

2520 Venture Oaks Way, Suite 300  
Sacramento, CA 95833  
(916) 274-5751  
FAX (916) 274-5785

APR 13 2010

OSHA Appeals Board

**A P P E A L F O R M**

**2010-R3D6-1169**

312662125

**Inspection Number on Citation**

I-COAT COMPANY, LLC

**Employer Name on Citation**

**Employer Legal Name or DBA (Optional)**

12020 Mora Drive, Suite 2

**Address**

Santa Fe Springs, CA 90670

1. You only have 15 working days from receipt of a citation to appeal.

2. A copy of this form must be attached to each citation or notification appealed. Failure to file a completed form may result in dismissal of the appeal.

**FIRST READ IMPORTANT INFORMATION ON THE REVERSE SIDE  
THEN COMPLETE ONE APPEAL FORM FOR EACH CITATION**

1. This is an Appeal from:

CITATION NO(s): 1 Item No(s): 1, 2 and 3

NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION  
CITATION NO(s): \_\_\_\_\_ Item No(s): \_\_\_\_\_

SPECIAL ORDER/SPECIAL ACTION NO: \_\_\_\_\_  
Item No(s): \_\_\_\_\_

2. Specific ground(s) for this appeal are: (Check all that apply)

The safety order was not violated.

The classification (i.e. serious, willful, repeat) is incorrect.

The abatement requirements are unreasonable.

Required changes     Time allowed to complete changes

The proposed penalty is unreasonable.

3. Explain any other reasons for appeal or issues to be raised on appeal. Affirmative defenses must be specifically stated. Some important affirmative defenses are listed on the OSHAB website at: <http://www.dir.ca.gov/OSHAB/oshab.html>

\_\_\_\_\_  
\_\_\_\_\_  
See Attachment A for additional affirmative defenses

4.

(Signature of Employer or Employer's Representative)

{If there is any change in representation after you file your appeal, you must notify the Appeals Board in writing}

Arthur J. McKeon, III and Rebecca J. Smith

(Type or print name)

Attorneys, Gilbert, Kelly, Crowley & Jennett LLP

(Title)

1055 West 7th Street, Suite 2000

(Address) {Address where all communications from the Appeals Board will be sent}

Los Angeles, CA 90808

(City)

(State)

(Zip Code)

(213) 615-7048 or (213) 615-7008 ajm@gilbertkelly.com or rjs@gilbertkelly.com 4-12-10

(Telephone)

(E-Mail Address)

(Date)

{All correspondence from the Appeals Board will be sent to the representative above at the address above. If there is any change in address, telephone number, and/or e-mail address after you file your appeal, you must notify the Appeals Board of the change(s). All such notifications must be in writing}

### IMPORTANT INFORMATION

- A. Use this form to appeal a Citation, Notification of Failure to Abate Alleged Violation, or Special Order/Special Action.
- B. You must complete *a separate appeal form for each citation or notification* you wish to appeal and *attach a copy of the complete citation or notification that you are appealing*.
- C. If the citation or notification being appealed includes more than one item **do not use separate appeals forms for each item**. Instead, specify the items you are appealing in the space provided in No. 1 on the front of this form. (for example, "Citation No. 1, Item Nos. 2, 5, and 8")
- D. **Be sure to sign your appeal form and provide all the information requested in No. 4 above.**
- E. Your appeal form shall be deemed not completed unless you attach a copy of each citation or notification that you are appealing, and failure to file a completed appeal form may result in dismissal of the appeal.
- F. If you or your representative change address, telephone number, and/or e-mail address, it is your responsibility to notify the Appeals Board in writing of the change(s). Otherwise the Appeals Board will continue to use the address it has on file and you risk not receiving notices or other communications from the Appeals Board. Appeals Board regulations make it the employer's obligation to notify the Appeals Board of any changes to the employer's and/or representative's contact information.
- G. Mail each completed Appeal form and citation or notification to the Occupational Safety and Health Appeals Board, 2520 Venture Oaks Way, Suite 300, Sacramento, CA 95833.
- H. Late appeals will not be accepted unless good cause is shown.

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

2520 Venture Oaks Way, Suite 300

Sacramento, CA 95833

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**A P P E A L F O R M**  
**ATTACHMENT A – CITATION 1**

OSH Appeals Board

3. Additional Affirmative Defenses

- a As to Citation 1, Item 1 and 3, the employee did not suffer serious injury within the meaning of California Labor Code 6302(h) for purposes of establishing employer were obligated to report.
- b As to Citation 1, Item 2, the employer reasonably complied with the requirements of 8 CCR 5194(f)(4) by labeling the containers of substances in the workplace.
- c At all relevant times, the employer has and continues to make a vigilant and good faith effort to create a safe working environment for its employees.
- d Employer took all reasonable and necessary steps to implement and maintain procedures to correct unsafe employee exposure

