

RECEIVED

JAN 28 2025

OCCUPATIONAL SAFETY
AND HEALTH REVIEW BOARD

January 28, 2025

Occupational Safety and
Health Review Board
443 Lafayette Road N.
St. Paul, MN 55155

**Re: Commissioner v. Baba's Food Company L. L. C.
Inspection No. 318212834
Response to Petition to Vacate**

Dear Occupational Safety and Health Review Board Members:

I am counsel for the Minnesota Occupational Safety and Health Administration division ("MNOSHA") of the Minnesota Department of Labor and Industry in the above-referenced matter. Petitioner Baba's Food Company L. L. C. ("Petitioner") has filed a Petition to Vacate the Commissioner's January 2, 2025 Final Order ("Commissioner's Final Order"). The Petition to Vacate should be denied because (1) the Commissioner's Final Order correctly determined that the Notice of Contest was late and incomplete; and (2) because Petitioner has not demonstrated good cause to vacate the Commissioner's Final Order.

FACTS

On October 29, 2024, MNOSHA inspected Petitioner's worksite located at 2220 Lyndale Avenue South, Minneapolis, Minnesota. On November 14, 2024, MNOSHA issued a Citation and Notification of Penalty ("Citation") for violations of occupational safety and health standards.¹ The Citation clearly states, in multiple places, that a Notice of Contest must be filed within 20 calendar days of the date of receipt. The first paragraph of the Citation provides the following instruction:

You must abate the violations referred to in this Citation by the dates listed and pay the penalties, *unless within 20 calendar days from your receipt of this Citation you file a Notice of Contest with the Commissioner* Your

¹ A copy of the Citation is attached as Exhibit 1.

contestation rights and other employer and employee rights and responsibilities are set out in the first three pages of this Citation. (Emphasis added.)

The following instruction appears on pages two and three of the Citation:

Employer Right to Contest - The employer has the right to a hearing to contest any or all parts of this Citation. If the employer wishes to contest, the employer must fully complete and notarize the attached NOTICE OF CONTEST AND SERVICE TO AFFECTED EMPLOYEES (Notice of Contest form) and file it with the Commissioner at the address shown on page 1 of this Citation within 20 calendar days of receiving the citation.

Important: To be considered filed, all parts of the Notice of Contest form must be completed and the completed form must be deposited in the United States mail and postmarked, or otherwise timely received by the Commissioner at the above address within 20 calendar days after the date this Citation is received by the employer. You may also file electronically at (contestation.dli@state.mn.us), by facsimile (FAX), or by hand-delivering the completed form to the Department, if received no later than 4:30 p.m. on the 20th calendar day. If the employer fails to file the Notice of Contest form on time, this Citation and Notification of Penalty becomes a final order of the Commissioner which is not subject to review by any court or agency and the Occupational Safety and Health Division may file and enforce the penalty as a district court judgment without further notice or additional proceedings pursuant to Minnesota Statutes § 16D.17.

Petitioner received the Citation on November 16, 2024, as evidenced by the signed receipt form.² The deadline for filing a Notice of Contest to the Citation was 4:30 p.m. on December 6, 2024. *See* Minnesota Rules, part 5210.0536, subpart 2. Petitioner did not file its Notice of Contest to the citation until December 9, 2024.³

On January 2, 2025, Petitioner was served with a Final Order of the Commissioner.⁴ This Final Order determined that Petitioner's Notice of Contest was late and incomplete. Also, the cover letter to the Commissioner's Final Order provided Petitioner with information about filing a petition to vacate the determination that its Notice of Contest was late and incomplete.

Petitioner filed its Petition to Vacate via U.S. Mail, in an envelope postmarked January 10, 2025. MNOSHA was not served with a copy of the Petition to Vacate, but received a copy

² A copy of the receipt form is attached as Exhibit 2.

³ A copy of Petitioner's Notice of Contest is attached as Exhibit 3. No employee or authorized representative of employees filed a Notice of Contest.

⁴ A copy of the Commissioner's Final Order is attached as Exhibit 4.

from the Board on January 14, 2025. According to the Petition, Petitioner thought that the December 9, 2024 abatement deadline was the deadline to submit a notice of contest. MNOSHA now responds in opposition to the Petition.

ARGUMENT

I. THE REVIEW BOARD SHOULD DENY THE PETITION TO VACATE BECAUSE THE PETITION WAS NOT SERVED UPON MNOSHA.

The Board should deny the Petition to Vacate because the Petition was not served upon MNOSHA. Indeed, Minnesota Rules, part 5215.5350, subpart 1, provides that a copy of a petition to vacate a final order of the Commissioner filed with the Board must be served on every party and intervenor. MNOSHA is a party to this proceeding. MNOSHA was not served with Petitioner's Petition to Vacate. Therefore, the Petition to Vacate should be denied on that basis alone.

II. THE REVIEW BOARD SHOULD DENY THE PETITION TO VACATE BECAUSE THE COMMISSIONER'S FINAL ORDER CORRECTLY DETERMINED THAT PETITIONER'S NOTICE OF CONTEST WAS LATE.

The Review Board should deny the Petition to Vacate because the Commissioner's Final Order correctly determined that Petitioner's Notice of Contest was late. Petitioner received the Citation on November 16, 2024. The law requires employers to file a Notice of Contest within 20 days of receiving the Citation. Minn. R. 5210.0536, subp. 2. Petitioner's Notice of Contest was due by December 6, 2024. Petitioner filed the Notice of Contest on December 9, 2024, three days after the deadline had passed. So, the Commissioner's determination that Petitioner's Notice of Contest was late should be affirmed.

III. THE REVIEW BOARD SHOULD DENY THE PETITION TO VACATE BECAUSE THE COMMISSIONER'S FINAL ORDER CORRECTLY DETERMINED THAT PETITIONER'S NOTICE OF CONTEST WAS INCOMPLETE.

The Review Board should deny the Petition to Vacate because the Commissioner's Final Order correctly determined that Petitioner's Notice of Contest was incomplete. MNOSHA is

required to accept as filed only a fully completed Notice of Contest form. Indeed, Minnesota Rules, part 5210.0533 states in pertinent part:

A contest of a citation and notification of penalty . . . shall be filed with the commissioner on the notice of contest form provided by the commissioner. The commissioner **shall accept as filed only a fully completed notice of contest form**. A fully completed notice of contest form must provide the following information:

. . .

E. certification that the notice was served upon the authorized employee representatives, if any, and the employer, if it is an employee or authorized employee representative contest, and that it was posted where the citations and notifications of penalty are required by part 5210.0530, subpart 3, to be posted

(Emphasis added). The Citation itself also states, in multiple places, that a Notice of Contest must be fully completed. The Citation informs the Petitioner that “[t]o be considered filed, all parts of the Notice of Contest form must be completed” Section 3 of the Notice of Contest was incomplete because it lists November 15, 2024 as the posting date even though Petitioner did not receive the Citation until November 16, 2024. That posting date cannot be accurate. The Notice of Contest was therefore incomplete, and the Commissioner’s determination that Petitioner’s Notice of Contest was incomplete should be affirmed.

