

Stark County Safety Council Newsletter

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STARK COUNTY

S A F E T Y C O U N C I L
 A committee of the Canton Regional Chamber of Commerce

WHAT WERE THE “HOT” OSHA CITATIONS IN 2010? WHAT’S ON THE HORIZON?

By Jacqueline Bollas Caldwell, Esq.

Looking back at fiscal year 2010, the following were the top ten “willful” and the top ten “serious” violations cited by OSHA last year:

2010 Top Most Cited “Willful” Violations			
		Standard Cited	Total Willful Violations
1.	1910.119	Process Safety Management	853
2.	1926.403	Electrical, General Requirements (Construction)	121
3.	1926.021	Safety Training & Education	89
4.	1926.501	Fall Protection	65
5.	1926.652	Excavation, Requirements for Protective Systems	64
6.	1910.1025	Lead	59
7.	1926.062	Lead (Construction)	40
8.	1926.451	Scaffolding	36
9.	1910.212	Machine Guarding	33
10.	5A.001	General Duty Clause	32

2010 Top Most Cited “Serious” Violations			
		Standard Cited	Total Serious Violations
1.	1926.451	Scaffolding	8,263
2.	1926.501	Fall Protection	7,207
3.	1910.1200	Hazard Communication	4,616
4.	1926.1053	Ladders	3,729
5.	1910.147	Lockout/Tagout	3,219
6.	1910.305	Electrical, Wiring Methods	3,053
7.	1910.178	Powered Industrial Trucks	2,744
8.	1910.134	Respiratory Protection	2,726
9.	1910.212	Machine Guarding	2,481
10.	1910.303	Electrical, General Requirements	2,423

In addition to making sure your facility is in compliance with the above cited standards, you should be aware that OSHA is also targeting for 2011 combustible dust issues and recordkeeping violations.

NOTE: This general summary of the law should not be used to solve individual problems since slight changes in the fact situation may require a material variance in the applicable legal advice.

Today’s Program February 10, 2011

Speaker: Michael Lattavo
 President, Big Rig Truck Driving School,
 Canton CDL Testing Company, and CDL Safety
 Resources

February Spotlight Company:

**Topic: "New Ohio Safety Rules for
 Small Commercial Vehicles -
 What You Need to Know".**



ABOUT THE FEBRUARY SPOTLIGHT COMPANY



SPSI located in Hartville, Ohio (a subsidiary of CIC Group, St. Louis, MO) is world-class fabricator of process, power and nuclear piping systems. Founded in 1983, SPSI has four state of the art production facilities in Ohio comprising a total of 109,000 square feet. SPSI actively promotes a proactive strategy to their nearly 200 employees for safety, health and training management, which has led to an unprecedented reduction in workplace injuries. SPSI’s nationally certified Training Center is now pleased to offer OSHA General Industry and American Heart Association certification courses to any company or individual seeking additional safety or health training. For more information, visit www.scottprocess.com.

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Safety Council Mission Statement: To provide a forum for safety and health information, education and networking in Stark County, through leadership, innovation, facilitation, program, and support, in partnership with other public and private organizations.

The article this month is from Hans A. Nilges and Shannon M. Dhraher with the law firm of Morrow & Meyer LLC. Hans is a member of The Stark County Safety Council Steering Committee.

Supreme Court Expands Title VII Retaliation To Include Third Parties

By: Hans A. Nilges, Esq.
& Shannon M. Dhraher, Esq.

The United States Supreme Court recently ruled that Title VII's anti-retaliation provisions extended to the fiancé of a charging employee. In the case of *Thompson v. North American Stainless, L.P.*, Eric Thompson and his fiancé Miriam Regalado were employed by North American Stainless. In 2003, Regalado filed a sex discrimination charge with the EEOC. A few weeks later, North American fired Thompson.

The question before the Supreme Court was – Did Regalado have a retaliation claim based on the fact that her fiancé was fired? In an 8-0 decision, the Court answered “yes”.

Previously, in *Burlington N. & S.F.R. Co. v. White*, the Court had held that Title VII's anti-retaliation provisions prohibit any employer action that “well might have dissuaded a reasonable worker from making or supporting a charge of discrimination.” The Court found the facts of *Thompson* to be an easy case under the *Burlington* standard, as it was “obvious that a reasonable worker might be dissuaded from engaging in protected activity if she knew that her fiancé would be fired.”

But the Court also acknowledged that more difficult cases will be presented in the future. Indeed, the Court asked rhetorically (as many of us will do): “[W]hat about firing an employee's girlfriend, close friend, or trusted co-worker?” As with many things in the law, the Court concluded that “it depends” and therefore declined to create a bright-line rule.

It did, however, offer that “firing a close family member will almost always meet the *Burlington* standard, and inflicting a milder reprisal on a mere acquaintance will almost never do so...” That, however, was as far as the Court was willing to go for the sake of clarity.

For certain, this case broadens the scope of persons who may raise a retaliation claim. The width and breadth of that scope, however, is still somewhat ambiguous. In close cases, therefore, legal counsel should be consulted.

Hans A. Nilges and Shannon M. Dhraher are attorneys with the law firm of Morrow & Meyer, LLC where they represent employers in all aspects of labor and employment law.

Robin's Corner

If our company already participated in the drugfree workplace program, can we participate again? What are the advantages?"

Have a question about safety but too shy to ask? Write it on a card and submit to Colleen Maurer or Connie Cerny. Your question will be addressed by Robin from the Division of Safety and Hygiene. All questions will remain anonymous. No name or company will be mentioned.

Upcoming Program

March 10, 2011

**Speaker: Madeline Martin, LICDC, LISW
Glenbeigh Outpatient Center of Canton
Topic: "Protecting your Employees and
their Families Against the use of Alcohol
and Energy Drinks".**

March Spotlight
Company:



A Division of Superior Staffing

Upcoming

February 15—Drug Free Safety Program Info Seminar from 8-10 a.m. at Chateau Michele. Fee includes breakfast. Contact Connie Cerny 330.458.2061 for registration.

March 15—CEO Breakfast-Save the Date! The Stark County Safety Council's Annual CEO/Senior Management Breakfast will be held on March 15th at Meyer's Lake Ballroom from 7:30 to 9:00. The council is pleased to have as the speaker Kent McElhattan, Chairman of the Board of the National Safety Council. The cost to attend is \$20 and includes the program and a full breakfast. Further details and reservation information will be sent at a later date. Everyone is welcome to attend, but we encourage your CEO/Senior Management to attend.

March 30-31 Safety Congress in Columbus, Contact: Julie Darby Martin, Safety Congress Manager (614) 466-7695 SafetyCongress@bwc.state.oh.us. Booth space also available.

Important items to make note of:

1. **Semi-Annual Reports** are required to maintain your membership with the SCSC. Reports are due July 15th and January 15th each year.
2. **Don't forget to sign-in.** If you do not sign the "sign-in sheet" your company will not receive credit for attending. This could hurt your company's chances of receiving the BWC's discount.
3. **July 1, 2010 began a new 12 month period** for the BWC's rebate program. If your company is eligible, you must attend a minimum of 10 events, with your company's CEO or a senior level manager attending one of these 10, and submit two semi-annual reports. See BWC website for complete rebate details.