

RECEIVED

MAY 22 2025

May 22, 2025

OCCUPATIONAL SAFETY
AND HEALTH REVIEW BOARD

Peggy Charpentier
Occupational Safety and
Health Review Board
443 Lafayette Road N.
St. Paul, MN 55155

**Re: Commissioner v. Lexdan Automotive, Inc.
Inspection No. 318216561
Response to Petition to Vacate**

Dear Occupational Safety and Health Review Board Members:

I am counsel for the Minnesota Occupational Safety and Health Administration division ("MNOSHA") of the Department of Labor and Industry in the above-referenced matter.

Lexdan Automotive, Inc. ("Petitioner") filed a Petition to Vacate the Commissioner's April 9, 2025 Final Order ("Commissioner's Final Order"). I am submitting this letter in opposition to the Petition to Vacate. The Petition to Vacate should be denied for two reasons. First, the Commissioner's Final Order correctly determined that Petitioner's Notice of Contest was late. Second, Petitioner has not demonstrated good cause to vacate the Commissioner's Final Order, which is required by Minnesota Statutes, section 182.664, subdivision 5.

FACTS

During the period of February 6, 2025 to February 18, 2025, MNOSHA inspected Petitioner's worksite located at 2610 Hwy 61 N Suite 100, Maplewood, Minnesota. On February 28, 2025, MNOSHA issued a Citation and Notification of Penalty ("Citation") for violations of occupational safety and health standards.¹ The Citation clearly states, in multiple places, that a Notice of Contest must be filed within 20 calendar days of the date of receipt. The first paragraph of the Citation provides the following instruction:

You must abate the violations referred to in this Citation by the dates listed and pay the penalties, *unless within 20 calendar days from your receipt of this Citation you file a Notice of Contest with the Commissioner* Your contestation rights and other employer and employee rights and responsibilities are set out in the first three pages of this Citation. (Emphasis added.)

The following instruction appears on page three of the Citation:

¹ A copy of the Citation is attached as Exhibit 1.

Employer Right to Contest - The employer has the right to a hearing to contest any or all parts of this Citation. If the employer wishes to contest, the employer must fully complete and notarize the attached NOTICE OF CONTEST AND SERVICE TO AFFECTED EMPLOYEES (Notice of Contest form) and file it with the Commissioner at the address shown on page 1 of this Citation within 20 calendar days of receiving the citation.

Important: To be considered filed, all parts of the Notice of Contest form must be completed, and the completed form must be deposited in the United States mail and postmarked, or otherwise timely received by the Commissioner at the above address within 20 calendar days after the date this Citation is received by the employer. You may also file electronically at (contestation.dli@state.mn.us), by facsimile (FAX), or by hand-delivering the completed form to the Department, if received no later than 4:30 p.m. on the 20th calendar day. If the employer fails to file the Notice of Contest form on time, this Citation and Notification of Penalty becomes a final order of the Commissioner which is not subject to review by any court or agency and the Occupational Safety and Health Division may file and enforce the penalty as a district court judgment without further notice or additional proceedings pursuant to Minnesota Statutes § 16D.17.

The above instruction states explicitly that contestations filed electronically are timely “if received no later than 4:30 p.m. on the 20th calendar day.”

Petitioner received the Citation on March 3, 2025, as evidenced by the certified mail receipt form.² As a result, the deadline for electronically filing a Notice of Contest to the Citation was 4:30 p.m. on March 24, 2025.³ Petitioner filed its Notice of Contest by email at 4:45 p.m. on March 24, 2025.⁴ In accordance with Minnesota Rules, part 5210.0007, subp 2a., the Notice of Contest received after 4:30 p.m. is deemed filed on March 25, 2025. The Notice of Contest was therefore late.

On April 9, 2025, Petitioner was served with the Commissioner’s Final Order.⁵ This Final Order determined that Petitioner’s Notice of Contest was late, and also provided Petitioner with information related to filing a Petition to Vacate the determination.

² A copy of the receipt form is attached as Exhibit 2.

³ See Minnesota Rules, part 5210.0536, subpart 2 (“The notice of contest form must be filed within 20 calendar days of the date the employer receives the citation and notification of penalty or notification of failure to abate. . . . A notice of contest form may be filed with the commissioner by postage prepaid first class mail, personal delivery, facsimile, or electronic transmission according to part 5210.0007.”), and part 5210.0007, subpart 2a. (“Documents received electronically after 4:30 p.m. are deemed filed on the next business day.”).

⁴ A copy of Petitioner’s Notice of Contest is attached as Exhibit 3. No employee or authorized representative of employees filed a Notice of Contest.

⁵ A copy of the Commissioner’s Final Order is attached hereto as Exhibit 4.

On May 8, 2025, Petitioner filed its Petition to Vacate the Commissioner's Final Order. In its Petition, Petitioner maintains that it filed its Notice of Contest by the date told to him by an OSHA investigator, March 24, 2025. Petitioner attaches email correspondence with a MNOSHA investigator in which he asked, "What is the last day to contest for the citations (20 Calendar days?" The OSHA investigator responded that the last day to contest was March 24, 2025. Petitioner makes no mention of the time of day that it filed its Notice of Contest.

ARGUMENT

I. THE REVIEW BOARD SHOULD DENY THE PETITION TO VACATE BECAUSE THE COMMISSIONER'S FINAL ORDER CORRECTLY DETERMINED THAT PETITIONER'S NOTICE OF CONTEST WAS LATE.

The Commissioner's Final Order should be affirmed because the decision is correct based on the law and the facts. Petitioner received the Citation on March 3, 2025. Minnesota Statutes section 182.661, subdivision 1, and Minnesota Rules, part 5210.0536, subpart 2, require that employers file a Notice of Contest within 20 calendar days of receiving the Citation. Part 5210.0536, subpart 2, refers to the filing procedures listed in part 5210.0007. The procedures state plainly: "Documents received electronically after 4:30 p.m. are deemed filed on the next business day." 5210.0007, Subp. 2a.

There is no dispute that deadline for contesting the Citation was April 24, 2025. There is also no dispute that Petitioner filed its Notice of Contest by email at 4:45 p.m. on April 24, 2025. Consistent with the Minnesota Rules, the instructions in the Citation that Petitioner received clearly specified that contestations filed electronically must be "**received no later than 4:30 p.m. on the 20th calendar day.**" Petitioner had ample notice of the filing deadline for its Notice of Contest. Nevertheless, Petitioner filed its Notice of Contest after the deadline.

Pursuant to Minnesota Rules, part 5210.0007, subpart 2a, the Notice of Contest is correctly deemed filed on April 25, 2025, which is after the 20-day contestation period elapsed. By operation of Minnesota Statutes section 182.661, subdivision 1, and Minnesota Rules part 5210.0536, subpart 2, when no notice of contest is filed timely, the Citation becomes a final order of the Commissioner. The Commissioner's Final Order determining that Petitioner's Notice of Contest was late is correct and on that basis the petition to vacate should be denied.

II. THE REVIEW BOARD SHOULD DENY THE PETITION TO VACATE BECAUSE PETITIONER HAS NOT ESTABLISHED GOOD CAUSE.

Minnesota Statutes, section 182.664, subdivision 5, states that, without a showing of good cause, the Review Board may not vacate a final order of the Commissioner. It further provides that "good cause is limited to fraud, mistake of fact by the commissioner, mistake of law by the commissioner, or newly discovered evidence." *Id.*

Here, Petitioner makes no claim, let alone a showing, that there was fraud, a mistake of fact or

law by the commissioner, or newly discovered evidence. Petitioner's sole contention is that it contested the citation before expiration of the 20-day deadline, which is demonstrably false based on the evidence before the Review Board. Absent any showing of good cause, the Review Board must deny the petition to vacate the Commissioner's Final Order.