IV. THE REVIEW BOARD SHOULD DENY THE PETITION TO VACATE BECAUSE PETITIONER HAS NOT ESTABLISHED GOOD CAUSE.

The Review Board should deny the Petition to Vacate because Petitioner has not shown good cause to have the Commissioner’s Final Order vacated. Without a showing of good cause, the Review Board may not vacate a final order of the Commissioner. Minn. Stat. § 182.664, subd. 5. And “good cause is limited to fraud, mistake of fact by the commissioner, mistake of law by the commissioner, or newly discovered evidence.” *Id.*

Petitioner does not allege that fraud, a mistake of fact, or newly discovered evidence caused its Notice of Contest to be untimely and incomplete. Instead, Petitioner appears to argue that a mistake of law caused its Notice of Contest to be untimely, as Petitioner assumed that the December 9, 2024 abatement deadline was also the deadline to submit a notice of contest.

But the mistake of law was not made by the Commissioner. And MNOSHA gave clear instructions on how to contest the Citation, so Petitioner's failure to timely file the Notice of Contest "can only logically be construed as negligent and undeserving of pardon." *Secretary of Labor v. Barretto Granite Corp.*, 830 F.2d 396, 400 (1st Cir. 1987). Mere carelessness or negligence does not constitute good cause to vacate a final order of the Commissioner. *See Secretary of Labor v. Keefe Earth Boring Co.*, 14 O.S.H. Cas. (BNA) 2187, 2192 (Rev. Comm. 1991). Further, Petitioner offers no explanation about when the Citation was posted. In sum, Petitioner has not established good cause to vacate the Commissioner's Final Order through the existence of fraud, any mistake in law or fact by the Commissioner, or any newly discovered evidence. Therefore, the Petition to Vacate should be denied.

CONCLUSION

For the reasons stated above, the Petition to Vacate should be denied. Petitioner Baba's Food Company L. L. C. is served with a copy of this letter as stated in the enclosed Certificate of Service.

Respectfully submitted,

/s/ Ali P. Afsharjavan
ALI P. AFSHARJAVAN
Attorney Reg. No. 0397357
Office of General Counsel
Minnesota Department of Labor and Industry
(651) 284-5019 (main)
(651) 284-5725 (fax)

COUNSEL FOR RESPONDENT

Enclosures

cc: Khalid Ansari
Jim Krueger, MNOSHA
Norie Brandt, MNOSHA

Minnesota Department of Labor and Industry

Occupational Safety and Health Division
443 Lafayette Road
St. Paul, MN 55155-4307
Phone: 651-284-5050 FAX: 651-284-5741

Citation and Notification of Penalty

To:
Babas Food Company LLC
2220 Lyndale Ave S
Minneapolis, MN 55407

Inspection Number: 318212834
CSHO ID: U3093
Optional Report No.: 04424
Inspection Date(s): 10/29/2024
Issuance Date: 11/14/2024

Inspection Site:
2220 Lyndale Ave S
Minneapolis, MN 55405

The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

This Citation and Notification of Penalty (this Citation) describes violations of the Minnesota Occupational Safety and Health Act of 1973 (the Act). The penalty amounts listed herein are based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties, unless within 20 calendar days from your receipt of this Citation you file a Notice of Contest with the Commissioner of the Department of Labor and Industry. Your contestation rights and other employer and employee rights and responsibilities are set out in the first three pages of this Citation. The description of alleged violations begins on page 5 of this Citation.

EMPLOYER AND EMPLOYEE RIGHTS AND RESPONSIBILITIES

Posting - The Act requires that a copy of this Citation shall be promptly posted at or near each place that an alleged violation referred to in the citation occurred or, if not practicable, in a prominent place where it will be readily visible by all affected employees. If uncontested, this Citation must remain posted until all alleged violations cited therein are corrected, or for 20 days, whichever is longer. If contested, this Citation must remain posted until the contestation is resolved.

Penalty Payment - Payment of all penalties is to be made by check or money order payable to "Minnesota Department of Labor and Industry, MNOSHA", and remitted to the Occupational Safety and Health Division at P.O. Box 64025, St. Paul, MN, 55164-0025, within 20 calendar days following receipt of this Citation. After 60 days, unpaid penalties shall increase 25 percent and shall accrue an additional interest of 10 percent per month compounded monthly until the fine is paid in full.

Effective August 1, 2003, the minimum \$25,000 penalty issued to employers with fewer than 50 employees for serious citations connected to the death of an employee may be made in five payments of \$5,000. The first \$5,000 payment is due within 20 calendar days following receipt of this Citation. The 2nd-5th payments of \$5,000 are due on the next four anniversary dates of this Citation becoming a Final Order. The Commissioner may elect to waive the 2nd-5th \$5,000 payment if in the preceding year the employer receives no citations. MNOSHA will provide written notice of the 2nd-5th payments dates or of any penalty waiver.

Notification of Corrective Action - Progress reports on correction of alleged violations not immediately abated as observed by the occupational safety and health investigator shall be submitted on the Progress Report form provided with this Citation. Written progress reports must be mailed to the address shown on the top of page 1 of this Citation by the latest abatement date on the citation, or within 30 days after receipt of the citation, whichever is earlier. Reports must state the specific corrective action taken on each cited item, the date of such action and the anticipated abatement date of uncompleted items. Additional written progress reports shall be submitted every thirty days until the items are fully abated. Facsimile (FAX) transmittal is acceptable.

All alleged violations not contested must be corrected by the abatement date specified in this Citation. A followup inspection may be made for the purpose of ascertaining that the employer has corrected the alleged violations and posted this Citation as required by the Act. Failure to correct an alleged violation by the abatement date on this Citation may result in further penalties for each day the alleged violation has not been corrected.

Petition for Modification of Abatement Date (PMA) - If, due to factors beyond reasonable control, compliance cannot be achieved by the abatement day on the citation, the employer may file a Petition for Modification of Abatement Date (PMA) to obtain an extension of the abatement time period. The PMA must be in writing and received at the address shown on the top of page 1 of this Citation prior to the expiration of the abatement date on the citation. Facsimile (FAX) transmittal of a PMA is acceptable. A copy of the PMA must be posted for ten days in the location where this Citation is posted. A copy of the PMA must also be served upon authorized employee representatives.

The employer's written petition must describe:

- 1) The action that has been taken so far to achieve compliance;
- 2) The amount of additional time needed for compliance;
- 3) The reasons why additional time is needed;
- 4) A description of the interim steps that will be taken to safeguard employees against the cited hazard;
- 5) A statement that employees have been notified of the PMA filing.

Employees have the right to file a written objection to the Commissioner regarding the employer's PMA request. A copy of the objection must be served on the employer within 10 days of the employer's posting of the PMA. The employee objection must be received by the Commissioner within 15 days of the employer's PMA request. Facsimile (FAX) transmittal is acceptable.

Employer Right to Contest - The employer has the right to a hearing to contest any or all parts of

this Citation. If the employer wishes to contest, the employer must fully complete and notarize the attached NOTICE OF CONTEST AND SERVICE TO AFFECTED EMPLOYEES (Notice of Contest form) and file it with the Commissioner at the address shown on the top of page 1 of this Citation within 20 calendar days of receiving the citation.

Important: To be considered filed, all parts of the Notice of Contest form must be completed and the completed form must be deposited in the United States mail and postmarked, or otherwise timely received by the Commissioner at the above address within 20 calendar days after the date this Citation is received by the employer. You may also file electronically at (contestation.dli@state.mn.us), by facsimile (FAX), or by hand-delivering the completed form to the Department, if received no later than 4:30 p.m. on the 20th calendar day. If the employer fails to file the Notice of Contest form on time, this Citation and Notification of Penalty becomes a final order of the Commissioner which is not subject to review by any court or agency and the Occupational Safety and Health Division may file and enforce the penalty as a district court judgment without further notice or additional proceedings pursuant to Minnesota Statute § 16D.17.

