

April 1, 2020

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### SAFETY NEWS ALERT

**Safety News Alert**, part of the Catalyst Media Network, keeps safety pros up to date on the latest OSHA news, safety training ideas, workers' comp cases and injury cases from other companies. Read what more than 334,000 safety pros turn to regularly for occupational safety information. Safety News Alert's editorial staff is led by veteran Editor-in-Chief Fred Hosier.

## Production over Safety claims another life, shuts down company

### ■ Ignored risks to 'maximize earnings'

Here's a reminder that putting production over safety can cause injuries and deaths, and force a company to close.

Prosecutors say the company involved in this fatal explosion "disregarded known safety risks ... and instead focused on the timely completion of construction projects to maximize earnings."

Columbia Gas of Massachusetts agreed to pay a \$53 million fine for the gas explosions that killed one person, injured 23 others and damaged 131 homes and businesses in Lawrence, Andover and North

Andover, MA, on Sept. 13, 2018.

This is the largest criminal fine ever imposed under the Pipeline Safety Act.

Bay State Gas Company, doing business as Columbia Gas of Massachusetts, pleaded guilty to failing to prevent over-pressurization of its low-pressure gas distribution system during pipe replacement.

### Probation, forced sale

The criminal fine is twice the amount of profits the company earned between 2015 and 2018 from a pipeline infrastructure program called the Gas System Enhancement Plan,

*(Please see Shuts down ... on Page 2)*

### SAFETY ONLINE

## Where to go for coronavirus updates for businesses

Since novel coronavirus disease 2019 (COVID-19) is new to humans, information on how to handle the situation in workplaces is regularly evolving.

So the best thing to do is to keep up with the experts via the Internet.

### News and other resources

Here's a list of online resources:

- We will post updates on our website [www.safetycompliancealert.com](http://www.safetycompliancealert.com)
- For a slide presentation and handout for workers on COVID-19 basics, go to [www.safetycompliancealert.com/coronavirus-training-slide-presentation/](http://www.safetycompliancealert.com/coronavirus-training-slide-presentation/)
- The U.S. Centers for Disease Control and Prevention (CDC) COVID-19 website is [www.cdc.gov/coronavirus/2019-ncov/index.html](http://www.cdc.gov/coronavirus/2019-ncov/index.html)

- A CDC webpage on strategies for maximizing the supply of N95 respirators: [www.cdc.gov/coronavirus/2019-ncov/hcp/respirators-strategy/index.html](http://www.cdc.gov/coronavirus/2019-ncov/hcp/respirators-strategy/index.html)
- OSHA's COVID-19 webpage: [www.osha.gov/SLTC/covid-19/](http://www.osha.gov/SLTC/covid-19/)
- The American Industrial Hygiene Association (AIHA) resource webpage on COVID-19: [www.aiha.org/public-resources/consumer-resources/coronavirus\\_outbreak\\_resources](http://www.aiha.org/public-resources/consumer-resources/coronavirus_outbreak_resources)
- The National Safety Council (NSC) resource webpage on COVID-19: [www.nsc.org/work-safety/safety-topics/coronavirus](http://www.nsc.org/work-safety/safety-topics/coronavirus)
- The American Society of Safety Professionals (ASSP) webpage on COVID-19: [www.assp.org/coronavirus/](http://www.assp.org/coronavirus/)

PPE

### Shortage of N95 respirators reported

The Centers for Disease Control and Prevention (CDC) warns supplies of N95 respirators can become depleted during pandemics. The World Health Organization has declared the coronavirus a pandemic.

U.S. manufacturers of the respirators have reported a surge in orders.

#### Conserving supplies

The CDC has guidance to conserve N95 supplies during a shortage:

- Use engineering and administrative controls to minimize the number of employees who need to use respirators
- Use alternatives to N95 respirators – other classes of filtering facepiece respirators, for example
- Implement practices allowing extended use and limited reuse of N95 respirators, and
- Prioritize use of N95 respirators for employees at highest risk. Health and Human Services

Secretary Alex Azar told a U.S. Senate committee on Feb. 25 that there were 30 million N95 respirators in the nation’s emergency stockpile.

