

MINUTES OF THE MEETING OF
THE NEVADA OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD

Held at DEPARTMENT OF OCCUPATIONAL
SAFETY & HEALTH
4600 Kietzke Lane, Building B, Suite 111
Reno Nevada on
Wednesday, August 9, 2017
Commencing at 9:00 o'clock a.m.

PRESENT

James Barnes (public)
Steve Ingersoll (labor)
Sandra Roche (management)
Rodd Weber (management)
Fred Scarpello, Esq., Legal Counsel

ABSENT

Nicole Baker (labor)
Frank Milligan (alternate)

The Nevada Occupational Safety and Health Review Board convened the scheduled meeting at approximately 9:00 a.m., August 9, 2017. The Chairman called the Board to order. The notice of meeting was duly provided under Chapter 618 of the Nevada Revised Statutes and in accordance with NRS Chapter 241 of the Nevada Open Meeting Law. A copy of the notice is attached to these minutes and made a part hereof as though fully set forth herein. Chairman Barnes announced the meeting would be limited to only administrative matters subject of the published agenda. He noted for the record that contested case hearings require personal attendance of members for appropriate consideration of sworn testimony and submittal of documentary evidence.

On roll call, the Chairman recognized the telephonic appearance of the members identified above as present.

The Chairman referenced the contested hearing calendar and identified the cases set for hearing on the published public agenda notice. The Chairman noted settlements in dockets RNO 17-1887, Occupational Safety and Health Administration, Division of Industrial Relations of the Department of Business and Industry, vs. Harder Mechanical Contractors; RNO 17-1897, Occupational Safety and Health Administration, Division of Industrial Relations of the Department of Business and Industry, vs. Paso Robles Tank - Brown - Minneapolis Tank; RNO 17-1901, Occupational Safety and Health Administration, Division of Industrial Relations of the Department

of Business and Industry, vs. F.D. Thomas, Inc., RNO 17-1903, Occupational Safety and Health Administration, Division of Industrial Relations of the Department of Business and Industry, vs. Bombard Electric LLC, and RNO 17-1899, Occupational Safety and Health Administration, Division of Industrial Relations of the Department of Business and Industry, vs. Sunopta, Inc., dba Sunopta Grains and Foods, Inc. Chairman Barnes further noted the matters would be included on the weekly status report and diaried for receipt of settlement documentation in accordance with the Board rules and policy reviews "for possible action" at the next public meeting.

The Chairman announced docket RNO 17-1896, Occupational Safety and Health Administration, Division of Industrial Relations of the Department of Business and Industry, vs. Reno Forklift, Inc., had been postponed to the November 8 and 9 hearing docket based upon a medical condition through motion for continuance filed by respondent. The Chairman further noted postponement in docket RNO 17-1881, Occupational Safety and Health Administration, Division of Industrial Relations of the Department of Business and Industry, vs. Pelican LLC due to the inability to assemble a full minimum legal quorum for the purposes of conducting the contested hearing. The subject meeting is being conducted through a telephonic conference call, but limited to the administrative matters referenced on the subject agenda. Accordingly the case was rescheduled on the November 8 and 9 hearing calendar.

The Chairman and Board reviewed remaining matters on the published meeting agenda:

A. The Board approved the previous Board meeting minutes of July 12 and 13, 2017 as distributed on motion, second and unanimous vote of all members present.

B. The Board discussed the current scheduled hearing calendar of pending contested cases, and reviewed the most recent weekly status report distributed to all members. The Board discussed the various aspects as to each.

C. The Board reviewed the case settlements submitted for approval and consideration for the issuance of final orders. The Board determined that the supporting documented rationale met the Board criteria and compliant with NAC 618. On motion, second and unanimous approval, the following settlements were approved with instructions for counsel to prepare and submit to the Chairman Final Orders for service on all parties: RNO 17-1889, Occupational Safety and Health Administration, Division of Industrial Relations of the Department of Business and Industry, vs. FedEx Ground; RNO 17-1892, Occupational Safety and Health Administration, Division of

Industrial Relations of the Department of Business and Industry, vs. FedEx Ground and LV 17-1880, Occupational Safety and Health Administration, Division of Industrial Relations of the Department of Business and Industry, vs. TRE Barnen, LLC.

D. The Chairman referenced the next item on the agenda referencing draft decisions resultant from cases previously heard and determined for possible action by Board members. He announced the draft decisions had been distributed to all Board members. Counsel advised that he had not received any questions or concern for changes in the draft decisions as submitted but noted pursuant to the cover memorandum sent that the witness testimony needed to be confirmed against the transcripts only recently received. Counsel stated that he did not expect there to be any matters found in the transcript that would change any matters of substance, otherwise the decisions would not be issued without being brought back before the Board; but only corrections or edits on the detail of any statements that were quoted or paraphrased in the decisions. The Board noted their receipt and review of all the draft decisions and on discussion each commented that the decisions and supporting rationale were in accordance with the determinations that had been made at the time those decisions were rendered at the last public meeting. On motion, second and unanimous vote, the following decision as previously cited and now drafted in semi final form should be revised to final and served on the parties as follows: LV 17-1889, Occupational Safety and Health Administration, Division of Industrial Relations of the Department of Business and Industry, vs. Jetstream; LV 17-1872, Occupational Safety and Health Administration, Division of Industrial Relations of the Department of Business and Industry, vs. Accelerated Construction; and LV 17-1902, Occupational Safety and Health Administration, Division of Industrial Relations of the Department of Business and Industry, vs. Harber Company.

E. General administration and procedural items were reviewed by the Board. Counsel noted there was a recent motion filed but not subject of distribution to the Board in time for discussion, but would be distributed shortly and placed on the agenda for the next public meeting.

F. Board members discussed they had no new matters at this time for inclusion on the next published agenda, but assured counsel they would provide any information or requests prior to the closing date for posting and publication of the agenda.

G. The chairman noted there were no individuals in attendance as members of the public to request public comment, and therefore closed that portion of the meeting accordingly.

There being no further business before the Board, on motion, second and unanimous vote, the meeting of the Nevada Occupational Safety and Health Review Board was adjourned at approximately 9:30 a.m.



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Occupational Safety and
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