

1 NEVADA OCCUPATIONAL SAFETY AND HEALTH  
2 REVIEW BOARD  
3  
4

5 CHIEF ADMINISTRATIVE OFFICER  
6 OF THE OCCUPATIONAL SAFETY AND  
7 HEALTH ADMINISTRATION, DIVISION  
8 OF INDUSTRIAL RELATIONS OF THE  
9 DEPARTMENT OF BUSINESS AND  
10 INDUSTRY,

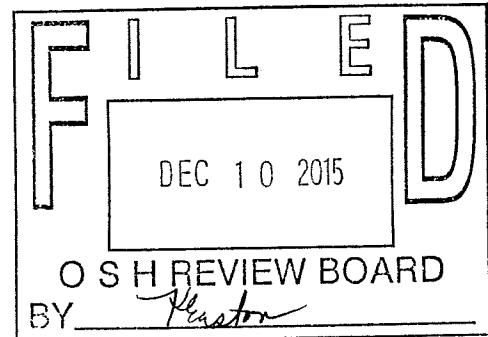
Docket No. RNO 16-1813

11 Complainant,

12 vs.

13 NORTHERN CALIFORNIA NAIL CO., INC.,

14 Respondent.  
15 \_\_\_\_\_/



16 **DECISION**

17 This matter came before the **NEVADA OCCUPATIONAL SAFETY AND HEALTH**  
18 **REVIEW BOARD** at a hearing commenced November 9, 2015, in furtherance of  
19 notice duly provided according to law. MS. SALLI ORTIZ, ESQ., counsel  
20 appearing on behalf of the Complainant, **Chief Administrative Officer of**  
21 **the Occupational Safety and Health Administration, Division of**  
22 **Industrial Relations** (OSHA). MR. BOB PETERSON, ESQ., appearing on  
23 behalf of Respondent, **Northern California Nail Co., Inc.**

24 Jurisdiction in this matter has been conferred in accordance with  
25 Chapter 618 of the Nevada Revised Statutes.

26 The complaint filed by the OSHA sets forth allegations of violation  
27 of Nevada Revised Statutes as referenced in Exhibit "A", attached  
28 thereto.

Citation 1, Item 1, charges a violation of 29 CFR 1926.501(b)(2)(i)  
which provides in pertinent part:

1 Each employee who is constructing a leading edge 6  
2 feet (1.8 m) or more above lower levels shall be  
3 protected from falling by guardrail systems, safety  
4 net systems, or personal fall arrest systems.  
5 Exception: When the employer can demonstrate that  
6 it is infeasible or creates a greater hazard to use  
7 these systems, the employer shall develop and  
8 implement a fall protection plan which meets the  
9 requirements of paragraph (k) of 1926.502.

6 Complainant alleged that located on the north end  
7 of the roof, an employee constructing a leading  
8 edge was exposed to a 42 foot fall to the ground  
9 below. The employee was nailing down panels within  
10 eight feet of the leading edge, but was not  
11 protected by guardrail systems, safety net systems,  
12 or personal fall protection.

10 The violation was classified as **Serious**. The proposed penalty was  
11 in the amount of One Thousand Two Hundred Dollars (\$1,200.00).

12 Citation 2, Item 1, charges a violation of NRS 618.987(1) which  
13 provides in pertinent part:

14 Requirements to present employer with completion  
15 card. If a construction worker other than a  
16 supervisory employee fails to present his or her  
17 employer with a current and valid completion card  
18 for an OSHA-10 course not later than 15 days after  
19 being hired, the employer shall suspend or  
20 terminate his or her employment.

18 Complainant alleged that located at the Red Rock  
19 200 construction project, a construction worker did  
20 not obtain an OSHA-10 hour completion card not  
21 later than 15 days after being hired, and the  
22 employer did not suspend or terminate his  
23 employment. The construction worker had worked at  
24 the site for four weeks.

22 The violation was classified as Regulatory. The proposed penalty  
23 was in the amount of One Hundred Fifty Dollars (\$150.00).

24 The parties stipulated to the admission of evidence identified as  
25 complainant's Exhibits 1 through 4; no documentary exhibits were offered  
26 by respondent.

27 Counsel for complainant and respondent represented that Citation  
28 2, Item 1, referencing a violation of NRS 618.987(1), classified as

1 "Regulatory" and with a proposed penalty of \$150.00 was subject of  
2 withdrawal of contest and for which no evidence or testimony presented  
3 at the time of hearing.

