

STATE OF NEVADA  
Minutes for the  
Nevada Occupational Safety and Health Review Board  
Reno, Nevada

January 8, 2025

Jorge Macias (Management)  
William Spielberg (Labor)  
Scott Fullerton (Labor)  
Tyson Hollis (Public at Large)  
Gled Bautista (Management)

The meeting of the State of Nevada Occupational Safety and Health Review Board was called to order by Chairman Jorge Macias on January 8, 2025, at approximately 9:02 a.m.

The Board members presents at this time for the hearing consisted of the Chairman Jorge Macias, the Secretary William Spielberg and Board members Scott Fullerton, Tyson Hollis and Gled Bautista.

The meeting was duly noticed in compliance with the Nevada Open Meeting Law to take place at the Division of Industrial Relations, 4600 Kietzke Lane, Suite 150, Reno, NV 89502. In accordance with the Nevada Open Meeting law, each Board member participating in the meeting either had before him all written materials to be considered during the deliberations or was obliged to refrain from voting if not in possession of the materials.

**1. Roll Call.**

The Board members in attendance were Board Chairman Jorge Macias, Secretary William Spielberg, and Board members Scott Fullerton, Tyson Hollis and Gled Bautista. As all the members of the Board were present for the meeting, including two members representing labor, one member representing the public at large and two members representing management, a quorum was present for all matters for the Board to conduct its business on this date.

Also present were Salli Ortiz, Esq., counsel to State OSHA and Board Legal Counsel Charles R. Zeh, Esq., of The Law Offices of Charles R. Zeh, Esq.

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.

Notice of the meeting was posted or published, electronically or otherwise, consistent with the requirements of the Nevada Open Meeting Law as amended by AB 253.

Notice was posted at the following locations:

The Law Offices of Charles R. Zeh, Esq.  
50 West Liberty Street, Suite 950  
Reno, Nevada 89501

Division of Industrial Relations  
4600 Kietzke Lane, Building F, Suite 150  
Reno, NV 89502

This Notice was also timely posted at the following website addresses:

State of Nevada, Department of Business and Industry, Industrial Relations (DIR)  
website at <https://dir.nv.gov/Meetings/Meetings>

Nevada Public Notices at <https://notice.nv.gov>

## **2. Public Comment.**

The Chairman called for Public Comment to be heard. No Public Comment was offered in the hearing and Board Counsel advised that his office had received no oral or written form of public comment prior to the commencement of this meeting.

## **3. Contested Case Hearings.**

Board Chairman called this item to be heard. Only one matter was left for consideration by the Board under the heading of Contested Cases. The Nevada Paving matter, RNO 23-2224, was continued for the want of a certified court interpreter. At least three or four of the witnesses that would be heard in the Nevada Paving matter were Spanish only speakers and without a court certified interpreter, they could not be heard, Therefore, the State asked and was granted a continuance of the Nevada Paving matter RNO 23-2224, pending the location of a court certified interpreter.

Chairman, therefore, called Item 3 a., RNO 25-XXXX, Pro-1 Automotive, Inc. dba Pro1 Automotive to be heard on the Motion to Dismiss filed in this matter by the State. Salli Ortiz, Esq., appeared on behalf of the State. Ricky D. Stebbins, the owner, and Jenna Lewis, his administrative clerical staff person, appeared on behalf of the respondent. Neither Mr. Stebbins nor Ms. Lewis is an attorney. Pro-1 Automotive appeared without legal counsel. Each party was given 15 minutes a side to argue their case or position in chief. Ms. Ortiz was also given an additional 10 minutes in rebuttal. The motion was based upon the failure of the respondent to enter an appearance and oppose the complaint on file herein within the 30 day time limit set forth in exhibit 1, pages 2 and 4 of the administrative complaint filed by the State in this matter. Respondent gave notice of its opposition and contest of the citation and notification of penalty.

