

# THE DIRTY DOZEN 2018

Employers Who Put Workers  
and Communities at Risk



**WORKERS' MEMORIAL WEEK • APRIL 23–30TH**



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# **THE DIRTY DOZEN**

## **2018**

**Employers Who Put Workers and  
Communities at Risk**

**National Council for Occupational Safety and Health  
(National COSH)**



# WORKERS' MEMORIAL WEEK

## APRIL 23 -30<sup>TH</sup>, 2018

### OUR MISSION

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The National Council for Occupational Safety and Health (National COSH) is dedicated to promoting safe and healthy conditions for all working people through education, training, organizing and advocacy. We are a federation of twenty-one local affiliates in fifteen states. We engage workers, labor and community allies to improve workplace practices; promote effective health and safety programs; organize direct action against egregious employers; and wage campaigns for effective policy.

Nearly all work-related injuries, illnesses and fatalities are preventable. National COSH supports workers who are acting to protect their safety and health; promotes protection from retaliation under job safety laws; and provides quality information and training about workers' rights and about hazards and controls on the job and workers' rights.

### Workers' Memorial Week: April 23 to April 30, 2018

This report is released to mark **Workers' Memorial Week**, honoring those who have been injured, suffered illnesses or lost their lives at work. The event is observed nationwide — and around the world — by surviving family members and health and safety activists in workplaces and communities. It coincides with the anniversary of the U.S. Occupational Safety and Health Act, which took effect on April 28, 1971.

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# EXECUTIVE SUMMARY

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## ➤ **Workplace Deaths: On the rise in 2016**

According to the U.S. Bureau of Labor Statistics, 5,190 people died from workplace trauma in 2016, a seven percent increase from 2015 and a 12 percent increase over a five-year period dating back to 2012. During that same five-year period, the budget for the U.S. Occupational Safety and Health Administration has declined by \$12 million.

Deeper cuts to the agency's budget and other safety programs were proposed for FY 2017 and 2018. After sustained and targeted advocacy by National COSH, local COSH groups, unions, worker centers and allies, however, a bipartisan majority in Congress agreed to avoid drastic cuts and maintain level funding for OSHA, the National Institute for Occupational Safety and Health, the U.S. Chemical Safety Board, and OSHA's Susan Harwood Training Grant Program.

## ➤ **Who is most at risk?**

Tens of millions of workers in the U.S. suffer from unnecessary risks in the workplace because employers fail to observe well-documented safety practices. Some groups of workers, however, are more at risk than others. Latinx workers, immigrants, older workers and contract employees face particular challenges in the workplace and in 2015 each group counted for a significant share of U.S. workplace fatalities.

## ➤ **95,000 Deaths form Long-Term Exposure**

In addition to more than 5,000 deaths from acute workplace trauma, an estimated 95,000 workers die annually in the U.S. from cancers, respiratory and circulatory diseases and other illnesses associated with long-term exposure in the workplace.

## ➤ **Flavoring Chemicals – A Hidden Danger**

Flavoring chemicals used in food production are among the lesser-known hazards to workers. These substances can cause severe lung damage and have been linked to hundreds of injuries and at least five fatalities. The chemical **diacetyl** and related compounds are unregulated, and exposed workers are frequently misdiagnosed. National COSH and partner organizations are working to alert employers, union workers and health professionals to the dangers of flavoring chemicals.

## ➤ **The Dirty Dozen**

National COSH solicited information from our network of health and safety activists about companies that put workers and communities at risk. Criteria for inclusion included severity of injuries to workers; exposure to unnecessary and preventable risk; repeat citations by relevant state and federal authorities; and activity by workers to improve their health and safety conditions. Companies are listed in alphabetical order, with location as the firm's headquarters of record.

# THE DIRTY DOZEN

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## AMAZON

Seattle, Washington

- **Seven workers killed at Amazon** warehouses since 2013 – including three workers within five weeks at three separate locations in 2017.
- Despite a pattern of preventable deaths, Amazon is requesting billions in tax breaks for a new headquarters, on top of \$1 billion already received from state, local taxpayers.

## CASE FARMS

Troutman, North Carolina

- **74 OSHA violations per 1,000 employees** – more than four times higher than any other poultry firm.
- A pattern of hiring undocumented workers, then firing them when they are injured or stand up for better working conditions.

## DINE BRANDS GLOBAL, INC. (IHOP AND APPLEBEE'S)

Glendale, California

- **Demands for sex, groping, threats of violence against workers.**
- More than 60 complaints about sexual and harassment and abuse.
- Eight lawsuits against IHOP and Applebee's, both owned by Dine Brands Global.

## JK EXCAVATING

Mason, Ohio

- **25-year old Zachary Hess buried alive** in December 2017.
- OSHA cited JK Excavating, a repeat offender, three times in 2014 for failure to protect workers from trench collapse.

## LOWE'S HOME IMPROVEMENT

Mooresville, North Carolina

- **56 U.S. deaths linked to exposure to paint strippers containing methylene chloride, including 17 workers who died while refinishing bathtubs.**
- The retail giant still sells products with this deadly substance, despite appeals from workers, consumers and families.

## LYNNWAY AUTO AUCTION

Billerica, Massachusetts

- **Five dead in preventable auto crash** – including a 37-year old mom working her first day on the job.
- Lynnway cited by OSHA and warned of vehicle safety hazards in 2014.



## NEW YORK AND ATLANTIC RAILWAY

New York, New York

- **Workers suffer amputation, brain injury, and impaired vision.**
- Immigrants workers face workplace discrimination; assigned to hazardous tasks without proper training and equipment.

## PATTERSON UTI ENERGY

Houston, Texas

- **Five workers dead in an explosion in Quinton, Oklahoma.**
- 110 OSHA violations and 13 workers dead in the past decade.
- U.S. Senate: Patterson "one of the worst violators of workplace safety laws."

## SARBANAND FARMS

Sumas, Washington

- **Farm worker dies after complaining of headaches.**
- 70 co-workers go on strike to protest unsafe conditions.
- Strikers are fired from their jobs and evicted from company housing.

