

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, October 31, 2024 – 1:00 p.m.

Present:	Dennis P. Kavanaugh	Chairman
	Maria Cecilia Valdez	Commissioner
	Orion J. Godfrey	Commissioner
	Gaetano J. Testini	Director
	Afshan Peimani	Chief Legal Counsel
	Lisa Padgett	Deputy Director (Telephonic)
	Charles Carpenter	Legislative Affairs Chief/Public Information Officer
	Renee Pastor	Self-Insurance (Telephonic)
	Melissa Spurgeon	Labor Director
	Christina Sanchez	Labor Supervisor
	Kimberly Gooby	Labor Investigator
	Vincent Argana	Labor Investigator
	Brian Hudson	ADOSH Director
	James Reitmeier	ADOSH Supervisor
	Jonathon Wright	ADOSH Compliance
	Mireya Gomez	ADOSH Compliance
	Anna Maria Stonerock	ADOSH Compliance
	Kara Dimas	Commission Secretary

Chairman Kavanaugh convened the meeting at 1:13 p.m. In attendance, confirmed by roll call were Geneva Haber (Snell and Wilmer); Anne Ryman (ABC15); Nitra Hawkins, Kim O'Shaughnessy, Paul Fernandez and Anthony Garcia (City of Mesa); Paul Li (observing); John Bavermeister (Freeport); Julio Cuen (Rafi Law Group for Segura); Kellen Bradley (Skiver Bradley representing Next of Kin for Oswaldo Montoya); Matt Feinman (Lerner and Rowe representing Montoya Family); Ryan Skiver (Skiver Bradley representing Jonette Segura); and Lindsey Wheeler (Premier Risk Management).

Approval of Minutes of October 17, 2024 Regular Meeting Minutes.

Commissioner Valdez moved to approve the Minutes of the October 17, 2024 regular session meeting and Commissioner Godfrey seconded the motion. Chairman Kavanaugh, Commissioner Valdez and Commissioner Godfrey 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 Requests for Renewal of Self-Insurance Authority.

1. FedEx Freight, Inc.
2. Ruan Transportation Management Systems, Inc.
3. The Procter & Gamble Company

b. Approval of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties Less Than \$15,000.

1. CP-2024-JW184-0095 Ashley Global Retail, LLC
2. CP-2024-MS021-0021 Commercial Carpet Cleaning, Inc DBA Commercial Cleaning and Restoration
3. CP-2024-EG419-0076 Commercial Comm and Electric Inc
4. CP-2024-MB431-0052 Country Club Motos, Inc DBA Country Club RV
5. CP-2024-T3633-0170 Western Technologies, Inc

Commissioner Godfrey moved to approve the items on the Consent Agenda and Commissioner Valdez seconded the motion. Chairman Kavanaugh, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Discussion and Action regarding Proposed Retaliation Penalty.

1. RT-2425-0011 Military Men United LLC DBA Tucson Signal 88 Security

Ms. Spurgeon summarized the Labor Department's investigation into the Earned Paid Sick Time (EPST) Retaliation claim. Ms. Spurgeon recommended that the Commission approve issuance of a Penalty in the amount of \$500.00 for violation of A.R.S. § 23-364.

Chairman Kavanaugh asked if the Commissioners had any questions.

Commissioner Valdez moved to approve issuance of a Penalty for Retaliation in the amount of \$500.00 to Military Men United LLC DBA Tucson Signal 88 Security. Commissioner Godfrey seconded the motion. Chairman Kavanaugh, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Discussion and Action regarding Proposed Sick Time Subsequent Civil Penalty.

1. ST-2425-0046 Environmental Conditioning, LLC DBA Parker and Sons

Ms. Spurgeon summarized the Labor Department's investigation into a violation of A.R.S. § 23-372(A) and A.R.S. § 23-375(C) for a prior Earned Paid Sick Time (EPST) Retaliation claim. Ms. Spurgeon noted on April 10, 2024 the Labor Department assessed a civil penalty in the amount of \$250.00 for violating the same statute, which was paid by the employer. On August 11, 2024 the Labor Department received another complaint against the employer for the same violation. The employer is still not in compliance with the statute. The Department recommended issuance of a subsequent Civil Penalty of \$1,000.00 for violation of A.R.S. § 23-375(C).

Commissioner Godfrey moved to approve the issuance of a Subsequent Civil Penalty in the amount of \$1,000.00 to Environmental Conditioning, LLC DBA Parker and Sons. Commissioner

- 4) 13850 W Camino Del Sol: One employee used a Crown Forklift (Model# 40WTT-S, Serial# 6A160867) weekly to unload product from a truck without training being certified by the employer. 29 CFR 1910.178(l)(6)

Div. Proposal - \$2,000.00	Formula Amt. - \$2,000.00
TOTAL PENALTY - \$6,610.00	TOTAL FORMULA AMT. - \$6,610.00

Mr. Hudson discussed ADOSH's inspection, summarized the citation and proposed penalty.

