



News & Training
SafetyAlert

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April 2022

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Lessons Learned from comp claims & injury lawsuits

News & Training SafetyAlert

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April 2022

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News Briefs

Safety stories you might have missed

Fine increase affirmed for contractor with fall violations

February 28, 2022

An Occupational Safety and Health Review Commission judge affirmed multiple citations and a total of \$45,000 in fines against a New Jersey contractor accused of exposing workers to fall and other safety hazards.

[Read more](#) 

New campaign addresses injury trends in mining

published March 2, 2022

The U.S. Mine Safety and Health Administration (MSHA) launched a new safety campaign Feb. 28 in response to recent trends in mining incidents resulting in injuries and deaths.

Many of these incidents could have been prevented with proper training and attention to tasks, leading MSHA to initiate its Take Time Save Lives campaign.

[Read more](#) 

Can we take our masks off at work now? Not so fast

March 3, 2022

Yes, the U.S. Centers for Disease Control and Prevention (CDC) relaxed its masking recommendations Feb. 25. for healthy people living in low- or medium-risk areas.

And yes, masks are only recommended in public if an individual's community is categorized as high risk by the CDC.

[Read more](#) 

'Active' seat for truckers helps reduce back pain

March 4, 2022

A new type of seat may lead to fewer cases of low back pain and other musculoskeletal disorders for truck drivers in the near future.

Researchers with the National Institute for Occupational Safety and Health (NIOSH) found that a new "active" seat reduces truck drivers' exposure to whole body vibration, which often leads to musculoskeletal disorders, including low back pain.

[Read more](#) 

Employer lied about whistleblower, must pay \$958K

March 7, 2022

A private aviation company in California was ordered to pay \$958,000 for retaliating against a whistleblower by getting them fired from their new job.

[Read more](#) 

Owner harassed inspectors, judge forces him to comply

March 7, 2022

A Missouri mine operator who harassed inspectors and prevented an investigation was recently forced by a federal judge to allow the inspection to continue.

[Read more](#) 

Proposed rule could add new type of drug test

published March 8, 2022

A rule proposed by the U.S. Department of Transportation (DOT) could add a new type of drug test for transportation employees covered by federal regulations.

The notice of proposed rulemaking was published in the *Federal Register* Feb. 28, and would see the addition of oral fluid drug testing to combat employee cheating on urine drug tests.

[Read more](#) 

Midwest gets emphasis program on hearing protection

March 8, 2022

In 2020, the U.S. Bureau of Labor Statistics found that about half the nation's workers reported not using hearing protection despite being exposed to noise hazards.

To aid in reducing the risk of noise exposure and to promote hearing protection programs, OSHA's Kansas City office is introducing a regional emphasis program (REP) focused on hearing protection.

[Read more](#) 

Company fined \$17.5K after docking safety rep's wages

March 8, 2022

A Missouri cement company is in hot water with the federal government after reducing a worker's wages while she was assisting inspectors during a site visit.

The worker was paid less per hour for the time she spent as a miner representative with U.S. Mine Safety and Health Administration (MSHA) inspectors.

[Read more](#) 



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WAS HIS ILLNESS JOB-RELATED?

Safety|NewsAlert

LEGAL

Worker can pursue lawsuit for kidney disease



by Merriell Moyer

How can an illness that's not considered job-related be tied to the workplace in order to file a lawsuit that avoids workers' comp exclusivity provisions? By showing the illness may have been triggered by a workplace activity.

That's what the Fifth Circuit Court of Appeal for Louisiana recently found in its decision to revive a worker's claim for benefits due to an employee's kidney disease and hypertension resulting from exposure to lead-based paint.

Scraping lead paint leads to illnesses

Edward Jackson worked in the maintenance department of the Jefferson Parish School District from 1997 through 2017. During that time, he worked at two different schools

where he was required to scrape and dry-sand lead-based paint from window frames, railings, doors and walls.

In 2005, Jackson began to develop kidney disease and associated hypertension, and in 2019 he was told by a doctor that his medical conditions were related to his exposure to toxic levels of lead at work.

Worker: They knew about the hazard but didn't address it

On July 27, 2020, Jackson filed a petition for damages against the school board claiming that he was constantly exposed to deteriorated lead-based paint while on the job, which led him to have elevated levels of lead in his blood.

