BEFORE THE
STATE OF CALIFORNIA
OCCUPATIONAL SAFETY AND HEALTH
APPEALS BOARD

In the Matter of the Appeal of:	Inspection No. **1359659**
GOLDEN STATE FC LLC **dba AMAZON ONT6** **24208 SAN MICHELE RD.** **MORENO VALLEY, CA 92551** **Employer**	**DECISION**

Statement of the Case

Golden State FC LLC (Employer), operates an e-commerce business. On November 9, 2018, the Division of Occupational Safety and Health (the Division), through Associate Safety Engineer Elia Fernandez (Fernandez), commenced an inspection of a warehouse at 24208 San Michele Road in Moreno Valley, California as part of a High Hazard Unit programmed inspection.

On May 8, 2019, the Division issued two citations to Employer. Citation 1, Item 1, alleges a failure to provide a locking system to prevent unauthorized operation of compaction equipment and balers. Citation 2, Item 1, alleges a failure to provide facilities for quick drenching of the body (emergency shower). Employer timely appealed the citations, contesting the existence of the violations, the classification of the violations, and the reasonableness of the proposed penalties. Additionally, Employer asserted a series of affirmative defenses.[1]

At the hearing, the parties presented a stipulation regarding Citation 1, Item 1, wherein Employer withdrew its appeal of the citation and accepted a reclassification of the citation from Serious to General, a reduced penalty, and a standard non-admissions clause. Therefore, the only issues remaining on appeal relate to Citation 2, Item 1.

The hearing record was opened by Sam E. Lucas, Administrative Law Judge (ALJ) for the Occupational Safety and Health Appeals Board, in West Covina, California, on November 14, 2019, for introduction of the jurisdictional documents. The hearing was then continued. With the consent of the parties, the remainder of the hearing was held by Mario L. Grimm, ALJ for the

[1] Except as otherwise noted, Employer did not present evidence in support of its affirmative defenses, and said defenses are therefore deemed waived. (*RNR Construction, Inc.,* Cal/OSHA App. 1092600, Denial of Petition for Reconsideration (May 26, 2017).)

Appeals Board, in West Covina, California, on October 22, 2020. Kevin Bland, Attorney, of Ogletree, Deakins, Nash, Smoak & Stewart, P.C., represented Employer. William Cregar, Staff Counsel, represented the Division. The matter was submitted on February 10, 2021.

Issues

1. Were employees exposed to an explosion hazard?
2. Did the battery compartments preclude employee exposure?
3. Did the charging batteries create a realistic possibility of serious physical harm?
4. Did Employer know of the presence of the violation?
5. Did the Division calculate the proposed penalty in accordance with the penalty-setting regulations?

Findings of Fact

1. Employer utilizes powered industrial trucks (PITs) in its warehouse. PITs have a rechargeable battery. Employer's warehouse has a battery charging area.
2. PIT batteries can explode while recharging.
3. The battery charging area is open and accessible to employees. Employer has an emergency eye wash station in the battery charging area. Employer does not have an emergency shower in the battery charging area.
4. PIT batteries contain sulfuric acid. In an explosion, the sulfuric acid can cause second-degree or third-degree skin burns.
5. Paul Vasquez (Vasquez) performs safety inspections by walking the warehouse, including the charging area, about 20-30 times per day.

Procedural Issues

1. Form 1BY and Employer's response

With its post-hearing brief, the Division filed a motion seeking to admit two additional documents into evidence. The Division characterizes these documents as the Form 1BY (Notice of Intent to Classify Citation as Serious) and Employer's response to the Form 1BY. The Division indicates it inadvertently overlooked the inclusion of these documents at hearing.

If a party wishes to present evidence after the closing of the evidentiary record, that party must file a motion requesting leave to submit additional evidence, specify what evidence it wishes to submit, and the reason why, with the exercise of reasonable diligence, the party was unable to submit the proposed evidence at the time of the hearing.

In the present matter, the documents were not submitted 10 days prior to hearing, which was ordered in the Order After Prehearing Conference. Additionally, the documents were not discussed during the hearing. These facts along with the Division's inadvertence do not show that, with the exercise of reasonable diligence, the Division was unable to offer the documents into evidence during the hearing. Accordingly, the request to include additional evidence is denied.

