

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

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

COMPLAINANT,

v.

**OLD NORTH STATE MASONRY, LLC ,
DBA JOSEPH S. ANASTASI DBA OLD
NORTH STATE MASONRY
*and its successors,***

RESPONDENT.

) **DOCKET NO.: OSHANC 2023-6750**
) **INSPECTION NUMBER: 318257458**
) **CSHO ID: H8087**

CONSENT ORDER

FILED

AUG 12 2026

NC Occupational Safety & Health
Review Commission

THIS CAUSE came on pursuant to the Notice of Pre-Hearing Conference (“Hearing Notice”) on August 12, 2026, at 10:00 a.m., via Lifesize teleconferencing platform before the undersigned, Mary-Ann Leon, Hearing Examiner for the North Carolina Occupational Safety and Health Review Commission. Rory Agan, Special Deputy Attorney General, North Carolina Department of Justice, Raleigh, North Carolina, appeared as counsel for the Complainant. Frederick M. Thurman, Jr., Partner, Shumaker, Loop & Kendrick, LLP, Charlotte, North Carolina, appeared as counsel for Respondent.

Pursuant to the Hearing Notice, a pre-hearing conference (the “Hearing”) was held for the purpose of considering matters which would simplify the issues and expedite the proceedings in the above referenced case including considering such matters that may be necessary or advisable for the completion of the case, and if possible, to reach a resolution without the necessity of further hearing. No affected employee of Respondent attended to have a say in, or participate as a party in, the Pre-Hearing.

At the Pre-Hearing, Complainant and Respondent agreed upon and requested that certain Stipulations and Motions be made part of the Hearing record and that the Undersigned issue a Consent Order. The Hearing notice properly allowed the parties to stipulate to facts, the law applied to those facts, and for the undersigned to approve those findings in this Consent Order. The Stipulations and Motions are as follows:

STIPULATIONS

1. The Complainant, as Commissioner of Labor of the State of North Carolina, is charged by law with compliance with 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”).

2. The Review Commission has jurisdiction over the parties and the subject matter of this action pursuant to N.C.G.S. § 95-135.
3. Between January 2, 2023, and June 28, 2023, Compliance Safety and Health Officers (“CSHO” or “CSHOs”) Jennifer Hartle, Griselle Negron, Jill Warren, and District II Supervisor Ted Hendrix, employed by the North Carolina Department of Labor, inspected Respondent's worksite located at 711 East Morehead Street, Charlotte, North Carolina (“the Inspection”).
4. Respondent, Old North State Masonry, LLC (and Joseph S. Anastasi DBA Old North State Masonry), 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 in Matthews, North Carolina.
5. Respondent is an "employer" within the meaning of N.C.G.S. § 95-127(11); and Respondent's employees referred to in this matter are "employees" within the meaning of N.C.G.S. § 95-127(10).
6. At the time of the inspection, the site was a multi-employer site. Hanover Construction was the general contractor. Respondent was an intermediate contractor, which had subcontracted Friends Masonry to conduct masonry work. Respondent provided motorized scaffolding and performed assembly and disassembly of the scaffolding at the site. Friends Masonry operated the scaffolding.
7. The scaffolding was a mix of scaffolding owned by Respondent and rented from Hydro Rents, an affiliate of the manufacturer of the equipment, Hydro Mobile.
8. As a result of the Inspection, on June 28, 2023, Complainant issued one citation with six items carrying the following proposed abatement dates and penalties in the Citation and Notification of Penalty (hereafter referred to as the “Original Citation”):

CITATION NUMBER ONE (Serious)

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
001	29 CFR 1926.451(a)(1)	cdi	\$14,502.00
002	29 CFR 1926.451(a)(6)	cdi	\$14,502.00
003	29 CFR 1926.451(a)(6)	cdi	\$14,502.00
004	29 CFR 1926.451(a)(6)	cdi	\$14,502.00
005	29 CFR 1926.451(f)(3)	Immediate	\$14,502.00
006	29 CFR 1926.451(f)(4)	cdi	\$14,502.00
			Total: \$87,012.00

9. Complainant must issue citations, if any, within six months from the date of the occurrence of any potential violation. N.C.G.S. § 95-137(b)(3).
10. Respondent submitted a timely Notice of Contest dated August 16, 2023.
11. Following issuance of the Citation and Penalty in this matter, and after the notice of contest, the parties determined that, with respect to Citation 01 Item 001, the affected bridge section had in fact been assembled with input and approval from representatives of Hydro Mobile.
12. Following issuance of the Citation and Penalty in this matter, and after the notice of contest, the parties determined that, with respect to Citation 01 Item 002, previous iterations of Hydro Mobile's approved engineering design drawings in fact included installation of bridge sections in both parallel and perpendicular directions.
13. Following issuance of the Citation and Penalty in this matter, and after the notice of contest, Respondent was a party to depositions in a civil action related to the accident.
14. Information obtained through those depositions indicated that a Hydro Mobile document provided to Complainant during the inspection was no longer valid at the time it was provided. Complainant relied on that document as a basis for Citation 01, Item 003. Specifically, Technical Notice HMT-00061-01-E, dated August 20, 2008, was provided to Complainant during the inspection by a party other than Respondent, and which Respondent states is a document that had never been provided to Respondent at any time prior to the inspection. The notice stated that MPI sections used to construct the scaffold required special reinforcing kits, which the scaffold at issue did not incorporate.
15. The depositions showed that the document had been rescinded by Hydro Mobile and removed from their online document service on March 13, 2020. The same notice stated that the information had been included in owner's manual series 4.0 and up. However, the information was not in fact included in any owner's manual until 2024 at the earliest.
16. The manual was therefore missing this correction for at least the period of 2010 until 2024, and the Hydro Mobile document provided to Complainant during the inspection was marked "no longer valid" by Hydro Mobile at least as early as March of 2020. The Hydro Mobile document provided to Complainant did not have those markings indicating any revision of the notice.
17. Following issuance of the Citation and Penalty in this matter, and after the notice of contest, the parties determined that, with respect to Citation 01 Items 005 and 006, Respondent had in fact inspected the scaffolding components for visible defects. Further, subsequent ultrasonic testing revealed no structural deficiencies in the scaffolding components.
18. The Hearing in this matter was scheduled pursuant to Rules of Procedure of the Safety and Health Review Commission of North Carolina (the "Rules").