When asked whether the U.S. currently has enough N95s in stock, Azar said no, because healthcare workers would need 300 million masks in the event of an outbreak.

Info: [tinyurl.com/N95s592](https://tinyurl.com/N95s592)

### Shuts down ...

(continued from Page 1)

according to the Department of Justice.

The company’s operations will be monitored during a three-year probation period to ensure compliance with federal and state safety regulations.

The parent company has agreed to sell Columbia Gas and stop all gas pipeline operations in Massachusetts.

The company will forfeit any profit it might earn from the sale as well as implement recommendations from the National Transportation Safety Board.

### Reckless disregard of safety risk

The incident occurred when over-pressurization of a low-pressure gas distribution system caused multiple fires and explosions in the Massachusetts communities.

Charges against the company allege Columbia Gas “recklessly disregarded a known safety risk related to regulator control lines – sections of pipe connected to regulator stations that helped monitor and control downstream gas pressure.”

The company was aware the failure to account for control lines in construction projects could lead to a catastrophic event, but it proceeded to replace old cast iron pipes without considering the control line pipes.

This led to regulator stations automatically increasing pressure to the point of dangerous over-pressurization which caused the incident.

Documents say the company failed to follow plans to prevent such fires and explosions from occurring.

Info: [tinyurl.com/explosion592](https://tinyurl.com/explosion592)

*This feature provides a framework for decision making that helps keep you and your company out of trouble. It describes a recent legal conflict and lets you judge the outcome.*

### WHO WAS AT FAULT FOR LACK OF FALL PROTECTION?

When lunch began, Safety Manager Pete Travers grabbed his smart phone and rushed to place a ticket order.

A band he’d always wanted to see live was on tour and tickets were limited, so he accessed the venue’s website as quickly as he could.

Yes, yes, yes! he silently cheered as he placed the order.

Attorney John Jenkins poked his head into Pete’s office.

“Pete, we need to –” he started to say, but stopped when he saw Pete’s silent victory dance.

### Didn’t see him come up

“Sorry about that,” Pete said.

“It’s OK,” John replied. “But I’d like to know more about this OSHA fine.”

“We had a two-man crew working on a flat roof,” Pete said. “One worker was on the roof wearing fall protection, the other, Ralph Walker, was on ground level and didn’t don his PPE when he went back up on the roof.”

“He stepped on a weakened section of roof and fell through,” Pete said. “He got hurt pretty bad.”

“There was no foreman on site?” John asked.

“The foreman was on the roof, but he said he didn’t see Ralph come back up,” Pete said. “The general contractor also had a supervisor on the jobsite.”

“We can beat this,” John said. “It’s a clear case of unpreventable employee misconduct.”

Pete’s company fought the citation. Did it win?

■ *Make your decision, then please turn to Page 6 for the ruling.*

## SAFETY COMPLIANCE *Alert*

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## WORKERS' COMP

### Worker can't ID employer: Lawsuit denied

■ 3 COMPANIES INVOLVED: NO ONE WILL CLAIM WORKER AS THEIRS

An injured worker can't pursue a negligence suit against three construction companies despite not knowing which one was his employer, according to a Tennessee appeals court.

Because he couldn't identify his employer, the worker dropped his workers' comp claim for a lawsuit against the general contractor and two subcontractors, but the court said workers' comp was his exclusive remedy.

#### No employment papers or PPE

The foreman of A&M Builders, the general contractor, told subcontractors Central Construction and J&L Remodeling more workers were needed.

J&L didn't have more workers, but the foreman's contact at Central Construction said Marc Swindle was available, but they didn't discuss who Swindle's primary employer would be.

Despite not being told who his employer was or receiving employment papers, Swindle reported to work the next morning and was directed by A&M's foreman to work on the roof

of a building.

No fall protection was provided to Swindle, but he did as told and went to work on the roof.

