BEFORE THE

STATE OF CALIFORNIA

OCCUPATIONAL SAFETY AND HEALTH

APPEALS BOARD

In the Matter of the Appeal of: **PARAMOUNT CITRUS PACKING COMPANY LLC** 1701 S. Lexington Street Delano, CA 93215 Employer	**DOCKETS 15-R4D7-2213 Through 2215** **DECISION**

STATEMENT OF THE CASE

On November 18, 2014, the Division of Occupational Safety and Health (the Division) through Associate Safety Engineer, Greg Clark conducted an accident inspection at a place of employment maintained by Paramount Citrus Packing Company, LLC (Employer), a fruit packaging company, located at 1701 S. Lexington Street, Delano, California (the site). On May 8, 2015, the Division cited Employer for three violations of the occupational safety and health standards and orders found in California Code of Regulations, title 8[1] as follows: for failure to complete Column F of the Cal/OSHA Form 300; for failure to properly guard a point of operation on a machine; and for failure to have lockout/tagout procedures to prevent inadvertent movement or release of stored energy and accident prevention signs or tags in place during the set-up of a machine.

The Employer filed an appeal contesting the existence of the violation of the safety orders, the classification, abatement requirements and the reasonableness of the proposed penalties. Employer also pleaded numerous affirmative defenses identified in Exhibit 1.[2]

---

[1] Unless otherwise specified, all references are to Sections of Title 8, California Code of Regulations.

[2] Except as otherwise noted in this Decision, Employer failed to present evidence in support of its pleaded affirmative defenses, and said defenses are therefore deemed waived. (See, e.g. *Central Coast Pipeline Construction Co., Inc*, Cal/OSHA App. 76-1342, Decision After Reconsideration (July 16, 1980) [holding that the employer bears the burden of proving all of the elements of the Independent Employee Action Defense].)

At the hearing the parties stipulated to a settlement of Citation 1, Item 1, Section 14300.29.

The matter came on regularly for hearing before Clara Hill-Williams, Administrative Law Judge (ALJ) for the California Occupational Safety and Health Appeals Board, at West Covina, California on January 12, 2016 and February 29, 2016. Azadeh Allayee, Attorney, of the Roll Law Group, PC, represented Employer. Efren Gomez, District Manager, represented the Division. The matter was submitted for Decision on April 5, 2016. The submission date was extended by the ALJ to June 26, 2016.

ISSUES

1. Did Employer fail to install and maintain a guard to prevent an employee's hand from entering the point of operation?
2. Did Employer fail to ensure its lockable controls were locked out or positively sealed in the off position during set-up operations and fail to ensure accident prevention signs or tags were in place during equipment set-up operations?
3. Did the Division establish a rebuttable presumption that Citations 2 and 3 were serious violations?
4. Did Employer rebut the presumption that Citations 2 and 3 were serious violations?
5. Did the Division properly classify Citation 2 as an accident-related violation?
6. Were the abatement requirements correct?
7. Were the proposed penalties for Citations 2 and 3 reasonable?

FINDINGS OF FACT

1. Employee Owen Leoncio (Leoncio) reached his left hand under the C-9 machine that measured six inches from the floor to pull a mesh bag down to unjam a label, amputating Leoncio's thumb.
2. The Division's Associate Safety Engineer, Greg Clark (Clark) observed a gap that had a moving shovel and a clipping mechanism between a metal triangular part and a conveyor at the bottom of the C-9 machine, which was the area Leoncio's thumb came in contact with resulting in the amputation of his thumb[3].
3. Employer failed to install and maintain a guard at the point of operation or gap under the C-9 machine.

---

[3] See Photo Exhibit 3D.

4. Employer's C-9 machine was equipped with lockable controls to de-energize and disconnect the equipment from its power source to prevent inadvertent movement or the release of stored energy by pressing the Emergency Stop (E-Stop) button on the C-9 machine.
5. Leoncio did not press the Emergency Stop (E-Stop) button to de-activate the C-9 before reaching under the C-9 machine to unjam the label[4].
6. Employer failed to ensure accident prevention signs or tags were in place during the C-9 machine's set-up operations.
7. Citations 2 and 3 were properly classified as serious violations based upon Employer failing to offer evidence to rebut the presumption that a violation existed at the work site; a realistic possibility of death or serious injury existed; and that employees were exposed to an actual hazard.
8. Employer failed to rebut the presumption that Citations 2 and 3 were serious violations.
9. Leoncio's serious injury was caused by the absence of a guard at the point of operation or gap on the C-9.
10. Employer did not present any evidence disputing the reasonableness of the abatement requirements for Citations 2 and 3.
11. Employer did not present any evidence disputing the reasonableness of the proposed penalties for Citations 2 and 3.

