

**FINAL ORDERS OF THE VIRGINIA COURTS  
IN CONTESTED CASES ARISING UNDER THE  
VIRGINIA OCCUPATIONAL SAFETY AND HEALTH ACT  
2019**

Baker Roofing Company, LLC, C. Ray Davenport, Commissioner of Labor and Industry  
v. Case No. CL1803298M-03 (Circuit Court of the City of Newport News)

Damco Distribution Services, C. Ray Davenport, Commissioner of Labor and  
Industry v. Case No. CL17002086-00 (Circuit Court of the City of  
Chesapeake)

Design Electric, Inc., C. Ray Davenport, Commissioner of Labor and Industry v.  
Case No. CL16000224-00 (Circuit Court of the City of Charlottesville)

Design Electric, Inc., C. Ray Davenport, Commissioner of Labor and Industry v.  
Case No. CL18003019-00 (Circuit Court of the City of Norfolk)

Eastern Constructors, Inc., C. Ray Davenport, Commissioner of Labor and  
Industry v., Case No. CL19001969-00 (Circuit Court of the County of  
Loudoun)

Goodyear Tire and Rubber Co., The, C. Ray Davenport, Commissioner of  
Labor and Industry v., Case No. CL19000134-00 (Circuit Court of the City  
of Danville)

Industrial Fabricators of Virginia, Inc., C. Ray Davenport, Commissioner of  
Labor and Industry v., Case No. CL18000804-00 (Circuit Court of the  
County of Rockbridge)

Lane Bryant, LLC, C. Ray Davenport, Commissioner of Labor and Industry v.,  
Case No. CL17000949-00 (Circuit Court of the County of Albemarle)

Pattillo Construction Corp., C. Ray Davenport, Commissioner of Labor and  
Industry v., Case No. CL18002340-00 (Circuit Court of the County of  
Augusta)

Pungo Off Road / Pungo Tire & Wheel, C. Ray Davenport, Commissioner of  
Labor and Industry v., Case No. CL18004121-00 (Circuit Court of the City  
of Virginia Beach)

River City Range, LLC d/b/a Colonial Shooting Academy, Commissioner of  
Labor and Industry v., Case No. CL19005533-00 (Circuit Court of the  
County of Henrico)

RockTenn Company, C. Ray Davenport, Commissioner of Labor and Industry  
v., Case No. CL13000077-00 (Circuit Court of the County of King William)

Yearout Companies, LLC, C. Ray Davenport, Commissioner of Labor and Industry v., Case No. CL19001774-00 (Circuit Court of the County of Augusta)

Penn Line Service, Inc. v. Department of Labor and Industry, et al., Case No. CL18003465-00 (Circuit Court of the County of Hanover), writ refused, Supreme Court of Virginia record no. 191280  
Uncontested - Late Notice of Contest

VIRGINIA:

IN THE CIRCUIT COURT FOR CITY OF NEWPORT NEWS

<b>C. RAY DAVENPORT</b>	)
Commissioner of Labor and Industry	)
	)
<i>Plaintiff,</i>	)
	)
v.	)
	)
	) Civil Action No. CL18-03298M-03
	)
<b>BAKER ROOFING OF NORFOLK, LLC</b>	)
dba <b>BAKER ROOFING COMPANY, LLC</b>	)
	)
<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 issued November 8, 2016, attached as Exhibit "A" is hereby amended as follows:
  - a) Repeat Citation 2, Item 1 is reclassified to a "Serious" violation with a penalty of seven hundred twenty dollars (\$720.00);
2. That the Defendant will pay the total penalty of \$720.00 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 116336 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 it is expressly understood that any modifications to penalty level in this agreement are contingent upon the Defendant's full payment of all penalties due. Failure by the Defendant

2-19-19  
DOL + Wm

to substantially comply with the terms of this Order or to make a penalty payment by the due date constitutes a breach of this Order. Any breach shall mean that all originally proposed citations and penalties shall be reinstated, and all unpaid amounts shall become due and payable 15 calendar days following the breach;

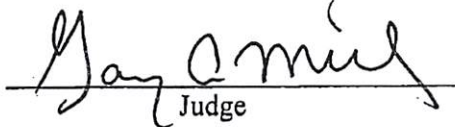
5. That the Employer certifies the violations have been abated;
6. That as part of this Agreement, Defendant has provided documentation it has performed training on fall protection for its supervisory personnel;
7. That the Employer will post a copy of this settlement agreement for ten (10) working days at each work site in Virginia in a conspicuous location where it generally posts notices to its employees as required by 16 VAC 25-60-40;
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 the violation affirmed in paragraph 1 may only be used as the basis for a repeat citation until July 19, 2019;
11. 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;
12. That this agreement shall not be construed as an admission by the Defendant of civil or criminal liability for any violation or penalty alleged by the Commissioner.
13. 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.

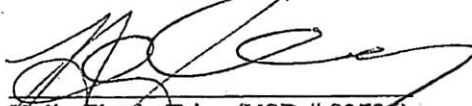
Entered this 15 day of Feb 2019.

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

  
Judge

WE ASK FOR THIS:

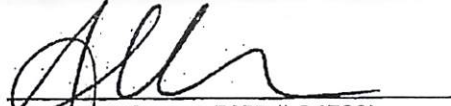
C. RAY DAVENPORT, Commissioner of Labor and Industry

  
Holly Eberly Trice (VSB # 82736)  
Special Assistant Commonwealth's Attorney  
Department of Labor and Industry  
600 E. Main Street  
Suite 207  
Richmond, VA 23219  
[Holly.trice@doli.virginia.gov](mailto:Holly.trice@doli.virginia.gov)  
804-786-2641

Counsel for the Commissioner

SEEN AND AGREED:

BAKER ROOFING OF NORFOLK LLC

  
Amanda Weaver (VSB# 86782)  
Williams Mullen  
PO Box 1320  
Richmond, VA 23218  
[Aweaver@williamsmullen.com](mailto:Aweaver@williamsmullen.com)  
804-420-6226

Counsel for Baker Roofing of Norfolk, LLC.

A COPY TESTE, Angela F. Reason, Clerk  
Newport News Circuit Court

By: , D.C.



Virginia Department of Labor and Industry  
Virginia Occupational Safety and Health (VOSH) Compliance  
Interstate Corporate Center, Bldg. 6  
6363 Center Drive, Suite 101  
Norfolk, VA 23502  
Phone: (757) 455-0891 Fax: (757) 455-0899



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## Citation and Notification of Penalty

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To:  
Baker Roofing Company LLC  
and its successors  
4937 Cleveland Street  
Virginia Beach, VA 23454

Inspection Number: 1163336  
Inspection Date(s): 07/19/2016-07/19/2016  
Issuance Date: 11/08/2016

Inspection Site:  
12300 Jefferson Avenue  
Newport News, VA 23602

*The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given 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 appropriate VOSH Regional Safety or Health 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 appropriate VOSH Regional Safety or Health 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 appropriate VOSH Regional Safety or Health 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  
Interstate Corporate Center, Bldg. 6,  
6363 Center Drive, Suite 101  
Norfolk, VA 23502  
Phone: (757) 455-0891 Fax: (757) 455-0899



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## NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with VOSH to discuss the Citation(s) that were issued 11/08/2016. The conference will be held at the VOSH office located at Interstate Corporate Center, Bldg. 6, 6363 Center Drive, Suite 101, Norfolk, VA 23502 on \_\_\_\_\_ at \_\_\_\_\_. Employees and/or representatives of employees have a right to attend this informal conference.

(date) (time)

**Virginia Department of Labor and Industry**  
**Virginia Occupational Safety and Health (VOSH) Compliance**  
Interstate Corporate Center, Bldg. 6,  
6363 Center Drive, Suite 101  
Norfolk, VA 23502

Inspection Number: 1163336  
Inspection Date: 07/19/2016-  
07/19/2016  
Issuance Date: 11/08/2016



**Citation and Notification of Penalty**

Company Name: Baker Roofing Company LLC  
Inspection Site: 12300 Jefferson Avenue Newport News, VA 23602

**Citation 2 Item 1**

Type of Violation: **Repeat-Serious**

1926.501(b)(10): Located at 12300 Jefferson Avenue, Newport News VA 23602. The employer did not ensure that all employees conducting roofing activities near unprotected sides and edges above 6 feet from the lower level were protected from falling by the use of guardrail systems, safety net systems, or a personal fall arrest systems. In the following instance:

One employee was observed conducting roofing activities at a height approximately 30 feet from the ground level without any fall protection.

