

November 15, 2021

## Forklift blunder ends in workplace horror: Worker's arm torn off

*Lift truck operator didn't go through company training*

“Whoa! Be careful!” bellowed Supervisor Dave Wright, coming around the corner at the auto parts plant and distributor.

Dave quickly grabbed a heavy box falling out of new employee Trey Minor's hands before it hit the floor.

“How can you even see where you're going carrying that big of a load?” the Supervisor asked.

“Sorry,” said Trey. “I didn't see you coming toward me.”

“Yeah it's a tight layout in here,” said Dave. “And a little more crammed than it usually is.

“You know, these parts are pretty expensive,” said Dave. “And heavy.

“Why not use the forklift? Or a dolly?” Dave asked.

“OK,” said Trey. “I drove a forklift at my old job, but I haven't gotten the go-ahead to drive one here.”

### Was employee trained to handle it?

“It's like I always say, drive very slowly, lay on the horn when you're coming to a corner, and keep your eyes straight ahead of you,” said Dave.

*(Please see Forklift ... on Page 2)*

### *Sharpen Your Judgment*

## Delayed repair leads to injury: Was it negligence?

“I just heard from Pete's wife,” Safety Director Chris Taylor said. “She said the doctors were able to save his hand, but that's the extent of the good news. He's suing us.”

“I had a feeling this was coming,” said Supervisor Kelly Ford. “What's their case?”

### Equipment was scheduled to be fixed

“Pete doesn't think workers' compensation is enough to cover his injury,” said Chris. “He plans to sue us for negligence.

“He says the safety gate on the machine he used was broken, and we knew it,” Chris went on. “And it was certain an injury would occur if

an operator lost focus even one second.”

“He's right that the gate had broken,” said Kelly. “But there was nothing certain about an injury. The machine could still be used safely as long as workers paid attention.”

“Is it true there was a near-miss with the machine a few weeks ago?” Chris asked.

“Pete's glove got caught in the doors,” Kelly said. “That was a wake-up call that put the repair on our radar. We put in a request with maintenance to fix it as soon as they possibly could.”

The company tried to have the negligence lawsuit dismissed. Was it successful?

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.*

# Forklift ...

(continued from Page 1)

“Sounds easy enough,” said Trey. “I’ll remember that.”

## Seemed like a good idea

Later that day, a load needed to be moved out to the receiving dock.

“I can grab the forklift for it,” Trey volunteered.

“Do you know how to operate one?” a co-worker named Gerry asked.

“They let me drive one all the time at my last job,” said Trey. “Don’t worry, I talked about it with Dave this morning and he said it’s OK, just be careful.”

“All right,” said the co-worker.

Gerry waited a couple of minutes for Trey to arrive. What’s taking him? he thought.

Gerry walked down the aisle to see what was holding up Trey. As he turned the corner of an aisle, he walked straight into a forklift driven by Trey.

“What the – !!” Gerry yelled.

## Bloody horror show

Trey had taken the corner sharply and pinned Gerry against the wall. He couldn’t hit the brakes quickly enough to prevent a devastating blow to Gerry’s body.

The forklift tore Gerry’s arm off above the elbow.

“Oh my God, oh my God,” muttered Trey as he sprang from the forklift.

Co-workers came running to try and save Gerry’s arm and stop the bleeding. Everyone who tried to help went home with Gerry’s blood still on their clothing.

## Training can never be skipped

The company owner, plant operator and Supervisors couldn’t argue with the basic facts: The forklift driver that day had never been put through training, which is

a black-and-white OSHA rule.

Inspectors wrote up the company for failing to:

- conduct forklift evaluations for trained operators every three years
- examine forklifts and remove unsafe vehicles from service as required

### What you need to know:

There can be a tendency to equate driving a forklift with a car. But there are obvious differences such as the force of a collision, vantage point, road conditions as opposed to a warehouse or job site, et al.

That’s why mandatory training for any new employee, and follow-up evaluations, are necessary to enhance a safer workplace. Training is the time to ask questions and improve skills.