Petitioner's status as a pro se party should not alter the determination of the Review Board. Petitioner received clear instructions from MNOSHA on how to contest the Citation and the time period to do so, including notice of the 4:30 p.m. deadline for electronic filing. Petitioner was further advised of the consequences for failing to file a Notice of Contest on time: the Citation becomes a final order of the Commissioner.⁶ Mere carelessness or negligence does not constitute good cause to vacate a final order of the Commissioner. *See Secretary of Labor v. Keefe Earth Boring Co.*, 14 O.S.H. Cas. (BNA) 2187, 2192 (Rev. Comm. 1991).

In sum, Petitioner has not shown the existence of fraud, any mistake of law or fact by the commissioner, or any newly discovered evidence. As a result, the Petition to Vacate the Commissioner's Final Order should be denied.

CONCLUSION

The Commissioner's April 9, 2025 Final Order correctly determined that Petitioner's Notice of Contest was late. Petitioner received clear instructions, consistent with the law, that it must file its Notice of Contest form within 20 calendar days of its receipt of the Citation, which it did not do. Moreover, Petitioner has not demonstrated good cause to vacate the Commissioner's April 9, 2025 Final Order. Therefore, the Petition to Vacate should be denied.

Petitioner Lexdan Automotive, Inc. is served with a copy of this letter as stated in the enclosed Affidavit of Service.

Respectfully submitted,

/s/ Ryan P. Anderson

RYAN P. ANDERSON
Attorney Reg. No. 0399092
Department of Labor and Industry
Office of General Counsel
443 Lafayette Road N.
St. Paul, Minnesota 55155
(651) 284-5019 (main)
(651) 284-5725 (fax)

COUNSEL FOR RESPONDENT

⁶ See Exhibit 1 at page 3 ("If the employer fails to file the Notice of Contest form on time, this Citation and Notification of Penalty becomes a final order of the Commissioner.").

OSH Review Board
Re: Lexdan Automotive, Inc., Inspection No. 318216561

RPA/msg
Enclosures

cc: Dennis Keskin
James Krueger, MNOSHA

Minnesota Department of Labor and Industry

Occupational Safety and Health Division

443 Lafayette Road

St. Paul, MN 55155-4307

Phone: 651-284-5050 FAX: 651-284-5741

Citation and Notification of Penalty

To:

Lexdan Automotive Inc
2610 Hwy 61 N Suite 100
Maplewood, MN 55109

Inspection Number: 318216561

CSHO ID: G3073

Optional Report No.: 00825

Inspection Date(s): 2/6/2025 - 2/18/2025

Issuance Date: 2/28/2025

Inspection Site:

2610 Hwy 61 N Suite 100
Maplewood, MN 55109

The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

This Citation and Notification of Penalty (this Citation) describes violations of the Minnesota Occupational Safety and Health Act of 1973 (the Act). The penalty amounts listed herein are based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties, unless within 20 calendar days from your receipt of this Citation you file a Notice of Contest with the Commissioner of the Department of Labor and Industry. Your contestation rights and other employer and employee rights and responsibilities are set out in the first three pages of this Citation. The description of alleged violations begins on page 5 of this Citation.

EMPLOYER AND EMPLOYEE RIGHTS AND RESPONSIBILITIES

Posting - The Act requires that a copy of this Citation shall be promptly posted at or near each place that an alleged violation referred to in the citation occurred or, if not practicable, in a prominent place where it will be readily visible by all affected employees. If uncontested, this Citation must remain posted until all alleged violations cited therein are corrected, or for 20 days, whichever is longer. If contested, this Citation must remain posted until the contestation is resolved.

Penalty Payment - Payment of all penalties is to be made by check or money order payable to "Minnesota Department of Labor and Industry, MNOSHA", and remitted to the Occupational Safety and Health Division at P.O. Box 64025, St. Paul, MN, 55164-0025, within 20 calendar days following receipt of this Citation. After 60 days, unpaid penalties shall increase 25 percent and shall accrue an additional interest of 10 percent per month compounded monthly until the fine is paid in full.

Effective August 1, 2003, the minimum \$25,000 penalty issued to employers with fewer than 50 employees for serious citations connected to the death of an employee may be made in five payments of \$5,000. The first \$5,000 payment is due within 20 calendar days following receipt of this Citation. The 2nd-5th payments of \$5,000 are due on the next four anniversary dates of this Citation becoming a Final Order. The Commissioner may elect to waive the 2nd-5th \$5,000 payment if in the preceding year the employer receives no citations. MNOSHA will provide written notice of the 2nd-5th payments dates or of any penalty waiver.

Notification of Corrective Action - Progress reports on correction of alleged violations not immediately abated as observed by the occupational safety and health investigator shall be submitted on the Progress Report form provided with this Citation. Written progress reports must be mailed to the address shown on the top of page 1 of this Citation by the latest abatement date on the citation, or within 30 days after receipt of the citation, whichever is earlier. Reports must state the specific corrective action taken on each cited item, the date of such action and the anticipated abatement date of uncompleted items. Additional written progress reports shall be submitted every thirty days until the items are fully abated. Facsimile (FAX) transmittal is acceptable.

All alleged violations not contested must be corrected by the abatement date specified in this Citation. A followup inspection may be made for the purpose of ascertaining that the employer has corrected the alleged violations and posted this Citation as required by the Act. Failure to correct an alleged violation by the abatement date on this Citation may result in further penalties for each day the alleged violation has not been corrected.

Petition for Modification of Abatement Date (PMA) - If, due to factors beyond reasonable control, compliance cannot be achieved by the abatement day on the citation, the employer may file a Petition for Modification of Abatement Date (PMA) to obtain an extension of the abatement time period. The PMA must be in writing and received at the address shown on the top of page 1 of this Citation prior to the expiration of the abatement date on the citation. Facsimile (FAX) transmittal of a PMA is acceptable. A copy of the PMA must be posted for ten days in the location where this Citation is posted. A copy of the PMA must also be served upon authorized employee representatives.

The employer's written petition must describe:

- 1) The action that has been taken so far to achieve compliance;
- 2) The amount of additional time needed for compliance;
- 3) The reasons why additional time is needed;
- 4) A description of the interim steps that will be taken to safeguard employees against the cited hazard;
- 5) A statement that employees have been notified of the PMA filing.

Employees have the right to file a written objection to the Commissioner regarding the employer's PMA request. A copy of the objection must be served on the employer within 10 days of the employer's posting of the PMA. The employee objection must be received by the Commissioner within 15 days of the employer's PMA request. Facsimile (FAX) transmittal is acceptable.

Employer Right to Contest - The employer has the right to a hearing to contest any or all parts of

this Citation. If the employer wishes to contest, the employer must fully complete and notarize the attached NOTICE OF CONTEST AND SERVICE TO AFFECTED EMPLOYEES (Notice of Contest form) and file it with the Commissioner at the address shown on the top of page 1 of this Citation within 20 calendar days of receiving the citation.

Important: To be considered filed, all parts of the Notice of Contest form must be completed and the completed form must be deposited in the United States mail and postmarked, or otherwise timely received by the Commissioner at the above address within 20 calendar days after the date this Citation is received by the employer. You may also file electronically at (contestation.dli@state.mn.us), by facsimile (FAX), or by hand-delivering the completed form to the Department, if received no later than 4:30 p.m. on the 20th calendar day. If the employer fails to file the Notice of Contest form on time, this Citation and Notification of Penalty becomes a final order of the Commissioner which is not subject to review by any court or agency and the Occupational Safety and Health Division may file and enforce the penalty as a district court judgment without further notice or additional proceedings pursuant to Minnesota Statute § 16D.17.

Employee Right to Contest - An employee or authorized representative of employees has the right to a hearing to contest this Citation by filing a letter with the Commissioner of the Department of Labor and Industry at the address shown on page 1 within 20 calendar days of the employer's receipt of this Citation.

