

OCCUPATIONAL SAFETY AND HEALTH APPEALS **RECEIVED**

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

JUL 22 2014
OSH Appeals Board

APPEAL FORM

316215441 _____

Inspection Number on Citation
National Distribution Centers, LP, dba
N.F.I.

Employer Name on Citation

Employer Legal Name or DBA (Optional)

11888 Mission Blvd.
Mira Loma, CA 91752

Address

DOCKET _____

(Leave blank- Appeals Board will fill in.)

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

**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): _____ Item No(s): _____

NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION
CITATION NO(s): 3 Item No(s): 1 Serious

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

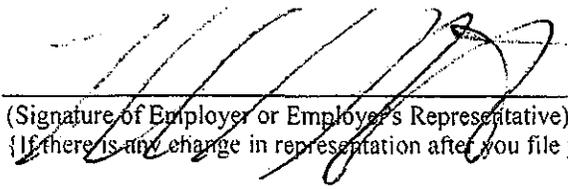
The proposed penalty is unreasonable.

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>

Independent employee act defense; logical time defense; absence of employer knowledge;

DOSH without jurisdiction.

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}

Ronald A. Peters
 (Type or print name)

Attorney
 (Title)

Littler Mendelson, 50 West San Fernando Street, 15th Floor
 (Address) {Address where all communications from the Appeals Board will be sent}

San Jose	CA	95113
(City)	(State)	(Zip Code)
408.998.4150	rpeters@littler.com	7-21-14
(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, ItemNos. 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.

OSHAB 5/08
 Firmwide:128036337.1 045921.1016
 7/21/14

JUL/21/2014/MON 02:10 PM CAL/OSHA SBDO

FAX No. 9093836789

P. 002

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH
Notification of Failure to Abate Alleged Violation

1. Original Inspection Date(s)	2. Original Inspection Number
20-Jul-12 to 27-Dec-12	316208636

3. Issuance Date 21-Jul-14	4. Inspection Number 316215441
5. Reporting ID 0950662	6. CSE/IH ID X4225
7. Optional Report No. 015-14	8. Page No. 1 of 2

10. Inspection Date(s): 25-Mar-14 To 21-Jul-14

9. To: NATIONAL DISTRIBUTION CENTER LP dba N.F.I.
11888 Mission Blvd
Mira Loma, CA 91752

11. Inspection Site: 11888 Mission Blvd
Mira Loma, CA 91752

Penalties Are Due Within 11 Days of Receipt of This Notification Unless Contested

After the original inspection, a Citation (s) was issued to you in accordance with the provisions of the California Labor Code notifying you of alleged violations and the dates by which they were to be abated. Based upon reinspection, it is alleged that you have failed to abate the violation(s) listed below within the time prescribed, and the following additional penalties are proposed. You are to notify the Division of Occupational Safety and Health in writing of the date and nature of the corrective action taken.

This notification will become a final order not subject to review by any court or agency, unless you notify the California Occupational Safety and Health Appeals Board in writing of your intent to appeal the additional penalties within 15 days after receipt of this notification.

(SEE REVERSE SIDE FOR APPEAL RIGHTS)

12. Citation Number - Item Number: 3 - 1	15. Additional Penalty	Number of Days Fail to Abate
13. Standard Regulation or Section of the Act Violated: T8CCR §3385 (a).	\$308,435.00	20 Day
14. Description: Citation 3, Item 1 Serious T8CCR §3385 Foot Protection. (a) Appropriate foot protection shall be required for employees who are exposed to foot injuries from electrical hazards, hot, corrosive, poisonous substances, falling objects, crushing or penetrating actions, which may cause injuries or who are required to work in abnormally wet locations. VIOLATION: On or before March 25, 2014, the employer did not ensure that employees who operate or work in close proximity to forklifts or electrical pallet jacks in the facility were provided with appropriate foot protection, including but not limited to steel-toe safety shoes, in an environment where there is a hazard of falling objects and crushing actions from mobile equipment, including but not limited to forklifts and electric pallet jacks. This is a Failure to Abate (FTA) violation of Citation 3, Item 1, Inspection No. 316208636, issued 12/27/12 that became a final order by the Occupational Safety and Health Appeals Board on 01/13/14. The Division conducted a reinspection on 03/25/14. NOTE: INFORMAL CONFERENCE AVAILABLE, PLEASE CONTACT THE CAL/OSHA DISTRICT OFFICE LISTED ON CITATION.		
16. Safety Engineer/Industrial Hygienist Robert Delgado	17. \$308,435.00	Total Additional Penalty

Payment of all penalties shown is to be made by check or money order payable to "Cal/OSHA".

