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BEFORE THE COMMISSIONER  
OF THE BUREAU OF LABOR AND INDUSTRIES  
OF THE STATE OF OREGON

In the Matter of:

Case No. 55-17

BURGERVILLE LLC

NOTICE OF INTENT TO ASSESS CIVIL  
PENALTIES

Respondent.

TO: Burgerville LLC  
Attn: Kar Agent and Service Co., LLC, Registered Agent  
520 SW Yamhill St., Suite 600  
Portland, OR 97204

THIS WILL NOTIFY YOU that, pursuant to ORS 653.256, ORS 653.370, OAR 839-020-1000 through 839-020-1020 and OAR 839-019-0015 through 839-019-0025, the Commissioner of the Bureau of Labor and Industries (Commissioner) intends to assess civil penalties against Burgerville LLC ("Respondent") in the aggregate amount of \$11,750. This action will take place twenty (20) days from the date this Notice is served unless a hearing is requested within the time provided in this Notice.

JURISDICTION:

1.

Respondent was at all material times subject to the relevant provisions of ORS chapters 652 and 653 and OAR chapter 839. The allegations are within the jurisdiction of the Bureau of Labor and Industries ("BOLI"): specifically, ORS 653.261(1) and OAR 839-020-0050(1), (2), (6) pertaining to meal and rest period requirements; and ORS

1 653.261(1) and OAR 839-021-0104(1), (2) pertaining to occupation of minor in a  
2 hazardous and prohibited occupation.

3 At all times material, Respondent was an employer pursuant to ORS 653.010(3)  
4 within the state of Oregon with respect to any and all employees mentioned herein, and  
5 subject to Oregon's Wage and Hour and Child Labor laws.

6 RESPONDENT'S IDENTITY

7  
8 2.

9 Respondent Burgerville LLC is an active foreign Limited Liability Company.  
10 Respondent filed its application for authority with the Oregon Corporation Division on  
11 December 23, 2013. Jeffery Harvey is listed as Respondent's Member and Kar Agent  
12 and Service Co. is listed as Respondent's Registered Agent.

13 THE BASES FOR ASSESSMENT OF CIVIL PENALTIES ARE THAT:

14 3.

15 a. Willful failure to provide minimum meal periods to workers at 1135 NE Martin  
16 Luther King Jr. Blvd location. Between August 1, 2016 through August 15, 2016,  
17 Respondent failed to provide a meal period of not less than 30 continuous minutes  
18 during which the employee is relieved of all duties and/or failed to provide timely meal  
19 periods to twenty-eight employees as required by ORS 653.261(1) and OAR 839-020-  
20 0050(1), (2) to the following employees: (1) Beatrice Amegblenke, (2) Yanet  
21 Asghedom, (3) Naila Bairamova, (4) Skylar Beaulieu, (5) Sonide Bocage, (6) Starla  
22 Carrero, (7) Michaela Francis, (8) Clarissa Gaillardet, (9) Heidi Hoffmeister, (10)  
23 Nathaniel Hol, (11) Morrisha Jones, (12) Mariah Klefman, (13) Rakeshni Kumari, (14)  
24 Kathy Lang, (15) Ilian Lopez-Flor, (16) Earniest Lot, (17) Devon Martin, (18) Jada  
25

1 Matthews, (19) Alfonso Padilla, (20) Anthony Payton, (21) Maiyah Rhodes, (22) Autumn  
2 Scott, (23) Adrick Steinberg, (24) Miriam Thielman, (25) Alfred Usaki, (26) Niang Vung,  
3 (27) Taylor Westover, and (28) Anthony Williams. Additionally, between December 1,  
4 2016 through December 15, 2016, Respondent failed to provide a meal period of not  
5 less than 30 continuous minutes during which the employee is relieved of all duties  
6 and/or failed to provide timely meal periods to sixteen employees, as required by ORS  
7 653.261(1) and OAR 839-020-0050(1), (2) to the following employees: (1) Starla  
8 Carrero, (2) Nicholas Devita, (3) Courtney Earls, (4) Michaela Francis, (5) Heidi  
9 Hoffmeister, (6) Nathaniel Hol, (7) Rosa Johnston-Vera, (8) Morisha Jones, (9) William  
10 Jones, (10) Rakeshni Kumari, (11) Kathy Lang, (12) Edward Lawrence, (13) Devon  
11 Martin, (14) Adrick Steinberg, (15) Alfred Usaki, and (16) Taylor Westover.  
12 Respondent's violations were willful because Respondent knew or should have known  
13 about minimum meal period requirements and knew or should have known that its  
14 workers were not receiving the minimum meal periods and/or not receiving timely meal  
15 periods as required by law. A civil penalty may be assessed for the above violations not  
16 to exceed \$1,000. CIVIL PENALTY of \$11,000. Forty-four (44) violations at \$250 per  
17 violation. ORS 653.256(1), OAR 839-020-1000, OAR 839-020-1010(1)(j) and OAR  
18 839-020-1020(1).

