

State of California  
Division of Occupational Safety and Health  
320 West 4th St., Suite 850  
Los Angeles, CA 90013  
Phone: (213) 576-7451 Fax: (213) 576-7461



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## Citation and Notification of Penalty

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**To:**  
**Dave Shaw Concrete & Block Inc.**  
and its successors  
2550-D Via Tejon  
Palos Verdes Estates, CA 90274

**Inspection Number:** 300873189  
**Inspection Date(s):** 03/10/2010 09/07/2010  
**Issuance Date:** 09/08/2010  
**CSHO ID:** F3576  
**Optional Report #:** 025-10  
**Reporting ID:** 0950641

**Inspection Site:**  
601 Cypress Ave  
Hermosa Beach, CA 90254

*The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.*

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**This Citation and Notification of Penalty** (hereinafter Citation) is being issued in accordance with California Labor Code Section 6317 for violations that were found during the inspection/investigation. **This Citation or a copy must be prominently posted upon receipt by the employer at or near the location of each violation until the violative condition is corrected or for three working days, whichever is longer.** Violations of Title 8 of the California Code of Regulations or of the California Labor Code may result in some instances in prosecution for a misdemeanor.

**YOU HAVE A RIGHT** to contest this Citation and Notification of Penalty by filing an appeal with the Occupational Safety and Health Appeals Board. To initiate your appeal, you **must** contact the Appeals Board, in writing or by telephone, within 15 working days from the date of receipt of this Citation. If you miss the 15 working day deadline to appeal, the Citation and Notification of Penalty becomes a final order of the Appeals Board, not subject to review by any court or agency.

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**Citation and Notification of Penalty**

**Company Name:** Dave Shaw Concrete & Block Inc.  
**Inspection Site:** 601 Cypress Ave, Hermosa Beach, CA 90254

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**Citation 1 Item 1 Type of Violation: **Regulatory****

Title 8 California Code of Regulations Section 341(c)(1). Permit requirements

Basic permit requirement.  
Project Permits.

(A) Work on permit-required activities on a project subject to Project Permit requirements shall not begin until a Project Permit has been issued for the project.

**Violation**

On March 10, 2010 Cal/OSHA requested evidence the employer had obtained a Cal/OSHA Project Permit for the construction of a forty-one (41) foot high commercial building located at 601 Cypress Ave, Hermosa Beach, CA. Construction activities had been conducted at the above referenced site for approximately one year. The employer obtained a Project Permit from the Division after March 10, 2010.

<b>Date By Which Violation Must be Abated:</b>	<b>Abated</b>
<b>Proposed Penalty:</b>	<b>\$ 660.00</b>

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See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

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**Citation and Notification of Penalty**

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**Citation 1 Item 2 Type of Violation: **Regulatory****

Title 8 California Code of Regulations Section 341(c)(2). Permit requirements

Annual Permits.

(A) Any employer other than a Project Permit holder who conducts permit-required activity shall hold a current Annual Permit before engaging in the activity.

**Violation**

On March 10, 2010 Cal/OSHA initiated the investigation of a fatality accident at the construction site located at 601 Cypress Ave, Hermosa Beach, CA. Employees were in the process of shoring a ten (10) foot deep excavation in sandy soil when the fatality occurred. On March 10, 2010 Cal/OSHA requested evidence the employer had obtained a Cal/OSHA Annual Permit for trenching/excavating. The employer has never obtained a Cal/OSHA Annual Permit for trenching/excavating. The employer hired a trenching/excavating Annual Permit holder to complete the excavation after March 10, 2010.

<b>Date By Which Violation Must be Abated:</b>	<b>Abated</b>
<b>Proposed Penalty:</b>	<b>\$ 660.00</b>

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### Citation and Notification of Penalty

**Company Name:** Dave Shaw Concrete & Block Inc.  
**Inspection Site:** 601 Cypress Ave, Hermosa Beach, CA 90254

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#### Citation 1 Item 3 Type of Violation: **Regulatory**

Title 8 California Code of Regulations Section 1509(c). Injury and Illness Prevention Program

The Code of Safe Practices shall be posted at a conspicuous location at each job site office or be provided to each supervisory employee who shall have it readily available.

#### Violation

During an inspection on March 10, 2010, the employer's Code of Safe Practices was not posted or available at the worksite.

Date By Which Violation Must be Abated:	10/11/2010
Proposed Penalty:	\$ 350.00

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### Citation and Notification of Penalty

**Company Name:** Dave Shaw Concrete & Block Inc.  
**Inspection Site:** 601 Cypress Ave, Hermosa Beach, CA 90254

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#### Citation 1 Item 4 Type of Violation: **General**

Title 8 California Code of Regulations Section 1509(a). Injury and Illness Prevention Program.