## TESLA MOTORS

Fremont, California

- **Recordable injuries 31% higher than industry average;** serious injuries 83% higher.
- The company claims a recent improvement in injury rates – but an independent investigation shows Tesla has “failed to report some of its serious injuries ...making the company’s injury numbers look better than they actually are.”

## VERLA INTERNATIONAL

New Windsor, New York

- **Explosion kills a worker at cosmetics plan.**
- 125 workers injured, eight firefighters hospitalized.
- Company previously cited for poor handling of chemicals that led to deadly blaze; safety consultant says disaster was “easily preventable.”

## WASTE MANAGEMENT

Houston, Texas

- **23-Year old worker killed at a recycling facility.**
- Company failed to lockout/tagout machinery during repairs.
- Waste Management, the nation’s largest waste disposal company, has been cited more than 60 times by OSHA, resulting in nearly \$1 million in fines.

# WORKPLACE DEATHS: ON THE RISE IN 2016

**Leezandra Aponte**, 37, mother of three, died on her first day on the job at an auto auction lot in Billerica, Massachusetts – *after* her employer had been cited for failure to protect workers from vehicle hazards.

**Zachary Hess**, 25, was buried alive in a trench in Mason, Ohio – *after* his employer had been cited for failure to protect workers from a trench collapse.

**William Hamilton**, 57, died in a factory explosion – *after* his employer had been warned about mishandling flammable chemicals.

All these deaths were preventable. These workers would still be alive if their employers had followed through and corrected the safety hazards identified in citations issued by the U.S. Occupational Safety and Health Administration.

The U.S. Bureau of Labor Statistics (BLS), which compiles an annual Census of Fatal Occupational Injuries (CFOI), reports 5,190 deaths due to acute workplace trauma in 2016, the most recent year for which data are available.<sup>1</sup>

Like the tragic deaths of Leezandra Aponte, Zachary Hess and William Hamilton, almost all these fatalities are preventable. Thousands of workers would still be alive and with their families today if their employers had followed well-



established safety protocols to reduce the risk of injury, illness and death.

The 5,190 workplace deaths from acute trauma in 2016 is the highest number recorded since 2008. It is a seven percent increase from 2015 and a 12 percent increase over a five-year period dating back to 2012.

During that same five-year period, the budget for the U.S. Occupational Safety and Health Administration declined by \$12 million and the number of full-time OSHA staff was cut from 2,305 to 2,173, a reduction of 5.7 per cent.<sup>2</sup>

OSHA had 815 inspectors on staff in FY 2016, responsible for overseeing safety in millions of U.S. workplaces. According to the AFL-CIO, “[f]ederal OSHA has enough

<sup>1</sup> U.S. Bureau of Labor Statistics, [“Census of Fatal Occupational Injuries,”](#) Dec. 19, 2017

<sup>2</sup> U.S. Department of Labor, FY 2017, [“CONGRESSIONAL BUDGET JUSTIFICATION OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION.”](#)



inspectors to inspect workplaces once every 159 years.”<sup>3</sup>

A lack of regular safety inspections puts workers at risk. And while employers frequently complain about the high cost of complying with government regulations, peer-reviewed research shows that regular and random safety inspections can save employers money.

David I. Levine, professor of economics at the University of California, Berkeley, and Michael W. Toffel, professor at the Harvard Business School, matched safety performance, workers compensation claims, and medical expenses at two sets of over 400 California firms. One set of firms had been visited for random safety inspections by Cal/OSHA, the state safety agency. The other firms had not been inspected.

According to Levine and Toffel:

*Cal/OSHA’s randomized inspections did what they were supposed to do. They reduced the number of injuries leading to workers’ compensation claims by around 9% and lowered the medical expenses and wage replacement paid from those claims by 26%. On average, inspections lowered employers’ medical costs and lost earnings due to workplace injuries by about \$350,000 over the next few years.*<sup>4</sup>

In other words, regular safety inspections can reduce the risk of injury, illness and death for workers – and reduce costs for employers.

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<sup>3</sup> AFL-CIO, [“Death on the Job: The Toll of Neglect, 2017,”](#) April 26, 2017

<sup>4</sup> Harvard Business Review, [“Government Regulation That Actually Works,”](#) May 30, 2012

Despite this strong evidence that rigorous enforcement of safety laws benefits both workers and employers, deeper cuts to the budget for OSHA and other important safety programs were proposed in FY 2017 and FY 2018. The proposed cutbacks included a 40 percent reduction for the National Institute for Occupational Safety and Health, the elimination of the U.S. Chemical Safety Board (CSB) and zeroing out of the Susan Harwood Training Grants Program. Harwood grants assists employers, union and non-profit organization in providing safety training for vulnerable workers.

After sustained and targeted advocacy by National COSH, local COSH groups, unions, worker centers and allies, however, a bipartisan majority in Congress agreed to avoid drastic cuts and maintain level funding for OSHA and NIOSH and continue funding for CSB and the Susan Harwood Training Grant Program.

## WHO IS MOST AT RISK?

Tens of millions of U.S workers suffer from unnecessary risks in the workplace because employers fail to observe well-documented safety practices, neglect to follow up warnings about hazardous conditions and use pressure tactics to intimidate workers from reporting potential threats to their health and safety.

Some groups of workers, however, are more at risk than others. One of this year’s Dirty Dozen companies, for example, New York and Atlantic Railway (NYAR), is being sued by immigrant workers who were off-the-books employees at the company. The case illustrates the high cost of discrimination against Latinx workers – paid by the workers themselves.



