

January 3, 2022

24-year-old crushed to death by steel fork: What went wrong?

Improvising to save time ends in tragedy

“Another day, another dollar!” yelled Curtis Clifton, a construction worker. “Right, Brian?”

“A dollar is right,” laughed Brian, his co-worker. “That’s about what my paycheck comes to after taxes.”

“And filling up the gas tank in your truck, I bet,” Curtis chuckled.

“Don’t go there!” said Brian. “The prices are out of hand.”

“Guess it’s just you and me today,” Curtis said. “Everyone else is finishing up other jobs.”

“That wouldn’t be so bad if we had a full array of tools and equipment,”

said Brian. “That would make all of this grading work a lot easier.”

Driving stakes would be a bear

“Come on, we’ve got the front-end loader and a couple of shovels,” said Curtis. “I think we can knock out all of the grading today.”

Brian and Curtis gathered their tools, a chalk line and stakes to mark off their work area.

When it came time to drive stakes, Brian was stumped. “What

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Sharpen Your Judgment

Injured worker blames Supervisors’ instructions

“I just got off the phone with Craig Roberts,” Safety Director Chris Taylor said.

“Get out!” Supervisor Tim Gray replied. “How’s he enjoying retirement?”

“It wasn’t a friendly chat,” Chris explained. “Craig’s suing. He claims you and other Supervisors are to blame for chronic injuries.”

Career of ergonomic stress

“How could that be?” Tim asked, concerned.

“Craig says he was required to jump on and off moving equipment several times a day during his career,” Chris replied. “And now he has shoulder and back problems as a result.”

“Whoa, we never required anyone to ‘jump’ on or off anything,” Tim said. “We taught our workers to make sure they had three points of contact when getting on or off equipment.”

“Are we sure that’s safer?” Chris asked.

“It definitely cuts down on the repetitive stress,” Tim said. “Besides, every worker in our industry has to do the same things Craig did. And I’ve never heard of it resulting in an ergonomic injury before.”

“Our lawyers say we should fight this – and I agree,” Chris said.

The company fought to get the lawsuit thrown out. Did it succeed?

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.

Crushed ...

(continued from Page 1)

am I supposed to drive these stakes with?”

After a long pause, Curtis responded. “Help me put this attachment on the front-end loader,” said Curtis.

Work-around not SOP

“What’s the fork for?” Brian asked while helping Curtis adapt the loader.

“It’s flat and heavy enough to punch the stakes in a lot quicker than you and me using our hands,” said Curtis.

“OK I see what you mean,” said Brian. “Have you tried it this way before?”

“I’ve seen it done but I’ve never tried it,” said Curtis.

“Let’s put it this way, using the loader to drive stakes isn’t standard operating procedure!”

“You’re the heavy equipment expert, so have at it,” said Brian. “I’ll hold the stakes.”

Steel crushes organs, bones

The pair managed to drive a handful of stakes into the soil. Curtis waited for Brian to steady a stake for a press-down from the front-end loader.

Neither of the men expected the fork attachment to come loose, but come loose it did – and smack dab on top of Brian.

Curtis switched off the machine and jumped down from the seat to help Brian. His co-worker was unconscious and already turning

gray and cold to the touch.

“911! It’s an emergency! My friend is crushed,” Curtis sobbed into his phone.

Brian died from his injuries at the young age of 24.

Leaders need to set right tone

Result: OSHA cited the contractor for not protecting workers from potentially fatal struck-by hazards, and for not reporting the fatality within the required 8-hour time period.

The workers rigging a fork to the front of the loader went against OSHA, industry and manufacturer (in this case, John Deere) instructions.

Key: OSHA noted the workers should’ve been trained to:

- use an approved method, such as pneumatic post-driving equipment, which doesn’t pose struck-by hazards
- follow the John Deere operators manual, which instructs people not to stand or pass under raised forks, masts, carriages, booms or attachments, and
- verify all connections are secure and that any attachment responds correctly to controls prior to operating the equipment.