20  
21 4.

22 Employing minors under 18 in hazardous and prohibited occupation at 1135 NE  
23 Martin Luther King Jr. Blvd. location. Respondent permitted H. Wallace, H. Gruetter,  
24 and M. Daniels to operate a trash compactor in violation of ORS 653.261(1) and OAR  
25 839-021-0104(1), (2). The operation of a trash compactor has been declared

1 hazardous and detrimental to the health of employees under the age of 18. At times  
2 material to the operation of the trash compactor, Wallace, Gruetter and Daniels were 17  
3 years old. A civil penalty may be assessed for the above violation not to exceed  
4 \$1,000. CIVIL PENALTY of \$750. Three (3) violations at \$250 per violation. ORS  
5 653.256(1), OAR 839-019-0010(2), OAR 839-019-0015, OAR 839-019-0020(1), OAR  
6 839-019-0025(1).

7  
8 ///

### 9 CONTESTED CASE RIGHTS AND RESPONSIBILITIES

10 Respondent is entitled to a contested case hearing before the Commissioner or a  
11 designated representative, as provided by the Administrative Procedures Act, ORS  
12 Chapter 183. Oregon law provides that all corporations, unincorporated associations,  
13 partnerships, limited liability companies and government agencies MUST be  
14 represented either by an attorney or by an "authorized representative" at all stages of  
15 the hearing, including the filing of an answer and request for hearing. ORS 9.320 and  
16 183.457, OAR 839-050-0110. OAR 839-050-0110 sets forth this requirement and  
17 defines who may appear as an authorized representative. If you desire a hearing, you  
18 must notify the Commissioner in writing that you request a hearing within 20 days of the  
19 date you receive this notice or the date it was mailed to you, whichever is earlier.  
20

21 FAILURE TO MAKE A WRITTEN REQUEST TO THE COMMISSIONER FOR A  
22 CONTESTED CASE HEARING WITHIN THE TIME SPECIFIED SHALL CONSTITUTE  
23 A WAIVER OF YOUR RIGHT TO A CONTESTED CASE HEARING. UNLESS YOUR  
24 WRITTEN REQUEST FOR A CONTESTED CASE HEARING IS RECEIVED BY THE  
25 COMMISSIONER WITHIN THE TIME SPECIFIED, THIS NOTICE SHALL BECOME A

1 FINAL ORDER IMMEDIATELY. IF YOU DO NOT FILE AN ANSWER AND REQUEST  
2 A HEARING WITHIN THE TIME SPECIFIED, OR IF YOU MAKE A TIMELY REQUEST  
3 FOR HEARING BUT LATER WITHDRAW THAT REQUEST, THE AGENCY'S FILE  
4 WILL BE DESIGNATED AS THE RECORD OF THE CASE AND NO HEARING WILL  
5 BE HELD. IF YOU FILE AN ANSWER AND A REQUEST FOR HEARING, BUT LATER  
6 NOTIFY THE AGENCY OR THE HEARINGS UNIT THAT YOU WILL NOT APPEAR AT  
7 THE TIME AND PLACE SPECIFIED FOR HEARING, OR, WITHOUT SUCH  
8 NOTIFICATION, FAIL TO APPEAR AT HEARING, THE AGENCY'S FILE WILL  
9 AUTOMATICALLY BECOME PART OF THE CONTESTED CASE RECORD FOR THE  
10 PURPOSE OF PROVING A PRIMA FACIE CASE AND THE FINAL ORDER WILL BE  
11 BASED ON THE AGENCY'S FILE AND YOUR ANSWER.  
12

13 If you request a hearing, such request must also include a written "answer" to the  
14 factual determinations stated in this notice. Such written answer must include an  
15 admission or denial of each factual allegation contained herein, and shall affirmatively  
16 allege a short and plain statement of each affirmative defense which the Respondent  
17 will assert at the contested case hearing.