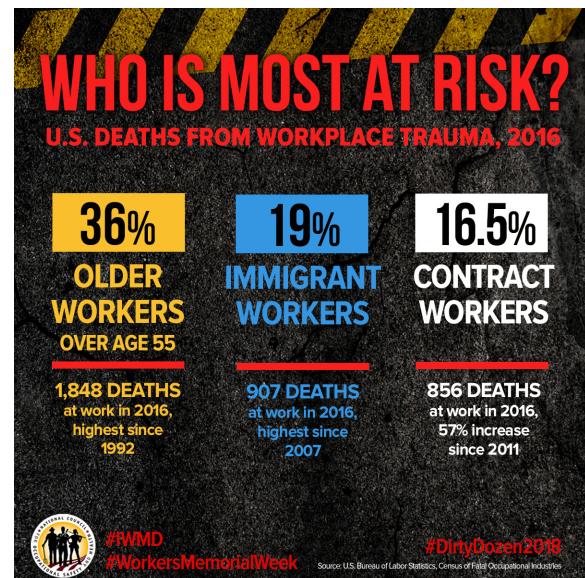
NYAR hired immigrant workers from Home Depot parking lots, instructed them to enter a rail yard by climbing over a fence and told them to hide whenever federal or state safety inspectors were on the premises. The workers were subject to racial slurs and were never given proper safety training or equipment. As a result, they were exposed to a health risks in a hazardous environment, and workers suffered amputation, brain injury, impaired vision and other workplace related injuries and illnesses.<sup>5</sup>

Nationwide, more than half of Hispanics report they have experienced racial discrimination or unfair treatment.<sup>6</sup> Sadly, the unsafe working conditions endured by workers at NYAR is not atypical. Latinx workers often do not receive proper training or safety equipment, or materials in their own language. In 2016, 879 Latinx workers died on the job, representing

<sup>5</sup> Supreme Court of the State of New York, “Adame, Loljana et.al. vs Anacostia Rail Holdings and New York and Atlantic Railway,” Feb. 14, 2018  
<sup>6</sup> Pew Research Center, “[Roughly half of Hispanics have experienced discrimination](#),” June 29, 2016

seventeen percent of all U.S. deaths from workplace trauma.<sup>7</sup>

Immigrant workers suffered 907 deaths from acute trauma at work. This represents the highest total since 2007, and 19 % of total U.S. workplace fatalities.<sup>8</sup>



Contract workers are also frequently denied proper and safety training, and are exposed to risk when staffing agencies, direct employers and subcontractors attempt to evade responsibility for on-the-job safety. Eight hundred and fifty-six U.S. contract workers died on the job in 2016, a 57 percent increase since 2011.<sup>9</sup> This represents 16.5 percent of total U.S. deaths from workplace trauma.

Older workers are also at significant risk in the workplace. There were 1,848 deaths of workers over age 55 in 2016, the highest figure since 1992. This age cohort suffered 36 percent of all U.S. deaths

<sup>7</sup> U.S. Bureau of Labor Statistics, “[Census of Fatal Occupational Injuries](#),” Dec. 19, 2017

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*



from acute workplace trauma in that year.<sup>10</sup>

## 95,000 U.S. DEATHS FROM LONG-TERM EXPOSURE

The 5,190 worker deaths recorded in 2016 by the U.S. Bureau of Labor Statistics include sudden, tragic events – such as falling from a height, being struck by a vehicle or being crushed by a machine.

In addition to these preventable fatalities, an estimated 95,000 workers in the U.S. die each year from long-term occupational illnesses. This includes cancer, respiratory and circulatory diseases and other conditions linked to hazardous exposures in the workplace.<sup>11</sup> Like deaths from workplace trauma, this preventable loss of life can be reduced by applying proven safety practices, including worker training, engineering controls, and reduced exposure to toxins.

## FLAVORING CHEMICALS – A HIDDEN DANGER

One of the lesser-known hazards to workers is the danger associated with exposure to chemicals used to provide flavorings for everyday foods, including popcorn, roast coffee, candy and baked goods. As reported in a groundbreaking series in the *Milwaukee Journal-Sentinel*, a food additive called **diacetyl** can cause severe lung damage and has been linked

to hundreds of injuries and at least five deaths.<sup>12</sup>

There are no known safe levels of exposure to diacetyl or related chemical compounds **acetyl propionyl**, **acetyl butyryl**, and **acetyl valeryl**, and the chemicals are not subject to federal regulation. Workers who have been exposed may experience symptoms including shortness of breath, chronic coughing, wheezing, fatigue and fevers.

Diseases related to food flavorings are often misdiagnosed as asthma or chronic obstructive pulmonary disease (COPD). Food flavoring chemicals can quickly destroy lung function, leaving exposed workers incapacitated and vulnerable to emphysema, bronchiolitis obliterans, interstitial lung disease and other fatal conditions.

Working with COSH groups, local unions, workers' centers and other, National COSH is engaged in a long-term educational campaign to alert employers, workers and health professionals to the dangers of flavoring chemicals, including diacetyl and related compounds.

## THE 2018 DIRTY DOZEN

There is no reason for a worker to die in a trench collapse. Or get crushed by a vehicle on a car lot with no safety systems in place. Or to die from an explosion in a workplace where the employer has not implemented safeguards to prevent ignition of flammable chemicals. Yet these preventable and tragic incidents continue to take place in U.S. workplaces, as demonstrated by the stories of Leezandra Aponte, Zachary Hess, and William Hamilton.

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<sup>10</sup> *Ibid.*

<sup>11</sup> *Journal of Occupational and Environmental Hygiene*, "Global Estimates of the Burden of Injury and Illness at Work in 2012," Vol. 111, 2014 – Issue 5

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<sup>12</sup> *Milwaukee Journal Sentinel*, "[Gasping for Action](#)," Feb. 14, 2015

On behalf of these workers, their families and millions of others who are still exposed to unnecessary risks, we need more resources for workplace health and safety programs, more inspections, more follow-up to make sure employers are correcting identified hazards, and tougher enforcement against those who violate workplace safety laws.

COSH is identifying these “Dirty Dozen” employers in observance of Workers’ Memorial Week. Our goals include:

- honoring workers killed on the job;
- calling attention to ongoing workplace hazards;
- empowering workers and families with the knowledge to fight against and prevent future tragedies;
- calling on all employers to implement effective worksite health and safety programs that involve worker participation.

## HOW THE “DIRTY DOZEN” WERE SELECTED

National COSH solicited information about companies that put workers and communities at risk from our network of health and safety activists. This includes local COSH groups, workers, unions, worker centers, occupational clinics, health and safety professionals and allied groups and individuals. This information was reviewed and supplemented by the National COSH team.