He claimed the school board:

- was aware of the hazard but took no action to address it
- failed to provide employees with a decent, safe and sanitary work environment, and
- was responsible for other acts that would be discovered during an investigation and trial regarding his claims.

Jackson also claimed the school board had actual knowledge of the lead exposure and deliberately and repeatedly exposed him to the hazard, which caused his kidney disease and hypertension.

Chronic lead poisoning covered by workers' comp?

The school board claimed immunity to the lawsuit under the Louisiana

Workers' Compensation Act (LWCA). Jackson argued that chronic lead poisoning didn't qualify as an occupational disease under the LWCA.

A trial court dismissed Jackson's lawsuit, finding that his illnesses were job-related and the school board was protected by the state's workers' compensation exclusivity provisions.

Illnesses aren't addressed by state law

However, the appeals court found that Jackson's medical conditions were not occupational under the LWCA.

"An occupational disease means only that disease or illness which is due to causes and conditions characteristic of and peculiar to the particular trade, occupation, process or employment in which the employee is exposed to such disease," the appeals court decision states.

Occupational diseases include injuries due to work-related carpal tunnel syndrome, but conditions like degenerative disc disease, spinal stenosis, mental illness and heart-related diseases are specifically excluded from the definition of occupational disease.

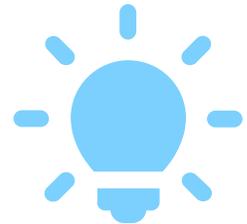
The illnesses claimed by Jackson – kidney disease and hypertension

– aren't specifically addressed by the definitions of the LWCA, so they must be addressed on a case-by-case basis dependent on whether they're due to conditions characteristic of the occupation.

Because Jackson's illnesses aren't covered under workers' compensation law, yet may have been triggered by his job duties, the appeals court vacated the trial court's decision and allowed Jackson's lawsuit to proceed.

Training Tips

Catch workers in the act of doing the right thing



Supervisors are often seen as the office bad guys: They're just waiting for workers to mess up so they can bust them.

This puts workers on edge when Supervisors are nearby – and can lead to their getting sloppy.

Build trust with workers by catching them doing things right.

Walk the floor, and when you see people following procedure to the letter or putting their training to work, stop and congratulate them.

Be sure to do it in a way that other workers know who's being recognized and for what. This shows you're looking out for your people – not for mistakes.

Watch out for awkward postures to reduce injury

When workers have to repeat awkward postures every day to get the job done, it can lead to ergonomic injuries. Be on the lookout for tasks that make workers:

- reach
- twist
- bend
- kneel
- squat

It's best for workers to avoid doing jobs that require them to do any of the above repeatedly. It might not lead to an injury right away, but it could down the line.

The power of recognizing workers' safety efforts



What are you doing to encourage employees to be motivated about safety?

The final step (after adding motivators and neutralizing demotivators) to build safety motivation is recognizing those who are going above and beyond.

Here's a positive experience I witnessed:

Leadership supported safety

A company with 70 locations had one that was not only their best, it was best in their industry.

After looking at all their data, all their indicators, all their cultural surveys, I went to the site to figure out what's going right that we could learn from.

There was an unquestionable positive perception of leadership's support for safety at this site.

Why? What happened that led to this positive perception?

It was one story that helped create that perception. One third of the workforce I interviewed told me the same worker's story. It had gone viral at the plant.

Reinforce what you want

This company did work for the Department of Defense. Because of that, security protocols were tight.

One day, an employee saw three people walk in to his area. One was a company engineer, two were guests. Only one (the engineer) was wearing eye protection.

The worker stopped what he was doing, and asked the guests to wear eye protection.

What the worker didn't know is that the assistant plant manager saw the exchange.

Afterward, she walked up to the worker and thanked him for what he just did.

This was significant enough to the worker so that he told the story to his co-workers.

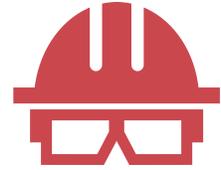
The story went viral through the plant and turned out to be what employees often mentioned when I asked why the perception about leadership's support for safety was so strong there.

This was a case of simple, positive reinforcement of what the worker had done right.

That's why, when it comes to motivating employees to be safe at work, we have to make sure we're reinforcing what we want.

(Adapted from a presentation by Shawn Galloway, CEO, ProAct Safety, Houston, at the [National Safety Council's 2021 Safety Congress](#))

Worker loses leg in machine: Supervisor faces the music



Supervisor Kim Loggins looked over at the baling machine and shook her head.