Reference Title 8 California Code of Regulations Section 3203(a)

Every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program in accordance with section 3203 of the General Industry Safety Orders.

(a) Effective July 1, 1991, every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program (Program). The Program shall be in writing and, shall, at a minimum:

(1) Identify the person or persons with authority and responsibility for implementing the Program.  
(2) Include a system for ensuring that employees comply with safe and healthy work practices. Substantial compliance with this provision includes recognition of employees who follow safe and healthful work practices, training and retraining programs, disciplinary actions, or any other such means that ensures employee compliance with safe and healthful work practices.

(3) Include a system for communicating with employees in a form readily understandable by all affected employees on matters relating to occupational safety and health, including provisions designed to encourage employees to inform the employer of hazards at the worksite without fear of reprisal. Substantial compliance with this provision includes meetings, training programs, posting, written communications, a system of anonymous notification by employees about hazards, labor/management safety and health committees, or any other means that ensures communication with employees.

EXCEPTION: Employers having fewer than 10 employees shall be permitted to communicate to and instruct employees orally in general safe work practices with specific instructions with respect to hazards unique to the employees' job assignments as compliance with subsection (a)(3).

(4) Include procedures for identifying and evaluating work place hazards including scheduled periodic inspections to identify unsafe conditions and work practices. Inspections shall be made to identify and evaluate hazards.

(A) When the Program is first established;

EXCEPTION: Those employers having in place on July 1, 1991, a written Injury and Illness Prevention Program complying with previously existing section 3203.

(B) Whenever new substances, processes, procedures, or equipment are introduced to the workplace that represent a new occupational safety and health hazard; and

(C) Whenever the employer is made aware of a new or previously unrecognized hazard.

(5) Include a procedure to investigate occupational injury or occupational illness.

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(6) Include methods and/or procedures for correcting unsafe or unhealthy conditions, work practices and work procedures in a timely manner based on the severity of the hazard:

- (A) When observed or discovered; and,
- (B) When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, remove all exposed personnel from the area except those necessary to correct the existing condition. Employees necessary to correct the hazardous condition shall be provided the necessary safeguards.
- (7) Provide training and instruction:
  - (A) When the program is first established;
  - EXCEPTION: Employers having in place on July 1, 1991, a written Injury and Illness Prevention Program complying with the previously existing Accident Prevention Program in Section 3203.
  - (B) To all new employees;
  - (C) To all employees given new job assignments for which training has not previously been received;
  - (D) Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard;
  - (E) Whenever the employer is made aware of a new or previously unrecognized hazard; and,
  - (F) For supervisors to familiarize themselves with the safety and health hazards to which employees under their immediate direction and control may be exposed.

Violation

The employer failed to identify and evaluate workplace hazards associated with fall protection, equipment use and pile driving. The employer failed to familiarize supervisors with the health and safety hazards to which employees under their immediate direction and control may be exposed.

The employer does not have an effective Injury and Illness Prevention Program. Title 8 Section 3203(a)(4), Title 8 Section 3203(a)(5) and Title 8 Section 3203(a)(7) were not implemented.

Date By Which Violation Must be Abated:	10/11/2010
Proposed Penalty:	\$ 875.00

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**Citation and Notification of Penalty**

**Company Name:** Dave Shaw Concrete & Block Inc.  
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**Citation 1 Item 5 Type of Violation: **General****

Title 8 California Code of Regulations Section 1512(b). Emergency Medical Services.

Appropriately Trained Person. Each employer shall ensure the availability of a suitable number of appropriately trained persons to render first aid. Where more than one employer is involved in a single construction project on a given construction site, the employers may form a pool of appropriately trained persons. However, such pool shall be large enough to service the combined work forces of such employers.

Violation

Appropriately trained safety personnel were not present on the work site on March 10, 2010. The employer provided safety training to employees on March 29, 2010. Six employees were present on the work site on March 10, 2010.

Date By Which Violation Must be Abated:	Abated
Proposed Penalty:	\$ 875.00

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**Citation and Notification of Penalty**

**Company Name:** Dave Shaw Concrete & Block Inc.  
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**Citation 1 Item 6 Type of Violation: **General****

Title 8 California Code of Regulations Section 1524(a)(1). Water Supply.

Potable Water.

An adequate supply of potable water shall be provided in all places of employment.

**Violation**

On March 10, 2010 the employer did not provide drinking water for employees. The ambient air temperature was approximately 70 degrees. Six employees were present on the above referenced date. The employer typically does not provide water for employees.

