

**BEFORE THE
STATE OF CALIFORNIA
OCCUPATIONAL SAFETY AND HEALTH
APPEALS BOARD**

In the Matter of the Appeal of:

**OC COMMUNICATIONS, INC.
2204 Kausen Drive, Suite 100
Elk Grove, CA 95758**

Employer

**DOCKETS 14-R2D2-0120,
14-R2D2-0166 and 14-R2D2-0340**

DECISION

Statement of the Case

OC COMMUNICATIONS, INC. (Employer) is a cable installer of residential and commercial communications equipment. Beginning September 24, 2013, the Division of Occupational Safety and Health (Division) through Associate Safety Engineer Ronald Aruejo (Aruejo) conducted an accident inspection at a place of employment maintained by Employer at 1943 Elinora Drive, Pleasant Hill, California (the site). On January 9, 2014, the Division cited Employer for two violations of the California Code of Regulations, title 8, one of which remains at issue: failure to conduct an inspection of a new or unrecognized hazard involving a newly hired employee who was required to climb a utility pole in windy and rainy conditions. In addition, the Division issued a citation on February 3, 2014 citing Employer for failure to discontinue work from structures when adverse weather makes the work unsafe.¹

Employer filed a timely appeal contesting the existence of the alleged violations, the classification, and the reasonableness of the proposed penalties. Employer also alleged multiple affirmative defenses.

This matter came on regularly for hearing before Mary Dryovage, Administrative Law Judge (ALJ) for the California Occupational Safety and Health Appeals Board, at Oakland, California on January 29, January 30, and February 26, 2015. Manuel Melgoza, Esq., Robert D. Peterson Law Corp., represented the Employer. Willie Nguyen, Esq., Staff Counsel, represented the Division. Jeffrey M. Greenberg, Esq., represented the injured employee, Daniel Volek (Volek). Leave to file briefs was granted and the matter was submitted on April 9, 2015. The Administrative Law Judge extended the submission date to October 5, 2015.

¹ Unless otherwise specified, all section references are to the California Code of Regulations, title 8. The employer withdrew the appeal of Citation 1, Item 1, regarding a violation of section 3395, subdivision (f)(1). The Division also alleged a violation of section 3203, subdivision (a)(4)(C) on January 9, 2014 and alleged a violation of section 8602, subdivision (i) on February 3, 2014.

Issues

- A. Did Employer violate section 3203, subdivision (a)(4)(C) by failing to conduct an inspection of a new or unrecognized hazard involving an employee who was tasked with working on a utility pole at 25 feet above ground, in adverse weather?
- B. Did the Division establish a rebuttable presumption that the violation of section 3203, subdivision (a)(4)(C) was serious?
- C. Did Employer rebut the presumption of a serious violation by demonstrating that it did not and could not with the exercise of reasonable diligence know that the existence of the violation of section 3203, subdivision (a)(4)(C) was serious?
- D. Was the proposed penalty for Citation 2, Item 1 reasonable?
- E. Did Employer violate section 8602, subdivision (i) by failing to discontinue work from structures when adverse weather made the work unsafe?
- F. Did the Division correctly classify Citation 3, Item 1 as a serious violation, when it failed to issue a 1-B-Y letter, as required by Labor Code section 6432, subdivision (b) (1) and (2)?
- G. Does the penalty for Citation 3, Item 1 involving the violation of section 8602, subdivision (i) duplicate the penalty for Citation 2, Item 1, involving the violation of section 3203, subdivision (a)(4)(C)?

Findings of Fact

- 1) OC Communications Inc. is a cable installer of residential and commercial communications equipment.
- 2) Volek was employed by OC Communications Inc. as a Residential Cable Services Technician from June 2013 until September 21, 2013, the date of the accident.
- 3) Cable Technicians are required to install equipment in “inclement weather”.
- 4) On September 21, 2013, Volek was assigned to replace a CATV drop line at 1943 Elinora Drive, Pleasant Hill, California a private residence.
- 5) Volek inspected the job site and determined that there was a ground tap across the street, which required that he perform an “aerial feed” by running a cable from the top of a twenty-five foot utility pole to the residence.
- 6) Volek had never done an aerial feed in wet and windy weather and had not been trained on how to climb poles in windy and rainy conditions.

- 7) Climbing a twenty-five foot high utility pole using pegs is more slippery in windy and rainy weather conditions.
- 8) At 1:30 p.m., Volek called his assigned supervisor, Jesus Sanchez (Sanchez) and asked him if he was required to climb the utility pole in adverse weather conditions, which included wind and rain.
- 9) Volek told Sanchez that he felt it was not safe for him to climb up the twenty-five foot high pole because the pegs were slippery and the pole was not safe.
- 10) Sanchez did not offer to come to the worksite to inspect the hazard or offer to help Volek complete the assignment by sending someone else to help him.
- 11) Sanchez instructed Volek to “get the job done, or you will not have a job”, or words to that effect. Volek was concerned he would not have a job, if he did not complete the task.
- 12) Volek placed a ten foot ladder on the pole, climbed up the ladder, then climbed up the pole to the top, twenty-five feet from the ground. He put his work boots on four inch pegs which ran up the pole and used his arms to pull himself up. He started to tie his safety harness to the top of the pole, so he could install the cable. The wind was shifting and blowing 15-20 miles per hour, when he was at the top of the pole.
- 13) Volek fell approximately twenty-five feet, when he attempted to attach his harness to the pole. He lost his footing, fell backwards and landed on the concrete pavement below. At 1:49 p.m., emergency responders were called.
- 14) As a result of the fall on September 21, 2013, Volek suffered back, hip and knee injuries, including three broken vertebrae, a torn labrum, torn meniscus, and was hospitalized for treatment for more than twenty-four hours.
- 15) Division established a rebuttable presumption that there was a realistic possibility of a serious injury if employer failed to conduct an inspection of a new or unrecognized hazard requiring an employee to work on a utility pole at approximately twenty-five feet in the air in adverse weather.
- 16) The proposed penalty of \$6,750 for Citation 2, Item 1 is reasonable.
- 17) Division failed to correctly classify Citation 3, Item 1 as a serious violation, because employer was not provided a 1-B-Y letter or notice of the intent to propose a serious violation prior to issuing the citation, as required by Labor Code section 6432, subdivision (b) (1) and (2).
- 18) Citation 2 and Citation 3 address the same hazard, exposure to a fall of twenty five feet, which can be abated in the same manner.