Baker Roofing LLC was previously cited for a violation of this identical occupational safety and health standard, 1926.501(b)(10), which was contained in VOSH inspection number 317163921, citation number 1, item number 1 and was affirmed as a final order on January 8, 2015, with respect to a workplace located at 4485 Virginia Beach Blvd., Virginia Beach, VA 23462.

Baker Roofing LLC was previously cited for a violation of an equivalent occupational safety and health standard 1926.501(b)(11), which was contained in VOSH inspection number 317803989, citation number 1, item number 1 and was affirmed as a final order on August 29, 2014, with respect to a workplace located at 3511 Bridge Road, Suffolk, VA 23435.

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

**Corrected During Inspection**  
**\$12600.00**

  
\_\_\_\_\_  
Jeannie Buckingham  
Regional Safety Director

Virginia Department of Labor and Industry  
Virginia Occupational Safety and Health (VOSH) Compliance  
Interstate Corporate Center, Bldg. 6,  
6363 Center Drive, Suite 101  
Norfolk, VA 23502  
Phone: (757) 455-0891 FAX: (757) 455-0899



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## INVOICE/DEBT COLLECTION NOTICE

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Company Name: Baker Roofing Company LLC  
Inspection Site: 12300 Jefferson Avenue Newport News, VA 23602  
Issuance Date: 11/08/2016  
Inspection Number: 1163336

Summary of Proposed Penalties:

Citation 2 Item 1, Repeat-Serious	12600.00
<b>TOTAL PROPOSED PENALTIES:</b>	<b>12600.00</b>

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Pursuant to Virginia Code §40.1-49.4.A.4.(a), the Commissioner of the Department of Labor and Industry may assess interest on all past-due penalties as well as administrative costs incurred in the collection of the penalties for violations of Virginia Occupational Safety and Health (VOSH) laws, regulations, and standards. Interest charges are assessed at an annual rate in accordance with Virginia Code §2.2-4805.

Interest shall accrue from the date on which the citation, either as issued or as amended, becomes a final order of the Commissioner. A citation becomes a final order 15 working days after the date that the employer receives the citation unless the employer files a notice of contest with VOSH. Interest is waived if the employer pays the full amount within 30 calendar days of the final order date.

A debt is past-due 30 calendar days after the final order date unless the employer makes a satisfactory payment arrangement with the Commissioner. If the debt remains unpaid for more than 90 days, it is deemed delinquent and referred to the Office of the Attorney General or other collection agency for collection. Administrative costs incurred in collecting the debt will be added to the amount of the debt.

To avoid potential interest and collection costs, please send payment promptly for the total amount of the uncontested penalties shown on the citation to the Accounting Office, Virginia Department of Labor and Industry, Main Street Centre, 600 East Main Street, Suite 207, Richmond, Virginia 23219. You may use the enclosed self-addressed envelope. Please make your check or money order payable to: "Commonwealth of Virginia". Please indicate the Inspection Number on the payment. *Do not send payment to the Regional Office.*

  
Jeannie Buckingham  
VOSH Regional Safety Director

11-08-2016  
Date

**VIRGINIA:**

**IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE**

**C. RAY DAVENPORT** )  
Commissioner of Labor and Industry )  
*Plaintiff,* )  
v. ) Civil Case No. CL17002086-00  
**DAMCO DISTRIBUTION SERVICES, INC.** )  
*Defendant.* )

**AGREED ORDER**

WHEREAS, on or about September 10, 2015, plaintiff C. Ray Davenport, Commissioner of Labor and Industry ("Commissioner") issued a citation to defendant, Damco Distribution Services, Inc. ("Damco"), alleging two Serious violations of the Virginia Occupational Safety and Health Standards (VOSH) for General Industry, and proposing \$12,600.00 in civil penalties; and

WHEREAS, Damco 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 now ADJUDGED, ORDERED, and DECREED as follows:

1. That the VOSH citation, attached as Exhibit "A" is hereby amended as follows:

a) Citation 1, Item 1 is upheld as a "Serious" classified violation with the \$6,300 proposed penalty amended penalty to \$4,100.00;

b) Citation 1, Item 2 and its proposed penalty of \$6,300.00 are both vacated.

2. That Damco will pay the total penalty of \$4,100.00 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 1082155 noted on the payment;

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

4. That it is expressly understood that any modifications to penalty level in this agreement are contingent upon Damco's full payment of all penalties due. Failure by Damco to substantially comply with the terms of this Order or to make a penalty payment by the due date constitutes a breach of this Order. Any breach shall mean that the originally proposed violations and penalties shall be reinstated, and all unpaid amounts shall become due and payable 15 calendar days following the breach;

5. That Damco agrees that the cited violation will be abated within 30 days of the execution of the Agreed Order. Damco will not be required to affix or use aisle markers on the warehouse floor of the Chesapeake, Virginia location in areas that are not permanent aisles or permanent passageways, as provided for by regulation.

6. That Damco will post a copy of this settlement agreement for ten (10) working days at its workplace in Chesapeake, Virginia in a conspicuous location where it generally posts notices to its employees as required by 16 VAC 25-60-40;

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

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

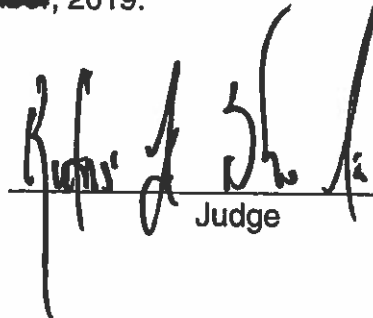
a civil penalty under Chapter 3 of Title 40.1 of the *Code of Virginia* shall not be admissible in evidence in the trial of any action to recover for personal injury or property damage sustained by any party;

9. That this agreement shall not be construed as an admission by Damco of civil or criminal liability for any violation or penalty alleged by the Commissioner;

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


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

Entered this 6<sup>th</sup> December day of ~~November~~, 2019.

  
\_\_\_\_\_  
Judge

WE ASK FOR THIS:

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

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

(804) 786-6760  
(804) 786-8418 Fax  
[Alfred.Albiston@doli.virginia.gov](mailto:Alfred.Albiston@doli.virginia.gov)

*Counsel for the Commissioner of Labor and Industry*

SEEN AND AGREED:

**DAMCO DISTRIBUTION SERVICES, INC.**



---

Joon Hwang (VSB# 82248)  
LITTLER MENDELSON, P.C.  
1650 Tysons Boulevard, Suite 700  
McLean, VA 22102  
Telephone: 703.442.8425  
Facsimile: 703.442.8428  
[JHwang@littler.com](mailto:JHwang@littler.com)

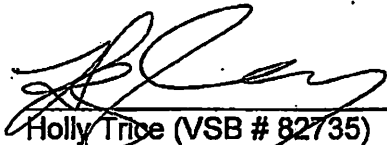
*Counsel for Damco Distribution Services, Inc. and its successors*





I ask for this:

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



Holly Trice (VSB # 82735)  
Special Assistant Commonwealth's Attorney  
City of Norfolk  
600 East Main Street, Suite 207  
Richmond, VA 23219-2430

804-786-2641  
804-786-8418 fax  
[Holly.Trice@doli.virginia.gov](mailto:Holly.Trice@doli.virginia.gov)

*Counsel for Plaintiff*

Seen and agreed:

**DESIGN ELECTRIC, INC.**



Travis W. Vance (VSB #79764)  
David I. Klass (VSB #78697)  
FISHER & PHILLIPS LLP  
227 West Trade Street, Ste. 2020  
Charlotte, NC 28202  
Telephone: (704) 334-4565  
Facsimile: (704) 334-9774  
E-mail: [tvance@fisherphillips.com](mailto:tvance@fisherphillips.com)  
E-mail: [dklass@fisherphillips.com](mailto:dklass@fisherphillips.com)

*Counsel for Defendant*

**VIRGINIA:**

**IN THE CIRCUIT COURT OF THE CITY OF CHARLOTTESVILLE**

**C. RAY DAVENPORT,** )  
Commissioner of Labor and Industry, )  
*Plaintiff,* )  
v. ) Civil Action No.: CL16-224  
**DESIGN ELECTRIC, INC.** )  
*Defendant.* )

**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 May 26, 2016, against the defendant Design Electric, Inc. ("Design Electric"), and IT APPEARING that the Commissioner and Design Electric 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.

Entered this 4<sup>th</sup> <sup>February</sup> day of ~~January~~, 2019.