RETURN ONE COPY AND THIS NOTICE WITH YOUR REMITTANCE AND MAIL TO:

DEPARTMENT OF INDUSTRIAL RELATIONS
CASHIER, ACCOUNTING OFFICE
P.O. Box 420603
San Francisco, CA 94142-0603

Make Check Money Order Payable to "Cal/OSHA"
Indicate Inspection Number on Remittance

JUL/21/2014/MW 02:10 PM CAL/OSHA SBDO

FAX No. 9093836789

P. 003

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH**RECEIVED****EMPLOYEE RIGHTS**

JUL 22 2014

OSH Appeals Board

EMPLOYER DISCRIMINATION UNLAWFUL – The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under Labor Code Section 6310. Employees who believe they have been discriminated against may file a complaint no later than 30 days after the discrimination with the State Labor Commissioner.

NOTICE TO EMPLOYEES – An employee or employee representative may contest in writing to the California Occupational Safety and Health Appeals Board the reasonableness of the abatement period within 15 working days from the date of issuance of the citation. Forms for use in presenting appeals to the Board are available from district offices, Division of Occupational Safety and Health, or from the Appeals Board.

APPEAL RIGHTS

You must notify the Appeals Board within *15 working days* after receipt of this citation of you intent to contest any *item* of the citation or the citation as a whole, outlining the grounds for the appeal which may include existence of the alleged violation(s), reasonableness of the abatement date(s), reasonableness of the abatement change(s), or the proposed civil penalty(ies)

Appeal forms are available from district office of the Division of Occupational Safety and Health or from the Appeals Board:

Cal/OSH APPEALS BOARD

2520 Venture Oaks Way, Suite 300
Sacramento, California 95833
Telephone: (916) 274-5791 Fax: (916) 274-5785

PLEASE NOTE: An Informal conference with the Division of Occupational Safety and Health does not constitute an appeal and does not stay the 15 working day appeal period.

When preparing your appeal forms, please make sure to attach a copy of the document you are appealing.

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JUL 22 2014

OSH Appeals Board

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 50 W. San Fernando, 15th Floor, San Jose, California 95113.2303. On July 21, 2014, I served the within document(s):

APPEAL FORM REGARDING INSPECTION NO: 316215441

by placing a true copy of the document(s) listed above for collection and mailing following the firm's ordinary business practice in a sealed envelope with postage thereon fully prepaid for deposit in the United States mail at San Jose, California addressed as set forth below.

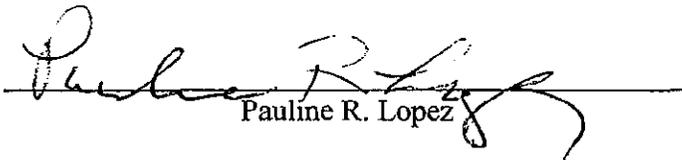
by depositing a true copy of the same enclosed in a sealed envelope, with delivery fees provided for, in an overnight delivery service pick up box or office designated for overnight delivery, and addressed as set forth below.

State of California
Division of Occupational Safety and Health
Cal/OSHA San Bernardino
464 West 4th Street, Suite 332
San Bernardino, CA 92401
VIA U.S. MAIL AND FACSIMILE

Occupational Safety and Health
Appeals Board
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
VIA OVERNIGHT DELIVERY
AND FACSIMILE

I am readily familiar with the firm's practice of collection and processing correspondence for mailing and for shipping via overnight delivery service. Under that practice it would be deposited with the U.S. Postal Service or if an overnight delivery service shipment, deposited in an overnight delivery service pick-up box or office on the same day with postage or fees thereon fully prepaid in the ordinary course of business.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. Executed on July 21, 2014, at San Jose, California.


Pauline R. Lopez



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JUL 22 2014

OSH Appeals Board

July 22, 2014

To: Occupational Safety and Health Fax: 916.274.5785 Phone:
 Appeals Board-Sacramento

Fax #(s) verified before sending (initial):

From: Pauline R. Lopez, Secretary to: Fax: 408.288.5686 Phone: 408.795.3447
 Ronald A. Peters

Length, including this cover letter: 6 Pages

If you do not receive all pages, please call Sender's Phone Number.

Message:

Corrections made pursuant to your voice mail message. Thanks Pauline

Firmwide:128036796.1 045921.1016
7/21/14

CONFIDENTIALITY – The information contained in this fax message is intended only for the personal and confidential use of the designated recipient(s) named above. This message is a communication from attorneys or their agents relating to pending legal matters and, as such, is intended to be privileged and/or confidential. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error, and that any review, dissemination, distribution or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us by mail. Thank you.

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7575 Metropolitan Drive
Suite 207
San Diego, CA 92108-4424
Tel 619-767-2280 Fax 619-767-2299



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JUL 22 2014

OSH Appeals Board

Fax

To:	DOSH APPEALS BOARD	From:	Michael Saiz For Kathy Derham, DM
Fax:	916-274-5785	Pages:	
Phone:		Date:	7-21-14
Re:		CC:	

Urgent For Review Please Comment Please Reply Please Recycle

If this transmission is incomplete, please call _____ as soon as possible at 619-767-2280.

Dear Appeals Board:

Please send us the Hearing Notice for U S Demolition Inc., 13-R3D2-2407, 315348045.

Sincerely