2. Testimony of Fernandez

Section 372.7 authorizes an ALJ to impose sanctions on a party who makes an evasive or incomplete response to discovery where such action results in surprise to the requesting party at the hearing. Additionally, section 372.6 authorizes a party claiming that its request for discovery has not been complied with to file a motion to compel discovery.

In its post-hearing brief, Employer argues that the testimony of Fernandez should be disregarded. Employer contends it made a discovery request for Fernandez's training records, and the Division did not produce the requested records. Employer argues that the absence of the training records deprived Employer of the ability to properly question Fernandez's credentials.

Although Employer claims its discovery request was not complied with, Employer did not file a motion to compel the Division to produce the records. Additionally, Employer does not argue that it was surprised that Fernandez testified at hearing or surprised that her testimony covered her training and credentials. Notably, Fernandez is listed on the citation as the inspecting compliance officer. An inspector's training is routinely a subject of testimony at hearing. Because Employer did not show it was surprised at hearing, or how any such surprise resulted from an absence of training documents, the request to disregard Fernandez's testimony is denied.

3. Testimony of Charlene Gloriani

In its post-hearing brief, Employer argues that a portion of testimony from Charlene Gloriani (Gloriani) should be excluded. Employer asserts that the contested testimony amounts to improper expert opinion on the applicability of an ANSI standard requiring showers and eye wash.

The Division is a law enforcement agency responsible for issuing and prosecuting citations. (*Alfredo Annino/Alfredo Annino Construction, Inc. of Nevada*, Cal/OSHA 98-311, Decision After Reconsideration (April 25, 2001).) Gloriani is an employee of the Division, and her work involves enforcing laws. Therefore, an explanation of her work can involve a description of the law, her understanding of the law, or the Division's interpretation of the law.

Here, the question leading to the contested testimony was: "What is an eye wash station?" (Transcript 90:19.) Gloriani began explaining an eye wash shower station unit. In doing so, Gloriani referenced an ANSI standard. The testimony continued with: "We use the ANSI standard." (Transcript 92:9.) The testimony appears to be a description of the basis for the Division's enforcement policy—or Gloriani's understanding of it. The testimony does not appear to be an opinion on the law to be applied in deciding this appeal. Accordingly, the testimony will not be excluded.

Issues

1. **Were employees exposed to an explosion hazard?**

The Division cited Employer for a violation of California Code of Regulations, title 8, section 5185, subdivision (n),[2] which provides:

> Facilities for quick drenching or flushing of the eyes and body shall be provided in accordance with Section 5162 unless the storage batteries are: (1) equipped with explosion resistant or flame arrestor type vents; or (2) located in a compartment or other location such as to preclude employee exposure.

In Citation 2, Item 1, the Division alleges:

> Prior to and during the course of inspection, including but not limited to, on November 9, 2018, the employer failed to provide facilities for quick drenching of the body (emergency shower) in accordance with Section 5162, in two locations where employees charge powered industrial truck batteries.
>
> Instance 1: West Outbound PIT Battery Charging Area 4 Chargers
> Instance 2: East Outbound PIT Battery Charging Area 9 Chargers.

The Division has the burden of proving a violation by a preponderance of the evidence. (*Howard J. White, Inc.*, Cal/OSHA App. 78-741, Decision After Reconsideration (June 16, 1983).) "Preponderance of the evidence" is usually defined in terms of probability of truth, or of evidence that when weighted with that opposed to it, has more convincing force and greater probability of truth with consideration of both direct and circumstantial evidence and all reasonable inferences to be drawn from both kinds of evidence. (*Nolte Sheet Metal, Inc.*, Cal/OSHA App. 14-2777, Decision After Reconsideration (Oct. 7, 2016).)

[2] Unless otherwise specified, all references are to sections of California Code of Regulations, title 8.

The purpose of section 5185 is to protect against the hazard of burns from corrosive acids in batteries. (*General Telephone Company of California*, Cal-OSHA App. 82-406, Decision After Reconsideration (Nov. 19, 1982).)