18 Except for good cause, the factual determinations set out in this Notice and not  
19 denied in the answer shall be deemed admitted; failure to raise an affirmative defense  
20 shall be deemed a waiver of such affirmative defense; any affirmative defense alleged  
21 in the answer shall be deemed denied by the Commissioner of the Bureau of Labor and  
22 Industries without necessity of further pleading; evidence shall not be taken on any  
23 factual or legal issue not raised in this Notice or the Respondent's answer.  
24  
25

1           Upon receipt of your request for a contested case hearing, the Commissioner will  
2 notify you of the time and place for the hearing. Before the commencement of the  
3 hearing, you will be given more information on the procedures, right of representation  
4 and other information concerning the rights of a party relating to and in a contested case  
5 hearing, as required by ORS 183.413(2).  
6

7  
8 Dated this 2nd day of June, 2017.

9       Brad Avakian, Commissioner  
10       BUREAU OF LABOR AND INDUSTRIES

11  
12 

13       Gerhard Taeubel, Administrator  
14       Wage and Hour Division

15  
16 ANY REQUEST FOR A HEARING MUST BE IN WRITING AND MUST BE DIRECTED  
17 TO:

18 Diane Anicker  
19 Contested Case Coordinator  
20 Bureau of Labor and Industries  
21 1045 State Office Building  
22 800 NE Oregon Street  
23 Portland, Oregon 97232  
24  
25

BEFORE THE COMMISSIONER  
OF THE BUREAU OF LABOR AND INDUSTRIES  
OF THE STATE OF OREGON

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I SERVED A COPY OF THE ATTACHED:

**NOTICE OF INTENT TO ASSESS CIVIL PENALTIES**

In the Matter of

**BURGERVILLE LLC,**  
**FILE #: 55-17**

BY HAND DELIVERING OR PLACING IT IN INTERNAL STATE MAIL SERVICES TO EACH PERSON  
AT THE ADDRESS LISTED BELOW:

---

Cristin Casey Administrative Prosecutor Bureau of Labor and Industries 1045 State Office Building 800 NE Oregon Street Portland, OR 97232  971-673-0801	Gerhard Taeubel, Wage & Hour Division Administrator, Bureau of Labor and Industries 1045 State Office Building 800 NE Oregon Street Portland, OR 97232
--	---

AND BY PREPARING AND PLACING IT IN THE OUTGOING BUREAU OF LABOR AND INDUSTRIES MAIL TO EACH  
PERSON OR ENTITY AT THE ADDRESSES LISTED BELOW:

Burgerville LLC Attn: Jeffrey Harvey 109 W. 17th Street Vancouver, WA 98660  via Regular & Certified Mail Certified Mail # 7017 0660 0000 0013 9095	Burgerville LLC Attn: Kar Agent and Service Co., LLC, Registered Agent 520 SW Yamhill St., Suite 600 Portland, OR 97204  via Regular & Certified Mail Certified Mail # 7017 0660 0000 0013 9088
---	--

On Friday, June 2, 2017



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Diane M. Anicker, Contested Case Coordinator, Bureau of Labor and Industries, 971-673-0865







# Oregon

Bureau of Labor and Industries

Brad Avakian  
Commissioner

**Warning!** Enclosed are important documents concerning your legal rights and responsibilities. You may need to respond to these documents within a limited time. If you do not read English, you should have a qualified person interpret them for you as soon as possible.

[English]

**Aviso!** Adjuntos encontrará documentos importantes sobre sus derechos legales y obligaciones. Es posible que tenga que responder a estos documentos dentro de un plazo limitado. Si no puede leer los documentos en inglés, debería hacer que una persona apta se los traduzca lo antes posible.

