

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

**FILED**

JAN 15 2025

NC OSH Review Commission

COMMISSIONER OF LABOR OF )  
THE STATE OF NORTH CAROLINA, )

COMPLAINANT, )

v. )

BAXLEY CONSTRUCTION CO., INC., )  
*and its successors,* )

RESPONDENT. )

**DEFAULT JUDGMENT**

**ORDER**

OSHANC NO.: 2023-6540

INSPECTION NO.'s: 318250792

CSHO ID: K0085

**THIS MATTER** comes before the North Carolina Occupational Safety and Health Review Commission following a properly noticed virtual hearing for 10:00 am on January 14, 2025. Appearing for the Complainant was Madison L. Beveridge, Assistant Attorney General. No one appeared for the Respondent.

The purpose of the hearing was to determine all matters relating to Respondent's Notice of Contest dated March 27, 2023. There being no one to appear on behalf of Respondent, counsel for Complainant made an oral motion for a Default Judgment.

**FINDINGS OF FACT**

1. Pursuant to N.C. Gen. Stat. §95-135, the Review Commission has jurisdiction over the parties and subject matter of this action.
2. Complainant 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.
3. Respondent is a North Carolina corporation, duly organized and existing under the laws of the State of North Carolina, which does business in the State of North Carolina and maintains a place of business at 4805 Green Road, Suite 100, Raleigh, North Carolina, 27616.
4. On August 3, 2022, Compliance Safety and Health Officer (CSHO) Mark Rasdall, employed by the North Carolina Department of Labor, inspected with permission Respondent's worksite along the Northern Wake Expressway (HWY 540), between exits 14 and 17 in Raleigh, North Carolina.

5. Respondent was a contractor for the North Carolina Department of Transportation to clear limbs hanging over various roads in Wake and other counties.
6. On January 25, 2023, Complainant issued Citations to Respondent for violations of the following standards and imposed abatement dates and penalties as follows:

**CITATION NUMBER ONE (SERIOUS)**

<b>Item No.</b>	<b>Standard</b>	<b>Abatement Date</b>	<b>Penalty</b>
1a	29 CFR 1910.67(c)(2)(ii)	Immediately upon receipt	\$5,800.80
1b	29 CFR 1910.67(c)(2)(v)	Immediately upon receipt	GROUPED
2	29 CFR 1910.132(d)(1)	Immediately upon receipt	\$5,800.80
3a	29 CFR 1910.132(a)	Immediately upon receipt	\$5,800.80
3b	29 CFR 1910.133(a)(1)	Immediately upon receipt	GROUPED
3c	29 CFR 1910.135(a)(1)	Immediately upon receipt	GROUPED

**CITATION NUMBER TWO (NONSERIOUS)**

<b>Item No.</b>	<b>Standard</b>	<b>Abatement Date</b>	<b>Penalty</b>
1a	29 CFR 1910.1200(h)(1)	Immediately upon receipt	\$0.00
1b	29 CFR 1910.1200(e)(1)	Immediately upon receipt	\$0.00
1c	29 CFR 1910.1200(g)(8)	Immediately upon receipt	\$0.00

7. Respondent received the citations and filed a timely Notice of Contest, dated March 27, 2023.
8. On or about May 3, 2023, Complainant received “Employer’s/Respondent’s Statement of Position” which requested formal pleadings be served.
9. On May 23, 2023, Complainant filed its formal Complaint which included in prominent **boldface** the following language:

**WITHIN 20 DAYS AFTER RECEIPT OF THE COMPLAINT,  
RESPONDENT MUST FILE AN ANSWER WITH THE REVIEW COMMISSION**

10. The Complaint was served properly via United States Mail first class postage prepaid on Respondent at the address listed by Respondent on its Notice of Contest, 4805 Green Road, Suite 100, Raleigh, NC 27616.
11. No answer has been filed or served to this date.

12. The hearing held on this date, January 14, 2025 was formally noticed and served on Respondent on November 20, 2024 at the same address given to the Commission in Respondent's Notice of Contest.
13. No appearance by Respondent was made at the hearing on January 14, 2025.

### CONCLUSIONS OF LAW

1. 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.
2. At all times material to this proceeding, the Respondent was subject to the requirements of N.C. Gen. Stat. §95-126, *et seq.* and the standards promulgated thereunder.
3. The Review Commission has jurisdiction of the parties and the subject matter.
4. Complainant is entitled to a judgment by default for the failure of Respondent to answer the Complaint and to appear to defend itself at the hearing.

WHEREFORE, the Citations imposed by Complainant on Respondent are AFFIRMED and Respondent is ordered to pay the penalty of \$17,402.40 within twenty (20) days of the date of this Order.

This the 14 day of January, 2025.



Reagan H. Weaver  
Hearing Examiner  
[rweaver@capitolaw.com](mailto:rweaver@capitolaw.com)

**CERTIFICATE OF SERVICE**

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

BRANDON BAXLEY  
BAXLEY CONSTRUCTION CO., INC.  
4805 GREEN RD.  
SUITE 100  
RALEIGH, NC 27616

By depositing a copy of the same in the United States Mail, by certified mail, return receipt requested, postage prepaid at Raleigh, North Carolina, and upon:

MADISON L. BEVERIDGE  
NC DEPARTMENT OF JUSTICE  
LABOR SECTION  
PO BOX 629  
RALEIGH NC 27602

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

via email.

THIS THE 15 DAY OF January 2025.

PAUL E. SMITH  
CHAIRMAN



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Karissa B. Sluss  
Docket Administrator  
NC Occupational Safety &  
Health Review Commission  
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