"We've got way too much cardboard over there that needs to go," she said. "Charlie, can you take care of it?"

"Sure," Charlie said. "I'm used to working that baling machine. But by the looks of it, I'll be baling that cardboard for a week."

"I know," Kim said. "I've never seen that stack so high. But take your time. I don't want any accidents."

"Got it," Charlie said.

Kim headed off to get some work done, and Charlie got to work.

Machine jams, as usual

Charlie grabbed a bunch of cardboard off the pile and fed it into the machine.

After a few loads, he had enough cardboard in there for the baler to compress it into a fat cube.

He pressed the button and stood back, letting the machine do its job.

But suddenly, he heard the machine's gears grind to a halt.

He peered down and saw the cube of cardboard was stuck in the machine.

This thing always jams, he thought.

He pulled one leg back and gave the machine a good kick.

But his foot slid into the baler and just then, the machine kicked back on. Charlie could only howl in pain as the baler crushed his leg.

OSHA eyes lack of LOTO

Charlie lost his leg in the accident. Then OSHA showed up to investigate.

Result: Safety cops found the baling machine should've been locked out and tagged out before the cardboard jam was cleared. OSHA also found Charlie hadn't been properly trained on lockout/tagout, among other safety violations. The company was fined \$73,500.

Key: All the safety training in the world doesn't matter if workers don't follow it! Train your people frequently on lockout/tagout steps – and then make sure they follow the rules.

Based on an injury at Triple P Farms.

HAZARDS

Was her trip and fall really unexplainable?



by Merriell Moyer



As a safety pro, you try to cover angle when it comes to addressing hazards, such as the all too common slip, strip and fall. But what if you dot every “i” and cross every “t” and someone still falls and gets hurt?

Take a Feb. 21, 2022, workers’ compensation decision from the Florida Court of Appeals, for example.

Engineer found no problem with flooring

The case involves a massage therapist who was leaving work at the end of her shift.

She left her massage room carrying her purse and a teacup, walked across a carpeted floor in the

waiting room toward the women’s locker room and fell into the door separating the two rooms.

She was wearing rubber-soled shoes at the time of the incident, and the floor was coated in a slip-resistant material.

Later, she couldn’t recall exactly how the fall occurred.

Her employer hired an engineer to inspect the flooring in the area who found no issues with its surface or configuration.

Comp law covers clumsiness

A workers’ compensation judge denied the therapist’s claim, finding the incident didn’t arise out of

employment because such incidents are only compensable if “the employment necessarily exposed the claimant to conditions that would substantially contribute to the risk of injury to which the claimant would not normally be exposed during her non-employment life.”

In short, such a fall could happen anywhere so the incident couldn’t be considered work-related.

However, the appeals court disagreed and approved the claim, saying that rule only applies where there is a contributing cause outside of employment (such as a work-at-home employee tripping over her dog, which was the example given by the court).

“Clumsiness is covered (by workers’ compensation),” the decision states.

Was her trip and fall really unexplainable?

That's all well and good in the realm of workers' compensation claims, but what about preventing this sort of fall from happening in the first case?

OSHA: Inspect, maintain walking surfaces

OSHA doesn't have a standard for slips, trips and falls. However, the agency addresses such incidents in its walking-working surfaces standard (1910.22).

Basically, that standard says floors and other working surfaces should be inspected regularly and kept free of anything that could cause someone to slip, trip or fall.

That involves checking and correcting things like loose floor boards, leaks causing the surface to become slippery or objects protruding into the pathway.

Following this standard is a good starting point for preventing slips, trips and falls in general, as safety pros know, but the question remains:

How do you address an incident that has no explanation, like the one in the workers' compensation decision?

Was investigation thorough enough?

In this case, the employer brought in an engineer to investigate the floor for defects, but how in depth was the investigation of the incident itself?

If the floor wasn't the problem, something else likely was. Did anyone ask the employee if she was walking faster than normal? Could she have fumbled the teacup enough to cause her to lose balance? Did

the rubber soles of her shoes create friction against the slip-resistant material of the flooring?

There are too many details of the investigation left out of the court's decision to really call this incident unexplained from a safety standpoint.

But if an in-depth investigation really doesn't reveal a cause, then at the very least it's worth mentioning to employees to take their time and walk more carefully to keep further incidents from occurring.