Many employers do not implement effective safety programs. Criteria for inclusion in the “Dirty Dozen” included severity of injuries to workers; exposure to unnecessary and preventable risk; repeat citations by relevant state and federal authorities; and activity by workers and

allies to improve their health and safety conditions.

Workers at several “Dirty Dozen” employers are engaged in campaigns to form their own unions and win collective bargaining agreements. Empirical research shows that the presence of a union can reduce on-the-job illnesses, injuries and fatalities.<sup>13</sup> This matches the experience of workplace safety professionals, who know that joint union management safety programs can provide important resources to protect all workers.

*Note: Companies are listed by name in alphabetical order. Location is the firm’s headquarters of record.*

## NATIONAL COSH TEAM

**Marcy Goldstein-Gelb**, MS, co-executive director

**Jessica E. Martinez**, MPH, co-executive director

**Peter Dooley**, MS, CIH, CSP senior organizer

**Roger Kerson**, communications consultant

**India Kushner**, social media and website manager

**Susi Nord**, administrator and conference coordinator

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<sup>13</sup>Industrial and Labor Relations Review, “Coal Mine Safety: Do Unions Make a Difference?” Vol. 66, No. 1, 2013; Working USA, “Right-to-Work Laws and Fatalities in Construction,” Volume 14, Issue 2, June 2011



# THE DIRTY DOZEN

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## AMAZON

Seattle, Washington

- Seven workers killed at Amazon warehouses since 2013, including three workers within five weeks in 2017.
- Despite a disturbing pattern of preventable deaths, Amazon is demanding huge tax breaks for its new headquarters – on top of **\$1.1 billion** in subsidies American state and local taxpayers have given the company since 2000.
- Amazon workers suffer injuries – and sometimes lose their lives – in a work environment with a relentless demand to fill orders and close monitoring of employee actions.



Left to right: Devan Michael Shoemaker, Phillip Terry and Karla Kay Arnold, three Amazon workers dead within five weeks in September and October 2017.

On Sept. 19, 2017, **Devan Michael Shoemaker**, 28, was killed when he was run over by a truck at an Amazon warehouse in Carlisle, Pennsylvania.

*Six days later*, on September 23, **Phillip Terry**, 59, was killed when his head was crushed by a forklift at an Amazon warehouse in Plainfield, Indiana.

*Four weeks later*, on October 23, **Karla Kay Arnold**, 50, died from multiple injuries after she was hit by a sports utility vehicle in the parking lot of an Amazon warehouse in Monee, Illinois.

Devan Shoemaker, Phillip Terry and Karla Way Wyatt died during the beginning of holiday rush shipping season at Amazon, one of the most intense periods in one of the world's most intense workplaces. But

they are only three of seven workers who have died at Amazon facilities since 2013. Other workers who lost their lives include:

- **Jeff Lockhart**, 29, a temporary employee, found collapsed and dead from a cardiac event after an overnight shift at an Amazon warehouse in Chester, VA on January 19th, 2013.
- **Roland Smith**, 57, a temporary employee, killed after being dragged and crushed by a conveyor belt at an Amazon warehouse in Avenel, New Jersey on December 4th, 2013.
- **Jody Rhoads**, 52, crushed and pinned to death by a pallet loader at an Amazon warehouse in Carlisle, Pennsylvania on June 1st, 2014. (This is the same facility where Shoemaker was killed in September).
- **Name unknown**, crushed to death by a forklift at an Amazon warehouse in Fernley, NV on November 4th, 2014.

Jeff Bezos, CEO and principal owner of Amazon, is currently ranked as the richest person in the world, with a fortune worth over \$100 billion. His vast wealth depends, in large part, on a business model that features a relentless work pace and constant monitoring of employees. These workplace

characteristics, coupled with the lack of an intentional health and safety system program, are a recipe for disaster.

Even as Amazon workers are injured and die on the job, the company is playing locality against locality to see which taxpayers will pay the most for the privilege of hosting “H2Q,” Amazon's proposed second headquarters. Newark, New Jersey, one of twenty finalists, is offering the online retailing giant \$7 *billion* in taxpayer subsidies.

Regardless of which locality “wins,” the net result almost certainly won't be more jobs. The Institute for Local Self Reliance estimates that as of 2015, Amazon's operations have caused a *net loss* of some 149,000 U.S. jobs, by squeezing out small businesses and other competitors. Work in an Amazon warehouse, says the Institute, “resembles labor's distant past more than a promising future, with many workers performing grueling and under-paid jobs, getting trapped in precarious temporary positions, or doing on-demand assignments that are paid by the piece.”

In January 2018, Amazon received a patent that will allow even more intrusive monitoring of its workforce. The new ultrasonic wristbands – not yet in use – can record each worker's hand movements and “buzz” a worker's wrist if he or she makes a movement in the wrong direction. “Amazon's new idea,” says the tech blog Gizmodo, “goes to extremes to treat employees like fleshy robots.”

## Agenda for Action: Improved Working Conditions for Warehouse Workers

- Many companies, including Amazon, contract with temp agencies, creating a vulnerable workforce with unclear lines of accountability for health and safety.
- In California, temporary warehouse worker **Domingo Blancas** nearly died from heat stress in 2011 while working in a metal container at a temperature of 110 degrees.
- **Worksafe**, a COSH affiliate based in Oakland, joined a coalition of labor and safety advocates to press and win a new law directing Cal/OSHA to establish a heat stress rule for indoor workers.
- In Chicago, **Warehouse Workers for Justice** and other worker centers won a new state law that strengthens protections for temporary workers.
- Advocates in other parts of the country are using these victories as a model to win better safety and health protections.

