
**Department of Labor and Industry**  
**600 East Main Street, Suite 207**  
**Richmond, Virginia 23219**  
[albiston.alfred@dol.gov](mailto:albiston.alfred@dol.gov)

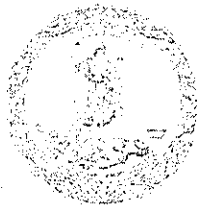
By   
**Alfred B. Albiston**  
**Counsel for Plaintiff**  
**C. Ray Davenport,**  
**Commissioner of Labor and**  
**Industry**

**Seen and Agreed:**

**Wade W. Massie**  
**VS** B No. 16616  
**Seth M. Land**  
**VS** B No. 75101  
**PENN, STUART & ESKRIDGE**  
**P.O. Box 2288**  
**Abingdon, Virginia 24212**  
**Telephone: 276/628-5151**  
**Facsimile: 276/628-5621**  
[wmassie@pennstuart.com](mailto:wmassie@pennstuart.com)  
[sland@pennstuart.com](mailto:sland@pennstuart.com)

By   
**Seth M. land**  
**Counsel for Defendant**  
**EQT Gathering, LLC**

# COMMONWEALTH OF VIRGINIA



## CIRCUIT COURT JUDGES:

**HENRY A. VANOVER**  
Dickenson County  
Courthouse  
P.O. Box 190  
Clintwood, VA 24228  
(276) 926-1635  
(276) 926-5580 Fax

**MICHAEL L. MOORE**  
Russell County Courthouse  
P.O. Box 435  
Lebanon, VA 24266  
(276) 889-8049  
(276) 889-8090 Fax

## THE TWENTY-NINTH JUDICIAL CIRCUIT COUNTIES OF BUCHANAN, DICKENSON, RUSSELL AND TAZEVELL

**JACK S. "CHIP" HURLEY, JR.**  
Tazewell County Courthouse  
101 East Main St., Suite 202  
Tazewell, VA 24651  
(276) 988-1230  
(276) 988-3081 Fax

**PATRICK R. JOHNSON**  
Buchanan County Courthouse  
P.O. Box 1995  
Grundy, VA 24614  
(276) 935-6564  
(276) 935-8516 Fax

**KEARY R. WILLIAMS (Retired)**  
Buchanan County Courthouse  
P.O. Box 1995  
Grundy, VA 24614  
(276) 935-6564  
(276) 935-8516 Fax

March 8, 2018

Alfred B. Albiston  
Special Assistant Commonwealth's Attorney  
Dickenson County  
c/o Department of Labor and Industry  
600 East Main Street, Ste. 207  
Richmond, Virginia 23219-2430

Wade W. Massie  
Seth M. Land  
Penn, Stuart & Eskridge  
P.O. Box 2288  
Abingdon, Virginia 24212

**IN RE: C. Ray Davenport, Commissioner of Labor and Industry  
v. EQT Gathering, LLC.  
CL 14-167**

Gentlemen:

This letter opinion follows a hearing which was held in the Dickenson County Circuit Court on February 5, 2018. The Court has reviewed and considered the Transcript of the proceedings in the *Davenport v. Dean Steel Erection Company, Inc.*, as well as the Commissioner's Supporting

Memorandum and the Defendant's Response. Due to the familiarity each side has with this case, the Court will dispense with the case's factual background.

### RELEVANT LAW

Virginia Code §8.01-6.1 addresses misnomers by providing a three-part analysis. The Code states:

A misnomer in any pleading may, on the motion of any party, and on affidavit of the right name, be amended by inserting the right name. An amendment changing the party against whom a claim is asserted, whether to correct a misnomer or otherwise, relates back to the date of the original pleading if (i) the claim asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth in the original pleading, (ii) within the limitations period prescribed for commencing the action against the party to be brought in by the amendment, that party or its agent received notice of the institution of the action, (iii) that party will not be prejudiced in maintaining a defense on the merits, and (iv) that party knew or should have known that but for a mistake concerning the identity of the proper party, the action would have been brought against that party.

### ANALYSIS

The *Davenport v. Dean Steep Erection Company, Inc.*, case is very distinguishable from the case at hand. In *Dean Steel*, the legal entity the suit was filed against was, "Dean Steel Erection Company." Transcript at 10-11. The VOSH Citation was filed against "Dean Steel Erectors Co., Inc." which nonetheless, was the trade name for "Dean Steel Erection Company." *Id.* Therefore, the same entity was named using the company's correct name, as well

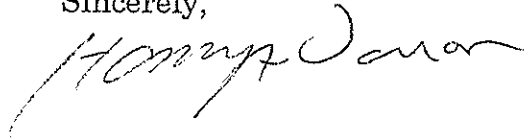
as the company's trade name. In *Dean*, there had been a misnomer since the right entity in fact had been correctly named.

In the case at hand, the VOSH Citation did not correctly name the right entity, but instead named a different entity altogether. The Citation was issued to "EQT Corporation, while the correct entity to be named was "EQT Gathering, LLC." Unlike the companies named in the *Dean* case, both of these companies are completely separate entities. Furthermore, the statute allowing for the amendment of pleadings to correct misnomers, Virginia Code 8.01-6, does not apply in this instance. The statute does not allow amendment when plaintiff "did not incorrectly name the right entity, but named a different entity." *Miller v. Highland County*, 274 Va. 355, 368, 650 S.E.2d 532, 537 (2007).

### CONCLUSION

For the foregoing reasons, the Defendant's Motion for Summary Judgment is granted.

Sincerely,

A handwritten signature in black ink, appearing to read "Henry A. Vanover". The signature is written in a cursive style with a long, sweeping underline.

**Henry A. Vanover, Judge**

HAV/klr

Cc: Richard W. Edwards, Circuit Court Clerk

TUNE

VIRGINIA:

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY

C. RAY DAVENPORT,	)	
Commissioner of Labor and Industry,	)	
	)	
<i>Plaintiff,</i>	)	
v.	)	CL Civil Action No.: CL18-76700
	)	
FAULCONER CONSTRUCTION	)	
COMPANY, INC.	)	
<i>And its successors</i>	)	
	)	
<i>Defendant.</i>	)	


DISMISSAL ORDER

Upon agreement of the parties and for good cause shown, it is hereby ORDERED, ADJUDGED, and DECREED that the above captioned case is dismissed with prejudice from the court's docket.

The parties have settled all outstanding in this case. A separate settlement agreement has been entered into by the parties.

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

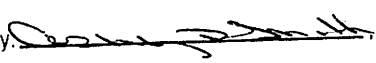
Entered this 5 day of NOV., 2018.