Date By Which Violation Must be Abated: 10/11/2010  
Proposed Penalty: \$ 875.00

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### Citation and Notification of Penalty

**Company Name:** Dave Shaw Concrete & Block Inc.  
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#### Citation 1 Item 7 Type of Violation: **General**

Title 8 California Code of Regulations Section 1675(i) General. Ladders.

The side rails shall extend not less than 36 inches above the landing. When this is not practical, grab rails, which provide a secure grip for an employee moving to or from the point of access, shall be installed.

#### Violation

On March 10, 2010 a ladder was observed with the side rails extended twenty-one (21) inches above a landing at the construction worksite located at 601 Cypress Ave, Hermosa Beach, CA. Grab rails to provide a secure grip were not provided adjacent to this ladder. Employees used this ladder in this condition for the past six (6) months.

Date By Which Violation Must be Abated:	Abated
Proposed Penalty:	\$ 700.00

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**Citation and Notification of Penalty**

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**Citation 1 Item 8 Type of Violation: **General****

Title 8 California Code of Regulations Section 3395(e) Heat Illness Injury Prevention. Training

**Training.**

(1) Employee training. Training in the following topics shall be provided to all supervisory and non-supervisory employees.

- (A) The environmental and personal risk factors for heat illness;
  - (B) The employer's procedures for complying with the requirements of this standard;
  - (C) The importance of frequent consumption of small quantities of water, up to 4 cups per hour, when the work environment is hot and employees are likely to be sweating more than usual in the performance of their duties;
  - (D) The importance of acclimatization;
  - (E) The different types of heat illness and the common signs and symptoms of heat illness;
  - (F) The importance to employees of immediately reporting to the employer, directly or through the employee's supervisor, symptoms or signs of heat illness in themselves, or in co-workers;
  - (G) The employer's procedures for responding to symptoms of possible heat illness, including how emergency medical services will be provided should they become necessary;
  - (H) The employer's procedures for contacting emergency medical services, and if necessary, for transporting employees to a point where they can be reached by an emergency medical service provider;
  - (I) The employer's procedures for ensuring that, in the event of an emergency, clear and precise directions to the work site can and will be provided as needed to emergency responders.
- (2) Supervisor training. Prior to assignment to supervision of employees working in the heat, training on the following topics shall be provided:
- (A) The information required to be provided by section (e)(1) above.
  - (B) The procedures the supervisor is to follow to implement the applicable provisions in this section.
  - (C) The procedures the supervisor is to follow when an employee exhibits symptoms consistent with possible heat illness, including emergency response procedures.

**Violation**

On March 10, 2010 Cal/OSHA initiated an accident investigation at the worksite located at 601 Cypress Ave, Hermosa Beach, CA. During the course of the investigation it was discovered that the employer did not provide Heat Illness Injury Prevention training to employees.

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### Citation and Notification of Penalty

**Company Name:** Dave Shaw Concrete & Block Inc.  
**Inspection Site:** 601 Cypress Ave, Hermosa Beach, CA 90254

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Date By Which Violation Must be Abated: 10/11/2010  
Proposed Penalty: \$ 875.00

#### Citation 1 Item 9 Type of Violation: **General**

Title 8 California Code of Regulations Section 3668(a)(2). Powered Industrial Truck Operator Training.

Prior to permitting an employee to operate a powered industrial truck (except for training purposes), the employer shall ensure that each operator has successfully completed the training required by this subsection, except as permitted in subsection (e).

#### Violation

On March 18, 2010 Cal/OSHA requested in writing evidence that the employees had received forklift training. On March 30, 2010 the employer informed Cal/OSHA that employees would receive forklift training in the near future. Several employees were operating the forklifts with out training prior to March 30, 2010.

Date By Which Violation Must be Abated: Abated  
Proposed Penalty: \$ 875.00

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**Citation and Notification of Penalty**

**Company Name:** Dave Shaw Concrete & Block Inc.  
**Inspection Site:** 601 Cypress Ave, Hermosa Beach, CA 90254

**Citation 2 Item 1 Type of Violation: **Serious Accident Related****

Title 8 California Code of Regulations 1542(a)(3) Shafts.

All wells, pits, shafts, caissons, etc. shall be barricaded or securely covered.

