



# HR & BENEFITS UPDATE

## **St. Louis Employer's OSHA Violations Trigger Contempt Order and Penalties**

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*By Cynthia Marcotte Stamer*

The U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) has issued contempt of court orders against Brian Andre, former owner of Andre Tuckpointing and Brickwork (AT&B), Andre Stone and Mason Work Inc. (AS&MW) and Regina Shaw, owner of AS&MW. Now the employers must pay more than \$258,000 in fines and comply with other sanctions.

Under the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees. OSHA enforces these requirements.

The U.S. Court of Appeals for the Eighth Circuit issued the contempt orders against the St. Louis-area company and individuals for failing to comply with court orders enforcing citations of the Occupational Safety and Health Review Commission (OSHRC). From failures to adequately manage workplace safety to its missteps in responding to the accident and subsequent investigation, the employer conduct leading up to the order demonstrates what can happen when employers mishandles its OSHA responsibilities.

The contempt citations stem from numerous citations OSHA issued to AT&B and its successor, AS&MW, for willful, repeat and serious violations related to fall hazards, scaffolding erection deficiencies, power tool guarding and other hazards in connection with multiple projects in the St. Louis area. When the companies failed to comply with a court's order enforcing OSHRC's final order, the Labor Department sought and was granted the contempt orders by the Court. Based on determinations and recommendations of a Special Master to the Court of Appeals, the 8<sup>th</sup> Circuit Court of Appeals found all three parties in contempt, and imposed sanctions. Under the order, Brian Andre, AS&MW and Regina Shaw must pay outstanding monetary penalties, which continue to accrue interest, and other miscellaneous fees, in the current amount of \$258,582.08. AS&MW and Regina Shaw also must pay a \$100 daily penalty, calculated from the time of default, in early 2008, on the OSHRC final order. AS&MW must provide OSHA weekly notification of all current jobs, and known future jobs, at least 72 hours prior to commencement of work for a period of three years. Meanwhile, AS&MW must provide "competent person" training to all people currently and subsequently designated as jobsite "competent persons," prior to beginning any work, and provide the secretary records of such training.

If your organization needs assistance with employment, employee benefit, workplace health and safety, corporate ethics and compliance practices, concerns or claims, please contact the author of this article, Curran Tomko Tarski LLP Labor & Employment Practice Group Chair Cynthia Marcotte Stamer. Board Certified in Labor & Employment Law by the Texas Board of Legal Specialization, Ms. Stamer has more than 22 years experience advising and assisting employers and others about these and other workforce management and compliance matters. She also advises, assists, trains, audits and defends employers and others regarding the federal and state Sentencing Guideline and other compliance, equal employment opportunity, privacy, leave, compensation, workplace safety, wage and hour, workforce reengineering, and other labor and employment and defends related audits, investigations and litigation, charges, audits, claims and investigations by the ICE, IRS, Department of Labor and other federal and state regulators. Ms. Stamer also speaks, writes and conducts training extensively on these and other related matters. For additional information about Ms. Stamer and her experience, see [here](#) or to access other publications by

Ms. Stamer see [here](#) or contact Ms. Stamer directly. For additional information about the experience and services of Ms. Stamer and other members of the Curran Tomko Tarksi LLP team, see [here](#).

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