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Compliant Contractor Management for Reduced Costs and Increased Wellbeing

Non-fatal workplace injuries result in almost \$60 billion in workers compensation costs every year. That's more than \$1 billion out of employer's pockets for what are often avoidable incidents.

With the popularity and accessibility of contracting workers, contractors account for a large quantity of these injuries and incidents.

Avetta is offering a new whitepaper on the strategies, insights, and tools you need to keep your contracted workers safer.

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Who Got Fined & Why

The bar is always higher when hazardous chemicals are present: \$127K fine

Solvents used to clean parts and machinery can make workers sick through skin contact and inhalation. This company didn't go far enough to minimize methylene chloride risks.

What happened: Sinclair & Rush in Carlstadt, New Jersey, manufactures product protection for plastic components and plastic packaging. It routinely uses methylene chloride, a toxic chemical, as a solvent. An OSHA inspection revealed shortcomings in the company's safety plan.

Result: OSHA cited the company for not providing PPE, eye wash stations, medical surveillance, and engineering controls and work practices that reduce employee chemical exposure. Sinclair & Rush was fined \$127,539.

Staffer's death by electrocution raises red flags

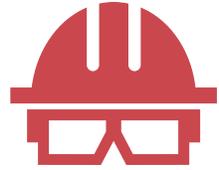
A metals manufacturer didn't evaluate all work practices and equipment that required using de-energization procedures to keep workers safe. One of its employee paid for that mistake with his life.

What happened: What happened: An employee was repairing a portable water heater which hadn't been de-energized first. A shot of current ripped through his body and electrocuted him. OSHA conducted a thorough investigation and wrote up the company, PM Engineered Solutions in Watertown, Connecticut, for 40 serious and eight other-than-serious violations of safety regs.

Result: Top violations uncovered were:

- 62 instances of inadequately guarded machinery, including mechanical power presses, forges, hydraulic presses and grinding machinery
- Numerous electrical safety violations, including exposed live electrical parts, uncovered electrical boxes, flexible cords used in lieu of permanent wiring and material stored in front of electrical panels
- Open or unlabeled tanks and containers of hazardous chemicals
- Missing or inadequate lockout/tagout procedures

Total fine: \$236,201.



Why was veteran staffer up on top of pallet stacks? Fatal fall triggers \$389K fine

Veteran, long-time employees bring a lot of good qualities to the table. They're loyal ... they know how things run in your operations on a day-to-day basis ... they're typically more motivated than newer people ... and they can impart a ton of knowledge and good work habits to the rest of your crew.

All those qualities can lead Supervisors to take more of a hands-off approach with "vets." Especially when it comes to safety. Some veterans may underestimate risks and overestimate their physical capabilities if they've never suffered a serious injury.

Here's a case illustrating why even your longest-serving staffers deserve a careful eye and may need a reminder about safety from time to time.

Showing new worker the ropes

"Hey Dale! Dale!!" yelled Frank, the mill foreman. Frank waved his arms to grab the attention of Dale Schurmer, the veteran carpenter and all-around "done it all" employee.

Dale put one finger to indicate he needed a minute to finish sawing wood.

"I'll have Dale show you around," said Frank. "He's been with our company longer than anyone. Refuses to retire!"

"Yeah," said Jamal, a new employee who'd just started. "He's old enough to be my grandpa."

"Don't let him hear you say that!" Frank laughed. "Trust me, that 'old man' has more energy than some guys half his age.

"I don't know where he gets his energy," said Frank, shaking his head.

Dale strolled over and extended his hand to Jamal for a handshake. "Welcome aboard," said Dale.

"Thanks for getting Jamal here started," said Frank. "I want him to learn from the best."

"Well I may be the oldest one around here, not sure if I'm the best!" laughed Dale.

"I can find work for Jamal to do after lunch, so you don't get too far off schedule," said Frank.

"I appreciate that," said Dale. "Let's get started."

"Sounds good," said Jamal.

Always work to be done

"This is our main band saw," said Dale. "I'm guessing you worked on one of these in high school shop?"

"Yes sir," said Dale. "Well to be accurate, my grandpa has one in his work shed. I've used his plenty."

Continued on next page

Real Life Safety

"That's good," said Dale. "Hell! I'd let you work on the sucker now, but you've got to go through our safety program first. Frank might actually have to fire me if I let you fire that machine up."

"Yep, safety first," said Jamal.

