



4. As a result of the Inspection, on or about October 13, 2017, Complainant issued the following Citation and Notification of Penalty (herein referred to collectively as the “Original Citation”):

**CITATION 01 (Serious)**

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
001a	29 CFR 1910.147(c)(4)(ii)	11/8/2017	\$2,500.00
001b	29 CFR 1910.147(c)(6)(ii)	Immediate upon receipt	Grouped
002	29 CFR 1910.212(a)(1)	11/8/2017	\$3,500.00.

5. The Respondent submitted a timely Notice of Contest dated November 16, 2017.

6. A Hearing in this matter was scheduled pursuant to the Rules of Procedure of the Safety and Health Review Commission of North Carolina (the “Rules”).

7. Respondent and Complainant waive the presence of a court reporter at the Hearing and the making of a transcript of the Hearing. Complainant and Respondent have no objection, either procedural or otherwise, to this Hearing and both parties consent to the conduct of this Hearing by the Undersigned and to entry of this Order.

8. Respondent posted the Original Citation and the Hearing Order as required by the Rules. Neither Complainant nor Respondent have received notification from any affected employee that such employee, or its representative, wishes to have a say in, or participate as a party in, this matter, or has any objections in connection with this matter including without limitation objection to the reasonableness of any abatement period.

9. The parties agree to bear their own attorney's fees, costs and other expenses that have been incurred in connection with any stage of these proceedings.

10. Respondent agrees to continue to use its best efforts to comply with the requirements of the Act. Further, Respondent will pay the penalty of \$2,500.00 assessed in this matter for Citation 01 Item 001a within 30 days of the date of the Final Order [payment is to be by check payable to North Carolina Department of Labor, OSHA Division (identifying Inspection No. 318109857) and mailed to Budget-Collections, North Carolina Department of Labor, 1101 Mail Service Center, Raleigh, North Carolina 27699-1101].

11. Complainant and Respondent agree that provided the respective Motion of each party is granted, and subject to this Order becoming a Final Order in accordance with the provisions of the following paragraph (a) there are no other matters that remain to be decided, and that other than a ruling with respect to the Motions no outstanding issues remain to be resolved by an evidentiary hearing of this matter; (b) the Final Order is a full and final resolution of the claims set out in the underlying Original Citation, as amended pursuant to Complainant’s Motion; (c) the modification of any portion of the Original Citation by Complainant shall not be deemed to

be an admission by Complainant that any such portion was alleged without merit, (d) none of the agreements, statements, stipulations and actions taken by Respondent shall be deemed an admission by the Respondent of any of the allegations contained in the Original Citation as amended or waiver of defenses; provided however that in any subsequent proceeding with respect to matters covered by the Final Order brought directly under the Occupational Safety and Health Act of North Carolina (hereinafter referred to as the "Act") by Complainant, the Final Order shall have the full force and effect of a final order; and (e) the agreements, statements, stipulations and actions herein by Complainant and by Respondent are solely for the purpose of resolving this matter economically and amicably without further litigation and shall not be used for any other purpose except for proceedings and matters arising under the Act and Article 21, Chapter 95 of the North Carolina General Statutes; and (f) there has been no employee objection to the reasonableness of any abatement period.

This Order shall be filed by the Review Commission but shall be a conditional order subject to the terms of this Paragraph. Respondent and Complainant agree as follows:

(A) With respect to Items 001a, 001b, and 002 of the Original Citation, as soon as feasible after the date of this Order:

(i) Respondent will deliver to Complainant, in a form reasonably acceptable to Complainant, documentation evidencing abatement of each such item (collectively such documentation referred to herein as "Abatement Documentation");

(ii) Complainant shall review the Abatement Documentation for purposes of verifying abatement; and

(iii) Abatement Documentation submission by Respondent and review by Complainant shall be completed no later than May 18, 2020 ("Confirmation Date").

(B) On or before the Confirmation Date, Complainant shall file with the Review Commission a notice acknowledging its acceptance of the Abatement Documentation (the "Notice of Abatement Acceptance") or its non-acceptance of the Abatement Documentation (the "Notice of Abatement Non-Acceptance").