Judge

I ask for this:

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



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

804.786.6760  
804.786.8418 fax  
[Alfred.albiston@doli.virginia.gov](mailto:Alfred.albiston@doli.virginia.gov)

*Counsel for Plaintiff*

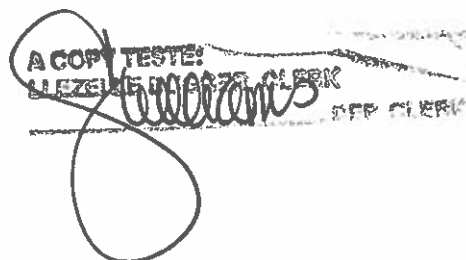
Seen and agreed:

**DESIGN ELECTRIC, INC.**



Travis W. Vance (VSB #79764)  
David I. Klass (VSB #78697)  
FISHER & PHILLIPS LLP  
227 West Trade Street, Ste. 2020  
Charlotte, NC 28202  
Telephone: (704) 334-4565  
Facsimile: (704) 334-9774  
E-mail: [tvance@fisherphillips.com](mailto:tvance@fisherphillips.com)  
E-mail: [dklass@fisherphillips.com](mailto:dklass@fisherphillips.com)

*Counsel for Defendant*

A COPY TESTED:  
LEZELLE D. BAZZ, CLERK  
  
OFF CLERK

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

**DESIGN ELECTRIC, INC.**

VOSH Inspection No. 317750370

**SETTLEMENT AGREEMENT**

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

**RECITALS**

WHEREAS, the Commissioner issued a citation to Design Electric, on or about, December 22, 2014, alleging one Serious violation of the Virginia Occupational Safety and Health ("VOSH") law and regulations, with a proposed civil penalty of \$7,000.00 (copy of VOSH Citation attached); and

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

WHEREAS, the Commissioner filed a civil Complaint against Design Electric in the Charlottesville Circuit Court, styled as *C. RAY DAVENPORT, Commissioner of Labor and Industry v. DESIGN ELECTRIC, INC.* (Case No. CL16-224), seeking to affirm the contested citation and associated penalty (the "Case"), and to which Design Electric filed an Answer denying liability; and

WHEREAS, the parties now desire to settle this case short of trial in a manner that will further protect and promote the safety and health of Design Electric'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 317750370, and docketed under case number CL14-224, the Serious citation 1, Item 1 and its proposed penalty will both be vacated. In exchange for and recognition of this action, Design Electric agrees to the following additional terms:

- a. Design Electric agrees to plan and host for its employees and the public, an NFPA 70E safety training program relating to the NFPA § 70E, to be held in the Charlottesville, VA area on or before February 1, 2019; and
- b. Design Electric agrees to provide and require each of its managers in its Telecom group attend a competent person fall protection training course, conducted on or before February 1, 2019.

2. Upon completing the training programs described in this Settlement Agreement, the Parties shall file a Joint Motion and Order to Dismiss the Case with prejudice. Once signed, the Joint Motion and Order to Dismiss will be filed with the Charlottesville Circuit Court, under the expectation that the Case and its underlying contested VOSH Citation will both be dismissed and the matter filed among the Court's closed cases.

3. Pursuant to *Virginia Administrative Code* §16 VAC 25-60-40(1), Design Electric 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.

### **SETTLEMENT OF CLAIMS**

4. This Agreement is meant to settle the above contested claim, and is not to be considered an admission of liability of Design Electric. 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.

5. No part of the foregoing or following Agreements, statements, findings and actions taken by Design Electric shall be deemed an admission by Design Electric 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. Further, it is specifically understood by the Parties 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 and such civil liability or responsibility is specifically denied by Design Electric.

6. Nothing in this Agreement shall be construed to restrict in any way the Commissioner's right under the same or similar factual circumstances, to issue citations to Design Electric or any other employer in future VOSH inspections for violations of the VOSH regulation as originally cited.

7. Upon receiving the executed Agreement, the Commissioner shall immediately thereafter draft and submit to Design Electric a Joint Motion and Order to dismiss the Case, with prejudice.

**DESIGN ELECTRIC, INC.,**

BY: [Signature]  
Agent

10-1-2018  
Date

Commonwealth of Virginia,

County/City of Charlottesville, to wit:

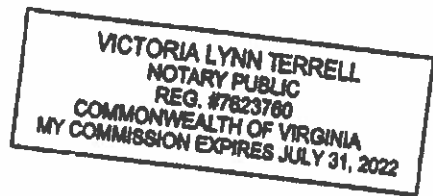
I, the undersigned Notary Public in and for the jurisdiction aforesaid, do hereby certify that Greg Smith, whose name is signed to the foregoing as a(n) President for Design Electric, Inc., has acknowledged the same before me as his/her true and voluntary act on behalf of said corporation.

Given under my hand this 1<sup>st</sup> day of October, 2018.

[Signature]  
Notary Public

My commission expires: July 31, 2022

Registration No.: 7623760



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

By: C. Ray Davenport  
C. Ray Davenport  
Commissioner of Labor and Industry  
Department of Labor & Industry

Commonwealth of Virginia:

City of Richmond, to wit:

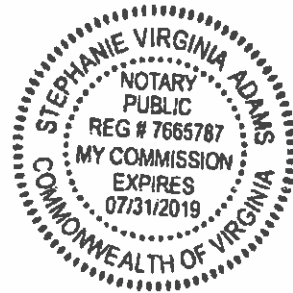
I, the undersigned Notary Public in and for the jurisdiction aforesaid, do hereby certify that C. Ray Davenport, whose name is signed to the foregoing as Commissioner of Labor and Industry, has acknowledged the same before me as his true and voluntary act on behalf of the Commonwealth of Virginia.

Given under my hand this 27 day of September, 2018.

Stephanie V Adams  
Notary Public

My commission expires: 7/31/2019

Registration No.: 7665787





**VIRGINIA OCCUPATIONAL SAFETY and HEALTH (VOSH)**

**CITATION AND PROPOSED CIVIL PENALTIES**

**ISSUED TO**

**DESIGN ELECTRIC, INC.**

**VOSH inspection number 317750370; issued December 22, 2014**

Virginia Department of Labor and Industry  
Occupational Safety and Health Compliance  
P.O. Box 77  
201 Lee Highway  
Verona, VA 24482  
Phone: (540) 248-9280 FAX: (540) 248-9284



---

## Citation and Notification of Penalty

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To:  
Design Electric Inc.  
and its successors  
PO Box 5772  
1307 Carlton Road  
Charlottesville, VA 22902

Inspection Number: 317750370  
Inspection Date(s): 07/01/2014 - 07/02/2014  
Issuance Date: 12/22/2014

Inspection Site:  
University of Virginia Medical Center  
Radiology Room #1064  
Charlottesville, VA 22905

*The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.*

---

Described herein are alleged violations of Virginia's Occupational Safety and Health Laws, standards and/or regulations. Any penalty proposed is based on the corresponding violation. In accordance with Virginia Code §40.1-49.4.B, you must abate all alleged violations by the dates listed and pay the penalties proposed, unless, within 15 working days (excluding weekends and Federal and State holidays) from the date you receive this citation, you submit a 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 notice of contest or this citation is affirmed by a court of law..

**Please read the enclosed booklet entitled *Employers Rights 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.** It should be noted that these amounts, however, 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 which you believe supports amending either the citation or penalties proposed. An informal conference, which is 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 the VOSH Regional Safety Director 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 should notify the VOSH Regional Safety Director at the Regional Office promptly, by completing the enclosed Report on Correction of Violations form, 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.

**Employer Discrimination Unlawful** - The law prohibits discrimination against an employee who has filed a complaint or who has exercised any rights under the Labor Laws 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 Virginia Department of Labor and Industry, Occupational Safety and Health Discrimination Office at Main Street Centre, 600 East Main Street, Suite 207, Richmond, Virginia 23219.

**Notice to Employees** - The law gives an employee or his/her representative the opportunity to contest 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 Federal holidays) of the employers receipt of this Citation.



## NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with VOSH to discuss the citation(s) issued on 12/22/2014. The conference will be held at the VOSH office located at 201 Lee Highway, Verona, VA 24482 on \_\_\_\_\_ at \_\_\_\_\_. Employees and/or representatives of employees have a right to attend an informal conference.

**Virginia Department of Labor & Industry**

Occupational Safety and Health Compliance

Inspection

317750370

Number:

Inspection Dates:

07/01/2014-07/02/2014

Issuance Date:

12/22/2014



**Citation and Notification of Penalty**

Company Name: Design Electric Inc.

Inspection Site: University of Virginia Medical Center, Radiology Room #1064, Charlottesville, VA 22905

**Citation 1 Item 1** Type of Violation: **Serious**

1926.416(a)(1): The employer, Design Electric Inc., did not ensure that employees were prohibited to work in proximity to electric power circuits and without protection against electric shock by de energizing and grounding the circuits, or effectively guarding the circuits by insulation or other means.