[Spanish]

**Внимание!** Внутри содержатся важные документы относительно ваших законных прав и обязанностей. Возможно, что ответ на посланные вам документы будет ожидаться в течении ограниченного времени. Если Вы не читаете по-английски, то вам следует воспользоваться, как можно скорее, услугами компетентного лица для перевода этих документов.

[Russian]

**Lưu Ý !** Đính kèm theo đây là những tin tức quan trọng liên quan đến quyền lợi và trách nhiệm về pháp lý của quý vị. Quý vị có thể phải trả lời những hồ sơ này trong một gian giới hạn. Nếu quý vị không đọc được tiếng Anh, quý vị phải có một người đủ trình độ dịch những giấy tờ này cho quý vị càng sớm càng tốt.

[Vietnamese]

**ការព្រមាន!** ក្រដាសដែលគេផ្ញើមកជាមួយនេះគឺជាឯកសារសំខាន់ស្តីពីសិទ្ធិនិងកាមទទួលខុសត្រូវតាមច្បាប់របស់អ្នក ។ អ្នកប្រហែលជាត្រូវឆ្លើយតបចំពោះឯកសារនេះក្នុងរវាងពេលវេលាដែលគេកំណត់ ។ បើអ្នកមិនចេះអានភាសាអង់គ្លេសទេ អ្នកគួរឲ្យជូនដំណឹងសមត្ថភាពបកប្រែឯកសារនេះឲ្យអ្នកឲ្យបានឆាប់រហ័ស ។

[Cambodian]

**注意!** 信中附有與你的法律權利和責任相關的重要文件。你可能需要在限定的時間範圍之內予以答覆。如果你不能夠閱讀英文，你應該盡快請一位合格的人士幫你把这些文件翻譯出來。

[Chinese]

**경고합니다!** 동봉한 서류들은 귀하의 법적 권리 및 의무에 관한 중요한 것들입니다. 귀하가 이들 서류에 대한 응답을 일정 기간 내에 하지 않으면 안될 수도 있습니다. 귀하가 영어를 이해하지 못하는 경우에는, 귀하에게 이들을 해석해 줄 수 있는 사람을 가능한 한 빠른 시간 내에 찾지 않으면 안됩니다.

[Korean]

**ຄຳເຕືອນ!** ເອກະສານທີ່ແນວນາມນີ້ເປັນເອກະສານສຳຄັນກ່ຽວກັບສິດທິທາງກົດໝາຍແລະຄວາມຮັບຜິດຊອບຂອງທ່ານ. ທ່ານອາດຕ້ອງຕອບຮັບເອກະສານເຫຼົ່ານີ້ພາຍໃນເວລາທີ່ກຳນົດໄວ້. ຖ້າທ່ານອ່ານພາສາອັງກິດບໍ່ໄດ້, ທ່ານຄວນຊອກຫາຜູ້ທີ່ມີຄວາມຮູ້ພຽງພໍເປັນຜູ້ເຊບໃຫ້ທ່ານຝັງໃຫ້ໄວທີ່ສຸດເທົ່າທີ່ຈະໄວໄດ້.

[Lao]

**PORTLAND**  
800 NE Oregon St. Suite 1045  
Portland, OR 97232-2180  
(971) 673-0761  
Fax (971) 673-0762

**SALEM**  
3865 Wolverine St. NE, E-1  
Salem, OR 97305-1268  
(503) 378-3292  
FAX (503) 373-7636

**EUGENE**  
1400 Executive Parkway, Suite 200  
Eugene, OR 97401-2158  
(541) 686-7623  
FAX (541) 686-7980

**BEND**  
Apprenticeship and Training  
Worksource Bend  
1645 NE Forbes Rd, Ste 106  
Bend, OR 97701-4990  
(541) 322-2435  
FAX (541) 389-8265

Oregon Relay TTY:711

**MEDFORD**  
Apprenticeship and Training  
119 N Oakdale Ave.  
Medford, OR 97501-2629  
(541) 776-6201  
FAX (541) 776-6284



Digniin! Waxaa la socda warqaddo muhiim ah oo la xiriira xuquuqdaada sharci iyo waajibaadkaaga. Waxay tahay in aad warqadahani kaga soo jawaabto wakhtiga kooban ee loo qabtay. Haddii aadan akhriyi karin Ingiriisiga, waa in aad sida ugu dhakhsaha badan u haysataa qof khibrad leh oo kuu turjuma.