4 Counsel for the complainant presented evidence and testimony in  
5 support of the violation, and appropriateness of the classification and  
6 penalty.

7 Safety Specialist and Compliance Safety and Health Officer (CSHO)  
8 Mr. Luke Hendrickson testified he was assigned to conduct a  
9 comprehensive inspection at a job site in Las Vegas, Nevada identified  
10 as Red Rock 200. A three day "walkaround" inspection was conducted  
11 after initial contact with Alston Construction Company, the general  
12 contractor responsible for the 200,000 sq. ft. warehouse building  
13 project.

14 CSHO Hendrickson testified in support of the Citation 1, Item 1  
15 violation. He identified the documents in evidence at Exhibits 1  
16 through 4, and referenced the materials in his testimony.

17 CSHO Hendrickson and CSHO Gillings observed an employee exposed to  
18 a fall while working near the leading edge of the low slope roof  
19 structure. The employee was nailing plywood panels and was exposed to  
20 a 42 foot high fall without any "tie-off" or fall arrest safety system  
21 in place. He observed the condition in the company of the foreman of  
22 Panelized Structures, Inc., a subcontractor to the general contractor,  
23 Alston Construction Company. He was informed Panelized Structures had  
24 subcontracted a portion of its work to the respondent; and contractually  
25 responsible for supervision of respondent as well as its own employees.  
26 The respondent employee was instructed to come down from the roof by the  
27 Panelized Structures foreman. The subject employee was observed by the  
28 employer representatives identified at Exhibit 1 while in the company

1 of the CSHOs during the "walkaround" working without any fall arrest  
2 protection systems. The Panelized Structures foreman reported to CSHO  
3 Hendrickson that as long as the employee remained six feet away from the  
4 leading edge, fall protection was not required. The exposed respondent  
5 employee was identified as Mr. Chauteco. During the employee interview  
6 Mr. Chauteco reported foreman Carvalho told him to stay at least eight  
7 feet away from the leading edge.

8 CSHO Hendrickson reviewed the "Safety Standards for Fall Protection  
9 in the Construction Industry" issued by federal OSHA in evidence at  
10 Exhibit 1, page 51-52. He testified the document provided there is "no  
11 safe distance from an unprotected side or edge that would render fall  
12 protection unnecessary." During his inspection on the roof, CSHO  
13 Hendrickson observed that plywood panels in place near the leading edge  
14 contained "tie-off anchor points" along the entire width of the roof.  
15 He confirmed later that day that exposed employee Chauteco was actually  
16 employed by Northern California Nail, Inc., a subcontractor of Panelized  
17 Structures, Inc. CSHO Hendrickson contacted the owner of Northern  
18 California Nail and set the date for an opening conference which was  
19 conducted on April 22, 2015. He recommended a serious citation for the  
20 violation.

21 During the interview with Mr. Chauteco, CSHO Hendrickson discovered  
22 that he (Chauteco) did not have an OSHA 10 card. The employee reported  
23 he had never been to an OSHA 10 course. Mr. Chauteco was dismissed from  
24 the job site by Mr. Rushing and Ms. Moulden representatives of general  
25 contractor Alston Construction company. A regulatory citation was  
26 recommended.

27 Mr. Hendrickson identified photographs of respondent employee  
28 Chauteco at Exhibit 1, pages 50A and 51A. He testified the photographs

1 depicted the observed employee nailing down panels within eight feet of  
2 the roof leading edge, without protection by guardrail, safety net, nor  
3 any personal fall arrest systems. CSHO Hendrickson only observed one  
4 employee working on the roof and subject of the PPE citation.

5 CSHO Hendrickson identified the witness statement taken from  
6 employee Chauteco at Exhibit 1, page 17. He paraphrased the statement  
7 of the witness and read "my boss instructed me to be at least eight feet  
8 from the edge . . . I do not have an OSHA card . . . I have been working  
9 on the site for about a month . . . I have safety training for this site  
10 and have received training from my employer . . ."

11 Mr. Hendrickson testified employee Chauteco informed him he was "up  
12 there every day." He determined the employer knew, based upon the  
13 discussions with employer representatives and the statements made by the  
14 employee, that work was being conducted without personal protection  
15 systems under a belief that no protection was required so long as the  
16 employee remained eight feet from the roof edge. Mr. Hendrickson  
17 testified the respondent employer was wrong in his interpretation of the  
18 standard, as was the Panelized Structures foreman responsible for  
19 supervision under whom the respondent was working. He explained the  
20 OSHA guidance at Exhibit 2, pages 52 and 53 clearly provided ". . . OSHA  
21 determined there is no safe distance from the edge to make the standard  
22 inapplicable . . . ." He referenced Exhibit 4, page 78 as the Letter of  
23 Interpretation which comports with the preamble of the ruling at Exhibit  
24 2, page 52.