On June 29, 2014, two employees were pulling wires and installing new light fixtures in Radiology Room #1064 on the main level of the University of Virginia Hospital. The electrician instructed his helper to pull the new non energized wires inside the ceiling to an electrical box mounted near the entry door. The electrician was standing on an 8-foot step ladder connecting wires inside the ceiling area when he contacted an existing energized 277 volt wire inside the junction box. The energized wire identified as 7.2.14 shows indications of burning on the outer insulation, and a nick approximately 5 inches from the terminal end, exposing the copper within. The junction box had charring and discoloration on the exterior and interior surfaces, indicating high temperature electrical arcing. Upon contacting the energized wire, the electrician fell from the ladder. The electric circuits had not been de-energized prior to installing the light fixtures.

Date By Which Violation Must be Abated:

Corrected During Inspection

Proposed Penalty:

\$7,000.00

  
\_\_\_\_\_  
Kimberly H. Moubray  
NOVA Region Sr. Safety Director

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

Virginia Department of Labor and Industry  
Occupational Safety and Health Compliance  
P.O. Box 77  
201 Lee Highway  
Verona, VA 24482  
Phone: (540) 248-9280 FAX: (540) 248-9284



**INVOICE/  
DEBT COLLECTION NOTICE**

**Company Name:** Design Electric Inc.  
**Inspection Site:** University of Virginia Medical Center  
Radiology Room #1064  
Charlottesville, VA 22905  
**Issuance Date:** 12/22/2014


<b>Summary of Penalties for Inspection Number</b>		317750370
Citation 01, Serious	=	\$7,000.00
<b>Total Proposed Penalties</b>	=	<b>\$7,000.00</b>

Pursuant to Virginia Code § 40.1-49.4.A.4(a), the Commissioner of the Department of Labor and Industry has the authority to assess interest on all past-due penalties as well as administrative costs incurred in the collection of the penalties for violations of the Virginia Occupational Safety and Health Laws, regulations, and standards. Interest charges as assessed at an annual rate in accordance with Virginia Code § 2.1-732.

Interest shall accrue from the date on which the citation, either as issued or as amended, becomes a final order of the Commissioner. A citation becomes a final order 15 working days after the date that the employer receives the citation unless the employer files a notice of contest with the VOSH Regional Safety Director. Interest is waived if the employer pays the full amount within 30 calendar days of the final order date.

A debt is past-due 30 calendar days after the final order date unless the employer has made a satisfactory payment arrangement with the Commissioner. If the debt remains unpaid for more than 90 days, it will be deemed delinquent and referred to the Office of the Attorney General or another collection agency for collection. All administrative costs incurred in collecting the debt will be added to the amount of the debt.

To avoid potential interest and collection costs, please remit payment promptly for the total amount of the uncontested penalties shown on the citation to the Accounting Office, Virginia Department of Labor and Industry, Main Street Centre, 600 East Main Street, Suite 207, Richmond, Virginia 23219. You may use the enclosed self-addressed envelope. Please make your check or money order payable to: "Commonwealth of Virginia". Please indicate the Inspection Number on the payment. ***Do not remit payment to the Regional Office.***

  
\_\_\_\_\_  
Kimberly H. Mcubray  
NOVA Region Sr. Safety Director

  
\_\_\_\_\_  
Date

**VIRGINIA:**

**IN THE CIRCUIT COURT OF LOUDOUN COUNTY**

<b>C. RAY DAVENPORT,</b>	)	
Commissioner of Labor and Industry,	)	
<i>Plaintiff,</i>	)	
v.	)	Case No. CL19001969
	)	
<b>EASTERN CONSTRUCTORS, INCORPORATED</b>	)	
<i>Defendant.</i>	)	

**AGREED ORDER**

WHEREAS, on or about September 10, 2015, plaintiff C. Ray Davenport, Commissioner of Labor and Industry ("Commissioner") issued a citation to defendant, Eastern Constructors, Incorporated ("Eastern Constructors"), alleging three Serious violations of the Virginia Occupational Safety and Health (VOSH) Standards for the Construction Industry, and proposing \$12,250.00 in civil penalties; and

WHEREAS, Eastern Constructors 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 now **ADJUDGED, ORDERED, and DECREED** as follows:

1. That the VOSH citation, attached as Exhibit "A" is hereby amended as follows:
  - a) Citation 1, Item 1 is upheld as a "Serious" classified violation with the \$7,000.00 proposed penalty affirmed;
  - b) Citation 1, Item 2 is upheld as a "Serious" classified violation and its \$2,850.00 proposed penalty is amended to \$1,000.00 and affirmed; and

c) Citation 1, Item 3 is upheld as a "Serious" classified violation and its \$2,400.00 proposed penalty is amended to \$1,000.00 and affirmed.

2. That Eastern Constructors will pay the combined civil penalties of \$9,000.00 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 1162733 noted on the payment;

3. That Eastern Constructors withdraws its original notice of contest, and hereby waives its right to contest the remaining terms contained in this Order;

4. That it is expressly understood that any modifications to penalty amounts in this agreement are contingent upon Eastern Constructors' full payment of all penalties due. Failure by Eastern Constructors to substantially comply with the terms of this Order or to make a penalty payment by the due date constitutes a breach of this Order. Any breach shall mean that the originally proposed violations and penalties shall be reinstated, and all unpaid amounts shall become due and payable 15 calendar days following the breach;

5. That Eastern Constructors certifies the cited violations have been abated;

6. That as required by *Va. Rule 16 VAC 25-60-40*, Eastern Constructors will post a copy of this settlement agreement for ten (10) working days at its workplaces in Virginia in a conspicuous location where it generally posts notices to its employees;

7. That this Order shall be construed to advance the purpose of *Va. 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;



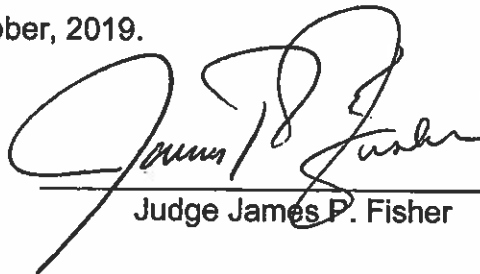
9. That, under *Va. Code* § 40.1-51.3:2, the fact of an issuance of a citation, the voluntary payment of a civil penalty by a party, or the judicial assessment of a civil penalty under Chapter 3 of Title 40.1 of the *Code of Virginia* shall not be admissible in evidence in the trial of any action to recover for personal injury or property damage sustained by any party;

10. That this agreement shall not be construed as an admission by Eastern Constructors of civil or criminal liability for any violation or penalty alleged by the Commissioner; and

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


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. The Clerk shall send an attested copy of this Order to the Commissioner's legal counsel and to the pro se defendant's address provided below.

Entered this 7<sup>th</sup> day of October, 2019.

  
\_\_\_\_\_  
Judge James P. Fisher

WE ASK FOR THIS:

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

  
\_\_\_\_\_  
Alfred B. Albiston (VSB # 29851)  
Special Assistant Commonwealth's Attorney  
Loudoun County


c/o Department of Labor and Industry  
600 East Main Street, Suite 207  
Richmond, Virginia 23219

(804) 786-6760  
(804) 786-8418 Fax  
[Alfred.Albiston@doli.virginia.gov](mailto:Alfred.Albiston@doli.virginia.gov)

*Counsel for the Commissioner of Labor and Industry*

SEEN AND AGREED:

**EASTERN CONSTRUCTORS, INCORPORATED**



---

Joseph R. Ward, III (VSB 88587)  
The Kullman Firm  
9800 Mount Pyramid Court, Ste. 400  
Englewood, CO 80112  
T: (720) 447-6628  
E: [JRW@kullmanlaw.com](mailto:JRW@kullmanlaw.com)

*Counsel for Eastern Constructors, Incorporated*



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

Inspection Number: 1162733  
Inspection Date: 07/18/2016-  
07/18/2016  
Issuance Date: 01/11/2017



**Citation and Notification of Penalty**

Company Name: Eastern Constructors Inc.  
Inspection Site: 43571 John Mosby Highway Chantilly, VA 20152

**Citation 1 Item 1**                      Type of Violation:    **Serious**

16VAC25-145-40.B: Each employee working within the boundaries of a leading edge decking operation shall be protected in accordance with 16VAC25-145-20.A from fall hazards of 10 feet or more above a lower level.