Swindle's glove got tangled on a nail in a plank as it was sliding off the building, and he was dragged off the roof to the concrete floor below, suffering serious injuries. He didn't return to work and he wasn't paid for two hours he worked.

Swindle thought he worked for A&M. He filed a workers' comp claim. A&M said he wasn't its employee.

In court, Swindle claimed A&M's foreman was the only person he spoke to at the jobsite, but the foreman testified he had no authority to hire.

The trial court found there was no intentional misrepresentation by A&M or Central Construction, so workers' compensation was Swindle's exclusive remedy. J&L had nothing to do with the incident, so it was dismissed from the case.

The appeals court found the injury occurred on the job and was "simply a case of figuring out who (the) employer was," so this was a workers' comp case.

Info: [tinyurl.com/3contractors592](http://tinyurl.com/3contractors592)

## HEALTHCARE INDUSTRY

### Federal court upholds GDC workplace violence fine

A Pennsylvania psychiatric hospital violated OSHA's General Duty Clause (GDC) by failing to properly address patient-on-staff violence, according to an appeals court decision.

Despite the hospital's efforts to get the citations dismissed due to its low patient aggression rate, the DC Circuit Court of Appeals found the hospital's safety protocols weren't adequate.

Brooke Glen treats patients with serious psychiatric and behavioral issues.

#### Inadequate implementation

OSHA cited the facility for violating the GDC by failing to protect staff from aggressive patients. The facility appealed to an administrative law judge.

The judge found Brooke Glen didn't:

- update some written safety policies

- provide enough working phones or other communication devices for staff to use to call for help, and
- hold consistent, adequate briefings on incidents when they occurred.

Brooke Glen argued it had 4.41 patient aggression incidents in 1,000 days in 2016, below the average rate (8-10 incidents) of co-owned facilities.

However, the judge said the hospital had several flaws in its incident reporting process and the data was flawed.

The judge found Brooke Glen inadequately implemented its workplace safety program and upheld the citation.

Brooke Glen appealed. The appeals court upheld the decision.

Info: [tinyurl.com/GDC592](http://tinyurl.com/GDC592)

## TRENDS TO WATCH

Watch what's happening in various states. Some actions indicate trends.

### ■ EMPLOYERS REQUIRED TO REPORT HEART ATTACKS?

Employers in Kentucky may soon be required to report deaths or hospitalizations caused by heart attack to OSHA, even if nothing in the workplace contributed to the medical emergency.

Further, The Department of Workplace Standards proposed other amendments to the state's reporting laws requiring every eye loss, hospitalization, amputation and death occurring in, or caused by, the work environment be reported whether work-related or not, according to a blog post by law firm Frost, Brown and Todd.

These amendments haven't been adopted yet, and a public hearing on the proposed changes is scheduled for April 23 at the state's Labor Cabinet.

### ■ TRAGIC SHOOTINGS LEAD TO CITATIONS FOR PIZZA SHOPS

Two pizza shops were cited Feb. 5 by Indiana OSHA for failing to report the shooting deaths of workers within eight hours in October and November 2019.

Rico's Pizza and Luigi's Pizza, both of Gary, IN, received non-serious citations after a delivery driver from each establishment was shot and killed while delivering pizzas in the Glen Park neighborhood, according to a *Chicago Tribune* story.

On Oct. 26, 2019, Philip Hearne, the Rico's driver, was killed by a stray bullet while sitting in his delivery vehicle. The bullet was fired while a robbery was being committed nearby.

David Shelton, a driver for Luigi's Pizza, was shot and killed Nov. 24, 2019 while being robbed as he delivered food in the same area where Hearne was killed.

Two men were charged Dec. 19, 2019 in Shelton's death, but no arrests have been in Hearne's case.

## Roundup of most recent OSHA citations

### **Worker fatally crushed by forklift: \$53K OSHA fine**

A company was cited by OSHA after a worker was crushed to death by a forklift.

The forks of the lift weren't fully lowered and the vehicle's brake wasn't set, resulting in the worker's death.