In the present case, the parties do not dispute that Employer did not have facilities for flushing of the body in the battery charging area. Rather, the parties dispute whether Employer's employees were exposed to a hazard addressed by the safety order—specifically, whether employees were exposed to an explosion hazard from PIT batteries. There is no dispute that the explosion hazard is present only while batteries are charging.

The Division may establish exposure in two ways. First, the Division may demonstrate employee exposure by showing that an employee was actually exposed to the zone of danger or hazard created by a violative condition. (*Benicia Foundry & Iron Works, Inc.*, Cal/OSHA App. 00-2976, Decision After Reconsideration (April 24, 2003).) Actual exposure is established when the evidence preponderates to a finding that employees actually have been or are in the zone of danger created by the violative condition. (*Dynamic Construction Services, Inc.*, Cal/OSHA App. 14-1471, Decision After Reconsideration (Dec. 1, 2016) (*Dynamic Construction*).)

Aside from demonstrating actual employee exposure, the Division may establish the element of employee exposure to the violative condition "by showing employee access to the zone of danger based on evidence of reasonable predictability that employees while in the course of assigned work duties, pursuing personal activities during work, and normal means of ingress and egress would have access to the zone of danger." (*Dynamic Construction*, *supra*, Cal/OSHA App. 14-1471.) That is, the Division may establish employee exposure by showing the area of the hazard was "accessible" to employees such that it is reasonably predictable by operational necessity or otherwise, including inadvertence, that employees have been, are, or will be in the zone of danger. (*Id.*)

Here, Employer utilizes PITs powered by a rechargeable battery. The warehouse has a battery charging area for PITs. The battery charging area consists of a row of parking spaces along a wall. Each parking space has a charging station at the head of the parking space (i.e., near the wall). Fernandez testified that she did not observe any PITs charging during her inspection visits. Vasquez is Employer's Workplace Health and Safety Manager. He accompanied Fernandez on each of her visits. Vasquez testified that he has never seen any employees in the charging area while PITs were charging.

The pictures taken by Fernandez show PITs and the charging area inside of a large warehouse. Nothing physically prevents employees from walking between charging PITs or standing next to a charging PIT, which would expose an employee to the explosion hazard. The charging area is located in the middle of one wall of the warehouse. A marked aisle passes in

front of the charging area. It appears to designate a route for employees traveling from one side of the warehouse to the other.

Additionally, Employer placed an emergency eyewash station in the charging area. At any moment, an employee who needs to flush his or her eyes would be drawn to the charging area for 15 minutes of flushing—or if already in the charging area, the employee would remain 15 minutes longer than he or she would otherwise have been in the area. This indicates that the charging area is not only accessible, but is an area designated for employees to seek emergency first aid. The exhibits also show an unidentified machine across the marked aisle. The machine displays multiple notices. This indicates another source that can draw employees by or near to charging PITs.

Vasquez testified that a charging station does not begin charging for 15 minutes after connection of the battery to the charging station. Although this provides an element of protection, it is limited to 15 minutes. It would not protect a second operator who returns 15 minutes later or an employee walking up to the PIT after 15 minutes.

In sum, the evidence shows that charging PITs are accessible such that it is reasonably predictable by operational necessity or otherwise, including inadvertence, that employees have been, are, or will be exposed to the explosion hazard. Accordingly, the Division has established employee exposure and a violation of the safety order.

2. Did the battery compartments preclude employee exposure?

An exception to a safety order is an affirmative defense, by which the employer may demonstrate that it is in compliance with an authorized exception to the general rule. (*DISH Network California Service Corporation*, Cal/OSHA App. 12-0455, Decision After Reconsideration (Aug. 28, 2014).)

Employer argues that the Division investigation did not consider one exception to the safety order, namely, that emergency showers are not required when the batteries are "located in a compartment or other location such as to preclude employee exposure." Employer contends its employees are precluded from exposure to the hazard because it contracts with a vendor to service and maintain the PIT batteries. Thus, Employer's employees do not remove, install, or maintain the batteries.