On July 17th, 2016 at 43571 John Mosby, Highway, Chantilly, VA employees of Eastern Constructors were performing steel erection activities for a 150,000 Square foot commercial building under construction. An employee of Eastern Constructors was walking on an approximate 10-inch wide flange, approximately 33 feet above the lower level and was not protected by a complete fall protection system. The employee was to place a French Creek Beam Anchor Model 1702 and French Creek Self-Retracting Lifeline onto the flange in between column 22 and 23, which was approximately 15 feet horizontally from the last beam anchor and retracting lifeline in between column 21 and 22. The employee was wearing a Fall Safe FS170-L Body Harness, but was not connected to an attachment point while placing the beam anchor and self-retracting lifeline onto the flange. The employee fell approximately 33 feet to the lower level onto a joist lying on ground level.

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

**February 17, 2017**

**Proposed Penalty:**

**\$7000.00**

**Citation 1 Item 2**                      Type of Violation:    **Serious**

16VAC25-60.130: The occupational safety or health standards adopted as rules or regulations by the Virginia Safety and Health Codes Board either directly, or by reference, from 29 CFR Part 1926 shall apply by their own terms to all employers and employees engaged in either construction work or construction related activities covered by the Virginia State Plan for Occupational Safety and Health. The employer shall comply with the manufacturer's specifications and limitations applicable to the operation, training, use, installation, inspection, testing, repair and maintenance of all machinery, vehicles, tools, materials and equipment, unless specifically superseded by a more stringent corresponding requirement in 29 CFR Part 1926. The use of any machinery, vehicle, tool, material or equipment that is not in compliance with any applicable requirement of the manufacturer is prohibited, and shall either be identified by the employer as unsafe by tagging or locking the controls to render them inoperable or be physically removed from its place of use or operation.

On July 17th, 2016 at 43571 John Mosby, Highway, Chantilly, VA employees of Eastern Constructors were performing steel erection activities for a 150,000 Square foot commercial building under construction. The employer supplied FallSafe USA Full Body Harnesses model FS-170-L, French Creek Beam Anchors Model 1702, and French Creek Self-Retracting Lifelines for employees to utilize as fall protection equipment on the structural steel approximately 33 feet above ground level. The self-retracting lifelines were connected to the beam anchors on the structural steels walking/working surface; the self-retracting lifelines and beam anchors were positioned approximately 15 feet from one another. Employees were working above the anchorages and lifelines, therefore exposing them to swing and free falls of up to approximately 15 feet due to the positioning of the anchorages and equipment.

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

Inspection Number: 1162733  
Inspection Date: 07/18/2016-  
07/18/2016  
Issuance Date: 01/11/2017



**Citation and Notification of Penalty**

Company Name: Eastern Constructors Inc.  
Inspection Site: 43571 John Mosby Highway Chantilly, VA 20152

The self-retractable lifelines were not rigged properly to prevent damage or to allow for the proper functionality of the device itself. The connection to the beam anchor caused the self-retracting lifelines housing unit to slide across the steel beam during use. The housing unit showed signs of abrasions and excessive wear that resulted in illegible rating and identifying information on the equipment. If a fall was to occur, the self-retracting lifelines cable would be exposed to the corners of the metal decking and/or corners of the flange and joists. The fall protection system did not prevent the occurrence of slack in the lifeline.

Employees wore FallSafe USA Full Body Harnesses with two snap hook components connected to the main Dorsal D-Ring on the harness simultaneously. A Rogue dual-legged self-retracting lifeline model M2RG-0Z and an 18-inch French Creek Model 1418 D-ring extension strap connected to the French Creek Beam anchor and Self-Retracting Life Line were both present on employees main Dorsal D-Ring when dual connections and transfers were made from man lifts to the beam anchors on the structural steel.

The employer failed to ensure hazards associated with free falls, swing falls, contact with sharp surfaces, and equipment incompatibility were reduced by complying with the following manufacturer's specifications and limitations:

**French Creek Self Retracting Lifeline**

1.2 Limitations: C. Standard Use: Avoid swing falls by always working directly under the anchorage. Never Work above the anchorage.

1.2 Limitations: C. Standard Use: Do not allow lifeline constituent (cable/synthetic rope) to come into contact with anything that will damage the lifeline including sharp, abrasive rough, or high temperature surfaces.

3.2 Fall Protection Plan: B. Free Fall: Fall arrest systems must be rigged so the free fall distance is never more than 6 feet. Sloped/horizontal applications will greatly affect the free fall distance. A Swing fall application will also increase the vertical free fall distance.

3.2 Fall Protection Plan: B. Free Fall: Do not allow slack in the lifeline. Avoid situations where the lifeline can become entangled with other objects or workers.

3.2 Fall Protection Plan: B. Free Fall: Do not attach a lanyard or other lifeline to the retractable to extend the length of the retractable lifeline.

3.2 Fall Protection Plan: C. Swing Falls: Swing Falls will also increase the free fall distance. Avoid swing falls by working directly below the anchorage location.

3.2 Fall Protection Plan: E. Sharp edges: The PFAS should be rigged to prevent its contact with hazardous objects in the workplace, which could damage the equipment or prevent its proper functioning.

3.4 Use: Avoid swing falls by always working directly under the anchorage Never work above the anchorage.

**FallSafe USA Full Body Harness**

5. Limitations: Compatibility of Connectors: Do not connect snap hooks and carabiners to a D-ring to which another connector is attached.

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

**February 17, 2017**

**Proposed Penalty:**

**\$2850.00**

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

Inspection Number: 1162733  
Inspection Date: 07/18/2016-  
07/18/2016  
Issuance Date: 01/11/2017



**Citation and Notification of Penalty**

Company Name: Eastern Constructors Inc.  
Inspection Site: 43571 John Mosby Highway Chantilly, VA 20152

**Citation 1 Item 3**

Type of Violation: **Serious**

1926.100(b)(1): The employer must provide each employee with head protection that meets the specifications contained in any of the following consensus standards: American National Standards Institute (ANSI) Z89.1-2009, Z89.1-2003, or Z89.1-1997.

On July 17th, 2016 at 43571 John Mosby, Highway, Chantilly, VA employees of Eastern Constructors were performing steel erection activities for a 150,000 Square foot commercial building under construction. An employee was utilizing a Fibre Metal Roughneck Hard Hat Model P2AQ with a broken suspension system. The original suspension system was removed and cloth-like material was tied around the suspension brackets. Employees on ground level were exposed to struck by hazards such as materials and tools falling from the structural steel. The employer required head protection to be worn on the worksite.

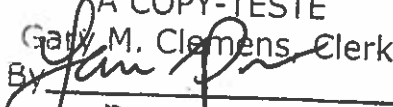
**Date by Which Violation Must Be Abated:**

**Proposed Penalty:**

**Corrected During Inspection**

**\$2400.00**

  
Corey Bender  
Regional Safety Director

A COPY-TESTE  
Gary M. Clemens, Clerk  
By   
Deputy Clerk

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF DANVILLE

C. RAY DAVENPORT )  
Commissioner of Labor and Industry )  
 )  
 ) *Plaintiff,* )  
 )  
v. )  
 ) Civil Action No. *CL19-134*  
 )  
THE GOODYEAR TIRE & RUBBER )  
COMPANY )  
 )  
 ) *Defendant.* )

**AGREED ORDER**

Upon agreement of the parties, it is hereby ADJUDGED, ORDERED AND DECREED as follows:

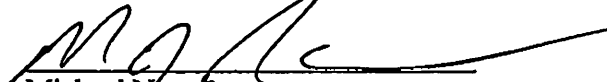
1. In settlement of the matters referenced in the Complaint, the citations for Inspection Number 1340986 issued to The Goodyear Tire & Rubber Company are resolved.
2. This Court retains jurisdiction over the parties to enforce the terms of this Order and the parties' settlement agreement. Should either party believe that the other party has materially failed to comply with any term thereof, the aggrieved party shall provide written notice to the other party stating the nature of the alleged noncompliance. The parties agree that the alleged noncompliance will be addressed through good faith negotiations. If the parties cannot thereafter resolve their disagreement, said dispute may be submitted to this Court for resolution.
3. Each party will bear its own costs and attorneys' fees in this matter.
4. The Clerk shall strike this matter from the docket and place it among the closed civil cases with leave to reinstate if the need arises. The Clerk shall certify copies of this Order to counsel of record.

ENTER this 5<sup>th</sup> day of March, 2019.