**Fine:** \$52,626

**Company:** R & R Contracting Services Inc., O'Fallon, MO

**Business:** Septic tank services

**Reasons for fine:**

*12 serious violations for failure to:*

- ensure employees on working surfaces 4 feet or more above lower levels were protected by using guardrail, safety net or personal fall arrest systems
- inspect portable fire extinguishers
- perform annual inspections of portable fire extinguishers
- train employees on use of portable fire extinguishers
- ensure forklift operators completed proper training
- ensure forklift operators set parking brakes and lowered forks when leaving forklift unattended
- remove damaged or defective forklifts from service
- ensure valve caps on acetylene and oxygen cylinders were in place and hand-tight
- keep oxygen cylinders in storage separated from fuel-gas cylinders by at least 20 feet
- prevent flexible cords from being used as substitute for fixed wiring
- prevent flexible cords from being run through doorways, windows or similar openings
- develop, implement and maintain written hazard communication program

### **Failed to provide fall protection and training**

OSHA cited a residential framing contractor after inspectors saw employees working from heights at two worksites in Auburn and Opelika, AL.

**Fine:** \$240,880

**Company:** Jaime Martinez Hernandez,

Phenix City, AL

**Business:** Residential framing contractor

**Reasons for fine:**

*Two willful violations for failure to:*

- protect employees engaged in residential construction 6 feet or more above lower levels by using guardrail, safety net or personal fall arrest systems (for both worksites)

*Four repeat violations for failure to:*

- ensure employees used eye or face protection when appropriate (both worksites)
- ensure ladder side rails extended at least 3 feet beyond upper platform
- prevent use of top step of stepladder

*Three serious violations for failure to:*

- provide training program on fall hazards (both worksites)
- ensure ladders were used properly

**Note:** This contractor has been inspected six times in the past five years and was cited for multiple violations each time including lack of eye and fall protection.

### **Explosion burned 69% of worker's body: No PPE**

Oregon OSHA cited a die-casting foundry after a titanium furnace exploded injuring two workers.

Inspectors found the furnace had a system failure when a metal bar fell, creating an electrical arc that perforated a water canister. The water fell into the molten titanium which caused the explosion.

The blast threw both employees 6 to 12 feet, and one of them received second- and third-degree burns over 69% of his body.

**Fine:** \$27,500

**Company:** Selmet Inc., Albany, OR

**Business:** Die-casting foundry

**Reasons for fine:**

*Three serious violations for failure to:*

- account for safety measures in design, layout and operation of furnaces
- ensure employees wore appropriate work clothing
- provide PPE for furnace operators

## WORKERS' COMP DECISIONS

### **Injured while bowling: Can she collect benefits?**

A worker injured her ankle while bowling at a company event. Can she collect benefits?

**What happened:** The worker was invited to attend the bowling event, which occurred during work hours, to improve morale and discuss goals for the next year. She wasn't told she didn't have to attend. During the event, she injured her ankle.

**Company's reaction:** Bowling is a non-compensable recreational activity.

**Decision:** Yes, she could collect.

Because the event was a required work activity and benefited the employer, the injury was compensable.

**Cite:** *Reynolds v. Anixter Power Solutions*, FL Court of Appeals, No. 1D19-0231, 12/10/19.

### **Slipped and fell while on break: Can she collect?**

A healthcare worker was injured when she slipped and fell during an unscheduled break. Can she collect?

**What happened:** The worker was on her unscheduled break on the company's premises – she couldn't leave in case she had to be called back to respond to an emergency. She exited an elevator and fell while talking to a relative on her cell phone.

**Company's reaction:** You were on break when you fell, so we don't have to pay for your injury.

**Decision:** Yes, she could collect.

Because she was technically on duty during her break and had to remain in the building, her injury was compensable.

**Cite:** *University of Arkansas for Medical Sciences v. Hines*, AR Court of Appeals, No. CV-19-487, 12/4/19.

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# WHAT'S WORKED FOR OTHER COMPANIES

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SCA subscribers include a broad range of small, medium and large firms involved in all types of economic activity. In this regular section, three of them share a safety success story.