Employee Right to Contest - An employee or authorized representative of employees has the right to a hearing to contest this Citation by filing a letter with the Commissioner of the Department of Labor and Industry at the address shown on page 1 within 20 calendar days of the employer's receipt of this Citation.

Important: To be considered filed, an employee letter of contest must be deposited in the United States mail and postmarked, or otherwise timely received by the Commissioner at the above address within 20 calendar days after the date this Citation is received by the employer. You may also file electronically at (contestation.dli@state.mn.us), by facsimile (FAX), or by hand-delivering the completed form to the Department, if received no later than 4:30 p.m. on the 20th calendar day.

If the employee fails to file a letter of contest on time, this Citation and Notification of Penalty becomes a final order of the Commissioner which is not subject to review by any court or agency and the Occupational Safety and Health Division may file and enforce the penalty as a district court judgment without further notice or additional proceedings pursuant to Minnesota Statute § 16D.17.

Employee Right to Party Status - Affected employees or their authorized employee representatives may elect to participate as parties in the formal contested case hearing by filing written notice with the Commissioner at the address shown above at least 45 days before the start of the hearing. The notice must contain the employees' names, addresses, authorized employee representatives, if any, and a statement that they are affected employees of the cited employer.

Employer Discrimination Unlawful - Employees who believe that they have been discharged or otherwise discriminated against by any person because the employees have exercised any right authorized under the provisions of Minnesota Statutes §§ 182.65 to 182.674, may, within 30 days after such alleged discrimination occurs, file a complaint with the Commissioner of the Department of Labor and Industry at the address shown above, alleging the discriminatory act.

PENALTY INFORMATION

Types of Violations - There are 5 types of violations that may be cited by MNOSHA. They are: Nonserious, Serious, Willful, Repeat and Failure to Abate.

Penalties - In cases not involving the death of an employee, the law allows the following maximum penalties: Nonserious, \$15,625; Serious, \$15,625; Willful, \$156,259; Repeat, \$156,259; and Failure to Abate, \$15,625 per day the violation remains unabated. If a Willful or Repeat violation caused or contributed to the death of an employee, however, MNOSHA is compelled by law to assess the employer a total non-negotiable penalty of at least \$50,000 for all citations connected to the employee's death. If there are no Willful or Repeat violations among the violations that caused or contributed to the employee's death, MNOSHA must assess the employer a non-negotiable penalty of at least \$25,000 for each citation connected to the employee's death. The following violations are not subject to these minimums and will be processed according to MNOSHA's ordinary penalty system: (a) any serious violations issued to an employer with fewer than 50 employees when the victim of a workplace fatality owned a controlling interest in the business unless the Commissioner determines that a fine shall be assessed, and (b) any violations found during a fatality investigation but determined not to be connected to the death of an employee.

Credits - A penalty for a violation may be credited by as much as 95 percent, depending on the employer's good faith (up to 30%), size of business (up to 55%), and previous violation history (up to 10%). The penalties which appear on the Citation and Notification of Penalty have been reduced by the credits described.

Minnesota
Department of Labor and Industry
Occupational Safety and Health Division

Inspection Number: 318212834
Inspection Date(s): 10/29/2024
Issuance Date: 11/14/2024
OSHI ID: U3093
Optional Report No.: 04424

Citation and Notification of Penalty

Company Name: Babas Food Company
LLC

Inspection Site: 2220 Lyndale Ave S, Minneapolis, MN 55405

Citation 01 Item 001

Type of Violation: **Serious**

Minn. Stat. 182.653 subd. 8: A written Workplace Accident and Injury Reduction (AWAIR) Program that promotes safe and healthful working conditions and is based on clearly stated goals and objectives for meeting those goals was not established; specifically:

The employer did not develop and implement a written Workplace Accident and Injury Reduction (AWAIR) program.

Abatement Guidelines: The program must describe:

- 1) How managers, supervisors, and employees are responsible for implementing the program and how continued participation of management will be established, measured, and maintained;
- 2) The methods used to identify, analyze, and control new or existing hazards, conditions, and operations;
- 3) How the plan will be communicated to all affected employees so that they are informed of work-related hazards and controls;
- 4) How work place accidents will be investigated and corrective action implemented;
- 5) How safe work practices and rules will be enforced.

An employer must conduct and document a review of the work place accident and injury reduction program at least annually and document how procedures set forth in the program are met.

Date By Which Violation Must Be Abated:	12/9/2024
Penalty:	\$250.00

Minnesota
Department of Labor and Industry
Occupational Safety and Health Division

Inspection Number: 318212834
Inspection Date(s): 10/29/2024
Issuance Date: 11/14/2024
OSHI ID: U3093
Optional Report No.: 04424

Citation and Notification of Penalty

Company Name: Babas Food Company
LLC
Inspection Site: 2220 Lyndale Ave S, Minneapolis, MN 55405

Citation 01 Item 002

Type of Violation: **Serious**

Minn. Stat. 182.676: The employer did not establish and administer a joint labor-management safety committee which holds regularly scheduled meetings and has employee members selected by the employees:

The employer did not establish and administer a joint labor-management safety committee.

Date By Which Violation Must Be Abated: **12/9/2024**
Penalty: **\$250.00**

Minnesota
Department of Labor and Industry
Occupational Safety and Health Division

Inspection Number: 318212834
Inspection Date(s): 10/29/2024
Issuance Date: 11/14/2024
OSHI ID: U3093
Optional Report No.: 04424

Citation and Notification of Penalty

Company Name: Babas Food Company
LLC
Inspection Site: 2220 Lyndale Ave S, Minneapolis, MN 55405

Citation 01 Item 003

Type of Violation: **Serious**

29 CFR 1910.1200(g)(8): The employer did not ensure that safety data sheets were readily accessible during each work shift to employees when they were in their work area(s):

The employer did not ensure safety data sheets were readily accessible during each work shift for employees exposed to hazardous chemical such as Inspector's Choice and Lime-A-Way used throughout the facility for cleaning and sanitizing.

Abatement Guidelines: Safety Data Sheets (SDS) or comparable written materials which contain the information required under 1910.1200(g)(2) for hazardous chemicals must be readily available in the workplace.

Date By Which Violation Must Be Abated: **12/9/2024**
Penalty: **\$750.00**

Minnesota
Department of Labor and Industry
Occupational Safety and Health Division

Inspection Number: 318212834
Inspection Date(s): 10/29/2024
Issuance Date: 11/14/2024
OSHI ID: U3093
Optional Report No.: 04424

Citation and Notification of Penalty

Company Name: Babas Food Company
LLC
Inspection Site: 2220 Lyndale Ave S, Minneapolis, MN 55405

Citation 02 Item 001

Type of Violation: **NonSerious**

29 CFR 1910.1200(e)(1): The employer did not develop, implement, and/or maintain at the workplace a written hazard communication program which describes how the criteria specified in 29 CFR 1910.1200(f), (g), and (h) will be met:

The employer did not develop and implement a written hazard communication program for employees exposed to hazardous chemical such as Inspector's Choice and Lime-A-Way used throughout the facility for cleaning and sanitizing.