  
\_\_\_\_\_  
JUDGE

WE ASK FOR THIS:

C. RAY DAVENPORT, Commissioner of Labor and Industry

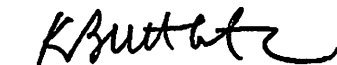


Michael Newman  
Commonwealth's Attorney  
City of Danville  
341 Main Street, Suite 200  
Danville, VA 24541  
Telephone: (434)797-1635  
Facsimile: (434) 797-4809

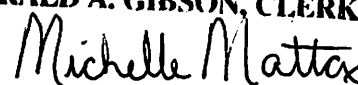
Counsel for Commissioner Davenport

SEEN AND AGREED:

Goodyear Tire & Rubber Company

  
\_\_\_\_\_  
K. Brett Marston (VSB No. 35900)  
Gentry Locke  
P.O. Box 40013  
Roanoke, VA 24022-0013  
Telephone: (540)983-9391  
Facsimile: (540)983-9400

Counsel for Goodyear Tire & Rubber Company

A COPY FILED:  
GERALD A. GIBSON, CLERK  
BY   
DEPUTY CLERK



VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ROCKBRIDGE

C. RAY DAVENPORT  
Commissioner of Labor and Industry

*Plaintiff,*

v.

Civil Action No. CL18000804-00

INDUSTRIAL FABRICATORS OF VIRGINIA, INC.

*Defendant.*

**MOTION AND ORDER OF NON-SUIT**

THIS DAY came the Plaintiff, and moved the Court for a non-suit pursuant to § 8.01-380 of the *Code of Virginia*. Plaintiff represented that no counterclaims have been filed, nor has Plaintiff previously taken a non-suit.

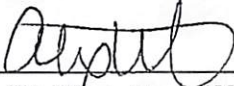
UPON CONSIDERATION WHEREOF, the Court does hereby GRANT the Plaintiff's motion and enters a NON-SUIT in this matter. The Clerk is directed to mail a certified copy of this Order to counsel of record, and to remove this action from the docket.

ENTER: \_\_\_\_\_

Judge

DATE: 6/14/19 \_\_\_\_\_

WE ASK FOR THIS:



Alex W. West, Esq. (VSB # 84607)  
Special Assistant Commonwealth's Attorney, Rockbridge County  
c/o Department of Labor and Industry  
600 East Main St., Suite 207  
Richmond, VA 23219  
Tel: 804-371-2631  
Fax: 804-371-6524  
[alex.west@doli.virginia.gov](mailto:alex.west@doli.virginia.gov)  
*Counsel for the Plaintiff*

SEEN AND AGREED:

*/s/ Travis Vance, with permission by Alex W. West*

Travis W. Vance, Esq.  
FISHER & PHILLIPS, LLP  
227 West Trade Street, Suite 2020  
Charlotte, NC 28202  
Tel: 704-778-4164  
Fax: 704-334-9774  
[tvance@fisherphillips.com](mailto:tvance@fisherphillips.com)  
*Counsel for the Defendant*

IN TESTIMONY that the foregoing is a true  
copy taken from the records of this court,  
I hereby set my hand and affix the SEAL of  
this Court.  
This 20<sup>th</sup> day of December, 2019

Michelle M. Trout, Clerk  
Circuit Court of Rockbridge County, Virginia  
by:

  
Clerk/Deputy Clerk

VIRGINIA:

IN THE CIRCUIT COURT OF ALBEMARLE COUNTY

C. RAY DAVENPORT,	)	
Commissioner of Labor and Industry,	)	
<i>Plaintiff,</i>	)	
v	)	Civil Action No. CL17-949
	)	
LANE BRYANT, LLC	)	
<i>And its Successors,</i>	)	
<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 issued September 21, 2015, attached as Exhibit "A" is hereby amended as follows:
  - a) Citation 1, Item 1a is reclassified to an "Other than Serious" violation with a penalty of two thousand three hundred seventy five dollars (\$2,375.00);
  - b) Citation 1, Item 1b is reclassified to an "Other than Serious" violation with a penalty of zero dollars (\$0.00)
2. That the Defendant will pay the total penalty of \$2,375.00 within thirty (30) days of the date of entry of this Agreed Order. Payment shall be made by check or money order, payable to the Treasurer of Virginia, with Virginia Occupational Safety and Healthy ("VOSH") inspection number 1084068 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 Agreed Order;
4. That it is expressly understood that any modifications to penalty level in this Agreed

Order are contingent upon the Defendant's full payment of all penalties due as modified by agreement in Paragraph 1. Failure by the Defendant to substantially comply with the terms of this Agreed Order or to make a penalty payment by the due date constitutes a breach of this Agreed Order. Any breach shall mean that all originally proposed citations and penalties shall be reinstated, and all unpaid amounts shall become due and payable 15 calendar days following the breach;

5. The Defendant certifies the violations will be abated as follows: Associates at the Charlottesville, VA location for Lane Bryant will complete a ladder safety training course as further addressed in Paragraph 6 of this Agreed Order;

6. That as part of this Agreement, Defendant agrees to have its employees at the Charlottesville, VA location complete ladder safety training either in-person or via a webinar or an online training course selected by Defendant and approved by VOSH Safety Director, Jennifer Rose, within 120 days of the entry of this Agreed Order. Once training is complete, Defendant agrees to submit confirmation of the completion of the training to VOSH;

7. That the Employer will post a copy of this Agreed Order for ten (10) working days at its Charlottesville, Virginia store in a conspicuous location where it generally posts notices to its employees as required by 16 VAC 25-60-40;

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

9. That the Commissioner may use this Agreed Order in future enforcement proceedings and enforcement actions pursuant to Title 40.1 of the Code of Virginia, or any other authority enforceable by the Commissioner, and consistent with Paragraphs 10 and 11 below;

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, the judicial assessment of a civil penalty under Chapter 3 of Title 40.1 of the Code of Virginia, or this Agreed Order shall not be admissible in evidence in the trial of any action to recover for personal injury or property damage sustained by any party;

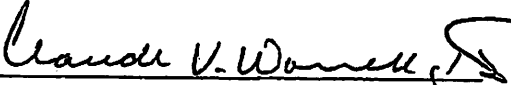
11. That this Agreed Order shall not be construed as an admission by the Defendant of civil or criminal liability for any violation or penalty alleged by the Commissioner;

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.

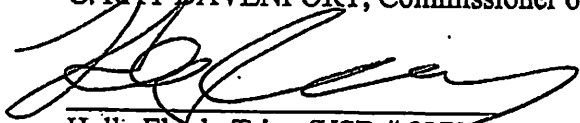
Entered this 28<sup>th</sup> day of August 2019.

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

  
Judge

WE ASK FOR THIS:

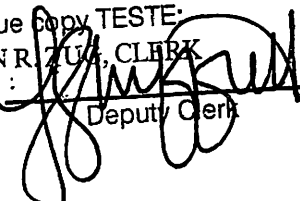
C. RAY DAVENPORT, Commissioner of Labor and Industry



Holly Eberly Trice (VSB # 82736)  
Special Assistant Commonwealth's Attorney  
Department of Labor and Industry  
600 E. Main Street  
Suite 207  
Richmond, VA 23219  
[Holly.trice@doli.virginia.gov](mailto:Holly.trice@doli.virginia.gov)  
804-786-2641

Counsel for the Commissioner

SEEN AND AGREED:

a true copy TESTE:  
JON R. ZUM, CLERK  
by:   
Deputy Clerk

LANE BRYANT, LLC



---

Joon Hwang (VSB# 82248)

LITTLER MENDELSON, P.C.

1650 Tysons Boulevard, Suite 700

McLean, VA 22102

[JHwang@littler.com](mailto:JHwang@littler.com)

703-442-8425

**Counsel for Lane Bryant Inc. and its successors**

Virginia Department of Labor and Industry  
Virginia Occupational Safety and Health (VOSH) Compliance  
201 Lee Highway  
P.O. Box 77  
Verona, VA 24482  
Phone: (540) 248-9280 Fax: (540) 248-9284



## Citation and Notification of Penalty

To:  
Lane Byrant  
and its successors  
3750 State Road  
Bensalem, PA 19020

Inspection Number: 1084068  
Inspection Date(s): 08/11/2015-08/11/2015  
Issuance Date: 09/21/2015

Inspection Site:  
800 Twenty Ninth Place  
Charlottesville, VA 22901

*The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given 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 citation.



**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  
201 Lee Highway,  
P.O. Box 77  
Verona, VA 24482  
Phone: (540) 248-9280 Fax: (540) 248-9284



---

## NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with VOSH to discuss the Citation(s) issued 09/21/2015. The conference will be held at the VOSH office located at 201 Lee Highway, Verona, VA 24482 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  
201 Lee Highway,  
P.O. Box 77  
Verona, VA 24482

Inspection Number: 1084068  
Inspection Date: 08/11/2015-  
08/11/2015  
Issuance Date: 09/21/2015



Citation and Notification of Penalty

Company Name: Lane Bryant  
Inspection Site: 800 Twenty Ninth Place Charlottesville, VA 22901

Citation 1 Item 1 a Type of Violation: Serious

60 16VAC25-60-120: The employer, Lane Bryant, did not comply with the manufacturer's specifications and limitations applicable to the operation, training, use, installation, inspection, testing, repair and maintenance of all machinery, vehicles, tools, materials and equipment, unless specifically superseded by a more stringent corresponding requirement in 1910.