It was the State's position that the respondent filed a contest notice, the citation and notification of penalty but did so by way of email and utilized an email address that was incorrect. Therefore, when the notice of contest was ultimately delivered to the State, it was 6 days after the 30 day time limit for filing a notice of contest to the citation and notification of penalty charged to the respondent in this matter. The respondent, through the owner, conceded that he gave and/or utilized the wrong domain address. Had the correct domain address been used, the email from respondent giving notice of a challenge to the citation and notification of penalty would have been timely. NRS 618.475(1), requires the notice of contest to be received from a respondent within 30 days of the service of the notice, citation and notification of penalty. It was the State's position that the 30 day notice requirement was jurisdictional and not procedural. As a jurisdictional notice requirement, no equitable tolling might apply to an otherwise delinquent notice being given. The Board explored with the parties the adequacy of the 30 day notice requirement set forth in the citation and notification of penalty.

The Board then took this matter under advisement holding that the notification, notice requirement is jurisdictional. Therefore, it was not subject to equitable tolling. The Board also concluded that the language contained in the citation and notification of penalty was adequate to alert a party to the perils of failing to meet the 30 day requirement. The Board concluded, therefore, that the motion to dismiss for the want of a timely filing of a submission of a notice of contest should be granted.

It was accordingly moved by Scott Fullerton, seconded by William Spielberg to grant the motion to dismiss, leaving the respondent subject to the force and effect of the citations and notice of penalty, served upon the respondent as a result of the jurisdictional nature of NRS 618.475(1). The motion was adopted on a vote of 5-0. This left the respondent subject to the penalties set out in the complaint.

This was the only case left to be heard on the contested docket because Nevada Paving, was vacated because it was anticipated that 2 full days would be needed to hear the case, given the number of witnesses, estimated at 11 that would appear to testify in the Nevada Paving matter. The Nevada Paving matter is case number RNO 23-2224. Nevada Paving will have to be reset when the next hearing dates can be cleared to make room for a 2 day hearing anticipated by the Nevada Paving matter.

The Chairman called for a hearing under the heading of Administrative Hearings.

#### **4. Administrative Meeting.**

- a. Approval of previous Review Board meeting minutes for December 11 and 12, 2024.

It was moved by Scott Fullerton, seconded by Gled Bautista, to approve the minutes of the December 11 and 12, 2024 as read. **Motion was adopted. Vote: 5-0.**

b. Review Contested Case Settlements, Withdrawal of Citations, Motions, Draft Decisions.

The Chairman then called for hearing the matters under 4. b., status conferences.

i. RNO 19-1960, B&C Cabinet and Mill Work, Inc.

This matter lacked a set of findings of fact and conclusions of law that the State was required to produce. It was moved by Scott Fullerton, seconded by Tyson Hollis to schedule this matter for another status conference in March 2025, in which case if there is no agreement as to the findings of fact and conclusions of law, the Board will approve “as is” the draft findings of fact and conclusions of law which the State has already submitted to the respondent for review and approval.

ii. LV 18-1952, Westcor Construction

iii. LV 19-1980, Westcor Construction

Raymond Perez, Esq. and Salli Ortiz, Esq., appeared for their clients respectively in LV 18-1952. Ms. Ortiz, of course, represented the State. This matter was considered with LV 19-1980 also a Westcor Construction matter. Both cases were reset for a status conference in March, 2025. If they are not settled by that time with the settlement documents being provided the Board, the Board will schedule these matters on the contested docket.

iv. LV 19-1987, Clark County School Transportation Department

Salli Ortiz appeared on behalf of the State in this matter and Betty Fully, Esq., appeared on behalf of Clark County School District. This matter will be set over to the March calendar for a status conference and if it is not settled with documents in the Board's hand by then, it will be set on the contested docket.

v. RNO 20-2046, Bridgestone Hosepower, LLC

This matter is to be set over on the May 2025 for a status conference. If the case has not settled by that time or at least the Board has the settlement documents in hand as of May 2025, the case will be dismissed. It was so moved by Jorge Macias, seconded by Scott Fullerton, with a vote of 5-0, approving the motion.

vi. LV 19-1965, EyeFi Holdings, LLC

This is another case where no answer had been filed and the case languished. Ms. Ortiz stated that there was a problem with using the wrong name and the state was in the process of curing the problem. Ms. Ortiz was asked how much time the state needed to correct the problem. She advised she would need until May, 2025, to proceed. The case is therefore continued until May 2025. If the case is not moving forward by then, it may suffer Dismissal.