Violation

On March 10, 2010 an employee sustained fatal injuries when he fell from wood placed on a Catepillar fork attachment (model #261-6681, serial number 65SSFPO008870) attached to a Bobcat skid steer loader (model number 863, serial number 514429551). The accident victim was attempting to use a Mikasa tamping rammer (model MT74F, serial number missing) as a pile driver when his work platform (wood boards and a Catepillar fork attachment) elevated at seven (7) feet) fell from the Bobcat loader and the victim fell head first into an open unguarded two foot (2) diameter by sixteen (16) foot deep caisson hole in sandy soil.

The employer did not barricade or cover nine (9) caisson holes on the Southeast corner of the worksite located at 601 Cypress Ave, hermosa Beach, CA. The caisson holes were two (2) feet in diameter and sixteen (16) feet deep. The accident victim fell into one of these caisson holes.

Date By Which Violation Must be Abated:	Abated
Proposed Penalty:	\$ 18000.00

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**Citation and Notification of Penalty**

**Company Name:** Dave Shaw Concrete & Block Inc.  
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**Citation 3 Item 1** Type of Violation: **Willful Serious**

Title 8 California Code of Regulations Section 1593(m) Haulage Vehicle Operations

Loading buckets, scoops, blades or similar attachments on haulage vehicles which do not provide fall protection equivalent to that required by Section 3210 of the General Industry Safety Orders or Article 24 of the Construction Safety Orders (starting with Section 1669) shall not be used as work platforms or to elevate or transport employees except as provided by Section 1597 of these Orders.

Violation

On March 10, 2010 an employee sustained fatal injuries when he fell from wood placed on a Catepillar fork attachment (model #261-6681, serial number 65SSFPO008870) attached to a Bobcat loader (model number 863, serial number 514429551) and used as a work platform. The accident victim was attempting to use a Mikasa tamping rammer (model MT74F, serial number missing) as a pile driver when his work platform (wood boards and a Catepillar fork attachment) elevated at seven (7) feet) fell from the Bobcat loader and the victim fell head first into an open two foot (2) diameter by sixteen (16) foot deep caisson hole in sandy soil.

The Catepillar fork attachment (model #261-6681, serial number 65SSFP008870) is not approved by the Bobcat loader manufacturer for use with the Bobcat loader (model number 863, serial number 514429551). The Bobcat manufacturer's manual warns to never to use attachments or buckets which are not approved by Melroe Company and states that unapproved attachments can cause injury or death.

The Catepillar fork attachment (model #261-6681, serial number 65SSFP008870) does not provide fall protection equivalent to that required by Section 3210 of the general Industry Safety Orders or Article 24 of the Construction Safety Orders.

The Bobcat loader (model number 863, serial number 51429551) was also labeled with the following warning in plain view: "Avoid Injury or Death, Never Carry Riders, Never use loader as a man lift or work platform". The warning label includes a drawing depicting an employee falling head first from the bobcat loader and striking a surface with his head.

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Date By Which Violation Must be Abated:	Abated
Proposed Penalty:	\$ 70000.00

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**Citation and Notification of Penalty**

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**Citation 4 Item 1 Type of Violation: **Serious****

Title 8 California Code of Regulations Section 1632(b). Floor, Roof, and Wall Openings to Be Guarded.

Floor, roof and skylight openings shall be guarded by either temporary railings and toeboards or by covers.

Note: Requirements for guarding existing skylights are found in Section 3212(e) of the General Industry Safety Orders.

(2) Temporary railing and toeboards shall meet the requirements of Sections 1620 and 1621. The railing shall be provided on all exposed sides, except at entrances to stairways.

(3) Covers shall be capable of safely supporting the greater of 400 pounds or twice the weight of the employees, equipment and materials that may be imposed on any one square foot area of the cover at any time. Covers shall be secured in place to prevent accidental removal or displacement, and shall bear a pressure sensitized, painted, or stenciled sign with legible letters not less than one inch high, stating: Opening--Do Not Remove. Markings of chalk or keel shall not be used.

Violation

On March 10, 2010 Cal/OSHA inspected the multistory building at the construction worksite located at 601 Cypress Ave, Hermosa Beach, CA. A twenty-four (24) inch by thirty (30) inch hole was observed with an unmarked and unsecured plywood cover in the Southeast corner of the first floor of the structure at twenty-five (25) feet elevation above ground level. This cover was supported by a two by four which was also not secured to the surrounding structure. An unmarked and unsecured cover was also observed on a roof opening of the structure at eleven and a half (11.5) feet above the lower floor. Employees worked in these areas in proximity to these hazards for several weeks prior to March 10, 2010.

