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## Court Upholds OSHA's Power to Protect Workers

Posted By [James Parks](#) On April 19, 2010 @ 11:02 am In [Organizing & Bargaining](#) | [No Comments](#)

In a major win for workers' safety on the job, a federal appeals court upheld the power of the Occupational Safety and Health Administration (OSHA) to determine how to craft and enforce workplace safety rules.

The saga began when Eric Ho, a contractor in Houston, hired 11 immigrant workers in 2003 to remove asbestos from a building but did not train them or provide them with respirators. After a city inspector issued a stop-work order because of asbestos violations, Ho directed employees to work at night behind locked gates.

OSHA cited Ho for 22 separate violations—11 for not training each worker and 11 for not providing a respirator for each worker. Amazingly, the Bush administration's Occupational Safety and Health Review Commission overturned the majority of the citations, saying Ho could only be cited once for not training workers and once for not providing respirators. That meant Ho only had to pay two fines, not 22.

OSHA officials rewrote the rules to make it clear that each worker must be given protective equipment and training, and an employer can be cited for each worker not given this protection as a separate violation. But the National Association of Home Builders sued, claiming OSHA didn't have the authority to say that employers could be cited for each worker left unprotected.

Late last week, the U.S. Court of Appeals for the District of Columbia Circuit said OSHA has such authority and ruled for the agency in the case, *National Association of Home Builders v. Occupational Safety and Health Administration*.

AFL-CIO General Counsel Lynn Rhinehart says the decision makes clear that if an employer doesn't protect its workers,

[t]he employer can get cited for each worker it doesn't protect. This is a really important principle that will help ensure that workers get the protection they need to be safe on the job.

The AFL-CIO filed a friend of the court brief urging the court to side with OSHA and uphold the rule, Rhinehart said. The AFL-CIO also participated in the rule-making proceeding that produced the rule at issue in the case.

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