Analysis

A. Did Employer violate section 3203, subdivision (a)(4)(C) by failing to conduct an inspection of a new or unrecognized hazard involving an employee who was tasked with working on a utility pole at 25 feet above ground, in adverse weather?

The Division cited Employer for a violation of section 3203, subdivision (a)(4)(C), which requires:

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:

(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

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

Citation 2, Item 1 alleges as follows:

On September 21, 2013, the employer did not evaluate the workplace hazard and unsafe condition that was reported by an employee. An employee (EE1) was seriously injured when he fell 25 feet to the ground while about to replace a CATV drop line during a strong wind and strong rain weather condition for a residence located at 1943 Elinora Drive, Pleasant Hill, CA 94523. EE1 was confined at a hospital for more than 24 hours for treatment of his injuries.

The Division has the burden of proving a violation by a preponderance of the evidence, including the applicability of the safety order. (*Ja Con Construction*, Cal/OSHA App. 03-441, Decision After Reconsideration (Mar. 27, 2006); *Howard J. White, Inc.*, Cal/OSHA App. 78-741, Decision After Reconsideration (June 16, 1983).)

In order to prove a violation of section 3203, subdivision (a)(4)(C), the Division must establish 1) the employee notified the supervisor 2) a new or unrecognized hazard existed and 3) the assigned supervisor failed to implement its Injury and Illness Prevention Program (IIPP) by failing to conduct an inspection.

1) Did Volek notify his supervisor of the conditions?

Exhibit 12, Employer's IIPP, page 5 requires "all employees to comply with all applicable health and safety regulations, O.C. Communications policies, and established work practices. This includes but is not limited to the following: . . .

reporting unsafe conditions immediately to a supervisor, and stopping work if an imminent hazard is presented.”

The OC Communications Field Safety Manual (Exhibit F) states:

Each OC Communications employee is responsible for:

4. Reporting hazardous conditions to their supervisor.

Volek testified credibly that he was experiencing sudden gusts of wind which caused the pole he was required to climb to be unstable. The rain was drizzly off and on and became more intense. At 1:30, he contacted his assigned supervisor, Sanchez by phone and advised him of the windy and rainy conditions, and reported his concern that it was unsafe to climb the utility pole in these conditions.² His testimony is consistent with the statement he gave to Aruejo on Oct. 28, 2013:

On the day of the accident, Daniel Volek (EE1) was assigned to install “new drop” which means install new TV Cable line for a residence located at 1943 Elinora Dr., Pleasant Hill.

Prior to performing the work, EE1 called a supervisor Mr. Jose [Sanchez], I am not feeling too safe for this, it is windy & raining, what are our policies for working in this weather[?] Mr. Jose asked EE1, how long did EE1 work for the company. When EE1 told Mr. Jose 4 mos., Mr. Jose replied “you won’t get the other jobs done that day, just get it done”. Then Jose hung up.

(Exhibit 5.)³ Volek explained that he understood Sanchez to mean that Volek was ordered not to discontinue work due to the weather and he would not have a job if he did not complete the assignment.⁴

² Division did not charge employer with failure to train Volek, who testified that on June 13, 2013, he received all “new hire” documents listed on the checklist, took and passed the ladder training test, watched the ladder training video and new employee safety video (Exhibits E, G, and H) and was inspected by Jim Shirley on July 19, 2013 (Exhibit I). Volek also received on-the-job training from another technician who he believed had only worked for OC Communications for one month. This is consistent with Volek’s prior testimony regarding his knowledge of the length of time the person assigned to do on-the-job training with him worked for Employer. (Exhibit C, excerpts from Volek’s deposition, Workers Compensation appeal, taken April 15, 2014, page 59.) The number of months the on-the-job trainer actually worked for the employer has no bearing on the basic issue presented by the Division’s citation and does not raise doubts about his entire testimony, as suggested by the Employer.

³ An insignificant typo is noted: Exhibit 5 is Volek’s statement, taken by Aruejo. Exhibit J duplicates Exhibit 5, page 1 and Exhibit L duplicates Exhibit 5, page 2. The phrase “page 1 of 1” on Exhibit J should read: “page 1 of 2”, which is cut off on both page 1 and page 2 of Exhibit 5.

⁴ Volek’s testimony about his conversation with Sanchez is credible in light of the undisputed testimony that Sanchez chastised Volek for running behind schedule that day. Employer did not present evidence of the number of work assignments given to Volek on the day of the accident.

In Sanchez's statement given to Aruejo by telephone on November 8, 2013 (Exhibit 10), Sanchez admitted that Volek called and informed him of the weather-related hazard, which made it unsafe to climb up the pole:

EE1 called S1 to ask question on "pulling drop" (connecting cable TV lines) to private residence when it is raining. S1 stated EE1 called him around 1:30 p.m. S1 was informed it was the same time EE1 had his accident as reported by Mr. Tom Conrad, Safety Director. S1 also stated EE1 seemed uncomfortable when he asked question about pulling drop while it is raining.

It was undisputed that Volek had no experience climbing a pole in windy and rainy weather, as this was the first time he was assigned to complete a job assignment in the rain. Volek's descriptions of the conversations with Sanchez that day are credible and consistent. In contrast, Sanchez did not testify at the hearing, even though fourteen attempts were made to serve him with a subpoena. (Exhibit DD)

Volek reported the conditions and safety concerns to his supervisor.

2) Did "inclement weather" constitute a "new or unrecognized hazard existed"?

The Appeals Board has found weather to be "inclement" when conditions such as rain make the work surface slippery, such as working without fall protection more than seven feet from the ground, or other facts lend credence to a finding that the work site was dangerous. (*Noble Construction and Maintenance Co. Inc.*, Cal/OSHA App. 75-286 Decision After Reconsideration (August 23, 1976) [the work site was over 50 feet above ground and the boards of said scaffolding were wet and oily]; *Southern Pacific Transportation Co.*, Cal/OSHA App. 79-796 Decision After Reconsideration (Jan. 30, 1985) [the employee was required to climb from the ground by means of a ladder affixed to the locomotive, to its top some 12 feet or more above the ground, in wet conditions].)