Chairman Kavanaugh checked if anyone would like to comment, he noted he did not have a request to speak.

Commissioner Godfrey moved to approve the citation and proposed penalties as presented and Commissioner Valdez seconded the motion. Chairman Kavanaugh, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Freeport Logistics, Inc.	Fatality/Catastrophe	
4625 North 45th Avenue	Years in Business:	53
<u>Phoenix, AZ 85031</u>	Empl. Covered by Inspection:	8
Site Location: 431 N 47th Ave		
	Phoenix, AZ 85043	
Inspection No: FC-2024-JW184-0101		
Inspection Date: July 29, 2024		

Mr. Hudson summarized ADOSH's investigation and reviewed the file. ADOSH was not recommending a citation for Freeport Logistics, Inc.

Chairman Kavanaugh checked if anyone would like to comment, he noted he did not have a request to speak.

The Commission took no action.

City of Mesa - Brimhall Aquatic Center	Referral	
4949 E Southern Ave	Years in Business:	20
<u>Mesa, AZ 85206</u>	Empl. Covered by Inspection:	2
Site Location: 4949 E Southern Ave		
	Mesa, AZ 85206	
Inspection No: RF-2024-T3633-0168		
Inspection Date: June 10, 2024		

SERIOUS – Citation 1 - Item 1a –

- a) Pool equipment building: Employees worked with corrosive chemicals including sodium bisulfate and sodium hypochlorite (bleach) and employees did not use adequate eye protection such as splash goggles or a face shield. 29 CFR 1910.133(a)(1)
- | | |
|----------------------------|---------------------------|
| Div. Proposal - \$9,795.00 | Formula Amt. - \$9,795.00 |
|----------------------------|---------------------------|

SERIOUS – Citation 1 - Item 1b –

- a) Pool equipment building: Employees worked with corrosive chemicals including sodium bisulfate and sodium hypochlorite (bleach), and an eyewash was not available for immediate emergency use. 29 CFR 1910.151(c)

Div. Proposal - \$0.00

Formula Amt. - \$9,795.00

SERIOUS – Citation 1 - Item 2 –

- a) Pool equipment building: The tank where anhydrous sodium bisulfate was mixed with water to make a sodium bisulfate solution was not labeled with the name and the physical and health hazards of the chemical. 29 CFR 1910.1200(f)(6)(ii)

Div. Proposal - \$9,795.00

Formula Amt. - \$9,795.00

TOTAL PENALTY - \$19,590.00

TOTAL FORMULA AMT. - \$29,385.00

Mr. Hudson discussed ADOSH’s inspection, summarized the citation and proposed penalty.

Chairman Kavanaugh noted he had a request to speak from Nitra Hawkins.

Ms. Hawkins, the Safety Administrator for the City of Mesa, commented that the City of Mesa does take safety of their employees, which is their greatest asset, for what they do and the services that they provide to their citizens, seriously. She stated abatement has been done. The City appreciates the Industrial Commission and the services and resources it provides and this group under Parks and Recreation where the aquatic situation happened, had consultation services before. The City does take advantage of the services that are available through the Industrial Commission, they want to make sure they get everybody home every time they come to work.

Commissioner Valdez thanked Ms. Hawkins for her clarification and letting the Commission know that everything has been corrected.

Chairman Kavanaugh commented that the Commission appreciates the fact that the City engaged the consultation services earlier this year and invited the City to consider participating in a program called Public Entity Partnership Program (PEPP), for public entities like the City of Mesa, for employers who wish to go above and beyond what is normally required. We have a goal to engage the larger communities in Arizona to be part of this program and hoped the City of Mesa contacts consultation services.

Mr. Hudson commented that they would love to have city entities, county entities and all of the entities within the state of Arizona to reach out and work on providing partnership and be able to do these consultation services and build a partnership and it is a great way to continue to build a strong health and safety culture across the state of Arizona.

Commissioner Valdez moved to approve the citation and proposed penalties as presented and Commissioner Godfrey seconded the motion. Chairman Kavanaugh, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through December 2024.

Mr. Testini commented on the Medical Resource Office additional training opportunities for stakeholders with four webinars with the topics of: The Arizona Workers’ Compensation System

Overview for Healthcare Providers, Preauthorization and Peer Review Training for Healthcare Providers, Billing, Appeals and Disputes for Healthcare Providers, and Arizona Workers' Compensation Requirements for Healthcare Providers.

Public Comment.

There was no public comment.

The meeting was adjourned at 1:50 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By  _____
Gaetano J. Testini, Director

ATTEST:



Kara Dimas, Commission Secretary