19. Complainant and Respondent have no objection, either procedural or otherwise, to this Hearing; the parties waive the making of a transcript; and the parties consent to the conduct of this Hearing by the Undersigned and consent to entry of this Order.
20. Respondent confirms that the Original Citation and the Hearing Notice have been posted as required by the Rules.
21. 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.
22. Respondent confirms that all items in the Original Citation, as amended pursuant to Complainant's Motion, have been abated and Respondent agrees to continue using its best efforts to comply with the Act.
23. **Respondent agrees that its two superintendents took and successfully completed an OSH 30-hour construction course in 2020 and 2023. Respondent agrees to ensure that future superintendent hires will have or receive similar training promptly upon hire.**
24. Respondent agrees to pay the new total penalty of **\$15,000.00 within thirty (30) days of the date of this Consent Order**. In the event Respondent does not pay the penalty as agreed upon, Complainant retains the right to institute collection proceedings as allowed by law. Respondent agrees to collection proceedings to collect the debt. Payment is to be by check payable to the North Carolina Department of Labor, OSHA Division (identifying Inspection No. **318257458**) and mailed to North Carolina Department of Labor, Financial Services Division, 1101 Mail Service Center, Raleigh, NC 27699-1101.
25. The parties agree to bear their own fees, costs, and other expenses, including attorney's fees if any, that have been incurred in connection with any stage of these proceedings up to and including the filing of this Consent Order.
26. Provided the respective Motions of each party are granted, Complainant and Respondent agree:
 - 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 additional evidentiary hearing of this matter;
 - b) this Consent 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 good faith belief in the truth of the allegations;

- d) 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 Original Citation, as amended, or waiver of defenses; provided, however, that in any subsequent proceeding with respect to matters covered by this Consent Order brought directly under the Act by Complainant, this Consent 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 purposes except for proceedings and matters arising under the Act and Article 21, Chapter 95 of the North Carolina General Statutes.

MOTIONS

Complainant moves to do the following (“Complainant’s Motion”):

- 1. Amend the classification in Citation One, Item 4 to Non-Serious and amend the penalty to \$15,000.00; and**
- 2. Delete Citation One, Items 1-3, 5, and 6 and delete the penalty associated with those items.**

Except as set forth in these Motions, the Original Citation shall remain unmodified or amended.

Respondent does not object to Complainant’s Motions.

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

- 1. Withdraw Respondent’s Notice of Contest to the Original Citation as amended pursuant to Complainant’s Motions set forth above.**

Complainant does not object to Respondent’s Motion.

FINDINGS OF FACT

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

1. 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.
2. Respondent is subject to the provisions of the Act and jurisdiction of the Safety and Health Review Commission of North Carolina.

3. This Court has jurisdiction over the parties and the subject matter of this Hearing.
4. Neither party has any objection, procedural or otherwise, to this Hearing. No affected employee elected party status and no employee raised an objection to the reasonableness of the abatement time.
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 Motions are hereby **GRANTED**;
2. That Respondent's Motion is hereby **GRANTED**;
3. That Respondent shall pay the penalty of **\$15,000.00 within thirty (30) days of this Consent Order**; and
4. That the parties shall comply with the terms and conditions set forth in the Stipulations above.

This the 08/12/2026.

Signature: Mary-Ann Leon
Mary-Ann Leon (Aug 12, 2026 18:21:27 CDT)
Email: maleon@leonlaw.org

Mary-Ann Leon
Hearing Examiner

CONSENTED TO:

Signature: Rory Agan
Rory Agan (Aug 12, 2026 16:41:15 EDT)
Email: ragan@ncdoj.gov

Rory Agan
Special Deputy Attorney General
North Carolina Department of Justice
ragan@ncdoj.gov

ATTORNEY FOR COMPLAINANT

Signature: Frederick M. Thurman, Jr.
Frederick M. Thurman, Jr. (Aug 12, 2026 16:31:54 EDT)
Email: fthurman@shumaker.com

Frederick M. Thurman, Jr.
Shumaker, Loop & Kendrick, LLP
Counsel for Respondent
fthurman@shumaker.com

ATTORNEY FOR RESPONDENT

CERTIFICATE OF SERVICE

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

FREDERICK M THURMAN JR
SHUMAKER LOOP & KENDRICK LLP
fthurman@shumaker.com

RORY AGAN
NC DEPARTMENT OF JUSTICE
LABOR SECTION
ragan@ncdoj.gov

NC DEPARTMENT OF LABOR
GENERAL COUNSEL'S OFFICE

Via email.

THIS THE 13 DAY OF AUGUST 2026.

PAUL E. SMITH
CHAIRMAN



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Health Review Commission
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