

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

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

**Complainant,**

v.

**THE BRAWLEY CO.  
and its successors**

**Respondent.**

) **DOCKET NO: 2024 - 6669**  
) **INSPECTION NO: 318278660**  
) **CSHO ID: K0085**

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**CONSENT ORDER**

**FILED**

MAR 18 2026

NC Occupational Safety & Health  
Review Commission

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THIS CAUSE coming on pursuant to the Notice of Hearing (“Hearing Notice”) on March 18-19, 2026 at 10 a.m. before Hearing Examiner R. Joyce Garrett, via Lifesize teleconferencing platform. Monique D. Nketah, Assistant Attorney General, North Carolina Department of Justice, Raleigh, North Carolina, appeared for Complainant. Attorney Christopher Flurry and Attorney Joseph C. Hammond with Ellis & Winters LLP, Greensboro, North Carolina, appeared for Respondent.

Pursuant to the Hearing Notice a Hearing was held to determine all matters relating to Respondent’s Notice of Contest to Citation Number K0085-318278660. No affected employee of Respondent attended to have a say in, or participate as a party in, the Hearing.

At the Hearing, Complainant and Respondent (i) notified the Undersigned that the parties agree upon certain stipulations (“Stipulations”) and wish to make certain motions (“Motions”), and (ii) requested that the Stipulations and Motions be made part of the Hearing record and that a Consent Order be issued. 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”), including making inspections and issuing citations and other pleadings, and brings this action pursuant to N.C.G.S. §§95-133 et seq.

2. Pursuant to N.C.G.S. §95-135 the Review Commission has jurisdiction over the parties and the subject matter of this action.

3. Respondent is a North Carolina corporation, which is authorized to do business in North Carolina. It is active and current and maintains a place of business in Raleigh, North Carolina. Respondent is a general construction contractor engaged in the business of constructing buildings and other structures and managing or supervising subcontractors engaged in such construction work. Respondent is an “employer” within the meaning of N.C.G.S. Section 95-127(11); Respondent’s employees referred to in this matter are “employees” within the meaning of N.C.G.S. Section 95-127(10).

4. On December 22, 2023, Compliance Safety and Health Officer Mark Rasdall, employed by the North Carolina Department of Labor, inspected Respondent’s worksite located at 4210 Bragg Blvd, Fayetteville, North Carolina (the “Inspection”). Mr. Casey Jones, Project Manager for Respondent, consented to the Inspection. At the time of the Inspection, the construction site was a multi-employer site, Respondent was the general contractor, and the subcontractor and independent contractor Leon Masonry Corporation was on the site as the masonry contractor.

5. As a result of the Inspection on June 14, 2024, Complainant issued a citation (the “Original Citation”), carrying the following proposed abatement dates and penalties:

CITATION NUMBER 01 (Serious)

<u>Item</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
001	29 CFR 1926.451(b)(1)(i)	Immediately Upon Receipt	\$6,250.00
002	29 CFR 1926. 451(e)(1)	Immediately Upon Receipt	\$6,250.00
Grouped			
003a	29 CFR 1926.451(g)(1)	Immediately Upon Receipt	\$6,250.00
003b	29 CFR 1926.451(g)(4)(i)	Immediately Upon Receipt	\$ 0.00
004	29 CFR 1926.451(h)(1)	Immediately Upon Receipt	\$3,000.00
<b>TOTAL PROPOSED PENALTY</b>			<b>\$21,750.00</b>

6. Respondent submitted a timely Notice of Contest dated August 14, 2024. Complainant timely received Respondent's "Employer's/Respondent's Statement of Position" which requested that formal pleadings be served. The Complaint was filed October 7, 2024 and Respondent's Answer was filed November 27, 2024.

7. The Hearing in this matter was scheduled pursuant to the 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; both parties consent to the conduct of this Hearing by the Undersigned, and to entry of this Consent Order.

9. Respondent posted the Original Citation and the Hearing Notice as required by the Rules. Complainant and Respondent each confirm that it has not 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 time.

10. Respondent confirms that the violations alleged in the Original Citation as amended pursuant to Complainant's Motion have been abated.

Complainant confirms that no additional documentation of abatement is required by Complainant.