**Sources:** NJ.com, [“Why is Newark keeping details of \\$7B Amazon bid secret?”](#), Feb. 24, 2018  
Gizmodo, [Amazon Patents Wristband to Track Hand Movements of Warehouse Employees](#), “Jan. 31, 2018; recode, [“Amazon faces fines following the death of a second warehouse worker in as many months,”](#) Nov. 9, 2017; Chicago Tribune, [“Amazon employee killed after being hit by vehicle in Monee parking lot,”](#) Oct. 24, 2017; EHS Today, [“Two Worker Deaths in September at Different Amazon Warehouses Spawn Concern from Worker Advocates,”](#) Oct. 5, 2017; PennLive.com, [New details released in death of Amazon warehouse worker](#), Sept. 28, 2017; Institute for Local Self Reliance, [“Amazon’s Stranglehold: How the Company’s Tightening Grip Is Stifling Competition, Eroding Jobs, and Threatening Communities,”](#) Nov. 2016; Lexology, [“New California Law Protects Workers from Indoor Heat Exposure,”](#) Oct. 20, 2016; Huffington Post, [“The Life and Death of an Amazon Warehouse Temp,”](#) Oct. 21, 2015; Worksafe, [“Decision: Employers Found in Violation of Law for Indoor Heat Hazards,”](#) October 8, 2015; Los Angeles Times, [“Two deaths at Amazon warehouses being investigated by OSHA,”](#) June 16, 2014



# CASE FARMS

Troutman, North Carolina

- A pattern of hiring undocumented workers, then firing them when they are injured or stand up for better working conditions
- 74 OSHA violations per 1,000 employees – more than four times higher than any other poultry firm
- Workers frequently wear diapers because they aren't allowed time for bathroom breaks



Photo by Earl Dotter

In the late afternoon of April 17, 2015, 17-year-old **Osiel López Pérez** was assigned to clean away meat, blood and grease accumulated after a day of killing and carving over 180,000 chickens at a Case Farms slaughterhouse in Canton, Ohio.

As reported by Michael Grabell in a 2017 investigation jointly published by *ProPublica* and *The New Yorker*, López Pérez himself was carved up that day inside a machine called a liver-giblet chiller. With no ladder available, López Pérez had to climb on top of the contraption. He slipped and fell; the paddles of the liver-giblet chiller

automatically turned on, pulling and twisting until it “literally ripped off his left leg.”

At age 17, López Pérez was too young to be working in a slaughterhouse. He was also an undocumented immigrant, hired with an ID card from his 28-year old brother. But while Case Farms hadn't cared much about his work eligibility when the company's sanitation contractor hired him, his immigration status was suddenly important once he lost his leg. Within days he and several other undocumented workers found themselves out of a job.

Case Farms, one of the nation's top meat and poultry producers, supplies chicken to major customers including Taco Bell, Boar's Head and the U.S. government's school lunch program. Between 2015 and 2018, Case Farms was cited by OSHA for 240 safety violations. Former OSHA chief Dr. David Michaels described the company as "an outrageously dangerous place to work."

In 2015, OSHA added Case to its "Severe Violator Enforcement Program," reserved for companies that have "demonstrated indifference to their OSH Act obligations by willful, repeated, or failure-to-abate violations." Between 2010 and 2016, Case Farms was cited by OSHA 74 times for every 1,000 employees, a rate more than four times higher than any other poultry firm.

Why does Case stand out as uniquely dangerous in an industry that is known for a high rate of serious injuries? The company's business model, reports Grabell, is based on exploitation of vulnerable workers:

*Case Farms has built its business by recruiting some of the world's most vulnerable immigrants, who endure harsh and at times illegal conditions that few Americans would put up with. When these workers have fought for higher pay and better*

*conditions, the company has used their immigration status to get rid of vocal workers, avoid paying for injuries, and quash dissent.*

Case Farms' policy of firing undocumented workers who are injured or who protest working conditions takes advantage of a 2002 US Supreme Court ruling. In *Hoffman Plastic Compounds, Inc. v. NLRB*, the court ruled that although undocumented workers have the right to complain about labor law violations, companies are under no obligation to re-hire them or give them back pay even if they win their cases.

In addition to subjecting workers to high rates of injury, Case Farms also threatens workers health and undermines their dignity by routinely denying time for bathroom breaks. "What most might not expect to be worn by a hard-working adult," reports the *Morgantown News Herald*, "is a diaper."

On August 14, 2017, workers protested outside the Case Farms slaughterhouse in Morganton, North Carolina. "They won't let you go to the bathroom if you ask to go to the bathroom," said Irma Matul, who spent six years at Case deboning chickens. "Sometimes they even shame the workers that need to go to the bathroom."

## Agenda for Action: Fighting - and Defeating - an Attempt to Speed Up Work in Poultry Plants

- Poultry workers, including those at Case Farms, won a major victory in February 2018 when the USDA rejected an industry request to speed up production lines inside poultry plants. The industry-backed proposal would have exposed workers to even more risk of injury and reduced inspections, exposing consumers to health risks.
- The plan was opposed by a broad coalition of labor organizations, safety advocates and animal welfare groups.
- USDA received more than 100,000 comments on the proposal, almost all of which urged the agency to reject it.
- The **Northwest Arkansas Workers' Justice Center**, a COSH affiliate, played a key role by documenting dangerous working conditions inside poultry plants.
- USDA has now proposed a similar industry-backed plan to speed up production and reduce inspections in the pork processing industry.

**Sources:** Safety+Health, ["USDA denies industry petition to increase poultry-processing line speeds,"](#) Feb. 21, 2018; National COSH, ["National COSH and Safety Experts on USDA Proposal: Faster Line Speeds in U.S. Pork Plants Will Increase Risk of Worker Injuries and Food Contamination,"](#) Jan. 19, 2018; Morganton News Herald, ["Groups protest outside Case Farms for right to use bathroom,"](#) August 14, 2017; The New Yorker, ["Exploitation and Abuse at the Chicken Plant,"](#) May 1, 2017 (co-published at ProPublica.org as ["Sold for Parts,"](#) May 1, 2017; National Employment Law Project, ["Severe Injury Data from 29 States,"](#) April 2017; Business Ethics, ["OSHA's Wall of Shame: Agency Targets 'Severe Violators,'"](#) Dec. 19, 2016; Northwest Arkansas Workers' Justice Center, ["WAGES AND WORKING CONDITIONS IN ARKANSAS POULTRY PLANTS,"](#) Feb. 2, 2016



# DINE BRANDS GLOBAL, INC.

## IHOP AND APPLEBEE'S

Glendale, California

- **More than 60 complaints of sexual harassment and abuse**
- **Eight lawsuits against IHOP and Applebee's, both owned by Dine Brands Global**
- **Demands for sex, groping, threats of violence against workers**
- **When chain restaurants are owned by franchisees, who is in charge of keeping employees safe?**

Demands for sex. Being groped on the job. Being forced up against a counter with a knife. These and other instances of sexual harassment and assault have led 60 women to lodge complaints against IHOP and Applebee's restaurants, according to a February 2018 exposé published by Vox.com.