<b>Date By Which Violation Must be Abated:</b>	<b>Abated</b>
<b>Proposed Penalty:</b>	<b>\$ 7200.00</b>

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**Citation and Notification of Penalty**

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**Citation 5 Item 1** Type of Violation: **Serious**

Title 8 California Code of Regulations Section 1710(l)(3) Erection of Structures

The exposed edges of all temporary planked and metal decked floors at the periphery of the building, or at interior openings, such as stairways and elevator shafts shall be protected by a single 3/8-inch minimum diameter wire rope of 13,500 pounds minimum breaking strength located between 42 and 45 inches above design finish floor height. Other guardrail protection may be used if equal fall protection is provided.

Violation

On March 10, 2010 metal decked floors were not properly guarded at the periphery and interior openings of the multistory building at the construction worksite located at 601 Cypress Ave, Hermosa Beach, CA. Wire rope guardrails were placed at thirty-one (31) to thirty-six (36) inches and openings to stairwells were not guarded in any way. Employees were exposed to these conditions for the past six (6) months.

Date By Which Violation Must be Abated:	Abated
Proposed Penalty:	\$ 9000.00

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## Citation and Notification of Penalty

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### Citation 6 Item 1 Type of Violation: **Serious Accident Related**

Title 8 California Code of Regulations 3328(a). Machinery and Equipment.

Machinery and equipment shall be of adequate design and shall not be used or operated under conditions of speeds, stresses, or loads which endanger employees.

#### Violation

On March 10, 2010 an employee sustained fatal injuries when he fell from wood placed on a Caterpillar fork attachment (model #261-6681, serial number 65SSFPO008870) attached to a Bobcat loader (model number 863, serial number 514429551). The accident victim was attempting to use a Mikasa tamping rammer (model MT74F, serial number missing) as a pile driver when his work platform (wood boards and a Caterpillar fork attachment) elevated at seven (7) feet) fell from the Bobcat loader and the victim fell head first into an open two foot (2) diameter by sixteen (16) foot deep cassion hole in sandy soil. Vibration from the Mikasa tamping rammer caused the wood boards and fork attachment to become dislodged from the Bobcat loader.

The Makasa tamping rammer was intended to be used for compacting soil. The Mikasa tamping rammer was never intended to be used for pile driving. The manufacturer's operation manual for the Mikasa model MTX 70/80/90 tampers provided by the employer includes a warning about incorrect application and techniques. The manual provided by the employer states in part, "Do not use this machine on ground that is harder than the machine can handle, or for driving piles.

The Mikasa tamping rammer was not an adequate design for pile driving and should not have been used or operated under conditions which endangered employees. The site superintendent and the foreman instructed the accident victim to use the Mikasa tamping rammer for pile driving.

<b>Date By Which Violation Must be Abated:</b>	<b>Abated</b>
<b>Proposed Penalty:</b>	<b>\$ 18000.00</b>

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See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

State of California  
Division of Occupational Safety and Health  
320 West 4th St., Suite 850  
Los Angeles, CA 90013  
Phone: (213) 576-7451 Fax: (213) 576-7461

## NOTICE OF PROPOSED PENALTIES

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**Company Name:** Dave Shaw Concrete & Block Inc.  
**Inspection Site:** 601 Cypress Ave, Hermosa Beach, CA 90254  
**Mailing Address:** 2550-D Via Tejon, Palos Verdes Estates, CA 90274  
**Issuance Date:** 09/08/2010  
**Reporting ID:** 0950641  
**Index Code:** 4041

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### Summary of Penalties for Inspection Number 300873189

Citation 1, General	= \$ 6745.00
Citation 2, Serious	= \$ 18000.00
Citation 3, Willful	= \$ 70000.00
Citation 4, Serious	= \$ 7200.00
Citation 5, Serious	= \$ 9000.00
Citation 6, Serious	= \$ 18000.00
<b>TOTAL PROPOSED PENALTIES</b>	<b>= \$ 128945.00</b>

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Penalties are due within 15 working days of receipt of this notification unless contested. If you are appealing any item of this citation, remittance is still due on all items that are not appealed. Enclosed for your use is a Penalty Remittance Form.

If you are paying electronically: Please have this form on-hand when you are ready to make your payment. The company name, index code, reporting ID, and Citation number(s) will be required to ensure that the payment is accurately posted to your account. Please go to [www.dir.ca.gov/dosh](http://www.dir.ca.gov/dosh) to access the secure payment processing site.

If you are paying by check: Mail this Notice of Proposed Penalties, the Penalty Remittance Form, along with a copy of the Citation and Notification of Penalty to:

**DEPARTMENT OF INDUSTRIAL RELATIONS  
CASHIER, ACCOUNTING OFFICE  
P. O. BOX 420603  
SAN FRANCISCO, CA 94142-0603**

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