

Ryan Swanson's 34th Annual Employment Law Webinar



Appealing a WISHA Citation: Focus on the Reassumption Hearing

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Authority

- Occupational Safety and Health Administration (OSHA) – Enacted to develop and enforce safety health rules
- Washington Industrial Safety and Health Act (WISHA) – State Plan
- Division of Occupational Safety and Health (DOSH) – Enforcement, Cooperative Programs, Appeals

Inspection

- Programmed v. Unprogrammed
- Opening Conference
- Walk-around
- Interviews
- Closing Conference

Citation



Invoice

Inspection:

UBI:
Legal Name:
DBA Name:
Inspection
Site:

Issued:
Opening Conference: -
Closing Conference:
Inspector ID: J2313

Summary of Assessed Penalties Due

The Citation and Notice of Assessment includes a full description of each violation.

Violation Item	Violation Type	WAC	Correction Due Date	Penalty Amount
1-1	Serious	296-800-17005	4/21/2015	\$4,200.00
1-2	Serious	296-800-17030	4/21/2015	\$4,200.00
1-3	Serious	296-809-20002	4/21/2015	\$7,000.00
1-4	Serious	296-809-20004(1)	4/21/2015	\$7,000.00
1-5	Serious	296-809-30002	4/21/2015	\$7,000.00
1-6	Serious	296-809-30004	4/21/2015	\$7,000.00
1-7a	Serious	296-809-40002	4/21/2015	\$7,000.00
1-7b	Serious	296-809-40004	4/21/2015	\$0.00
1-8	Serious	296-809-50002	4/21/2015	\$7,000.00
1-9	Serious	296-809-50004	4/21/2015	\$7,000.00
1-10	Serious	296-809-50006	4/21/2015	\$7,000.00
1-11	Serious	296-809-50008	4/21/2015	\$7,000.00
1-12	Serious	296-809-50010	4/21/2015	\$7,000.00
1-13	Serious	296-809-50012	4/21/2015	\$7,000.00
1-14	Serious	296-809-50016	4/21/2015	\$7,000.00
1-15	Serious	296-809-50018	4/21/2015	\$7,000.00
1-16	Serious	296-809-50020	4/21/2015	\$7,000.00
1-17	Serious	296-809-50022	4/21/2015	\$7,000.00
1-18	Serious	296-809-50024	4/21/2015	\$7,000.00
2-1	General	296-800-16005	4/21/2015	\$0.00
2-2	General	296-800-16015(1)	4/21/2015	\$0.00
2-3	General	296-800-16020	4/21/2015	\$0.00
2-4	General	296-800-16025	4/21/2015	\$0.00
Total Penalty Due				\$120,400.00



Appeal Considerations

- Classification
- Ability to bid for work
- Experience Modification Rate (EMR)
- 15-day Deadline

Appeal Options

- Board of Industrial Insurance Appeals
 - Catastrophic loss
 - Civil litigation
 - Repeat serious / willful
- Reassumption Hearing
 - Department level
 - Informal
 - Recorded

Reassumption Hearing Tips

- Purpose
 - Seek resolution in lieu of litigation
 - Penalty reduction, classification, WAC, grouping, vacate, etc.
- Considerations
 - Department inspection file
 - Hazard, Exposure, Code, Knowledge (HECK)
 - Affirmative defenses
 - Inconsistent/incorrect statements, incomplete information/documentation
 - Employer efforts
- Corrective Notice of Redetermination
 - 15-day deadline for appeal to the Board

Thank you.

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