

**Michigan Department of Labor and Economic Opportunity
Michigan Occupational Safety and Health Administration (MIOSHA)**

MIOSHA General Industry Safety & Health Division

530 West Allegan Street

P.O. Box 30644

Lansing, MI 48909

Phone: (517) 284-7750 Fax: (517) 284-7755

Citation and Notification of Penalty

To: Chitter Chatter P.C. and its successors 1360 Porter St Dearborn, MI 48124	Inspection Number: Inspection Date(s): Issuance Date:	1498416 10/28/2020 - 02/25/2021 04/12/2021
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Inspection Site: 1360 Porter St Dearborn, MI 48124	Reporting ID: CSHO ID: Optional Report Number:	0552652 P3540
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SUMMARY: An inspection at the site noted above has revealed conditions we believe do not comply with the provisions of the Michigan Occupational Safety and Health Act, Act 154, of the P.A. of 1974, as amended (MIOSH Act). The nature of such alleged violation(s) is described on the citation(s) with reference to the applicable standards, rules, regulations, orders and provisions of the Act. Following is a list of items the employer must consider carefully, to resolve the issues alleged in the citation(s). Following this numbered summary is a more detailed explanation of the requirements.

1. The violation(s) alleged in the citation(s) must be corrected on or before the date(s) shown in the line marked "Date By Which Violation Must Be Abated". If the line is marked "Immediately Upon Receipt," the violation must be corrected on or before the date that the citation is received by the employer. If the violation was corrected during the inspection, the line will be marked "Abated." or "Corrected during inspection." Correcting a violation does not eliminate the requirement to pay the penalty nor does payment of the penalty negate having to correct the violation.
2. A copy of the citation(s) must be posted at or near the location of the violation(s) for a minimum of 3 days or until the item(s) have been corrected, whichever is later.
3. Documentation of abatement must be provided to the issuing division. Failure to provide such documentation may result in a follow-up inspection.
4. The employer may enter into a Penalty Reduction Agreement (PRA) that can result in a 50% reduction in any assessed penalties. The employer should apply for a PRA online at www.michigan.gov/mioshapra within 5 workdays upon receiving a citation(s) if interested. An employer without access to a computer may contact the issuing division to request a PRA.
5. The employer may file a first appeal for modification or dismissal of a citation item and/or any proposed penalty or request an extension of time for abatement. **The appeal must be in writing and be postmarked within 15 workdays of receipt (workday is defined below).** The first appeal can also result in a penalty reduction of up to 50%. If an appeal is untimely, the citation(s) become a Final Order of the Board of Health and Safety Compliance and Appeals (Board) and is no longer subject to review by the issuing division. An employee or employee representative may appeal abatement dates.
6. Except under a PRA monetary penalties must be paid within 15 workdays of a citation becoming a Final Order of the Board.
7. The employer may file a request for an extension of time to abate a citation(s) that has become a Final Order of the Board. Such a request must be in writing and received or post marked no later than 1 working day following the abatement date.
8. It is unlawful to discriminate against an employee for exercising any of their rights under MIOSHA.

Note: As defined in statutes, "workday" or "working day" means any day other than a Saturday, Sunday, or state legal

holiday. The state legal holidays are:

January 1, New Year's Day
The third Monday in January, Martin Luther King, Jr. Day
February 12, Lincoln's birthday
The third Monday of February, Washington's birthday
The last Monday of May, Memorial or Decoration Day
July 4, Independence Day
The first Monday in September, Labor Day
The second Monday in October, Columbus Day
November 11, Veterans' Day
The fourth Thursday of November, Thanksgiving Day
December 25, Christmas Day

Please note whenever January 1; February 12; July 4; November 11; or December 25 fall on a Sunday, the next Monday following is deemed a public holiday (non-working day) for appeal purposes. However, there is no compensating day when one of the five dated holidays falls on a Saturday. Also, when computing the 15 working days, you do not count the date on which it is received; you start with the next working day. Additionally, the count is based on when the citation was received at the employer's location, not when it got to any particular person or office at the employer's location.