[Somali]

تنبيه! مرفق طيه مستندات هامة بشأن حقوقكم ومسؤولياتكم القانونية. قد يتطلب منكم أن تجابوا على هذه المستندات في غضون فترة زمنية محدودة. إذا كنتم لا تحيدون قراءة اللغة الإنجليزية، فينبغي عليكم أن تطلبوا من شخص مؤهل أن يترجم محتوى هذه المستندات لكم في أقرب وقت ممكن.

[Arabic]

သတိ။ ပူးတွဲပါစာရွက်စာတမ်းများမှာ သင်၏ ဥပဒေအရ ရပိုင်ခွင့်များ၊ တာဝန်များတို့နှင့် သက်ဆိုင်သည့် အရေးကြီးသည့် စာရွက်စာတမ်းများ ဖြစ်ပါသည်။ ကန့်သတ်ထားသည့်အချိန်အတွင်း ၎င်းစာရွက်စာတမ်းများအပေါ် သင်တုံ့ပြန်ရန် လိုအပ်နိုင်ပါသည်။ သင်အင်္ဂလိပ်လိုမဖတ်တတ်ပါက အရည်အချင်းမီသူတစ်ဦးအား သင့်အတွက် အမြန်ဆုံး စကားပြန်ပေးရန် အကူအညီတောင်းပါ။

[Burmese]

**FILING AN ANSWER AND REQUEST FOR HEARING**

**THROUGH AN AUTHORIZED REPRESENTATIVE**

Partnerships, corporations, limited liability companies (LLCs), unincorporated associations, and governmental agencies may choose to be represented by an "authorized representative" at a BOLI contested case hearing. An authorized representative must be a member of a partnership, or an authorized officer or regular employee of a Respondent corporation, LLC, unincorporated associations, or governmental agency. Respondents who choose to be represented by an authorized representative must provide written authorization for the authorized representative to appear on their behalf. This written authorization must be provided when an answer and request for hearing is filed.

OAR 839-050-0110.

Respondent(s) can satisfy this written authorization requirement by completing the appropriate form below and returning it with their answer and request for hearing.

**AUTHORIZED REPRESENTATIVE STATEMENT FOR PARTNERSHIPS**

I, \_\_\_\_\_, am a member of a partnership named  
(*print name*)  
as a Respondent in BOLI case number \_\_\_\_\_ and am hereby authorized to represent  
Respondent as its authorized representative in this contested case proceeding.

\_\_\_\_\_  
(*signature of authorized representative*)                      (*date*)

\_\_\_\_\_  
(*name of partnership*)

**AUTHORIZED REPRESENTATIVE STATEMENT FOR CORPORATIONS, LLCs,  
UNINCORPORATED ASSOCIATIONS and GOVERNMENTAL AGENCIES**

I, \_\_\_\_\_, am an authorized officer or regular employee of a  
(*print name*)  
corporation, LLC, unincorporated association, or governmental agency named as a Respondent in  
BOLI case number \_\_\_\_\_ and am hereby authorized to represent Respondent as its  
authorized representative in this contested case proceeding.

\_\_\_\_\_  
(*signature of authorized representative*)                      (*date*)

\_\_\_\_\_  
(*name of corporation, LLC, or governmental agency*)





## RESPONDING TO A NOTICE OF INTENT

THIS SUMMARY IS WRITTEN FOR PERSONS WHO RECEIVE A NOTICE OF INTENT ISSUED BY THE BUREAU OF LABOR AND INDUSTRIES, WAGE AND HOUR DIVISION. IT EXPLAINS HOW TO RESPOND TO THE NOTICE AND THE CONSEQUENCES OF NOT RESPONDING.

