

April 14, 2021

## Leg torn to shreds in lift truck mishap: Company fined \$156K

*Workers routinely violated a clear-cut OSHA rule*

“What do you think of the job so far?” asked Supervisor Lou Merck.

“I’m loving it to be honest,” said Michael Jennings, a recently hired employee. “Working with the reach stackers is a blast.

“And the money’s good enough that I’ll be able to pay off my college loans this decade!” said Michael.

“Glad to hear it,” said Lou. “Looks like another busy morning ahead of us. We’ve got a lot of orders to move out, which is a good thing.

“Why don’t you work with Avery today,” said Lou. “He’s getting his vehicle ready now. He can show you the ropes.”

“Will do,” said Michael.

### Accident waiting to happen

Michael was already operating the powered industrial trucks in his short time with the company. Today he was catching a ride on Avery’s vehicle to secure a load of steel containers.

“How’s she look?” asked Avery.

“Just fine,” said Michael. As the vehicle

*(Please see Leg torn ... on Page 2)*

### *Sharpen Your Judgment*

## Injured employee fired: Was it retaliation?

“Chris, we have a serious situation here,” said Al, the company lawyer.

“What’s wrong now?” asked Safety Director Chris Taylor.

“A former employee is claiming he was fired because he was going to file a comp claim,” Al said. “That could be retaliation.”

### Couldn’t be trusted

“Andy Leonard,” Chris said, shaking his head. “He had only been here a month, but he was one of the worst workers we ever had.

“He showed up late, forgot safety steps and took breaks without permission,” Chris went

on. “His Supervisor told me she just couldn’t trust him to be safe on the job.”

“I’m not saying he should’ve been employee of the year,” Al said. “But Andy claims he told his Supervisor he was thinking of making a comp claim.”

“The morning we fired him, he complained of a mysterious injury that he said might require comp,” Chris said. “But by then, we’d already made up our minds. Andy had to go.”

Andy sued the company, claiming it retaliated against him for being injured.

The company claimed it fired him for good cause. Did the company win?

This regular feature sharpens your thinking and helps keep both you and your firm out of trouble. It describes a real legal conflict and lets you judge the outcome.

*Make your decision, then please turn to Page 4 for the court’s ruling.*

# Leg torn ...

(continued from Page 1)

accelerated away from the stacks, Michael leaned forward to check the path ahead of them.

But he slipped and lost his balance. Michael tumbled onto the floor directly in the path of the reach stacker.

## Like a war scene

“Stop! Stop!” yelled co-workers nearby. Avery slammed his brakes but he couldn’t react fast enough to avoid running over Michael.

The truck tore right through Michael’s leg, practically severing it in two.

Blood gushed across the cold hard floor. Workers scrambled to find a tourniquet to hopefully save Michael’s leg – and his life – before paramedics could get there.

A few said hushed prayers at the sight of the horror.

## Man’s life turned upside down

The 30-year-old employee’s injuries were severe to say the least. His leg was partially amputated and pelvis was crushed.

He faces years of physical rehabilitation and a host of personal and career challenges.

OSHA quickly investigated and didn’t like what they saw with the company’s industrial vehicle practices and training.

OSHA issued one willful violation for not preventing employees from riding along

unsecured on powered industrial trucks (PITs).

Two serious citations were also issued for failure to:

- provide refresher training to PIT operators after an accident or near-miss, and
- evaluate the performance of PIT operators at least once every three years.

Total fines added up to \$156,038.

## Can’t cut corners

It’s no secret why the company allowed employees to ride along on heavy-lift vehicles without having to wear a seat belt:

Speed and productivity.

Hitching a ride is faster than walking back and forth, and chances are no one had gotten hurt before.

Maybe they’d had a few close calls but not one serious enough to make the top brass and Supervisors take a closer look

at how they’d always done things.

Sharing horror stories like this one can scare folks straight. Ask if they can imagine having to help and comfort a co-worker whose leg just got torn off.

Share statistics too: From 2011 to 2017, 614 workers lost their lives in forklift-related incidents, and 7,000 suffered painful injuries.

### What you need to know:

Here are some lift truck best practices to live by:

- Don’t pass other forklifts traveling in the same direction at intersections or blind spots
- Stay at least three truck-lengths from a lift in front of you
- Operators need to wear seat belts, and
- Never drive up close to a person or a fixed object.