Employer disputed whether "inclement weather" constituted a "new or unrecognized hazard", arguing that its employees are frequently working in windy and rainy weather, so that it could not be considered a "new" hazard. It also argued that there was no precise definition of when the wind and rain were sufficiently unsafe to constitute a "hazard".

The position description for Residential Cable Services Technician (Exhibit D) includes "work and travel in inclement weather" and requires the technicians to "work safely following all OSHA and Company safety policies". The OCC Field Safety Manual (Exhibit F) provides:

All Employees Shall:

Comply with the policies and procedures outlined in this manual.

Work in a safe manner and be familiar with safe practices and procedures of your job. If you are unsure or do not know how to do the job safely, ask your supervisor.

Exhibit 12, Employer's IIPP, which is 69 pages, does not define "inclement weather" and lacks provisions for evaluating workplace hazards related to weather conditions. Employer's written policies did not say how weather conditions would be evaluated to determine whether they were severe enough to be considered "hazardous".

Volek testified that the weather was windy and rainy and he experienced heavy rain for the first time in the four months he worked as a residential technician. The pole pegs which he was required to climb were slippery, due to the rain. He had not been trained on how to climb poles in windy and rainy conditions nor shown how to use the twenty foot ladder to reach the top of the pole. Volek told the homeowner, Albert Maas (Maas) that he would call his supervisor to find out what the company policy was, because he did not believe it was safe to climb the pole, given the weather conditions. Maas testified that he went back into his home shortly before the accident, because the rain was increasing and he did not want to get wet.

Volek called Sanchez, his supervisor and inquired whether climbing the pole in severe wind and heavy rain was against the company policy. Sanchez ordered him to climb the twenty-five foot pole and finish the task of installing the drop line, so he could get to his next assignment.

Employer's logs show that very little aerial climbing work was logged for that day.⁵ Employer failed to present evidence of the normal amount of aerial work done prior to September 21, 2013 when it was not windy and rainy. Employer also presented testimony of Cable Services Technicians Carpenter, Oien, Martinez, and Gasteum, who testified that they each worked on September 21, 2014 doing cable TV installation work.⁶ They testified that Employer does not

⁵ Exhibit X, the log of aerial work for employees on September 21, 2013 shows that Oien logged 15 minutes; Wray, Conrad, and Shirley were not shown to have logged any aerial work that day. Of the 70 employees who worked in Northern California for Employer that day, only 16 employees logged any minutes of aerial work, between five and 50 minutes. Wray, Conrad, Shirley and Oien testified that they performed or supervised aerial work on the day of the accident and the weather conditions did not render the work unsafe for them. They were not in the same geographic location as Volek and were not performing aerial work in heavy rain and wind at the same time of the day in identical conditions as Volek. (Exhibits V, W and Y.) They also testified that they had more climbing experience than Volek and may have been using more advanced techniques for reaching the top of the pole than Volek.

⁶ Oien, a technician who was working at Diablo Valley College on the day of the accident said that where he was working, it was not raining hard that day, ("a light mist" "raining off and on"). He climbs in any weather there is ("you can hang from your strap, no problem"), unless a supervisor calls and instructs him not to climb. A slightly different attitude was expressed by Carpenter, who supervised eight to ten technicians who were installing drop lines in Redwood, Orinda, Martinez, and Walnut Creek on the day of the accident. Carpenter testified that when it is rainy, the utility poles can be slippery. When an employee advises him that they feel it is unsafe, it is his practice to go out to inspect the work site and make sure the job is done safely.

have any policy which forbids employees from climbing the pole in the rain or wind and that they, or the employees they supervised, were expected to climb utility poles in windy and rainy weather. None of them were present at the worksite where Volek was assigned. However, they each testified that no employee should be required to do something they felt was unsafe.

“Inclement weather” existed at the job site Volek was working when he was ordered to climb the pole, based on the following factors: he expressed his concern that the windy and rainy weather conditions made the work unsafe, the supervisor was on notice that Volek believed the conditions presented a safety hazard, the company policy required him to call his supervisor to get assistance if he could not do the job safely and the IIPP and OCC Field Safety Manual failed to address the hazards created by weather conditions. Because no criteria for assessing the hazard of “inclement weather” were in the employer’s written rules, they are a “new and previously unrecognized hazard”. Thus, the record shows that the employer failed to recognize the hazard of “inclement weather”.

3) Did Employer fail to conduct an inspection once Volek notified Sanchez that a new or unrecognized hazard existed?

Merely having a written IIPP is insufficient to establish implementation. (*Los Angeles County Department of Public Works*, Cal/OSHA App. 96-2470, Decision After Reconsideration (Apr. 5, 2002).) An IIPP can be proved not effectively maintained on the ground of one deficiency, if that deficiency is shown to be essential to the overall program. (*Mountain Cascade, Inc.*, Cal/OSHA App. 01-3561, Decision After Reconsideration (Oct. 17, 2003); *Keith Phillips Painting*, Cal/OSHA App. 92-777, Decision After Reconsideration (Jan. 17, 1995).) Procedures to ensure compliance with safe and healthy work practices and procedures for correcting unsafe or unhealthy conditions, including imminent hazards, are essential to the overall program. (See *GTE California*, Cal/OSHA App. 91-107, Decision After Reconsideration (Dec. 16, 1991); *David Fischer, dba Fisher Transport, A Sole Proprietorship*, Cal/OSHA App. 90-762, Decision After Reconsideration (Oct. 16, 1991).)

Employer’s IIPP does include procedures for identifying and evaluating work place hazards. These procedures require inspections to be made to identify and evaluate hazards, once the employee notifies the supervisor of a new or unrecognized hazard. Exhibit 12, Employer’s IIPP states at page 5:

Regular, periodic workplace safety inspections must be conducted throughout the year. By law, the first of these inspections must take place when the IIPP is first adopted. The inspections should be noted on IIPP Form 3, “Safety Inspection Report” or other documentation, and copies of this document must be maintained by O.C. Communications for at least one year. These regular inspections will be supplemented with additional inspections whenever new substances, processes, procedures, or equipment are introduced into the workplace and represent a new occupational safety and health

hazard or whenever supervisors are made aware of a new or previously unrecognized hazard.