### 1. WRITTEN ANSWER AND REQUEST FOR HEARING REQUIRED

If you wish to contest the allegations in the Order or Notice, **YOU MUST TIMELY FILE A WRITTEN ANSWER AND WRITTEN REQUEST FOR HEARING** at the address set out in the Notice. An answer and request for hearing is filed when it is postmarked or hand-delivered to the Wage & Hour Division at the address set forth in the Notice. Your answer must admit or deny each fact alleged in the Notice and must state all factual or legal defenses you intend to claim. *OAR 839-050-0130. OAR 839-050-0130. IF YOU FAIL TO TIMELY FILE AN ANSWER AND REQUEST FOR A HEARING IN WRITING, YOUR RIGHT TO A HEARING IS WAIVED.*

### 2. REPRESENTATION BY AN ATTORNEY OR AUTHORIZED REPRESENTATIVE

All Respondents may be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

Individual Respondents may choose whether or not to be represented by an attorney.

All government agencies, partnerships, corporations, and unincorporated associations **MUST** be represented either by an attorney or by an "authorized representative" at all stages of the hearing, **INCLUDING THE FILING OF AN ANSWER AND REQUEST FOR HEARING.** *OAR 839-050-0110.* An enclosed insert explains the special requirements concerning authorized representatives, including restrictions on who may act as an authorized representative and the limitations on an authorized

representative, and also defines who may act as an authorized representative.

### 3. NOTICE OF INTENT TO ASSESS CIVIL PENALTIES, TO REFUSE TO RENEW, TO SUSPEND OR REVOKE A LICENSE, OR TO PLACE ON COMMISSIONER'S LIST OF INELIGIBLES

If you have received a Notice proposing to take any of these actions, you must file a written answer and written request for hearing *within 20 days* of the date you receive this notice or the date it was mailed to you, whichever is earlier. *OAR 839-050-0070; 839-050-0130.*

### 4. NOTICE OF INTENT TO DENY A LICENSE

If you have received a Notice proposing to deny a license, you must file a written answer and written request for hearing *within 60 days* of the date you receive this notice or the date it was mailed to you, whichever is earlier. *OAR 839-050-0070; 839-050-0130.*

### 5. NOTICE OF HEARING

If you file a timely answer and request a hearing, a hearing will be scheduled and a notice of that hearing sent to you at your address stated on the Notice. *OAR 839-050-0080.* If this is an incorrect address, you should state your correct address in your answer and request for hearing to insure that the Notice of Hearing is sent to your correct address. If your address changes after you file your answer and request for hearing, you **MUST** notify the Contested Case Coordinator within 10 days of your change of address. *OAR 839-050-0030.*

### 6. DEFAULT

If you fail to file an answer and make a timely request for a hearing, your right to a hearing is waived. The Agency's file will be designated as the record of the case in support of a prima facie case and the Notice will become a Final Order by Default that may be recorded as a judgment. If you file an answer and request a hearing, but later withdraw your request for a hearing, the Agency's file will be designated as the record of the case and the Notice will become a Final Order by Default that may be recorded as a judgment. *OAR 839-050-0430.*

### 8. RELIEF FROM DEFAULT

You may request relief from default, based on "good cause," by making a written request within 10 days after the administrator of the Wage and Hour Division issues a Final Order by Default. "Good cause" means that a required act was not performed "due to an excusable mistake or a circumstance over which a participant had no control." Your request must be accompanied by a written statement, together with appropriate documentation, setting forth the facts supporting your claim of good cause. It must be addressed to the administrator of the Wage and Hour Division and will be ruled upon by the presiding administrative law judge. *OAR 839-050-0340.*





# Oregon

Bureau of Labor and Industries  
Brad Avakian  
Commissioner

## !ATTENTION -- MILITARY SERVICEMEMBERS!

### 1. Notification of Federal Servicemembers Civil Relief Act (SCRA)

The Servicemembers Civil Relief Act (SCRA) provides for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service.

As defined by the SCRA, the term "uniformed services" means:

- (A) The armed forces (Army, Navy, Air Force, Marine Corps, Coast Guard, National Guard);
- (B) The commissioned corps of the National Oceanic and Atmospheric Administration; and
- (C) The commissioned corps of the Public Health Service.

If you are a current member of the uniformed services, or were recently released or terminated from the uniformed services, the protections granted by the SCRA may apply to you in this contested case proceeding. The rights and protections of the Act may also apply if you are a reserve who has been ordered to report for military service, if you have been ordered to report for induction, or if you are a U.S. citizen serving with allied forces.