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APR 13 2010

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OSH Appeals Board

APPEAL FORM

2010-R3 D6 -1170

312662125  
Inspection Number on Citation

I-COAT COMPANY LLC  
Employer Name on Citation

Employer Legal Name or DBA (Optional)

12020 Mora Drive, Suite 2  
Address  
Santa Fe Springs, CA 90670

1. You only have 15 working days from receipt of a citation to appeal.

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FIRST READ IMPORTANT INFORMATION ON THE REVERSE SIDE  
THEN COMPLETE ONE APPEAL FORM FOR EACH CITATION

- 1. This is an Appeal from:
  - CITATION NO(s): 2 Item No(s): 1
  - NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION  
CITATION NO(s): \_\_\_\_\_ Item No(s): \_\_\_\_\_
  - SPECIAL ORDER/SPECIAL ACTION NO: \_\_\_\_\_  
Item No(s): \_\_\_\_\_

- 2. Specific ground(s) for this appeal are: (Check all that apply)
  - The safety order was not violated.
  - The classification (i.e. serious, willful, repeat) is incorrect.
  - The abatement requirements are unreasonable.
    - Required changes     Time allowed to complete changes
  - The proposed penalty is unreasonable.

3. Explain any other reasons for appeal or issues to be raised on appeal. Affirmative defenses must be specifically stated. Some important affirmative defenses are listed on the OSHAB website at: <http://www.dir.ca.gov/OSHAB/oshab.html>

\_\_\_\_\_  
\_\_\_\_\_  
See Attachment A for additional affirmative defenses

# OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

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## APPEAL FORM ATTACHMENT A – CITATION 2

OSH Appeals Board

### 3. Additional Affirmative Defenses

- a The flaws in employer's Injury and Illness Prevention Program, if any, constitute, at best, an isolated omission to implement a detail within an otherwise effective program and accordingly, such flaw, if it exists does not establish a violation for failing to maintain an effective program.
- b The alleged violation set forth in citation 2 is based on the same facts and arises out of the same circumstances as the alleged violation set forth in citation 3. An employer may not be cited under two (2) safety orders for the same violation.
- c At all relevant times, the employer has and continues to make a vigilant and good effort to create a safe working environment for its employees.
- d Employer took all reasonable and diligent steps necessary to create a safe working environment by providing all necessary personal protective equipment.
- e Employer took all reasonable and necessary steps to implement and maintain procedures to correct unsafe employee exposure
- f Employer reasonably relied on the specifications and representations of the manufacturer, vendor or supplier of the personal protective equipment in assessing its applicability in use with the products and chemicals in question.
- g Independent employee action. With regard to the September 24, 2007 accident referenced in the citation, the employer has a well-devised safety program which includes training employees in matters of safety respective to their particular job assignments, the employer effectively enforces the safety program, the employer has a policy of applying sanctions against employees who violate the safety program, and the employee caused a safety infraction by failing to immediately report the potential exposure to the chemical which the employee knew was contra to the employer's safety requirements.
- h Upon notice of a potential hazard in the use of hydrofluoric acid, employer immediately undertook an investigation to determine methods to safeguard the employee. Further on each limited subsequent exposure to hydrofluoric acid the employer took individual action as soon as it was reported, including providing medical treatment and additional personal protective equipment and provided for the use of barrier creams to address subsequent exposure.

- i The citation does not give notice of the violation and/or is otherwise defective.
- j The facts referenced in the citation do not establish that the employer had actual knowledge, nor, with the exercise of reasonable diligence, could have known, of the existence of the alleged violation.

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OSH Appeals Board

APPEAL FORM

312662125

Inspection Number on Citation

I-COAT COMPANY LLC

Employer Name on Citation

Employer Legal Name or DBA (Optional)

12020 Mora Drive, Suite 2

Address

Santa Fe Springs, CA 90670

2010-R3D6-1171

1. You only have 15 working days from receipt of a citation to appeal.

2. A copy of this form must be attached to each citation or notification appealed. Failure to file a completed form may result in dismissal of the appeal.

FIRST READ IMPORTANT INFORMATION ON THE REVERSE SIDE THEN COMPLETE ONE APPEAL FORM FOR EACH CITATION

1. This is an Appeal from:

[ ~~XX~~ ] CITATION NO(s): 3 Item No(s): 1

[ ] NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION  
CITATION NO(s): Item No(s):

[ ] SPECIAL ORDER/SPECIAL ACTION NO: Item No(s):

2. Specific ground(s) for this appeal are: (Check all that apply)

[ ~~XX~~ ] The safety order was not violated.

[ ~~XX~~ ] The classification (i.e. serious, willful, repeat) is incorrect.

[ ~~XX~~ ] The abatement requirements are unreasonable.