At 800 29th Place, Charlottesville, Va., employees had not been provided training on the proper use of a Louisville step ladder. An employee was standing atop a 6-foot Louisville step ladder installing clips on a rail located approximately 10-feet 4 inches above the floor. The employee was standing in a way that caused the ladder to be side loaded. The step ladder collapsed resulting in an employee injury.

Date by Which Violation Must Be Abated:

October 24, 2015

Proposed Penalty:

\$3675.00

Citation 1 Item 2 b Type of Violation: Serious

1910.26(a)(3)(viii): The employer, Lane Bryant, did not ensure the metal spreader or locking device was of sufficient size and strength to securely hold the front and back sections in the open position as a component of each stepladder.

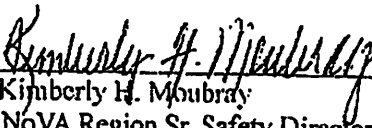
At 800 29th Place, Charlottesville, Va., an employee was standing atop a 6-foot Louisville step ladder installing clips on a rail located approximately 10-feet 4 inches above the floor. The ladder was equipped with a center pull spreader brace which folded as the employee reached over her head to install clips. The employee received an injury which resulted in hospitalization.

Date by Which Violation Must Be Abated:

October 24, 2015

Proposed Penalty:

\$0.00

  
Kimberly H. Moubrey  
NoVA Region Sr. Safety Director

FILED  
2019 AUG 13 AM 11:22  
CIRCUIT COURT CLERK'S OFFICE  
ALBEMARLE COUNTY, VA  
JON R. ZUG, CLERK

Virginia Department of Labor and Industry  
Virginia Occupational Safety and Health (VOSH) Enforcement  
201 Lee Highway,  
P.O. Box 77  
Verona, VA 24482  
Phone: (540) 248-9280 FAX: (540) 248-9284



**INVOICE/DEBT COLLECTION NOTICE**

Company Name: Lane Byrant  
Inspection Site: 800 Twenty Ninth Place Charlottesville, VA 22901  
Issuance Date: 09/21/2015  
Inspection Number: 1084068

**Summary of Proposed Penalties:**

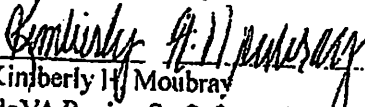
Citation 1 Item 1a, Serious	
Citation 1 Item 2b, Serious	3675.00
<b>TOTAL PROPOSED PENALTIES:</b>	<b>0.00</b>
	<b>3675.00</b>


Pursuant to Virginia Code §40.1-49.4.A.4.(a), the Commissioner of the Department of Labor and Industry may assess interest on all past-due penalties as well as administrative costs incurred in the collection of the penalties for violations of Virginia Occupational Safety and Health (VOSH) laws, regulations, and standards. Interest charges are assessed at an annual rate in accordance with Virginia Code §2.2-4805.

Interest shall accrue from the date on which the citation, either as issued or as amended, becomes a final order of the Commissioner. A citation becomes a final order 15 working days after the date that the employer receives the citation unless the employer files a notice of contest with VOSH. Interest is waived if the employer pays the full amount within 30 calendar days of the final order date.

A debt is past-due 30 calendar days after the final order date unless the employer makes a satisfactory payment arrangement with the Commissioner. If the debt remains unpaid for more than 90 days, it is deemed delinquent and referred to the Office of the Attorney General or other collection agency for collection. Administrative costs incurred in collecting the debt will be added to the amount of the debt.

To avoid potential interest and collection costs, please send payment promptly for the total amount of the uncontested penalties shown on the citation to the Accounting Office, Virginia Department of Labor and Industry, Main Street Centre, 600 East Main Street, Suite 207, Richmond, Virginia 23219. You may use the enclosed self-addressed envelope. Please make your check or money order payable to: "Commonwealth of Virginia". Please indicate the Inspection Number on the payment. *Do not send payment to the Regional Office.*

  
Kimberly H. Moubray  
NoVA Region Sr. Safety Director

  
Date

**VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF AUGUSTA**

C. RAY DAVENPORT  
Commissioner of Labor and Industry,

Plaintiff,

v.

Case No. CL18002340-00

PATTILLO CONSTRUCTION  
CORPORATION,

Defendant.

**FINAL ORDER**

This matter comes before the Court on the Joint Motion of Plaintiff C. Ray Davenport, Commission of Labor and Industry, and Defendant Pattillo Construction Corporation, advising the Court that the parties have entered into a settlement agreement, incorporated and attached hereto as **Exhibit A**, and

IT APPEARING that as part of said settlement agreement, the Defendant withdraws its notice of contest of the citations at issue; and therefore the parties seek dismissal with prejudice of Plaintiff's Complaint.

Having considered the Joint Motion, it is

ADJUDGED, ORDERED and DECREED that the Joint Motion to Dismiss is GRANTED and that Plaintiff's Complaint is DISMISSED WITH PREJUDICE.

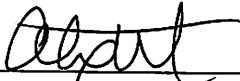
Entered this 5<sup>th</sup> day of November, 2019.

W. Clump Good  
Judge

A True and Correct Copy,

Teste: Argonne C. Shyplatt Dep. Clk.  
Circuit Court  
County of Augusta, Virginia

SEEN AND AGREED:



Alex W. West, Esq. (VSB # 84607)  
Special Assistant Commonwealth's Attorney  
Augusta County  
c/o Department of Labor and Industry  
600 East Main Street, Suite 207  
Richmond, VA 23219

Timothy A. Martin, Esq.  
Commonwealth's Attorney for Augusta County  
6 East Johnson Street, 1<sup>st</sup> Floor  
Staunton, Virginia 24401  
*Counsel for Plaintiff*

And

/s/ with permission by email by Alex W. West 

Travis W. Vance (VSB #79764)  
David I. Klass (VSB #78697)  
**FISHER & PHILLIPS LLP**  
227 West Trade Street, Suite 2020  
Charlotte, North Carolina 28202  
*Counsel for Defendant*

COPY

**C. Ray Davenport**  
Commissioner of Labor and Industry

**PATTILLO CONSTRUCTION CORPORATION**  
Inspection No. 1194729

**SETTLEMENT AGREEMENT**

**THIS AGREEMENT**, made on this 11th day of October, 2019, is entered into by the Commonwealth of Virginia, Commissioner of Labor and Industry ("Commissioner") and PATTILLO CONSTRUCTION CORPORATION ("Employer").

WHEREAS, on or about May 26, 2017, the Commissioner issued one citation to the Employer alleging one willful violation of the Virginia Occupational Safety and Health (VOSH) Standards for the Construction Industry and assessing a total of \$35,000.00 in proposed penalties;

WHEREAS, the Employer filed a notice of contest of the violation and penalty contained in the citation within 15 working days from the date of the receipt of the citations, as provided by § 40.1-49.4 of the Code of Virginia; and

WHEREAS, the parties want to settle this case short of litigation in a way that will further protect and promote the safety and health of the employees of the Employer and avoid the time and expense of litigation;

NOW, THEREFORE, the parties agree to the following:

**TERMS AND CONDITIONS OF AGREEMENT**

1. Upon full execution of the agreement, the Commissioner will modify the citation in the following manner:
  - a. Citation 1, Item 1 is reduced from willful to serious with a penalty reduction to \$8,500.00.
2. Failure by the Employer to substantially comply with the terms of this agreement constitutes a breach of this agreement. Any breach shall mean that all originally proposed citations and penalties shall be reinstated and affirmed as a final order of the Commissioner, and all unpaid amounts shall become due and payable 15 calendar days following the breach.
3. The Employer certifies that the violation alleged in this agreement has been abated. The Employer shall pay the Commonwealth EIGHT THOUSAND FIVE HUNDRED DOLLARS AND NO CENTS (\$8,500.00) in payment of the penalties assessed for the above citations. The Employer will make the check or money order payable to the "Treasurer of Virginia," with the VOSH inspection number noted on the payment.
4. The Employer, within ninety (90) days upon execution of this agreement, shall provide the Commissioner documentation showing the Employer has:

- a. A written policy regarding the hazards of asbestos exposure to its employees that complies with all state and federal laws (specifically including 29 C.F.R. § 1926.1101).
  - b. P rovided training to its employees who work in Virginia regarding asbestos hazards awareness. Such training shall be conducted at no cost to any employee.
5. As consideration for the modification of the terms of the original citation, and by its signature below, the Employer agrees to withdraw its notice of contest filed with respect to the above-styled case and waives its right to contest the remaining terms contained in this agreement, and its right to file a notice of contest to this order.
6. This agreement settles the above contested claims. Under Va. Code § 40.1-51.3:2, the fact of an issuance of a citation under Chapter 3 of Title 40.1 of the Code of Virginia will not be admissible in evidence in the trial of any action to recover for personal injury or property damage sustained by any party. This agreement may be used for future enforcement proceedings and enforcement actions pursuant to Title 40.1 of the Code of Virginia.
7. This agreement shall not be construed as an admission by the Employer of civil or criminal liability for any violation or penalty alleged by the Commissioner.
8. The citations and penalties, as modified above and any new obligations contained in this agreement, are a final order of the Commissioner of Labor and Industry.