Generally, supervisors are responsible for identification and correction of hazards that their staff face and should ensure that work areas they exercise control over are inspected at least monthly. Supervisors should check for safe work practices with each visit to the workplace and should provide immediate verbal feedback where hazards are observed.

It is undisputed that after Volek phoned Sanchez and asked him if he was required to climb the utility pole, no inspection of the worksite was conducted to determine whether it was safe for Volek to climb the pole.

Employer did not effectively implement its IIPP because it failed to conduct an inspection to identify and/or evaluate the potential hazards related to climbing a utility pole in windy and rainy conditions, once the employee notified the supervisor of a new or unrecognized hazard. The Division established a violation of section 3203, subdivision (a)(4)(C) by the preponderance of the evidence.

B. Did the Division establish a rebuttable presumption that the violation of section 3203, subdivision (a)(4)(C) was serious?

Labor Code section 6432, in relevant parts, states the following:

- (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 harm⁷ could result from the actual hazard created by the violation. The actual hazard may consist of, among other things: [...]

- (2) The existence in the place of employment of one or more unsafe or unhealthful practices that have been adopted or are in use.

The Appeals Board has interpreted the term “realistic possibility” to mean a prediction that is within the bounds of human reason, not pure speculation. (*B &*

⁷ “Serious physical harm” is defined in Labor Code section 6432, subdivision (e):

“Serious physical harm” as used in this part, means any injury or illness, specific or cumulative, occurring in the place of employment or in connection with any employment that results in any of the following:

- (1) Inpatient hospitalization for purposes other than medical observation.
- (2) The loss of any member of the body.
- (3) Any serious degree of permanent disfigurement.
- (4) Impairment sufficient to cause a part of the body or the function of an organ to become permanently and significantly reduced in efficiency on or off the job, including, but not limited to, depending on the severity, second-degree or worse burns, crushing injuries including internal injuries even though skin surface may be intact, respiratory illnesses, or broken bones.

B Roof Preparation, Inc., Cal/OSHA App. 12-2946, Decision After Reconsideration (Oct. 6, 2014), citing *Janco Corporation*, Cal/OSHA App. 99-565, Decision After Reconsideration (September 27, 2001), which quotes *Oliver Wire & Plating Co., Inc.*, Cal/OSHA App. 77-693, Decision After Reconsideration (April 30, 1980).) The evidence must not lead to impossibility, must be within human reason and logic, must not be speculative, and thus based on actual events and circumstances that are proven to exist. (*Oliver Wire & Plating Co., Inc. supra.*) The occurrence of a serious injury is proof that a serious injury is a realistic possibility.

Employer violated section 3203, subdivision (a)(4)(C) by failing to conduct an inspection to identify and evaluate hazards which involve a new or unrecognized hazard. Aruejo's opinion⁸ was that there was a realistic possibility of a serious injury if an employee were to fall 20 or more feet to the ground. Volek in fact sustained serious physical harm as a result of the failure to identify and evaluate hazards.

The realistic possibility of a serious physical harm, combined with the existence of the actual hazard consisting of Volek falling twenty-five feet while attempting to replace a CATV drop line during windy and rainy weather conditions, establishes a rebuttable presumption that the violation was properly classified as a serious violation. (Labor Code section 6432.)

C. Did Employer rebut the presumption of a "serious" violation by demonstrating that it did not and could not with the exercise of reasonable diligence know of the existence of the violation?

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. To establish that it could not have known of the violative condition by exercising reasonable diligence, an employer must establish that the violation occurred at time and 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).) Reasonable diligence includes the obligation of foremen or supervisors to oversee the entire work site where safety and health hazards are present if exposure to an unsafe condition exists. (*A. A. Portonova & Sons, Inc.* Cal/OSHA App. 83-891, Decision After Reconsideration (March 19, 1986).) Employers are responsible for reasonably anticipating potential hazards related to "all necessary and logically foreseeable acts" undertaken by those workers in performing their assignments. (*Ag-Labor, Inc.*, Cal/OSHA App. 96-168, Decision After Reconsideration (May 24,

⁸ Aruejo's opinion was based upon a reasonable evidentiary foundation consisting of his education, experience and training. See *Wright & Associates, Inc.*, Cal/OSHA App. 95-3649, Decision After Reconsideration (Nov. 29, 1999.) Aruejo has worked for the Division as an Associate Safety Engineer for over six years. He is current in his Division mandated training. (Exhibit 6.) Aruejo conducted between 70 and 75 inspections per year, including many which involved several falls of over 20 feet. Prior to working for the Division, he worked in the mining industry for 18 years and has a degree in Mining Engineering.

2000); see also *Louisiana-Pacific*, Cal/OSHA App. 85-449, Decision After Reconsideration (Sept. 1, 1987).)

Employer was aware of the dangers associated with climbing a utility pole.⁹ Employer's rules require employees to inform their supervisors of dangerous conditions. Here, Volek followed those rules. He evaluated the job assignment, phoned Sanchez, his assigned supervisor, and advised him of the windy and rainy weather conditions and his concerns it was not safe to climb under those conditions. Instead, Sanchez strongly urged Volek to complete the job.

The Supervisor's Accident Investigation Report states that Employer planned to take some steps after the incident to institute training to prevent further accidents, including reminding all employees of the three points of contact rule and insure all employees are fully trained on proper tie off procedures on utility poles and ladders (Exhibit 13). Before Volek's accident, however, Employer failed to take reasonable preventative steps, such as inspecting the situation or offering to send another person to help him complete the task. It also presented no evidence to rebut the presumption, such as evidence of actions taken to evaluate the reported hazards or to carry out responsibilities entailed after the hazards are fully evaluated. Therefore, it is found that Employer failed to rebut the presumption that Citation 2 was properly classified as a serious violation.

D. Was the proposed penalty for Citation 2, Item 1 reasonable?

The Division originally calculated an \$18,000 base penalty for Citation 2, Item 1, as shown in the penalty calculation worksheet, Exhibit 2. (§336 (c)(1).)