Important: To be considered filed, an employee letter of contest must be deposited in the United States mail and postmarked, or otherwise timely received by the Commissioner at the above address within 20 calendar days after the date this Citation is received by the employer. You may also file electronically at (contestation.dli@state.mn.us), by facsimile (FAX), or by hand-delivering the completed form to the Department, if received no later than 4:30 p.m. on the 20th calendar day. If the employee fails to file a letter of contest on time, this Citation and Notification of Penalty becomes a final order of the Commissioner which is not subject to review by any court or agency and the Occupational Safety and Health Division may file and enforce the penalty as a district court judgment without further notice or additional proceedings pursuant to Minnesota Statute § 16D.17.

Employee Right to Party Status - Affected employees or their authorized employee representatives may elect to participate as parties in the formal contested case hearing by filing written notice with the Commissioner at the address shown above at least 45 days before the start of the hearing. The notice must contain the employees' names, addresses, authorized employee representatives, if any, and a statement that they are affected employees of the cited employer.

Employer Discrimination Unlawful - Employees who believe that they have been discharged or otherwise discriminated against by any person because the employees have exercised any right authorized under the provisions of Minnesota Statutes §§ 182.65 to 182.674, may, within 30 days after such alleged discrimination occurs, file a complaint with the Commissioner of the Department of Labor and Industry at the address shown above, alleging the discriminatory act.

PENALTY INFORMATION

Types of Violations - There are 5 types of violations that may be cited by MNOSHA. They are: Nonserious, Serious, Willful, Repeat and Failure to Abate.

Penalties - In cases not involving the death of an employee, the law allows the following maximum penalties: Nonserious, \$16,131; Serious, \$16,131; Willful, \$161,323; Repeat, \$161,323; and Failure to Abate, \$16,131 per day the violation remains unabated. If a Willful or Repeat violation caused or contributed to the death of an employee, however, MNOSHA is compelled by law to assess the employer a total non-negotiable penalty of at least \$50,000 for all citations connected to the employee's death. If there are no Willful or Repeat violations among the violations that caused or contributed to the employee's death, MNOSHA must assess the employer a non-negotiable penalty of at least \$25,000 for each citation connected to the employee's death. The following violations are not subject to these minimums and will be processed according to MNOSHA's ordinary penalty system: (a) any serious violations issued to an employer with fewer than 50 employees when the victim of a workplace fatality owned a controlling interest in the business unless the Commissioner determines that a fine shall be assessed, and (b) any violations found during a fatality investigation but determined not to be connected to the death of an employee.

Credits - A penalty for a violation may be credited by as much as 95 percent, depending on the employer's good faith (up to 30%), size of business (up to 55%), and previous violation history (up to 10%). The penalties which appear on the Citation and Notification of Penalty have been reduced by the credits described.

Minnesota
Department of Labor and Industry
2/18/2025
Occupational Safety and Health Division

Inspection Number: 318216561
Inspection Date(s): 2/6/2025 -

Issuance Date: 2/28/2025
OSHI ID: G3073
Optional Report No.: 00825

Citation and Notification of Penalty

Company Name: Lexdan Automotive Inc
Inspection Site: 2610 Hwy 61 N Suite 100, Maplewood, MN 55109

Citation 01 Item 001

Type of Violation: **Repeat**

29 CFR 1910.28(b)(3)(ii): The employer did not ensure that each employee was protected from tripping into or stepping into or through any hole that was less than 4 feet (1.2 m) above a lower level by covers or guardrail systems:

Exposed floor holes for the exhaust system and the metal floor grating for the floor drains in the service area were not covered or guarded.

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employers signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that abatement is complete, (i.e., pictures, receipts, etc.).

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employer's signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that the abatement is complete, (i.e., pictures, receipts, etc.).

Date By Which Violation Must Be Abated: 3/24/2025
Penalty: \$3,500.00

Minnesota
Department of Labor and Industry
2/18/2025
Occupational Safety and Health Division

Inspection Number: 318216561
Inspection Date(s): 2/6/2025 -
Issuance Date: 2/28/2025
OSHI ID: G3073
Optional Report No.: 00825

Citation and Notification of Penalty

Company Name: Lexdan Automotive Inc
Inspection Site: 2610 Hwy 61 N Suite 100, Maplewood, MN 55109

Citation 02 Item 001

Type of Violation: **Serious**

Minn. Stat. 182.676: The employer did not establish and administer a joint labor-management safety committee which holds regularly scheduled meetings and has employee members selected by the employees:

The employer did not establish and administer a joint labor-management safety committee.

Date By Which Violation Must Be Abated: 3/24/2025
Penalty: \$350.00

Minnesota
Department of Labor and Industry
2/18/2025
Occupational Safety and Health Division

Inspection Number: 318216561
Inspection Date(s): 2/6/2025 -
Issuance Date: 2/28/2025
OSHI ID: G3073
Optional Report No.: 00825

Citation and Notification of Penalty

Company Name: Lexdan Automotive Inc
Inspection Site: 2610 Hwy 61 N Suite 100, Maplewood, MN 55109

Citation 02 Item 002

Type of Violation: **Serious**

29 CFR 1910.22(a)(2): When wet processes were used, drainage was not maintained and, to the extent feasible, dry standing places, such as false floors, platforms, and mats were not provided:

The employer did not ensure floors were maintained in a clean, dry condition. Specifically, floors throughout the automotive maintenance and repair shop area were wet.

Date By Which Violation Must Be Abated: 3/24/2025
Penalty: \$1,400.00

Minnesota
Department of Labor and Industry
2/18/2025
Occupational Safety and Health Division

Inspection Number: 318216561
Inspection Date(s): 2/6/2025 -
Issuance Date: 2/28/2025
OSHI ID: G3073
Optional Report No.: 00825

Citation and Notification of Penalty

Company Name: Lexdan Automotive Inc
Inspection Site: 2610 Hwy 61 N Suite 100, Maplewood, MN 55109

Citation 02 Item 003

Type of Violation: **Serious**

29 CFR 1910.303(b)(7)(iv): Damaged electrical parts that may adversely affect the safe operation of the equipment, were left in service.

The 120-volt electrical receptacle plug on the bottom right of the 4-plug junction box was damaged.

Date By Which Violation Must Be Abated: 3/24/2025
Penalty: \$1,750.00

Minnesota
Department of Labor and Industry
2/18/2025
Occupational Safety and Health Division

Inspection Number: 318216561
Inspection Date(s): 2/6/2025 -
Issuance Date: 2/28/2025
OSHI ID: G3073
Optional Report No.: 00825

Citation and Notification of Penalty

Company Name: Lexdan Automotive Inc
Inspection Site: 2610 Hwy 61 N Suite 100, Maplewood, MN 55109

Citation 03 Item 001

Type of Violation: **NonSerious**

Minn. Rules 5206.0700 subp. 1(G): Right- to-Know training was not conducted at the required frequency:

The employer did not provide annual right to know training to employees who were exposed to hazardous substances such as Napa Asian Vehicle Premix Antifreeze/Coolant and Carbon monoxide from automobiles driving in and out of the garage.

Abatement Guidelines: The following is the minimum frequency of training:

- 1) before the initial assignment to a job where the employee may be routinely exposed to a hazardous chemical, harmful physical agent or an infectious agent;
- 2) before the time an employee may be exposed to any additional hazardous chemical, harmful physical agents, or infectious agents; and
- 3) training updates, to be provided no less than annually.