25 Mr. Hendrickson testified the violative conduct was in "**plain**  
26 **view;**" and subject of direct or constructive **employer knowledge** based  
27 upon the reported statements. He concluded the respondent and Panelized  
28 Structures foreman were mistaken in their understanding and

1 interpretation of the cited standard.

2 At Exhibit 1, page 20, CSHO Hendrickson recommended the issuance  
3 of the violations. He testified the Panelized Structures subcontractor  
4 responsible for the nailing operations and supervision was also cited  
5 for the same Citation 1, Item 1 violation. The Exhibit 1 evidence  
6 established the respondent, Northern California Nail, was contracted by  
7 Panelized Structures, and its foreman on the job site in charge of the  
8 Northern California Nail employee.

9 Respondent counsel conducted cross-examination of CSHO Hendrickson.  
10 He testified that he personally observed employee Chauteco without any  
11 fall arrest protection system while engaged in nailing roofing panels  
12 near the edge of the roof structure. While inspecting the roof he  
13 observed the nail holes on the right side of a blue-green line on the  
14 plywood and estimated the distance from the edge and the line where  
15 employee Chauteco was working at approximately eight feet. He did not  
16 measure the line, but based his estimate on the standardized width of  
17 the plywood panels. He determined the violative conditions because  
18 there is no compliance exemption in the standards for an eight foot, or  
19 any specific distance, while working near a roof leading edge. He  
20 reconfirmed his previous testimony on the OSHA letter ruling, and  
21 responded to counsel question that tie-off or other fall arrest  
22 protection ". . . is required even if working in the middle of a 300  
23 foot roof structure . . . ." He testified the OSHA letter provides there  
24 is "no safe distance." Mr. Hendrickson testified, referring to  
25 counsel's 300 foot example and whether he would issue a citation, that  
26 ". . . there is a de minimis distance of 50 foot from an edge under  
27 federal guidelines and Nevada follows federal OSHA on that . . . ."

28 CSHO Hendrickson continued responses to cross-examination and

1 testified the respondent did have a satisfactory fall protection  
2 program. He further testified that Nevada OSHA defines a "leading edge"  
3 in accordance with the CFR reference at Exhibit 1, page 18.

4 On redirect examination, CSHO Hendrickson testified there was no  
5 question as to the distance the employee was working from the edge as  
6 being violative, even without a specific measurement, based upon his  
7 personal observations, the photograph in evidence and the admissions by  
8 the employer representative and employee statements of within eight  
9 feet. "Eyeballing" the working distance from the edge was additionally  
10 based upon the size of the plywood panels. His observation clearly  
11 confirmed the work area was not anywhere close to the 50 foot distance  
12 allowance federal OSHA referenced in the guidance at Exhibit 4, pages  
13 52-53 to relegate the violative condition de minimis. He testified  
14 there was no need to know exactly what the employee was doing on the  
15 roof. The violative conditions were citable because there was no tie-  
16 off or fall arrest system in place while he was standing near the roof  
17 edge 42 feet above the ground. Reference was again made to the  
18 photographic evidence at Exhibit 1, page 50A.

19 At the conclusion of complainant's case, respondent presented  
20 evidence and testimony. Mr. Francis Howard (Butch) Tankersley  
21 identified himself as the owner of respondent Northern California Nail  
22 Co. He testified the employee in the pictorial evidence was "nailing  
23 the plywood sheets on the left of the blue line . . . all nails are to  
24 the left of the blue line . . . ." He further testified that any nailing  
25 installation on the right side of the line was done by Panelized  
26 Structures employees. His employee was not tied off because the  
27 standard only requires that occur if working within eight feet of the  
28 edge. He testified "I measured from the blue line on the plywood to the

1 edge and that was approximately eight foot." He further testified "the  
2 employee in the picture was not securing panels near the edge because  
3 that had already been done by the Panelized Structures subcontractor for  
4 whom his company was working . . . ." Mr. Tankersley continued his  
5 testimonial position that his employee was not working closer than eight  
6 feet and actually eight to ten feet from the leading edge, and therefore  
7 not in violation of the cited standard.