## TEST YOUR KNOWLEDGE

### Forklift safety for both operators and pedestrians

Fact: There are thousands of accidents each year involving forklifts and lift trucks, with both the operators and bystanders ending up in the ER.

How much do your staffers know about being safe in and around forklifts? Have them answer *True* or *False* to the following questions to find out.

1. When approaching an intersection, a forklift driver has to give a verbal warning for others to get out of the way.
2. You should never walk under the forks of a forklift.
3. When driving a forklift in reverse, the backup alarm is the only thing you have to prevent accidentally striking pedestrian workers.
4. It’s a pedestrian’s responsibility to get out of the way of a forklift.

## ANSWERS

1. *False.* Forklift drivers need to stop and honk the horn at intersections to alert everyone in the area to their presence.
2. *True.* The load on the forks is a struck-by hazard. If the load’s heavy enough to require a forklift, any workers walking or standing underneath the forks are at risk of being crushed.
3. *False.* The backup alarm is very important and a forklift shouldn’t be used if that’s not working. But other things an operator should consider using when backing up a forklift include a spotter, ground guides and the horn.
4. *False.* Even though employees need to be aware that forklifts have blind spots, a wide turning radius and can’t stop quickly, it’s ultimately the driver’s responsibility to avoid any pedestrians in the area.

### Answers to the quiz:

*Based on OSHA citations against ITS Technologies & Logistics, doing business as ITS Conglobal, Chicago. This story has been dramatized for effect.*

# Fines, accidents and damage supervisors could've prevented

News you can use to head off safety mishaps

*In this regular section we highlight situations that led to fatalities, injuries, near-misses, damaged equipment or fines that frontline supervisors could've prevented.*

## **Worked in trench with standing water: \$146K fine**

**What happened:** OSHA fined a Sapulpa, OK, contractor after inspectors found workers installing a water line in a trench with standing water.

**What people did:** Other violations included failure to:

- provide safe means of egress from a trench
- protect employees from materials that could fall back into a trench
- ensure employees wore protective helmets while working in a trench, and
- ensure ladder side rails extended 3 feet above the upper landing area.

**Result:** Cherokee Pride Construction will pay \$146,128.

**Lesson:** A Supervisor familiar with trench safety regulations that's able to spot hazards could've saved this employer big money. Find a variety of resources at [osha.gov/trenching-excavation](https://www.osha.gov/trenching-excavation).

## **On the hook for \$136K after arm amputation**

**What happened:** A production worker at BEF Foods of Lima, OH, suffered a partial arm amputation while cleaning an auger used to make riced potatoes. Her left arm got caught in the machine while it was still running and co-workers had to cut the auger apart to free her.

**What people did:** The manufacturer was hit with repeat violations for failure to:

- ensure employees were protected from energized parts when cleaning horizontal augers, and
- provide adequate energy control training to employees.

**Result:** OSHA fined the company \$136,532.

**Lesson:** Supervisors need to make sure lockout/tagout safety rules are followed before workers perform service and maintenance on machines to prevent unexpected startup or a release of hazardous energy.

## **Employee COVID death leads to \$15K in OSHA fines**

**What happened:** OSHA found that a press operator at a Missouri auto parts manufacturer died from workplace exposure to the coronavirus.

**What people did:** Machine operators at Peterson Manufacturing in Grandview, MO, worked close to one another without consistently wearing face coverings. Two of them tested positive for COVID-19 two days apart. Ten days later, two additional workers that worked close together tested positive. The company failed to record the illnesses on its OSHA 300 log.

**Result:** The two violations add up to \$15,604 in fines.

**Lesson:** According to OSHA, this employer failed to follow its county COVID mandates as well as current federal guidelines. It's crucial for Supervisors to be on top of local, state *and* federal pandemic safety measures.

## SAFETY TRAINING TIPS

### ■ Quick & dirty way to get slobs to clean up their act

We all had that one roommate or child (hopefully only one!) who never seemed able to pick up after him or herself.

And unlike at home, you can't be constantly cleaning up after sloppy employees.

**Tip:** Next time you catch a worker not picking up his trash or leaving some tool or material in a walkway, make him responsible for throwing away co-workers' trash for the rest of the week.

Or if there's another more unpleasant chore that you think would make a stronger impression, go with that instead.

You can let co-workers know why you've done it.

And make sure to reiterate how slip and trip hazards and messes in the workplace can lead to serious injury.

### ■ Remember the GOAL before backing truck up

When commercial drivers reach their delivery destination, safety is still important even though they're off the highway.

