



O.S.T.S., Inc.

Occupational Safety Training Systems

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Cal OSHA Citation Defense Success

Below is a sample of cases where O.S.T.S., Inc. was contracted after-the-fact (after the initial Cal OSHA inspection) to defend and negotiate a company's packet of alleged violations.

The cases summarized below are actual cases recently handled by O.S.T.S., Inc. Results described below are not guaranteed and each case settles differently due to significant variations in facts and evidence.

A manufacturing firm in Los Angeles County experienced an employee injury and was inspected by Cal OSHA.

Accident:

An employee was operating an angle grinder when an electrical short circuit occurred. The short-circuit caused an electrical flash which exited the grinder and grounded itself through the employee's leg.

Cal OSHA Inspection findings:

A Cal OSHA inspector investigated the accident and issued citations to the employer for four General violations and three Serious violations totaling \$23,350.

O.S.T.S., Inc. Investigation and Employer Defense:

Upon O.S.T.S. investigation, it was discovered that the employer had no way of knowing about the electrical fault in the grinder based on the specifics of the accident and condition of the tool. The Affirmative employer defense of "Lack of Employer knowledge" was used and the entire case was agreed and settled at the Informal Conference. The results were:

1. Three of the four General violations were modified to a Notice with a penalty amount of \$0.00
2. Two of the three Serious violations were modified to General, changing the combined dollar amount to \$500.00, and;
3. The third and final Serious violations was Withdrawn.

Final Tally:

Four of the seven violations were dismissed,
A Non-admission of Guilt Clause was acquired,
No appeal monies were unnecessarily spent by the employer, and
Total penalties were reduced from \$23,350 to \$625.

A savings of \$22,725 was achieved (97.3% reduction)

A manufacturing firm in Los Angeles County experienced an employee complaint and was inspected by Cal OSHA.

Incident:

An employee called in a complaint to the City Santa Fe Springs regarding lack of enough restrooms for Men and Women at the employer's facility.

Cal OSHA Inspection findings:

A Cal OSHA inspector was referred to the employer's business by the City inspector. Cal OSHA investigated the complaint, conducted a comprehensive inspection, and issued citations to the employer for twelve General violations and four Serious violations totaling \$16,160.

O.S.T.S., Inc. Investigation and Employer Defense:

Upon O.S.T.S. investigation, it was discovered that the employer had some violations within their facility, however, the employer had been making a vigilant "Good Faith" effort to create a safe working environment for its employees. Using various arguments/defenses for the many alleged violations, O.S.T.S., Inc. was successful in settling the entire case at the Informal Conference. The results were:

1. One of the twelve General violations was withdrawn,
2. One of the twelve General violations was reclassified to a Notice at \$0.00 penalty,
3. Seven of the twelve General violations were reduced to zero penalty,
4. The three remaining General violations were reduced to a combined penalty amount of \$310
5. All four of the Serious violations were modified to General, changing the combined dollar amount to \$600.00, and;

Final Tally:

Two of the twelve violations were dismissed,
No appeal monies were unnecessarily spent by the employer, and
Total penalties were reduced from \$16,160 to \$910.

A savings of \$15,250 was achieved (94.3% reduction)

A Distribution firm in Los Angeles County experienced an employee injury and was inspected by Cal OSHA.

Accident:

An employee was operating an industrial truck (forklift) when he accidentally hit a fellow coworker in the ankle with the forklift load as he was trying to pass by on the loading dock. The victim experienced a severely shattered ankle, but eventually healed.

Cal OSHA Inspection findings:

A Cal OSHA inspector investigated the accident and issued citations to the employer for two Regulatory violations and two Serious violations totaling \$25,500.

O.S.T.S., Inc. Investigation and Employer Defense:

Upon O.S.T.S. investigation, it was discovered that the Division (Cal OSHA) did not apply the appropriate discounting scheme and that the Accident-related Serious violation was cited incorrectly. The results were:

1. The two Regulatory violations were reduced to a total of \$600.00.
2. One of the two Serious violations was reduced to a total amount of \$2,700.00 from \$6,750.00, and;
3. The final Serious violation was reclassified to a General due to the Division being made aware that they cited the wrong Section number. The penalty drop from \$18,000 to \$600.

Final Tally:

All four of the violations were reduced and/or reclassified,
A Non-admission of Guilt Clause was acquired,
No appeal monies were unnecessarily spent by the employer, and
Total penalties were reduced from \$25,500 to \$3,900.

A savings of \$21,600 was achieved (84.7% reduction)

A Distribution firm in Los Angeles County experienced a Programmed inspection by Cal OSHA. The Anaheim, High Hazard unit conducted a comprehensive inspection of the facility.

Incident:

The Cal OSHA High Hazard Unit conducts selective, comprehensive inspections of industries categorized into High Hazard operations by Standard Industrial Code (SIC) accident and injury data.

Cal OSHA Inspection findings:

A Cal OSHA inspector arrived on site and conducted a wall-to-wall inspection of the facility and allegedly found three Regulatory, two General and ten Serious violations. These citations totaling \$37,935.

O.S.T.S., Inc. Investigation and Employer Defense:

Upon O.S.T.S. investigation, it was discovered that the employer had some violations within their facility, however, the Division (Cal OSHA) had incorrectly classified MANY of the citations. Using various arguments/defenses for the many alleged violations, O.S.T.S., Inc. was successful in settling the entire case at the Informal Conference. The results were:

1. Two of the Regulatory violations were reduced by a combined amount of \$150 and the third Withdrawn,
2. The two General violations were reduced by a combined amount of \$150,
3. Five of the ten Serious violations were reclassified to General and then four of those 336k'd (reduced to \$0.00), reducing the seven combined violation's penalty amounts from \$23,400 to \$975, and
4. Two of the five remaining Serious violations were 336k'd to a combined total of \$450 and the remaining three Serious were reduced to a combined penalty amount of \$7,875

Final Tally:

Five of the ten Serious violations were reclassified,
No appeal monies were unnecessarily spent by the employer, and
Total penalties were reduced from \$37,935 to \$10,050.

A savings of \$27,885 was achieved (73.5% reduction)

Critical factors in defending a company in the event of citations issued by Cal OSHA include:

- 1.** Having an effective Injury and Illness Prevention Program (IIPP), which includes having documented records of Safety Committee meetings, employee safety training, facility inspections (with corrective actions), accident investigations (if any), and disciplinary action administered to employees for violations of company safety policy.
 - a.** This is critical in aiding in the reclassification, withdraw and “Affirmative Defense” success.

- 2.** Respecting and cooperating with the Cal OSHA Inspector throughout the inspection process
 - a.** This is instrumental in the Division considering maximum “Good Faith” discounting of 15%.

- 3.** Having an experienced and knowledgeable consultant handling your case.
 - a.** This is essential in understanding the technicalities and available defenses which may apply to your case.

Contact O.S.T.S., Inc. to find out how we can help you and your company with its safety efforts.

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