Abatement Guidelines: The written program must be made available, upon request to employees, their designated representatives, and representatives of the Occupational Safety & Health Division and shall include:

- 1) A description of how the training, availability of information, and labeling provision will be met for hazardous chemicals.
- 2) A list of the hazardous chemicals known to be present using an identity 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.
- 3) The methods the employer will use to inform employees of the hazards of non-routine tasks that involve exposure to hazardous chemicals, and the hazards associated with hazardous chemicals contained in unlabeled pipes in their work areas.
- 4) Additionally, in multiemployer workplaces where the employer produces, uses or stores hazardous chemicals in such a way that employees of other employers may be exposed, the written program shall include:

- a) the methods the employer will use to provide the other employers with a copy of the safety data sheet, or to make it available at a central location in the workplace, for each hazardous chemical the other employers' employees may be exposed to while working;
- b) the methods the employer will use to inform the other employers on any precautionary measures that need to be taken to protect employees during normal operating conditions and in foreseeable emergencies; and
- c) the methods the employer will use to inform the other employers of the labeling system used in the workplace.

Date By Which Violation Must Be Abated: **12/9/2024**
Penalty: **\$0.00**

Nicole Blissenbach, Commissioner
MN Department of Labor and Industry

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Khalid Ansari, Co-Founder
Babas Food Company Inc
2220 Lyndale Ave S
Minneapolis, MN 55407
318212834 U3093 04424



9590 9402 8271 3094 9314 58

2. Article Number (Transfer from service label)

7021 2720 0001 8511 6476

COMPLETE THIS SECTION ON DELIVERY

A. Signature  ☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery
11-16

Address different from item 1? ☐ Yes
Delivery address below: ☐ No

3. Service type
- | | |
|--|---|
| <input type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express® |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail™ |
| <input type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Restricted Delivery |
| <input type="checkbox"/> Certified Mail Restricted Delivery | <input type="checkbox"/> Signature Confirmation™ |
| <input type="checkbox"/> Collect on Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | |

Minnesota
Department of Labor and Industry

Occupational Safety and Health Division
 443 Lafayette Road North
 St. Paul, MN 55155-4307

Phone: 1-800-DIAL-DLI (1-800-842-6934)
 (651) 284-5050
 FAX: (651) 284-5741
 www.dli.mn.gov

DEC - 9 2024

MINNESOTA OSH DIVISION

Inspection Number 318212834	OSHI ID U3093	Optional Report No.: 04424
Employer's Name and Mailing Address: Khalid Ansari, Co-Founder Babas Food Company Inc 2220 Lyndale Ave S Minneapolis, MN 55407 318212834 U3093 04424		

NOTICE OF CONTEST AND SERVICE TO AFFECTED EMPLOYEES

PURPOSE OF THIS FORM

If you have received a Citation and Notification of Penalty from the Minnesota Occupational Safety and Health Division (MNOSHA) and you wish to contest any part of the Citation, including the penalty, you must complete this form. **For your contest to be valid, you must file this form within 20 calendar days of the date the employer received the Citation.**

If you only wish to obtain an extension of time to correct the violation, you may file a Petition for Modification of Abatement Date according to the instructions on the Citation and Notification of Penalty.

By filing this Notice of Contest form, you are initiating a formal contested case proceeding before an administrative law judge of the parts of the Citation and Notification of Penalty you are contesting. This form must be filed in good faith and not solely for delay or avoidance of penalties.

HOW TO FILE THIS FORM

- This Notice of Contest form must be filed with the Commissioner of the Department of Labor and Industry at the above address **within 20 calendar days** after the date the employer received the Citation and Notification of Penalty. To be considered filed, all parts of the Notice of Contest form must be completed and the completed form must be mailed and postmarked, **within 20 calendar days** after the date the employer received the Citation and Notification of Penalty. You may also file electronically at contestation.dli@state.mn.us, by facsimile (FAX), or by hand-delivering the completed form to the Department, if received **no later than 4:30 p.m. on the 20th calendar day**.
- If you fail to file the fully completed Notice of Contest form on time, the Citation and Notification of Penalty becomes a final order of the Commissioner that is not subject to review by any court or agency.

APPEAL PROCESS

Upon receipt of a timely filed Notice of Contest form, MNOSHA will contact you and schedule a date, time and location for an informal conference. The purpose of the informal conference is to allow you to discuss with a MNOSHA representative the Citation and Notification of Penalty and the basis for your contest. The goal of the informal conference is to reach an early resolution of the contest. If you and MNOSHA are unable to reach a resolution at the informal conference then the contest will proceed to a formal contested case hearing.

COMPLETING THIS FORM

1. HOW TO IDENTIFY THE INSPECTION BEING CONTESTED.

Complete the box at the top of this form using the Inspection Number, OSHI ID, Optional Report Number and Employer's Mailing Address from the Citation and Notification of Penalty being contested.

2. HOW TO CONTEST THE CITATION AND NOTIFICATION OF PENALTY.

Indicate in the boxes on the next page which part(s) of the Citation and Notification of Penalty you wish to contest. Identify the citations you are contesting by indicating the citation and item numbers. Then indicate which part(s) of each item is being contested. Finally, state your reasons for contesting in the space provided below the boxes.

- Check the box CITATION if you wish to contest that the violation occurred.
- Check the box TYPE OF VIOLATION if you wish to contest the characterization of the violation as non-serious, serious, willful or repeat.
- Check the box ABATEMENT DATE if you wish to contest the date by which you must abate the violation.
- Check the box PENALTY if you wish to contest the amount of the penalty.

EXHIBIT 3

Revised 11/14

FAILURE TO CHECK ANY PART WILL RESULT IN THAT PART OF THE CITATION BECOMING A FINAL ORDER OF THE COMMISSIONER THAT IS NOT REVIEWABLE BY ANY COURT OR AGENCY.

CITATION NUMBER	ITEM NUMBER	(check all that apply)			
01- 001	001	<input checked="" type="checkbox"/> Citation	<input type="checkbox"/> Type of Violation	<input type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
01- 002	002	<input checked="" type="checkbox"/> Citation	<input type="checkbox"/> Type of Violation	<input type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
01- 003	003	<input checked="" type="checkbox"/> Citation	<input type="checkbox"/> Type of Violation	<input type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
02- 001	001	<input checked="" type="checkbox"/> Citation	<input type="checkbox"/> Type of Violation	<input type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
		<input type="checkbox"/> Citation	<input type="checkbox"/> Type of Violation	<input type="checkbox"/> Abatement Date	<input type="checkbox"/> Penalty
		<input type="checkbox"/> Citation	<input type="checkbox"/> Type of Violation	<input type="checkbox"/> Abatement Date	<input type="checkbox"/> Penalty

REASONS FOR CONTEST: (Additional sheets may be attached as necessary, and they will be considered part of this form.)

We are contesting all citations as we feel we have not been justifiably informed of these requirements. Baba's has spent 100's of thousands of dollars implementing food safety systems & if we were more informed on OSHA's requirements we would have done so. That being said all systems are now in place and actively being used at Baba's.

3. DATES OF POSTING AND SERVING. You must certify in Box A or B below the dates you posted and served this form.

A. Union: Complete part A if you have affected Employees Represented by Authorized Employee Representatives

I hereby certify that I posted fully completed copies of this form on _____ (date) at the locations where the Citation and Notification of Penalty is required to be posted; and I served fully completed copies of this form on _____ (date) upon the authorized employee representatives of affected employees.