ANALYSIS

1. **Did Employer fail to install and maintain a guard at the point of operation to prevent an employee's hand from entering the point of operation?**

Section 4186, subdivision (b), Maintenance and Use of Point of Operation tools and Guards provides:

> All point of operation guards shall be properly set up, adjusted and maintained in safe and efficient working condition in conformance with Figure G-8 and Table G-3 or other guard configurations which will prevent the operator's hand from entering the point of operation.

[4] Pressing the E-Stop button de-activated the C-9 machine, which would allow an operator to unjam the C-9 machine.

The Division alleged:

> On or about November 18, 2014, the Division initiated an investigation. Prior to and during the course of the investigation, including, but not limited to, on November 10, 2014, [an] employee working on CA-9 Bagging Line #1, Giro Unit #2 suffered a serious injury when the machine activated resulting in a left thumb amputation. The employer did not install and maintain a guard at the point of operation to prevent contact with the moving shovel and clipping mechanism.

The Division has the burden of proving a violation, including the applicability of the safety order, by a preponderance of the evidence. (*Howard J. White, Inc.*, Cal/OSHA App. 78-741, Decision After Reconsideration (June 16, 1983).)

To establish a violation the Division must prove that Employer failed to (1) properly set up, (2) adjust and (3) maintain the point of operation guard in a safe and efficient working condition to prevent the operator's hand from entering the point of operation. When a safety standard includes two or more distinct requirements[5], if an employer violates any one of the requirements, it is considered a violation of the safety standard. (*Golden State Erectors,* Cal/OSHA App. 85-0026, DAR (Feb. 25, 1987) and *California Erectors Bay Area Inc* Cal/OSHA App. 93-503, DAR (Jul 31, 1998).)

Clark, the Division's Senior Safety Engineer testified that during the November 18, 2014 accident investigation, Employer's Environmental Health and Safety Manager, Oscar Arevalo (Arevalo) reported that an employee (Leoncio) was working on a "bagger line"[6] when an accident occurred resulting in the amputation of Leoncio's left thumb. At the Hearing, Leoncio testified on direct examination that he was attempting to remove the label and reached under the machine to pull the mesh bag (Exhibit 6 - Form 36) when the machine activated and amputated his finger.

Clark credibly testified that he took measurements of the machine and observed a six inch gap between a metal triangular part and a lower conveyor that he determined to be the area that Leoncio's thumb came in contact with, which caused his thumb injury (Photo Exhibit 3D). However, at the Hearing Leoncio stated Employer never prohibited employees from accessing the mesh underneath the machine. Leoncio further testified that he observed other employees unjam the labels in the same way he attempted to unjam the machine on the day of the accident. During the Hearing Employer did not offer

---

[5] See section 4186, subdivision (b) above.

[6] Leoncio had been working on the C-9 machine which bagged oranges into mesh bags.

proof that there was anything to prevent an employee from reaching under the machine to pull the mesh down to unjam labels.

Thus, the Division established that a violation of section 4186, subdivision (b) occurred because Employer failed to meet the first requirement of the safety order, in failing to properly set up a guard at the point of operation or gap on the C-9 machine.

2. **Did Employer fail to ensure its lockable controls were locked out or positively sealed in the off position during set-up operations and fail to ensure accident prevention signs or tags were in place during equipment set-up operations?**

Section 3314, subdivision (d) provides:

Repair Work and Setting-Up Operations.

> Prime movers, equipment, or power driven machines equipped with lockable controls or readily adaptable to lockable controls shall be locked out or positively sealed in the off position during repair work and setting-up operations. Machines, equipment, or prime movers not equipped with lockable controls or readily adaptable to lockable controls shall be considered in compliance with Section 3314 when positive means are taken, such as de-energizing or disconnecting the equipment from its source of power, or other action which will effectively prevent the equipment, prime mover or machine from inadvertent movement or release of stored energy. In all cases, accident prevention signs or tags or both shall be placed on the controls of the equipment, machines and prime movers during repair work and setting-up operations.