"So let's see," said Dale. "Oh right, time to whittle down that pile over there." Dale pointed to stacks of pallets about 10 or more high.

"Most of those pallets are salvageable, but a few in the middle are ruined," said Dale.

"Huh. Why's that?" asked Jamal.

"Roof leak," said Dale. "Needs to be fixed. This place is almost as old as me, as you can see. But money's tight to upgrade everything we'd like to.

"Do me a favor and grab that ladder over there," said Dale. "I want to climb up on top of the stacks."

Jamal did as he was told.

Not the first time, but it was the last

Dale slowly climbed the ladder up and shuffled on top of the pile. "My guess is the top ones took the worst of the water but most of the ones underneath are keepers," said Dale.

"Come on up, not a bad view of the mill from up here," Dale laughed.

Jamal climbed the ladder but hesitated to stand with his full weight on the wood. "You sure this will hold us?" Jamal asked.

"What's that?" Dale asked. "Oh sure! A stack like this could hold two tons. Trust me, I know."

Dale took a closer look for black rot on any of the pallets. Deep in thought, he walked near the stack's edge and the wood cracked under him.

"Whoa!!" Dale yelled. He couldn't regain his balance and fell to the floor. Dale died from his injuries.

Lucky to avoid accident for so long?

OSHA inspectors found a wide range of safety violations besides the obvious lack of fall protection directly related to the employee's death.

For starters, it failed to report the fatality within an eight-hour window. Other citations included: lack of fall protection equipment or guardrails for work typically done four feet or higher off the ground; failing to use energy control procedures (a lockout/tagout program); no PPE or engineering controls to protect workers' hearing at multiple work stations, and a lack of guards on powered saws to prevent amputations or a worker being pulled into a machine.

The OSHA citations added up to \$389,000. The company also faces a lawsuit brought by the deceased worker's family.

(This case has been dramatized for effect. Based on an OSHA penalty against W.D. Townley and Son Lumber Company.)

LEGAL

Safety concerns not enough to dismiss disability lawsuit



by Merriell Moyer



If a potential employee uses prescription drugs that could impact their own or another employee's safety, it may seem like denying employment would be in everyone's best interests. However, it's not always that simple.

For example, the U.S. District Court for the Southern District of Ohio recently found it couldn't simply dismiss a lawsuit filed by a forklift operator who was denied a job because of his prescription opioid use.

The court found there were issues of fact regarding whether the employer actively participated in the interactive process to accommodate a disability and whether the forklift operator's opioid use made it unsafe for him to do the job.

So the court couldn't offer summary judgment for either party, finding there were triable issues of fact that had to be resolved before the case could be decided.

Three doctor's notes weren't enough

Forklift operator Raymond Hartmann takes prescription opioid medication for persistent pain.

He applied for a position at Graham Packaging Company as a forklift operator and told his prospective employer about his medication during the interview process.

Graham asked Hartmann to provide a doctor's note confirming that the medication wouldn't create safety

Safety concerns not enough to dismiss disability lawsuit

concerns while he was performing his job duties.

Hartmann returned with notes from his doctor on three separate occasions, and he passed a pre-employment drug screening, although his test results were labeled as safety-sensitive.

Graham found each doctor's note was too vague on the issue and declined to offer Hartmann the job based on safety concerns.

Too many questions left unanswered

In response, Hartmann sued the company under the Americans with Disabilities Act (ADA), claiming Graham discriminated against him because of his disability.

In court, Graham argued it wasn't aware of Hartmann's disability but was only aware of the medications he used.

However, the negative side effects of the medication were enough to constitute an impairment for the purposes of the ADA. Graham's failure to hire Hartmann for its belief his medication would make him unable to operate a forklift safely was enough to prove he was disabled for a "regarded as" claim, according to law firm Jackson Lewis.

On the other hand, the court found there were issues of fact regarding Hartmann's ability to perform his job duties safely since it was unclear if the company conducted an "individualized inquiry" to check Hartmann's abilities.

The company's motivations regarding the doctor's notes were also vague as "it was unclear whether the employer asked for a more specific doctor's note which the applicant failed to provide, or whether the employer failed to specify exactly what it needed the applicant to provide in terms of medical documentation."

With so many questions left unanswered, the court refused summary judgment for either side.