The company faces \$20,480 in proposed penalties and a lawsuit from the deceased worker’s family.

Based on an OSHA penalty against Mathis Grading, a contractor in Cumming, GA.

What you need to know:

Struck-by hazards are one of the four most deadly in construction, and they lead to painful injuries and deaths in other industry sectors.

Two keys to reducing risks:

- safety checks for lift trucks, cranes and other equipment before and after use, and
- reprimanding those who don’t comply with safety rules such as not standing below raised loads and masts.

TEST YOUR KNOWLEDGE

Safety Quiz: Hearing protection and hearing loss

Once a worker’s hearing is lost, it usually can’t be regained.

On top of that, noise and hearing damage can make the workplace more dangerous by making hazard recognition difficult.

Find out how much you know about OSHA’s hearing protection rules by answering *True* or *False* to the following:

1. Pain in the inner ear is often the first sign of hearing loss.
2. Hearing conservation programs must be in effect when noise levels reach an eight-hour time-weighted average of 85 decibels.
3. Hearing conservation programs may need to change based on personnel.
4. Hearing protection devices are the preferred method to prevent hearing loss.

ANSWERS

1. *False.* Pain rarely accompanies hearing loss. The fact there’s often no accompanying pain and hearing loss usually develops slowly over time makes it very difficult to detect until it’s too late.
2. *True.* These programs are to be provided to employees free of charge and include audiometric testing, noise monitoring, notifying employees of the conditions and more.
3. *True.* If additional workers are exposed to high levels of noise, your hearing conservation program may need to change. It should also be updated if changes result in hearing protection being inadequate to shield workers against noise levels.
4. *False.* The best protection is engineering controls designed to limit the output of noise.

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.

Back-to-back injuries show that changes are overdue

What happened: A worker lost two fingers reaching into an unguarded spot on a machine. Two months later, a second worker was struck by an overhead hot metal carrier. Inspectors cited a wide range of safety violations.

What people did: Waupaca Foundry in northern Wisconsin is reeling from a \$200,000 OSHA fine following two post-injury inspections. Hazards include:

- unguarded edges around pits and on higher level floors
- inadequate machine guarding
- damaged ladders not being removed from service
- inadequate engineering and administrative controls to reduce excessive noise exposure, and
- lack of protection from airborne crystalline silica, partly because of the lack of dry sweeping or cleaning with compressed air.

Carrying heavy loads up ladders needs fixing fast

What happened: Sunpro Solar workers have been spotted by citizens and OSHA inspectors climbing extension ladders while carrying heavy loads. The fines and risks to people's livelihoods keep getting higher.

What people did: The Naples, Florida-based solar panel installation contractor can't say

it didn't know about fall hazards. OSHA cited the contractor once before for allowing unsafe practices, such as carrying loads while using a ladder. This time around, inspectors cited Sunpro for not training staff on fall hazards and protection.

Result: Sunpro will pay \$160,913 in fines. It risks more penalties since the company operates in 21 states total and is one of the top solar panel installers nationwide.

No fit-testing for respirators? Prepare to pay

What happened: A year after a worker died from COVID contracted at work, this healthcare facility got nailed for N95 respirator shortcomings.

What people did: West Suburban Nursing and Rehabilitation Center in Bloomingdale, Illinois, required employees to wear N95 filtering face piece respirators while entering the quarantine area and providing care to suspected coronavirus positive residents. But it missed important steps – ensuring workers used respirators and fit-testing all employees to ensure effective seals.

Result: The facility also failed to implement a hazard assessment process for tracking coronavirus exposure, track vaccination status of employees, erect barriers to maintain 6 feet of distancing between employees at entry points and nursing stations, and control access to the quarantine zone by staff and patients.

Lesson: West Suburban was hit with \$83,675 in fines and negative publicity from news reports.

SAFETY TRAINING TIPS

■ Court freezes federal COVID-19 vaccine policy

OSHA's COVID-19 vaccine mandate has been put on hold temporarily – and may be down for the count.