Although its employees do not remove, install, or maintain PIT batteries, the employees are not precluded from exposure. As discussed above, the evidence indicates that PIT operators as well as other employees are exposed to the hazard even though they do not service or maintain

the batteries (other than connecting the batteries to the charging stations). Accordingly, Employer has not met its burden to prove it was in compliance with the indicated exception.

3. Did the charging batteries create a realistic possibility of serious physical harm?

The Division classified the violation as a "serious violation." Labor Code section 6432, subdivision (a), defines a serious violation as follows:

> 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.

Labor Code section 6432, subdivision (e), defines "serious physical harm" as any injury or illness occurring in the place of employment that results in, among other possibilities, "second-degree or worse burns."

To meet its initial burden, the Division must produce "some satisfactory evidence demonstrating the types of injuries that could result and the possibility of those injuries occurring." (*MDB Management, Inc.*, Cal/OSHA App. 14-2373, Decision After Reconsideration (Apr. 25, 2016).)

Gloriani is an Associate Safety Engineer with the Division. She has been employed by the Division since 1994. She is trained in toxicology and industrial hygiene, including graduate courses. She has inspected over 700 facilities, and written hundreds of citations on eye washing showers and industrial battery usage, including PIT batteries. Gloriani is current with her Division-mandated training. She is, therefore, qualified to provide competent testimony on the elements of a serious violation, as well as the custom and practice of injury and illness prevention in the workplace. (Lab. Code § 6432, subd. (g).)

Gloriani testified that the actual hazard presented by the violative condition is an exploding battery. She testified that PIT batteries contain sulfuric acid, and that sulfuric acid is highly corrosive. She explained that due to chemical processes that occur in the battery during charging, an explosion can result. Gloriani acknowledged that the explosion hazard is present only while the charging station supplies power to the battery. There is no explosion hazard from the mere fact of connecting a PIT battery to a charging station that is not supplying power.

Gloriani further testified that if a charging battery explodes, the sulfuric acid could cause "severe skin burns" and severe eye burns. An employee would need to rinse the eyes and skin

continuously for 15 minutes. An eye wash station is not sufficient to flush the skin. A shower is necessary to flush the skin.

Although the Appeals Board has not defined the term "severe burn," it has found that "severe burns" can mean second-degree or third-degree burns. (*California Family Fitness*, Cal/OSHA App. 03-0096, Decision After Reconsideration (Mar. 20, 2009).) The Merriam-Webster Dictionary defines the term "severe" to mean "of a great degree."[3] Thus, Gloriani's testimony establishes that second-degree or worse burns are within the bounds of reason and not purely speculative.

In sum, the preponderance of the evidence indicates there is a realistic possibility of second-degree or worse burns from the actual hazard created by the violation. Accordingly, the Division established the rebuttable presumption that the violation is a serious violation.

4. Did Employer know of the presence of the violation?

An employer may rebut the presumption that a violation is serious. Labor Code section 6432, subdivision (c), provides:

> 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. The employer may accomplish this by demonstrating both of the following:
>
> > (1) The employer took all the steps a reasonable and responsible employer in like circumstances should be expected to take, before the violation occurred, to anticipate and prevent the violation, taking into consideration the severity of the harm that could be expected to occur and the likelihood of that harm occurring in connection with the work activity during which the violation occurred. Factors relevant to this determination include, but are not limited to, those listed in subdivision (b).
> >
> > (2) The employer took effective action to eliminate employee exposure to the hazard created by the violation as soon as the violation was discovered.

[3] https://www.merriam-webster.com/dictionary/severe <accessed Mar. 5, 2021>

The reference to subdivision (b), of Labor Code section 6432, incorporates the following factors: (A) Training for employees and supervisors relevant to preventing employee exposure to the hazard or to similar hazards; (B) Procedures for discovering, controlling access to, and correcting the hazard or similar hazards; (C) Supervision of employees exposed or potentially exposed to the hazard; and (D) Procedures for communicating to employees about the employer's health and safety rules and programs.

A supervisor's knowledge of a hazard is imputed to the employer if the supervisor is responsible for the safety of employees. (*City of Sacramento, Dept. of Public Works*, Cal/OSHA App. 93-1947, Decision After Reconsideration (Feb. 5, 1998)).