"Severity" is defined by section 335, subdivision (a)(1)(A)(ii):

When the safety order violated does not pertain to employee illness or disease, severity shall be based upon the type and amount of medical treatment likely to be required or which would be appropriate for the type of injury that would most likely result from the violation. Depending on such treatment Severity shall be rated as follows:
HIGH – Requiring more than 24 hour-hospitalization.

The evidence is that Volek suffered several broken vertebrae, a torn meniscus, and was hospitalized for treatment for more than 24 hours. The severity of this injury is therefore "high". (§335 (a)(1)(B).) (*Sherwood Mechanical, Inc.*, Cal/OSHA App. 08-4692, Decision After Reconsideration (June 28, 2012).) The Division proved the classification of serious was correct by demonstrating that there was a reasonable possibility of serious harm as defined by Labor Code section 6432, subdivision (e). The base penalty of \$18,000 complies with the regulations.

⁹ Employer presented evidence that there were no prior cases in which an employee fell from a pole. Absence of previous accidents is not relevant to the issue of the classification of a violation. (*National Cement Co.*, Cal/OSHA App. 91-310, Decision After Reconsideration (Mar. 10, 1993).)

Extent was rated as “low”, pursuant to section 336, subdivision (b): “25% of the Base Penalty shall be subtracted”. Twenty-five percent of the base penalty of \$18,000, results in a subtraction of \$4,500. “Likelihood” was categorized as “High”, which supports a twenty-five percent increase, thus adding \$4,500.¹⁰ Thus, the total gravity based penalty remains as \$18,000.

Further reductions may occur for size, good faith, and history. (§336 (d)(1), (2) and (3).) The employer has more than 100 employees, so there is no penalty reduction for size in this case. Employer was given an adjustment credit of 15 percent reduction for good faith and 10 percent for history, totaling twenty-five percent. Thus, \$4,500 is subtracted from \$18,000, bringing the adjusted penalty to \$13,500.

Section 336, subdivision (e) allows fifty percent penalty reduction based on “. . . the presumption that the employer will abate the violations by the abatement date.” Because the citation explicitly states that the violation was abated, and this record verifies that Employer took immediate steps to abate the violation, it is clear that no abatement issues remain and that Employer is entitled to 50% reduction for abatement.¹¹ The penalty for Citation 2, Item 1 is \$6,750, which is found to be reasonable and is assessed.

E. Did Employer violate section 8602, subdivision (i) by failing to discontinue work from structures when adverse weather makes the work unsafe?

The Division cited Employer for a violation of section 8602, subdivision (i) of the Telecommunication Safety Orders,¹² which requires:

Inclement Weather. Work from structures shall be discontinued when adverse weather such as high winds, ice on structures, or progress of an electrical storm in the immediate vicinity, makes the work unsafe.

Citation 3, Item 1 alleges as follows:

On September 21, 2013, the employer did not evaluate the workplace hazard and unsafe condition that was reported by an employee. An employee (EE1) was seriously injured when he fell 25 feet to the

¹⁰ \$18,000 plus \$4,500 minus \$4,500 = \$18,000.

¹¹ \$13,500 divided by 2 = \$6,750.

¹² The Initial Statement of Reasons, California Code of Regulations, Chapter 4, Subchapter 21, Article 1 provides: “Section 8602(i) prohibits employees from working “from” structures during periods of inclement weather. This regulation does not prohibit the employee from working on a structure during inclement weather. The Federal Occupational Safety and Health Administration addresses this issue in 29 CFR 1910.269(q)(4) . . . specifically prohibits work on structures during periods of inclement weather. The Occupational Safety and Health Standards Board has determined that California’s comparable requirement is in this respect not at least as effective as its Federal Counterpart because California employees can continue to work physically located on a tower or other structure during inclement weather and be exposed to the risk of a serious injury.”

ground while about to replace a CATV drop line during a strong wind and strong rain weather condition for a residence located at 1943 Elinora Drive, Pleasant Hill, CA 94523. EE1 was confined at a hospital for more than 24 hours for treatment of his injuries.

Section 8602, subdivision (i) requires proof that 1) the safety order applies to the facts, (2) that the employer failed to comply with the standard, and (3) that the employer's employees were exposed to the hazard. Safety Orders, like statutes, are not to be interpreted in a manner "which defies common sense, or leads to mischief or absurd results." (*Troy Gold Industries, Ltd.*, Cal/OSHA App. 80-749, Decision After Reconsideration (November 18, 1983).)

1. Application of the Safety Order.

The work at issue here involved the "installation, operation, maintenance, rearrangement, and removal of communications equipment".¹³ Cable TV installation work, such as installing an aerial feed to replace a CATV drop line, qualifies as an "installation and maintenance" of "communications equipment". The parties did not dispute whether a utility pole is a "structure" within the meaning of Section 8602, subdivision (i). Therefore, the safety order applies to the facts of this case.

2. Employer failed to comply with the standard

As discussed above, the installation of an aerial feed to replace a CATV drop line was not discontinued, after Volek notified his supervisor of the windy and rainy conditions. The Appeals Board has found weather to be "inclement" when conditions such as rain make the work surface slippery and hazardous. (*Noble Construction, supra*; *Southern Pacific Transportation, supra*.)¹⁴

¹³ The Telecommunication Safety Orders, section 8600 provides:

(a) This article sets forth safety and health standards that apply to the work conditions, practices, means, methods, operations, installations and processes performed at telecommunications centers and at telecommunications field installations, which are located outdoors or in building spaces used for such field installations. "Center" work includes the installation, operation, maintenance, rearrangement, and removal of communications equipment and other associated equipment in telecommunications switching centers. "Field" work includes the installation, operation, maintenance, rearrangement, and removal of conductors and other equipment used for telecommunications service, and of their supporting or containing structures, overhead or underground, on public or private rights of way, including buildings or other structures.

(b) Operations or conditions not specifically covered by this Article are subject to all the applicable orders contained in the other Safety Orders, including but not limited to the following: General Industry, Construction and Electrical Safety Orders.

¹⁴ When safety orders do not supply a definition, the usual, ordinary and common-sense meaning is used. (*In re Rojas*, (1979) 23 Cal.3d 152, 155.) "Inclement weather" is defined as "unpleasant weather, which is stormy, rainy, or snowy weather." (As of October 28, 2015 <<http://www.UrbanDictionary.com>>.)