Date By Which Violation Must Be Abated: 3/24/2025
Penalty: \$350.00

Nicole Blissenbach, Commissioner
MN Department of Labor and Industry

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Dennis Keskin, Owner
Lexdan Automotive Inc
2610 Hwy 61 N Suite 100
Maplewood, MN 55109
318216561 G3073 00825



9590 9402 8435 3156 2511 24

2. Article Number (Transfer from service label)

7017 1000 0000 0869 0841

PS Form 3811 July 2020 PSN 7530-02-000-9059

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

3-3-25

Address different from item 1? ☐ Yes
delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Delivery Restricted Delivery
- ☐ Registered Mail®
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery
- ☐ Signature Confirmation Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Past due and Reviewed by G3073, see
Minnesnotes.
Department of Labor and Industry

Occupational Safety and Health Division
443 Lafayette Road North
St. Paul, MN 55155-4307

Phone: 1-800-DIAL-DLI (1-800-342-5354)
(651) 284-5050
FAX: (651) 284-5741
www.dli.mn.gov

Inspection Number 318216561	OSHI ID G3073	Optional Report No.: 00825
Employer's Name and Mailing Address: Dennis Keskin, Owner Lexdan Automotive Inc 2610 Hwy 61 N Suite 100 Maplewood, MN 55109 318216561 G3073 00825		

MAR 25 2025
MINNESOTA OSH DIVISION

NOTICE OF CONTEST AND SERVICE TO AFFECTED EMPLOYEES

PURPOSE OF THIS FORM

If you have received a Citation and Notification of Penalty from the Minnesota Occupational Safety and Health Division (MNOSHA) and you wish to contest any part of the Citation, including the penalty, you must complete this form. For your contest to be valid, you must file this form within 20 calendar days of the date the employer received the Citation.

If you only wish to obtain an extension of time to correct the violation, you may file a Petition for Modification of Abatement Date according to the instructions on the Citation and Notification of Penalty.

By filing this Notice of Contest form, you are initiating a formal contested case proceeding before an administrative law judge of the parts of the Citation and Notification of Penalty you are contesting. This form must be filed in good faith and not solely for delay or avoidance of penalties.

HOW TO FILE THIS FORM

- This Notice of Contest form must be filed with the Commissioner of the Department of Labor and Industry at the above address within 20 calendar days after the date the employer received the Citation and Notification of Penalty. To be considered filed, all parts of the Notice of Contest form must be completed and the completed form must be mailed and postmarked, within 20 calendar days after the date the employer received the Citation and Notification of Penalty. You may also file electronically at contestation.dli@state.mn.us, by facsimile (FAX), or by hand-delivering the completed form to the Department, if received no later than 4:30 p.m. on the 20th calendar day.
- If you fail to file the fully completed Notice of Contest form on time, the Citation and Notification of Penalty becomes a final order of the Commissioner that is not subject to review by any court or agency.

APPEAL PROCESS

Upon receipt of a timely filed Notice of Contest form, MNOSHA will contact you and schedule a date, time and location for an informal conference. The purpose of the informal conference is to allow you to discuss with a MNOSHA representative the Citation and Notification of Penalty and the basis for your contest. The goal of the informal conference is to reach an early resolution of the contest. If you and MNOSHA are unable to reach a resolution at the informal conference then the contest will proceed to a formal contested case hearing.

COMPLETING THIS FORM

1. HOW TO IDENTIFY THE INSPECTION BEING CONTESTED.

Complete the box at the top of this form using the Inspection Number, OSHI ID, Optional Report Number and Employer's Mailing Address from the Citation and Notification of Penalty being contested.

2. HOW TO CONTEST THE CITATION AND NOTIFICATION OF PENALTY.

Indicate in the boxes on the next page which part(s) of the Citation and Notification of Penalty you wish to contest. Identify the citations you are contesting by indicating the citation and item numbers. Then indicate which part(s) of each item is being contested. Finally, state your reasons for contesting in the space provided below the boxes.

- Check the box CITATION if you wish to contest that the violation occurred.
- Check the box TYPE OF VIOLATION if you wish to contest the characterization of the violation as non-serious, serious, willful or repeat.
- Check the box ABATEMENT DATE if you wish to contest the date by which you must abate the violation.
- Check the box PENALTY if you wish to contest the amount of the penalty.

FAILURE TO CHECK ANY PART WILL RESULT IN THAT PART OF THE CITATION BECOMING A FINAL ORDER OF THE COMMISSIONER THAT IS NOT REVIEWABLE BY ANY COURT OR AGENCY.

CITATION NUMBER	ITEM NUMBER	(check all that apply)			
01	001	<input checked="" type="checkbox"/> Citation	<input checked="" type="checkbox"/> Type of Violation	<input checked="" type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
02	001	<input checked="" type="checkbox"/> Citation	<input checked="" type="checkbox"/> Type of Violation	<input checked="" type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
02	002	<input checked="" type="checkbox"/> Citation	<input checked="" type="checkbox"/> Type of Violation	<input checked="" type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
02	003	<input checked="" type="checkbox"/> Citation	<input checked="" type="checkbox"/> Type of Violation	<input checked="" type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
03	001	<input checked="" type="checkbox"/> Citation	<input checked="" type="checkbox"/> Type of Violation	<input checked="" type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
		<input type="checkbox"/> Citation	<input type="checkbox"/> Type of Violation	<input type="checkbox"/> Abatement Date	<input type="checkbox"/> Penalty

REASONS FOR CONTEST: (Additional sheets may be attached as necessary, and they will be considered part of this form.)

01-001 At the time of inspection some of the exhaust outlet holes were closed with caps. Some were open because of the mechanics continuously working on the vehicles by the hoists. At such times holes are open because of activity of the usage. opening of the holes are in 3 inch in diameter. Abated on 3/19/25 see pictures

3. DATES OF POSTING AND SERVING. You must certify in Box A or B below the dates you posted and served this form.

A. Union: Complete part A if you have affected Employees Represented by Authorized Employee Representatives

I hereby certify that I posted fully completed copies of this form on _____ (date) at the locations where the Citation and Notification of Penalty is required to be posted; and I served fully completed copies of this form on _____ (date) upon the authorized employee representatives of affected employees.

B. Non-Union: Complete part B if you have affected Employees Not Represented by Authorized Employee Representatives

I hereby certify that I posted fully completed copies of this form on 3-5-25 (date) at the locations where the Citation and Notification of Penalty is required to be posted and that I do not have any affected employees who are represented by authorized employee representatives.

4. OATH. The employer completing this form must sign and have notarized the following statement.

I SWEAR THAT THE INFORMATION PROVIDED ON THIS FORM AND ATTACHED TO THIS FORM IS ACCURATE AND TRUTHFUL TO THE BEST OF MY KNOWLEDGE.

State of MN County of WASHINGTON

DENNIS KESKIN President 6514840551
Name of Employer Representative, Title Phone

Signature

Date

Subscribed and sworn to before me

this 21 day of MARCH

Notary Public ALEXIS KESKIN

My Commission expires 01/31/2029



Jones, Tonya (DLI)

From: Dennis Keskin-Lexdan Automotive <dennis@lexdanauto.com>
Sent: Monday, March 24, 2025 4:45 PM
To: Moltzan, Greg (DLI); Progress, Citation (DLI)
Subject: Re: RE: RE: MNOSHA #318216561 - G3073 Lexdan Automotive inc contest and abatements
Attachments: OSHA.pdf; IMG_2047.JPG; IMG_2048.JPG; IMG_2049.JPG; IMG_2050.JPG; IMG_2051.JPG; IMG_2052.JPG

Re: RE: RE: MNOSHA #318216561 - G3073 Lexdan Automotive inc contest and abatements. Fifteen pages are attached.

Dennis Keskin
Lexdan Automotive
2610 Maplewood DR.
Maplewood MN.55109

WWW.LEXDANAUTO.COM

Phone 651 484 0551

Fax 651 484 0557

Business Hours
Monday-Thursday : 9am - 7pm
Friday : 9am - 6pm
Saturday : 9am - 5pm
Sunday Closed

From: Moltzan, Greg (DLI) (Greg.Moltzan@state.mn.us)
Date: 03/20/25 12:09
To: Dennis Keskin-Lexdan Automotive (dennis@lexdanauto.com)
Subject: **RE: RE: MNOSHA**

Hi Dennis,

The certified delivery card we have says you received the package on 3/3/2025, your package (example on page 6) puts the end of your 20 Calander days at 3/24/2025.

