

## Minutes: Occupational Safety and Health Review Board, June 2, 2023, 10 a.m.

### Call to order

- Board members present: Chair Robert Sogla; board members David Lillback and Christopher Strand; a quorum was met.
- Also present:
  - Erik Johnson, assistant attorney general, counsel for the board;
  - Scott A. Grosskreutz, assistant attorney general, counsel for Minnesota OSHA (MNOSHA);
  - Peggy Charpentier, executive secretary for the Occupational Safety and Health Review Board (OSHRB);
  - Deb Jevne, Minnesota Department of Labor and Industry (via Microsoft Teams);
  - Aaron Dean, attorney for S.M. Hentges and Sons;
  - Adam Schmitz, safety director for S.M. Hentges and Sons;
  - John Sickler, employee of S.M. Hentges and Sons;
  - Richard Jensen, attorney for Classic Protective Coatings;
  - Ali Afsharjavan, attorney for MNOSHA;
  - Laura Zajac, Minnesota Department of Labor and Industry;
  - Ryan Anderson, Minnesota Department of Labor and Industry;
  - Ben Lassell, Minnesota Department of Labor and Industry;
  - Madeline Davis;
  - Erin Ruprecht; and
  - Erik Smith.

### Approval of agenda

- A motion was made to approve the agenda by Robert Sogla, seconded by David Lillback. The board voted unanimously to approve the agenda.

### Approval of minutes

- A motion to approve the Dec. 3, 2021, Occupational Safety and Health Review Board meeting minutes was made by Robert Sogla, seconded by David Lillback.

## New business

- Commissioner v. S.M. Hentges and Sons, OAH docket 60-1901-36894
  - Scott A. Grosskreutz presented oral argument on behalf of the appellant.
  - Aaron Dean presented oral argument on behalf of the respondent.
- Commissioner v. Classic Protective Coatings, federal inspection: 318167012
  - Richard Jensen presented oral argument on behalf of the petitioner.
  - Ali Afsharjavan presented oral argument on behalf of MNOSHA.
- Commissioner v. M. Miller Excavating of Hastings L.L.C., federal inspection: 318175247
  - No appearance was made by or on behalf of the petitioner.
  - Ali Afsharjavan presented oral argument on behalf of MNOSHA.
- Commissioner v. LUX Construction L.L.C., federal inspection: 318168796
  - No appearance was made by or on behalf of the petitioner.
  - Ali Afsharjavan presented oral argument on behalf of MNOSHA.
- Commissioner v. E&T Cleaning Service L.L.C., federal inspection: 318180601
  - No appearance was made by or on behalf of the petitioner.
  - Ali Afsharjavan presented oral argument on behalf of MNOSHA.

## Closed session

## Open session

- Commissioner v. S.M. Hentges and Sons, OAH docket 60-1901-36894
  - Motion to reverse and remand to administrative law judge for further findings without regard to evidence that was not part of the hearing record by Christopher Strand; seconded by David Lillback. The board voted. The motion passed unanimously.
- Commissioner v. Classic Protective Coatings, federal inspection: 318167012
  - Motion to deny petition to vacate by David Lillback; seconded by Christopher Strand. The board voted. The motion passed unanimously.
- Commissioner v. M. Miller Excavating of Hastings L.L.C., federal inspection: 318175247
  - Motion to deny petition to vacate by David Lillback; seconded by Christopher Strand. The board voted. The motion passed unanimously.
- Commissioner v. LUX Construction L.L.C., federal inspection: 318168796
  - Motion to deny petition to vacate by David Lillback; seconded by Christopher Strand. The board voted. The motion passed unanimously.
- Commissioner v. Commissioner v. E&T Cleaning Service L.L.C., federal inspection: 318180601
  - Motion to consider the petition at the next meeting by David Lillback; seconded by Christopher Strand. The board voted. The motion passed unanimously.

## Approval of adjournment

- There was a motion to adjourn by Robert Sogal, seconded by Christopher Strand. The board voted unanimously to adjourn and the meeting was adjourned.