

ON APPEAL TO THE COMMISSION

**UNITED STATES OF AMERICA  
FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

SECRETARY OF LABOR (MSHA)	*	
	*	
Petitioner,	*	CIVIL PENALTY PROCEEDING
	*	
	*	DOCKET NO. SE 2015-315
	*	
v.	*	
	*	A.C. No. 08-01336-381845 (B1758)
	*	
	*	Mine: S.D.I. Quarry
	*	
	*	
SIMS CRANE,	*	
	*	
Respondent.	*	
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**MOTION FOR LEAVE TO PARTICIPATE AS AMICUS CURIAE**

Pursuant to Commission Rule 74, 29 C.F.R. § 2700.74, the Specialized Carriers & Rigging Association, the Crane Owners Association, and the Mobile Crane Operators Group (“the movant associations”), jointly and through undersigned counsel, hereby move for leave to participate as Amicus Curiae in the above-captioned matter.

In support of the motion, the movant associations state as follows:

1. The Specialized Carriers & Rigging Association (SC&RA) is an international trade association of more than 1300 members who are involved in crane and rigging operations, machinery moving and erecting, rental services, specialized transportation, industrial maintenance, millwrighting, and manufacturing. SC&RA provides education, events,

webinars, safety manuals, and other materials and services for its members to support the members and the industry in operating safely, legally, and profitably in the United States and around the world.

2. The Crane Owners Association is an association of 15 crane rental contractors located in northern California who provide hoisting services for contractors and owners in mining, construction, and other industries. The Crane Owners Association members collectively employ an average of over 450 crane operators working in California and surrounding areas.
3. The Mobile Crane Operators Group (MCOG) is an association of 18 crane rental contractors who provide hoisting services for contractors and owners in mining, construction, and other industries throughout twelve southern California counties.
4. The movant associations provide instruction and advice to their respective members on the safe operation of cranes, safe rigging and lifting, and maintaining compliance with applicable regulations. Further, the movant associations have expertise in matters of rigging and the operation of cranes at mines and at other work sites which will be of assistance to the Commission.
5. The above-captioned matter involves a single citation issued to Sims Crane regarding the procedure used for rigging and lifting. Specifically, the citation alleged that Sims Crane violated the standard at 30 C.F.R. § 56.16009, in that its employees failed to “stay clear of suspended loads.”
6. The Administrative Law Judge affirmed the citation. Sims Crane filed for review of the Administrative Law Judge’s decision, and the Commission granted review on June 1, 2016.

7. The movant associations are very concerned about the interpretation of the standard at issue in this case. The interpretation of the standard embodied in the citation would interfere with the manner and method of safely rigging, lifting and moving heavy and/or large equipment or other materials.
8. The interpretation of the standard embodied in the citation at issue in this case would force crane operators at mines to change safety procedures and safety training which have been, and are being widely used by crane operators, and are consistent with the regulations and standards applicable in other industries, including the construction industry.
9. Movant associations believe that the interpretation of the standard embodied in the citation is contrary to the standard and would result in less safety to crane operators, helpers, and other miners.
10. Movant associations submit that an amicus brief is desirable in order to describe for the Commission the current industry practices that are at stake in this matter, and the detrimental impact on their industry and the safety of their employees, should the Commission affirm the decision of the Administrative Law Judge.
11. Granting the Motion for Leave to Participate as Amicus Curiae will not unduly delay the proceeding or prejudice any party. The Commission has granted the Secretary of Labor's motion for an extension of time to file its Response Brief to Sims Crane's Opening Brief, which Response Brief is now due by September 15, 2016.
12. Pursuant to Rule 74 (d), 29 C.F.R. § 2700.74 (d), movant associations request that the Commission grant the Motion for Leave to Participate as Amicus Curiae, and that the time for filing the Amicus Curiae Brief be set for 20 days after the time for filing of the Secretary of Labor's Response Brief.

Wherefore, movant associations, SC&RA, Crane Owners Association, and MCOG, respectfully request that this Motion for Leave to Participate as Amicus Curiae be granted, and that they be given until October 5, 2016 to file their joint Amicus Curiae Brief.

Respectfully submitted,

/s/ Adele L. Abrams

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