Safety|NewsAlert

10 ways to create a better safety culture

SAFETY CULTURE

ESSENTIAL INSIGHTS

10 Ways To Create A Better Safety Culture

Get greater buy-in for safety at all levels

Creating a zero-injury workplace is about the people – not the gear. Taking a "rules and tools" approach won't cut it when your standards are higher than just satisfactory. That's because with "satisfactory" safety programs people consistently get hurt – or worse. It's a challenge.

This Essential Insights gives you concrete steps you can take immediately to gain buy-in for a no-tolerance-for-accidents safety culture, develop safety leaders, get management and front-line workers thinking safety first, measure your success – and keep everyone safer and happier.

[get the guide](#)

Employer in fatal trench collapse cited once again

 by Merriell Moyer



Employer who was cited by OSHA for a trench-related double fatality in downtown Boston in February 2021 is now facing a \$624,000 fine for new violations.

Laurence Moloney and his companies – Atlantic Coast Utilities, Advanced Utilities, Nuala Nichoncubhair and Sterling Excavation – were recently cited by OSHA for failing to provide employees with cave-in protection at an East Boston residential construction site.

Moloney had been cited six months prior to the current inspection for egregious willful violations related to the cave-in that claimed the lives of two employees at the downtown Boston worksite.

20-year history of trench violations

He was fined \$1,350,884 for 28 violations following the fatal trench

collapse. Moloney is currently contesting those citations in court.

Moloney and his companies have a 20-year history of OSHA trenching and excavation violations with six previous inspections of his companies resulting in 14 willful, repeat and serious violations.

Those citations resulted in \$81,242 in penalties, with \$73,542 of that total being unpaid and referred to debt collection.

“While Laurence Moloney may reincorporate and operate under a variety of names, what is consistent is his pattern of willfully violating safety and health requirements, ignoring OSHA citations and penalties and persistently placing employees in harm’s way,” OSHA Regional Administrator Galen Blanton said in a news release.

New citations similar to those of fatal incident

In August 2021, inspectors responded to a complaint regarding workers exposed to trenching hazards while working on the foundation of a residential structure.

Inspectors found Moloney and his companies failed to:

- ensure cave-in protection for employees working in an excavation
- provide adequate protection to prevent loose rock or soil from falling into the excavation
- instruct employees in the recognition and avoidance of unsafe conditions
- conduct frequent and regular inspections to identify and correct hazards
- ensure stability of adjoining buildings, walls or other structures endangered by excavation operations
- ensure that a competent person identified all confined spaces employees were to enter, and
- provide adequate helmets to protect employees against impact from falling objects.

The investigation led to four willful and three serious violations for Moloney and his companies, with proposed penalties totaling \$624,777.

What Would You Do?

Is worker's safety shortcut efficient or major hazard?



Manager Mike Kelly was working on an important budget presentation he had to give to Corporate in a few days.

"Budget reports were never my cup of tea," Mike grumbled.

"What did you say, Mike?" forklift operator Ezra Kirby asked.

"Sorry, Ezra. I was just talking to myself and didn't notice you there," Mike explained. "Is there something I can help you with?"

'Trying to work more efficiently'

"Well, you see, some of the guys on the shipping dock are trying to work more efficiently," said Ezra. "They're taking a shortcut to do the job faster."

"I see," said Mike. "What are they doing, specifically?"

"You know how we have that garage door that leads out onto the open dock?" Ezra asked. "In the winter, we only open that door for a moment when we have to drive out onto the dock.

"We've been using that door more frequently this winter, though, so the guys have started driving up next to the control panel, leaning out and tapping the button without getting off their forklifts," Ezra explained.

"Honestly, I tried it once myself but you have to lean out pretty far and it felt like I was either going to fall – I had to unbuckle my seat belt, too – or get crushed against the wall," he added.

If you were Mike, what would you do in this situation?

It could work under the right conditions

Some companies might not see a danger in this kind of shortcut if it doesn't put the worker or company property in danger.

For example, if a forklift operator can safely drive up to the control panel and press the button without having to reach outside of the forklift's cab or become exposed to a crushing hazard against a wall or another object, then maybe it could work.

Of course, a hazard analysis would have to be performed and there would have to be some rules, such as, "You must come to a complete stop before pressing the button."

Stop doing it, for now

However, it's far more likely in this scenario that Mike is dealing with an unsafe situation in which a forklift operator could either be crushed between the lift and a wall or fall off the lift while reaching out to press the button.