Gregory Moltzan

Safety Investigator

Minnesota Department of Labor and Industry

443 Lafayette Road N., St. Paul, MN 55155

Phone: 651-284-5461 | Cell: 651-706-2759

Web: www.dli.mn.gov



From: Dennis Keskin-Lexdan Automotive <dennis@lexdanauto.com>

Sent: Thursday, March 20, 2025 10:51 AM

To: Moltzan, Greg (DLI) <Greg.Moltzan@state.mn.us>

Subject: Re: RE: MNOSHA

What is the last day to contest for the citations (20 Calendar days) ? The envelope I have shows the sent date of 2/28/2025 but does not show the received/signed date by Lexdan Automotive.

USPS does not show anything on the web site either .

Dennis Keskin

Lexdan Automotive

2610 Maplewood DR.

Maplewood MN.55109

WWW.LEXDANAUTO.COM

Phone 651 484 0551

Fax 651 484 0557

Business Hours

Monday-Thursday : 9am - 7pm

Friday : 9am - 6pm

Saturday : 9am - 5pm

Sunday Closed

----- Original Message -----

From: Moltzan, Greg (DLI) (Greg.Moltzan@state.mn.us)

Date: 03/19/25 10:00

To: Dennis Keskin-Lexdan Automotive (dennis@lexdanauto.com)

Subject: RE: MNOSHA

Hi Dennis,

I would say talk to the building owner and see what options you have for abatement (repair/replace). You can use the PMA form in your package to request additional time to our administrative email account if you need it. Please let me know if you have any other questions.

Gregory Moltzan

Safety Investigator

Minnesota Department of Labor and Industry

443 Lafayette Road N., St. Paul, MN 55155

Phone: 651-284-5461 | Cell: 651-706-2759

Web: www.dli.mn.gov

mn DEPARTMENT OF
LABOR AND INDUSTRY



April 9, 2025

Dennis Keskin
Lexdan Automotive, Inc.
2610 Highway 61 North
Suite 100
Maplewood, MN 55109

Lexdan Automotive, Inc.
2610 MAPLEWOOD DR N
MAPLEWOOD, MN 55109-1231

Re: Lexdan Automotive, Inc.
Inspection No. 318216561
FINAL ORDER DETERMINING LATE FILING

Dear Mr. Keskin:

The Department has issued a Final Order Determining Late Filing related to this inspection by the Occupational Safety and Health Division (MNOSHA). It is attached to this letter.

While I cannot give you legal advice, I can tell you the following:

You have the right to file a Petition to Vacate this Final Order Determining Late Filing. The procedures for filing a Petition to Vacate are explained in Minnesota Statutes § 182.664, subdivision 5, and Minnesota Rules, parts 5215.0700 and 5215.5350, which are available at www.revisor.mn.gov. As the statute and rules state, any Petition to Vacate must be filed within 30 days following service by mail of this Final Order Determining Late Filing. If you would like to appear before the OSH Review Board, you may make a request for oral argument in the Petition to Vacate.

The statute sets forth the grounds under which the Board may grant a Petition to Vacate this Final Order. The Board may only vacate this Final Order upon a showing of good cause. Good cause is limited to fraud, mistake of fact by the Commissioner, mistake of law by the Commissioner, or newly discovered evidence. At this time, the Board may only review the determination that the Notice of Contest was late.

The Petition to Vacate must be filed with the Board by mail or personal delivery to: Peggy Charpentier, Executive Secretary, OSH Review Board, 443 Lafayette Road N., St. Paul, Minnesota, 55155. Additionally, a copy of the Petition to Vacate must be served on the Department by mail or personal delivery to: Occupational Safety and Health Division, Department of Labor & Industry, 443 Lafayette Road N., St. Paul, Minnesota 55155.

Sincerely,

/s/ Ali P. Afsharjavan
ALI P. AFSHARJAVAN
General Counsel for the
Occupational Safety and Health Division
Minnesota Department of Labor and Industry
(651) 284-5019

APA/msg

Enclosures

Equal Opportunity Employer

Office of General Counsel, 443 Lafayette Road North, St. Paul, MN 55155
(651) 284-5019 | www.dli.mn.gov | Fax (651) 284-5725

EXHIBIT 4

STATE OF MINNESOTA

DEPARTMENT OF LABOR
AND INDUSTRY

Nicole Blissenbach, Commissioner,
Minnesota Department of Labor and Industry,

Complainant,

FINAL ORDER DETERMINING
LATE FILING

v.

Lexdan Automotive, Inc.,

Inspection No. 318216561

Respondent.

On February 28, 2025, the Occupational Safety and Health Division, on behalf of Nicole Blissenbach, Commissioner, Minnesota Department of Labor and Industry, issued a Citation and Notification of Penalty ("Citation") in this inspection. Exhibit A. The certified mail return receipt indicates that Lexdan Automotive, Inc. ("Respondent") received the Citation on March 3, 2025. Exhibit B. On March 25, 2025, the Department of Labor and Industry received a copy of the Notice of Contest and Service to Affected Employees ("Notice of Contest") form via email, stating Respondent was contesting the Citation.¹ Exhibit C.

Minnesota Statutes, section 182.661, subdivisions 1 & 3b, and Minnesota Rules, part 5210.0007, require that a Notice of Contest and certification of service be filed on a form provided by the Commissioner and postmarked, faxed, emailed, or hand-delivered within twenty (20) calendar days from the date the Citation was received. This requirement is clearly stated on both the Citation and the Notice of Contest form. Respondent did not properly file a completed Notice of Contest within the 20-day time period, so the Notice of Contest was late. As a result, the Citation is final.

Dated: April 9, 2025

/s/ Ali P. Afsharjavan
ALI P. AFSHARJAVAN
Attorney Reg. No. 0397357
Department of Labor and Industry
Office of General Counsel
443 Lafayette Road N.
St. Paul, Minnesota 55155

¹ Respondent filed its Notice of Contest by email after 4:30 p.m. on March 24, 2025. Pursuant to Minn. R. 5210.0007, it is deemed filed on the next day.

Minnesota Department of Labor and Industry

Occupational Safety and Health Division

443 Lafayette Road

St. Paul, MN 55155-4307

Phone: 651-284-5050 FAX: 651-284-5741

Citation and Notification of Penalty

To:

Lexdan Automotive Inc
2610 Hwy 61 N Suite 100
Maplewood, MN 55109

Inspection Number: 318216561

CSHO ID: G3073

Optional Report No.: 00825

Inspection Date(s): 2/6/2025 - 2/18/2025

Issuance Date: 2/28/2025

Inspection Site:

2610 Hwy 61 N Suite 100
Maplewood, MN 55109

The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

This Citation and Notification of Penalty (this Citation) describes violations of the Minnesota Occupational Safety and Health Act of 1973 (the Act). The penalty amounts listed herein are based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties, unless within 20 calendar days from your receipt of this Citation you file a Notice of Contest with the Commissioner of the Department of Labor and Industry. Your contestation rights and other employer and employee rights and responsibilities are set out in the first three pages of this Citation. The description of alleged violations begins on page 5 of this Citation.

EMPLOYER AND EMPLOYEE RIGHTS AND RESPONSIBILITIES

Posting - The Act requires that a copy of this Citation shall be promptly posted at or near each place that an alleged violation referred to in the citation occurred or, if not practicable, in a prominent place where it will be readily visible by all affected employees. If uncontested, this Citation must remain posted until all alleged violations cited therein are corrected, or for 20 days, whichever is longer. If contested, this Citation must remain posted until the contestation is resolved.

Penalty Payment - Payment of all penalties is to be made by check or money order payable to "Minnesota Department of Labor and Industry, MNOSHA", and remitted to the Occupational Safety and Health Division at P.O. Box 64025, St. Paul, MN, 55164-0025, within 20 calendar days following receipt of this Citation. After 60 days, unpaid penalties shall increase 25 percent and shall accrue an additional interest of 10 percent per month compounded monthly until the fine is paid in full.