I–CITATIONS: The nature of the alleged violation(s) is described on the enclosed citation(s). These conditions must be corrected on or before the date(s) shown in the line marked "Date By Which Violation Must Be Abated." The issuing division may be contacted by telephone at the number indicated on the front of the citation for the purpose of discussing any issues related to the inspection or citation(s).

A copy of the citation(s) must be posted at or near the location of the violation for a minimum of 3 days or until the items have been corrected, whichever is later. The MIOSH Act provides for civil penalties of up to \$7,000 for each violation for failure to comply with posting requirements.

When compliance is achieved, a copy of the citation must be signed and returned to the issuing division along with documentation of abatement.

Documentation of abatement for citation items originally classified as "serious," "repeat," "fail-to-abate," "willful," or "instance-by-instance," require documentation as deemed appropriate by the issuing division. Examples of documentation for these violation classifications are:

- (a) A detailed description of how the violation was abated.
- (b) Work orders or an invoice indicating the corrective work that has been done.
- (c) Photographs of the abated conditions.
- (d) Other forms of conclusive evidence that your employees are no longer exposed to the hazard.

For citation items classified as "other," submitting to the issuing division a signed copy of the citation item indicating the item has been abated is acceptable documentation of abatement. Submitting a document in writing, certifying abatement of the particular citation item is also acceptable for citation items classified as "other."

If the employer does not provide adequate documentation of abatement, a re-inspection may be conducted. Failure to correct an alleged violation within the abatement period may result in new or additional proposed penalties.

Correcting a violation prior to the expiration of the abatement date does not eliminate the requirement to pay the penalty. Payment of the penalty does not eliminate the requirement of correcting the violation.

II–PENALTY REDUCTION: In addition to the appeal rights afforded by the MIOSH Act, the Michigan Occupational Safety and Health Administration has implemented a program for negotiating an expedited settlement of penalties with the employers known as a Penalty Reduction Agreement (PRA). This is a program designed to reach abatement of the hazard at the earliest possible opportunity and reduce the need for formal appeals. The penalty reduction (PRA) can result in a penalty reduction of 50% provided the issuing division and the employer agree to a number of specified conditions. These conditions include an agreement by the employer to accept all of the citations issued and to:

- (a) Not appeal further.
- (b) Abate all items within the abatement period.
- (c) Provide proof of abatement.
- (d) Pay all agreed upon penalties as required (within 15 working days of approval of the PRA.)
- (e) Abide by any other mutually agreed upon actions.

Inspections involving a fatality, the Severe Violator Enforcement Program (SVEP), or willful citations are not

eligible for the program. Construction citations must be confirmed as corrected by the issuing division before a penalty reduction agreement can be approved.

If you are interested in pursuing a PRA, you should apply online at www.michigan.gov/mioshapra **within 5 workdays upon receipt of the citation(s)**, but no later than the 15th workday beyond receipt of the citation(s). If you do not have access to a computer, you should contact the issuing division within the same timeframe to request a PRA. If the employer wishes to accept the conditions stated above and the process can be completed within 15 workdays from receipt, then no appeal need be filed.

III–CITATION APPEAL: An employer may file a first appeal to the issuing division in writing for modification or dismissal of a citation item and/or any proposed penalty or an extension of time for abatement. The first appeal can also result in a penalty reduction of up to 50% providing the issuing division and the employer agree to the conditions (a) through (e) as stated in Section II, PENALTY REDUCTION (above).

An employee or employee representative may appeal in writing the reasonableness of the abatement date(s). The envelope containing an appeal must be postmarked no later than the 15th workday following receipt of the citation.

If a citation is not appealed within 15 workdays of receipt, then the citation becomes a Final Order of the Board of Health and Safety Compliance and Appeals (Board). Final Order citations are not subject to review by the issuing division unless the Bureau of Hearings establishes good cause for the late appeal.