B. Non-Union: Complete part B if you have affected Employees Not Represented by Authorized Employee Representatives

I hereby certify that I posted fully completed copies of this form on 11/15/2024 (date) at the locations where the Citation and Notification of Penalty is required to be posted and that I do not have any affected employees who are represented by authorized employee representatives.

4. OATH. The employer completing this form must sign and have notarized the following statement.

I SWEAR THAT THE INFORMATION PROVIDED ON THIS FORM AND ATTACHED TO THIS FORM IS ACCURATE AND TRUTHFUL TO THE BEST OF MY KNOWLEDGE.

State of MN County of Hennepin

Khalid Angwi, CEO
Name of Employer Representative, Title

6517572000
Phone

Subscribed and sworn to before me

this 9th day of December

Notary Public [Signature]

My Commission expires 01/31/2025

[Signature]
Signature

12/9/2024
Date



Jones, Tonya (DLI)

From: Khalid Ansari <khalid@lovebabas.com>
Sent: Monday, December 9, 2024 3:04 PM
To: MN_DLI_Contestation
Subject: Babas-Notice of contest & Service to affected Employees
Attachments: OSHA mandatory progress report .pdf; OSHA notice of contest.pdf

You don't often get email from khalid@lovebabas.com. [Learn why this is important](#)

This message may be from an external email source.

Do not select links or open attachments unless verified. Report all suspicious emails to Minnesota IT Services Security Operations Center.

Hello,

Attached is file of Contest.

Thanks,

Khalid Ansari

Co-Founder

Baba's



6513572000

khalid@lovebabas.com

www.Lovebabas.com



2220 Lyndale Avenue, Minneapolis MN 55405

January 2, 2025

Khalid Ansari
Baba's Food Company L.L.C.
2220 Lyndale Avenue South
Minneapolis, MN 55407

Patrick J Kelly
Baba's Food Company L.L.C.
223 Little Canada Road East
Little Canada, MN 55117

Re: Baba's Food Company L. L. C.
Inspection No. 318212834
FINAL ORDER DETERMINING LATE AND INCOMPLETE FILING

Dear Mr. Ansari:

The Department has issued a Final Order Determining Incomplete Filing related to this inspection by the Occupational Safety and Health Division (MNOSHA). It is attached to this letter.

While I cannot give you legal advice, I can tell you the following:

You have the right to file a Petition to Vacate this Final Order Determining Incomplete Filing. The procedures for filing a Petition to Vacate are explained in Minnesota Statutes § 182.664, subdivision 5, and Minnesota Rules, parts 5215.0700 and 5215.5350, which are available at www.revisor.mn.gov. As the statute and rules clearly state, any Petition to Vacate must be filed within 30 days following service by mail of this Final Order Determining Incomplete Filing. If you would like to appear before the OSH Review Board, you may make a request for oral argument in the Petition to Vacate.

The statute sets forth the grounds under which the Board may grant a Petition to Vacate this Final Order. The Board may only vacate this Final Order upon a showing of good cause. Good cause is limited to fraud, mistake of fact by the Commissioner, mistake of law by the Commissioner, or newly discovered evidence. At this time, the Board may only review the determination that the Notice of Contest was late and incomplete.

The Petition to Vacate must be filed with the Board by mail or personal delivery to: Peggy Charpentier, Executive Secretary, OSH Review Board, 443 Lafayette Road N., St. Paul, Minnesota, 55155. Additionally, a copy of the Petition to Vacate must be served on the Department by mail or personal delivery to: Occupational Safety and Health Division, Department of Labor & Industry, 443 Lafayette Road N., St. Paul, Minnesota 55155.

Sincerely,

/s/ Paul R. Enger
PAUL ENGER
General Counsel for the
Occupational Safety and Health Division
Minnesota Department of Labor and Industry
(651) 284-5019

PRE/msg

Enclosures

Equal Opportunity Employer

Office of General Counsel, 443 Lafayette Road North, St. Paul, MN 55155
(651) 284-5019 | www.dli.mn.gov | Fax (651) 284-5725

EXHIBIT 4

STATE OF MINNESOTA

**DEPARTMENT OF LABOR
AND INDUSTRY**

Nicole Blissenbach, Commissioner,
Minnesota Department of Labor and Industry,

Complainant,

**FINAL ORDER DETERMINING
LATE AND INCOMPLETE FILING**

v.

Baba's Food Company L. L. C.,

Inspection No. 318212834

Respondent.

To: Baba's Food Company L. L. C.

On November 14, 2024, the Occupational Safety and Health Division, on behalf of Nicole Blissenbach, Commissioner, Minnesota Department of Labor and Industry, issued a Citation and Notification of Penalty (Citation) in this inspection. (Exhibit A). The certified mail return receipt indicates that Baba's Food Company L. L. C. (Respondent)¹ received the Citation on November 16, 2024. (Exhibit B). On December 9, 2024, the Department of Labor and Industry received a copy of the Notice of Contest and Service to Affected Employees (Notice of Contest) form December 9, 2024 via email, stating Respondent was contesting the Citation. (Exhibit C). The certification of posting and service section (section 3) of the Notice of Contest filled out by the Respondent listed an impossible date,² and the Notice of Contest was incomplete.

Minnesota Statutes § 182.661, subdivisions 1 & 3b, and Minnesota Rules, part 5210.0007, require that a notice of contest and certification of service be filed on a form provided by the commissioner and postmarked, faxed, emailed, or hand-delivered within twenty (20) calendar days from the date the Citation was received. This requirement is clearly stated on both the Citation and the Notice of Contest form that were received by the employer on November 16, 2024. Respondent did not properly file a completed Notice of Contest within the 20-day time period, so the Notice of Contest was late and incomplete. As a result, the Citation is final.

Dated: January 2, 2025

/s/ Paul R. Enger

PAUL ENGER

Attorney Reg. No. 0400060

Department of Labor and Industry

Office of General Counsel

443 Lafayette Road N.

St. Paul, Minnesota 55155

¹ The Citation refers to the Respondent as "Babas Food Company LLC". The Respondent's correct name, including punctuation, is Baba's Food Company L. L. C., as captioned above.

² The Respondent submitted a posting date of November 15, 2024. The Citation and Notification of Penalty was served and signed for on November 16, 2024 according to the Certified Mail Receipt (Exhibit B).

Minnesota Department of Labor and Industry

Occupational Safety and Health Division

443 Lafayette Road

St. Paul, MN 55155-4307

Phone: 651-284-5050 FAX: 651-284-5741

Citation and Notification of Penalty

To:

Babas Food Company LLC

2220 Lyndale Ave S

Minneapolis, MN 55407

Inspection Number: 318212834

CSHO ID: U3093

Optional Report No.: 04424

Inspection Date(s): 10/29/2024

Issuance Date: 11/14/2024

Inspection Site:

2220 Lyndale Ave S

Minneapolis, MN 55405

The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

This Citation and Notification of Penalty (this Citation) describes violations of the Minnesota Occupational Safety and Health Act of 1973 (the Act). The penalty amounts listed herein are based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties, unless within 20 calendar days from your receipt of this Citation you file a Notice of Contest with the Commissioner of the Department of Labor and Industry. Your contestation rights and other employer and employee rights and responsibilities are set out in the first three pages of this Citation. The description of alleged violations begins on page 5 of this Citation.