The Division alleged:

> On or about November 18, 2014, the Division initiated an investigation. Prior to and during the course of the investigation, including, but not limited to, on November 10, 2014, an employee working on CA-9 Bagging Line #1, Giro Unit #2 suffered a serious injury when the machine activated during set-up operations resulting in a left thumb amputation. The employer did not ensure lockable controls were locked out or positive means were taken, such as de-energizing or disconnecting the equipment from its source of power, or other action which would effectively prevent the machine from inadvertent movement or release of stored

> energy. Additionally, accident prevention signs or tags [sic] were not in place during equipment set-up operations.

As noted in *Golden State Erectors,* and *California Erectors Bay Area Inc, supra,* if the Division demonstrated that Employer did not satisfy any of the elements of safety order 3314, subdivision (d) regarding lock out or positively sealing in the off position or de-energizing the equipment. Furthermore, the Division also showed Employer failed to place accident prevention signs or tags on the controls of the equipment, which establishes a violation of the safety order.

At the hearing, Clark testified referencing Employer's Incident Investigation report[7], which concluded that the Leoncio bypassed Employer's procedures. Employer's investigation report stated Leoncio did not press the E-Stop before performing the task of unjamming the mesh bag or label. In failing to press the E-Stop button the investigation report determined that Leoncio failed to follow Employer's Lockout/Tagout and standard operating procedures for setting up the C-9 machine to bag the oranges. Both Clark and Arevalo testified that the Division and Employer's investigations concluded Leoncio reached under the C-9 machine while the machine was not de-activated. Furthermore, both Clark and Arevalo testified that the accident could have been avoided by Leoncio pressing the E-Stop button.

In evaluating the evidence, Employer did have a lockout tagout procedure that met the first element of the safety order of being capable of being locked out or positively sealed in the off position during set-up operations. Employer met the second element because the CA-9 was equipped with lockable controls or readily adaptable to lockable controls that were in compliance when de-energizing or disconnecting the equipment from its power source to prevent inadvertent movement or the release of stored energy. However, as discussed above, Employer did not meet the third element because employees were not prohibited from reaching under the C-9 machine to unjam the labels. The evidence is also void of Employer posting any signs around the C-9 warning against unjamming the C-9 by reaching under the machine and pulling down the mesh bag.

Thus, while Employer's lockout/tagout procedures of pressing the E-Stop button would have de-activated the C-9, which is in compliance with the safety order. Employer failed to ensure accident prevention signs or tags were in place during the C-9 set-up operation to prevent an employee from reaching under the machine to unjam the machine, which is in violation of the safety order. .

---

[7] (Exhibit 6), which determined that the accident occurred when Leoncio attempted to unjam a label inside the CA-9 machine. Leoncio opened the top of the Plexiglas door that gave him full access to the inside of the CA-9 and reached under the machine to pull down the mesh bag without pressing the E-Stop button.

3. **Did the Division establish a rebuttable presumption that Citations 2 and 3 were serious violations?**

The legal standard for a serious violation is expressed in Labor Code section 6432, subdivision (a) which states:

> (a) There shall be a rebuttable presumption that a "serious violation" exists in a place of employment if the division demonstrates that there is a realistic possibility that death or serious physical harm could result from the actual hazard created by the violation.

Section 6432, subdivision (a) provides that a rebuttable presumption of a "serious" violation exists if "there is a realistic possibility that death or serious physical harm could result from the actual hazard created by the violation." (*International Paper* Company, Cal/OSHA App. 14-1189-1191, Decision After Reconsideration (May 29, 2015).) The term "realistic possibility" means that it is within the bounds of reason, and not purely speculative. (*Langer Farms, LLC*, Cal/OSHA App. 13-0231, Decision After Reconsideration (Apr. 24, 2015).) Section 6432, subdivision (a)(2), further states that the actual hazard may consist of "the existence in the place of employment of one or more unsafe or unhealthful practices, means, methods, operations, or processes that have been adopted or are in use."

There is a presumption that the Legislature has approved the Board's definition. (See, *Moore v. California State Board of Accountancy* (1992) 2 Cal. 4th 999, 1017, 9 Cal. Rptr. 2d 358, 831 P. 2d 798).