Here, Employer had equipment and procedures that reduced the risk of a serious injury. For instance, the charging stations do not begin supplying energy until 15 minutes after connection to the battery. Additionally, Vasquez performs safety inspections by walking the warehouse, including the charging area, about 20-30 times per day.

However, the hazard remained in plain view. Vasquez was aware of the accessibility of the charging area because he inspects the warehouse each day. As a supervisor responsible for employee safety, his knowledge is attributable to Employer. Moreover, Employer did not present evidence that it trains employees and supervisors in avoiding the hazard.

In sum, Employer did not take all the steps a reasonable and responsible employer in like circumstances should be expected to take before the violation occurred. Accordingly, Employer did not rebut the presumption that the violation is a serious violation.

5. Did the Division calculate the proposed penalty in accordance with the penalty-setting regulations?

Penalties calculated in accordance with the penalty-setting regulations set forth in sections 333 through 336 are presumptively reasonable and will not be reduced absent evidence that the amount of the proposed civil penalty was miscalculated, the regulations were improperly applied, or that the totality of the circumstances warrant a reduction. (*Stockton Tri Industries, Inc.*, Cal/OSHA App. 02-4946, Decision After Reconsideration (Mar. 27, 2006).)

The Appeals Board has held that if the Division fails to establish all of the facts supporting the implementation of the penalty calculation, the employer is to be given maximum credit. (*C.A. Rasmussen, Inc.*, Cal/OSHA App. 08-0219, Decision After Reconsideration (July 19, 2012).)

The Division did not present testimony regarding the calculation of the proposed penalty. Although the Division submitted the proposed penalty worksheet as a prehearing submission, it did not introduce the proposed penalty worksheet into the record at hearing.

Severity

Section 335, subdivision (a)(1)(B), provides that the severity of a serious violation is considered to be High. Section 336, subdivision (c), provides a Base Penalty of $18,000 for a serious violation.

Here, the violation was properly classified as serious. Therefore, the Base Penalty is $18,000.

Extent

Section 335, subdivision (a)(2)(i), provides: "When the safety order violated pertains to employee illness or disease, Extent shall be based upon the number of employees exposed: Low -- 1 to 5 employees. Medium -- 6 to 25 employees. High -- 26 or more employees."

Section 336, subdivision (c), provides that for a rating of Low, 25 percent of the Base Penalty shall be subtracted; for a rating of Medium, no adjustment to the Base Penalty shall be made; and for a rating of High, 25 percent of the Base Penalty shall be added.

Here, the Division did not present evidence of Extent. Accordingly, Employer is entitled to 25 percent reduction, which is a reduction of $4,500.

Likelihood

Section 335, subdivision (a)(3), provides:

> Likelihood is the probability that injury, illness or disease will occur as a result of the violation. Thus, Likelihood is based on (i) the number of employees exposed to the hazard created by the violation, and (ii) the extent to which the violation has in the past resulted in injury, illness or disease to the employees of the firm and/or industry in general, as shown by experience, available statistics or records. Depending on the above two criteria, Likelihood is rated as: LOW, MODERATE OR HIGH.

Section 336, subdivision (c), provides that for a rating of Low, 25 percent of the Base Penalty shall be subtracted; for a rating of Medium, no adjustment to the Base Penalty shall be made; and for a rating of High, 25 percent of the Base Penalty shall be added.

Here, the Division did not present evidence of Likelihood. Accordingly, Employer is entitled to 25 percent reduction, which is a reduction of $4,500.

Therefore, the Base Penalty of $18,000 is reduced by 50 percent due to the reductions of 25 percent for Extent and 25 percent for Likelihood. The resulting Gravity-Based Penalty is $9,000.

Penalty Adjustments - Good Faith

Section 335, subdivision (c), provides:

> Good Faith of the Employer is based upon the quality and extent of the safety program the employer has in effect and operating. It includes the employer's awareness of Cal/OSHA, and any indications of the employer's desire to comply with the Act, by specific displays of accomplishments. Depending on such safety programs and the efforts of the employer to comply with the Act, Good Faith is rated as: GOOD--Effective safety program; FAIR--Average safety program; POOR--No effective safety program.