---

Judge

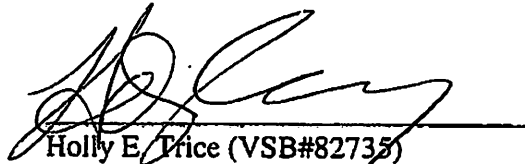
A Copy – Teste:  
ERICA W. CONNER  
Circuit Court Montgomery County, Virginia

By: , Deputy Clerk



WE ASK FOR THIS:

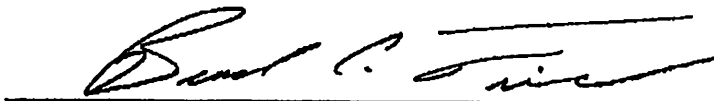
**C. RAY DAVENPORT,**  
Commissioner of Labor and Industry



Holly E. Trice (VSB#82735)  
Special Assistant Commonwealth's Attorney  
Richmond County  
c/o Department of Labor and Industry  
600 East Main Street, Suite 207  
Richmond, Virginia 23219  
804-786-2641  
Holly.trice@doli.virginia.gov

SEEN AND AGREED:

**FAULCONER CONSTRUCTION COMPANY, INC.**



Brad Friend (VSB#65462)  
KRAFTSTON CAUDLE  
1600 Tyson Boulevard  
Suite 250  
McLean, VA 22102.  
703-873-5500  
Bfriend@kraftstoncaudle.com

*Counsel for Defendant*

**VIRGINIA:**

**IN THE CIRCUIT COURT OF FAIRFAX**

<b>C. RAY DAVENPORT,</b>	)
Commissioner of Labor and Industry,	)
<i>Plaintiff,</i>	)
v.	) Civil Action No. CL2017-11668
	)
<b>FINLEY ASPHALT &amp; SEALING, INC.</b>	)
<i>Defendant.</i>	)

**AGREED FINAL ORDER**

THIS DAY came the Parties and advised the Court that they have compromised and settled their differences pursuant to the terms of the Settlement Agreement (the "Agreement") attached hereto as **Exhibit 1**; and it further

APPEARING that the parties consent to the same and for good cause shown, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

1. The citation (both Citation 1, Item 1 and Citation 1, Item 2) attached to the Complaint and arising from Inspection No. 1072113 is hereby vacated;
2. The Defendant's original notice of contest is withdrawn and the Defendant hereby waives its right to contest the remaining terms contained in this Order;
3. 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;
4. This Order shall be construed to advance the purpose of Virginia Code § 40.1-3;
5. 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; and
6. That each party shall bear its own costs in this matter.

2017 NOV 11 AM 11:11

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

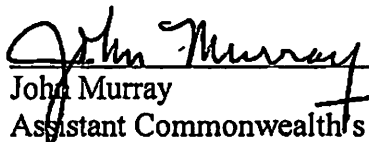
Entered this 5 day of June 2018.

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

  
\_\_\_\_\_  
John Murray  
Assistant Commonwealth's Attorney  
Fairfax County  
4110 Chain Bridge Road, Room 123  
Fairfax, VA 22030  
(703) 246-2776 phone  
(703) 691-4004 fax  
*Counsel for Commissioner Davenport*

SEEN AND AGREED:

FINLEY ASPHALT & SEALING, INC.

  
\_\_\_\_\_  
Stephen J. Annino, VSB No. 20551  
Matthew D. Baker, VSB No. 83619  
Rees Broome, PC  
1602 Village Market Blvd., S.E.  
Suite 270  
Leesburg, VA, 20175  
sannino@reesbroome.com  
mbaker@reesbroome.com  
*Counsel for Finley Asphalt & Sealing, Inc.*

**VIRGINIA:**

**IN THE CIRCUIT COURT FOR THE COUNTY OF CAMPBELL**

C. RAY DAVENPORT,	)	
Commissioner of Labor and Industry,	)	
	)	
Plaintiff,	)	
	)	Case No. CL17000952-00
v.	)	
	)	
HAWKINS-GRAVES, INC.	)	
	)	
Defendant.	)	

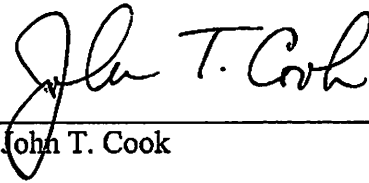
**FINAL ORDER**

THIS MATTER came before the Court on July 20, 2018 for a bench trial. Plaintiff Commissioner C. Ray Davenport (the "Commissioner") and Defendant Hawkins-Graves, Inc. ("Hawkins-Graves"), by counsel, appeared and presented witness testimony, evidence, and arguments on this matter. The Court heard the Commissioner's evidence, then the Court granted Hawkins-Graves' Motion to Strike Citation 1, Item 2 for the reasons stated on the record. The Court then heard evidence from Hawkins-Graves on Citation 1, Item 1; and the Court found in favor of Hawkins-Graves for the reasons stated on the record.

It is therefore ORDERED that both Citation 1, Item 1 and Citation 1, Item 2 are DISMISSED WITH PREJUDICE.

AND IT IS FURTHER ORDERED that Final Judgment is hereby entered in this matter pursuant to Rule 1:1, and this matter is ended, and the Clerk shall remove this case from the Court's docket and send a certified copy of this Order to all counsel of record.

Entered this 14<sup>th</sup> day of August, 2018.

  
\_\_\_\_\_  
Hon. John T. Cook


cc: Marston  
Field  
Secur

WE ASK FOR THIS:

  
\_\_\_\_\_  
K. Brett Marston (VSB No. 35900)  
Kirk M. Sosebee (VSB No. 88013)  
GENTRY LOCKE  
P.O. Box 40013  
Roanoke, VA 24022-0013  
Telephone: (540) 983-9300  
Facsimile: (540) 983-9400  
marston@gentrylocke.com  
sosebee@gentrylocke.com

*Counsel for Defendant  
Hawkins-Graves, Inc.*

SEEN AND Objected to for reasons stated in the record

  
\_\_\_\_\_  
Robert B. Feild, Virginia Bar No. 23864  
Special Assistant Commonwealth's Attorney  
Department of Labor & Industry  
600 East Main Street, Suite 207  
Richmond, VA 23219  
Phone: 804/786.4777      Fax: 804/786.8418  
Robert.Feild@doli.virginia.gov

*Counsel for Plaintiff  
C. Ray Davenport, Commissioner of Labor and Industry*

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF HANOVER

COURTNEY M. MALVEAUX,  
Commissioner of Labor and Industry,

Plaintiff,

v.

