

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Telephonic Meeting
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, June 17, 2021 – 1:00 p.m.

Present: Dale L. Schultz	Chairman (Telephonic)
Joseph M. Hennelly, Jr.	Vice Chair (Telephonic)
Scott P. LeMarr	Commissioner (Telephonic)
Steven J. Krenzel	Commissioner (Telephonic)
James Ashley	Director (Telephonic)
Gaetano Testini	Chief Legal Counsel (Telephonic)
Trevor Laky	Legislative Affairs Chief/Public Information Officer (Telephonic)
Renee Pastor	Self Insurance (Telephonic)
Jessie Atencio	ADOSH Director (Telephonic)
Anna Maria Stonerock	ADOSH Admin (Telephonic)
Kara Dimas	Commission Secretary (Telephonic)

Chairman Schultz convened the meeting at 1:00 p.m. Also, in attendance on the telephone, confirmed by roll call were Jordan Palmer (Knight Transportation, Inc. and Swift Transportation, Co, Inc.); Monique Handy and Ali Evans (Pinnacle West Capital Corporation); Patrick Riffe (Arizona Foam & Spray, Inc.); Robert Velasco, Dan Spiegel and Eric Sowirka (Royal Paper Converting, LLC); and Savannah Scharnhorst (Snell & Wilmer). Also joining the meeting were the current CSHO School attendees Sam Pounds, Steven Barnes, Kendall Carr, Richard “Chuck” Thompson, James Devers, Karen Schomburg, Hans Schmidt, Joseph Davis, Tyler Braige, Ronald Mills, and Emily Flynn. Chairman Schultz thanked and welcomed them to the team.

Approval of Minutes of May 27, 2021 Regular Meeting Minutes.

Commissioner LeMarr moved to approve the Minutes of the May 27, 2021 regular session meeting and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Consent Agenda:

All items following under this agenda item are consent matters and will be considered by a single motion with no discussion unless a Commissioner asks to remove an item on the consent agenda to be discussed and voted on separately. The Commission may move into Executive Session under A.R.S. § 38-431.03(A)(2) to discuss records exempt by law from public inspection. Legal action involving a final vote or decision shall not be taken in Executive Session. If such action is required, then it will be taken in General Session.

a. Approval of Proposed Civil Penalties Against Uninsured Employers.

1. 2CC20/21-0113 Aaron Torres Construction \$1,000
2. 2CNP20/21-0251 Peter Ballato dba Evergreen Synthetic Lawns & Putting Greens \$1,000

b. Approval of Requests for Renewal of Self-Insurance Authority.

1. Knight Transportation, Inc.
2. Swift Transportation, Co, Inc.
3. Kiewit Corporation
4. Pinnacle West Capital Corporation
5. Purcell Tire & Rubber Company

Chairman Schultz commended Kiewit Corporation and Pinnacle West Capital Corporation for their wonderful experience modification factors.

Mr. Testini requested that Peter Ballato dba Evergreen Synthetic Lawns & Putting Greens be removed from the Agenda since they now have insurance.

Commissioner LeMarr moved to approve the remaining items on the Consent Agenda and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Discussion & Action regarding Appointment of Special Assistant to the Industrial Commission of Arizona.

Discussion and Action of Resolution Appointing Custodian of Records.

Mr. Ashley noted that Robert Nagtalon is a new Assistant Claims Manager joining three other Assistant Claims Managers and the Resolution for Special Assistant will give him the authority to act on behalf of the Commission.

Mr. Ashley also noted the request that Silbia Martinez be appointed as Custodian of Records to allow her, along with a few other Claims Division employees, to conduct processing of records.

Chairman Schultz suggested taking Items 4 and 5 as a single vote since it is giving the authority of the Commissioners to these new employees in the Claims Division.

Commissioner LeMarr moved to appoint Robert Nagtalon as Special Assistant and Silbia Martinez as Custodian of Records and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Discussion and/or Action pursuant to A.R.S. §23-1041(E) to Adopt the Maximum Average Monthly Wage under A.R.S. §23-1041(D)(8) for Calendar Year 2022.

Mr. Testini explained that A.R.S. § 23-1041(E) requires the Commission to annually adopt a maximum average monthly wage. Mr. Testini explained how the maximum average monthly wage is used in the workers' compensation system, and discussed the process used for the calculation of the maximum average monthly wage. The 2021 maximum average monthly wage was \$5,030.33. The Bureau of Labor and Statistics showed an increase of 2.6% in the "All Workers" category for calendar year ending December 2020 which falls within the statutory range of 0% to 5%. Mr. Testini recommended setting the maximum average monthly wage at \$5,161.12 for calendar year 2022. Mr. Testini also requested electronic signature for the Resolution.

Commissioner LeMarr moved to set the maximum average monthly wage at \$5,161.12 for calendar year 2022 with electronic signatures and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Discussion and Action of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties.

Chairman Schultz discussed the purpose of and process for the Commission’s consideration of ADOSH citations and proposed penalties.

Arizona Foam & Spray, Inc.
540 S Drew St.
Chandler, AZ 85210

Site Location: 2518 W. Curry St.
Chandler, AZ 85224
Inspection No: Q3895 - 1513162
Inspection Date: 2/3/2021

Complaint
Years in Business: 10
Empl. Covered by Inspection: 3

SERIOUS – Citation 1 - Item 1 –

- a) 2518 W. Curry St. Chandler, AZ 85224; two employees were working on a single-story residential roof, 9’ above the ground without fall protection. 29 CFR 1926.501(b)(13)
Div. Proposal - \$1,500.00 Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 2 –

- a) 2518 W. Curry St. Chandler, AZ 85224: One employee was working on a single-story residential roof 9’ above the ground level without receiving initial fall protection training. 29 CFR 1926.503(a)(1)
Div. Proposal - \$1,500.00 Formula Amt. - \$1,500.00
TOTAL PENALTY - \$3,000.00 TOTAL FORMULA AMT. - \$3,000.00

Mr. Atencio noted the Compliance Officer was no longer with the agency for both of the files. He discussed ADOSH’s investigation, summarized the citation and proposed penalties.