## 1 Active shooter training prepares employees

The FBI said last year there were 27 “active shooter” incidents with one or more people firing weapons into populated areas intending to kill people.

Sure, we have an evacuation procedure. But with the risk of this kind of workplace violence, it's not quite enough.

### Emergency response training

We've trained our employees that in the event we have an active shooter

on our campus, there are a couple areas where they can activate an audio message that'll say that we have an active shooter on campus. It instructs you to run, hide, fight.

#### Run:

- Leave your belongings behind and get away.
- Warn people there's an active shooter.
- Call 9-1-1 when you're safe.

#### Hide:

- If you can't escape, get out of the shooter's view and be quiet, including silencing your phone.
- Avoid hiding in groups.
- Lock and block doors,

close blinds, turn off lights and stay where you are until authorities give you the all-clear.

- Communicate the emergency silently. Try texting 9-1-1.

#### Fight:

- As a last resort, prepare to ambush the shooter with makeshift weapons, and aggressively attack.
- Throw items to distract or disarm the shooter.

Should the unthinkable happen, our employees know what to do.

*(John Seidl, EHS Site Manager, Dercos Aerospace Inc., Milwaukee)*

**REAL  
PROBLEMS,  
REAL  
SOLUTIONS**

## 2 Another set of eyes can prevent injuries

A seasoned employee got his hand crushed in a machine on a job site. Losing three fingers as a result, the hand will never be the same again.

OSHA's investigation found that we were in compliance with regulations.

While it's good that OSHA ruled we're being safe, how could this tragedy have been avoided?

### Combat complacency

We had follow-up training about this incident. We reviewed procedure,

and decided that a way to fix this would be to have a “buddy” worker come in to be an extra set of eyes for the machine operator, who had no way of seeing that his co-worker's hand was in a dangerous spot.

The injured employee admitted that the injury happened because he wasn't paying attention.

In my opinion, 90% of accidents happen to people that have done something for so long that they get careless and don't realize it.

At on-site Toolbox Meetings we give real-life examples of stuff that could happen if you're not careful.

We have a near-miss policy also. If there was a close call, but no one got hurt, we fill out a report

about that.

We've had no serious injuries since the one last year.

You're more productive when you're not scared for your life, but at the same time, you need to be a little bit. Safety managers help find a balance.

*(Landon Paul, Operations Manager, Geotech Services Inc., Cleveland)*

## 3 Be an effective leader: Use specific feedback

Why is it so hard to be a good leader?

It's because effective leadership has nothing to do with what we want to do.

It has everything to do with what our people need us to do for them.

For example, you have an employee who's new to a task, and they're really excited, motivated and confident to take on that new task.

So I give clear directions, lead by example, provide a ton of feedback

and am transparent in my expectations of what exactly I want them to do.

Eventually they become proficient in the task, but maybe later they make a mistake and need to be re-trained. If I do the same thing I did to train them the first time, now I'm a micromanaging, arrogant S.O.B.

What changed?

### Take time to listen

What changed was what that person needed me to do for them in that particular situation.

To remedy this, we need to learn to listen to the people who do the work

every day. Then we need to take the time to provide specific feedback on what we expect them to do.

Once we have those expectations set, we recognize and reward it when we see them fulfilling it.

Specific feedback is the most powerful tool we have on our tool belts to influence the decisions people make every day.

*(Adapted from a presentation by Rodney Grieve, President, BRANTA Worldwide, Sacramento, CA, at the 2019 VPPPA Safety+ Symposium)*

## STANDARDS

### Trends in OSHA's enforcement of silica in Construction reg

Statistics show OSHA and state-plan states issued 973 violations under the Respirable Crystalline Silica in Construction Standard in 2019, and those same statistics reveal how federal and state agencies are enforcing this rule.

The 2019 numbers – a 15.4% increase over 2018's 843 violations – show not only what the most common violations were, but also what inspectors are looking for during investigations.