Case No: CL13001535-00

THE HOME DEPOT, U.S.A., INC.,

Defendant.

ORDER


It appearing that the above-styled cause has been pending on the docket of this Court for more than three years with no order or proceeding, except to continue it, and that the same should be discontinued pursuant to §8.01-335(B) of the Code of Virginia, it is ORDERED that this case be discontinued and stricken from the docket of this Court.

The Clerk is directed to send a certified copy of this Order to Counsel for the Plaintiff, Robert B. Feild, Special Assistant Commonwealth's Attorney, Department of Labor and Industry, 600 East Main Street, Suite 207, Richmond, VA 23219; and to Counsel for the Defendant, Stephanie P. Karn, at Kaplan, Voekler, Cunningham & Frank, PLC, 1401 East Cary Street, Richmond, VA 23219.

Endorsement dispensed with pursuant to Rule 1:13.

ENTER: 1 / 3 / 2018

  
\_\_\_\_\_  
JUDGE

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

**VIRGINIA:**

**IN THE CIRCUIT COURT OF FAIRFAX COUNTY**

**C. RAY DAVENPORT,**  
Commissioner of Labor and Industry,

*Plaintiff,*

v.

**LIGHTING MAINTENANCE, INCORPORATED,**  
and its successors

*Defendant.*

)  
)  
)  
)  
) Civil Action No. CL2017-15572  
)  
)  
)  
)

**FINAL ORDER**

This matter came before the Court on the parties' Joint Motion To Dismiss the Complaint of plaintiff C. Ray Davenport, Commissioner of Labor and Industry ("Commissioner"), filed November 7, 2017, against the defendant Lighting Maintenance, Incorporated ("Lighting Maintenance"), and IT APPEARING that the Commissioner and Lighting Maintenance have subsequently settled all outstanding issues through a separate Settlement Agreement; upon agreement of the parties and for good cause shown, it is therefore ADJUDGED, ORDERED AND DECREED:

that the Joint Motion To Dismiss is GRANTED and that this matter be and hereby is dismissed with prejudice.

The Clerk will strike this matter from the docket of this Court, place it among the ended civil cases, and shall send an attested copy of this Order to both counsel of record, and to the Department of Labor and Industry, c/o Alfred B. Albiston, Esquire, Division of Legal Support, 600 East Main Street, Suite 207, Richmond, VA 23219.

CC TO DEPT. OF LABOR 7/22/16

Entered this 19 day of July, 2018.



Judge

I ask for this:

**C. RAY DAVENPORT,**  
Commissioner of Labor and Industry



John J. Murray (VSB # 41737)  
Assistant Commonwealth's Attorney  
Fairfax County  
4110 Chain Bridge Road  
Fairfax, Virginia 22030

703-246-2776  
703-691-4004 fax  
[John.Murray@fairfaxcounty.gov](mailto:John.Murray@fairfaxcounty.gov)

*Counsel for Plaintiff C. RAY DAVENPORT, Commissioner of Labor and Industry*

SEE AND AGREED:

**LIGHTING MAINTENANCE, INCORPORATED**



Robert B. Walker, Esquire (VSB #39923)  
709 Old Hunt Way  
Herndon, VA 20170-3158  
703-437-5128  
703-437-5149 fax  
[rbw@rwalkerlaw.com](mailto:rbw@rwalkerlaw.com)

*Counsel for Defendant Lighting Maintenance, Incorporated*

A COPY TESTE:  
JOHN T. FREY, CLERK

BY: 

Deputy Clerk

Date: 8-2-18

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

Patricia E. Leukharc





# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF LABOR AND INDUSTRY

C. Ray Davenport  
COMMISSIONER

Main Street Centre  
600 East Main Street, Suite 207  
Richmond, Virginia 23219  
PHONE (804) 371-2327  
FAX (804) 371-6524

July 18, 2018

The Hon. John T. Frey  
Clerk of Court, Civil Division  
Fairfax County Circuit Court  
4110 Chain Bridge Road  
Fairfax, VA 20170-3158

**C. RAY DAVENPORT, Commnr. of Labor and Industry v.  
LIGHTING MAINTENANCE, INCORPORATED**, Circuit Ct. No. CL2017-1557

FILED  
COMPUTER SECTION  
18 JUL 24 PM 12:21  
JOHN T. FREY  
CLERK OF COURT  
FAIRFAX, VA

Dear Mr. Frey,

The parties yesterday filed a joint Motion To Dismiss the above matter. Enclosed please find a stamped and self-addressed envelope, provided for purposes of mailing me a certified copy of the eventual Final Order in the above matter – as directed by the same.

Thank you for your assistance in this matter, and please call me if you cannot comply with this request, at (804) 786-6760.

Sincerely yours,

Alfred B. Albiston, Esquire  
Senior Staff Attorney

Encl.

**C. RAY DAVENPORT,**  
Commissioner of Labor and Industry

**LIGHTING MAINTENANCE, INC.**

VOSH Inspection No. 1034251

**SETTLEMENT AGREEMENT**

THIS SETTLEMENT AGREEMENT (the Agreement) is made and entered into this 15<sup>th</sup> day of May, 2018, by and between C. Ray Davenport, Commissioner of Labor and Industry ("Commissioner") and Lighting Maintenance, Inc. ("Lighting Maintenance") (collectively, the "Parties").

**RECITALS**

WHEREAS, the Commissioner issued a citation to Lighting Maintenance, on or about, August 6, 2015, alleging six Serious violations of the Virginia Occupational Safety and Health ("VOSH") law and regulations, with proposed civil penalties of \$22,820.00 (copy of VOSH Citation attached); and

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

WHEREAS, the Commissioner filed a civil Complaint against Lighting Maintenance in the Fairfax County Circuit Court, styled, *C. RAY DAVENPORT, Commissioner of Labor and Industry v. LIGHTING MAINTENANCE, INC.* (Case No. CL17-15572), seeking to affirm the citation and the associated penalties (the "Case"), and to which for each, Lighting Maintenance filed an Answer denying liability; and

WHEREAS, the parties desire to settle this case short of trial in a manner that will further protect and promote the safety and health of Lighting Maintenance's employees, and to avoid the further time and expense of court proceedings.

