

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. OSH 2004-21
)	
DIRECTOR, DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS,)	ORDER NO. 117
)	
Complainant,)	PRETRIAL ORDER
)	
vs.)	
)	
J & M BLASTING AND PAINTING, INC.,)	
)	
Respondent.)	
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PRETRIAL ORDER

Pursuant to the representations by the respective parties at an initial conference held by the Hawaii Labor Relations Board (Board) on January 13, 2005, IT IS HEREBY ORDERED THAT:

1. The issues to be determined are:
 - a. Citation 1, Item 1 - 29 CFR 1910.134(e)(1)
 - (i) Whether Respondent violated 29 CFR 1910.134(e)(1) as described in Citation 1, Item 1, issued on November 15, 2004?
 - (ii) Whether the characterization of the violation as "Serious" is appropriate? If not, what is the appropriate characterization?
 - (iii) Whether the imposition and amount of the \$750.00 penalty is appropriate? If not, what is the appropriate penalty?
 - b. Citation 1, Item 2 - 29 CFR 1910.134(i)(1)(ii)
 - (i) Whether Respondent violated 29 CFR 1910.134(i)(1)(ii) as described in Citation 1, Item 2, issued on November 15, 2004?
 - (ii) Whether the characterization of the violation as "Serious" is appropriate? If not, what is the appropriate characterization?

- (iii) Whether the imposition and amount of the \$750.00 penalty is appropriate? If not, what is the appropriate penalty?

c. Citation 1, Item 3a- 29 CFR 1910.134(i)(5)(i)

- (i) Whether Respondent violated 29 CFR 1910.134(i)(5)(i) as described in Citation 1, Item 3a, issued on November 15, 2004?
- (ii) Whether the characterization of the violation as “Serious” is appropriate? If not, what is the appropriate characterization?
- (iii) Whether the imposition and amount of the \$750.00 penalty is appropriate? If not, what is the appropriate penalty?

d. Citation 1, Item 3b - 29 CFR 1910.134(i)(5)(iv)

- (i) Whether Respondent violated 29 CFR 1910.134(i)(5)(iv) as described in Citation 1, Item 3b, issued on November 15, 2004?
- (ii) Whether the characterization of the violation as “Serious” is appropriate? If not, what is the appropriate characterization?

e. Citation 1, Item 4a - 29 CFR 1910.134(i)(7)

- (i) Whether Respondent violated 29 CFR 1910.134(i)(7) as described in Citation 1, Item 4a, issued on November 15, 2004?
- (ii) Whether the characterization of the violation as “Serious” is appropriate? If not, what is the appropriate characterization?
- (iii) Whether the imposition and amount of the \$750.00 penalty is appropriate? If not, what is the appropriate penalty?

f. Citation 1, Item 4b - 29 CFR 1910.134(i)(8)

- (i) Whether Respondent violated 29 CFR 1910.134(i)(8) as described in Citation 1, Item 4b, issued on November 15, 2004?
- (ii) Whether the characterization of the violation as “Serious” is appropriate? If not, what is the appropriate characterization?

g. Citation 2, Item 1 - 29 CFR 1904.39(a)

- (i) Whether Respondent violated 29 CFR 1904.39(a) as described in Citation 2, Item 1, issued on November 15, 2004?
- (ii) Whether the characterization of the violation as "Other" is appropriate? If not, what is the appropriate characterization?
- (iii) Whether the imposition and amount of the \$5,000.00 penalty is appropriate? If not, what is the appropriate penalty?

2. Discovery and other deadlines are:

Exchange of expert reports April 25, 2005

Named and unnamed live witness
identification; discovery cutoff May 31, 2005

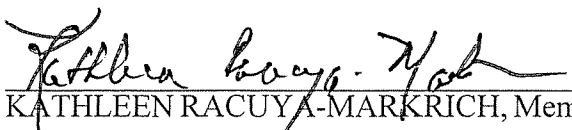
- 3. Trial is scheduled on July 1, 2005 at 9:30 a.m. in the above-mentioned hearing room.
- 4. Hereafter, this Pretrial Order shall control the course of proceedings and may not be amended except by consent of the parties and the Board, or by order of the Board.

DATED: Honolulu, Hawaii, January 18, 2005.

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:

Eula M. Small
Herbert B.K. Lau, Deputy Attorney General