The elements of a rebuttable serious violation are: (1) a violation exists in a place of employment, (2) a demonstration of a realistic possibility of death or serious physical harm and (3) employee exposure to an actual hazard.

The first element must show that "a violation exists in a place of employment". Here, the Division met the first element of a violation existing in a place of employment for Citation 2, because Employer failed to guard the point of operation on the C-9 machine. A violation of Citation 3 is established because Employer failed to warn and post prevention signs regarding the C-9 set-up operation at the work site.

The second element requires a demonstration of a "realistic possibility" of death or serious physical harm, which is based upon Clark's testimony that a amputation of an operator's finger(s) existed without a guard to prevent contact with the moving shovel and clipping mechanism, as shown when Leoncio placed his hand in the gap or point of operation resulting in the amputation of Leoncio's thumb on November 18, 2014, as cited in Citation 2. A realistic

possibility of serious physical harm such as amputation is found because Employer failed to place accident prevention signs or tags on the controls or on the equipment regarding the C-9 set-up operation.

The third element, serious physical harm as used in section 6432, is defined as serious physical harm that could result from the actual hazard created by the violation. The demonstration of a violation by the Division is not sufficient by itself to establish a serious violation. The actual hazard may consist of among other things: (1) A serious exposure exceeding an established permissible exposure limit or (2) The existence in the place of employment of one or more unsafe or unhealthful practices, means, methods, operations, or processes that have been adopted or are in use.

The third element of an actual hazard regarding Citation 2, is met based upon Clark's testimony that he observed and took measurements of the machine and observed a gap between a metal triangular part and a lower conveyor, which he determined to be the area that Leoncio's thumb came in contact with, causing his thumb injury (Exhibit 3D). Clark further observed that this area was not guarded, which was acknowledged by Employer, establishing the existence of an actual hazard at the work site. In considering Citation 3, employee exposure is established as demonstrated by Leoncio bypassing Employer's lockout tagout procedures and Employer's failure to post warning signs around the C-9, exposing its employees to an actual hazard. Thus, the third element of serious physical harm is established by the existence of unsafe point of operation for the C-9 machine at the work site and Employer's failure to post warning signs around the C-9 machine as part of its lockout tagout procedures.

The Division has shown that a violation existed at the Employer's work site, by showing that a realistic possibility of death or serious physical harm existed and employee exposure existed to an actual hazard, establishing a rebuttable presumption of a serious violation for Citations 2 and 3.

4. **Did Employer rebut the presumption that Citations 2 and 3 were serious violations?**

Once the Division produces enough evidence to create a presumption of a serious violation, the burden of proof shifts to Employer to rebut the presumption. Section 6432, subdivision (c), provides as follows:

> If the Division establishes a presumption pursuant to subdivision (a) that a violation is serious, the employer may rebut the presumption and establish that a violation is not serious by demonstrating that the employer did not know and could not, with the exercise of reasonable diligence, have known of the presence of the violation.

To establish that Employer could not have known of the violative condition by exercising reasonable diligence, an employer has the burden to establish that the violation occurred under circumstances which could not provide the employer with a reasonable opportunity to have detected it. (*Vance Brown, Inc.,* Cal/OSHA App. 00-3318, Decision After Reconsideration (April. 1, 2003); *Pierce Enterprises*, Cal/OSHA App. 00-1951, Decision After Reconsideration (Mar. 20, 2002), citing *Newberry Electric Corporation v. Occupational Safety and Health Appeals Board* (1981) 123 Cal.App.3d 641, 648; *Gaehwiler v. Occupational Safety and Health Appeals Board* C-9 machine.

In attempting to rebut the presumption that a serious violation exists for Citation 2 and 3, Employer asserted that a partial amputation resulted from the November 18, 2014 accident. Employer asserted that a partial amputation is not considered a serious physical harm. However, Leoncio testified that when he placed his hand into the point of operation to pull the mesh down, the C-9's shovel and cutting mechanism caught his left thumb resulting in the amputation of his left thumb. The injury caused Leoncio to lose bone from the tip of his thumb that resulted in severing a portion of his left thumb, which is now shorter than his right thumb, which he displayed at the Hearing. Thus, Employer failed to present evidence rebutting the presumption that serious violations occurred.