**TERMS AND CONDITIONS OF AGREEMENT**

1. For the matter concerning VOSH inspection number 1034251, docketed under case number CL17-15572, the Serious citation 1, its component Items 1-6 and their proposed penalties are amended as follows:

- a. Item 1, citing VOSH Std. § 1910.147(f)(3)(ii)(D), is amended to cite VOSH Std. § 1910.333(b)(2)(ii)(B), and is grouped with sub-Item 4a, and upheld as a single Serious violation, and the \$7,000.00 civil penalty is affirmed;
- b. Item 2 is reclassified and upheld as an Other Than Serious violation, and its proposed \$1,470.00 civil penalty is affirmed;
- c. Item 3 is upheld as a Serious violation, and its proposed \$2,450.00 civil penalty is affirmed;
- d. Sub-Item 4a is grouped with Item 1 as described above;
- e. Sub-Item 4b and the grouped violation's proposed \$7,000.00 civil penalty are both vacated;
- f. Item 5 and Item 6 are grouped and upheld as a single Serious violation, and a \$2,450.00 combined civil penalty is affirmed; and
- g. Item 6 is grouped with Item 5 as described above; and the violation's proposed \$2,450 civil penalty is vacated.

2. Lighting Maintenance shall pay the agreed civil penalty of \$13,370.00 within thirty (30) days of the date of execution of this Agreement. Payment shall be made by

check or money order, payable to the Treasurer of Virginia, with VOSH inspection number 1034251 noted on the payment.

3. Upon mutual execution of this Agreement, counsel for the Commissioner will submit a Joint Motion and Order in the Fairfax Circuit Court to dismiss the Cases with prejudice.

4. Pursuant to *Virginia Administrative Code* §16 VAC 25-60-40(1), Lighting Maintenance shall post a copy of this Settlement Agreement for ten (10) consecutive days at a conspicuous place or location in its workplace where notices to its employees generally are posted.

5. Lighting Maintenance hereby withdraws its original notice of contest, and certifies that those violations affirmed as amended, and referenced in paragraph 1 of this Agreement, have been corrected and abated.

#### **SETTLEMENT OF CLAIMS**

6. This Agreement is meant to settle both the above contested claims, and is not to be considered an admission of liability of Lighting Maintenance. 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.

7. No part of the foregoing or following agreements, statements, findings and actions taken by Lighting Maintenance shall be deemed an admission by Lighting Maintenance of a violation of the Code or any other law or an admission of the allegations contained within the citation or notification of penalty in this matter. Rather,

the agreements, statements, findings, and actions taken herein are made solely for the purpose of compromising and settling both these matters amicably, to avoid protracted and expensive litigation, and shall not to be used in any judicial or administrative forum for any purpose whatsoever, except the Commissioner reserves its rights to issue Repeat violations pursuant to Virginia law for the citation items affirmed as amended in paragraph 1 above. It is specifically understood by both Lighting Maintenance and the Commissioner that the compromise and settlement of this matter is not intended to and shall not constitute an admission or finding of civil liability or responsibility of any kind in any civil personal injury or wrongful death action (or any indemnification action related to a civil personal injury or wrongful death action) and such civil liability or responsibility is specifically denied by Lighting Maintenance.

8. Had this case gone to hearing, Lighting Maintenance would have argued that its written procedures for the work involved comply with the applicable VOSH regulation § 1910.301 *et. seq.*, and that the employees involved failed to follow the procedures. Nothing in this order shall be construed to restrict in any way Lighting Maintenance's right in future VOSH inspections to argue that its procedures comply with the applicable standards.

9. Nothing in this order shall be construed to restrict in any way the Commissioner's right under the same or similar factual circumstances, to issue citations to Lighting Maintenance or any other employer in future VOSH inspections for violations of the cited VOSH regulations affirmed as amended in paragraph 1 above.

10. Upon receiving the executed Agreement, the Commissioner shall immediately thereafter draft and submit to Lighting Maintenance a Joint Motion and Order to dismiss

the Case, with prejudice. Once signed, the Joint Motion and Order will be filed with the Fairfax County Circuit Court, with the expectation that the Case will be dismissed and filed among its closed cases.

LIGHTING MAINTENANCE, INC.

BY: [Signature]  
Agent Counsel

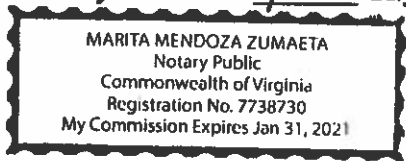
5/9/18  
Date

Commonwealth of Virginia,

County/City of FAIRFAX, to wit:

I, the undersigned Notary Public in and for the jurisdiction aforesaid, do hereby certify that ROBERT B. WALKER, whose name is signed to the foregoing as a(n) COUNSEL for Lighting Maintenance, Inc., has acknowledged the same before me as his/her true and voluntary act on behalf of said corporation.

Given under my hand this 9<sup>th</sup> day of May, 2018.



[Signature]  
Notary Public

My commission expires: 01-31-2021

Registration No.: 7738730

**C. RAY DAVENPORT,**  
Commissioner of Labor and Industry

By: Jennifer L. Rose  
Jennifer L. Rose  
VOSH Safety Compliance Director  
Department of Labor & Industry

Commonwealth of Virginia:

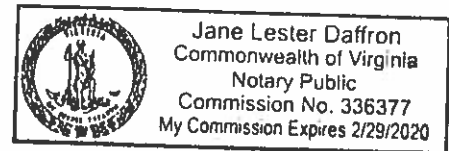
City of Richmond, to wit:

I, the undersigned Notary Public in and for the jurisdiction aforesaid, do hereby certify that Jenifer L. Rose, whose name is signed to the foregoing as VOSH Safety Compliance Director, on behalf of C. Ray Davenport, Commissioner of Labor and Industry, has acknowledged the same before me as her true and voluntary act on behalf of the Commonwealth of Virginia.

Given under my hand this 15<sup>th</sup> day of May, 2018.

Jane Lester Daffron  
Notary Public

My commission expires: 2/29/2020  
Registration No.: 336377



**VIRGINIA OCCUPATIONAL SAFETY and HEALTH (VOSH)  
CITATION AND PROPOSED CIVIL PENALTIES  
ISSUED TO  
LIGHTING MAINTENANCE, INC.**

**VOSH inspection number 1034251; issued August 6, 2015**



Virginia Department of Labor and Industry  
Virginia Occupational Safety and Health (VOSH) Compliance  
10515 Battleview Parkway  
Manassas, VA 20109  
Phone: (703) 392-0900 Fax: (703) 392-0308



## Citation and Notification of Penalty

To:  
Lighting Maintenance Incorporated  
and its successors  
832 Oregon Ave, Suite A  
Linthicum, MD 21090

Inspection Number: 1034251  
Inspection Date(s): 02/09/2015-02/09/2015  
Issuance Date: 08/06/2015

Inspection Site:  
Northbound 95 Exit 169 A  
Springfield, VA 22150

The violation(s) described in this citation and notification of penalty is/are subject to abatement and/or payment of the penalty as described in this citation and notification of penalty unless otherwise indicated in the department's order below.

