

Stark County Safety Council Newsletter

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MULTI-EMPLOYER WORKSITE LIABILITY REVISITED

BY JACQUELINE BOLLAS CALDWELL, ESQ.

In 2007, the Occupational Safety and Health Review Commission (“Review Commission”), in a decision known as Summit I refused to hold the general contractor liable for safety violations committed by the subcontractor when the general had only a couple of supervisory personnel on site. This 2007, Summit I, decision was overturned by the United States Court of Appeals for the 8th Circuit in February 2009.

Recently, on August 19, 2010, the Review Commission, one member dissenting, reversed its 2007 decision in Summit I and determined that the general contractor, Summit Contractors, as non-exposed, controlling employer on a multi-employer work site, can be held liable for violations under OSHA, Secretary of Labor v. Summit Contractors, Inc., OSHRC No. 05-0839, 8/19/10.

In reversing itself, the Review Commission cited several major factors. First, the Review Commission adopted the 8th Circuit’s determination that the standard at issue requires the employer to protect not only its own employees at a work site, but also “others [in addition to its own employees] who work at that place of employment so long as the employer also has employees at that place of employment.” Moreover, the Commission concluded that the evidence showed that the general contractor, in fact, had supplied the portable equipment that did not have correct ground-fault circuit interrupters and, therefore, had constructive knowledge of the safety hazard.

In sum, the Review Commission has returned to an expansive definition of liability for general contractors on a multi-employer work site.

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.

Stark County Safety Council Business Expo September 9, 2010

American Marble Industries
AultWorks
Black, McCuskey, Souers & Arbaugh LPA
BWC Division of Safety & Hygiene
Canton Chair Rental
Canton Hall of Fame Chapter APA
Canton Regional Chamber of
Commerce Stark County Safety Council
CareWorks Consultants
Chu & Associates
Design Restoration & Reconstruction
Great Work Employment Services
Harrison Paint Company
Hilscher-Clarke Electric Company
Max D. Burkins & Associates Inc.
Mercy Work Health & Safety
Miller & Company
ProTech Security Inc.
Safety Resource Company of Ohio Inc.
Seifert Companies
Sparta Steel & Equipment Corporation
Stark County Human Resources Assn.
Stark Metal Sales, Inc.
Stat Services
Stauffer Glove & Safety
The Minney Group
The Reserves Network
Truck Sales & Service Inc.
U.S. Healthworks Inc.
U.S. Safety Gear Inc.
Young Truck Sales Inc.

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.

***A message from the SCSC
President***

Dear SCSC Members:

A special thank you to Day Ketterer for their sponsorship of our expo by providing tote bags for today.

Also, my thanks to all of the business's who are participating as exhibitors for today's expo. Your support of the SCSC is greatly appreciated.

I hope everyone who attends today has an enjoyable time and gets valuable information from our exhibitors.

Finally, special thanks to Connie Cerny for all of her hard work in making today's expo a success. We couldn't do it without her!

Best Regards,

Susan

**Safety Council Officers
& Contributing Members**

**Chairman
Chair**

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Ohio BWC Representatives

Robin Watson (robin.w.1@bwc.state.oh.us)
Steve Hanna (Stephen.h.1@bwc.state.oh.us)

Upcoming Program

October 14, 2010

Speaker: Fred Bertram

Stark State College of Technology,
Department Chair of Emergency Services

**Topic: "Are You Safe/Can We Find You"
Smoke and fire detectors and
thermal imaging devices (TID)**



To be a spotlight company contact Mark Rossiter
mark.rossiter@anheuser-busch.com

Upcoming Events

Oct. 5th—Fire Prevention Breakfast
at Skyland Pines Golf Club \$13.00 per
person tables of 8 available. Starts at
8:00 a.m.

October 30th —5K Race—More info
to follow

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.
4. **Please complete a Program Evaluation Form** following each luncheon meeting. Your input is important.