

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

COMMISSIONER OF LABOR OF THE
STATE OF NORTH CAROLINA

COMPLAINANT,

v.

ACE/AVANT CONCRETE
CONSTRUCTION CO., INC.

and its successors,

RESPONDENT.

) DOCKET NO.: OSHANC 2023-6573
) INSPECTION NUMBER: 318260890
) CSHO ID: A3277

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CONSENT ORDER

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THIS CAUSE came on pursuant to the Notice of Hearing ("Hearing Notice") on January 20, 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. Sage A. Boyd, Special Deputy Attorney General, North Carolina Department of Justice, Raleigh, North Carolina, appeared as counsel for the Complainant. Travis W. Vance, Regional Managing Partner, Fisher & Phillips LLC, appeared as counsel for Respondent.

At the Hearing, Complainant and Respondent agreed upon and requested that the Stipulations and Motions be made part of the Hearing record and that the Undersigned issue a Consent Order. This Hearing was not an evidentiary hearing and the specific facts and circumstances relevant to the Inspection (hereinafter defined) and the Original Citation (hereinafter defined) were not introduced of record, and such facts and circumstances are not included in the Stipulations hereinafter set forth. 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 to this action.

3. On and between February 25, 2023 and February 27, 2023, Compliance Safety and Health Officer (CSHO) Mike Saye, employed by the North Carolina Department of Labor (NCDOL), accompanied by CSHO Arthur Richards, also employed by NCDOL, inspected Respondent's worksite located at 628 Green Valley Road, Greensboro, North Carolina ("the Inspection").
4. Respondent, Ace/Avant Concrete Construction Co., Inc., 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 Archdale, North Carolina. 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).
5. As a result of the Inspection, on August 23, 2023, Complainant issued one serious citation with four 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>
1	29 CFR 1926.20(b)(2)	Immediately Upon Receipt	\$15,625.00
2	29 CFR 1926.501(a)(2)	Immediately Upon Receipt	\$15,625.00
3	29 CFR 1926.501(b)(1)	Corrected During Inspection	\$15,625.00
4	29 CFR 1926.850(a)	Immediately Upon Receipt	\$15,625.00

TOTAL: \$62,500.00

6. Respondent submitted a timely Notice of Contest dated September 6, 2023.
7. The Hearing in this matter was scheduled pursuant to Rules of Procedure of the Safety and Health Review Commission of North Carolina (the "Rules").
8. Complainant and Respondent have no objection, either procedural or otherwise, to this Hearing; waive the making of a transcript; and consent to the conduct of this Hearing by the Undersigned and consent to entry of this Order.
9. Respondent confirms that the Original Citation and the Hearing Notice have been posted as required by the Rules.
10. 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.

11. Respondent confirms that all items in the Original Citation, as amended pursuant to Complainant's Motion, have been abated and Respondent agrees to use best efforts to comply with the Act.
12. Respondent agrees to:
 - a) Fall protection training and (or) re-training will be provided within three months for those employees subject to fall hazards and who have not received such training in the nine months previous to this Consent Order and document the training by maintaining a written record of who conducted the training, who attended the training, record the date, time and location of the training, and maintain the aforementioned documentation for a period of one year following the date of the training.
 - b) Develop and (or) update Respondent's policies to ensure that site-specific job safety analyses are conducted prior to employees engaging in demolition work to determine whether there are health or physical issues associated with those tasks (e.g. risk of falls). Each site-specific job safety analysis shall document at a minimum the specific work activity or task, document the associated hazard(s) with the activity or task, and identify how to control or mitigate the associated hazard(s). Each site-specific job safety analysis shall be maintained at a minimum for the duration of the project.
 - c) Respondent shall require all Respondent's field foremen to complete an OSHA 30-Hour Construction Course who have not previously completed an OSHA 30-Hour Construction Course within ninety days (90) from the date of this Consent Order. In addition, the Respondent will ensure all foremen are recertified every five years.
 - d) Respondent shall require all Respondent's field non-foremen to complete an OSHA 10-Hour Construction Course who have not previously completed an OSHA 10-Hour Construction Course within six months (6) from the date of this Consent Order.
 - e) The foreman or safety representative will conduct weekly safety inspections and will document the inspections for all projects lasting longer than one week.
 - f) Respondent certifies that at least ten safety audits are conducted by a safety professional on a weekly basis.
13. Respondent agrees to pay the new total penalty of **\$34,000.00 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. **318260890**) and mailed to North Carolina Department of Labor, Financial Services Division. ATTN: Collections Division, 1101 Mail Service Center, Raleigh, NC 27699-1101.

14. 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.
15. 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 merit;
 - 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 Standard Alleged Violation Elements (SAVE) and Alleged Violation Description (AVD) in Citation One, Item 2 to state as follows:

N.C.G.S. 95-129(01) – The employer did not furnish to each of his employees conditions of employment and a place of employment free from recognized hazards that were causing or were likely to cause death or serious injury or serious physical harm to his employees in that employees were exposed to an unsupported elevated surface:

- a) **Jobsite, On or about February 25, 2023, the employer failed to take all steps necessary to determine the structural integrity of the concrete floor at the project.**

Abatement note: One feasible and acceptable method of abatement is to develop procedures and conduct an inspection of the concrete floor to ensure support is provided prior to employees starting work.

2. Amend the penalty in Citation One, Item 2 to \$34,000.00.

3. Delete Citation One, Items 1, 3, and 4 in their entirety.

Except as set forth in this Motion, the Original Citation shall remain unmodified or amended.

Respondent does not object to Complainant's Motion.

Respondent requests that upon the granting of Complainant's Motion, 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 Motion 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 Motion is hereby **GRANTED**;
2. That Respondent's Motion is hereby **GRANTED**;
3. That Respondent shall pay the penalty of **\$34,000.00 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.

This the 01/21/2026.

Signature: Mary-Ann Leon

Mary-Ann Leon (Jan 21, 2026 09:35:58 CST)

Email: maleon@leonlaw.org

Mary-Ann Leon
Hearing Examiner

CONSENTED TO:

Signature: Sage A. Boyd

Sage A. Boyd (Jan 20, 2026 10:55:32 EST)

Email: sboyd@ncdoj.gov

Sage A. Boyd
Special Deputy Attorney General
North Carolina Department of Justice

sboyd@ncdoj.gov

Signature: Travis Vance

Travis Vance (Jan 20, 2026 10:56:12 EST)

Email: tvance@fisherphillips.com

Travis W. Vance
Regional Managing Partner
Fisher & Phillips LLP

tvance@fisherphillips.com

ATTORNEY FOR COMPLAINANT

ATTORNEY FOR RESPONDENT

CERTIFICATE OF SERVICE

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

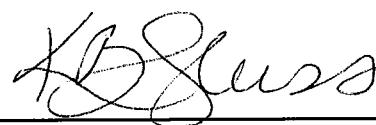
TRAVIS W VANCE
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tvance@fisherphillips.com

SAGE BOYD
NC DEPARTMENT OF JUSTICE
sboyd@ncdoj.gov

NC DEPARTMENT OF LABOR
LEGAL AFFAIRS DIVISION

By email.

THIS THE 21 DAY OF January, 2026.



Karissa B. Sluss
Docket Administrator
NC Occupational Safety & Health Review Commission
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Raleigh, NC 27601
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