**Citation and Notification of Penalty.** Described herein are alleged violations of Virginia's Occupational Safety and Health (VOSH) laws, standards and/or regulations. Any penalty proposed is based on the corresponding violation. In accordance with Virginia Code §40.1-49.4(b)(4), you must abate all alleged violations by the dates listed and pay the penalties proposed, unless, within 15 working days (excluding weekends and State and Federal holidays) from the date you receive this citation, you submit a written notice of contest to the Virginia Department of Labor and Industry Regional Office at the address listed above. Issuance of this citation does not constitute a finding by the Commissioner that you have violated the law, standard or regulation described unless you fail to file a written notice of contest or this citation is affirmed by a court of law.

Please read the enclosed booklet entitled *Employer Responsibilities and Courses of Action Following a VOSH Inspection* in conjunction with this citation to learn your rights and responsibilities.

**Posting.** Virginia law requires you to immediately post a copy of this Citation in a prominent place at or near the location of the violation(s), or if it is not practicable because of the nature of your operations to do so, in a place where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) have been abated, or for 3 working days (excluding weekends, State and Federal holidays), whichever is longer. The penalty amounts may be marked out or covered up prior to posting. Please note that these penalty amounts are releasable by the Department in response to a Freedom of Information Act (FOIA) request.

**Informal Conference.** You have the right to an informal conference with the VOSH Regional Safety Director at which you may present evidence to support amending the citation, order of abatement or penalties proposed. An informal conference, which is normally held during the 15 working day contest period, is optional. If you wish to attend an informal conference, you must contact the VOSH Regional Safety Director at the Regional Office listed above.

If you request an informal conference, you must notify your employees of the time and place. Be sure to bring to the conference any documentation of existing conditions as well as abatement steps taken thus far. If conditions warrant, this matter may be resolved amicably without the need for litigation, by way of an Informal Settlement Agreement.

**Requesting an informal conference does not extend the 15 working day contest period.**

**Right to Contest.** You have the right to contest this Citation. You may contest all citation items or only individual items. You may also contest proposed penalties and/or abatement dates without contesting the underlying violations. This citation and the penalties proposed will become a final order of the Commissioner of Labor and Industry unless you notify VOSH in writing within 15 working days of receiving this citation that you contest the citation or any part thereof.

**Penalty Payment.** Penalties are due within 15 working days of receipt of this notification unless you contest. Make your check or money order payable to "Commonwealth of Virginia ". Please indicate the Inspection Number on the check or money order.

The Virginia Department of Labor and Industry does not agree to any restrictions or conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

**Notification of Corrective Action.** For violations which you do not contest, you must promptly notify the VOSH Regional Safety Director at the Regional Office listed above, by completing the enclosed Report on Correction of Violations form, and indicates that you have taken appropriate corrective action by the date(s) specified in this citation. The form must include abatement steps you have taken and the dates, together with adequate supporting documentation, e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results, etc.

**Employment Discrimination Unlawful.** Virginia Code §§40.1-51.2:1 and -51.2:2 prohibit discrimination against any employee who has filed a complaint or who has exercised any rights under the safety and health provisions of Title 40.1 of the Code of Virginia. An employee who believes that he/she has been discriminated against may file a complaint no later than 60 days after the discrimination occurred with the VOSH Office of Whistleblower Protection at Suite 207, 600 East Main Street, Richmond, Virginia 23219.

**Notice to Employees.** The law gives an employee or his/her representative the opportunity to contest in writing any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the Regional Office at the address shown above and postmarked within 15 working days (excluding weekends and State and Federal holidays) of the employer's receipt of this Citation.

Virginia Department of Labor and Industry  
Virginia Occupational Safety and Health (VOSH) Compliance  
10515 Battleview Parkway  
Manassas, VA 20109  
Phone: (703) 392-0900 Fax: (703) 392-0308



---

## NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with VOSH to discuss the Citation(s) issued 08/06/2015. The conference will be held at the VOSH office located at 10515 Battleview Parkway Manassas, VA 20109 on \_\_\_\_\_ at \_\_\_\_\_. Employees and/or representatives of employees have a right to attend an informal conference.

Virginia Department of Labor and Industry  
Virginia Occupational Safety and Health (VOSH) Compliance  
10515 Battleview Parkway  
Manassas, VA 20109

Inspection Number: 1034251  
Inspection Date: 02/09/2015-  
02/09/2015  
Issuance Date: 08/06/2015



**Citation and Notification of Penalty**

Company Name: Lighting Maintenance Incorporated  
Inspection Site: Northbound 95 Exit 169 A Springfield, VA 22150

**Citation 1 Item 1**

Type of Violation:  **Serious**

1910.147(f)(3)(ii)(D): The employer, Lighting Maintenance Inc. did not ensure that each authorized employee shall affix a personal lockout or tagout device to the group lockout device, group lockbox, or comparable mechanism when he or she begins work, and shall remove those devices when he or she stops working on the machine or equipment being serviced or maintained.

On February 9, 2015 located at Northbound I95 Exit 169A, Springfield, Virginia, 22150, an employee was repairing a faulty conductor in a junction box and did not install a personal lockout or tagout device to the group lockout device, group lockbox, or comparable mechanism before he started working in the junction box. This resulted in his being fatally electrocuted when the circuit was energized from a remote electrical panel box.

**Date by Which Violation Must Be Abated:**

**August 12, 2015**

**Proposed Penalty:**

**\$7000.00**

**Citation 1 Item 2**

Type of Violation:  **Serious**

1910.151(b): The employer, Lighting Maintenance Inc. did not ensure that employees in the absence of an infirmary, clinic, or hospital in near proximity to the workplace which is used for the treatment of all injured employees, adequate first aid supplies shall be readily available.

On February 9, 2015 located at Northbound I95 Exit 169A, Springfield, Virginia, 22150, employees were not trained to render first aid. Response time for emergency services to access the accident site was in excess of four minutes.

