

U.S. Department of Labor

Office of the Solicitor
Washington, D.C. 20210

July 12, 2001



Mark J. Langer, Clerk
United States Court of Appeals
for the District of Columbia Circuit
U.S. Courthouse, Rm. 5423
3rd & John Marshall Pl., N.W.
Washington, D.C. 20001

Re: Kaspar Wire Works, Inc. v. Elaine L Chao, U.S. Sec'y of Labor, & Occupational Safety and Health Review Comm'n, D.C. Cir. No. 00-1392

Dear Mr. Langer,

Enclosed please find, in final form, an original and fourteen copies of the Brief for the Secretary of Labor in the above-captioned case. This revises, following the filing of the deferred Appendix, the version that the Secretary originally filed on June 8, 2001. *Circuit Rule 31*.

Please note that the Review Commission must be named as a Respondent pursuant to Fed.R.App.P. 15(a), but it is not an active party in these proceedings. *See Martin v. OSHRC*, 499 U.S. 144, 154 (1991) ("Congress intended to delegate to the Commission the type of nonpolicymaking adjudicatory powers typically exercised by a *court* in the agency-review context" (emphasis in original)). Opposing counsel of record has been served, as noted below.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "John Shortall".

John Shortall
Attorney, SOL/OSH
FPB Room S-4004
200 Constitution Ave., N.W.
Washington, D.C. 20210-0001
Tel: (202) 693-5445
FAX: (202) 693-5466

cc: Vic H. Henry, Esq.
Henry Oddo Austin & Fletcher
3850 Bank One Center, 1717 Main Street
Dallas, Texas 75201