- address machine guarding and lockout/tagout deficiencies, and
  - train all forklift operators before letting them operate a vehicle.
- Fine: \$205,384.

## If they need more proof ...

Learning how to function in society and work a job again after an amputation injury is something no one wants to face.

A graphic documentary called “The Hidden Cost” can help drive the message home. Go to [www.asafe.com/thehiddencost/about-the-campaign/watch-our-film](http://www.asafe.com/thehiddencost/about-the-campaign/watch-our-film)

*Based on an OSHA citation against Leehan America in Alabama. Dramatized for effect.*

## TEST YOUR KNOWLEDGE

### Fire safety: Everyone needs to know their role

If a fire breaks out, will your staffers know how to respond?

Have your workers answer *True* or *False* to the following questions to see if they’re prepared for a fire emergency:

1. If there’s a fire, the first thing you should do is grab an extinguisher and try to put it out.
2. If there’s a big fire and it’s spreading quickly, you should use a fire extinguisher to fight it.
3. To operate a fire extinguisher, you should pull the pin, aim at the base of the fire, squeeze the handle and sweep at the base of the fire.
4. What you need to fight a fire is an extinguisher and a little bit of training on how to work it.

## ANSWERS

1. *False.* The first thing you should do is set off the fire alarm so everyone knows there’s a problem. One smart move: Have a co-worker sound the alarm while you try to handle the fire, if necessary.
2. *False.* Fire extinguishers are intended for use on small fires. Larger fires should be dealt with by trained firefighters.
3. *True.* This is often called the P.A.S.S. (pull, aim, squeeze and sweep) method. Aiming the extinguisher at the base of the fire is key to putting it out.
4. *False.* If you’re trying to put out a fire, you need more than just an extinguisher and training. You also need an unblocked escape route and exit behind you at all times. Without a clear exit, you could end up trapped.

### Answers to the quiz:

# 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.*

## **Sloppy platform rigging results in fatal 15-story fall**

**What happened:** Electricians were working 15 stories high on a platform. Only problem was, the platform wasn't secured to the jib of a crane properly – a mistake that took one man's life and severely injured another.

**What people did:** The two employees were erecting electrical transmission lines for Mesa Line Services near Houston when their platform shifted and sent them plummeting to the ground. The company failed to:

- comply with the rated capacity of the personnel platform
- follow manufacturer procedures when using a crane as an aerial lift, and
- secure the personnel platform to the jib assembly.

**Result:** In addition to \$95,571 in proposed penalties, Mesa faces lawsuits from the families of both the deceased and severely injured electricians.

## **Anonymous tip to OSHA triggers \$121K LOTO fine**

**What happened:** Someone – maybe a concerned employee – tipped off OSHA to workers at a spice manufacturer being allowed to clean mixing machines without de-energizing them first or using lockout/tagout devices. The firm already knew it was a problem and didn't address it.

**What people did:** iSpice in Jackson, Alabama, imports and manufactures spices and extracts. OSHA had fined iSpice for lack of LOTO procedures and failing to train on LOTO. After getting a tip about a continuing safety issue, OSHA went back for a second look around. That led to repeat citations for lack of LOTO procedures and training, plus seven serious violations for keeping defective lift trucks in service and not covering electrical outlet boxes.

**Result:** The total fines added up to \$121,511.

## **Workers breathed in lead, cadmium and arsenic**

**What happened:** A Tampa battery recycling facility and smelter failed to protect workers from breathing in cadmium, lead and arsenic particles. Taking shortcuts on engineering, work practices and PPE maintenance put people's health in danger.

**What people did:** Gopher Resources was cited for:

- cadmium, lead and inorganic arsenic exposure levels above permissible exposure limits
- lack of engineering and work practice controls
- failing to update a written compliance program for cadmium, lead and arsenic
- letting workers share damaged aluminized jackets, and
- not fit-testing workers for respirators annually.

**Result:** Citations added up in a hurry! Gopher must pay \$319,876 to OSHA.

## SAFETY TRAINING TIPS

### ■ Get workers talking more in safety meetings

It can be tough getting workers to speak up during safety meetings.

