

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

FILED

DEC 16 2025

NC Occupational Safety & Health
Review Commission

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

Complainant,

v.

CARDINAL CIVIL CONTRACTING, LLC

and its successors

Respondent.

) **DOCKET NO: 2025-6712**
)
) **INSPECTION**
) **NO: 318297355**
)
) **CSHO ID: K0085**
)
) **CONSENT ORDER**
)
)
)

THIS CAUSE coming on pursuant to the Notice of Hearing (“Hearing Notice”) on December 16, 2025 at 10 a.m., via Lifesize teleconferencing platform. Rory Agan, Special Deputy Attorney General, North Carolina Department of Justice, appeared for Complainant. Michael Rubin, Attorney with Ogletree, Deakins, Nash, Smoak, and Stewart, P.C., Phoenix, AZ, appeared as counsel for Respondent.

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, duly organized and existing under the laws of the State of North Carolina. It is active and current and maintains a place of business at 4441 Six Forks Rd, Suite 106-261, Raleigh, North Carolina. 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 or about November 15, 2024, Compliance Safety Officer (CSHO) Mark Rasdall, employed by the North Carolina Department of Labor (NC DOL), initiated an inspection (the “Inspection”) of Respondent’s worksite at 617 Lake Glad Road, Wendell, North Carolina (the “Worksite”). The Inspection was initiated as the result of a complaint filed with NC DOL.
5. On February 21, 2025, as a result of the inspection, Complainant issued one Repeat Serious citation with one item (CITATION 01) and one NonSerious citation with 4 items (CITATION 02), carrying the following proposed abatement dates and penalties (herein collectively referred to as the “Original Citation”):

CITATION 01 (Repeat Serious)

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
001	29 CFR 1926.651 (c)(2)	Immediately Upon Receipt	\$20,000.00

CITATION 02 (NonSerious)

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
001	29 CFR 191.0.1200(g)(8)	Immediately Upon Receipt	\$2,400.00
002	29 CFR 1926.50(d)(1)	Immediately Upon Receipt	\$ 0.00
003	29 CFR 1926.150(c)(1)(vi)	Immediately Upon Receipt	\$ 0.00
004	29 CFR 1926.150(c)(1)(viii)	Immediately Upon Receipt	\$ 0.00
TOTAL			\$22,400.00

6. Respondent submitted a timely Notice of Contest, dated April 4, 2025. On or about April 24, 2025, Complainant received “Employer’s/Respondent’s Statement of Position” which requested that formal pleadings be served. The Complaint was filed on or about May 17, 2025 and Respondent’s Answer and Affirmative Defenses to Complaint was filed on or about September 11, 2025.

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. Complainant and Respondent confirm that there has been no employee objection in this matter to the reasonableness of any abatement period.

9. Respondent posted the Original Citation and the Hearing Notice as required by the Rules. 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 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 each Item designated in the Original Citation has been calculated in accordance with the standard Field Operations Manual procedure; and the new proposed penalty for the Item 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) Retrain the crew involved in this inspection on proper egress from trenches;
- b) Retrain the crew involved in this inspection on proper placement of fire extinguishers where containers of five gallons or more of flammable liquids will be on site;
- c) Revise its written inspection form to include an additional line about fire extinguishers being within 50 feet of gas cans.

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 make the following amendments to the Original Citation ("Complainant's Motion"):

1. As it relates to Citation 1, withdraw all penalties and citation items (i.e., item 1).
2. As it relates to Citation 2, withdraw all penalties and citation items (i.e., items 1-4).

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.

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 this matter 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**, thereby resulting in the withdrawal of both citations 1 and 2 and accordingly, all alleged penalties and all alleged citation items/violations in this matter;
2. That Respondent's Motion is hereby **GRANTED**;
3. That Respondent shall meet the requirements of Stipulation 12 as set out above; and
4. That the parties shall comply with the terms and conditions set forth in the Stipulations and in this Consent Order.

Effective December 16, 2025.

SO ORDERED

Signature: R Joyce Garrett
R Joyce Garrett (Dec 16, 2025 13:22:23 EST)

Email: rjg.rjg@aol.com

R. Joyce Garrett
Hearing Examiner

CONSENTED TO:

JEFF JACKSON, Attorney General

Signature: Rory Agan
Rory Agan (Dec 16, 2025 12:51:27 EST)

Email: ragan@ncdoj.gov

Rory Agan
Special Deputy Attorney General
North Carolina Department of Justice
Raleigh, NC
Email: ragan@ncdoj.gov
Telephone: 919-716-6680

ATTORNEY FOR COMPLAINANT

Signature: Michael Rubin
Michael Rubin (Dec 16, 2025 10:45:12 MST)

Email: michael.rubin@ogletree.com

Michael Rubin
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
Phoenix, AZ 85016
Email: michael.rubin@ogletree.com
Telephone: 602-778-3700

ATTORNEY FOR RESPONDENT

COURT EXHIBIT 1
STIPULATIONS

Cardinal Civil Contracting, LLC
OSHANC 2025 - 6712

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CERTIFICATE OF SERVICE

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

MICHAEL RUBIN
OGLETREE DEAKINS
michael.rubin@ogletree.com

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

NC DEPARTMENT OF LABOR
LEGAL AFFAIRS DIVISION

Via email.

THIS THE 16th DAY OF DECEMBER 2025.

PAUL E. SMITH
CHAIRMAN

A handwritten signature in black ink, appearing to read 'KB Sluss', is written over a horizontal line.

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