

COMMONWEALTH OF KENTUCKY
OCCUPATIONAL SAFETY AND HEALTH
REVIEW COMMISSION
14-KOSH-0266 & 15-KOSH-0004

KOSHRC 5173-14 & 5222-14

SECRETARY OF THE LABOR CABINET
COMMONWEALTH OF KENTUCKY

COMPLAINANT

v.

COVALENCE SPECIALTY ADHESIVES LLC DBA
BERRY PLASTICS

RESPONDENT

REVIEW COMMISSION ORDER
DENYING BERRY PLASTICS'
REQUEST FOR SPECIAL PERMISSION
TO APPEAL FROM THE HEARING
OFFICER'S JUNE 5, 2015 ORDER

We have before us Berry Plastics' timely request for special permission to appeal from our hearing officer's order of June 5, 2015. Section 45, 803 KAR 50:010. This rule is titled interlocutory appeals. On June 25 we received a response from the Cabinet asking the Commission to deny the request.

In its request Berry Plastics argues the issues presented are "purely... legal." We cannot agree. We will not speculate how the repeat penalties were determined. We will need testimony from the Labor Cabinet about the repeat penalty calculation process. We anticipate direct and cross examination of the Cabinet's witnesses will be very important to our ruling on the issues raised by Berry Plastics.

On July 6, 2015 we received Berry Plastics' motion for leave to file a reply to the Cabinet's response. We are sufficiently advised by Berry Plastics' request and the

Cabinet's response and so we deny Berry Plastics' motion for leave to file a reply brief.

After our review of Berry Plastics' request for interlocutory appeal and the Cabinet's response, and for the reasons stated here, we deny Berry Plastics' request for special permission to appeal.

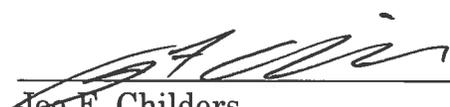
We remand this case to the hearing officer.

It is so ordered.

July 7, 2015.


Faye S. Liebermann
Chair


Paul Cecil Green
Commissioner


Joe F. Childers
Commissioner

Certificate of Service

I certify this order was served on the following in the manner indicated on July 7, 2015:

By messenger mail:

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