Employer posits that the weather does not meet the definition of “inclement” because the weather reports for the geographic area on the day of the accident do not establish the existence of “high winds, ice on structures, or progress of an electrical storm in the immediate vicinity, makes the work unsafe.”¹⁵ The Division points out that the list of adverse weather conditions in the safety order is merely illustrative, not exhaustive; heavy rain and undesirable wind velocity such as the wet and windy weather condition at the job site constitutes adverse weather.

The rules of statutory construction dictate an interpretation consistent with the statutory objectives of the governing legislation. “The California Occupational Safety and Health Act of 1973 [the Act] was enacted for the purpose of ensuring safe and healthful working conditions for all California working men and women. Implicit in this purpose is the knowledge that employees will not be exposed to injuries or death when the working environment is safe. The intent of the Act is therefore accomplished by ensuring that employees will not be exposed to unsafe working conditions, which could cause injuries or death. ... The goal of the Occupational Safety and Health program in California remains preventive in nature, that is, to prevent an injury from ever taking place.” (*Underground Construction Co., Inc.*, Cal/OSHA App. 98-4104, Decision After Reconsideration (Oct. 30, 2001).)

The section 8602, subdivision (i) uses the phrase “adverse weather such as”, followed by a list, which is not intended to be exclusive, but rather illustrative of some of the factors to be considered in establishing controlling employer liability. (*Hearn Construction, Inc.*, Cal/OSHA App. 02-3533, Decision After Reconsideration (September 19, 2008).)¹⁶ Interpreting the safety order as illustrative of the factors to consider is consistent with the California Supreme Court’s directive to interpret safety orders liberally to effectuate the broad remedial employee safety and health goals. (*Carmona v. Division of Industrial Safety* (1975) 13 Cal.3d 303, 313.) It does not apply solely to weather which involves “high winds, ice on structures, or progress of an electrical storm in the immediate vicinity”, provided the weather conditions themselves make it “unsafe” to do the work. Section 8602, subdivision (i) is a performance standard, which states the way to achieve the goal, while leaving it to employers to select an

¹⁵ The NOAA definition of “high wind” is “sustained wind speeds of 40 mph or greater lasting for 1 hour or longer, or winds of 58 mph or greater for any duration.” (Exhibit BB) There was no objective measurement of the wind velocity or amount of rain at the time of the accident, because no one came out to inspect the worksite where Volek was.

¹⁶ An exclusive definition can be strictly construed; whereas terms such as “including but not limited to” or “such as” cut against this outcome and is illustrative, not exclusionary. (*Larcher v. Wanless*, 18 Cal. 3rd 646 (1976) [rejecting the maxim “*inclusio est exclusio alterius*”].) “The word ‘includes’ normally does not introduce an exhaustive list but merely sets out examples of some general principle.” (*Dong v. Smithsonian Inst.*, 125 F.3d 877, 880 (D.C. Cir. 1997) *cert. denied*, ___U.S.___, 118 S.Ct. 2311, 141 L.Ed.2d 169 (1998).) “The plainness or ambiguity of statutory language is determined by reference to the language itself, the specific context in which that language is used, and the broader context of the statute as a whole.” (*Robinson v. Shell Oil*, 519 U.S. 337, 341, 117 S.Ct. 843, 136 L.Ed.2d 808 (1997).

appropriate means of doing so. (*Estenson Logistics LLC.*, Cal/OSHA App. 05-1755, Decision After Reconsideration (Dec. 29, 2011).)

There were various weather reports concerning the velocity and intensity of the wind and rain, which was changing from one minute to the next. Employer introduced one account of the weather for Concord, California, on the day of the accident:

Time:	Wind Speed:	Conditions:
11:04	9.2	Heavy rain
11:21	6.9	Rain
11:53	8.1	Rain
12:39	6.9	Rain
12:48	8.1	Heavy rain
12:53	9.2	Heavy rain
01:44	6.9	Light rain
01:53	9.2	Light rain

(Exhibit O, weather history for September 21, 2013.) The weather that day was “unusual” for the East Bay because this was the first time it had rained in many months. (Volek, Aruejo, Conrad.) “It was raining and this may have caused the pegs on the pole to be slippery which may have caused his hand to slip.” (Exhibit 13, Supervisor’s Accident Investigation.)

“Inclement weather” is listed as a working condition in the Residential Cable Services Technician position description, Exhibit Z, page 5-6: “Working conditions: Work and travel in inclement weather.” The weather conditions immediately prior to the accident were windy and rainy. Volek expressed to the home owner and his supervisor a fear of climbing the pole under the weather conditions in effect at the time. Volek’s training records, evaluations and testimony from OCC employees who evaluated his performance indicated that he was a productive worker with no prior difficulties. The safety order requires Employer to stop aerial work on a twenty-five foot utility pole in “inclement weather”. Employer did not have rules for evaluating the conditions. Volek complied with Employer’s rules requiring him to contact the supervisor for help, if he could not do the job safely. Employer was required to discontinue climbing until the supervisor could examine the work site or send another employee to assess the hazard and help out the employee. Ordering Volek to climb the pole under these conditions violated section 8602, subdivision (i).

3. Employee was exposed to the hazard.

To prove employee exposure to a hazardous condition, "there must be some evidence that employees came within the zone of danger while performing work-related duties, pursuing personal activities during work, or employing normal means of ingress and egress to their work stations." (*C.A. Rasmussen, Inc.*, Cal/OSHA App. 96-3953, Decision After Reconsideration (Sept. 26, 2001); *Nicholson-Brown, Inc.*, OSHAB 77-024, Decision After Reconsideration (Dec. 20, 1979).

In this case, it is undisputed that Volek came within the zone of danger. He was exposed to a fall of approximately twenty-five feet when he attempted to complete his assignment of an “aerial drop”. (Volek, Conrad, Exhibits 10, 11, 13, A, and R.) He was required to climb to the top of a utility pole during periods of adverse weather, prior to losing his grip and falling while attempting to tie off his safety lanyard. (*Id.*)

The Division established a violation of section 8692, subdivision (i) because Employer failed to prevent an employee from climbing a twenty-five foot utility pole to complete an aerial drop during periods of inclement weather and ordered him not to discontinue working, after reporting inclement weather conditions which made the work unsafe.