Obviously, a forklift operator removing their seatbelt to lean way out of their lift to press a button is not a safe situation, so Mike should put a stop to it for the short term at least, until a better solution can be found.

And while this is something engineering controls may be able to rectify – moving the control panel to a safer location, for example – it would also require an assessment of whether the new location presented new hazards and would such a move be worthwhile in the long run.

Investigators: Fatality was caused by shortcutting procedures

Safety pros know that this sort of shortcut is typically an incident waiting to happen, yet employees, and even supervisors, don't always see the danger in it.

But there can be deadly consequences in attempting to

lean out of an industrial vehicle to manipulate a control panel or shove a gate aside, as investigators with the National Transportation Safety Board (NTSB) recently pointed out.

The investigators were sent to an Illinois railyard to look into the events leading to the death of a Decatur & Eastern Illinois Railroad train conductor.

On Nov. 11, 2020, the conductor was killed while he and two other workers were adding railcars to a train.

The conductor was on a slow-moving train car when he came upon a gate that had opened and was blocking a portion of the track.

Instead of following safety protocols calling for him to stop and dismount to close the gate, he climbed onto the car's ladder – which is meant to be used to climb onto, and descend from, the car – and grabbed the gate.

As he took hold of the gate, he was pulled off the ladder and onto the track where he was struck by the train engine pushing the car.

Conductor was 'visibly angry, increased work pace'

Investigators found no other contributing factors for the incident and a toxicological test revealed there were no drugs in the conductor's bloodstream.

The two other workers who were helping add the railcars when the incident occurred mentioned the conductor became "visibly angry and increased the pace of his work" when they were all assigned to the task, which would cause them to end their shift later than normal.

During interviews with investigators, other witnesses shared that the conductor had a history of becoming angry when plans changed, which may have factored into his decision to shortcut safety protocols.

Was worker's allergic reaction work-related?



"I wonder which forklift is responsible for this," Safety Manager Pete Travers said as he found yet another tiny, but still hazardous, spot of oil on the warehouse floor.

He placed a small amount of an oil absorbent material on the spot and followed the instructions in cleaning it up and making sure the oil was gone.

"We can't have anyone slipping on these," said Pete as he finished up and removed one of the bright orange hazard pylons he'd placed near all the oil spots he'd found.

Pete began moving his clean-up operation toward the next spot when he saw company attorney John Jenkins charging toward him at a fast-paced walk.

"Pete, can we please talk about this workers' comp claim?" asked John, who wasn't looking where he was going.

"John, look out for that pylon!" Pete shouted too late as John stumbled over the pylon.

Thankfully, he didn't fall.

"Haven't I told you before you need to pay attention when you come out here?" Pete gently scolded while approaching the attorney, who was clearly shaken.

'She got a bad rash almost instantly'

After checking to make sure John was OK – the only thing hurt was his pride – they went to Pete's office to discuss the workers' compensation claim.

"So what's with this claim?" John asked. "Someone got a rash from a uniform, is that right?"

"Yeah, our security staff recently received new uniforms," said Pete. "Kate Simmons put on the new uniform and got a bad rash almost instantly.

"She's never had allergies before, but something with that uniform caused her skin to break out in a red, itchy rash, made her eyes burn and gave her a bad cough," Pete explained.

"And she's sure this was caused by the new uniforms?" John asked.

"From what I understand, she tried to tough it out and continued to wear them, but it made her condition worsen," said Pete.

"I think we can fight this," John said. "I'm sure her allergy can't be considered work-related."

Pete's company fought the claim. Did it win?

Decision on next page

Was worker's allergic reaction work-related? *Continued*



The decision

No, Pete's company lost when an appeals court found the employee's condition was indeed work-related.

The worker claimed that prior to her wearing the new uniforms she had never experienced allergies of any kind before. But upon wearing the uniform, she experienced skin rashes, burning eyes, coughing, runny nose, tightness in her chest, difficulty breathing, heart palpitations and headaches.

With continued use of the new uniforms, her condition worsened. Even after she was allowed to stop wearing them, her symptoms persisted simply from being around her co-workers who were able to wear the new uniforms.

The worker's doctor testified that the employee's medical history verified she was never treated for allergies until she was exposed to the chemicals in the new uniforms. Another medical expert testified that

he'd been treating other workers at different facilities for the same symptoms caused by these uniforms.

