## **COFFEE SHOP=** WEBINAR SERIES



O CONSTRUCTIO

19041 541



**Know Your Rights** 

## **OSHA:** Know Your Rights

#### Presented by

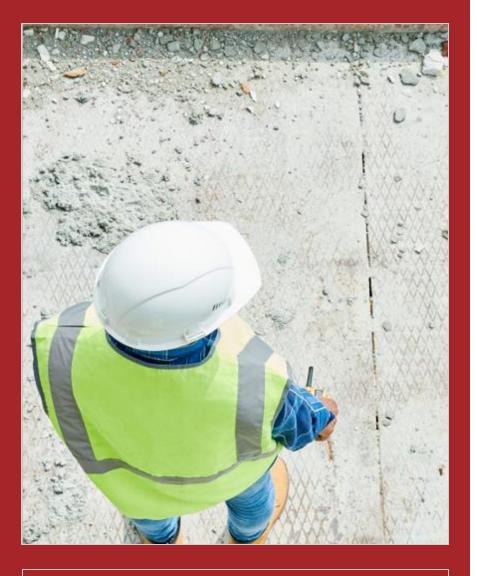
Trent Cotney, Partner, Adams and Reese <u>Moderated by</u> Heidi J. Ellsworth, RCS President



#### 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

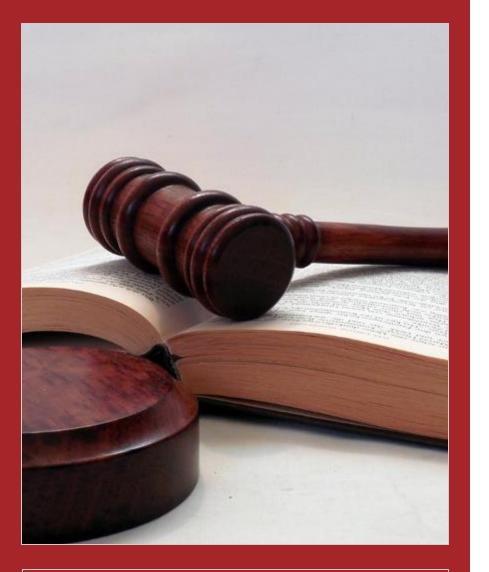
- Safety manuals in English & Spanish
- Safety enforcement
- Evidence of ongoing training
- Safety audits
- OSHA 10 and 30 courses



**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

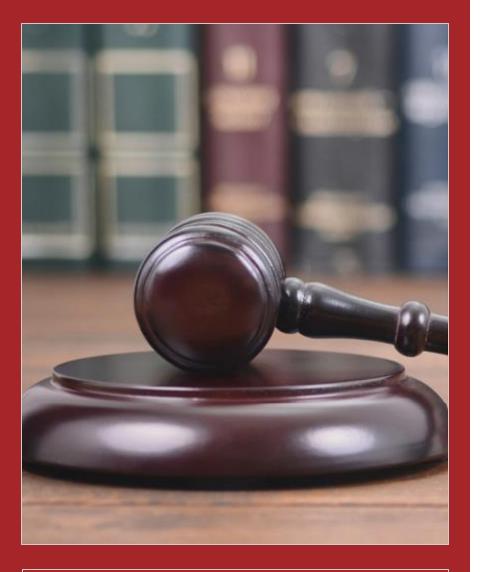
- OSHA violation categories
- Repeat violations
- Factors influencing penalties
- Criminal penalties



Not Confidential

### Informal Conference

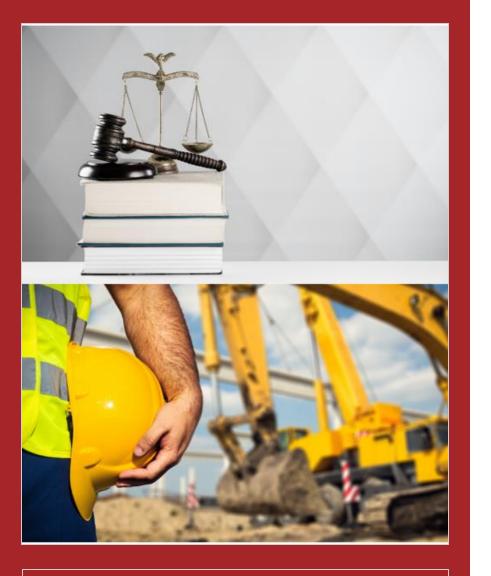
- Schedule prior to deadline
- Not confidential
- Bring supporting documentation
- Fact gathering



Service of Complaint

#### Notice of Contest

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



Issues of Fact and Law

### **Simplified** Proceedings

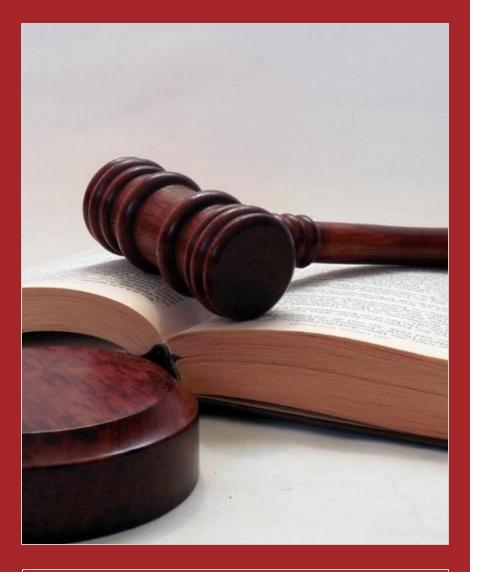
- Simple issues of fact and law
- No pleadings or discovery allowed
- Can be difficult to get all evidence



**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

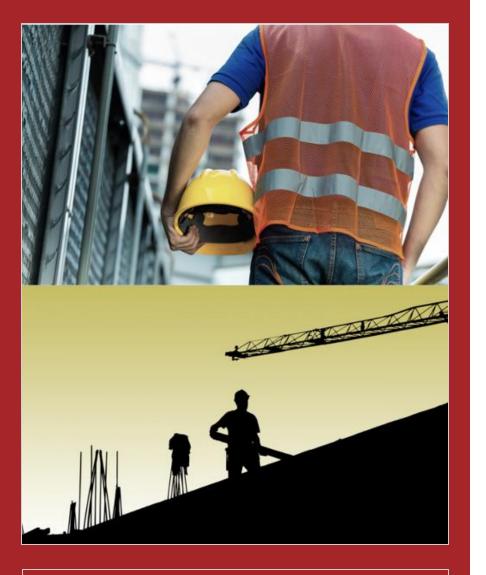
- Pre-hearing procedures and discovery
- Burden of proof
- OSHA must prove preponderance of evidence
- Equal access to justice act



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



#### Questions?

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Thank You Adams and Reese!

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#### Adams and Reese ${\scriptstyle \text{LLP}}$



For more information on future installments of our RCS RLW Series or to watch this webinar please visit our site at: <u>https://www.rooferscoffeeshop.com/read-listen-watch</u>