Effective August 1, 2003, the minimum \$25,000 penalty issued to employers with fewer than 50 employees for serious citations connected to the death of an employee may be made in five payments of \$5,000. The first \$5,000 payment is due within 20 calendar days following receipt of this Citation. The 2nd-5th payments of \$5,000 are due on the next four anniversary dates of this Citation becoming a Final Order. The Commissioner may elect to waive the 2nd-5th \$5,000 payment if in the preceding year the employer receives no citations. MNOSHA will provide written notice of the 2nd-5th payments dates or of any penalty waiver.

Notification of Corrective Action - Progress reports on correction of alleged violations not immediately abated as observed by the occupational safety and health investigator shall be submitted on the Progress Report form provided with this Citation. Written progress reports must be mailed to the address shown on the top of page 1 of this Citation by the latest abatement date on the citation, or within 30 days after receipt of the citation, whichever is earlier. Reports must state the specific corrective action taken on each cited item, the date of such action and the anticipated abatement date of uncompleted items. Additional written progress reports shall be submitted every thirty days until the items are fully abated. Facsimile (FAX) transmittal is acceptable.

All alleged violations not contested must be corrected by the abatement date specified in this Citation. A followup inspection may be made for the purpose of ascertaining that the employer has corrected the alleged violations and posted this Citation as required by the Act. Failure to correct an alleged violation by the abatement date on this Citation may result in further penalties for each day the alleged violation has not been corrected.

Petition for Modification of Abatement Date (PMA) - If, due to factors beyond reasonable control, compliance cannot be achieved by the abatement day on the citation, the employer may file a Petition for Modification of Abatement Date (PMA) to obtain an extension of the abatement time period. The PMA must be in writing and received at the address shown on the top of page 1 of this Citation prior to the expiration of the abatement date on the citation. Facsimile (FAX) transmittal of a PMA is acceptable. A copy of the PMA must be posted for ten days in the location where this Citation is posted. A copy of the PMA must also be served upon authorized employee representatives.

The employer's written petition must describe:

- 1) The action that has been taken so far to achieve compliance;
- 2) The amount of additional time needed for compliance;
- 3) The reasons why additional time is needed;
- 4) A description of the interim steps that will be taken to safeguard employees against the cited hazard;
- 5) A statement that employees have been notified of the PMA filing.

Employees have the right to file a written objection to the Commissioner regarding the employer's PMA request. A copy of the objection must be served on the employer within 10 days of the employer's posting of the PMA. The employee objection must be received by the Commissioner within 15 days of the employer's PMA request. Facsimile (FAX) transmittal is acceptable.

Employer Right to Contest - The employer has the right to a hearing to contest any or all parts of

this Citation. If the employer wishes to contest, the employer must fully complete and notarize the attached NOTICE OF CONTEST AND SERVICE TO AFFECTED EMPLOYEES (Notice of Contest form) and file it with the Commissioner at the address shown on the top of page 1 of this Citation within 20 calendar days of receiving the citation.

Important: To be considered filed, all parts of the Notice of Contest form must be completed and the completed form must be deposited in the United States mail and postmarked, or otherwise timely received by the Commissioner at the above address within 20 calendar days after the date this Citation is received by the employer. You may also file electronically at (contestation.dli@state.mn.us), by facsimile (FAX), or by hand-delivering the completed form to the Department, if received no later than 4:30 p.m. on the 20th calendar day. If the employer fails to file the Notice of Contest form on time, this Citation and Notification of Penalty becomes a final order of the Commissioner which is not subject to review by any court or agency and the Occupational Safety and Health Division may file and enforce the penalty as a district court judgment without further notice or additional proceedings pursuant to Minnesota Statute § 16D.17.

Employee Right to Contest - An employee or authorized representative of employees has the right to a hearing to contest this Citation by filing a letter with the Commissioner of the Department of Labor and Industry at the address shown on page 1 within 20 calendar days of the employer's receipt of this Citation.

Important: To be considered filed, an employee letter of contest must be deposited in the United States mail and postmarked, or otherwise timely received by the Commissioner at the above address within 20 calendar days after the date this Citation is received by the employer. You may also file electronically at (contestation.dli@state.mn.us), by facsimile (FAX), or by hand-delivering the completed form to the Department, if received no later than 4:30 p.m. on the 20th calendar day. If the employee fails to file a letter of contest on time, this Citation and Notification of Penalty becomes a final order of the Commissioner which is not subject to review by any court or agency and the Occupational Safety and Health Division may file and enforce the penalty as a district court judgment without further notice or additional proceedings pursuant to Minnesota Statute § 16D.17.

Employee Right to Party Status - Affected employees or their authorized employee representatives may elect to participate as parties in the formal contested case hearing by filing written notice with the Commissioner at the address shown above at least 45 days before the start of the hearing. The notice must contain the employees' names, addresses, authorized employee representatives, if any, and a statement that they are affected employees of the cited employer.

Employer Discrimination Unlawful - Employees who believe that they have been discharged or otherwise discriminated against by any person because the employees have exercised any right authorized under the provisions of Minnesota Statutes §§ 182.65 to 182.674, may, within 30 days after such alleged discrimination occurs, file a complaint with the Commissioner of the Department of Labor and Industry at the address shown above, alleging the discriminatory act.

PENALTY INFORMATION

Types of Violations - There are 5 types of violations that may be cited by MNOSHA. They are: Nonserious, Serious, Willful, Repeat and Failure to Abate.

Penalties - In cases not involving the death of an employee, the law allows the following maximum penalties: Nonserious, \$16,131; Serious, \$16,131; Willful, \$161,323; Repeat, \$161,323; and Failure to Abate, \$16,131 per day the violation remains unabated. If a Willful or Repeat violation caused or contributed to the death of an employee, however, MNOSHA is compelled by law to assess the employer a total non-negotiable penalty of at least \$50,000 for all citations connected to the employee's death. If there are no Willful or Repeat violations among the violations that caused or contributed to the employee's death, MNOSHA must assess the employer a non-negotiable penalty of at least \$25,000 for each citation connected to the employee's death. The following violations are not subject to these minimums and will be processed according to MNOSHA's ordinary penalty system: (a) any serious violations issued to an employer with fewer than 50 employees when the victim of a workplace fatality owned a controlling interest in the business unless the Commissioner determines that a fine shall be assessed, and (b) any violations found during a fatality investigation but determined not to be connected to the death of an employee.

Credits - A penalty for a violation may be credited by as much as 95 percent, depending on the employer's good faith (up to 30%), size of business (up to 55%), and previous violation history (up to 10%). The penalties which appear on the Citation and Notification of Penalty have been reduced by the credits described.

Minnesota
Department of Labor and Industry
2/18/2025
Occupational Safety and Health Division

Inspection Number: 318216561
Inspection Date(s): 2/6/2025 -

Issuance Date: 2/28/2025
OSHI ID: G3073
Optional Report No.: 00825

Citation and Notification of Penalty

Company Name: Lexdan Automotive Inc
Inspection Site: 2610 Hwy 61 N Suite 100, Maplewood, MN 55109

Citation 01 Item 001

Type of Violation: **Repeat**

29 CFR 1910.28(b)(3)(ii): The employer did not ensure that each employee was protected from tripping into or stepping into or through any hole that was less than 4 feet (1.2 m) above a lower level by covers or guardrail systems:

Exposed floor holes for the exhaust system and the metal floor grating for the floor drains in the service area were not covered or guarded.

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employers signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that abatement is complete, (i.e., pictures, receipts, etc.).

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employer's signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that the abatement is complete, (i.e., pictures, receipts, etc.).