REMAINDER OF THIS PAGE HAS BEEN LEFT BLANK

PATTILLO CONSTRUCTION CORPORATION

By: [Signature] (SEAL)  
Agent

10-11-19  
Date

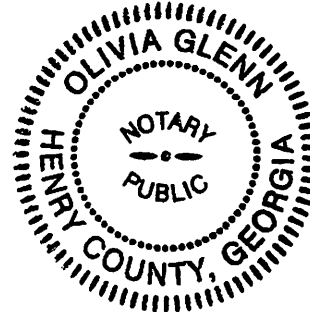
Commonwealth of Virginia, AT LARGE, to wit:

The foregoing instrument was acknowledged before me this 11th day of Oct., 2019, by Frank C. Wartner (name), C.O.O (title) of PATTILLO CONSTRUCTION CORPORATION.

[Signature]  
Notary Public

My commission expires: 3-22-20

Commission Number: W-00277035



C. Ray Davenport,  
COMMISSIONER OF LABOR AND INDUSTRY

By: [Signature]  
Title: Health Compliance Director

10/17/19  
Date



VIRGINIA:

IN THE CIRCUIT COURT FOR VIRGINIA BEACH

C. RAY DAVENPORT, )  
Commissioner of Labor and Industry, )  
 )  
 ) *Plaintiff,* )  
v. ) Civil Action No.: CL18-4121  
 )  
PUNGO TIRE & WHEEL, INC. )  
dba/ PUNGO OFF ROAD )  
 )  
 ) *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 issued September 1, 2016, attached as Exhibit "A" is hereby amended as follows:
  - a) Serious Citation 1, Items 1 is reclassified to an "Other than Serious" violation with no penalty;
  - b) Serious Citation 1, Item 2 is reclassified to an "Other than Serious" violation with a penalty of seven hundred twenty dollars (\$720.00);
2. That the Defendant will pay the total penalty of \$720.00 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 1165410 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 it is expressly understood that any modifications to penalty level in this agreement are contingent upon the Defendant's full payment of all penalties due. Failure by the Defendant

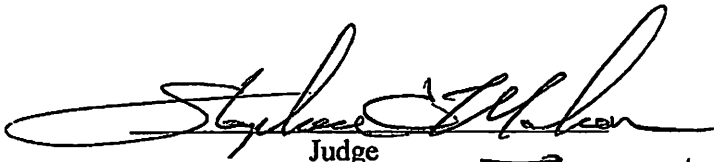
to substantially comply with the terms of this Order or to make a penalty payment by the due date constitutes a breach of this Order. Any breach shall mean that all originally proposed citations and penalties shall be reinstated, and all unpaid amounts shall become due and payable 15 calendar days following the breach.

5. That the Employer certifies the violations have been abated.
6. 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;
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. 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 8<sup>th</sup> day of January 2018.

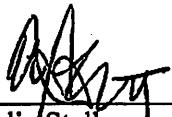
The Clerk shall send an attested copy of this Order to all counsel of record.

  
Judge  
ENDORSEMENTS FALLOW

WE ASK FOR THIS:

C. RAY DAVENPORT, Commissioner of Labor and Industry

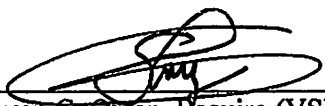
  
Holly Eberly Trice (VSB # 82736)  
Special Assistant Commonwealth's Attorney  
City of Virginia Beach  
C/O Department of Labor and Industry  
600 E. Main Street  
Suite 207  
Richmond, VA 23219  
[Holly.trice@doli.virginia.gov](mailto:Holly.trice@doli.virginia.gov)  
804-786-2641

  
Colin Stolle  
Commonwealth's Attorney  
2425 Nimmo Parkway, Building 10B  
Virginia Beach, VA 23456  
Phone: (757) 385-4779  
Fax: (757) 385-1288  
Email: [Cstolle@bvgov.com](mailto:Cstolle@bvgov.com)

**Counsel for the Commissioner**

SEEN AND AGREED:

PUNGO TIRE & WHEEL, INC.

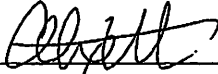
  
Steven G. Owen, Esquire (VSB #51096)  
2521 North Landing Road  
Suite 200  
Virginia Beach, VA 23456  
[SGO@courthouselawgroup.com](mailto:SGO@courthouselawgroup.com)  
(757) 427-3348 Telephone

**Counsel for Pungo Tire & Wheel, Inc.**

8/1/8/19



WE ASK FOR THIS:



Alex W. West, Esq. (VSB # 84607)  
Special Assistant Commonwealth's Attorney, Henrico County  
c/o Department of Labor and Industry  
600 East Main St., Suite 207  
Richmond, VA 23219  
Tel: 804-371-2631  
Fax: 804-371-6524  
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*Counsel for the Plaintiff*

SEEN AND AGREED:



Charles James, Esq. (VSB # 46310)  
Williams Mullen  
200 South 10<sup>th</sup> Street, Suite 1600  
Richmond, VA 23219  
Tel: 804-420-6529  
Fax: 804-420-6507  
[cjames@williamsmullen.com](mailto:cjames@williamsmullen.com)  
*Counsel for the Defendant*

Virginia:

IN THE CIRCUIT COURT OF KING WILLIAM COUNTY

Courtney M. Malveaux

PLAINTIFF

V.

Case No. CL13-77

ROCKTENN CP LLC

DEFENDANT

ORDER

It appearing to the Court that this Case has been pending for more than three (3) years and that there has been not action on this case.

Upon consideration whereof, it is ORDERED pursuant to VA Case §8.01-335(B) that this case be stricken from the docket and the action shall be discontinued.

Enter: 6/25/19

B. Kevin Bant  
Judge

KING WILLIAM CIRCUIT COURT

Certified to be a TRUE COPY  
of record in my custody.

Diamond Stevens  
Clerk/Deputy Clerk

Certificate

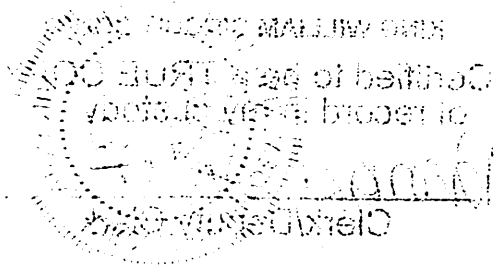
I hereby certify that a copy of the above order was mailed to:

Robert B. Field, Esq, Plaintiff's Attorney, 600 East Main Street, Suite 207, Richmond, VA 23219 and

Kathryn M. Willis, Esq, Defendant's Attorney, 420 North 20<sup>th</sup> Street, Suite 3400,  
Birmingham, Alabama 35203.

On 6-28-19.

Patricia M. Norman  
Patricia M. Norman, Clerk



VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF AUGUSTA

C. RAY DAVENPORT	)	
Commissioner of Labor and Industry	)	
	)	
<i>Plaintiff,</i>	)	
	)	
v.	)	
	)	Civil Action No. CL-19-1774
	)	
YEAROUT INDUSTRIAL, LLC	)	
	)	
<i>Defendant.</i>	)	

MOTION AND ORDER OF NONSUIT

This matter comes 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 August 21, 2019 , the Commissioner filed a Complaint against Yearout Industrial LLC, and that the defendant, Yearout Industrial LLC 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 with prejudice to the filing of another action concerning any of the matters involved, and 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: W. Cleary Goddard  
 Judge

Date: 11/8/19

A True and Correct Copy,  
 Teste: Suzanne C. Huppert Dep. Clk.  
 Circuit Court  
 County of Augusta, Virginia

Rec'd  
 11-9-19



I ask for this:

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

A handwritten signature in black ink, appearing to read "T. A. Martin", written over a horizontal line.

Hon. Timothy A. Martin, Esq.  
Commonwealth's Attorney

Augusta County  
6 East Johnson Street  
Staunton, VA 24401  
(540) 245-5313 phone  
(540) 245-5348 fax