11. The parties agree that upon granting of Complainant's Motion that the proposed penalty for the Items designated in the Original Citation has been calculated in accordance with the standard Field Operations Manual procedure; and the new proposed penalty for the Items designated in the Original Citation as amended pursuant to Complainant's Motion has been derived in consideration of the standard mitigating factors and specific factors applicable to Respondent.

12. Respondent agrees

a) to continue to use its best efforts to comply with the requirements of the Act;

b) Respondent agrees to continue with its present safety program, including conducting periodic meetings with employees and subcontractors. During such meetings, employees and subcontractors will be able to communicate safety suggestions or complaints to their supervisor who will forward the information to Respondent's safety spokesperson. Respondent agrees that all employees who make suggestions or complaints to the Committee, shall have the same protection provided employees under Article 21, Chapter 95 of the North Carolina General Statutes.

c) To pay the penalty, as amended in the Motion below, of \$ 6,250.00 assessed in this matter within 30 days of the date of this Consent Order.

In the event Respondent does not pay the penalty as stated above, all unpaid amount shall become immediately due and payable, and the Complainant retains the right to institute collection proceedings as allowed by law. Respondent agrees to pay attorney's fees to Complainant in the event that the Complainant institutes 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. 318278660) and mailed to North Carolina Department of Labor Financial Services Division, ATTN: Collections Division, 1101 Mail Service Center, Raleigh, North Carolina 27699-1101. Credit card payment may also be arranged.

13. 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.

14. Complainant and Respondent agree that provided the respective Motion of each party is granted:

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) 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 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 a waiver of any defense, 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;

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 moved to do the following ("Complainant's Motion"):

- a) Vacate the following citations and penalties
  - a. Citation 1, item 001
  - b. Citation 1, item 002
  - c. Citation 1, item 003b
  - d. Citation 1, item 004

- b) As it relates to Citation 1, item 003a,
  - a. Reclassify the citation item to nonserious;
  - b. Change the standard cited to 29 CFR 1926.451(f)(7);
  - c. Rewrite the AVD to:
    - i. jobsite (4210 Bragg Blvd, Fayetteville, NC) - where subcontracted employees were installing a brick facade from supported tubular framed style scaffolding system set up on the east and west side of the structure in a linear design, approximately 14 feet above ground level and the scaffolding was altered without the supervision or direction of the subcontractor's competent person.
  - d. Change the penalty to \$6,250.00.

This change makes the penalty to be paid \$6,250.00.

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

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"):

- a) 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. 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.
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**

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. Respondent is an “employer” within the meaning of N.C.G.S. §95-127(11); Respondent’s employees referred to in the Complaint are “employees” within the meaning of N.C.G.S. §95-127(10).
3. This Court has jurisdiction over the parties and the subject matter of this Hearing.
4. Respondent is subject to the provisions of the Act and jurisdiction of the Safety and Health Review Commission of North Carolina.

Based on the foregoing Findings of Fact and Conclusions of law, **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 meet the requirements of Stipulation 12 as set out above including without limitation payment of the stated penalty; and
4. That the parties shall comply with the terms and conditions set forth in the Stipulations and in this Consent Order.

Effective March 18, 2026.

**SO ORDERED**

**Signature:** R. Joyce Garrett

R. Joyce Garrett (Mar 18, 2026 18:07:33 EDT)

**Email:** [rjg.rjg@aol.com](mailto:rjg.rjg@aol.com)

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R. Joyce Garrett  
Hearing Examiner

CONSENTED TO:

JEFF JACKSON, Attorney General

**Signature:** Monique D. Nketah

Monique D. Nketah (Mar 18, 2026 17:40:13 EDT)

**Email:** [mnketah@ncdoj.gov](mailto:mnketah@ncdoj.gov)

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Monique D. Nketah

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*Counsel for Complainant*

**Signature:** Christopher Flurry

Christopher Flurry (Mar 18, 2026 16:32:26 EDT)

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*Counsel for Respondent*

**CERTIFICATE OF SERVICE**

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

CHRISTOPHER FLURRY  
JOSEPH HAMMON  
ELLIS & WINTERS LLP  
Chris.flurry@elliswinters.com  
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MONIQUE NKETAH  
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LABOR SECTION  
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NC DEPARTMENT OF LABOR  
LEGAL AFFAIRS DIVISION

Via email.

THIS THE 19th DAY OF MARCH 2026.

PAUL E. SMITH  
CHAIRMAN

*KB Sluss*

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