Protection under the SCRA must be requested during the member's military duty or within 30 to 180<sup>1</sup> days after military service ends, depending on the protection being requested. Information on SCRA may be found at <http://www.jagcnet.army.mil/TJAGSA> or <http://www.jagcnet.army.mil/legal>.

### 2. Oregon National Guard servicemember rights to relief from contested case proceeding under Oregon law.

Under Oregon law, a member of the Oregon National Guard who is called into active service inside or outside the state of Oregon may, while in active service or active duty, or within six months after that service or duty ends, apply to the Bureau of Labor and Industries for: (1) relief with respect to any obligation or liability incurred by the member before the period of active service or duty began; or (2) a stay of a contested case proceeding in which the Bureau has issued an Order of Determination, Notice of Intent, or Formal Charges that names the member as a party. ORS 399.238(1)&(2).

**Contact the Bureau of Labor and Industries Administrative Prosecutor in this contested case immediately** if you think you have rights under the SCRA or Oregon law that entitle you to be temporarily shielded from this legal proceeding. The Administrative Prosecutor will attempt to determine your status as it pertains to this proceeding, based on the information you provide. You should also consult with an attorney to determine your legal rights, as the Bureau cannot give legal advice. The Oregon State Bar's Lawyer Referral number is 1-800-452-7636.

<sup>1</sup> Section 202 of SCRA provides that a servicemember named as a party in a contested case proceeding may be entitled to a stay of the proceeding when the servicemember receives notice of the action and, at time of filing application for stay, is currently in the military or within 90 days of termination or release. ORS 399.238 defines "service member" as "(a) a member of the organized militia who is called into active service of the state by the Governor under ORS 399.054(1) for 30 or more consecutive days" or "(b) a member of the Oregon National Guard who is called into active federal service under Title 10 of the United States Code."

### BOLI SCRA Notification (September 2008)

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**BUREAU OF LABOR AND INDUSTRIES  
DIVISION 50**

**CONTESTED CASE HEARINGS RULES**

*As Filed With Oregon Secretary of State on September 4, 2014*

**839-050-0000 Statement of Purpose**

**(1)** The purpose of OAR 839-050-0000 to 839-050-0440 is to ensure that the contested case procedures of the Bureau of Labor and Industries comply with ORS 183.413 to 183.470, to provide clear guidelines and an understanding of what is expected of participants, and to provide for thorough and timely hearings.

**(2)** In an effort to provide timely hearings, OAR 839-050-0000 to 839-050-0440 establish time limits that will be strictly followed. Waiver or extension of set time limits will be granted only under the limited circumstances set forth in these rules.

Stat. Auth.: ORS 183; 279C.815, 279C.817; & 651.060(4), 658.407(3), 658.820, 659A.805  
Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 659A.845 & 659A.850

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0020; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

**839-050-0010 Model Rules of Procedure**

The Attorney General's Model Rules of Procedure for contested cases adopted pursuant to OAR 839-002-0005 govern contested case proceedings of the Bureau of Labor and Industries except to the extent they conflict with or are modified by rules in this division or any other division of chapter 839 of the Oregon Administrative Rules. The rules for contested case proceedings are set forth in OAR chapter 839, division 50.

The Attorney General's Model Rules for Agency Declaratory Rulings govern Declaratory Rulings.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Bureau of Labor and Industries.]

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0022; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 7-2006, f. 3-16-06 cert. ef. 3-20-06; BLI 5-2014, f. & cert. ef. 4-15-14

**839-050-0020 Definitions**

Unless the context requires otherwise, the following definitions apply to OAR 839-050-0000 through 839-050-0445:

**(1)** "Administrative law judge" means the commissioner or an individual or a special tribunal designated by the commissioner to preside over any or all aspects of a contested case hearing including motions, oral or written hearings, preparation of the Proposed Order and assistance in preparation of the Final Order. The administrative law judge may or may not be an employee of the Agency, except that when a case involves a complaint alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law, the administrative law judge or anyone appointed as a hearings officer or member of a special tribunal to hear the matter must be an employee of the Agency.