**Date by Which Violation Must Be Abated:**

**September 25, 2015**

**Proposed Penalty:**

**\$1470.00**

Virginia Department of Labor and Industry  
Virginia Occupational Safety and Health (VOSH) Compliance  
10515 Battleview Parkway  
Manassas, VA 20109

Inspection Number: 1034251  
Inspection Date: 02/09/2015-  
02/09/2015  
Issuance Date: 08/06/2015



**Citation and Notification of Penalty**

Company Name: Lighting Maintenance Incorporated  
Inspection Site: Northbound 95 Exit 169 A Springfield, VA 22150

**Citation 1 Item 3**

Type of Violation: **Serious**

1910.303(b)(2): The employer, Lighting Maintenance Inc. did not ensure the appropriate installation and use of equipment. Listed or labeled equipment shall be installed and used in accordance with any instructions included in the listing or labeling.

On February 9, 2015, located at Northbound I95 Exit 169A, Springfield, Virginia, 22150, an employee was using a Siemens catalogue number QJ22B150 overcurrent device that Lighting Maintenance Inc. calls a (shot box) to check faults on live electrical conductors that was not listed or labeled for that use, which may have resulted in arc flash or electrocution.

**Date by Which Violation Must Be Abated:**

**August 12, 2015**

**Proposed Penalty:**

**\$2450.00**

**Citation 1 Item 4 a**

Type of Violation: **Serious**

1910.333(b)(2)(v)(B): The employer, Lighting Maintenance Inc. did not ensure that employees exposed to the hazards associated with reenergizing the circuit or equipment shall be warned to stay clear of circuits and equipment.

On February 9, 2015 located at Northbound I95 Exit 169A, Springfield, Virginia, 22150, employees were exposed to hazards associated with reenergizing the circuit. Employees were not warned to stay clear of circuits and equipment before being reenergized. This resulted in an employee being fatally electrocuted when the circuit he was repairing was reenergized without warning.

**Date by Which Violation Must Be Abated:**

**August 12, 2015**

**Proposed Penalty:**

**\$7000.00**

Virginia Department of Labor and Industry  
Virginia Occupational Safety and Health (VOSH) Compliance  
10515 Battleview Parkway  
Manassas, VA 20109

Inspection Number: 1034251  
Inspection Date: 02/09/2015-  
02/09/2015  
Issuance Date: 08/06/2015



**Citation and Notification of Penalty**

Company Name: Lighting Maintenance Incorporated  
Inspection Site: Northbound 95 Exit 169 A Springfield, VA 22150

**Citation 1 Item 4 b**

Type of Violation:  **Serious**

1910.333(a): The employer, Lighting Maintenance Inc. did not ensure that safety-related work practices shall be employed to prevent electric shock or other injuries resulting from either direct or indirect electrical contacts, when work is performed near or on equipment or circuits which are or may be energized. The specific safety-related work practices shall be consistent with the nature and extent of the associated electrical hazards.

On February 9, 2015 located at Northbound I95 Exit 169A, Springfield, Virginia, 22150, Lighting Maintenance Inc. failed to employ safety-related work practices to prevent electric shock or other injuries resulting from either direct or indirect electrical contacts, when work is performed near or on equipment or circuits which are or may be energized.

**Date by Which Violation Must Be Abated:**

**September 10, 2015**

**Proposed Penalty:**

**\$0.00**

**Citation 1 Item 5**

Type of Violation:  **Serious**

1910.335(a)(2)(i)(A): The employer, Lighting Maintenance Inc. did not ensure that employees use Fuse handling equipment, insulated for the circuit voltage, to remove or install fuses when the fuse terminals are energized.

On February 9, 2015 located at Northbound I95 Exit 169A, Springfield, Virginia, 22150, an employee was exposed to an energized line side of a square D disconnect while removing a fuse without using appropriate fuse handling equipment. The square D disconnect is located inside panel 199. The failure to use appropriate fuse handling equipment could expose the employee to a possible electrocution or shock.

**Date by Which Violation Must Be Abated:**

**August 12, 2015**

**Proposed Penalty:**

**\$2450.00**

Virginia Department of Labor and Industry  
Virginia Occupational Safety and Health (VOSEH) Compliance  
10515 Battleview Parkway  
Manassas, VA 20109

Inspection Number: 1034251  
Inspection Date: 02/09/2015-  
02/09/2015  
Issuance Date: 08/06/2015



Citation and Notification of Penalty

Company Name: Lighting Maintenance Incorporated  
Inspection Site: Northbound 95 Exit 169 A Springfield, VA 22150

Citation 1 Item 6

Type of Violation: **Serious**

1910.335(a)(2)(ii): The employer, Lighting Maintenance Inc. did not ensure that protective shields, protective barriers, or insulating materials be used to protect each employee from shock, burns, or other electrically related injuries while that employee is working near exposed energized parts which might be accidentally contacted or where dangerous electric heating or arcing might occur. When normally enclosed live parts are exposed for maintenance or repair, they shall be guarded to protect unqualified persons from contact with the live parts.

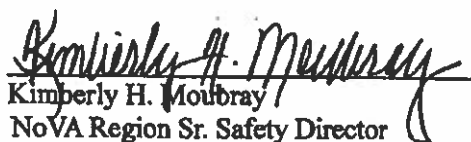
On February 9, 2015 located at Northbound I95 Exit 169A, Springfield, Virginia, 22150, an employee was exposed to the energized line side of a square D disconnect while removing a fuse and installing conductor leads from a Siemens catalogue number QJ22B150 overcurrent device to the energized line side of a Square D disconnect located in panel 199 without appropriate personal protective equipment in place. This exposed the employee to the hazard of arc flash, which may have resulted in severe injury or death.

Date by Which Violation Must Be Abated:

August 12, 2015

Proposed Penalty:

\$2450.00

  
Kimberly H. Moulbray  
NoVA Region Sr. Safety Director

FILED by Arlington County Circuit Court  
04/25/2018



CL17001898-00  
GOVT  
fo

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF ARLINGTON

C. RAY DAVENPORT )  
Commissioner of Labor and Industry )

Plaintiff, )

v. )

Civil Action No. CL17-1898-00

MILLER & LONG CO. INC. )

Defendant. )

ORDER

This matter came before the Court on Commissioner C. Ray Davenport's ("Commissioner") Motion for Nonsuit as a matter of right pursuant to Va. Code § 8.01-380, and IT APPEARING that on July 26, 2017, the Commissioner filed a Complaint against Miller & Long Co. Inc. that no nonsuit has been taken to this cause, and that the defendant, Miller & Long Co. Inc. has not filed a counterclaim, cross claim or third-party claim, it is therefore ADJUDGED, ORDERED AND DECREED that the Commissioner's motion is GRANTED and that this matter be and hereby is nonsuited without 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, place it among the ended cases, and shall send an attested copy of this Order to both parties.