An appeal must specify the item(s) appealed and that portion of the item (e.g., violation, abatement date, penalty) which is being appealed and include a certification that the appeal has been posted or given to affected employees or their representatives. If the issuing division meets with the employer to discuss an appeal, the issuing division will notify the employee representative and allow attendance at the meeting.

The issuing division will notify an employer of its decision within 15 workdays of the receipt of the employer's written appeal. The decision must be posted at the location of the subject citation.

If an employer, employee or employee representative is not satisfied with this decision then they may file a second appeal. The appeal must be in writing and the envelope containing the second appeal must be postmarked within 15 workdays of the receipt of the issuing division's decision on the first appeal. If the issuing division's decision is not appealed then the citation becomes a Final Order of the Board.

IV–PAYMENT OF MONETARY PENALTIES: Unless subject to a PRA, payment must be made within 15 workdays of the date a proposed penalty of a citation becomes a Final Order of the Board. This would be the 30th workday after receipt of each citation item that is not appealed. For payment of a penalty, make a check or money order payable to the "State of Michigan" and remit to the issuing division at the address shown on the citation. Please record the inspection number, citation and item number on the check, money order or transmittal letter.

V–EMPLOYEE DISCRIMINATION: Section 65 of the MIOSH Act, prohibits discrimination by an employer against an employee for filing a complaint or exercising any rights under the MIOSH Act, as amended. If an employee believes that he or she was discharged or otherwise discriminated against as a result of filing a complaint, they may file a complaint with the MIOSHA Employee Discrimination Section within 30 days after the violation occurs.

VI–STATE CONSULTATION EDUCATION AND TRAINING SERVICES: The MIOSHA Consultation Education and Training (CET) Division offers a wide range of services to help businesses with their health and safety practices. CET services include: helping employers create a Safety and Health Management System, seminars and workshops, onsite consultations, hazard surveys, an equipment loan program and information material. The majority of CET services are provided free of charge to Michigan employers and employees. For information on these services, contact the CET Division at (517) 284-7720 or visit their web site at www.mi.gov/miosha.

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Inspection Number: 1498416
Inspection Date(s): 10/28/2020 - 02/25/2021
Issuance Date: 04/12/2021
Optional Reporting Number:

Citation and Notification of Penalty

Company Name: Chitter Chatter P.C. and its successors
Inspection Site: 1360 Porter St, Dearborn, MI 48124

Citation 1 Item 1a

Type of Violation: **Serious**

1910.1200(e)(1): OH PART 430, HAZARD COMMUNICATION [REF 325.77002]

Employers shall develop, implement, and maintain at each workplace, a written hazard communication program which at least describes how the criteria specified in paragraphs (f), (g), and (h) of this section for labels and other forms of warning, safety data sheets, and employee information and training will be met, and which also includes the following:

- (i) A list of the hazardous chemicals known to be present using a product identifier that is referenced on the appropriate safety data sheet (the list may be compiled for the workplace as a whole or for individual work areas); and,
- (ii) The methods the employer will use to inform employees of the hazards of non-routine tasks (for example, the cleaning of reactor vessels), and the hazards associated with chemicals contained in unlabeled pipes in their work areas.

(A written hazard communication program, labels and forms of warning, a list of hazardous chemicals, and employee information and training were not developed or implemented. Employees used corrosive Member's Mark sanitizer to clean their rooms and equipment in the facility several times during the day.)

Date By Which Violation Must be Abated:

May 13, 2021

Proposed Penalty:

\$4,000.00

Citation 1 Item 1b

Type of Violation: **Serious**

1910.133(a)(1): OH PART 433, PERSONAL PROTECTIVE EQUIPMENT [REF 325.60001]

The employer shall ensure that each affected employee uses appropriate eye or face protection when exposed to eye or face hazards from flying particles, molten metal, liquid chemicals, acids or caustic liquids, chemical gases or vapors, or potentially injurious light radiation.

(Eye or face protection was not worn by employees when they used corrosive Member's Mark sanitizer to clean surfaces and equipment in the facility during their workday.)