- vii. RNO 20-2028, Caliber Holdings Corp.
- viii. RNO 20-2029, Caliber Holdings Corp.

RNO 20-2028 is a companion matter with docket number RNO 20-2029, also a Caliber Holding Corp. matter. Both RNO 20-2028 and RNO 20-2029 will be held over for a status conference in March.

- ix. RNO 20-2056, Hotel Nevada and Gambling Hall, Ltd., dba Hotel Nevada & Gambling Hall
- x. RNO 20-2057, Hotel Nevada and Gambling Hall, Ltd., dba Hotel Nevada & Gambling Hall

RNO 20-2026 is a companion to case RNO 20-2057, Hotel Nevada and Gambling Hall, Ltd., dba Hotel Nevada & Gambling Hall. Notices of Intent to Enter Default have been taken in both of these cases but nothing further has happened. A Notice of Intent to Enter Default is insufficient to proceed with a default. The State should follow NRCP Rule 55 to complete the default in these matters. Both items will be held over to the March for a status conference. Alayne Opie, Esq., appeared on behalf of Hotel Nevada in both cases.

- xi. RNO 21-2066, RAC Guns & Ammo LLC

This is another case where the Board was noticed that the case had settled but no settlement documents have been provided. According to the State, the respondent was provided with settlement documents, long ago. The matter is held over for a settlement conference in March 2025. If nothing has transpired between now and the next settlement conference, the matter will be considered for taking a default.

- xii. LV 21-2071, Carpino Stone Applications

A Notice of Intent to Enter Default was served July 25, 2022, no action, however, has been taken on the Default to be effectuated. The matter is set for a status conference in March 2025.

- xiii. LV 21-2094, Las Vegas Dragon Hotel, LLC dba Alpine Hotel (Fatality)

This case has been pending for a long while and repeatedly continued because of the criminal aspect to this matter. A key witness was laying claim to the right against self incrimination and, therefore, could not or would not testify to all the questions being propounded, if this matter were to be heard before the Board. Despite the Board's patience with the respondent, when directed to give an update in writing to the Board of the status of the criminal proceedings, the respondent failed to reply. Accordingly, the Board wants this matter set for hearing on the contested docket. If a question arises during the course of the hearing that might tend to criminate the witness, a motion can be made for a protective order at that time, otherwise this case will be set on the contested docket at the earliest possible convenience, according to the Chairman.

- xiv. LV 21-2100, Realty Holding, Ltd dba Halloween Town Pumpkin Patch

A Notice of Intent to Enter Default was filed in this matter on July 25, 2022, with no action being taken and the matter continuing to languish. This matter will be set on the docket for a status conference and possible action on the Notice of Intent to Default. The Board advised the counsel for complainant that the respondent and the State, for that matter, should employ NRCF Rule 55, to effectuate the default.

The Chairman then called Item 4.c., General Administration and/or procedural issues to consider.

- i. General matters of import to Board members.

Tyson Hollis stated that he wanted to extend appreciation to the State for appointing him to a regular position on the Board as a member of the OSH Review Board.

- ii. Old and New Business.

The Chairman called this matter to be heard. There was no discussion under this item.

- iii. Discussion of pending cases.

The Chairman called this item next to be heard. The discussion of the status conference items above took care of the discussion of pending cases.

The Chairman then called Item 4.d. to be heard.

- d. Schedule of hearings on pending cases, calendar and status report. The Board has scheduled the following meetings.

A list of the dates of hearings all the way through December 10-11, 2025, were reviewed. No Board member has a conflict. The schedule right now will continue as set forth in the Agenda for the meeting for January 8, 2025.

## 5. Public Comment

Chairman Macias then called for Public Comment. There was no public comment offered during the course of the hearing. And similarly, Board legal counsel advised that his office had received no public comment during the course of the hearing.

6. Adjournment.

Board Chairman called for Item 6 to be heard. Then, it was moved by Gled Bautista, seconded by Scott Fullerton, to adjourn the meeting. **Motion adopted.**

**Vote: 5-0.**

Dated this \_\_\_\_ day of February, 2025.

/s/Charles R. Zeh, Esq.  
Board Legal Counsel

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