Enter:

*William M. ...*  
Judge

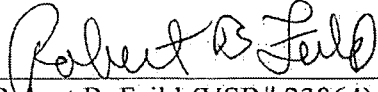
Date:

*April 25, 2018*



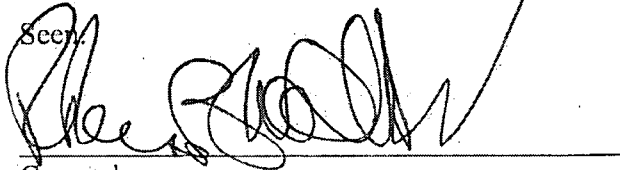
I ask for this:

**C. RAY DAVENPORT,**  
Commissioner of Labor and Industry



Robert B. Feild (VSB# 23864)  
Special Assistant Commonwealth's Attorney  
County of Arlington  
600 East Main Street, Suite 207  
Richmond, VA 23219  
Phone 804-786-4777  
Fax 804-786-8418

Seen



Counsel

Robert B. Walker (VA Bar No. 39923)  
709 Old Hunt Way  
Herndon, VA 20170  
Phone 703-437-5128  
Fax 703-437-5149

Adele L. Abrams, Esq., CMSP (pro hac vice)  
Law Office of Adele L. Abrams PC  
4740 Corridor Place, Suite D  
Beltsville, MD 20705  
Phone 301-595-3520  
Fax 301-595-3525

Counsel for Miller & Long Co. Inc.

**VIRGINIA:**

**IN THE CIRCUIT COURT OF CHARLOTTESVILLE**

<b>C. RAY DAVENPORT,</b>	)	
Commissioner of Labor and Industry,	)	
<i>Plaintiff,</i>	)	
v.	)	Civil Action No. CL17000515
	)	
<b>ROCKINGHAM CONSTRUCTION COMPANY,</b>	)	
<b>INCORPORATED</b>	)	
<i>Defendant.</i>	)	

**FINAL ORDER**

This matter came before the Court on Commissioner C. Ray Davenport's Motion for Nonsuit as a matter of right pursuant to *Va. Code* § 8.01-380, and IT APPEARING that on September 21, 2017, the Commissioner filed a complaint against Rockingham Construction Company, Incorporated ("Rockingham Construction"), that no nonsuit has been taken to this cause, that the Complaint has not been served, that the defendant has not filed a cross-bill, and that the parties have settled all outstanding issues through a separate Settlement Agreement, it is therefore **ADJUDGED, ORDERED AND DECREED:**


that the Commissioner's motion is **GRANTED** and that this matter be and hereby is nonsuited without prejudice as a matter of right pursuant to *Va. Code* § 8.01-380. It is **FURTHERMORE ORDERED** that the Clerk will strike this matter from the docket of this Court, place it among the ended civil cases, and shall send an attested copy of this Order to both counsel of record.

Entered this 2<sup>ND</sup> day of ~~December~~, 2017.  
January 18

  
\_\_\_\_\_  
Judge


I ask for this:

**C. RAY DAVENPORT,**  
Commissioner of Labor and Industry

  
\_\_\_\_\_  
Alfred B. Albiston (VSB # 29851)  
Special Assistant Commonwealth's Attorney  
City of Charlottesville  
c/o Department of Labor and Industry  
600 East Main Street, Suite 207  
Richmond, Virginia 23219-2430

804-786-6760  
804-786-8418 fax  
[alfred.albiston@doli.virginia.gov](mailto:alfred.albiston@doli.virginia.gov)

*Counsel for Plaintiff* **C. RAY DAVENPORT, Commissioner of Labor and Industry**

A COPY TESTE:  
LLEZELLE DUGGER, CLERK  
  
\_\_\_\_\_, DEP. CLERK

**C. RAY DAVENPORT,**  
Commissioner of Labor and Industry,

and

**ROCKINGHAM CONSTRUCTION COMPANY, INCORPORATED**

**SETTLEMENT AGREEMENT**

THIS SETTLEMENT AGREEMENT (the Agreement) is made and entered into this 16<sup>th</sup> day of November, 2017, by and between the Commonwealth of Virginia, Commissioner of Labor and Industry (the "Commissioner") and Rockingham Construction Company, Incorporated ("Rockingham Construction") (collectively, the "Parties").

**RECITALS**

WHEREAS, the Commissioner issued a citation to Rockingham Construction, on or about January 14, 2016, alleging one Serious violation of the Virginia Occupational Safety and Health (VOSH) law and regulations, specifically, VOSH regulation § 1926.953(f), and proposing a civil penalty of \$6,300.00 (copy of VOSH Citation, attached); and

WHEREAS, Rockingham Construction filed within 15 working days from the date of its receipt, a written notice contesting the violation, the proposed penalty and abatement date, as provided for in §40.1-49.4, of the *Code of Virginia*;

WHEREAS, the Commissioner filed a civil Complaint against Rockingham Construction in the Charlottesville Circuit Court captioned, *C. Ray Davenport, Commissioner of Labor and Industry v. Rockingham Construction Company*,

*Incorporated* (Case No. CL17-515), seeking to affirm the citation and proposed penalty (the "Case"); and

WHEREAS, the parties desire to settle this case short of trial in a manner that will further protect and promote the safety and health of Rockingham Construction's employees, and to avoid the time and expense of court proceedings.

**TERMS AND CONDITIONS OF AGREEMENT**

1. VOSH Inspection number 1106277, Citation 1, Item 1 is amended to cite a serious violation of VOSH regulation § 1926.501(b)(4)(i), is upheld as amended, and the \$6,300.00 civil penalty is affirmed.

2. Rockingham Construction shall pay the agreed civil penalty of \$6,300.00 within thirty (30) days of the date of execution of this Agreement. Payment shall be made by check or money order, payable to the Treasurer of Virginia, with VOSH inspection number 1106277 noted on the payment.

3. Upon execution of this Agreement, counsel for the Commissioner will submit a Motion and Order in the Charlottesville Circuit Court dismissing the Case with prejudice.

4. Pursuant to the requirements of *Virginia Administrative Code* §16 VAC 25-60-40(1), Rockingham Construction shall post a copy of this Settlement Agreement for ten (10) consecutive days at a conspicuous place or location on all its jobsites where notices to its employees generally are posted.

5. Rockingham Construction hereby withdraws its original notice of contest, and certifies that the affirmed violation as amended, and referenced in paragraph 1 above, has been corrected and abated.

### **SETTLEMENT OF CLAIMS**

6. This Agreement is meant to settle the above contested claim, and is not an admission of liability by Rockingham Construction. 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.

