

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. OSH 2004-15
)	
DIRECTOR, DEPARTMENT OF LABOR)	ORDER NO. 116
AND INDUSTRIAL RELATIONS,)	
)	PRETRIAL ORDER
Complainant,)	
)	
vs.)	
)	
SAFEWAY STORES, INC.,)	
)	
Respondent.)	
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PRETRIAL ORDER

Pursuant to the representations by counsel for the respective parties at an initial conference held by the Hawaii Labor Relations Board (Board) on December 16, 2004, IT IS HEREBY ORDERED THAT:

1. The issues to be determined are:
 - a. Whether Respondent violated 29 CFR 1910.22(a)(2) as described in Citation 1, Item 1, issued on September 15, 2004?
 - b. Whether the alleged violation is within the scope of the regulation or standard?
 - c. Whether any of Respondent's employees were exposed to or had access to the alleged hazard?
 - d. Whether the Respondent had actual or constructive knowledge of the hazard?
 - e. Whether the characterization of the violation as "Serious" and the proposed penalty of \$1,700 are proper? If not, what are the appropriate characterization and penalty?
 - f. Whether the unpreventable employee misconduct defense or any other affirmative defense is warranted in this action?

2. Discovery and other deadlines are:

Live witness identification February 28, 2005

Discovery cut-off March 14, 2005

3. Trial is scheduled on April 11 - 12, 2005 at 9:30 a.m. in the Board's hearing room, Room 434, 830 Punchbowl Street, Honolulu, Hawaii.

4. Hereafter, this Pretrial Order shall control the course of proceedings and may not be amended except by consent of the parties and the Board, or by order of the Board.

DATED: Honolulu, Hawaii, December 17, 2004.

HAWAII LABOR RELATIONS BOARD


BRIAN K. NAKAMURA, Chair


CHESTER C. KUNITAKE, Member


KATHLEEN RACUYA-MARKRICH, Member

NOTICE TO EMPLOYER

You are required to post a copy of this Order at or near where citations under the Hawaii Occupational Safety and Health Law are posted at least five working days prior to the trial date. Further, you are required to furnish a copy of this Order to a duly recognized representative of the employees at least five working days prior to the trial date.

Copies sent to:

Robyn M. Kuwabe, Deputy Attorney General
Clayton A. Kamida, Esq.