Some folks may be afraid of seeming stupid in front of their co-workers.

Others may not want to admit they've made a safety mistake on the job.

To open up discussions, try asking these questions:

1. Have you ever dealt with this safety issue while working at home?
2. Do you know someone else (don't mention names) who's been injured because of this safety issue?

Workers may feel more comfortable talking about someone else's mistake or an error they've made at home.

Also: There's nothing wrong with you or the designated trainer admitting to a safety mistake to get the conversation rolling.

### ■ Tool signouts that will drive a message home

Here's a way to drive home safety both on and off the job site.

Consider letting employees borrow some tools and PPE for work at their homes.

Go one step further: Have them sign a sheet listing what they want to borrow and what they'll use it for.

When they bring you the sheet, have a little talk about how the equipment works and how to use it for the job they'll be doing.

It's a good low-pressure way to remind workers of the features of your safety devices and PPE.

# Worker enters confined space, never to come out: Where did this company go wrong?

*Employee passed out from vapors, fell to his death*

“Looks like a tight squeeze in there. There was probably a time when I could’ve fit down there,” Nolan the Supervisor said.

Manuel laughed. “I’m not as skinny as I used to be either. But I should be able to squeeze down there.”

“All right,” Nolan said. “Anyway don’t worry about getting all the dirt out, just give the tank a quick cleaning.

“It’s smelling pretty rank down there. So if you start to feel sick, get out right away,” said Nolan.

“Got it,” Manuel said. “Be back soon.”

## Supervisor stayed nearby

Manuel was no stranger to this kind of work. He lowered himself into the tank and began the process of cleaning the tank.

He moved quickly and carefully to clear the debris from the inside.

“Everything good down there?” Nolan yelled down.

“Just finishing up,” Manuel replied, climbing the ladder again.

Half way up the ladder, Manuel felt a little funny. A peaceful feeling came over him as his surroundings turned to black.

Above him, Nolan heard a loud thud. “Manuel?” he shouted. “Manny?”

There would be no reply. Manuel had passed out from vapors inside the tank. Rescuers would later have to pull his body from the bottom of the tank.

## Facility’s practices take the blame

Safety cops visited the site to determine what went wrong.

**Result:** The company was hit with fines for confined space violations, including failure to test spaces before entry, train workers on hazards, provide respiratory equipment and develop rescue plans.

Fines totaled \$77,000.

**Key:** Confined spaces can quickly turn deadly. Workplaces that aren’t prepared for these dangers are essentially signing workers’ death warrants.

*Based on an accident at Phoenix Industrial Cleaning*

## What you need to know:

Confined spaces combine many workplace hazards in one job: lack of oxygen, difficult rescue operations, toxic fumes and so on. Before you let work begin:

- test and monitor for atmospheric hazards
- train workers and on-site attendants on confined space hazards
- provide PPE like respirators, and
- provide emergency rescue equipment for the job.

## Sharpen Your Judgment – The Decision

*(continued from Page 1)*

Yes. A court ruled that Pete was only entitled to workers’ comp for his injury.

Negligence cases like this hinge on whether it’s certain that an injury would occur, not whether it’s likely or even obvious.

Pete’s argument was that the company knew its machine was broken and hadn’t fixed it. He said losing focus even for a second could’ve led to an injury. He pointed to his near-miss as proof of the dangerous situation.

But the court said that wasn’t enough to show negligence. If an injury would occur by a worker losing focus, that was evidence that other factors, such as a distraction, were necessary for an accident to happen.

And because there was a near-miss, the worker was aware of the danger – so he couldn’t claim the company was fully responsible. As a result, the negligence case was thrown out.

## Analysis: Make repairs top priority

Just because this company wasn’t negligent, it doesn’t excuse how wrong they were to allow an unsafe condition to go unfixed.

Safety fixes must be your top priority the second you become aware of a problem. And a near-miss is a clear call to action, not an item to be put on the to-do list for later.

*Based on Luce v. Kent Foundry*

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