Date By Which Violation Must Be Abated: 3/24/2025
Penalty: \$3,500.00

Minnesota
Department of Labor and Industry
2/18/2025
Occupational Safety and Health Division

Inspection Number: 318216561
Inspection Date(s): 2/6/2025 -
Issuance Date: 2/28/2025
OSHI ID: G3073
Optional Report No.: 00825

Citation and Notification of Penalty

Company Name: Lexdan Automotive Inc
Inspection Site: 2610 Hwy 61 N Suite 100, Maplewood, MN 55109

Citation 02 Item 001

Type of Violation: **Serious**

Minn. Stat. 182.676: The employer did not establish and administer a joint labor-management safety committee which holds regularly scheduled meetings and has employee members selected by the employees:

The employer did not establish and administer a joint labor-management safety committee.

Date By Which Violation Must Be Abated: 3/24/2025
Penalty: \$350.00

Minnesota
Department of Labor and Industry
2/18/2025
Occupational Safety and Health Division

Inspection Number: 318216561
Inspection Date(s): 2/6/2025 -
Issuance Date: 2/28/2025
OSHI ID: G3073
Optional Report No.: 00825

Citation and Notification of Penalty

Company Name: Lexdan Automotive Inc
Inspection Site: 2610 Hwy 61 N Suite 100, Maplewood, MN 55109

Citation 02 Item 002

Type of Violation: **Serious**

29 CFR 1910.22(a)(2): When wet processes were used, drainage was not maintained and, to the extent feasible, dry standing places, such as false floors, platforms, and mats were not provided:

The employer did not ensure floors were maintained in a clean, dry condition. Specifically, floors throughout the automotive maintenance and repair shop area were wet.

Date By Which Violation Must Be Abated: 3/24/2025
Penalty: \$1,400.00

Minnesota
Department of Labor and Industry
2/18/2025
Occupational Safety and Health Division

Inspection Number: 318216561
Inspection Date(s): 2/6/2025 -

Issuance Date: 2/28/2025
OSHI ID: G3073
Optional Report No.: 00825

Citation and Notification of Penalty

Company Name: Lexdan Automotive Inc
Inspection Site: 2610 Hwy 61 N Suite 100, Maplewood, MN 55109

Citation 02 Item 003

Type of Violation: **Serious**

29 CFR 1910.303(b)(7)(iv): Damaged electrical parts that may adversely affect the safe operation of the equipment, were left in service.

The 120-volt electrical receptacle plug on the bottom right of the 4-plug junction box was damaged.

Date By Which Violation Must Be Abated: 3/24/2025
Penalty: \$1,750.00

Minnesota
Department of Labor and Industry
2/18/2025
Occupational Safety and Health Division

Inspection Number: 318216561
Inspection Date(s): 2/6/2025 -

Issuance Date: 2/28/2025
OSHI ID: G3073
Optional Report No.: 00825

Citation and Notification of Penalty

Company Name: Lexdan Automotive Inc
Inspection Site: 2610 Hwy 61 N Suite 100, Maplewood, MN 55109

Citation 03 Item 001

Type of Violation: **NonSerious**

Minn. Rules 5206.0700 subp. 1(G): Right- to-Know training was not conducted at the required frequency:

The employer did not provide annual right to know training to employees who were exposed to hazardous substances such as Napa Asian Vehicle Premix Antifreeze/Coolant and Carbon monoxide from automobiles driving in and out of the garage.

Abatement Guidelines: The following is the minimum frequency of training:

- 1) before the initial assignment to a job where the employee may be routinely exposed to a hazardous chemical, harmful physical agent or an infectious agent;
- 2) before the time an employee may be exposed to any additional hazardous chemical, harmful physical agents, or infectious agents; and
- 3) training updates, to be provided no less than annually.

Date By Which Violation Must Be Abated: 3/24/2025
Penalty: \$350.00

Nicole Blissenbach, Commissioner
MN Department of Labor and Industry

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Dennis Keskin, Owner
Lexdan Automotive Inc
2610 Hwy 61 N Suite 100
Maplewood, MN 55109
318216561 G3073 00825



9590 9402 8435 3156 2511 24

2. Article Number (Transfer from service label)

7017 1000 0000 0869 0841

PS Form 3811 July 2020 PSN 7530-02-000-9052

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

3-3-25

Address different from item 1? ☐ Yes
delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Delivery Restricted Delivery
☐ Registered Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

EXHIBIT B

Past due and Reviewed by G3073, see
Minnesnotes.
Department of Labor and Industry

Occupational Safety and Health Division
443 Lafayette Road North
St. Paul, MN 55155-4307

Phone: 1-800-DIAL-DLI (1-800-342-5354)
(651) 284-5050
FAX: (651) 284-5741
www.dli.mn.gov

Inspection Number 318216561	OSHI ID G3073	Optional Report No.: 00825
Employer's Name and Mailing Address: Dennis Keskin, Owner Lexdan Automotive Inc 2610 Hwy 61 N Suite 100 Maplewood, MN 55109 318216561 G3073 00825		

MAR 25 2025

MINNESOTA OSH DIVISION

NOTICE OF CONTEST AND SERVICE TO AFFECTED EMPLOYEES

PURPOSE OF THIS FORM

If you have received a Citation and Notification of Penalty from the Minnesota Occupational Safety and Health Division (MNOSHA) and you wish to contest any part of the Citation, including the penalty, you must complete this form. For your contest to be valid, you must file this form within 20 calendar days of the date the employer received the Citation.

If you only wish to obtain an extension of time to correct the violation, you may file a Petition for Modification of Abatement Date according to the instructions on the Citation and Notification of Penalty.

By filing this Notice of Contest form, you are initiating a formal contested case proceeding before an administrative law judge of the parts of the Citation and Notification of Penalty you are contesting. This form must be filed in good faith and not solely for delay or avoidance of penalties.

HOW TO FILE THIS FORM

- This Notice of Contest form must be filed with the Commissioner of the Department of Labor and Industry at the above address within 20 calendar days after the date the employer received the Citation and Notification of Penalty. To be considered filed, all parts of the Notice of Contest form must be completed and the completed form must be mailed and postmarked, within 20 calendar days after the date the employer received the Citation and Notification of Penalty. You may also file electronically at contestation.dli@state.mn.us, by facsimile (FAX), or by hand-delivering the completed form to the Department, if received no later than 4:30 p.m. on the 20th calendar day.
- If you fail to file the fully completed Notice of Contest form on time, the Citation and Notification of Penalty becomes a final order of the Commissioner that is not subject to review by any court or agency.

APPEAL PROCESS

Upon receipt of a timely filed Notice of Contest form, MNOSHA will contact you and schedule a date, time and location for an informal conference. The purpose of the informal conference is to allow you to discuss with a MNOSHA representative the Citation and Notification of Penalty and the basis for your contest. The goal of the informal conference is to reach an early resolution of the contest. If you and MNOSHA are unable to reach a resolution at the informal conference then the contest will proceed to a formal contested case hearing.

COMPLETING THIS FORM

1. HOW TO IDENTIFY THE INSPECTION BEING CONTESTED.

Complete the box at the top of this form using the Inspection Number, OSHI ID, Optional Report Number and Employer's Mailing Address from the Citation and Notification of Penalty being contested.

2. HOW TO CONTEST THE CITATION AND NOTIFICATION OF PENALTY.

Indicate in the boxes on the next page which part(s) of the Citation and Notification of Penalty you wish to contest. Identify the citations you are contesting by indicating the citation and item numbers. Then indicate which part(s) of each item is being contested. Finally, state your reasons for contesting in the space provided below the boxes.

- Check the box CITATION if you wish to contest that the violation occurred.
- Check the box TYPE OF VIOLATION if you wish to contest the characterization of the violation as non-serious, serious, willful or repeat.
- Check the box ABATEMENT DATE if you wish to contest the date by which you must abate the violation.
- Check the box PENALTY if you wish to contest the amount of the penalty.

FAILURE TO CHECK ANY PART WILL RESULT IN THAT PART OF THE CITATION BECOMING A FINAL ORDER OF THE COMMISSIONER THAT IS NOT REVIEWABLE BY ANY COURT OR AGENCY.