F. Did the Division fail to issue a 1-B-Y letter for Citation 3, Item 1 before citing Employer for a “serious” violation, as required by Labor Code section 6432, subdivision (b) (1) and (2)?

The Division is required by Labor Code section 6432, subdivision (b)(1) and (2) to solicit information from the employer “not less than 15 days prior to issuing a citation for a serious violation.”¹⁷ With respect to Citation 2, Item 1, Employer was sent a 1-B-Y form on November 5, 2013 (Exhibit AA-1, p. 1) The language in the box on the form was word-for-word identical to the alleged violation

¹⁷ Section 6432, subdivision (b) provides:

(1) Before issuing a citation alleging that a violation is serious, the division shall make a reasonable attempt to determine and consider, among other things, all of the following:

(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.

(D) Procedures for communicating to employees about the employer's health and safety rules and programs.

(E) Information that the employer wishes to provide, at any time before citations are issued, including, any of the following:

(i) The employer's explanation of the circumstances surrounding the alleged violative events.

(ii) Why the employer believes a serious violation does not exist.

(iii) Why the employer believes its actions related to the alleged violative events were reasonable and responsible so as to rebut, pursuant to subdivision (c), any presumption established pursuant to subdivision (a).

(iv) Any other information that the employer wishes to provide.

(2) The division shall satisfy its requirement to determine and consider the facts specified in paragraph (1) if, not less than 15 days prior to issuing a citation for a serious violation, the division delivers to the employer a standardized form containing the alleged violation descriptions ("AVD") it intends to cite as serious and clearly soliciting the information specified in this subdivision. The director shall prescribe the form for the alleged violation descriptions and solicitation of information. Any forms issued pursuant to this section shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

description in Citation 2, Item 1, which was issued on January 9, 2014. This form also states: "Use one form per proposed serious violation." It is held that Division complied with the requirements prior to issuing Citation 2, Item 1 alleging a serious violation.

The Division issued an additional citation, Citation 3, Item 1, on February 3, 2014, which alleged a violation of section 8602, subdivision (i). It failed to send a 1-B-Y form to the employer which provided notice of the intent to propose a serious violation prior to issuing the citation. No 1-B-Y form for this citation was sent to the employer at any time. Employer was not afforded the opportunity to respond to the Division's intent to classify the violation alleged in Citation 3, Item 1 as serious.

Based on the Division's failure to send the employer a 1-B-Y form before issuing Citation 3, Item 1, and the evidence at the hearing establishing that Employer was not provided an opportunity to rebut the allegations, a negative inference is taken.¹⁸ The classification of Citation 3, Item 1 is reclassified from a "serious" to a "general" violation of section 8602, subdivision (i).

G. Did the violation of section 8602, subdivision (i) involve the same abatement as the violation of section 3203, subdivision (a)(4)(C)?

The Division proposed a \$6,750 penalty for Citation 3, Item 1. The Appeals Board may set aside a penalty if 1) the hazards are substantially identical or duplicative of another violation, and 2) abatement of one will serve to abate the other. (*Chevron U.S.A.*, Cal/OSHA App. 13-0655, Decision After Reconsideration (October 20, 2015); *A & C Landscaping, Inc.*, Cal/OSHA App. 04-4795, Decision After Reconsideration (Jun. 24, 2010) and cases cited therein.)

Here, different Safety Orders were cited. Section 3203, subdivision (a)(4)(C) found in the General Industry Safety Orders requires Employer to conduct an inspections to identify and evaluate hazards whenever the employer is made aware of a new or previously unrecognized hazard, such as strong wind and strong rain weather conditions. Section 8602, subdivision (i), from the Telecommunication Safety Orders, requires employers in the telecommunications industry to discontinue work when adverse weather makes the work unsafe. Citation 2 and Citation 3 are based on the same facts, namely the failure to inspect the work site and evaluate the hazards during inclement weather.

In the specific situation here, abatement of the violation in Citation 2 is the same as steps necessary to abate the violation in Citation 3, namely the work should have been discontinued, until an inspection to identify and evaluate

¹⁸ Labor Code section 6432, subdivision (d) provides:

The trier of fact may also draw a negative inference from factual information offered at the hearing by the division that is inconsistent with factual information provided to the employer pursuant to subdivision (b) or from a failure by the division to provide the form setting forth the description of the alleged violation and soliciting information pursuant to subdivision (b).

hazards could be completed, in the circumstances where adverse weather makes the work unsafe. The hazards involved in Citations 2 and 3 are substantially identical or duplicative of the other violation and the abatement of one would abate the other. Therefore, the penalty will be vacated for Citation 3.

Conclusion

Based on the foregoing, employer failed to conduct an inspection of a new or unrecognized hazard involving an employee who was tasked with working on a utility pole at 25 feet above ground, in adverse weather, in violation of section 3203, subdivision (a)(4)(C). Division established a rebuttable presumption that the violation was serious, and the employer failed to rebut the presumption. The penalty for Citation 2, Item 1 is \$6,750, is reasonable and is assessed. Employer failed to discontinue work from structures when adverse weather makes the work unsafe in violation of section 8602, subdivision (i). Citation 3, Item 1 is reclassified from serious to general because the Division failed to issue a timely 1-B-Y notice to the Employer. Because the hazards involved in Citations 2 and 3 are substantially identical or duplicative of the other violation and the abatement of one would abate the other, the penalty will be vacated for Citation 3.

Decision

It is hereby ordered that Employer's appeal of Citations 2 and 3 is denied.