Further, after being away from work, and the uniforms, for almost a month, the worker's symptoms had disappeared.

So the court found that "substantial evidence in the record supports" the worker's claim that her allergy was a compensable, work-related illness.

Analysis: Workers who are sensitive to chemicals

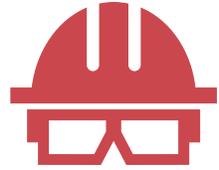
Safety Pros can be presented with some strange and unexpected problems sometimes and workers with sensitivities to certain chemicals can fall under that umbrella.

Everybody has different levels of sensitivity to a given chemical or substance and one worker's reaction to something like an odor in their work area could be vastly more severe than another's.

That's why Safety Pros know it's important to investigate a situation where even one worker is complaining of having some kind of reaction to a chemical in their work area.

In some situations, like with the odor example, a simple fix like opening a window or door for better ventilation could alleviate the situation. And, of course, depending on the severity of the situation and number of employees affected, a more thorough analysis and response would be required.

Based on: Sec. of Labor v. ComTran Group



Got chemicals? Check these 6 fixable areas before inspectors do!

Chemical storage and distribution facilities are paying hefty fines these days – so much so, that the feds put out an enforcement alert to warn other regulated sites.

The good news? Many of the problems inspectors found don't cost a lot of money or time to fix.

Don't say we didn't warn you!

Recent inspections of “companies that process, formulate, blend, repackage, store, transport and market chemical products ... [aren't] developing safety precautions; instituting maintenance, monitoring and employee training measures; and preparing” risk management plans (RMPs) or process safety management plans.

Here are the most common problems inspectors from OSHA, EPA and the Department of Homeland Security find over and over again that chemical storage sites want to avoid:

Sooner they're fixed, the better

- Many sites don't account for the chemicals in all containers that could be affected by the same emergency event, such as a fire.
- Records show “mistaken weight calculations for flammable mixtures.”
- Workers lack clear information on how to avoid storing incompatible chemicals near each other. Better signage as well as barriers and physical markings can do the trick.
- Outdated or inoperative fire sprinkler systems and alarms aren't flagged and fixed.
- Facilities don't let the local emergency planning committee and fire department know about chemical inventory and building changes in a timely manner.
- OSHA's PSM rule varies from the EPA's RMP reg in a few ways. For example: Hydrofluoric acid isn't on the PSM list but is an RMP chemical. You may need to cross-check for compliance.



What to look for when selecting work gloves

There's almost no job a worker can do without the use of their hands in some way. So it's little wonder that gloves play an important part in any PPE arsenal.

Do your workers know the best way to protect their hands on the job?

Test your knowledge.

Decide whether the following statements are True or False.

check answers on the next page

- 1 TRUE OR FALSE:** Latex gloves are comfortable, elastic and temperature-resistant, making them a good choice for all employees.
- 2 TRUE OR FALSE:** Gloves should be visually inspected before each use.
- 3 TRUE OR FALSE:** Cotton and other fabric gloves provide protection against heat, chemicals and sharp objects.
- 4 TRUE OR FALSE:** Each kind of glove has its own special properties, but most provide appropriate protection for any job you'll be called on to do.

Go to the following page to see if you are correct.



Safety Quiz



- 1 FALSE:** While latex gloves do provide all these benefits and are generally considered a good general-purpose glove, some people are allergic to latex. Hypoallergenic gloves could be a better option for those workers.
- 2 TRUE:** In addition to looking for visible tears or holes, you may want to also do a test on waterproof gloves. Fill the glove with water and roll the cuff toward the fingers to see if there are any pinhole leaks.
- 3 FALSE:** Fabric gloves protect against dirt, chafing and abrasions. They don't protect the hands when using sharp or hot materials.
- 4 FALSE:** There are a wide variety of gloves because there are many jobs that require hand protection. Check the manufacturer's instructions and your company's PPE requirements to make sure you're using the right one.



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Safety News & Training Alert, part of the *SuccessFuel* Network, provides the latest Safety and employment law news for Safety professionals in the trenches of small-to-medium-sized businesses. Rather than simply regurgitating the day's headlines,

Safety News Alert delivers actionable insights, helping Safety execs understand what Safety trends mean to their business.

But we don't stop there.

Our editors read and vet hundreds of sources and hand-select the most relevant, practical content. Then we add our seasoned perspective and deliver actionable insights to help you understand what today's trends mean for your business.

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