(C) In the event Complainant files a Notice of Abatement Non-Acceptance this Order will automatically become null and void, and the case will be scheduled for an evidentiary Hearing as soon thereafter as possible.

(D) In the event Complainant files a Notice of Abatement Acceptance the following shall occur:

(i) such Notice of Abatement Acceptance shall be affixed as Schedule 1 to this Order;

(ii) this Order with Schedule 1 attached shall automatically become a final order (the "Final Order"); and

(iii) the effective date of the Final Order shall be the date it is filed by the Review Commission.

**MOTIONS**

Complainant moved to make the following amendments to the Original Citation (“Complainant’s Motion”):

**\* Amend Citation 01 by de-grouping Item 001a and Item 001b, changing the classification of Item 001b to Non-Serious, with Item 001b bearing no penalty; Item 001a remains as cited with a penalty of \$2,500;**

**\* Amend Citation 01 by deleting Item 002 in its entirety.**

Respondent did not object to Complainant’s Motion.

Respondent requested that upon the granting of Complainant’s Motion that the Undersigned consider the following motion by the Respondent (“Respondent’s Motion”):

**to withdraw Respondent’s Notice of Contest to the Original Citation as amended pursuant to Complainant’s Motion set forth above.**

Complainant did not object to Respondent’s Motion.

**FINDINGS OF FACT**

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

1. This Court has jurisdiction over the parties and the subject matter of this Hearing.
2. Respondent is subject to the provisions of the Act and jurisdiction of the Safety and Health Review Commission of North Carolina.
3. Neither party has any objection, procedural or otherwise, to this Hearing.
4. 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 Act.
5. The Stipulations are incorporated by reference as Findings of Fact to the extent necessary to give effect to the provisions of this Order.

**CONCLUSIONS OF LAW**

The foregoing Findings of Fact are incorporated by reference as Conclusions of Law to the extent necessary to give effect to the provisions of this Order.

**NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:**

1. That Complainant's Motion is hereby **GRANTED**;
2. That Respondent's Motion is hereby **GRANTED**;

This 18th day of February, 2020.

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

**CONSENTED TO:**

**For Complainant**

\_\_\_\_\_  
Melissa H. Taylor, Special Deputy Attorney General  
North Carolina Department of Justice, Raleigh, North Carolina

**For Respondent**

\_\_\_\_\_  
Travis W. Vance  
Fisher & Phillips LLP  
Charlotte, North Carolina

Denise Smith d/b/a The Girls Company 2017-5972

1. That Complainant's Motion is hereby **GRANTED**;
2. That Respondent's Motion is hereby **GRANTED**;

This 18th day of February, 2020.

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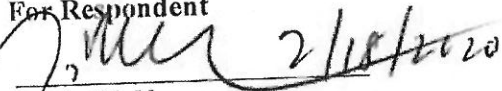
R. Joyce Garrett  
Administrative Law Judge

CONSENTED TO:

For Complainant

\_\_\_\_\_  
Melissa H. Taylor, Special Deputy Attorney General  
North Carolina Department of Justice, Raleigh, North Carolina

For Respondent

  
\_\_\_\_\_  
Travis W. Vance  
Fisher & Phillips LLP  
Charlotte, North Carolina

1. That Complainant's Motion is hereby **GRANTED**;
2. That Respondent's Motion is hereby **GRANTED**;

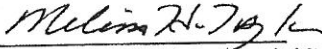
This 18th day of February, 2020.

---

R. Joyce Garrett  
Administrative Law Judge

**CONSENTED TO:**

**For Complainant**

  
Melissa H. Taylor, Special Deputy Attorney General  
North Carolina Department of Justice, Raleigh, North Carolina

**For Respondent**

---

Travis W. Vance  
Fisher & Phillips LLP  
Charlotte, North Carolina

CERTIFICATE OF SERVICE

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

TRAVIS W. VANCE  
FISHER & PHILLIPS, LLP  
PO BOX 36775  
CHARLOTTE, NC 28236

By depositing same in the United States Mail, Certified Mail, Return Receipt Requested, postage prepaid at Raleigh, North Carolina, and upon:

MELISSA TAYLOR  
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, postage prepaid at Raleigh, North Carolina, and upon:

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 26 DAY OF February 2020.