Date By Which Violation Must be Abated:

May 13, 2021

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Inspection Date(s): 10/28/2020 - 02/25/2021
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Citation and Notification of Penalty

Company Name: Chitter Chatter P.C. and its successors
Inspection Site: 1360 Porter St, Dearborn, MI 48124

Citation 1 Item 1c

Type of Violation: **Serious**

325.47201(3): OH PART 472, MEDICAL SERVICES AND FIRST AID

An employer shall ensure that suitable facilities for quick drenching or flushing of the eyes and body are provided within the work area for immediate emergency use when the eyes or body of any person may be exposed to injurious or corrosive materials.

(An eyewash for quick drenching or flushing of the eyes was not provided within the work area for immediate emergency use where employees used Member's Mark Sanitizer, which was considered a Category 1 eye hazard.)

Provide a recognized emergency eyewash facility. Such a facility may consist of a plumbed eyewash device or a portable, self-contained eyewash device. The device must (a) have a quick opening valve (activated in 1 second or less and be simple to operate. A second/separate motion to remove nozzle covers is not allowed), (b) flush both eyes simultaneously, (have a "stay open" feature allowing both hands free to hold eyelids open, and (c) deliver not less than 0.4 gallon per minute for 15 minutes. Submit to the Agency a photograph of a portable or plumbed installed eyewash facility.

Date By Which Violation Must be Abated:

May 13, 2021

Citation 1 Item 2

Type of Violation: **Serious**

Rule 7(5): EMERGENCY RULES - CORONAVIRUS DISEASE 2019 (COVID-19) [REF MCL 24.248]

The employer shall require face coverings to be worn when employees cannot consistently maintain 6 feet of separation from other individuals in the workplace and consider face shields when employees cannot consistently maintain 3 feet of separation from other individuals in the workplace.

(Employees were unable to maintain six feet of separation from clients in the workplace during sessions. Clients were not required or encouraged to wear face coverings during sessions and additional actions to protect employees who could not maintain six feet of distance from clients without face coverings were not implemented.)

Date By Which Violation Must be Abated:

April 16, 2021

Proposed Penalty:

\$4,000.00

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Inspection Number: 1498416
Inspection Date(s): 10/28/2020 - 02/25/2021
Issuance Date: 04/12/2021
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Citation and Notification of Penalty

Company Name: Chitter Chatter P.C. and its successors
Inspection Site: 1360 Porter St, Dearborn, MI 48124

Citation 2 Item 1a

Type of Violation: **Other-than-Serious**

Rule 3(2): EMERGENCY RULES - CORONAVIRUS DISEASE 2019 (COVID-19) [REF MCL 24.248]
The employer shall categorize jobs tasks and procedures into the following risk categories:

- (a) Lower exposure risk job tasks and procedures. These job tasks and procedures are those that do not require contact with people known to be or suspected of being infected with SARS-CoV-2 nor frequent close contact (e.g., within 6 feet) with the general public. Workers in this category have minimal occupational contact with the public and other coworkers.
- (b) Medium exposure risk job tasks and procedures. These job tasks and procedures include those that require frequent or close contact (e.g., within 6 feet) with people who may be infected with SARS-CoV-2, but who are not known or suspected COVID-19 patients. In areas without ongoing community transmission, workers in this risk group may have frequent contact with travelers who may return from locations with widespread SARS-CoV-2 transmission. In areas where there is ongoing community transmission, workers in this category may have contact with the general public (e.g., schools, high-population-density work environments, high-volume retail settings).
- (c) High exposure risk job tasks and procedures. These job tasks and procedures are those with high potential for exposure to known or suspected sources of COVID-19. Workers in this category could include licensed health care professionals, medical first responders, nursing home employees, law enforcement, correctional officers, or mortuary workers.
- (d) Very high exposure risk job tasks and procedures. These job tasks and procedures are those with high potential for exposure to known or suspected sources of COVID-19 during specific medical, postmortem, or laboratory procedures. Workers in this category can include:
 - (i) Healthcare workers (e.g., doctors, nurses, dentists, paramedics, emergency medical technicians) performing aerosol-generating procedures (e.g., intubation, cough induction procedures, bronchoscopies, some dental procedures and exams, or invasive specimen collection) on known or suspected COVID-19 patients.
 - (ii) Health care or laboratory personnel collecting or handling specimens from known or suspected COVID-19 patients (e.g., manipulating cultures from known or suspected COVID-19 patients).
 - (iii) Morgue workers performing autopsies, which generally involve aerosol-generating procedures, on the bodies of people who are known to have or are suspected of having COVID-19 at the time of their death.

