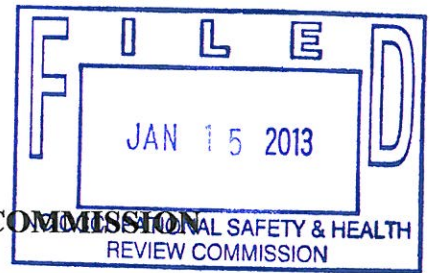


**BEFORE THE NORTH CAROLINA  
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION  
RALEIGH, NORTH CAROLINA**



<p><b>COMMISSIONER OF LABOR FOR THE STATE OF NORTH CAROLINA</b></p> <p style="text-align: center;"><b>Complainant,</b></p> <p style="text-align: center;">v.</p> <p><b>CARMEL CONTRACTORS, INC and its successors</b></p> <p style="text-align: center;"><b>Respondent.</b></p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p><b>DOCKET NO: 2012 - 5274</b></p> <p><b>INSPECTION NO: 315960914</b></p> <p><b>CSHO ID: N8928</b></p> <p><b>ORDER</b></p>
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**THIS CAUSE** coming on for Hearing on January 8, 2013 at the Lee House, 2nd Floor Hearing Room, 422 North Blount Street, Raleigh, North Carolina at 10:00 a.m. Jason R. Rosser, Assistant Attorney General appeared as counsel for the Complainant, the Commissioner of Labor, and Greg C Ahlum, appeared as counsel for the Respondent, Carmel Contractors, Inc.

**FINDINGS OF FACT**

Based on the stipulations at the time of the Hearing and the record the Undersigned makes the following Findings of Fact:

- I. This Court has jurisdiction over the parties and the subject matter of this Hearing.
- II. Respondent is a North Carolina corporation, duly organized and existing under the laws of the State of North Carolina.
- III. Respondent is subject to the jurisdiction of the Safety and Health Review Commission of North Carolina.
- IV. All notices required by the Act and by any applicable procedural and substantive rules have been given.
- V. Neither party has any procedural objection to this Hearing.
- VI. Complainant, Commissioner of Labor of the State of North Carolina, is an agency of the State of North Carolina charged with the administration and enforcement of the provisions of the Occupational Safety and Health Act of North Carolina, Article 16, Chapter 95 of the General Statutes of North Carolina (hereinafter "the Act").

A Pre-Hearing conference was held. As a result of such conference the following agreements between Complainant and Respondent were entered of record:

- \* Respondent will implement a reasonable fire protection plan;
- \* Respondent will train its supervisors in control decking zone construction within 60 days from the date this Order is entered;
- \* For walls required to be braced under 29 CFR 1926.706 the Respondent will make reasonable efforts to evacuate the control access zone on both sides of the braced wall or on the braced side of the wall where scaffold is erected on the opposite side in the following two weather conditions: a) during sustained 20 mph winds when braced masonry walls have not cured for 24 hours; and b) during sustained 35 mph winds for other braced masonry walls;
- \* This will be deemed a final order with regard to any future North Carolina OSHA proceedings, but not an admission of liability in any civil actions not involving the Department of Labor of the State of North Carolina.

Further, as a result to the Pre-Hearing conference the following Motions were made:

Complainant Moved: (1) to Amend Citation 1, Item 1 because of a clerical error in the alleged violation description, thereby changing the description from "29 CFR 1926.452(h)(2)(i)" to "29 CFR 1926.451(h)(2)(i)"; and (2) to Dismiss Citation 1 Item 2a, Citation 1 Item 2b, Citation 1 Item 3, and Citation 2 Item 1.

Respondent did not object to such Motions, and Complainant's Motions are hereby GRANTED.

Respondent Moved to withdraw its Notice of Contest to Citation 1 Item 1 as Amended.

Complainant did not object to such Motion, and Respondent's Motion is hereby GRANTED. Respondent shall make payment of the \$1,000 Penalty within 20 days from the date this Order is entered.

This the 12th day of January, 2013.

  
\_\_\_\_\_  
R. Joyce Garrett  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this date served a copy of the foregoing ORDER, upon:

GREG C AHLUM  
JOHNSTON ALLISON & HORD PA  
PO BOX 36469  
CHARLOTTE NC 28236

by depositing same the United States Mail, Certified Mail, postage prepaid, at Raleigh, North Carolina, and upon:

JASON ROSSER  
NC DEPARTMENT OF JUSTICE  
LABOR SECTION  
P O BOX 629  
RALEIGH NC 27602-0629

by depositing a copy of the same in the United States Mail, First Class;

NC DEPARTMENT OF LABOR  
LEGAL AFFAIRS DIVISION  
1101 MAIL SERVICE CENTER  
RALEIGH NC 27699-1101

by depositing a copy of the same in the NCDOL Interoffice Mail.

THIS THE 16<sup>th</sup> DAY OF January 2013.

OSCAR A. KELLER, JR.  
CHAIRMAN

  
Nancy D. Swaney  
Docket and Office Administrator  
NC Occupational Safety & Health Review Commission  
1101 Mail Service Center  
Raleigh, NC 27699-1101  
TEL.: (919) 733-3589  
FAX: (919) 733-3020