CITATION NUMBER	ITEM NUMBER	(check all that apply)			
01	001	<input checked="" type="checkbox"/> Citation	<input checked="" type="checkbox"/> Type of Violation	<input checked="" type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
02	001	<input checked="" type="checkbox"/> Citation	<input checked="" type="checkbox"/> Type of Violation	<input checked="" type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
02	002	<input checked="" type="checkbox"/> Citation	<input checked="" type="checkbox"/> Type of Violation	<input checked="" type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
02	003	<input checked="" type="checkbox"/> Citation	<input checked="" type="checkbox"/> Type of Violation	<input checked="" type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
03	001	<input checked="" type="checkbox"/> Citation	<input checked="" type="checkbox"/> Type of Violation	<input checked="" type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
		<input type="checkbox"/> Citation	<input type="checkbox"/> Type of Violation	<input type="checkbox"/> Abatement Date	<input type="checkbox"/> Penalty

REASONS FOR CONTEST: (Additional sheets may be attached as necessary, and they will be considered part of this form.)

01 - 001 At the time of inspection some of the exhaust outlet holes were closed with caps. Some were open because of the mechanics continuously working on the vehicles by the hoists. At such times holes are open because of activity of the usage. opening of the holes are in 3 inch in diameter. Abated on 3/19/25 See pictures

3. DATES OF POSTING AND SERVING. You must certify in Box A or B below the dates you posted and served this form.

A. Union: Complete part A if you have affected Employees Represented by Authorized Employee Representatives

I hereby certify that I posted fully completed copies of this form on _____ (date) at the locations where the Citation and Notification of Penalty is required to be posted; and I served fully completed copies of this form on _____ (date) upon the authorized employee representatives of affected employees.

B. Non-Union: Complete part B if you have affected Employees Not Represented by Authorized Employee Representatives

I hereby certify that I posted fully completed copies of this form on 3-5-25 (date) at the locations where the Citation and Notification of Penalty is required to be posted and that I do not have any affected employees who are represented by authorized employee representatives.

4. OATH. The employer completing this form must sign and have notarized the following statement.

I SWEAR THAT THE INFORMATION PROVIDED ON THIS FORM AND ATTACHED TO THIS FORM IS ACCURATE AND TRUTHFUL TO THE BEST OF MY KNOWLEDGE.

State of MN County of WASHINGTON

DENNIS KESKIN President 651.484.0551
Name of Employer Representative, Title Phone

Subscribed and sworn to before me

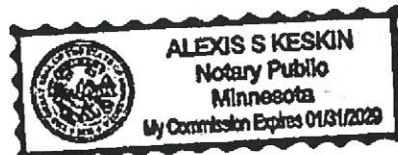
this 21 day of MARCH

Notary Public ALEXIS KESKIN

My Commission expires 01/31/2029

Signature

Date



Jones, Tonya (DLI)

From: Dennis Keskin-Lexdan Automotive <dennis@lexdanauto.com>
Sent: Monday, March 24, 2025 4:45 PM
To: Moltzan, Greg (DLI); Progress, Citation (DLI)
Subject: Re: RE: RE: MNOSHA #318216561 - G3073 Lexdan Automotive inc contest and abatements
Attachments: OSHA.pdf; IMG_2047.JPG; IMG_2048.JPG; IMG_2049.JPG; IMG_2050.JPG; IMG_2051.JPG; IMG_2052.JPG

Re: RE: RE: MNOSHA #318216561 - G3073 Lexdan Automotive inc contest and abatements. Fifteen pages are attached.

Dennis Keskin
Lexdan Automotive
2610 Maplewood DR.
Maplewood MN.55109

WWW.LEXDANAUTO.COM

Phone 651 484 0551

Fax 651 484 0557

Business Hours
Monday-Thursday : 9am - 7pm
Friday : 9am - 6pm
Saturday : 9am - 5pm
Sunday Closed

From: Moltzan, Greg (DLI) (Greg.Moltzan@state.mn.us)
Date: 03/20/25 12:09
To: Dennis Keskin-Lexdan Automotive (dennis@lexdanauto.com)
Subject: RE: RE: MNOSHA

Hi Dennis,

The certified delivery card we have says you received the package on 3/3/2025, your package (example on page 6) puts the end of your 20 Calander days at 3/24/2025.

Gregory Moltzan

Safety Investigator

Minnesota Department of Labor and Industry

443 Lafayette Road N., St. Paul, MN 55155

Phone: 651-284-5461 | Cell: 651-706-2759

Web: www.dli.mn.gov



From: Dennis Keskin-Lexdan Automotive <dennis@lexdanauto.com>

Sent: Thursday, March 20, 2025 10:51 AM

To: Moltzan, Greg (DLI) <Greg.Moltzan@state.mn.us>

Subject: Re: RE: MNOSHA

What is the last day to contest for the citations (20 Calendar days) ? The envelope I have shows the sent date of 2/28/2025 but does not show the received/signed date by Lexdan Automotive.

USPS does not show anything on the web site either .

Dennis Keskin

Lexdan Automotive

2610 Maplewood DR.

Maplewood MN.55109

WWW.LEXDANAUTO.COM

Phone 651 484 0551

Fax 651 484 0557

Business Hours

Monday-Thursday : 9am - 7pm

Friday : 9am - 6pm

Saturday : 9am - 5pm

Sunday Closed

----- Original Message -----

From: Moltzan, Greg (DLI) (Greg.Moltzan@state.mn.us)

Date: 03/19/25 10:00

To: Dennis Keskin-Lexdan Automotive (dennis@lexdanauto.com)

Subject: RE: MNOSHA

Hi Dennis,

I would say talk to the building owner and see what options you have for abatement (repair/replace). You can use the PMA form in your package to request additional time to our administrative email account if you need it. Please let me know if you have any other questions.

Gregory Moltzan

Safety Investigator

Minnesota Department of Labor and Industry

443 Lafayette Road N., St. Paul, MN 55155

Phone: 651-284-5461 | Cell: 651-706-2759

Web: www.dli.mn.gov

mn DEPARTMENT OF
LABOR AND INDUSTRY

Certificate of Service

I, MICHAEL GRAY, hereby declare that in the City of St. Paul, County of Ramsey and State of Minnesota on the 9th day of April, 2025, I served the attached FINAL ORDER DETERMINING LATE FILING by depositing in the United States mail with postage prepaid a true and accurate copy of it, properly enveloped, and addressed to:

Dennis Keskin
Lexdan Automotive, Inc.
2610 Highway 61 North
Suite 100
Maplewood, MN 55109

Lexdan Automotive, Inc.
2610 MAPLEWOOD DR N
MAPLEWOOD, MN 55109-1231

I am signing this document in Ramsey County, Minnesota on the 9th day of April, 2025. Pursuant to Minn. Stat. § 358.116, I declare under penalty of perjury that everything I have stated in this document is true and correct.

Michael Gray
Michael S. Gray

1. I, MICHAEL GRAY, hereby declare that at the City of St. Paul, County of Ramsey and State of Minnesota on the 22nd day of May, 2025, I served the attached RESPONSE TO PETITION TO VACATE, by depositing in the United States mail, a true and accurate copy thereof, properly enveloped, with postage prepaid, and addressed to:

Dennis Keskin
Lexdan Automotive, Inc.
2610 Highway 61 North - Suite 100
Maplewood, MN 55109

Lexdan Automotive, Inc.
2610 MAPLEWOOD DR N
MAPLEWOOD, MN 55109-1231

2. I, MICHAEL GRAY, hereby declare that at the City of St. Paul, Ramsey County, and State of Minnesota, on the 22nd day of May, 2025, I served the attached RESPONSE TO PETITION TO VACATE, on Peggy Charpentier, Executive Secretary to the OSH Review Board, by personally handing and leaving with her a true and correct copy thereof.

I am signing this document in Ramsey County, Minnesota on the 22nd day of May, 2025. Pursuant to Minn. Stat. § 358.116, I declare under penalty of perjury that everything I have stated in this document is true and correct.

Michael Gray
Michael Gray