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OSHA Has Authority To Seek Enterprise-Wide Relief

An Administrative Law judge has decided that the Occupational Safety and Health Review Commission may have authority order abatement measures sought by the OSHA beyond the specific violations OSHA identified in its citations. *Sec'y. v. Central Transport, LLC*, OSHRC Docket Nos. 14-1452, 14-1612, and 14-1934 (December 7, 2015).

OSHA cited Central Transport, LLC for 14 violations of workplace safety and health standards at the freight hauler's Massachusetts shipping terminal. A total of \$330,800 in fines was proposed. Central Transport filed a notice of contest, and litigation commenced. According to the Department of Labor's News Release (https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=NEWS_RELEASES&p_id=29334), it alleged that Central Transport failed to comply with the OSHA standards for the safety of powered industrial trucks at locations other than the inspected worksite and requested an order compelling Central Transport to comply with the powered industrial truck standard at all its locations. Central Transport in response filed a motion asking the commission to strike the department's claim for enterprise-wide abatement, arguing that the Occupational Safety and Health Act does not permit it.

Administrative Law Judge Carol A. Baumerich denied Central Transport's motion, holding that the Occupational Safety and Health Act's provision authorizing the remedy of "other appropriate relief" provides the basis for allowing the department's claim for enterprise-wide abatement, "at all locations where like violations exist, to proceed to trial." Judge Baumerich's order is significant and precedent-setting. This is the first decision by an OSHA Administrative Law Judge expressly finding that the Review Commission may have the authority under the OSH Act to order abatement measures beyond the specific violations identified in the citations.

The decision in this case is important for companies who operate multiple workplace locations. Central Transport operates nearly 200 service centers and facilities in the country. Where an employer has hazards occurring at multiple worksites, OSHA may now have the authority to require abatement for those worksites even where they have never been inspected or cited.