At the Hearing Leoncio stated Employer never prohibited employees from accessing the mesh underneath the C-9 machine. As discussed above, the Employer did not offer proof that there was anything to prevent an employee from reaching under the C-9 machine to pull the mesh down and making contact with an unguarded point of operation. Employer also acknowledged that there were not any signs posted on the C-9 machine to warn against reaching under the C-9 to unjam labels. Employer knowledge can be inferred based upon Leoncio's testimony that he observed other employees unjam labels on the C-9 machine in the same way he attempted to unjam the C-9, resulting in the amputation of his thumb, which was not rebutted by Employer. Thus, Employer failed to establish that Employer could not have known of the violative condition with reasonable diligence. Employer also failed to establish that there was not a reasonable opportunity to have detected the violation.

In weighing the evidence, the Division properly classified the violation of Citation 2 and 3 as serious because: (1) a violation existed at Employer's work site; (2) Clark demonstrated a realistic possibility of death or serious physical harm was likely to occur from the violation; and (3) the employees' exposure to an actual hazard has been established, which created a rebuttable presumption that serious physical harm occurred, which was not rebutted by Employer.

5. **Did the Division properly classify Citation 2 as an accident-related violation?**

To establish the characterization of the violation as accident-related, the Board requires a showing of a "causal nexus between the violation and the serious injury". (*Sherwood Mechanical, Inc.*, Cal/OSHA App. 08-4692, Decision After Reconsideration (Jun. 28, 2012) citing *Obayashi Corp.*, Cal/OSHA App. 98-3674, Decision After Reconsideration (Jun. 5, 2001).) The violation need not be the only cause of the accident, but the Division must make a "showing [that] the violation more likely than not was a cause of the injury. (*Mascon, Inc.*, Cal/OSHA App. 08-4278, Denial of Petition for Reconsideration (Mar. 4, 2011); *Siskiyou Forest Products*, Cal/OSHA App. 01-1418, Decision After Reconsideration (Mar. 17, 2003); *Davey Tree Surgery Company*, Cal/OSHA App. 99-2906, Decision After Reconsideration (Oct. 4, 2002).)." The Board in *MCM Construction,* Cal/OSHA App. 13-3851, Decision After Reconsideration (Feb. 22, 2016), recently found a showing of a causal nexus between the Employer's violation of a safety order and the serious injury. The violation may not have been the sole factor in the employee's serious injury. Other factors may have also contributed to the accident. However, if the safety order had been followed, it would have been unlikely that the injury would have occurred.

Clark testified that the violation was classified as accident related because the absence of guarding on the C-9 machine caused Leoncio to suffer a serious injury. Clark stated that the gap/or wide opening on the C-9 machine allowed Leoncio's hand access to the point of operation, which resulted in the accident.

Thus, inserting his hand under the C-9, and attempting to grab the mesh bag resulted in Leoncio amputating his thumb. Therefore, the Division met its burden by a preponderance of the evidence in establishing that Leoncio's serious injury had a causal relationship to Employer's violation of Citation 2 in failing to guard the opening/gap or point of operation on the C-9 machine.

6. **Were the abatement requirements correct?**

The Occupational Safety and Health Act of 1973 [Cal. Labor Code § 6300 et. seq. (the Act)] was enacted for the purpose of assuring safe and healthful working conditions for all California working men and women by authorizing the enforcement of effective standards, assisting and encouraging employers to maintain safe and healthful working conditions, and by providing for research, information, education, training, and enforcement in the field of occupational safety and health (Cal. Labor Code § 6300). The safety orders are to be broadly interpreted to further the purposes of the act. *Carmona v. Division of Industrial Safety,* (1975) 13 Cal.3d 303.]

In this matter, the hazards to be abated in Citation 2 and 3 are serious. Citation 2 is also found to be accident related. From the evidence presented by the Division, both Citation 2 and Citation 3 were abated (C-10- Penalty worksheet – Exhibit 5) and abatement credit was given with the exception of Citation 2 (abatement credit is not given in accident related violation, as discussed above).

For all the foregoing reasons, and because Employer did not present any evidence to demonstrate that the abatement requirements were unreasonable, the abatement requirements are found to be reasonable.