Both restaurant brands are owned by Dine Brands Global, although individual IHOP and Applebee's outlets are owned by separate franchisees. A new legal standard which would hold brand operators like Dine Global responsible for protecting workers is under challenge before the National Labor Relations Board.

A few of the incidents uncovered by Vox:

- A 16-year waitress at an IHOP restaurant in suburban St. Louis reported that a manager "threatened to 'get violent' if she didn't have sex with him," Ten of her co-workers described similar experiences.
- A waitress at a Las Vegas IHOP "said managers and cooks called her vulgar names, touched her buttocks, made

comments about her genitals, and asked her for sex."

- A waitress at an Applebee's in Myrtle Beach, South Carolina reported that a supervisor "repeatedly came up behind her, grabbed both of her breasts, and rubbed his crotch against her ... [H]e asked her several times for sex and once straddled her head between his legs when she was bent over cleaning."

According to an analysis by the Center for American Progress, workers filed over 5,400 claims of sexual harassment against hotel and restaurant firms between 2005 and 2015, more than against any other industry.

Responding to Vox, Dine Brands claimed that it has no tolerance for sexual harassment – and that it is up to individual franchisees to handle claims of misconduct. The company said that both Applebee's and IHOP:

*"are 100% franchised and all 3,700 restaurants nationwide are owned and operated by entrepreneurs dedicated to serving their communities. Each franchisee*

*establishes and adheres to their own strict policies against harassment in the workplace. Our organization and franchisees are fiercely committed to maintaining a safe and empowering environment for all team members."*

For many years, franchise operators like Dine Brands have been able to escape responsibility for claims of sexual harassment, safety violations, wage theft and other workplace issues by claiming that workers at individual franchises are not employees of any parent organization.

Two recent cases before the National Labor Relations Board – *McDonald's* and *Browning Ferris* – established a joint liability standard. The cases held that franchise operators like McDonald's and firms like Browning Ferris, which uses temporary employment firms to staff its facilities, could be held jointly responsible for labor law violations. Both decisions, however, are under review by the current NLRB, and it's not yet clear what legal standard will emerge.

What is clear, however, is that companies like Dine Brands exercise tight control over franchisees. The agreement between Dine Brands and IHOP franchisees, for example, states that franchisees are expected to complete a six-week, 45 to 50 hour per week training program covering "various Restaurant management topics, including effective team leadership, guest safety, daily manager workflow, effective scheduling, productivity management, Restaurant hospitality, revenue accounting procedures, [and] team member training." The Applebee's agreement also includes extensive training for managers, and chain restaurants typically have strict standards for menus, décor, ingredients, service and pricing.

Both the IHOP and Applebee's agreements appear to be silent, however, on the responsibility of franchisees to learn about laws and regulations against sexual harassment and sexual assault of employees.

## Agenda for Action: Legal Support, New Ordinances, New National COSH Initiative to Prevent Harassment and Abuse

- In January 2018, **The National Women's Law Center** introduced the "Time's Up" Legal Defense Fund," to provide legal support to victims of sexual misconduct.
- In Chicago, the "Hands off, Pants on" campaign by members of **Unite HERE Local 1** put a spotlight on harassment and abuse in the hospitality industry. Workers won a new ordinance requiring training and policies to prevent abuse and a portable panic button for those working alone.
- In May 2018, **National COSH** will launch a first-of-its-kind Sexual Harassment Action Network to support public policy campaigns and workplace efforts to confront sexual harassment and abuse.

**Sources:** New York Times, "[Push to Settle McDonald's Case, a Threat to Franchise Model](#)," March 19, 2018; Politico, "[Joint Employer Reversal](#)," Feb. 27, 2018; Vox.com, "[More than 60 women have filed sexual harassment complaints against IHOP, Applebee's restaurants](#)," Feb. 7, 2018; National Women's Law Center, "[Women Leaders Launch 'Time's Up' Campaign to Eradicate Abuse of Power, Shift Leadership Imbalances, and Promote Equality](#)," Jan. 1, 2018; Center for American Progress, "[Not Just the Rich and Famous](#)," Nov. 20 2017; Chicago Sun Times, "[Aldermen approve proposal to protect sexually harassed hotel staff](#)," October 2, 2017; Franchise Direct, [International House of Pancakes \(IHOP\) Franchise Cost & Fees](#), 2017; [Franchise Direct, Applebee's Franchise Cost and Fees](#), 2017



# JK Excavating

Mason, Ohio

- 25-year old Zachary Hess buried alive in December 2017
- 150 emergency responders spend 11 hours trying to rescue him
- JK Excavating, a repeat offender, was cited by OSHA three times in 2014 for failure to protect workers from trench collapse



Zachary Hess, a handsome man with a beautiful spirit,” died in a trench at JK Excavating. The company had previously been fined for failure to protect workers from trench collapse.

**Zachary Hess** was just 25 years old when he was buried alive under thirty feet of mud, dirt and debris in a trench at a construction site in Morrow, Ohio. Hess was working in a trench on a subdivision in Morrow, about 30 miles northwest of Cincinnati.

More than 150 rescue workers from Salem Township and surrounding communities spent hours trying to rescue Hess after an apparently unsupported trench collapsed around him on Thursday

morning, December 28. Hess – remembered by his mother as “a handsome man with a beautiful spirit” – was dead by the time his body was uncovered in the early hours of December 29.

Trench collapse is a well-known hazard in the construction industry and has been known for hundreds of years. A single cubic yard of soil can weigh up to 3,000 pounds, creating enormous risk for workers when trench walls are not

properly protected from collapse. Twenty-three U.S. workers died in trench collapses in 2016, more than double the number of fatalities in 2015.