[ ] Required changes [ ~~XX~~ ] Time allowed to complete changes

[ ~~XX~~ ] The proposed penalty is unreasonable.

3. Explain any other reasons for appeal or issues to be raised on appeal. Affirmative defenses must be specifically stated. Some important affirmative defenses are listed on the OSHAB website at: <http://www.dir.ca.gov/OSHAB/oshab.html>

See attachment A for additional affirmative defenses

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**A P P E A L F O R M**  
**ATTACHMENT A – CITATION 3** OSH Appeals Board

3. Additional Affirmative Defenses

- a The alleged violation set forth in citation 3 is based on the same facts and arises out of the same circumstances as the alleged violation set forth in citation 2. An employer may not be cited under two (2) safety orders for the same violation.
- b At all relevant times, the employer has and continues to make a vigilant and good faith effort to create a safe working environment for its employees.
- c Employer took all reasonable and diligent steps necessary to create a safe working environment by providing all necessary personal protective equipment.
- d Employer took all reasonable and necessary steps to implement and maintain procedures to correct unsafe employee exposure.
- e Employer reasonably relied on the specifications and representations of the manufacturer or supplier of the personal protective equipment in accessing its applicability in use with the products and chemicals in question.
- f Independent employee action. With regard to the September 24, 2007 accident referenced in the citation, the employer has a well-devised safety program which includes training employees in matters of safety respective to their particular job assignments, the employer effectively enforces the safety program, the employer has a policy of applying sanctions against employees who violate the safety program, and the employee caused a safety infraction by failing to immediately report the potential exposure to the chemical which the employee knew was contra to the employer's safety requirements.
- g Upon notice of a potential hazard in the use of hydrofluoric acid, employer immediately undertook an investigation to determine methods to safeguard the employee. Further on each limited subsequent exposure to hydrofluoric acid the employer took individual action as soon as it was reported, including providing medical treatment and additional personal protective equipment and provided for the use of barrier creams to address subsequent exposure.
- h The citation does not give notice of the violation and/or is otherwise defective.
- i The facts referenced in the citation do not establish that the employer had actual knowledge, nor, with the exercise of reasonable diligence, could have known, of the existence of the alleged violation.

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OSH Appeals Board

**A P P E A L F O R M**

312662125

**2010-R3 D6 -1172**

**Inspection Number on Citation**

I-COAT COMPANY, LLC

**Employer Name on Citation**

1. You only have 15 working days from receipt of a citation to appeal

**Employer Legal Name or DBA (Optional)**

12020 Mora Drive, Suite 2

**Address**

Santa Fe Springs, CA 90670

2. A copy of this form must be attached to each citation or notification appealed. Failure to file a completed form may result in dismissal of the appeal.

**FIRST READ IMPORTANT INFORMATION ON THE REVERSE SIDE  
THEN COMPLETE ONE APPEAL FORM FOR EACH CITATION**

1. This is an Appeal from:

CITATION NO(s): 4 Item No(s): 1

NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION  
CITATION NO(s): \_\_\_\_\_ Item No(s): \_\_\_\_\_

SPECIAL ORDER/SPECIAL ACTION NO: \_\_\_\_\_  
Item No(s): \_\_\_\_\_

2. Specific ground(s) for this appeal are: (Check all that apply)

The safety order was not violated.

The classification (i.e. serious, willful, repeat) is incorrect.

The abatement requirements are unreasonable.

Required changes  Time allowed to complete changes

The proposed penalty is unreasonable.

3. Explain any other reasons for appeal or issues to be raised on appeal. Affirmative defenses must be specifically stated. Some important affirmative defenses are listed on the OSHAB website at: <http://www.dir.ca.gov/OSHAB/oshab.html>

See Attachment A for additional affirmative defenses

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**A P P E A L F O R M**  
**ATTACHMENT A – CITATION 4** OSH Appeals Board

3. Additional Affirmative Defenses

- a At all relevant times, the employer has and continues to make a vigilant and good faith effort to create a safe working environment for its employees.
- b Employer took all reasonable and diligent steps necessary to create a safe working environment by providing all necessary personal protective equipment.
- c Employer took all reasonable and necessary steps to implement and maintain procedures to correct unsafe employee exposure.
- d Independent employee action. with regard to the September 24, 2007 accident referenced in the citation, the employer has a well-devised safety program which includes training employees in matters of safety respective to their particular job assignments, the employer effectively enforces the safety program, the employer has a policy of applying sanctions against employees who violate the safety program, and the employee caused a safety infraction by failing to immediately report the potential exposure to the chemical which the employee knew was contra to the employer's safety requirements.
- e The citation does not give notice of the violation and/or is otherwise defective.
- f The facts referenced in the citation do not establish that the employer had actual knowledge, nor, with the exercise of reasonable diligence, could have known, of the existence of the alleged violation.