

ROOFERS[®]
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WEBINAR SERIES



RLW
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Know Your Rights

OSHA: Know Your Rights

Presented by

Trent Cotney, Partner, Adams and Reese

Moderated by

Heidi J. Ellsworth, RCS President



Trent Cotney

TODAY'S PRESENTER

Since 1999, Trent Cotney of Adams & Reese LLP, has dedicated himself to serving the roofing industry. Trent specializes in roofing litigation and arbitration, including defending roofers on construction defect claims, prosecuting lien and bond law claims, defending OSHA citations, contractor licensing defense, and bid protests. In addition, Trent Cotney reviews and drafts hundreds of roofing-related contracts a year for roofing contractors, suppliers, manufacturers, and others in the industry. He is the General Council for NRCA, WSRCA, FRSA and many more roofing and contracting associations.



Preparing for OSHA

OSHA Inspections

- Employee safety
- Fines
- Costly injuries
- Reputation management
- Insurance rates



Safety Manuals

Key Documentation

- Safety manuals in English & Spanish
- Safety enforcement
- Evidence of ongoing training
- Safety audits
- OSHA 10 and 30 courses



Compliance Credentials

The Inspection Process

- Compliance officer's credentials
- Walk around inspection
- Employer conduct
- Employee conduct
- Closing conference



Informal Conference

Citation Action Steps

- Train your crew
- Obtain copy of proposed citation
- Verify date
- Schedule informal conference
- Post the citation



Violations

Serious, Repeat & Criminal Penalties

- OSHA violation categories
- Repeat violations
- Factors influencing penalties
- Criminal penalties



Not Confidential

Informal Conference

- Schedule prior to deadline
- Not confidential
- Bring supporting documentation
- Fact gathering



Service of Complaint

Notice of Contest

- Specific identification of citation
- Certified mail
- Accept service of complaint
- Notice of Contest
- Review commission



Simplified Proceedings

- Simple issues of fact and law
- No pleadings or discovery allowed
- Can be difficult to get all evidence

Issues of Fact and Law



Burden of Proof

Conventional Proceedings

- Administrative judge
- Civil federal trial similarity
- Form of documents
- The compliant
- Pre-hearing procedures and discovery
- Burden of proof



Burden of Proof

Navigating OSHRC Proceedings

- Pre-hearing procedures and discovery
- Burden of proof
- OSHA must prove preponderance of evidence
- Equal access to justice act



Nature of Violation

Affirmative Defenses

- OSHA citation
- Nature of violation
- Reasonable time notification
- File complaint no later than 20 days



Employee Conduct

Unpreventable Employee Misconduct

- Most used affirmative defense
- Written work rule in understandable language
- Evidence of work rule communication
- Systematic and regular audits
- Tiered system of discipline



OSHA Questions

Questions?

Trent Cotney
Trent.Cotney@arlaw.com



Thank You!

ADAMS AND REESE LLP

Thank You Adams and Reese!



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