The 5th Circuit Court of Appeals granted a stay of the mandate on employers with 100 or more workers, brought by 20-plus state attorneys general.

Judges ruled the policy was “fatally flawed” and likely unconstitutional.

OSHA agreed to abide by the court's order and not take further steps to implement the COVID-19 Emergency Temporary Standard.

■ 4 steps for correcting unsafe behavior

When there's a near-miss or safety violation, it falls on Supervisors to correct the behavior – and make sure workers get the message.

Here are four steps to getting your point across:

1. **Be direct.** Get right into what went wrong, and make sure you have supporting evidence to back up your message. For example, “Last week, I had to remind three different employees about our PPE procedures.”
2. **Set expectations.** Once you've defined the issue, the next step is solving it. Tell them what they need to do differently, and when. If it's right away, say so.
3. **Keep the focus tight.** It may be tempting to run through a laundry list of changes while you have everyone's ears. But it's better to stick to one or two topics at a time to make sure nothing gets lost in the shuffle.
4. **Get it in writing.** Have workers sign a form that says they received the message and will abide by the action points you set up.

The most at-risk employee is a tired one: Fatigue and sleep facts they need to know

No shame in needing a nap!

Why aren't fatigue and lack of good sleep addressed more often as factors in workplace safety?

There are several barriers: lack of awareness and information, lack of understanding of the strategies needed to manage fatigue, and so on.

Workplace culture can also contribute to staffers taking rest for granted.

Are long hours or "working through" fatigue rewarded?

A Superman mentality is common in a lot of industries.

Let's face it: Most people see a person sitting down and resting on a job site, and the initial impression is, "That person's a lazy worker."

Share info with employees

How can Supervisors help overcome these barriers?

One way is to share information with employees on how sleep – or lack of it – affects people.

When we sleep, blood vessels in the

brain shrink, allowing spinal fluid in between the vessels to clear out toxins and replenish our brain cells.

Reaching the fourth stage of sleep – REM sleep – is essential because, besides being the dream stage, that's when memories are processed and long-term learning occurs.

Fact: It takes 90 to 120 minutes to go through the four stages of sleep.

If someone is getting seven to eight hours of sleep but doesn't feel rested, quality of sleep may be the issue.

The hours you work are a factor

People who work odd hours should know about circadian rhythms, the body's 24-hour cycle.

During off hours, neurotransmitters convey information more slowly.

People can work during odd hours, but they're impaired and need to recognize it.

(Based on a presentation by Susan Sawatzky, Director, In-Scope Solutions, Calgary, Alberta, at the ASSP September 2021 conference)

What you need to know:

Naps can be a good way to fight fatigue. Key: Timing is everything when it comes to naps.

A nap should be either under 30 minutes or over 90 minutes. If it's under 30 minutes, you awake during stage one or two sleep and feel refreshed.

If it's over 90 minutes, you'll gain the benefits of REM (stage 4) sleep.

What you don't want to do is nap between 30 and 90 minutes so you wake up during third stage sleep, which produces a groggy feeling.

Sharpen Your Judgment – The Decision

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Yes. The company won when a judge dismissed Craig's claims that his injuries resulted from Supervisor negligence.

Craig claimed the repeat stresses of getting on and off moving equipment over his long career led to back injuries.

The company countered that if he had followed his Supervisors' recommended ways to get on and off equipment, the chance of getting an ergo injury was greatly reduced.

The judge sided with the company. Craig couldn't prove his ergonomic injuries were caused by his work duties.

In fact, the methods his Supervisors taught him to use on the job were designed to

prevent these kinds of injuries.

Without any proof of repetitive stress causing the injury, the case was dismissed.

Analysis: Consult with experts

Everyday tasks will sometimes result in chronic injuries. But it's not a given.

To be sure you're keeping workers safe from physical problems down the line, try to limit the stresses they'll encounter on the job.

Having a physical therapist or other medical expert observe your workplace's tasks could be a good way to keep your people healthy.

Based on Horn v. Union Pacific.

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