Section 336, subdivision (d)(2), provides that the Gravity-Based Penalty shall be reduced by 30 percent for a rating of Good, 15 percent for a rating of Fair, and zero percent for a rating of Poor.

In determining the rating for Good Faith, the Appeals Board considers the employer's attitude toward safety of its employees, as well as peculiar circumstances affecting the application of safety orders, and the employer's experience. A determination that the employer did not intend to disregard its employees' safety may be taken into consideration for potential reduction of penalties. (*Watkins Contracting, Inc.*, Cal/OSHA App. 93-1021, Decision After Reconsideration (Sep. 24, 1997).)

Here, the Division did not present evidence of Good Faith. Accordingly, Employer is entitled to a maximum adjustment of 30 percent for Good Faith.

Size

Section 335, subdivision (b), and section 336, subdivision (d)(1), provide that adjustment may be made for Size when an employer has 100 employees or less.

Here, the Division did not present evidence of Size. Accordingly, Employer is entitled to a maximum adjustment of 40 percent for Size. (*See* § 336, subd. (d)(1).)

History

Section 335, subdivision (d), and section 336, subdivision (d)(3), provide that if an employer has not had a history of violations in the past three years, the employer is entitled to a 10 percent History credit.

Here, the Division did not present evidence of History. Accordingly, Employer is entitled to a maximum adjustment of 10 percent for History.

In sum, Employer is entitled to a 30 percent reduction for Good Faith, a 40 percent reduction for Size, and 10 percent reduction for History. Application of these adjustment factors results in a reduction of the Gravity-Based Penalty by 80 percent, or $7,200. Accordingly, the Adjusted Penalty is $1,800.

Abatement Credit

Section 336, subdivision (e)(2), provides that the Division shall not grant an abatement credit unless the violation is corrected during the inspection or within ten days after a date designated as the abatement period. Application of the 50 percent abatement credit is not discretionary. It must be applied wherever it is not prohibited. (*Luis E. Avila dba E & L Avila Labor Contractors*, Cal/OSHA App. 00-4067, Decision After Reconsideration (Aug. 26, 2003).)

This is an Expedited matter, which indicates a Serious violation remained unabated. However, the Expedited status does not establish that Citation 2, Item 1, remained unabated because it is possible that the Expedited status resulted from a lack of abatement of Citation 1, Item 1. Additionally, the Citation and Notification of Penalty indicates that both citations had not been abated at the time of issuance. However, citations are allegations to be proved with evidence at hearing. Therefore, Employer is entitled to the abatement credit because the evidence does not establish a lack of abatement of Citation 2, Item 1.

Accordingly, the assessed penalty is $900.

Conclusion

The Division established Employer violated section 5185, subdivision (n). The penalty is modified as set forth above because the Division did not establish that the proposed penalty was calculated in accordance with the penalty-setting regulations.

Order

It is hereby ordered that Citation 2, Item 1, is affirmed and the penalty is modified to $900. Citation 1, Item 1, is reclassified from Serious to General and the modified penalty is set forth in the attached Summary Table. Further, the settlement terms for Citation 1, Item 1, are not intended to be and shall not be construed by anyone or any proceeding as an admission of negligence, fault, or wrongdoing, whatsoever by employer. Neither employer's agreement to compromise Citation 1, Item 1, nor any statement contained in this agreement regarding Citation 1, Item 1, shall be admissible in any other proceeding, either legal, equitable, or administrative except for purposes of administration and enforcement of the California Occupational Safety and Health Act and in proceedings before the Appeals Board.