#### The top 5 violations

In 2019, under the standard, OSHA and state plan states issued:

- 222 violations (179 in 2018) under 1926.1153(c)(1), which refers to Table 1 in the standard, stating, "For each employee engaged in a task identified on Table 1, the employer shall fully and properly implement the engineering controls, work practices and respiratory protection specified for the task on Table 1."
- 189 violations (185 in 2018) under 1926.1153(d)(2)(i), which states, "The employer shall assess the exposure of each employee who is ... exposed to respirable crystalline silica at or above the action level."
- 173 violations (161 in 2018) under 1926.1153(g)(1), which states, "The employer shall establish and

implement a written exposure control plan."

- 91 violations (78 in 2018) under 1926.1153(i)(1), which says workers "shall include respirable crystalline silica in the program established to comply with the hazard communication standard (29 CFR 1910.1200)." Employers also must ensure employees are trained and have access to labels and safety data sheets on crystalline silica. The training must address cancer and lung, immune system and kidney effects.
- 68 violations (33 in 2018) under 1926.1153(i)(2)(i), which says employers must ensure employees can demonstrate knowledge and understanding of respirable crystalline silica hazards, tasks that are associated with or could result in exposure, along with other relevant information.

#### Different enforcement approaches

These statistics seem to show inspectors are following two enforcement approaches, according to the law firm Ogletree Deakins:

1. Inspectors take a "Table 1 First" attitude to focus on how closely the employer adheres to Table

1. If the employer falls short, the inspector issues a violation under 1926.1153(c)(1).

2. The inspector sees the employer isn't following Table 1 then focuses on exposure assessment efforts. If the assessment is inadequate or hasn't been performed, the inspector issues a violation under 1926.1153(d)(2)(i).

There was an even split between the two approaches in 2018, but the second was more prevalent in 2019.

Under the first approach, inspectors issued serious classifications most of the time (81% in 2018, 74% in 2019) with bigger penalties (\$3,979 per violation in 2019; \$2,634 in 2019).

The second approach also resulted in serious violations about 73% of the time in both years, but lower fines (\$955 in 2018, and \$896 in 2019).

#### Rare citations

There are some things OSHA is citing employers for only rarely:

- recordkeeping, of which there were only two violations in two years, and
- housekeeping, which resulted in 41 violations (under things like the general ban on dry sweeping and use of compressed air) in two years.  
**Info:** [tinyurl.com/silica592](http://tinyurl.com/silica592)

### SHARPEN YOUR JUDGMENT – THE DECISION

(see case on Page 2)

No, the company lost. There was evidence the foreman not only saw the worker come up onto the roof without his fall PPE on before the incident, but he also knew the worker wasn't wearing PPE while on the roof earlier in the day, too.

The company claimed the employee was at fault for failing to put on his harness and tie off.

OSHA argued the foreman, as a representative of the company, should have told the worker to don his PPE, but failed to do so.

The court found that through the foreman the company had constructive knowledge of the violation. Further, it failed to discipline both the foreman and the worker after

the incident and offered no proof of disciplinary action for safety violations.

#### ■ ANALYSIS: MULTI-CONTRACTOR JOBSITE SAFETY

In this case, there was a general contractor onsite who had interacted with the foreman and worker earlier in the day, but neither OSHA nor the company attempted to find it at fault for failing to enforce safety on its jobsite.

Regardless of who was in charge of the job site, it's never a bad idea to ensure employees know their own company is checking on their compliance with safety rules rather than leaving it to whomever may be in charge of the multi-employer worksite.

**Cite:** *Secretary of Labor v. Eagle Cornice Company*, Occupational Safety and Health Review Commission, No. 18-1101, 12/16/19. Dramatized for effect.

## Government notices on workplace safety

Here's SCA's digest of key notices that appeared recently in the Federal Register (FR) or on OSHA's website concerning workplace safety issues.

### JOINT EMPLOYERS

A final rule issued by the National Labor Relations Board governs joint-employer status under the National Labor Relations Act but has no impact on OSHA's definitions of multi-employer worksites and joint employer.