Karissa B. Sluss  
Docket and Office Administrator  
NC OSH Review Commission  
1101 Mail Service Center  
Raleigh, NC 27699-1101  
TEL.: (919) 733-3589  
FAX: (919) 733-3020



MAY 11 2020

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

COMMISSIONER OF LABOR FOR  
THE STATE OF NORTH CAROLINA

Complainant,

v.

DENISE SMITH dba THE GIRLS COMPANY  
and its successors

Respondent.

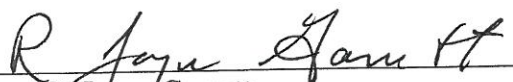
) DOCKET NO: 2017-5972  
)  
) INSPECTION NO: 318109816  
)  
) CSHO ID: # G4941  
)

MODIFICATION OF  
ORDER DATED  
FEBRUARY 18, 2020

AN ORDER dated February 18, 2020 was entered in this matter and filed with the Review Commission (the "Order"). Due to work delays caused by the COVID-19 pandemic, and upon request of Respondent consented to by Complainant, the Order is hereby modified by changing the Confirmation Date specified in the Order from May 18, 2020 to June 5, 2020.

Except as expressly set forth in this Modification Of Order Dated February 18, 2020, the Order shall remain unmodified or amended.

Effective this 5<sup>th</sup> day of May, 2020.

  
R. Joyce Garrett  
Administrative Law Judge

CERTIFICATE OF SERVICE

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

TRAVIS W. VANCE  
FISHER & PHILLIPS, LLP  
227 WEST TRADE ST., STE 2020  
CHARLOTTE, NC 28202

By depositing same in the United States Mail, First Class, postage prepaid at Raleigh, North Carolina, and upon:

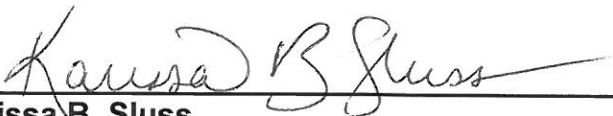
MELISSA TAYLOR  
NC DEPARTMENT OF JUSTICE  
LABOR SECTION  
P O BOX 629  
RALEIGH, NC 27602-0629

By depositing a copy of the same in the United States Mail, First Class, postage prepaid at Raleigh, North Carolina, and upon:

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 15 DAY OF May 2020.

  
\_\_\_\_\_  
Karissa B. Sluss  
Docket and Office Administrator  
NC OSH Review Commission  
1101 Mail Service Center  
Raleigh, NC 27699-1101  
TEL.: (919) 733-3589  
FAX: (919) 733-3020



CERTIFICATE OF SERVICE

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

TRAVIS W. VANCE  
FISHER & PHILLIPS, LLP  
227 West Trade St., STE 2020  
Charlotte, NC 28202

By depositing a copy of the same in the United States Mail, Certified Mail, Return Receipt Requested, postage prepaid at Raleigh, North Carolina, and upon:

MELISSA TAYLOR  
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, postage prepaid at Raleigh, North Carolina, and upon:

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 17 DAY OF June 2019.

ARLENE K. EDWARDS  
CHAIRMAN

  
\_\_\_\_\_  
Karissa B. Sluss  
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

FILED

JUN 23 2020

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

COMMISSIONER OF LABOR FOR THE STATE OF NORTH CAROLINA

Complainant,

v.

HIBCO PLASTICS, INC. and its successors

Respondent.