8 On cross-examination Mr. Tankersley confirmed his testimony that  
9 ". . . so long as the employee is not within six feet, he's not near the  
10 leading edge so no fall arrest protection is required . . . ." Mr.  
11 Tankersley testified he was not aware OSHA had a different  
12 interpretation of the standard. He testified ". . . I thought it was  
13 eight feet or more from the edge . . . never seen a definition of  
14 **leading edge**. . . . I always thought leading edge was eight feet or  
15 more."

16 At the conclusion of evidence and testimony, complainant and  
17 respondent presented closing arguments. Complainant asserted the burden  
18 of proof was met by the preponderance of evidence based upon the  
19 photographic exhibit demonstrating the employee working without fall  
20 protection at the undisputed height confirmed by the CSHO to be 42 feet  
21 above ground, and within eight feet of the edge. Counsel referenced the  
22 federal OSHA interpretation letter to establish there being "no safe  
23 distance" permitting exception from the fall protection standards. The  
24 testimony of CSHO Hendrickson and Mr. Tankersley confirmed the employee  
25 was working within eight feet of the edge; and not even close to a 50  
26 foot distance to qualify for a de minimis violation. There was no  
27 factual question on the distance. The plain meaning of the standard was  
28 clear. The violation should be confirmed.



1 Respondent argued the general industry considers eight feet to be  
2 a safe working distance without fall protection, even if an employee  
3 tripped or fell. Counsel asserted the photograph demonstrates the  
4 employee without tie-off, but working to the left of the blue line shown  
5 on the plywood which was confirmed to be over eight feet from the edge.  
6 He argued "These . . . things are not all that simple . . . the whole  
7 definition of what is a 'leading edge' is not clear. Just because  
8 federal OSHA in 1990 took an absurd position that there is no such thing  
9 as any safe distance from a roof edge to establish a safe area . . .  
10 disregards . . . practice of the overall industry . . . and . . .  
11 doesn't mean Nevada OSHA needs to follow that kind of nonsense  
12 conclusion. . . ." Counsel asserted there is no question the employee  
13 was not working at the actual "edge" because he was working eight feet  
14 away. ". . . So the problem is this case turns on a poor definition  
15 made by federal OSHA in 1990 and should not be followed by the Nevada  
16 Board . . . ."

17 To find a violation of the cited standard, the Board must consider  
18 the evidence and measure same against the established applicable law  
19 promulgated and developed under the Occupational Safety & Health Act.

20 In all proceedings commenced by the filing of a  
21 notice of contest, the burden of proof rests with  
the Administrator. N.A.C. 618.788(1).

22 All facts forming the basis of a complaint must be  
23 proved by a preponderance of the evidence. *Armor*  
*Elevator Co.*, 1 OSHC 1409, 1973-1974 OSHD ¶16,958  
24 (1973).

25 Preponderance of the evidence means evidence that  
26 enables a trier of fact to determine that the  
27 existence of the contested fact is more probable  
than the nonexistence of the contested fact. *NRS*  
*233B, Sec. 2. Nassiri v. Chiropractic Physicians'*  
*Board of Nevada*, 130 Nev. Adv. Op. No. 27, 327 P.3d  
28 487 (2014)

1 To establish a prima facie case, the Secretary  
2 (Chief Administrative Officer) must prove 1) the  
3 cited standard applies; 2) the requirements of the  
4 standard were not met; 3) employees **were exposed** to  
5 or **had access** to the violative condition; 4) the  
6 **employer knew or, through the exercise of**  
7 **reasonable diligence could have known of the**  
8 **violative condition;** 5) there is **substantial**  
9 **probability that death or serious physical harm**  
10 **could result from the violative condition** (in a  
11 "serious" violation case). See *Bechtel*  
12 *Corporation*, 2 OSHC 1336, 1974-1975 OSHD ¶ 18,906  
13 (1974); *D.A. Collins Construction Co. Inc., v.*  
14 *Secretary of Labor*, 117 F.3d 691 (2<sup>nd</sup> Cir. 1997).  
15 (emphasis added)

16 A "serious" violation is established upon a preponderance of  
17 evidence in accordance with NRS 618.625(2) which provides in pertinent  
18 part:

