



# You Have to Be Kidding Me! OSHA Is Here and They Want to Inspect Our Project?

*Presented by*  
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## The Inspection



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## The Opening Conference

- **Require a warrant?**
- **Company representatives**
- **Legal counsel**



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## The Actual Inspection

- **Remain cordial and cooperative**
- **Follow the inspector**
- **Begin a written log of the inspection**

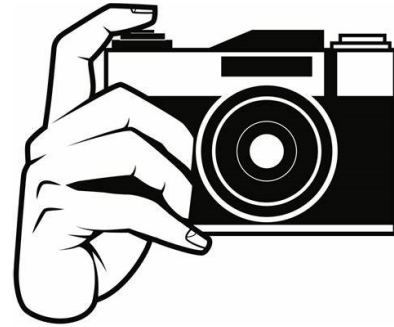


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## The Actual Inspection

- Take the same photos as the inspector
- Conduct concurrent measuring utilizing company equipment
- Do not volunteer information – avoid admissions



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## The Actual Inspection

- Correct obvious violations
- Provide documents requested by OSHA
- You may identify areas as protected and request information be kept confidential



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## Employee Interviews

- These interviews are privileged
- Interview your employees first
- Focus on employee training

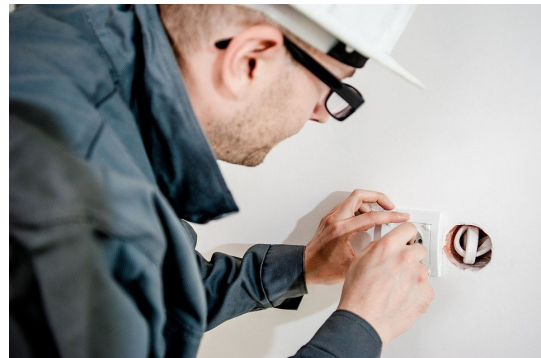


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## The Closing Conference

- Learn what the inspector observed
- Learn suggestions for correcting any violation and the abatement date
- Take notes and don't argue – the time to argue comes later



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## New Maximum Penalty Amounts

- Apply to citations issued after August 1, 2016
- Adjusted Annually
- 2022 Serious violations: \$14,502 (was \$7,000)
- 2022 Repeat and willful violations: \$145,027 (was \$70,000)



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## Issuance and Response to Citation

- The citation must be issued within 180 days of the initial inspection
- Employers have 15 working days after receipt of the citation to file a Notice of Contest
- It is strongly encouraged to attend the informal conference

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## At the Hearing – OSHA's Burden of Proof

- OSHA Standards - *Prima Facie* Case
  - The cited standard applies;
  - There was a failure to comply with the cited standard;
  - Employees had access to the violative condition; and
  - The cited employer either knew or could have known of the condition with the exercise of reasonable diligence.

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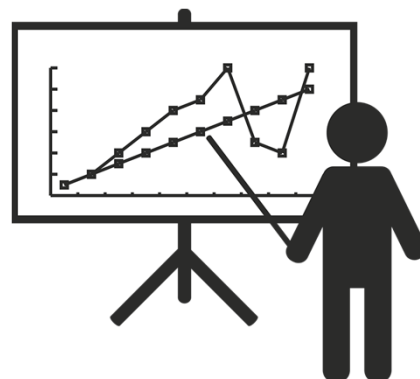


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## The Unforeseeable Employee Misconduct Defense

You must have the following:

- Work rule
- Training
- Self-Inspections
- Effective Discipline



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## First Element: Work Rules

- Consider your safety manual
- Language
- Acknowledgment of receipt



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## Second Element: Training

- Document!
- Consider toolbox talks or weekly/monthly safety meetings
- Identify the topics covered
- Focus on most common hazards
- Create an attendance sheet
- Provide re-training when necessary



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## Third Element: Job Site Audits

- Self-inspections
  - Random
  - Document!
  - Frequency
    - Who's in charge?



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## Fourth Element: Discipline

- Effectiveness
- Be prompt
- Document!



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## The Informal Conference

- Scheduling
- Objective
- Preparation
- Attendees



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## The Notice of Contest

- Must be filed with the area office within 15 working days of receipt of the citation
- You can contest the citation in its entirety or only contest the abatement period and penalty amount(s)
- Attending the informal conference does not toll the 15-day period

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## After the Notice of Contest

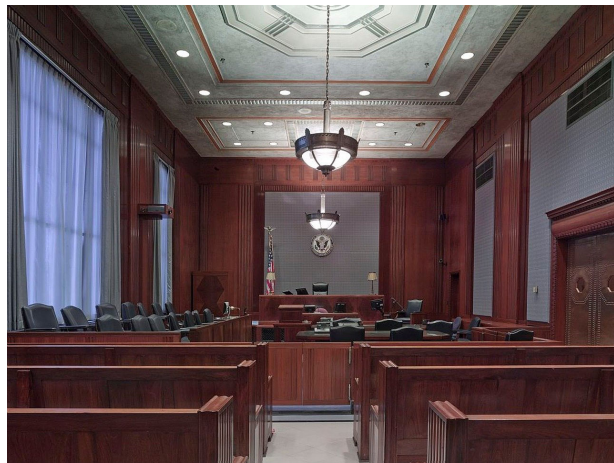


- Once contested, the case is docketed with the OSHRC
- A formal lawsuit, or “Complaint”, will be issued
- The employer must file an “Answer”
- An ALJ is assigned
- Settlement discussions and discovery



## The Hearing

- Preparing for the Hearing
- Informal Setting
- The role of the ALJ and the Court Reporter
- Appeals





**Thank You!**

*Presented by*

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**ANY  
QUESTIONS?**



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**Complete the Online Evaluation**



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