Chairman Schultz checked if anyone on the phone would like to comment.

Mr. Riffe noted he had nothing to add.

Vice Chair Hennelly moved to approve the citation and proposed penalties as presented and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Royal Paper Converting, LLC
2060 S 51st Ave
Phoenix, AZ 85043

Site Location: 2060 S 51st Ave
Phoenix, AZ 85043

Referral
Years in Business: 29
Empl. Covered by Inspection: 6

Inspection No: K6582 - 1525798
 Inspection Date: 4/15/2021

SERIOUS – Citation 1 - Item 1a –

- a) Napkin Area: An employee was exposed to rotating moving parts on the Dinner Napkin machine three, brand, model and serial numbers unknown, without a guard installed.
- b) Napkin Area: An employee was exposed to ingoing nip points on the Dinner Napkin machine three, brand, model and serial numbers unknown, without a guard installed. 29 CFR 1910.212(a)(1)
 Div. Proposal - \$4,500.00 Formula Amt. - \$4,500.00

SERIOUS – Citation 1 - Item 1b –

- a) Dinner Napkin Area: An employee was exposed to shafts on the Dinner Napkin machine three, brand, model and serial numbers unknown, without a guard installed. 29 CFR 1910.219(c)(4)(i)
 Div. Proposal - \$0.00 Formula Amt. - \$4,500.00

SERIOUS – Citation 1 - Item 1c –

- a) Dinner Napkin Area: An employee was exposed to pulleys on the Dinner Napkin machine three, brand, model and serial numbers unknown, without a guard installed. 29 CFR 1910.219(d)(1)
 Div. Proposal - \$0.00 Formula Amt. - \$4,500.00

SERIOUS – Citation 1 - Item 1d –

- a) Dinner Napkin Area: An employee was exposed to a horizontal belt on the Dinner Napkin machine three, brand, model and serial numbers unknown, without a guard installed.
- b) Dinner Napkin Area: An employee was exposed to a horizontal belt on the Dinner Napkin machine three, brand, model and serial numbers unknow, without a guard installed. 29 CFR 1910.219(e)(1)(i)
 Div. Proposal - \$0.00 Formula Amt. - \$4,500.00

SERIOUS – Citation 1 - Item 1e –

- a) Dinner Napkin Area: An employee was exposed to a gear on the Dinner Napkin machine three, brand, model and serial numbers unknown, without a guard installed. 29 CFR 1910.219(f)(1)(i)
 Div. Proposal - \$0.00 Formula Amt. - \$4,500.00
- TOTAL PENALTY - \$4,500.00 TOTAL FORMULA AMT. - \$22,500.00

Mr. Atencio discussed ADOSH’s investigation, summarized the citation and proposed penalties, and reviewed the photographs.

Chairman Schultz checked if anyone on the phone would like to comment.

Mr. Velasco and Mr. Spiegel had nothing to add.

Chairman Schultz asked Mr. Velasco and Mr. Spiegel if they have started addressing the guarding that needs to be accomplished.

Mr. Velasco noted they started on day one and are in the plans of building, but it has not been easy with COVID-19 and there are not many guard fabricators of to work with, so they are making them in house. Mr. Spiegel noted they have most of the guards on that machine and are just waiting for one guard to be processed that ADOSH requested.

Chairman Schultz commented that is what the Commission likes to hear. It is easy not to identify or think about all of the things on all of the equipment, and appreciate them making the corrections expediently.

Mr. Sowirka noted the employee has been with them for almost three years and is one of the best packers that they have on the floor. She is back working on a different line so she does not have to do much with the injured hand and is working every day.

Chairman Schultz appreciated the update and it is great to see how they have made changes to accommodate the injured employee. Those are all incredibly positive things that they like to see. He thanked them for joining the meeting today, which shows how much they care about making a safe workplace for their employees.

Commissioner LeMarr moved to approve the citation and proposed penalties as presented and Commissioner Krenzel seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Chairman Schultz thanked them for joining the meeting.

Mr. Atencio highlighted the CSHO School that is in session, which is a good intense week of training to make sure ADOSH provides the very best product out there.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley updated the Commissioners with the AMS scorecard metrics for the fiscal year-to-date with the Claims Division's five metrics: Age of Oldest Properly Filed Claim to be Notified, Average Monthly Wage Determination Time Limit, Loss of Earning Capacity Awards, Electronic Inbound Filing and Outbound Electronic Documents.

Mr. Laky discussed the Heat Stress public service announcements for "Water, Shade and Rest" that are running this summer in Yuma, and have added Mohave County and Metro Phoenix areas which will run for two months starting this week.

Ms. Dimas confirmed Commission meeting dates through August 2021. The Claims Seminar will be August 12 and 13 and no meeting for that week. Commissioner LeMarr noted he would not be available on August 26, 2021.

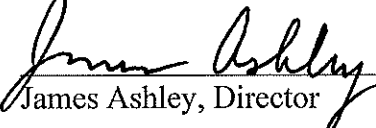
Public Comment.

There was no other public comment.

Commissioner Krenzel moved to adjourn and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion and the meeting was adjourned at 2:02 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


James Ashley, Director

ATTEST:



Kara Dimas, Commission Secretary