

**BEFORE THE SAFETY AND HEALTH REVIEW BOARD  
OF NORTH CAROLINA  
RALEIGH, NORTH CAROLINA**

COMMISSIONER OF LABOR OF  
THE STATE OF NORTH CAROLINA,

COMPLAINANT,

DOCKET NO. OSHANC 2002-4142  
OSHA INSPECTION NO. 305447328  
CSHO ID NO. C4131

v.

MCJAST, INC. D/B/A AMERICAN  
CAROLINA STAMPING

**ORDER**

RESPONDENT.

THIS MATTER came on before the undersigned administrative law judge on February 28, 2003, pursuant to an order entered by the undersigned on November 20, 2002, continuing the hearing of the matter from December 13, 2002, and replacing said date "with a hearing date of February 28, 2003, at the Buncombe County Courthouse, Room 204, Second Floor, in the County Commissioners' Chambers, 60 Court Plaza, Asheville, North Carolina at 9:00 a.m." At the appointed time and place appeared two attorneys in behalf of the State of North Carolina who travelled from Raleigh to Asheville on February 27 and several employees of the North Carolina Department of Labor whose appearance was required for this scheduled hearing. The undersigned had set aside the day for the purpose of hearing any and all testimony to be adduced by either the complainant or the respondent. This was the only matter on the calendar for hearing. At about 9:25 a.m., without respondent appearing either through a representative of the company or through counsel, the undersigned advised counsel for the complainant that the undersigned would dismiss the notice of contest filed herein.

It is therefore ORDERED that the notice of contest entered herein is hereby dismissed and the citation and notification of penalty is hereby deemed final as though no notice of contest had been filed except as to the matter addressed in the motion to amend filed on August 21, 2002, which was allowed in an order dated September 18, 2002.

The conduct of the respondent in failing to appear at a scheduled hearing without notifying either the complainant or the undersigned or the Safety and Health Review Board caused the expenditure by the State of North Carolina of significant amounts of very limited resources in the form of effectively losing the services of two attorneys for two full days for their travel time, the cost of the travel, the loss of services of the witnesses for the complainant and the cost of their travel, and the expense to the State in the form of paying the undersigned. This flagrant abuse of the system should not be borne by the taxpayers of the State of North Carolina. It is therefore further ORDERED that the respondent pay an additional penalty of Five Thousand Dollars (\$5,000.00) for its failure to appear at the hearing scheduled for February 28, 2003.

It is further ORDERED that all of the penalties resulting from this order totalling Five Thousand Five Hundred Dollars (\$5,500.00) shall be payable within 30 days of the date of the mailing of this order from the Safety and Health Review Board to the respondent.

This the 28th day of February, 2003.

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Charles R. Brewer  
Administrative Law Judge