19 . . . a **serious** violation exists in a place of  
20 employment if there is a **substantial probability**  
21 **that death or serious physical harm could result**  
22 **from a condition which exists or from one or more**  
23 **practices, means, methods, operations or processes**  
24 **which have been adopted or are in use at that place**  
25 **of employment unless the employer did not and could**  
26 **not, with the exercise of reasonable diligence,**  
27 **know the presence of the violation.** (emphasis  
28 added)

A respondent may rebut allegations by showing:

1. The standard was inapplicable to the situation at issue;
2. The **situation was in compliance; or lack of access to a hazard.** See *Anning-Johnson Co.*, 4 OSHC 1193, 1975-1976 OSHD ¶ 20,690 (1976). (emphasis added)

The Board finds preponderant evidence of employee hazard exposure and the required elements to satisfy the burden of proof to support a finding of the serious violation at Citation 1, Item 1, referencing 29 CFR 1926.501(b)(2)(i).

It was undisputed from the documentary evidence, testimony and arguments that respondent employee Mr. Chautecho was observed,

1 photographed and admitted working within eight feet of the edge of the  
2 roof structure, nailing down plywood panels without any fall arrest  
3 protective system. The photographic exhibits and testimony established  
4 unrefuted evidence of anchor points located on the plywood panel  
5 structures to permit "tie-off." There was no evidence of **infeasibility**  
6 to compliance.

7       There is no dispute the standard was **applicable** to the facts in  
8 evidence.

9       **Employer knowledge** was subject of proof through the witness  
10 statement, the credible unrebutted testimonial observations of CSHO  
11 Hendrickson, the photographic exhibits of work in plain view, and  
12 particularly the admissions of respondent witness Tankersley. He  
13 testified that he believed there was no requirement for employee fall  
14 arrest protection so long as the employee was working a distance of  
15 eight feet from the edge of the roof. The disputed interpretation as  
16 to what is or is not a "leading edge" might be subject of discussion and  
17 analysis compared to the reality of what may occur in the industry;  
18 however the federal OSHA Interpretation Letter is established reasonable  
19 guidance for Nevada OSHA enforcement to assure the safety of employees  
20 at roofing worksites in this state.

21       Certainly all citations are subject to ultimate determinations of  
22 **reasonableness**. The documentary evidence and testimony, together with  
23 the interpretation letter recognize an option for treating violative  
24 conditions as de minimis. If employees are working at such an extended  
25 distance of 50 feet it can be determined a reasonably safe working area  
26 without fall arrest protection on a roof structure. The opportunity for  
27 reasonable and fair enforcement interpretations is available under the  
28 federal guidance which does not make the result absurd even though

1 unrealistic examples might be asserted. Notably, there were tie-off  
2 anchor points all along the roof to readily permit simple basic employee  
3 tie-off protection. There is no question the subject employee was  
4 **exposed to fall hazards** working within eight feet of the roof edge, 42  
5 feet above the ground level, without any fall arrest protection. The  
6 respondent employer was under the mistaken belief the standards did not  
7 require fall arrest protection. The **plain meaning** of the standard  
8 clear.

9 The undisputed testimonial and documentary evidence established the  
10 violative conduct was appropriately classified as **serious** due to the  
11 potential injuries likely to be sustained by an employee falling from  
12 a distance of approximately 42 feet.

13 The respondent knew, or **with the exercise of reasonable diligence**,  
14 could have known that regardless of industry practice, OSHA does not  
15 recognize a safe working distance near a roof edge without fall  
16 protection and clearly not to be eight feet from the edge. The **specific**  
17 **standard** for protection is codified in the CFR and incorporated into  
18 Nevada law. The cited violation occurred in **plain view** and under the  
19 supervision of the foreman responsible for the job being performed by  
20 the respondent employees.

21 Employer will often be found to have constructive  
22 knowledge of violative conditions or practices that  
23 are in **plain sight**. *Compare Simplex Time Recorder*  
24 *Co. v. Secretary of Labor*, 766 F.2d 575, 589, 12  
25 OSH Cases 1401 (D.C. Cir. 1985) (spray booth  
26 conditions and practices "readily apparent to  
anyone who looked"), with *United States Steel*  
Corp., 12 OSH Cases 1692, 1699 (Rev. Comm'n 1986)  
(exercise of reasonable diligence would not have  
disclosed ice block hidden by dirt and in a place  
where it would not have been expected).

27 Notwithstanding the responsibility for safety oversight being  
28 vested, contractually or by some agreement in Panelized Structures,

1 under established occupational safety and health law the direct employer  
2 is not relieved from the threshold statutory duty to protect its  
3 employees from exposure to workplace hazards and assure employee safety  
4 protection.

