

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

DIRECTOR, DEPARTMENT OF LABOR
AND INDUSTRIAL RELATIONS,

Complainant,

and

BEACHSIDE ROOFING, LLC,

Respondent.

CASE NO. OSH 2012-2

ORDER NO. 467

PRETRIAL ORDER

PRETRIAL ORDER

Pursuant to the initial conference/settlement conference in this matter held by the Hawaii Labor Relations Board (Board) on April 2, 2012, and attended by Robyn M. Kuwabe, Deputy Attorney General, for Complainant DIRECTOR, DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS (Complainant), and Bruce D. Voss, Esq., for Respondent BEACHSIDE ROOFING, LLC (Respondent), IT IS HEREBY ORDERED THAT:

A. The issues to be determined at trial is:

1. Citation 1, Item 1: 29 CFR 1926.1053(b)(1)

Whether the characterization as "Serious" and the associated penalty of \$1,000 resulting from Citation 1, Item 1, of Inspection No. 313083339, was valid and proper.

Citation 1, Item 1 alleged:

29 CFR 1926.1053(b)(1) was violated because:

An extension ladder, which was used for access to an upper landing surface, extended only a few inches above the upper landing surface and was not secured. In the event the ladder slips or moves, employees using the ladder were potentially exposed to injuries.

2. Citation 2, Item 1: 29 CFR 1926.501(b)(1)

Whether the characterization as "Repeat" and the associated penalty of \$2,000 resulting from Citation 2, Item 1, of Inspection No. 313083339, was valid and proper.

Citation 2, Item 1 alleged:

29 CFR 1926.501(b)(1) was violated because:

Employees walking/working on an unguarded 2nd-level ledge were not protected from falling. Without fall protection, the employees were potentially exposed to serious fall injuries.

3. Whether the Respondent's affirmative defenses of employee misconduct applies in this case
- B. The deadline for the parties' final naming of witnesses is **May 9, 2012**. Each party shall provide a list of the names of witnesses it plans to call at trial, along with each witness's addresses and the general subject to which the witness will testify, to the other party and to the Board by this date.
 - C. The parties may engage in discovery without prior motion or showing of good cause. The discovery cutoff date is **June 7, 2012**. The discovery cut-off is the date by which all responses to written discovery, including requests for admissions, shall be due and by which all depositions shall be concluded. The parties are advised to initiate discovery requests and notice depositions sufficiently in advance of the cut-off date to comply with this requirement.
 - D. Trial in this matter is scheduled for **July 10 - 11, 2012 at 9:00 a.m.** in the Board's hearing room located at 830 Punchbowl Street, Room 434, Honolulu, Hawaii, 96813. The trial may be continued by the Board until completed.
 - E. 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.


DIRECTOR, DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS v. BEACHSIDE
ROOFING, LLC
CASE NO. OSH 2012-2
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DATED: Honolulu, Hawaii, April 9, 2012.

HAWAII LABOR RELATIONS BOARD



JAMES B. NICHOLSON, Chair



SESNITA A. D. MOEPONO, Member



ROCK B. LEY, 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, if any, at least five working days prior to the trial date.

Copies sent to:

Robyn M. Kuwabe, Deputy Attorney General
Bruce D. Voss, Esq.