The NLRB rule only applies to the board's definitions under the National Labor Relations Act, so similar terms used by OSHA are not affected.

A joint employer under the NLRB rule "must possess and exercise substantial direct and immediate control over one or more essential terms and conditions of employment of another employer's employees."

Some commenters on the final rule noted OSHA applies a policy (Directive CPL 02-00-124) on multi-employer worksites where more than one employer can be cited for hazardous conditions, but the NLRB was quick to point out its final rule had nothing to do with OSHA or other agencies.

"These considerations have no bearing on joint-employer determinations by OSHA ... which therefore shed little light on joint-employer determinations under the (National Labor Relations) Act," according to the final rule.

Info: [tinyurl.com/NLRB592](http://tinyurl.com/NLRB592)

### WHISTLEBLOWER

OSHA ordered a Connecticut commercial motor carrier to compensate a driver more than \$150,000 for retaliating against him when he raised safety concerns.

Investigators found Universal Trucking Solutions LLC and its co-owner, Juan Ramirez, violated whistleblower protections by retaliating against a driver who repeatedly voiced safety concerns.

The driver complained about missing and inoperative headlights and air pressure leaks and the company's

orders to violate hours-of-service regs.

In response, Ramirez and company management changed the driver's schedule, leading to a reduction in pay, according to the Department of Labor.

In February 2017, the driver resigned because he was afraid:

- a defective truck would cause an injury or fatality
- the U.S. Department of Transportation would confiscate his Commercial Driver's License, and
- of consequences from being forced to ignore hours-of-service rules.

OSHA investigated the driver's report of retaliation and ordered Ramirez and his defunct company to:

- pay the driver \$8,316 in back wages and interest, \$75,000 in punitive damages and \$50,000 in compensatory damages for mental pain and emotional distress
- pay \$21,378 in attorneys' fees, and
- not retaliate against the driver for exercising his whistleblower rights.

Info: [tinyurl.com/whistle592](http://tinyurl.com/whistle592)

### TRANSPORTATION

The National Transportation Safety Board crossed two recommendations off its 2019-2020 Most Wanted List: hazardous materials incident response planning and pipeline safety.

The recommendations were marked "closed" when the Pipeline and Hazardous Materials Safety Administration (PHMSA) and Consolidated Edison Company made recommended improvements.

The PHMSA revised regulations to require comprehensive response plans for worst-case discharges of oil and petroleum products from rail tank cars prompted by an NTSB investigation into a train derailment in Lac Megantic, Quebec, Canada.

Consolidated Edison revised its plastic pipe fusion welding procedures following the NTSB's investigation into a March 2014 natural gas explosion and fire in New York.

Info: [tinyurl.com/wanted592](http://tinyurl.com/wanted592)

### WHERE TO GET HELP

#### ■ OSHA RELEASES BOOKLET ON CORONAVIRUS PREVENTION

OSHA recently released a booklet with guidance on how to deal with the 2019 novel coronavirus in the workplace.

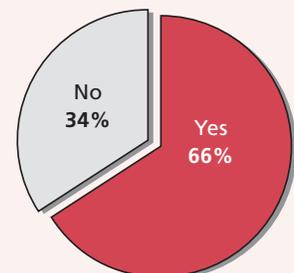
"Guidance on Preparing Workplaces for COVID-19" is a 35-page document detailing prevention methods in high-, medium- and low-risk environments.

The document, which was released alongside a webpage on the topic, provides practical guidance for preventing the spread of COVID-19 – also known as the 2019 novel coronavirus – and contains information on safe work practices and appropriate personal protective equipment based on risk levels.

A pdf of the booklet can be found at [www.osha.gov/Publications/OSHA3990.pdf](http://www.osha.gov/Publications/OSHA3990.pdf)

### What safety pros say

Did you take time off from work when you had the H1N1 flu in 2009?



Source: Penn State University survey of private sector workers

The CDC's top coronavirus and flu advice: If you're sick, stay home from work. Last time there was a major flu outbreak, a third of workers didn't.