Dated: 03/10/2021

Mario L. Grimm
Administrative Law Judge

The attached decision was issued on the date indicated therein. If you are dissatisfied with the decision, you have thirty days from the date of service of the decision in which to petition for reconsideration. Your petition for reconsideration must fully comply with the requirements of Labor Code sections 6616, 6617, 6618 and 6619, and with California Code of Regulations, title 8, section 390.1. **For further information, call: (916) 274-5751.**

APPENDIX A
SUMMARY OF EVIDENTIARY RECORD

Inspection No.: **1359659**
Employer: **GOLDEN STATE FC LLC dba AMAZON ONT6**
Dates of hearing: November 14, 2019 and October 22, 2020

DIVISION'S EXHIBITS

Exhibit Number	Exhibit Description	Status
1	Jurisdictional documents	Admitted Into Evidence

EMPLOYER'S EXHIBITS

Exhibit Letter	Exhibit Description	Status
44	Request for Discovery	Admitted Into Evidence
45	CCR, T8, Section 5185	Admitted Into Evidence

JOINT EXHIBITS

Exhibit Number	Exhibit Description	Status
10	DOSH Evidence Grid	Not Admitted Into Evidence
14	Photograph	Admitted Into Evidence
15	Photograph	Admitted Into Evidence
22	Color Photograph [DOSH 000491]	Admitted Into Evidence
23	Color Photograph [DOSH 000492]	Admitted Into Evidence
25	Color Photograph [000494]	Admitted Into Evidence
26	Color Photograph [DOSH 000495]	Admitted Into Evidence
27	Color Photograph [DOSH 000496]	Admitted Into Evidence
28	Color Photograph [DOSH 000497]	Admitted Into Evidence
42	Crown Battery Safety Data Sheet	Not Admitted Into Evidence
43	Response to DOSH Request for Information	Admitted Into Evidence

Witnesses testifying at hearing:

Paul Vasquez	Workplace Health & Safety Manager
Charlene Gloriani	Associate Safety Engineer
Elia Fernandez	Associate Safety Engineer

APPENDIX A
CERTIFICATION OF HEARING RECORD

Inspection No.: **1359659**
Employer: **GOLDEN STATE FC LLC dba AMAZON ONT6**

I, Mario L. Grimm, the California Occupational Safety and Health Appeals Board Administrative Law Judge duly assigned to hear the above-entitled matter, hereby certify the proceedings therein were electronically recorded or recorded by a certified court reporter. If the proceedings were recorded electronically, the recording was periodically monitored during the hearing. Either the electronic recording or the recording made by a certified court reporter constitutes the official record of the proceedings, along with the documentary and other evidence presented and received into evidence during or after the hearing. To the best of my knowledge the recording equipment, if utilized, was functioning normally and exhibits listed in this Appendix are true and correct, and accurately represent the evidence received during or after the hearing.

Mario L. Grimm

03/10/2021

Date

SUMMARY TABLE
OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

In the Matter of the Appeal of:	Inspection No.
GOLDEN STATE FC LLC dba AMAZON ONT6	**1359659**

Citation Issuance Date: **05/08/2019**

CITATION	ITEM	SECTION	TYPE	CITATION/ITEM RESOLUTION	AFFIRMED	VACATED	PENALTY PROPOSED BY DOSH IN CITATION	**FINAL PENALTY ASSESSED**
1	1	4353 (g)	S	DOSH reclassified to General. Parties stipulated to penalty.	A		$16,875.00	**$1,500.00**
2	1	5185 (n)	S	ALJ affirmed. Penalty reduced.	A		$16,875.00	**$900.00**
					Sub-Total		$33,750.00	**$2,400.00**

Total Amount Due* **$2,400.00**

**You may 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.*

PENALTY PAYMENT INFORMATION

1. Please make your cashier's check, money order, or company check payable to: **Department of Industrial Relations**
2. Write the **Inspection No.** on your payment
3. <u>If sending via US Mail:</u>
   CAL-OSHA Penalties
   PO Box 516547
   Los Angeles, CA 90051-0595

   <u>If sending via Overnight Delivery:</u>
   US Bank Wholesale Lockbox
   c/o 516547 CAL-OSHA Penalties
   16420 Valley View Ave.
   La Mirada, CA 90638-5821

Online Payments can also be made by logging on to http://www.dir.ca.gov/dosh/CalOSHA_PaymentOption.html

-**DO NOT** send payments to the California Occupational Safety and Health Appeals Board-

Abbreviation Key:

G=General	R=Regulatory	Er=Employer	
S=Serious	W=Willful	Ee=Employee	A/R=Accident Related
RG=Repeat General	RR=Repeat Regulatory	RS=Repeat Serious	