Before backing into a loading dock, parking space or staging area, a driver should remember to Get Out And Look, or GOAL.

This gives drivers a chance to see pedestrians, obstacles and hazards they may not notice from inside the cab of a truck.

Other things to keep in mind when backing a vehicle in include:

- using flashers, horn and backup alarms
- checking both mirrors
- rolling down windows to hear
- knowing the vehicle's blind spots
- using a spotter, if available
- backing up slowly, and
- standing clear when opening doors in case the load shifted.

# Hurt shoulder on the job, then suspended: Was employee disciplined for reporting injury?

*Supervisor's investigation said worker broke the rules*

Tom Stewart, a driver for Snider Shipping Center, walked into the office of his Supervisor, Larry Oliver.

"Hi Tom. Are you good to go with your route today?" Larry asked.

"Actually Larry, I think I need to see a doctor," he replied sheepishly.

"What's wrong?" Larry asked.

"I went to grab my last package and it was heavier than I thought. My shoulder really hurts, like I dislocated it or something," Tom said, wincing and rubbing his shoulder.

## Unsafe lifting

"Did you use proper lifting technique? Show me how you lifted that package," said Larry.

"It was the last one and I wanted to get on the road," Tom said, demonstrating that he kept his legs and shoulders straight and hadn't bent his knees.

"OK Tom, before I send you to our workers' comp doctor, I need you to fill out this incident report," Larry said. "I'm also ordering a drug test and letting you

know you could be suspended."

"Are you kidding?! I'm not high!" Tom said. "Why am I being punished? There's no reason for any of that."

The drug test was never done and Tom was put on light duty restrictions. But before he could return to work, he was suspended for unsafe lifting practices.

An employer retaliation complaint was made to the Department of Labor and the case went before the Occupational Safety and Health Review Commission.

**Result:** An administrative law judge ruled that the discipline wasn't retaliation. The court found there was adequate review by the company's chain of management, although the Supervisor could've stopped short of considering a drug test. There was even appropriate input from Tom's union, the court said.

**Key:** Supervisors need to be mindful about the timing of disciplinary action for violating safety policy. Read up on what OSHA has to say at [osha.gov/workers](https://www.osha.gov/workers).

*Based on Sec. of Labor v. U.S. Postal Service.*

## What you need to know:

Some safe manual lifting keys for your employees:

- Limit the weight you lift to 50 pounds or less. If the load's heavier than that, you need at least one more person.
- Spread your feet to each side of the load.
- Remember to bend your knees, and
- Lift close to the body, between mid-thigh and mid-chest height, where your arms and back can lift the most with the least amount of effort.

## Sharpen Your Judgment – The Decision

*(continued from Page 1)*

Yes, the company won when a judge threw out Andy's lawsuit.

The employee claimed he had been fired after he alerted his superiors that he'd been injured and might need comp.

That looked an awful lot like retaliation against an injured employee – which is illegal.

The company argued the firing decision had nothing to do with workers' comp.

Supervisors had problems with Andy's attitude and safety record. The fact he made a complaint after they'd already decided he needed to be let go was unrelated.

That left it up to Andy to present evidence he was fired because of an injury. Since

he couldn't point to anything other than suspicious timing, the court sided with the company.

### Analysis: Appearances matter

This company was lucky the court saw things its way. Coincidences can result in unfavorable court decisions.

That's why documentation is so important, especially with newer employees.

If Supervisors have records showing an employee wasn't performing up to snuff, it makes a big difference in court.

*Based on Fatta v. M&M Properties.*

EDITOR-IN-CHIEF:  
SCOTT BALL  
[sball@safetynewsalert.com](mailto:sball@safetynewsalert.com)

EDITOR:  
BRIAN BINGAMAN  
MANAGING EDITOR:  
FRED HOSIER

PRODUCTION EDITOR:  
P.J. FRONZEO  
EDITORIAL DIRECTOR:  
CURT BROWN

Supervisors Safety Bulletin (ISSN 1528-9834), issue date April 14, 2021, Vol. 22 No. 508, is published semi-monthly (24 times a year).

This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is sold with the understanding that the publisher is not engaged in rendering legal, accounting or other professional services. If legal or other expert assistance is required, the services of a competent professional should be sought. — From a declaration of principles jointly adopted by a committee of the American Bar Association and a committee of publishers.

Copyright © 2021 Safety | News Alert. Please respect our copyright: Reproduction of this material is prohibited without prior permission. All rights reserved in all countries.