EMPLOYER AND EMPLOYEE RIGHTS AND RESPONSIBILITIES

Posting - The Act requires that a copy of this Citation shall be promptly posted at or near each place that an alleged violation referred to in the citation occurred or, if not practicable, in a prominent place where it will be readily visible by all affected employees. If uncontested, this Citation must remain posted until all alleged violations cited therein are corrected, or for 20 days, whichever is longer. If contested, this Citation must remain posted until the contestation is resolved.

Penalty Payment - Payment of all penalties is to be made by check or money order payable to "Minnesota Department of Labor and Industry, MNOSHA", and remitted to the Occupational Safety and Health Division at P.O. Box 64025, St. Paul, MN, 55164-0025, within 20 calendar days following receipt of this Citation. After 60 days, unpaid penalties shall increase 25 percent and shall accrue an additional interest of 10 percent per month compounded monthly until the fine is paid in full.

Effective August 1, 2003, the minimum \$25,000 penalty issued to employers with fewer than 50 employees for serious citations connected to the death of an employee may be made in five payments of \$5,000. The first \$5,000 payment is due within 20 calendar days following receipt of this Citation. The 2nd-5th payments of \$5,000 are due on the next four anniversary dates of this Citation becoming a Final Order. The Commissioner may elect to waive the 2nd-5th \$5,000 payment if in the preceding year the employer receives no citations. MNOSHA will provide written notice of the 2nd-5th payments dates or of any penalty waiver.

Notification of Corrective Action - Progress reports on correction of alleged violations not immediately abated as observed by the occupational safety and health investigator shall be submitted on the Progress Report form provided with this Citation. Written progress reports must be mailed to the address shown on the top of page 1 of this Citation by the latest abatement date on the citation, or within 30 days after receipt of the citation, whichever is earlier. Reports must state the specific corrective action taken on each cited item, the date of such action and the anticipated abatement date of uncompleted items. Additional written progress reports shall be submitted every thirty days until the items are fully abated. Facsimile (FAX) transmittal is acceptable.

All alleged violations not contested must be corrected by the abatement date specified in this Citation. A followup inspection may be made for the purpose of ascertaining that the employer has corrected the alleged violations and posted this Citation as required by the Act. Failure to correct an alleged violation by the abatement date on this Citation may result in further penalties for each day the alleged violation has not been corrected.

Petition for Modification of Abatement Date (PMA) - If, due to factors beyond reasonable control, compliance cannot be achieved by the abatement day on the citation, the employer may file a Petition for Modification of Abatement Date (PMA) to obtain an extension of the abatement time period. The PMA must be in writing and received at the address shown on the top of page 1 of this Citation prior to the expiration of the abatement date on the citation. Facsimile (FAX) transmittal of a PMA is acceptable. A copy of the PMA must be posted for ten days in the location where this Citation is posted. A copy of the PMA must also be served upon authorized employee representatives.

The employer's written petition must describe:

- 1) The action that has been taken so far to achieve compliance;
- 2) The amount of additional time needed for compliance;
- 3) The reasons why additional time is needed;
- 4) A description of the interim steps that will be taken to safeguard employees against the cited hazard;
- 5) A statement that employees have been notified of the PMA filing.

Employees have the right to file a written objection to the Commissioner regarding the employer's PMA request. A copy of the objection must be served on the employer within 10 days of the employer's posting of the PMA. The employee objection must be received by the Commissioner within 15 days of the employer's PMA request. Facsimile (FAX) transmittal is acceptable.

Employer Right to Contest - The employer has the right to a hearing to contest any or all parts of

this Citation. If the employer wishes to contest, the employer must fully complete and notarize the attached NOTICE OF CONTEST AND SERVICE TO AFFECTED EMPLOYEES (Notice of Contest form) and file it with the Commissioner at the address shown on the top of page 1 of this Citation within 20 calendar days of receiving the citation.

Important: To be considered filed, all parts of the Notice of Contest form must be completed and the completed form must be deposited in the United States mail and postmarked, or otherwise timely received by the Commissioner at the above address within 20 calendar days after the date this Citation is received by the employer. You may also file electronically at (contestation.dli@state.mn.us), by facsimile (FAX), or by hand-delivering the completed form to the Department, if received no later than 4:30 p.m. on the 20th calendar day. If the employer fails to file the Notice of Contest form on time, this Citation and Notification of Penalty becomes a final order of the Commissioner which is not subject to review by any court or agency and the Occupational Safety and Health Division may file and enforce the penalty as a district court judgment without further notice or additional proceedings pursuant to Minnesota Statute § 16D.17.

Employee Right to Contest - An employee or authorized representative of employees has the right to a hearing to contest this Citation by filing a letter with the Commissioner of the Department of Labor and Industry at the address shown on page 1 within 20 calendar days of the employer's receipt of this Citation.

Important: To be considered filed, an employee letter of contest must be deposited in the United States mail and postmarked, or otherwise timely received by the Commissioner at the above address within 20 calendar days after the date this Citation is received by the employer. You may also file electronically at (contestation.dli@state.mn.us), by facsimile (FAX), or by hand-delivering the completed form to the Department, if received no later than 4:30 p.m. on the 20th calendar day.

If the employee fails to file a letter of contest on time, this Citation and Notification of Penalty becomes a final order of the Commissioner which is not subject to review by any court or agency and the Occupational Safety and Health Division may file and enforce the penalty as a district court judgment without further notice or additional proceedings pursuant to Minnesota Statute § 16D.17.

Employee Right to Party Status - Affected employees or their authorized employee representatives may elect to participate as parties in the formal contested case hearing by filing written notice with the Commissioner at the address shown above at least 45 days before the start of the hearing. The notice must contain the employees' names, addresses, authorized employee representatives, if any, and a statement that they are affected employees of the cited employer.

Employer Discrimination Unlawful - Employees who believe that they have been discharged or otherwise discriminated against by any person because the employees have exercised any right authorized under the provisions of Minnesota Statutes §§ 182.65 to 182.674, may, within 30 days after such alleged discrimination occurs, file a complaint with the Commissioner of the Department of Labor and Industry at the address shown above, alleging the discriminatory act.

PENALTY INFORMATION

Types of Violations - There are 5 types of violations that may be cited by MNOSHA. They are: Nonserious, Serious, Willful, Repeat and Failure to Abate.

Penalties - In cases not involving the death of an employee, the law allows the following maximum penalties: Nonserious, \$15,625; Serious, \$15,625; Willful, \$156,259; Repeat, \$156,259; and Failure to Abate, \$15,625 per day the violation remains unabated. If a Willful or Repeat violation caused or contributed to the death of an employee, however, MNOSHA is compelled by law to assess the employer a total non-negotiable penalty of at least \$50,000 for all citations connected to the employee's death. If there are no Willful or Repeat violations among the violations that caused or contributed to the employee's death, MNOSHA must assess the employer a non-negotiable penalty of at least \$25,000 for each citation connected to the employee's death. The following violations are not subject to these minimums and will be processed according to MNOSHA's ordinary penalty system: (a) any serious violations issued to an employer with fewer than 50 employees when the victim of a workplace fatality owned a controlling interest in the business unless the Commissioner determines that a fine shall be assessed, and (b) any violations found during a fatality investigation but determined not to be connected to the death of an employee.