7. **Were the proposed penalties for Citation 2 and 3 reasonable?**

The Division must calculate proposed penalties in accordance with its regulations and present proof sufficient to support its calculations on severity, extent, likelihood, etc. (*Gal Concrete Construction Co.*, Cal/OSHA App. 89-317/318, DAR (Sept. 27, 1990).) The Division must properly rate the employer's safety program and its experience to justify a penalty. (*Monterey Abalone*, Cal/OSHA App. 75-786, DAR (March 15, 1977).) Pursuant to the California Code of Regulations, there is a rebuttable presumption that the proposed penalties are reasonable once the Division establishes that the penalties were calculated in accordance with the Division's policies, procedures and regulations (*Stockton Tri Industries, Inc.,* Cal/OSHA App. 02-4946, Decision After Reconsideration (Mar. 27, 2006).)

The penalties must be calculated pursuant to the Division's policies and procedures and the California Code of Regulations[8]. In assessing civil penalties, the severity of a serious violation is always considered high[9]. The base penalty for a serious violation is then subject to an adjustment for "extent", when the safety order violated pertains to employee illness or disease. Extent is based upon the number of employees exposed. When the safety order violated does not pertain to employee illness or disease, extent shall be based upon the degree to which a safety order is violated. It is related to the ratio of the number of violations of a certain order to the number of possibilities for a violation on the premises or site. It is an indication of how widespread the violation is. "Likelihood" is the probability that injury, illness or disease will occur and the number of employees exposed to the hazard created by the violation and the extent to which the violation has in the past resulted in injury, illness or disease to employees[10].

In calculating the penalty for Citation 2, Clark rated extent as medium because there was a serious injury. Likelihood was rated as medium because

---

[8] Exhibit 5 – C10-Penalty Worksheet
[9] Section 335, subdivision (a)(1)(B)
[10] See section 336, subdivision (a)(2)

the accident had not occurred before, yet there was a possibility that such an accident could occur. Because Clark characterized the violation as accident related, pursuant to Labor Code section 6302, the penalty could only be reduced for Size as set forth in subdivision (d)(1). Employer had over a 100 employees at the time of the accident, which did not entitle Employer to any credit for size. Thus, Clark did not make an adjustment to the base penalty of $18,000 for Citations 2.

In calculating the penalty for Citation 3 as a serious violation, Clark gave low extent and medium likelihood. Clark also gave 10 percent history credit, and 15 percent good faith credit as well as abatement credit, resulting in a penalty of $5,060.

Conclusions

Employer's appeal from Citation 2, section 4186, subdivision (b) is denied.

Employer's appeal from Citation 3, section 3314, subdivision (d) is denied.

Both Citations 2 and 3 were properly classified as serious violations.

Employer's appeal from the accident related classification of Citation 2 is denied.

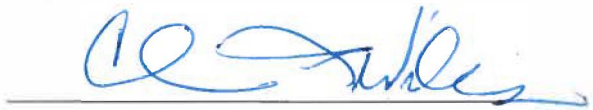
The proposed penalty for Citation 2 is reasonable and the proposed penalty for Citation 3 is reasonable.

Order

It is hereby ordered that Citation 2 and Citation 3 are hereby affirmed.

It is further ordered that the penalties indicated above and set forth in the attached Summary Table be assessed.

Dated: July 20, 2016



CLARA HILL-WILLIAMS
Administrative Law Judge

CHW: lgf

APPENDIX A

SUMMARY OF EVIDENTIARY RECORD

PARAMOUNT CITRUS PACKING CO. LLC.
Dockets 15-R4D7-2213 through 2215

Date of Hearing: January 12, 2016 and February 29, 2016

Division's Exhibits

Exhibit Number	Exhibit Description	Admitted
1	Jurisdictional Documents	Yes
2	OSHA Form 36	Yes
3A –I	Photo of C-9 Bagging Machine	Yes
4	Notice of 1BY, Citation 2	Yes
5	C-10 Penalty Worksheet	Yes
6	Employer's Incident Investigation Report	Yes
7	Employer's Accident Investigation	Yes
8	Notice of 1BY, Citation 3	Yes
9	Subpoena of Owen Leoncio	**Withdrawn**
10	Witness Report Statement of Eric Roy	Yes

Employer's Exhibits

Exhibit Letter	Exhibit Description	Admitted
A	OSHA Documentation Worksheet	Yes
B	Documents received from OSHA	Yes
C	IIPP 2012	Yes
D	IIPP 2014	Yes
E	Abatement forms June 30, 2015	Yes
F	Abatement forms July, 15, 2015	Yes
G	Loading Torpedo	Yes

H	Cal/OSHA 300 Training Records	Yes
I	Skill Block Book	Yes

Witnesses Testifying at Hearing

1. Greg Clark
2. Oscar Arevalo
3. Owen Leoncio
4. Eric Perez
5. Christian Escobido

CERTIFICATION OF RECORDING

I, Clara Hill-Williams, the California Occupational Safety and Health Appeals Board Administrative Law Judge duly assigned to hear the above matter, hereby certify the proceedings therein were electronically recorded. The recording was monitored by the undersigned and constitutes the official record of said proceedings. To the best of my knowledge, the electronic recording equipment was functioning normally.