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DOCKET NO: 2017-5973

INSPECTION NO: 318109857

CSHO ID: # G4941

THIRD MODIFICATION OF ORDER DATED FEBRUARY 18, 2020

AN ORDER dated February 18, 2020 was entered in this matter and filed with the Review Commission (the "Order"). Due to work delays caused by the COVID-19 pandemic, and upon request of Respondent consented to by Complainant, the Order was modified by Modification Of Order Dated February 18, 2020 ("First Modification") and by Second Modification Of Order Dated February 18, 2020 ("Second Modification"). Due to continued delays and disruption to work schedule, upon joint request of Complainant and Respondent the Order as amended by First Modification and Second Modification, is hereby further modified by changing the Confirmation Date specified in the Second Modification from June 26, 2020 to July 27, 2020.

Except as expressly set forth in this Third Modification Of Order Dated February 18, 2020, the Order as amended by the First Modification and Second Modification shall remain unmodified or amended.

Effective this 23rd day of June, 2020.

R. Joyce Garrett
R. Joyce Garrett
Administrative Law Judge

**CERTIFICATE OF SERVICE**

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

TRAVIS W. VANCE  
FISHER & PHILLIPS, LLP  
227 W TRADE ST  
STE 2020  
CHARLOTTE NC 28202

By depositing same in the United States Mail, Certified Mail, Return Receipt Requested, postage prepaid at Raleigh, North Carolina, and upon:

MELISSA TAYLOR  
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, postage prepaid at Raleigh, North Carolina, and upon:

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 21 DAY OF July 2020.

  
\_\_\_\_\_  
Karissa B. Sluss  
Docket and Office Administrator  
NC OSH Review Commission  
1101 Mail Service Center  
Raleigh, NC 27699-1101  
TEL.: (919) 733-3589  
FAX: (919) 733-3020

FILED

JUL 27 2020

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

COMMISSIONER OF LABOR FOR THE STATE OF NORTH CAROLINA

Complainant,

v.

HIBCO PLASTICS, INC. and its successors

Respondent.

DOCKET NO: 2017-5973
INSPECTION NO: 318109857
CSHO ID: # G4941
FOURTH MODIFICATION OF ORDER DATED FEBRUARY 18, 2020

AN ORDER dated February 18, 2020 was entered in this matter and filed with the Review Commission (the "Order"). Due to work delays caused by the COVID-19 pandemic, and upon request of Respondent and Complainant, the Order was modified by Modification Of Order Dated February 18, 2020 ("First Modification"), by Second Modification Of Order Dated February 18, 2020 ("Second Modification"), and by Third Modification of Order Dated February 18, 2020 ("Third Modification"). Due to continued delays and disruption to work schedule, upon joint request of Complainant and Respondent the Order as amended by First Modification, Second Modification and Third Modification, is hereby further modified by changing the Confirmation Date specified in the Third Modification from July 27, 2020 to September 9, 2020.

Except as expressly set forth in this Fourth Modification Of Order Dated February 18, 2020, the Order as amended by the First Modification, Second Modification, and Third Modification shall remain unmodified or amended.

Effective this 27th day of July, 2020.

R. Joyce Garrett
Administrative Law Judge

**CERTIFICATE OF SERVICE**

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

TRAVIS VANCE  
FISHER PHILLIPS  
227 WEST TRADE ST  
STE 2020  
CHARLOTTE, NC 28202

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

MELISSA TAYLOR  
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, postage prepaid at Raleigh, North Carolina, and upon:

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 28 DAY OF July 2020.

  
\_\_\_\_\_  
Karissa B. Sluss  
Docket and Office Administrator  
NC OSH Review Commission  
1101 Mail Service Center  
Raleigh, NC 27699-1101  
TEL.: (919) 733-3589  
FAX: (919) 733-3020



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

**COMMISSIONER OF LABOR FOR  
THE STATE OF NORTH CAROLINA**

**Complainant,**

v.