Credits - A penalty for a violation may be credited by as much as 95 percent, depending on the employer's good faith (up to 30%), size of business (up to 55%), and previous violation history (up to 10%). The penalties which appear on the Citation and Notification of Penalty have been reduced by the credits described.

Minnesota
Department of Labor and Industry
Occupational Safety and Health Division

Inspection Number: 318212834
Inspection Date(s): 10/29/2024
Issuance Date: 11/14/2024
OSHI ID: U3093
Optional Report No.: 04424

Citation and Notification of Penalty

Company Name: Babas Food Company
LLC

Inspection Site: 2220 Lyndale Ave S, Minneapolis, MN 55405

Citation 01 Item 001

Type of Violation: **Serious**

Minn. Stat. 182.653 subd. 8: A written Workplace Accident and Injury Reduction (AWAIR) Program that promotes safe and healthful working conditions and is based on clearly stated goals and objectives for meeting those goals was not established; specifically:

The employer did not develop and implement a written Workplace Accident and Injury Reduction (AWAIR) program.

Abatement Guidelines: The program must describe:

- 1) How managers, supervisors, and employees are responsible for implementing the program and how continued participation of management will be established, measured, and maintained;
- 2) The methods used to identify, analyze, and control new or existing hazards, conditions, and operations;
- 3) How the plan will be communicated to all affected employees so that they are informed of work-related hazards and controls;
- 4) How work place accidents will be investigated and corrective action implemented;
- 5) How safe work practices and rules will be enforced.

An employer must conduct and document a review of the work place accident and injury reduction program at least annually and document how procedures set forth in the program are met.

Date By Which Violation Must Be Abated:	12/9/2024
Penalty:	\$250.00

Minnesota
Department of Labor and Industry
Occupational Safety and Health Division

Inspection Number: 318212834
Inspection Date(s): 10/29/2024
Issuance Date: 11/14/2024
OSHI ID: U3093
Optional Report No.: 04424

Citation and Notification of Penalty

Company Name: Babas Food Company
LLC
Inspection Site: 2220 Lyndale Ave S, Minneapolis, MN 55405

Citation 01 Item 002

Type of Violation: **Serious**

Minn. Stat. 182.676: The employer did not establish and administer a joint labor-management safety committee which holds regularly scheduled meetings and has employee members selected by the employees:

The employer did not establish and administer a joint labor-management safety committee.

Date By Which Violation Must Be Abated: **12/9/2024**
Penalty: **\$250.00**

Minnesota
Department of Labor and Industry
Occupational Safety and Health Division

Inspection Number: 318212834
Inspection Date(s): 10/29/2024
Issuance Date: 11/14/2024
OSHI ID: U3093
Optional Report No.: 04424

Citation and Notification of Penalty

Company Name: Babas Food Company
LLC
Inspection Site: 2220 Lyndale Ave S, Minneapolis, MN 55405

Citation 01 Item 003

Type of Violation: **Serious**

29 CFR 1910.1200(g)(8): The employer did not ensure that safety data sheets were readily accessible during each work shift to employees when they were in their work area(s):

The employer did not ensure safety data sheets were readily accessible during each work shift for employees exposed to hazardous chemical such as Inspector's Choice and Lime-A-Way used throughout the facility for cleaning and sanitizing.

Abatement Guidelines: Safety Data Sheets (SDS) or comparable written materials which contain the information required under 1910.1200(g)(2) for hazardous chemicals must be readily available in the workplace.

Date By Which Violation Must Be Abated: **12/9/2024**
Penalty: **\$750.00**

Minnesota
Department of Labor and Industry
Occupational Safety and Health Division

Inspection Number: 318212834
Inspection Date(s): 10/29/2024
Issuance Date: 11/14/2024
OSHI ID: U3093
Optional Report No.: 04424

Citation and Notification of Penalty

Company Name: Babas Food Company
LLC
Inspection Site: 2220 Lyndale Ave S, Minneapolis, MN 55405

Citation 02 Item 001

Type of Violation: **NonSerious**

29 CFR 1910.1200(e)(1): The employer did not develop, implement, and/or maintain at the workplace a written hazard communication program which describes how the criteria specified in 29 CFR 1910.1200(f), (g), and (h) will be met:

The employer did not develop and implement a written hazard communication program for employees exposed to hazardous chemical such as Inspector's Choice and Lime-A-Way used throughout the facility for cleaning and sanitizing.

Abatement Guidelines: The written program must be made available, upon request to employees, their designated representatives, and representatives of the Occupational Safety & Health Division and shall include:

- 1) A description of how the training, availability of information, and labeling provision will be met for hazardous chemicals.
- 2) A list of the hazardous chemicals known to be present using an identity 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.
- 3) The methods the employer will use to inform employees of the hazards of non-routine tasks that involve exposure to hazardous chemicals, and the hazards associated with hazardous chemicals contained in unlabeled pipes in their work areas.
- 4) Additionally, in multiemployer workplaces where the employer produces, uses or stores hazardous chemicals in such a way that employees of other employers may be exposed, the written program shall include:

- a) the methods the employer will use to provide the other employers with a copy of the safety data sheet, or to make it available at a central location in the workplace, for each hazardous chemical the other employers' employees may be exposed to while working;
- b) the methods the employer will use to inform the other employers on any precautionary measures that need to be taken to protect employees during normal operating conditions and in foreseeable emergencies; and
- c) the methods the employer will use to inform the other employers of the labeling system used in the workplace.

Date By Which Violation Must Be Abated: **12/9/2024**
Penalty: **\$0.00**

Nicole Blissenbach, Commissioner
MN Department of Labor and Industry

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Khalid Ansari, Co-Founder
Babas Food Company Inc
2220 Lyndale Ave S
Minneapolis, MN 55407
318212834 U3093 04424



9590 9402 8271 3094 9314 58

2. Article Number (Transfer from service label)

7021 2720 0001 8511 6476

COMPLETE THIS SECTION ON DELIVERY

A. Signature  ☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery
11-16

Address different from item 1? ☐ Yes
delivery address below: ☐ No

3. Service type
- | | |
|--|---|
| <input type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express® |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail™ |
| <input type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Restricted Delivery |
| <input type="checkbox"/> Certified Mail Restricted Delivery | <input type="checkbox"/> Signature Confirmation™ |
| <input type="checkbox"/> Collect on Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | |

Minnesota
Department of Labor and Industry

Occupational Safety and Health Division
 443 Lafayette Road North
 St. Paul, MN 55155-4307

Phone: 1-800-DIAL-DLI (1-800-842-6934)
 (651) 284-5050
 FAX: (651) 284-5741
 www.dli.mn.gov

DEC - 9 2024

MINNESOTA OSH DIVISION

Inspection Number 318212834	OSHI ID U3093	Optional Report No.: 04424
Employer's Name and Mailing Address: Khalid Ansari, Co-Founder Babas Food Company Inc 2220 Lyndale Ave S Minneapolis, MN 55407 318212834 U3093 04424		

NOTICE OF CONTEST AND SERVICE TO AFFECTED EMPLOYEES

PURPOSE OF THIS FORM

If you have received a Citation and Notification of Penalty from the Minnesota Occupational Safety and Health Division (MNOSHA) and you wish to contest any part of the Citation, including the penalty, you must complete this form. **For your contest to be valid, you must file this form within 20 calendar days of the date the employer received the Citation.**

If you only wish to obtain an extension of time to correct the violation, you may file a Petition for Modification of Abatement Date according to the instructions on the Citation and Notification of Penalty.