Signature

7/20/16

Date

BEFORE THE

STATE OF CALIFORNIA

OCCUPATIONAL SAFETY AND HEALTH

APPEALS BOARD

In the Matter of the Appeal of: **PARAMOUNT CITRUS PACKING COMPANY LLC** 1701 S. Lexington Street Delano, CA 93215 **Employer**	**DOCKETS 15-R4D7-2213 Through 2215** **TRANSMITTAL**

The attached Decision was issued on the date indicated therein. If you are dissatisfied with the Decision, you have thirty (30) days from the date of service of the Decision in which to petition for reconsideration. The petition for reconsideration must be sent to:

Occupational Safety and Health Appeals Board
2520 Venture Oaks Way, Suite 300
Sacramento, California 95833

Your petition for reconsideration must fully comply with the requirements of Labor Code Sections 6616, 6617, 6618, and 6619 and with Title 8, California Code of Regulations, Section 390.1.

For further information, call: (916) 274-5751

DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare as follows:

I am a citizen of the United States, over the age of 18 years and not a party to the within action; my place of employment and business address is Occupational Safety and Health Appeals Board, 100 North Barranca Street, Suite 410, West Covina, California, 91791.

On July 20, 2016, I served the attached by placing a true copy thereof in an envelope addressed to the persons named below at the address set out immediately below each respective name, and by sealing and depositing said envelope in the United States Mail at West Covina, California, with first-class postage thereon fully prepaid. There is delivery service by United States Mail at each of the places so addressed, or there is regular communication by mail between the place of mailing and each of the places so addressed:

Azadeh Allayee, Attorney
ROLL LAW GROUP, PC
11444 West Olympic Boulevard, 7th Floor
Los Angeles, CA 90064

DOSH DISTRICT OFFICE
7718 Meany Avenue
Bakersfield, CA 93308

DOSH LEGAL UNIT
ATTN: Amy Martin, Chief Counsel
1515 Clay Street, #1901
Oakland, CA 94612

DOSH LEGAL UNIT
320 West Fourth Street, #400
Los Angeles, CA 90013

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 20, 2016 at West Covina, California.

_____
Declarant

CHW/lgf

SUMMARY TABLE
DECISION

Abbreviation Key:	Reg=Regulatory
G=General	W=Willful
S=Serious	R=Repeat
Er=Employer	DOSH=Division

In the Matter of the Appeal of:
PARAMOUNT CITRUS PACKING COMPANY LLC

Dockets 15-R4D7-2213 - 2215

IMIS No. 1009075

DOCKET	CITATION	ITEM	SECTION	TYPE		AFFIRMED	VACATED	PENALTY PROPOSED BY DOSH IN CITATION	PENALTY PROPOSED BY DOSH AT HEARING	**FINAL PENALTY ASSESSED BY BOARD**
15-R4D7-2213	1	1	14300.29	Reg	Pursuant to parties' stipulation DOSH reduced to a Notice in Lieu of Citation	X		$185	$0	**$0**
15-R4D7-2214	2	1	4186(b)	SAR	Citation affirmed	X		$18,000	$18,000	**$18,000**
15-R4D7-2215	3	1	3314(d)	S	Citation affirmed	X		$5,060	$5,060	**$5,060**
					Sub-Total			$23,185	$23,185	**$23,185**

Total Amount Due* **$23,185**
(INCLUDES APPEALED CITATIONS ONLY)

NOTE: Please do not send payments to the Appeals Board. **All penalty payments must be made to:**

Accounting Office (OSH)
Department of Industrial Relations
P.O. Box 420603
San Francisco, CA 94142

*You will owe more than this amount if you did not appeal one or more citations or items containing penalties. Please call (415) 703-4291 if you have any questions.

ALJ: CHW/lgf
POS: 07/20/16