Zachary Hess' tragic death could have been prevented if JK Excavating had followed established safety procedures, including the installation of trench boxes, shoring up trench walls and providing workers a way to get out of a trench in an emergency.

Incredibly, just three years before Hess was killed on a JK Excavating job site, the company was cited by the U.S. Occupational Safety and Health Administration (OSHA) for violating the very rules that could have saved his life.

Following an inspection on a JK Excavating worksite in Hamilton Ohio, OSHA issued three citations for "serious" violations:

- A worker in a 7-foot trench with no ladder or "suitable means of access or egress";
- Workers "in the bottom of an open excavation area, while being exposed to materials and equipment [at risk of] falling into the excavation on top of them, posing a crushing/struck-by hazard."
- "Walls of the excavation not properly sloped, shored, benched or otherwise adequately protected against collapsed."

OSHA proposed \$13,300 in fines for the proposed citations; the case was settled when JK Excavating agreed to pay \$5,800.

Following Hess' tragic death, Daniel Wood, a safety specialist for JK Excavating, stated the company had "obtained the services of a third party Safety Consultant to lead JK Excavating in our own internal root cause investigation to this horrific incident."

It's not hard to predict what a competent safety consultant will recommend to anyone in the excavation business: If you want workers to go home safely, follow the rules to prevent trench collapse.

## Agenda for Action: New Penalties, Protections to Prevent Trench Collapse

- After the preventable death in a 2015 trench collapse of immigrant worker **Carlos Macayo** in New York, employers Harco Construction and Sky Materials were convicted of criminally negligent homicide but paid minimal penalties under existing New York state law.
- **NYCOSH**, along with worker and safety advocates, is pushing for “Carlos’ Law,” to increase penalties for willful actions which cause workers to die on the job.
- In 2016, **Kelvin Mattocks** and **Robert Higgins** died in in a preventable 2016 trench collapse in Boston. Their employer, Atlantic Drain Services, had been previously cited for failure to observe trench safety rules. Following the tragedy, **MassCOSH** joined with labor and community advocates to win a new ordinance requiring companies seeking construction permits to disclose previous safety violations and giving city officials power to deny or delay permitting.

**Sources:** NYCOSH, [“Deadly Skyline: An Annual Report on Construction Fatalities in New York State,”](#) Jan. 2018; Construction Dive, [“Boston passes regulation allowing city to deny building permits based on safety history,”](#) Dec. 20, 2016; Dayton Daily News, [“More than 150 people tried to save man who died in Warren County trench,”](#) Dec. 29, 2017; JournalNews.com, [“Employer in fatal trench collapse paid \\$5,800 fine in 2014,”](#) Dec. 29, 2017; WLWT-TV, [“Victim of trench collapse remembered for his 'beautiful spirit'”](#) Dec. 29, 2017; U.S OSHA, [“Ohio worker's death highlights grim 2016 national stat: trench collapse fatalities have more than doubled,”](#) Nov. 17, 2016



# LOWE'S HOME IMPROVEMENT

Mooresville, North Carolina

- Retail giant still sells paint strippers containing methylene chloride
- 56 U.S. deaths linked to exposure, including 17 workers
- Proposed EPA ban on methylene chloride stalled due to industry lobbying



Drew Wynne died in October 2017 from exposure to methylene chloride after using “Goof Off,” a commonly available paint stripper. Solvents containing the deadly chemical are still for sale at Lowe’s and other retail stores.

**Drew Wynne**, 31, was the co-founder of Riptide Coffee in North Charleston, South Carolina. ON October 13, 2017, he set to work stripping the floor of a refrigerator at his business, using Goof Off, a commonly available solvent.

The next day, Drew’s business partner found him dead on the floor. In tears, he called Drew’s family. “He said, ‘He’s gone. He’s gone.’” Drew’s brother **Clayton** told CBS News. “He screamed that over and

over again. That’s a phone call I’ll never forget.”

According to coroner’s autopsy report, Drew Wynne died from methylene chloride poisoning. The toxic chemical, found in many paint stripping products, can be highly toxic, even in small doses, after as little of five minutes of exposure.

When inhaled, methylene chloride metabolizes into carbon monoxide, which can shut off the supply of oxygen to the

heart and brain. Some who are exposed, like Drew Wynne, can suffer sudden death.

Wynne purchased the Goof Off that killed him at a nearby outlet of Lowe's Home. Several months earlier, in February, the **Safer Chemicals, Healthy Families** coalition wrote to Lowe's CEO Robert Niblock. The coalition asked the giant retailer, one of the largest sellers of home repair products in the world, to identify and remove products containing methylene chloride from the shelves of its 2,300 U.S. stores. To date, Lowe's has not acted to stop selling this potentially lethal substance.

Methylene chloride poisoning has cost the lives of dozens of workers and consumers. According to the U.S. Occupational Safety and Health Administration (OSHA), 17 workers died over a 15-year period while using stripping products containing methylene chloride to refinish bathtubs. The Center for Public Integrity, a non-profit investigative news organization, found 56

deaths linked to methylene chloride exposure since 1980.

The U.S. Environmental Protection Agency (EPA) estimates that some 32,000 workers and 1.3 million consumers are exposed each year to methylene chloride in paint stripping products. In 2016, the EPA proposed a ban on the toxic chemical, but the proposed regulation has been blocked by industry lobbying.

Methylene chloride is especially hazardous when used to strip paint and enamel coatings from bathtubs, a common practice. Bathrooms often have limited ventilation, so there is little fresh air available to counteract dangerous toxic fumes. The vapor emitted by methylene chloride is concentrated in the tub, right where workers are trying to breathe.

"No family should lose a loved one because of deadly chemicals," says Drew's mother, **Cindy Wynne**. "To this day, you can walk into Lowe's and other home improvement retailers and buy the same product that killed Drew—plus numerous others containing the same chemical."

### **Agenda for Action: 49,000+ Petition Signatures; Training for Affected Workers**

- In March 2018, **Safer Chemicals, Healthy Families** launched [an online petition](#) to convince Lowe's to stop selling products with methylene chloride. In less than a month, the appeal has already received more than 49,000 signatures.
- Local COSH groups are providing targeted training to low-wage workers on how to identify hazardous chemicals and advocate for safer alternatives.