(The employer's written COVID-19 preparedness and response plan did not categorize jobs tasks and procedures into the required risk categories. Employees worked as Behavioral Technicians with clients.)

Date By Which Violation Must be Abated:
Proposed Penalty:

April 16, 2021
\$0.00

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Citation and Notification of Penalty

Company Name: Chitter Chatter P.C. and its successors
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Citation 2 Item 1b

Type of Violation: **Other-than-Serious**

Rule 5(6): EMERGENCY RULES - CORONAVIRUS DISEASE 2019 (COVID-19) [REF MCL 24.248]
The employer shall use Environmental Protection Agency (EPA)-approved disinfectants that are expected to be effective against SARS-CoV-2 based on data for harder to kill viruses.

(The safety data sheet provided for Fabuloso did not indicate it was an EPA approved disinfectant expected to be effective against SARS-COV-2.)

Date By Which Violation Must be Abated: **April 16, 2021**

Citation 2 Item 1c

Type of Violation: **Other-than-Serious**

Rule 11(1): EMERGENCY RULES - CORONAVIRUS DISEASE 2019 (COVID-19) [REF MCL 24.248]
Employers must maintain a record of the following requirements:

- (a) Training. The employer shall maintain a record of all COVID-19 employee training.
- (b) Screening protocols. The employer shall maintain a record of screening for each employee or visitor entering the workplace.
- (c) Records of required notifications. The employer shall maintain a record of each notification required by Rule 6 of these rules.

(The employer did not maintain the following records as required:

- a) Records of all COVID-19 employee training
- b) Records of each notification required by Rule 6 of these rules, including the local public health department and notifications to employees who may have had contact with a person with a known case of COVID-19.)

Date By Which Violation Must be Abated: **April 16, 2021**

Authorized Signature

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Inspection Number: 1498416
Inspection Date: 10/28/2020 - 02/25/2021
Issuance Date(s): 04/12/2021
Optional Reporting Number:
CSHO ID: P3540

PROPOSED PENALTY INVOICE

Company Name: Chitter Chatter P.C. and its successors
Inspection Site: 1360 Porter St
Dearborn, MI 48124

Summary of Penalties for Inspection Number: 1498416

Citation 1 Items 1a, 1b & 1c, Serious	\$4,000.00
Citation 1 Item 2, Serious	\$4,000.00
Citation 2 Items 1a, 1b & 1c, Other-than-Serious	\$0.00

TOTAL PROPOSED PENALTIES: **\$8,000.00**

Correcting a violation prior to the expiration of the abatement date does not eliminate the requirement to pay the penalty.
Payment of the penalty does not eliminate the requirement of correcting the violation.

The state does not agree to any restrictions or conditions or endorsements put on any check or money order for less than full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

Payment must be made within 15 working days of the date a proposed penalty of a citation item becomes a final order of the board. This would be the thirtieth (30th) working day after receipt of each citation item which is not appealed. For the payment of any penalty, make a check or money order payable to the "State of Michigan" and remit to the Department of Labor and Economic Opportunity at the address shown on the citation. **PLEASE RECORD THE APPLICABLE INSPECTION NUMBER, CITATION NUMBER(S) AND ITEM NUMBER(S) ON THE CHECK, MONEY ORDER OR YOUR TRANSMITTAL LETTER.**

Enclose this invoice page (or a copy thereof) with your payment.

Authorized Signature