5 Occupational safety and health law has long recognized the  
6 **inability of an employer to avoid employee OSHA safety protection by**  
7 **contract or agreement.** *Frohlick Crane Service, Inc. v. Occupational*  
8 *Safety and Health Review Commission*, 521 F.2d 628 (1975).

9 An employer has the **affirmative duty to anticipate and protect**  
10 **against preventable hazardous conduct by employees.** *Leon Construction*  
11 *Co.*, 3 OSHC 1979, 1975-1976 OSHD ¶ 20,387 (1976).

12 It is well settled that **knowledge, actual or**  
13 **constructive, of an employer's supervisory**  
14 **personnel** will be **imputed to the employer**, unless  
15 the employer establishes **substantial grounds** for  
16 not doing so. *Ormet Corp.*, 14 BNA OSHC 2134, 1991-  
17 93 CCH OSHD ¶29,254 (No. 85-531 1991). The  
18 Commission held that once there is a prima facie  
19 showing of **employer knowledge** through a supervisory  
20 employee, the employer can rebut that showing by  
establishing that the failure of the supervisory  
employee to follow proper procedures was  
**unpreventable**. In particular, the employer must  
establish that it had relevant work rules that it  
adequately communicated **and effectively enforced**.  
*Consolidated Freightways Corp.*, 15 BNA OSHC 1317,  
1991-93 CCH OSHD ¶29,500 (No. 86-531, 1991).  
(emphasis added)

21 Mr. Tankersley, the **actual** owner or respondent and employer of the  
22 exposed employee, testified he had **knowledge** his employee was working  
23 without fall arrest systems within eight feet of the roof edge. He  
24 testified other employees work under similar conditions based upon his  
25 belief that working eight feet from a roof edge is a safe distance not  
26 requiring fall arrest protection. Accordingly, notwithstanding the  
27 contractual or agreed responsibilities of the Panelized Structures  
28 foreman, respondent **employer knowledge** was confirmed by the evidence.

1 The facts, documentary and testimonial evidence established that  
2 regardless of any claimed industry practice, the applicable law supports  
3 the cited violation of the **specific standard** at Citation 1, Item 1, and  
4 the serious classification and proposed penalty approved.

5 The Board notes that Citation 2, Item 1 was not subject of contest.  
6 The allegations of the complaint are deemed proof of violation at  
7 Citation 2, Item 1. The regulatory classification is confirmed and  
8 proposed penalty approved.

9 It is the decision of the Nevada Occupational Safety and Health  
10 Review Board that a violation of Nevada Revised Statutes did occur as  
11 to Citation 1, Item 1, 29 CFR 1910.5019(b)(2)(i). The violation was  
12 properly classified as Serious and the proposed penalty of One Thousand  
13 Two Hundred Dollars (\$1,200.00) confirmed.

14 It is the further decision of the Nevada Occupational Safety and  
15 Health Review Board that a violation of Nevada Revised Statutes did  
16 occur as to Citation 2, Item 1, NRS 618.987(1). The violation was  
17 properly classified as Regulatory and the proposed penalty of One  
18 Hundred Fifty Dollars (\$150.00) confirmed.

19 The Board directs the **complainant, CHIEF ADMINISTRATIVE OFFICER OF**  
20 **THE OCCUPATIONAL SAFETY AND HEALTH ENFORCEMENT SECTION, DIVISION OF**  
21 **INDUSTRIAL RELATIONS,** to submit proposed Findings of Fact and  
22 Conclusions of Law to the NEVADA OCCUPATIONAL SAFETY AND HEALTH REVIEW  
23 BOARD and serve copies on opposing counsel within twenty (20) days from  
24 date of decision. After five (5) days time for filing any objection,  
25 the final Findings of Fact and Conclusions of Law shall be submitted to  
26 the NEVADA OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD by prevailing  
27 counsel. Service of the Findings of Fact and Conclusions of Law signed  
28 by the Chairman of the NEVADA OCCUPATIONAL SAFETY AND HEALTH REVIEW

1 BOARD shall constitute the Final Order of the BOARD.

2 DATED: This 10th day of December 2015.

3 NEVADA OCCUPATIONAL SAFETY AND HEALTH  
4 REVIEW BOARD

5 By \_\_\_\_\_/s/\_\_\_\_\_  
6 JOE ADAMS, Chairman