

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

COMMISSIONER OF LABOR OF THE)	DOCKET NO.: OSHANC 2021-6352
STATE OF NORTH CAROLINA,)	INSPECTION NUMBER: 318194404
)	CSHO ID: R2121
Complainant,)	
)	
-vs-)	
)	CONSENT ORDER
SUMMA GENERAL CONTRACTORS, LLC.)	FILED
<i>and its successors,</i>)	JUL 19 2023
)	
Respondent.)	INC OSH Review Commission

The parties having appeared before the undersigned for a duly-noticed hearing, and having informed the undersigned hearing officer that they have reached a resolution of the citations issued in this matter, and the undersigned having reviewed the citations, the documents filed by the parties, and the representations of counsel, now pursuant to Rule .0507 of the Rules of Procedure adopted by the North Carolina Occupational Safety and Health Review Commissions, the undersigned makes the following:

FINDINGS OF FACT:

1. Respondent is a corporation duly organized and existing under the laws of the State of North Carolina.
2. On April 23, 2020, Respondent maintained a worksite at 740 East US Hwy 74 in Rockingham, North Carolina.
3. On April 23, 2020, Compliance Safety and Health Officer James Zepede, an Occupational Safety and Health Officer with the North Carolina Department of Labor, conducted an inspection of Respondent's worksite at 740 East US Hwy 74 in Rockingham, North Carolina.

4. As a result of the inspection, on October 20, 2020, Complainant issued the following Citation(s):

CITATION NUMBER ONE (Serious)

<u>Item</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
1	29 CFR 1926.20(b)(2)	10/28/2020	\$2100.00
2	29 CFR 1926.416(a)(3)	10/28/2020	\$2800.00

5. The Respondent submitted a timely Notice of Contest dated January 13, 2021.

6. The parties have mutually agreed to resolve the Citation(s) upon the following terms, and seek the undersigned's approval of the same:

- a. Respondent agrees that the violations alleged in the Citation and Notification of Penalty, as amended below, have been abated, and agrees to continue to use its best efforts to comply with the requirements of the Occupational Safety and Health Act of North Carolina (hereinafter referred to as "the Act").
- b. Complainant agrees to make the following amendments to the Citation items:
 - i. Change the penalty for Citation One, Item 1 to \$3,000.00; and
 - ii. Delete Citation One, Item 2 and its proposed penalty.
- c. Without admitting any allegations of the Citation and Notice of Penalty, or waiving any defense to the Citation, Respondent agrees to the following:
 - i. Stipulate to retrain its employees on conducting frequent and regular inspections of worksites and the methods to assess health hazards and abate those discovered hazards.
- d. Each party agrees to bear its own attorney's fees, costs and other expenses that have been incurred in connection with these proceedings.

- e. The parties agree that this Stipulation and Notice of Settlement is a full and final settlement of the claims set out in the underlying Citation and Notification of Penalty, and none of the foregoing agreements, statements, stipulations and actions taken by the Respondent shall be deemed an admission by the Respondent of any of the allegations contained in the Citation and Notification of Penalty or waiver of defenses; provided, however, that in any subsequent proceeding with respect to matters covered by this Stipulation and Notice of Settlement brought directly under the Act by Complainant, this Agreement shall have the full force and effect of a final order. The agreements, statements, stipulations and actions herein are made solely for the purpose of settling 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 Occupational Safety and Health Act and Article 21, Chapter 95 of the North Carolina General Statutes.
- f. There are no other outstanding matters to be addressed in this proceeding.
- g. Neither party has received any notification from any employee indicating an intent to participate in or attend the hearing in this matter.
- 7. The foregoing terms are reasonable and supported by the underlying facts.
- 8. No outstanding issues remain to be resolved by a hearing of this matter.

Based on the foregoing, the undersigned makes the following

CONCLUSIONS OF LAW

- 1. This Court has jurisdiction over the parties and over the subject matter.
- 2. The parties' proposed resolution of this matter is consistent with the purpose and objectives of the Act.

NOW THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

1. The parties' agreement, as set out above, is approved.
2. The parties shall comply with the terms and conditions set out above.
3. The Respondent shall pay the penalty specified above within 60 days of this

Consent Order.

This **Jul 19, 2023**

Reagan Weaver

Reagan Weaver (Jul 19, 2023 08:28 EDT)

Reagan Weaver
Hearing Examiner

CONSENTED TO:

JOSHUA H. STEIN, Attorney General

Rory Agan

Rory Agan (Jul 18, 2023 22:17 EDT)

By: Rory Agan
Special Deputy Attorney General
North Carolina Department of Justice
P.O. Box 629/Labor Section
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Counsel for Complainant

Brian Schoolman

By: Brian Schoolman
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Tel. (919) 828-1396
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Counsel for Respondent

CERTIFICATE OF SERVICE

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

BRIAN SCHOOLMAN
SAFRAN LAW FIRM
PO BOX 587
RALEIGH, NC 27602-0587

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


RORY AGAN
NC DEPARTMENT OF JUSTICE
LABOR SECTION
PO 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
carla.rose@labor.nc.gov

via email.

THIS THE 19 DAY OF July 2023.



Karissa B. Sluss
Docket and Office Administrator
NC Occupational Safety & Health Review Commission
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Raleigh, NC 27699-1101
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NCOSHRC@labor.nc.gov