



Confined Space

News and Commentary on Workplace Health & Safety, Labor and Politics

Home

[Who Am I? Why Am I Here?](#)[E-Mail Me](#)
jbarab@starpower.net[RSS Feed](#)

Quote of the Month

I have three pictures side by side in my house: John L. Lewis, Franklin Delano Roosevelt and Jesus. I draw Social Security on account of FDR. I draw a pension on account of John L. Lewis, and I'm going to Heaven because of Jesus.

-- Jack McReynolds, 70, retired miner, West Frankfort, KY

Political and Labor Blogs

[AFL-CIO Now](#)

News From The AFL-CIO

[Altercation](#)

By the Nation's Eric Alterman

[Blue Collar Blog](#)

Firefighter, IAFF Member and CWA Staffer
Sounds Off

[Chris Mooney](#)

The politics of science

[Communicate or Die](#)

American Labor Unions and the Internet

[Crooks and Liars](#)

Political hypocrisy n The small screen

[Daily Kos](#)

A must read for all political junkies

[DMI Blog](#)

Politics, Policy and the American Dream

[Edwize](#)

The blog of New York's United Federation of Teachers

[Effect Measure](#)

A forum for progressive public health discussion

[FireDogLake](#)

A Group Political Blog -- Always Something Interesting

[GoozNews](#)

Who's Watching Now That The Cameras Have Left?

[Gulf Coast Reconstruction Watch](#)

SHOCKED that there's corporate influence on public health policy?

[Impact Analysis](#)

A portal for your adventure in environmental health

[Liberal Oasis](#)

On a mission to reclaim the good name of liberals because America was founded on liberal beliefs of freedom and justice for all.

[MaxSpeak](#)

Economics deciphered by "Max" Sawicky

[Mine Safety Watch](#)

Health and Safety in the Mines

[Mother Jones](#)

On Top Of The News

Thursday, February 02, 2006

PERMALINK Posted 8:25 PM by Jordan

What's More Effective? OSHA Penalties or Suing the Bastards?

In a perfect world, we would have strong workplace safety standards and the penalties for violating those standards would be strong enough that safety would rise significantly farther up the average company's list of priorities than where it generally rests now -- somewhere in the basement.

Now, for those of you who just landed here in a spaceship from Mars, we don't have that kind of system here in the U.S. When it comes to workplace safety, we have government agencies (OSHA and MSHA) that are incapable of issuing any new safety or health standards, and even when it enforces the existing standards, the penalties are so low that they barely raise a pimple on the average corporate bottom line even when a worker is killed and even when the employer knowingly sent him or her into an unsafe environment. Much of the continuing weakness of these agencies is a result of corporate/Republican campaigns to weaken OSHA and MSHA with accusations of abusing small businesses, killing jobs, undermining capitalism and being unwilling to work cooperatively with the business community.

But we also have another system in this country where citizens can sue companies when corporate negligence results in injuries, illnesses or deaths. Some of these lawsuits (called Torts, for you non-lawyers out there) can result in pretty hefty fines. Because these cases can result in meaningful penalties, corporate America/Republicans are mounting "Tort Reform" campaigns designed to weaken citizens' ability to win meaningful awards. Workers usually can't even use the tort system because Workers Comp laws, with a few exceptions, prohibit workers from suing their employer.

No government oversight, no lawsuits and it's clear sailing.

Just a few cases in point:

- OSHA cites [Quality Window Cleaning](#) after its failure to train window washer Les James, resulting in his death after he fell less than an hour after he began work.
Penalty: \$2700

James's family, which somehow got around the Workers Comp law, sues Quality Window Cleaning
Award: \$7.2 million.

- OSHA cites [Unicco Services](#) after faulty equipment and lack of training led to the death of window washer Jose Camara.
Penalty: \$152,500
- Jury decides against company [whose scaffold fell](#) off Chicago's John Hancock Center in March 2002 killing 4 people on the street below.
Award: \$77 million, \$75 million of which will go to the families of four people who were killed and to



Looking for
**Confined Space
Safety
Information?**
Click [Here](#)



☐ Search
Search Confined
Web Space

Greatest Hits

[BP Texas City
Explosion Stories](#)

[2006 Mine Disaster
Stories](#)

[Popcorn Lung Stories](#)

[Speech on Receiving
the APHA Lorin Kerr
Award](#)

by Jordan Barab, November 9, 2004

[Acts of God, Acts of
Man,"](#) by Jordan Barab,
Working USA

[Lies, Partisanship
Caused Ergo Standard
to Crumble,](#) by Jordan
Barab, *Safety + Health*,
February 2002

[A Week of Death,](#) by
Jordan Barab, *Hazards*,
February 5, 2003

Archives

[March 2003](#)
[April 2003](#)
[May 2003](#)
[June 2003](#)
[July 2003](#)
[August 2003](#)
[September 2003](#)
[October 2003](#)
[November 2003](#)
[December 2003](#)
[January 2004](#)
[February 2004](#)
[March 2004](#)
[April 2004](#)
[May 2004](#)
[June 2004](#)

[Nathan Newman](#)

Politics, economics and labor issues

[Political Animal](#)

Keeping up on Washington Politics by veteran blogger Kevin Drum

[The Pump Handle](#)

A water cooler for the public health crowd

[rawblogXport](#)

Labor news

[Seeing the Forest](#)

...for the trees: A Political Blog

[Sirotaglog](#)

David Sirota's online magazine of political news & commentary for those who *really* can't get enough politics

[Stayin' Alive](#)

Discussion of public health and health care policy, from a public health perspective.