Dated: November _____, 2015

MARY DRYOVAGE
Administrative Law Judge

APPENDIX A

**SUMMARY OF EVIDENTIARY RECORD
OC COMMUNICATIONS, INC.**

**DOCKETS 14-R2D2-0120, 14-R2D2-0166 and 14-R2D2-0340
Dates of Hearing: January 29-30 and February 26, 2015**

Division's Exhibits

Exhibit Number	Exhibit Description	Admitted
1	Jurisdictional Documents	Yes
2	Proposed Penalty Worksheet	Yes
3	1-B-Y Letter, dated Nov. 5, 2013	Yes
4	Photo of house and pole	Yes
5	Employee witness statement - Daniel Volex dated Oct. 28, 2013 (2 pages)	Yes
6	Letter re: DOSH mandated training is up-to-date for Ron Aruejo, Jan. 27, 2015	Yes
7	Jim Shirley and Tom Conrad business cards	Yes
8	Document Request, dated Sept. 24, 2013	Yes
9	Letter from Conrad to Aruejo, dated Sept. 25, 2013	Yes
10	Employee witness statement – Jesus Jose Sanchez, dated Nov. 8, 2013 (2 pages)	Yes
11	Letter from Tom Conrad, dated Nov. 7, 2013 (2 pages)	Yes
12	Injury and Illness Prevention Program for OC Communications (69 pages)	Yes
13	IIPP Form 4, Accident Investigation, Supervisor Report – Daniel Volek, Sept. 22, 2013	Yes
14	Accident Report, Sept. 21, 2013	withdrawn

Employer's Exhibits

Exhibit Letter	Exhibit Description	Admitted
A	Incident Report by Captain Burris, Contra Costa Fire Dept., Sept. 21, 2013 (2 pages)	Yes
B	Volek Petition for Benefits under Section 4553, dated Sept. 22, 2014 (5 pages)	Yes
C	Excerpts from Volek deposition transcript, April 15, 2014 (9 pages)	Yes
D	Job Description Cable Services Technician (2 pages)	Yes
E	OC Communication Document Checklist – new hire – initially and signed by Volek (1 page)	Yes
F	OC Communication Field Safety Manual (30 pages)	Yes
G	Volek – ladder training test, June 13, 2013 (2 pages)	Yes
H	Volek - Ladder Training & IIPP training, June 13, 2013 (2 pages)	Yes
I	Volek - OCC Inspection by Jim Shirley, July 19, 2013 (4 pages)	Yes
J	Statement – Daniel Volex , Oct. 28, 2013, p.1 (1 page)	Yes
K	Dr. Paul Nottingham Deposition – July 18, 2014 (21 pages)	No ¹⁹
L	Statement – Daniel Volek, Oct. 28, 2013, p. 2 (1 page)	Yes
M	Letter from Peterson to Nguyen re: discovery response, April 7, 2014	Yes
N	Weather History – Pleasant Hill, Sept. 21, 2013 (4 pages)	Yes
O	Historical Weather, Concord, Sept. 21, 2013 (4 pages)	Yes
P	Aruejo's Field Notes 018-14, Sept. 24, 2013 (1 page)	Yes

¹⁹ Dr. Nottingham's deposition testimony is hearsay; he was not called as a witness, was not shown to be unavailable and extrinsic evidence is not admissible to establish lack of credibility.

Q	Aruejo's notes - Vue Yang telephone interview (1 page)	Yes
R	Jesus "Jose" Sanchez, dated Nov. 8, 2013 (2 pages)	Yes
S	Blank 1-B-Y Form	Yes
T	GVK Enterprises 1-B-Y Form, January 16, 2015	Yes
U	KTI Inc. 1-B-Y Form, October 28, 2014	Yes
V	Statement – Tim Oien, March 11, 2014 (1 page)	Yes
W	Statement – Anthony Gasteum, March 4, 2014 (1 page)	Yes
X	List of OC Communications employees - Ariel Minutes worked on September 21, 2013 (2 pages)	Yes
Y	Statement – Richard Martinez, March 11, 2014 (1 page)	Yes
Z	Letter to Aruejo and Matta in response to 1-B-Y letter, dated Nov. 7, 2013	Yes
AA	OC Communications Appeal form, Citation 2, Item 1, Jan. 22, 2014	Yes
BB	NOAA Glossary (4 pages)	Yes
CC	Statement –Jesse Carter, March 11, 2014 (1 page)	Yes
DD	Subpoena of Jesus Sanchez, Dec. 9, 2014 (4 pages)	Yes
EE	Ca OSHA Heat Illness Prevention e-tool, Preventing and Responding to Heat Illness (2 pages)	Yes

Witnesses Testifying at Hearing

1. Daniel Volek
2. Albert Maas
3. Ronald Aruejo
4. Jacob Carpenter
5. Tim Oien
6. Anthony Gasteum

7. Tom Conrad
8. Larry Wray
9. James Shirley

CERTIFICATION OF RECORDING

I, Mary Dryovage, 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.

DATE: November 4, 2015

MARY DRYOVAGE

Signature

SUMMARY TABLE DECISION

In the Matter of the Appeal of:
OC COMMUNICATIONS, INC.
DOCKETS 14-R2D2-0120, 14-R2D2-0166 and 14-R2D2-0340

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

Site: 1943 Elinora Dr, Pleasant Hill, CA 94523
 Date of Inspection: 09/24/13 - 12/26/13

Date of Citation: 01/09/14

IMIS No. 316818830

DOCKET	C I T A T I O N	I T E M	SECTION	T Y P E	ALLEGED VIOLATION DESCRIPTION MODIFICATION OR WITHDRAWAL AND REASON	A F F I R M E D	V A C A T E D	PENALTY PROPOSED BY DOSH IN CITATION	PENALTY PROPOSED BY DOSH AT PRE- HEARING	FINAL PENALTY ASSESSED BY BOARD
14-R2D2-0120	1	1	3395(f)(1)	G	[Failure to provide effective training to employees and supervisors on the exposure to and prevention of the risk of heat illness.] Employer withdrew appeal.	X		\$560	\$560	\$560
14-R2D2-0166	2	1	3203(a)(4)(C)	S	[Failure to evaluate a new or previously unrecognized workplace hazard, replacing a CATV drop line during strong wind and rain weather conditions.] ALJ denied appeal.	X		\$6,750	\$6,750	\$6,750
14-R2D2-0340	3	1	8602(i)	S	[Failure to discontinue work from structures when adverse weather makes the work unsafe.] ALJ denied appeal, reclassified the violation from serious to general and found the penalty was duplicative of 2-1.	X		\$6,750	\$6,750	\$0
Sub-Total								\$14,060	\$14,060	\$7,310
Total Amount Due*										\$7,310

(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
 (415) 703-4291, (415) 703-4308 (payment plans)

*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: MD
POS: 11/4/15