7. No part of the foregoing or following agreements, statements, findings and actions taken by Rockingham Construction shall be deemed an admission by Rockingham Construction of a violation of the Code or any other law or an admission of the allegations contained within the citation or notification of penalty in this matter. Rather, the agreements, statements, findings, and actions taken herein are made solely for the purpose of compromising and settling this matter amicably to avoid protracted and expensive litigation, and shall not to be used in any judicial or administrative forum for any purpose whatsoever, except by the Commissioner in subsequent proceedings and matters arising under the Virginia Occupational Safety and Health (VOSH) law and regulations. The parties specifically understand that the compromise and settlement of this matter is not intended to and shall not constitute an admission or finding of civil liability or responsibility of any kind in any civil personal injury or wrongful death action (or any indemnification action related to a civil personal injury or wrongful death action) and such civil liability or responsibility is specifically denied by Rockingham Construction.

8. Nothing in this order shall be construed to restrict in any way Rockingham Construction's right in future VOSH inspections to argue the inapplicability of the VOSH Standards for the Construction Industry to the same or similar fact situation that was the basis for the violation issued to Rockingham Construction in this case.

9. The Commissioner shall file a Motion and Order dismissing the Case, with prejudice. The Motion and Order will be filed immediately upon both parties executing this Agreement, and with the expectation that the Case will be dismissed from the Court's docket.

**ROCKINGHAM CONSTRUCTION COMPANY, INCORPORATED**

BY: [Signature]  
Agent

12/12/17  
Date

Commonwealth of Virginia,  
COUNTY/CITY ROCKINGHAM, to wit:

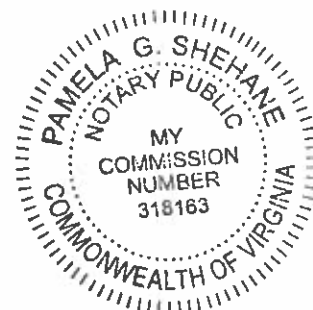
I, the undersigned Notary Public in and for the jurisdiction aforesaid, do hereby certify that TRAVIS SINNETT, whose name is signed to the foregoing as PRESIDENT of Rockingham Construction Company, Incorporated, has acknowledged the same before me as their true and voluntary act, done on behalf of said corporation.

Given under my hand this 12<sup>th</sup> day of DECEMBER, 2017.

[Signature]  
Notary Public

My commission expires: August 31, 2018

Registration No.: 318163



**COMMISSIONER OF LABOR AND INDUSTRY**

By: Jennifer L. Rose  
Jennifer L. Rose,  
VOSH Safety Compliance Director  
Department of Labor & Industry

12-19-17  
Date

COMMONWEALTH OF VIRGINIA:  
CITY OF RICHMOND, to wit:

I, the undersigned Notary Public in and for the jurisdiction aforesaid, do hereby certify that Jennifer L. Rose, in her capacity of VOSH Safety Compliance Director, on behalf of C. Ray Davenport, Commissioner of Labor and Industry, has acknowledged the same before me as her true and voluntary act on behalf of the Commonwealth of Virginia.

Given under my hand this 19<sup>th</sup> December day of November, 2017.

Mary Starnes  
Notary Public

My commission expires: 8/31/2019

Registration No.: 7099887



**VIRGINIA OCCUPATIONAL SAFETY and HEALTH (VOSH)  
CITATION AND PROPOSED CIVIL PENALTY  
ISSUED TO  
ROCKINGHAM CONSTRUCTION COMPANY, INCORPORATED**

**VOSH inspection number 1106277; issued January 14, 2016**

Virginia Department of Labor and Industry  
Virginia Occupational Safety and Health (VOSH) Compliance  
10515 Battleview Parkway  
Manassas, VA 20109

Inspection Number: 1106277  
Inspection Date: 11/18/2015-  
11/18/2015  
Issuance Date: 01/14/2016



**Citation and Notification of Penalty**

Company Name: Rockingham Construction Company, Inc.  
Inspection Site: 1000 West Main Street Charlottesville, VA 22903

**Citation 1 Item 1**

Type of Violation: **Serious**

1926.953(f): Removing covers. When covers are removed from enclosed spaces, the opening shall be promptly guarded by a railing, temporary cover, or other barrier designed to prevent an accidental fall through the opening and to protect employees working in the space from objects entering the space.

On November 16th, 2015 at the approximate location of 1000 West Main Street, Charlottesville, VA 22903 employees of Rockingham Construction Company were preparing to install conduit lines in a manhole for future electric utilities. Employees removed a manhole cover with the approximate diameter of two and a half feet to view current underground utilities. After employees viewed the utilities, employees proceeded to prepare the area and gather necessary equipment with the manhole open and uncovered. Approximately five minutes after the manhole cover was removed an employee moved a chain-link portable fence that was in the work area and fell approximately 12 feet into the manhole.

**Date by Which Violation Must Be Abated:**  
**Proposed Penalty:**

**Corrected During Inspection**  
**\$6300.00**

  
\_\_\_\_\_  
Kimberly H. Moubrey  
NoVA Region Sr. Safety Director

3  
VIRGINIA:

11  
PC000021 JAN 3'19

IN THE CIRCUIT COURT OF THE CITY OF ROANOKE

COURTNEY M. MALVEAUX

Plaintiff(s)

v.

Case No. CL13-1580

UNITED PARCEL SERVICE INC

Defendant(s)

It appears to the Court that this is a pending case wherein, for more than three years, there has been no order or proceeding. The Court therefore, in the exercise of its discretion and pursuant to Virginia Code § 8.01-335 (B), ORDERS that this case be struck from the docket, and thereby discontinued. As that statute provides, no notice has been given. The Court, pursuant to Rule 1:13, has dispensed with endorsement.

The Clerk has certified to the Court that there are no funds being held by the Clerk in her fiduciary accounts to the credit of this case, and there are no funds that have been paid into Court in this case that have not been disbursed.

The Clerk shall provide a certified copy of this Order to all counsel of record.

ENTER: 12-7-18

  
Judge

CIRCUIT COURT

Received Order From

WDB  JCC   
DBC  CND

On DEC 11 2018

By *W. Craig*  
Deputy Clerk  
City of Roanoke

Regarding the decree or order to which  
this stamp is affixed, I certify that on

*Jan 2*, 20*19*  
I delivered a certified copy to:

*R. Field, B. Hamrick, Comm*  
*W. Craig*  
Deputy Clerk Circuit Court, City of Roanoke  
*away*