[Suburban Guerrilla](#)

Wit, wisdom and politics by a reformed journalist

[Talking Points](#)

In-depth politics by Josh Marshall

[Tapped](#)

A group blog from the writers of the *American Prospect*

[Tom Tomorrow](#)

Politics and passion from the cartoonist

[Workers Comp Insider](#)

Good and fairly enlightened resource

[Working Immigrants](#)

The business of immigrant work: employment, compensation, legal protections, education, mobility, and public policy.

[Working Life](#)

By a veteran labor and economics writer Jonathan Tasini

[The Yorkshire Ranter](#)

The scene from across the ocean

[You Are Worth More](#)

Labor issues in the retail trades

Health and Safety Websites and Resources

[Hazards Magazine](#)

[Deceit and Denial](#)

[eLCOSH \(Electronic Library of Safety & Health\)](#)

[NYCOSH](#)

[COSH Network](#)

[UCLA-Labor Occupational Safety and Health Program \(LOSH\)](#)

[A Job To Die For](#)

[ILO Encyclopaedia of Occupational Health and Safety](#)

[Grist Magazine](#)

[Drum Major Institute For Public Policy](#)

[International Right To Know Campaign](#)

[Labor Occupational Health Program \(UC Berkeley\)](#)

[Maquiladora Healthand Safety Support Network](#)

others injured.

At his [confirmation hearing](#) earlier this week for head of OSHA, Ed Foulke was asked by Senator Mike DeWine (R-OH) to describe his philosophy in approaching the leadership of OSHA.

Foulke said his primary goal was to ensure all employers comply with safety standards. Then, he said, he wants to create an atmosphere in which employers automatically put health and safety first in all business planning and decisions.

When he visits a company, Foulke said, "and they talk about safety and health first in all their meetings, you know they get it. We need to get that mindset in all workplaces, [that] safety is a priority."

OK, I'm a believer. But what's more likely to encourage a company -- or an entire industry -- to raise safety to the top of the meeting agenda: OSHA penalties or law suits?

Related Story

[Run! The Sky Is Falling: Republican Tort "Reform",](#) January 11, 2005

Go To My Main Page



Subscribe to Confined Space

Email:

[Browse Archives](#) at groups.google.com



☐ Search WWW ☒ Search Confined Space

/div>

DISCLAIMER: The views expressed in this Blog are my own and do not, in any way, shape or form, reflect or represent the views or policies of my employer. Links to or from other websites of individuals or organizations do not constitute an endorsement of these views.

[Home](#)
[Archive](#)

[July 2004](#)
[August 2004](#)
[September 2004](#)
[October 2004](#)
[November 2004](#)
[December 2004](#)
[January 2005](#)
[February 2005](#)
[March 2005](#)
[April 2005](#)
[May 2005](#)
[June 2005](#)
[July 2005](#)
[August 2005](#)
[September 2005](#)
[October 2005](#)
[November 2005](#)
[December 2005](#)
[January 2006](#)
[February 2006](#)
[March 2006](#)
[April 2006](#)
[May 2006](#)
[June 2006](#)
[July 2006](#)
[August 2006](#)
[September 2006](#)
[October 2006](#)
[November 2006](#)
[December 2006](#)
[January 2007](#)

Recent Posts

- [Confirmation Hearings on MSHA and OSHA Heads](#)
- [New Multilingual Workplace Safety Resource](#)
- [Breaking News: W.Va. mines shut down after two mor...](#)
- [No Shame: Sago Mine Owner Appeals Ruling Allowing ...](#)
- [Post Office Shootings: What's Going On?](#)
- [Congress: Helping MSHA Do Its Job](#)
- [State Of The Union: What To Expect](#)
- [New Immigrant Worker Blog](#)
- [Canadian Miners Rescued; Why Can't It Happen Here?...](#)
- [OSHA: The Good, the Bad and the Red Herrings](#)

News Headlines

Interesting Articles

[NY Times Workplace Safety Investigations](#)
January 2003 McWane Series and December 2003 "When Workers Die" Series by David Barstow

[Interview with Peg Seminario from the Multinational Monitor](#)

[Seattle Post-Intelligencer Series on Asbestos Legacy in Libby, Montana](#)

[Less Than Miraculous: The Near-Disaster at Quecreek Mine](#), by Charles McColleston, PA Center for the Study of Labor Relations

FINALIST

[Koufax Award](#)

[OSHA Worker Page](#)

[NIOSH](#)

[Canadian Center for Occupational Safety
and Health](#)

[ACT Workcover \(Australia\)](#)

[Health & Safety Executive \(Britain\)](#)

[Worksafe British Columbia](#)

[United Support & Memorial For
Workplace Fatalities](#)

[US Labor Against the War](#)

[LaborNotes](#)

[Labor Arts](#)

[The Occupational Safety and Health Act
of 1970](#)

[The Mine Safety and Health Act of 1977](#)

Union Health and Safety
Websites

[AFL-CIO](#)

[United Electrical Workers \(UE\)](#)

[AFSCME](#)

[AFSCME DC 37](#)

[United Auto Workers](#)

[Center to Protect Workers Rights](#)

[Communications Workers \(CWA\)](#)

[Laborers](#)

[LabourStart](#)

[ICEM](#)

POWERED BY  **BLOGGER**
PRO™

OneStat

**For Best
Single Issue
Blog of 2003
and 2004**

Contact Congress

