

CCASE:  
SOL (MSHA) V. LONE STAR  
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TTEXT:

Federal Mine Safety and Health Review Commission  
Office of Administrative Law Judges

SECRETARY OF LABOR,  
MINE SAFETY AND HEALTH  
ADMINISTRATION (MSHA),  
PETITIONER

v.

LONE STAR INDUSTRIES, INC.,  
RESPONDENT

CIVIL PENALTY PROCEEDING

Docket No. CENT 84-17-M  
A.C. No. 16-00188-05503

Louisiana Cement Company  
New Orleans Plant

DECISION

Before: Judge Kennedy

This matter is before the trial judge on the parties' waiver of a testimonial hearing and stipulation to submit the case for decision on the written record. Based on a consideration of that record I find:

1. The parties have agreed to vacation of Citations 2236382, 2236390 and 2236392.
2. That the penalties appropriate for the guarding violations set forth in Citations 2236387 and 2236391 are \$20 each.
3. That the violation charged in Citation 2237386-- failure to provide hand rails on an elevated walkway did, in fact, occur; was significant and substantial, and the result of ordinary negligence, but was mitigated by the fact that employees wore safety belts. Accordingly, I conclude the penalty warranted is \$100.
4. That Citation 2236389 should be modified to show the violation, which did, in fact, occur; was an unguarded pinchpoint that was the result of ordinary negligence. Further that it was a serious violation that significantly and substantially contributed to the hazard of a disabling injury. For these reasons, I conclude the penalty warranted and that deemed necessary to deter future violations and insure voluntary compliance is \$150.

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5. That based on an independent evaluation and de novo review of the circumstances the settlement proposed for Citation 2236388 in the amount of \$119 should be approved.

The premises considered, I find the amount of the penalties warranted and hereby assessed total \$409 of which \$259 has previously been paid. Accordingly, it is ORDERED that the operator pay the balance of the penalties due, \$150, on or before Friday, November 2, 1984, and that subject to payment the captioned matter be, and hereby is, DISMISSED.

Joseph B. Kennedy  
Administrative Law Judge