Info: [tinyurl.com/stayhome592](http://tinyurl.com/stayhome592)

Each issue of SCA contains an exclusive survey to give safety professionals insight into what their peers nationwide are thinking and doing.

# WHAT WOULD YOU DO?

Here's a challenging scenario you could encounter. We've asked three of your peers what they'd do. How would you handle it?

## Would a company wellness incentive really reduce employee injuries?

### The Scenario

Assistant Operations Manager Keith Carter's an early riser because he's fanatical about going to the gym before work. He also eats healthy.

Keith saw Manager Mike Kelly, and flagged him down: "Hey Mike, I hear Jerry's going to be out a while."

"Jerry injured his back lifting boxes that he normally has no trouble handling."

"Yeah, workers' comp paperwork is coming," Mike replied.

Keith said: "I don't know what it is with that guy. He doesn't get enough sleep, and I swear some days he reports for work hung over."

Here comes a sermon, Mike thought.

"You can make them do safety training, and wear PPE, but I can't say: 'Exercise or you're fired. How

much do you weigh? You're fired.'

"A lot of companies offer to pay for gym memberships. I say we should do that here. Twenty years ago, I would've loved that."

"What do you think, Mike? Nobody would be missing work because they blew their back out."

### Good idea, but ...

A company wellness incentive sounds like a win-win, Mike thought, but who, besides Keith, would use it?

The warehouse workers are sometimes pulling long shifts, and don't have time or energy to go to the gym before or after work.

"I hear you, Keith. I have some stuff that I need to go over, but I'll definitely think about it," Mike said.

If you were Mike, how would you respond?

### Reader Responses

#### 1 Patrick Slattery, Director of Safety and Compliance, Best Transportation LLC, Newark, NJ

What Patrick would do: Point out that gym memberships are inexpensive, and walking and jogging are free.

Reason: Time is the issue, rather than saving employees money on gym memberships. An even bigger issue is something intangible: How do you get a person to start an exercise program, and to care enough to continue?

#### 2 Stephen Davis, Quality Assurance Manager, LND Inc., Oceanside, NY

What Stephen would do: Poll the employees and find out how many would be willing to use a company-sponsored fitness club membership.

Reason: There's no use going through a bunch of paperwork if fitness club memberships aren't going to be used, except for a few people.

#### 3 Zara Stabillio, Safety Manager, Downtown Grand Hotel & Casino, Las Vegas

What Zara would do: Support Keith's ideas.

Reason: Showing you care for your employees' well-being is a great morale booster. Offering gym memberships, better lunchroom food and drink choices, and requiring team members to stretch each time they start a shift helps employees health-wise.

If an employee is coming to work tired or hung over, that's something that should be addressed because there may be something going on in his/her personal life. There is potential for an accident to occur at work.

### OUTSIDE THE LINES

#### VODKA NOT STRONG ENOUGH FOR HAND SANITIZER?

With the spread of the 2019 novel coronavirus, people are buying up hand sanitizer in bulk.

This has caused a shortage leading some to use liquor in do-it-yourself recipes – something one alcohol manufacturer is warning against.

Tito's Vodka is warning the public via Twitter not to use its spirits to protect against the coronavirus, according to *USA Today*.

The vodka is 80 proof – or 40% alcohol – well under the Center for Disease Control and Prevention's recommendation hand sanitizer be at least 60% alcohol to be effective.

When making homemade hand sanitizer, experts recommend "180-proof spirits, which have 90% ethanol, or higher," such as Everclear which is 190 proof and is 95% alcohol.

### Did you know ...

#### OSHA enforces restroom requirements



Employers must provide all employees with **sanitary and immediately available restrooms** that meet OSHA regulations.

Source: OSHA

Regulations also set the minimum number of water closets per worker. Employers must allow workers to use a restroom when needed.

Info: [tinyurl.com/restroom592](https://tinyurl.com/restroom592)

This feature in each issue of SCA charts trends in national workplace safety and health to help safety professionals perform their jobs.