

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

DIRECTOR, DEPARTMENT OF LABOR
AND INDUSTRIAL RELATIONS,

Complainant,

v.

BEACHSIDE ROOFING, LLC,

Respondent.

CASE NO. OSH 2006-22

ORDER NO. 211

PRETRIAL ORDER

PRETRIAL ORDER

Pursuant to the initial conference in this matter held by the Hawaii Labor Relations Board ("Board") on October 12, 2006, and attended by Leo B. Young, Deputy Attorney General, for Complainant, and Bruce D. Voss, Esq., for Respondent, IT IS HEREBY ORDERED THAT:

1. The threshold issue to be determined at trial is whether the roof area of the worksite is a "homogeneous area" as defined by 29 CFR 1926.1101(b), which is a dispositive issue if it is determined that the roof area of the worksite is not a "homogeneous area"; however, if the roof area is found to be a "homogeneous area," the Board shall determine the following issues:
 - A. Whether Respondent committed a Serious violation of 29 CFR 1926.1101(e)(1), as found in Citation 1, Item 1a, and whether the \$1,625.00 penalty is proper;
 - B. Whether Respondent committed a Serious violation of 29 CFR 1926.1101(j)(1)(i), as found in Citation 1, Item 1b;
 - C. Whether Respondent committed a Serious violation of 29 CFR 1926.1101(e)(6), as found in Citation 1, Item 2a, and whether the \$1,625.00 penalty is proper;
 - D. Whether Respondent committed a Serious violation of 29 CFR 1926.1101(f)(2)(i), as found in Citation 1, Item 2b;

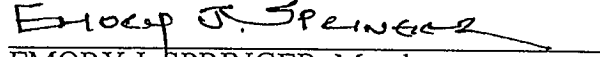
- E. Whether Respondent committed a Serious violation of 29 CFR 1926.1101(k)(3)(ii), as found in Citation 1, Item 3a, and whether the \$1,625.00 penalty is proper;
- F. Whether Respondent committed a Serious violation of 29 CFR 1926.1101(k)(9)(iv)(A), as found in Citation 1, Item 3b;
- G. Whether Respondent committed an Other violation of 29 CFR 1926.1101(h)(1)(iv), as found in Citation 2, Item 1; and
- H. Whether Respondent committed an Other violation of 29 CFR 1926.1101(i)(1), as found in Citation 2, Item 2.
2. The deadline for the parties' final naming of witnesses and exchange of expert reports is November 21, 2006.
3. The discovery cutoff date is December 11, 2006.
4. Any dispositive motions shall be filed with the Board by December 18, 2006. Responsive memoranda shall be filed by December 26, 2006.
5. The hearing on the dispositive motions is scheduled on January 4, 2007 at 9:30 a.m., or as soon thereafter as this case can be heard, in the Board's hearing room, Room 434, 830 Punchbowl Street, Honolulu, Hawaii, 96813.
6. Trial in this matter is scheduled for January 10, 2007 at 9:30 a.m., or as soon thereafter as this case can be heard, in the above-referenced hearing room. The trial will continue from day-to-day until completed.
7. 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, October 12, 2006.

HAWAII LABOR RELATIONS BOARD


BRIAN K. NAKAMURA, Chair

DIRECTOR, DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS v. BEACHSIDE
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EMORY J. SPRINGER, Member


SARAH R. HIRAKAMI, 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:

Leo B. Young, Deputy Attorney General
Bruce D. Voss, Esq.