By filing this Notice of Contest form, you are initiating a formal contested case proceeding before an administrative law judge of the parts of the Citation and Notification of Penalty you are contesting. This form must be filed in good faith and not solely for delay or avoidance of penalties.

HOW TO FILE THIS FORM

- This Notice of Contest form must be filed with the Commissioner of the Department of Labor and Industry at the above address **within 20 calendar days** after the date the employer received the Citation and Notification of Penalty. To be considered filed, all parts of the Notice of Contest form must be completed and the completed form must be mailed and postmarked, **within 20 calendar days** after the date the employer received the Citation and Notification of Penalty. You may also file electronically at contestation.dli@state.mn.us, by facsimile (FAX), or by hand-delivering the completed form to the Department, if received **no later than 4:30 p.m. on the 20th calendar day**.
- If you fail to file the fully completed Notice of Contest form on time, the Citation and Notification of Penalty becomes a final order of the Commissioner that is not subject to review by any court or agency.

APPEAL PROCESS

Upon receipt of a timely filed Notice of Contest form, MNOSHA will contact you and schedule a date, time and location for an informal conference. The purpose of the informal conference is to allow you to discuss with a MNOSHA representative the Citation and Notification of Penalty and the basis for your contest. The goal of the informal conference is to reach an early resolution of the contest. If you and MNOSHA are unable to reach a resolution at the informal conference then the contest will proceed to a formal contested case hearing.

COMPLETING THIS FORM

1. HOW TO IDENTIFY THE INSPECTION BEING CONTESTED.

Complete the box at the top of this form using the Inspection Number, OSHI ID, Optional Report Number and Employer's Mailing Address from the Citation and Notification of Penalty being contested.

2. HOW TO CONTEST THE CITATION AND NOTIFICATION OF PENALTY.

Indicate in the boxes on the next page which part(s) of the Citation and Notification of Penalty you wish to contest. Identify the citations you are contesting by indicating the citation and item numbers. Then indicate which part(s) of each item is being contested. Finally, state your reasons for contesting in the space provided below the boxes.

- Check the box CITATION if you wish to contest that the violation occurred.
- Check the box TYPE OF VIOLATION if you wish to contest the characterization of the violation as non-serious, serious, willful or repeat.
- Check the box ABATEMENT DATE if you wish to contest the date by which you must abate the violation.
- Check the box PENALTY if you wish to contest the amount of the penalty.

EXHIBIT C

FAILURE TO CHECK ANY PART WILL RESULT IN THAT PART OF THE CITATION BECOMING A FINAL ORDER OF THE COMMISSIONER THAT IS NOT REVIEWABLE BY ANY COURT OR AGENCY.

CITATION NUMBER	ITEM NUMBER	(check all that apply)			
01- 001	001	<input checked="" type="checkbox"/> Citation	<input type="checkbox"/> Type of Violation	<input type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
01- 002	002	<input checked="" type="checkbox"/> Citation	<input type="checkbox"/> Type of Violation	<input type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
01- 003	003	<input checked="" type="checkbox"/> Citation	<input type="checkbox"/> Type of Violation	<input type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
02- 001	001	<input checked="" type="checkbox"/> Citation	<input type="checkbox"/> Type of Violation	<input type="checkbox"/> Abatement Date	<input checked="" type="checkbox"/> Penalty
		<input type="checkbox"/> Citation	<input type="checkbox"/> Type of Violation	<input type="checkbox"/> Abatement Date	<input type="checkbox"/> Penalty
		<input type="checkbox"/> Citation	<input type="checkbox"/> Type of Violation	<input type="checkbox"/> Abatement Date	<input type="checkbox"/> Penalty

REASONS FOR CONTEST: (Additional sheets may be attached as necessary, and they will be considered part of this form.)

We are contesting all citations as we feel we have not been justifiably informed of these requirements. Baba's has spent 100's of thousands of dollars implementing food safety systems & if we were more informed on OSHA's requirements we would have done so. That being said all systems are now in place and actively being used at Baba's.

3. DATES OF POSTING AND SERVING. You must certify in Box A or B below the dates you posted and served this form.

A. Union: Complete part A if you have affected Employees Represented by Authorized Employee Representatives

I hereby certify that I posted fully completed copies of this form on _____ (date) at the locations where the Citation and Notification of Penalty is required to be posted; and I served fully completed copies of this form on _____ (date) upon the authorized employee representatives of affected employees.

B. Non-Union: Complete part B if you have affected Employees Not Represented by Authorized Employee Representatives

I hereby certify that I posted fully completed copies of this form on 11/15/2024 (date) at the locations where the Citation and Notification of Penalty is required to be posted and that I do not have any affected employees who are represented by authorized employee representatives.

4. OATH. The employer completing this form must sign and have notarized the following statement.

I SWEAR THAT THE INFORMATION PROVIDED ON THIS FORM AND ATTACHED TO THIS FORM IS ACCURATE AND TRUTHFUL TO THE BEST OF MY KNOWLEDGE.

State of MN County of Hennepin

Khalid Angwi, CEO
Name of Employer Representative, Title

6517572000
Phone

Subscribed and sworn to before me

this 9th day of December

Notary Public [Signature]

My Commission expires 01/31/2025

[Signature]
Signature

12/9/2024
Date



Certificate of Service

I, MICHAEL GRAY, hereby declare that in the City of St. Paul, County of Ramsey and State of Minnesota on the 2nd day of January, 2025, I served the attached FINAL ORDER DETERMINING LATE AND INCOMPLETE FILING by depositing in the United States mail with postage prepaid a true and accurate copy of it, properly enveloped, and addressed to:

Khalid Ansari
Babas Food Company L.L.C.
2220 Lyndale Avenue South
Minneapolis, MN 55407

Patrick J Kelly
223 Little Canada Road East
Little Canada, MN 55117

I am signing this document in Ramsey County, Minnesota on the 2nd day of January, 2025. Pursuant to Minn. Stat. § 358.116, I declare under penalty of perjury that everything I have stated in this document is true and correct.

Michael Gray
Michael Gray

Certificate of Service

1. I, MICHAEL GRAY, hereby declare that in the City of St. Paul, County of Ramsey and State of Minnesota on the 28th day of January, 2025, I served the attached RESPONSE TO PETITION TO VACATE in the United States mail with postage prepaid, a true and accurate copy of it, properly enveloped, and addressed to:

Khalid Ansari
Baba's Food Company L.L.C.
2220 Lyndale Avenue South
Minneapolis, MN 55407

Patrick J Kelly
Baba's Food Company L.L.C.
223 Little Canada Road East
Little Canada, MN 55117

2. I, MICHAEL GRAY, hereby declare that at the City of St. Paul, Ramsey County, and State of Minnesota, on the 28th day of January, 2025, I served the attached RESPONSE TO PETITION TO VACATE upon Peggy Charpentier, Executive Secretary to the OSH Review Board, by personally handing and leaving with her a true and correct copy thereof.

I am signing this document in Ramsey County, Minnesota on the 28th day of January, 2025. Pursuant to Minn. Stat. § 358.116, I declare under penalty of perjury that everything I have stated in this document is true and correct.

Michael Gray
Michael Gray