**HIBCO PLASTICS, INC.**  
and its successors

**Respondent.**

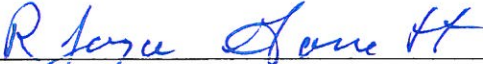
) **DOCKET NO: 2017-5973**  
)  
) **INSPECTION NO: 318109857**  
)  
) **CSHO ID: # G4941**  
)  
) **FIFTH MODIFICATION**  
) **OF ORDER DATED**  
) **FEBRUARY 18, 2020**

001 - 6 2020  
Occupational & Safety

AN ORDER dated February 18, 2020 was entered in this matter and filed with the Review Commission (the "Order"). Due to work delays caused by the COVID-19 pandemic, and upon request of Respondent and Complainant, the Order was modified by Modification Of Order Dated February 18, 2020 ("First Modification"), by Second Modification Of Order Dated February 18, 2020 ("Second Modification"), by Third Modification of Order Dated February 18, 2020 ("Third Modification") and by Fourth Modification of Order Dated February 18, 2020 ("Fourth Modification"). Due to continued delays and disruption to work schedule, upon joint consent of Complainant and Respondent the Order, amended as set forth above, is hereby further modified by changing the Confirmation Date specified in the Fourth Modification from September 9, 2020 to November 19, 2020.

Except as expressly set forth in this Fifth Modification Of Order Dated February 18, 2020, the Order, amended as set forth above, shall remain unmodified or amended.

Effective this 9<sup>th</sup> day of September, 2020.

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

CERTIFICATE OF SERVICE

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

TRAVIS W. VANCE  
FISHER & PHILLIPS, LLP  
227 WEST TRADE ST., STE. 2020  
CHARLOTTE, NC 28202

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

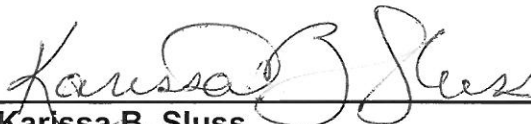
MELISSA TAYLOR  
NC DEPARTMENT OF JUSTICE  
LABOR SECTION  
P O BOX 629  
RALEIGH, NC 27602-0629

by depositing a copy of the same in the United States Mail, First Class, postage prepaid at Raleigh, North Carolina, and upon:

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 9 DAY OF October 2020.



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Karissa B. Sluss  
Docket and Office Administrator  
NC OSH Review Commission  
1101 Mail Service Center  
Raleigh, NC 27699-1101  
TEL.: (919) 733-3589  
FAX: (919) 733-3020



This the 10<sup>th</sup> day of November, 2020.

RESPECTFULLY SUBMITTED,

JOSH STEIN  
ATTORNEY GENERAL

/s/ Melissa H. Taylor /s/

Melissa H. Taylor  
Special Deputy Attorney General  
North Carolina Department of Justice  
Post Office Box 629  
Raleigh, NC 27602  
Telephone No. (919) 716-6680

\*\*\*\*\*

**NOTICE OF FILING  
BY WAY OF ELECTRONIC MEANS**

**Under current safety measures taken in light of the COVID 19 pandemic, it is impractical to gather original signatures on paper. Accordingly, the parties have agreed that all documents filed with the Review Commission in this proceeding by either party or both parties may be filed either in hard copy (with original and/or electronic signatures) or through electronic means, by circulating the document(s) and signature page(s) via email, fax and (or) pdf.**

**Electronically Submitted**

*/s/ Melissa H. Taylor /s/*

**Special Deputy Attorney General**

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing **NOTICE OF ABATEMENT**

**ACCEPTANCE** upon:

Travis W. Vance  
Fisher & Phillips LLP  
227 West Trade Street  
Suite 2020  
Charlotte, NC 28202

by depositing a copy of said document into the U.S. Mail, postage pre-paid within 30 days at Raleigh, North Carolina, and by email this day to

Vance, Travis (tvance@fisherphillips.com)

and by email to [NCOSHRC@labor.nc.gov](mailto:NCOSHRC@labor.nc.gov) and U.S. Mail postage pre-paid within 30 days as follows:

North Carolina Occupational Safety and Health Review Commission  
422 North Blount Street  
Raleigh, North Carolina 27602

This the 10<sup>th</sup> day of November 2020.

/s/ Melissa H. Taylor /s/  
Melissa H. Taylor  
Special Deputy Attorney General