**Sources:** Safer Chemicals, Healthy Families, "[Grieving parents & health advocates urge Lowe's to pull deadly paint strippers from store shelves](#)," Mar. 29, 2018; CBS News, "[Deaths linked to a common paint stripper chemical go back decades, so why isn't it banned?](#)," Mar. 29, 2018; March 29, 2018; Web MD, "[Mother Questions Use of Chemical After Son's Death](#)," July 14, 2017; OSHA Fatal Facts, "[Lethal Exposure to Methylene Chloride during Bathtub Refinishing](#)," 2016; Center for Public Integrity, "[Common solvent keeps killing workers, consumers](#)," Sept. 21, 2015

# LYNNWAY AUTO AUCTION

Billerica, Massachusetts

- Cited by OSHA and warned of vehicle safety hazards in 2014, but failed to take adequate precautions
- Three years later, five dead in preventable auto crash – including a 37-year old mom working her first day on the job
- 16 serious citations, \$267,000 in recommended fines; temp agency also cited



Leezandra Aponte, a temp employee, died two hours into her first day on the job at Lynnway Auto Auction

Lynnway Auto Auction, where 5 people were killed in an auto crash on May 3, 2017, had previously been notified about safety issues.

Located in Billerica, MA, just south of Lowell, Lynnway is one of the largest auto sales lots in New England and draws big crowds to its sales events. Moving vehicles through a large gathering of people is a significant safety risk, but the

company failed to take adequate precautions, reports the Lowell Sun.

*The auto auction was warned. Install additional safety measures, such as barriers, caution tape or traffic cones. But Lynnway Auto Auction failed to make adjustments. Then came more safety citations, allegations of negligence and lawsuits. However, the company didn't do*



*enough to ensure cars stay on course.*

In 2014, the U.S. Occupational Safety and Health Administration (OSHA) cited Lynnway for two serious violations, including failure to “require the use of traffic control devices while employees performed maintenance tasks among moving vehicles.”

Three years later, there were still no barriers in place when a Lynnway employee with a suspended driver’s license and a history of vehicle crashes lost control of a Jeep Cherokee hurtling through a crowd until the vehicle slammed into a wall. Five people were killed, including a temp employee and four auction customers.

Among the victims of this preventable tragedy was **Leezandra Aponte**, 37, a mother of three. Recently laid off, she signed up with a temp agency and was assigned to Lynnway Auto Auction. May 3, 2017 was her first day on the job.

“She was there for about two hours, then I got the phone call,” said Orlando Aponte, choking back tears as he spoke to reporters after learning of her sister’s death. “She just got this job, she was saving money for my niece’s sweet 15.”

Others who lost their lives that day:

- **Ruben Espailat**, 55, of Methuen MA. He ran a cleaning company in Methuen and occasionally purchased vehicles for resale.
- **Elliott Rowlands Jr.**, 50, of Buzzards Bay, MA, a sales manager for Chuckran Auto Parts.
- **Pantaleon Santos**, 49, of Cumberland, RI, a seller for Plainfield Auto Center, Providence.
- **Brenda Lopez**, 48, of Lincoln, RI.

After an investigation of the fatal crash, OSHA issued 16 citations against Lynnway in November 2017, recommending over \$267,000 in fines. “This company was cited in 2014 for exposing employees to similar hazards,” said Galen Blanton, regional administrator for OSHA in Boston. “It is critically important that employers remain vigilant about safety and implement required safety measures.” Lynnway was cited for “motor vehicle hazards, blocked exit routes, violations of the hazard communication standard, and recordkeeping deficiencies.”

OSHA also investigated TrueBlue Inc, doing business as PeopleReady, the firm that hired Leezandra Aponte and assigned her to Lynnway. TrueBlue was cited for a serious violation for a “struck-by” hazard, with a proposed fine of \$12,675.

### **Agenda for Action: Agreement on Penalties and Corrective Action**

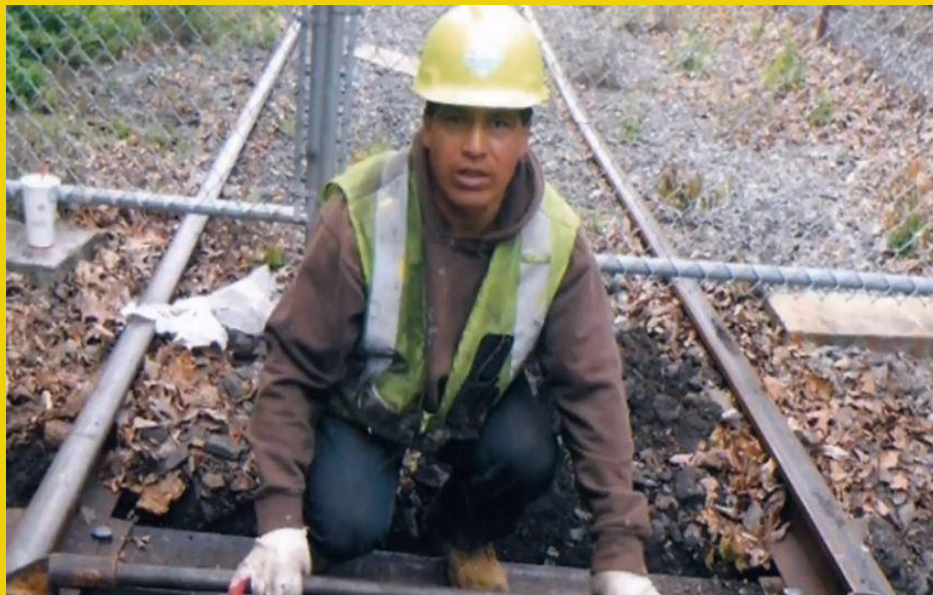
- In April 2018, Lynnway reached a settlement with OSHA, agreeing to pay \$200,000 in fines. The company will also correct safety hazards and implement a traffic control program, including weekly driver safety meetings.
- People Ready agreed to pay \$12,675 in fines and to develop a safe driving program, with annual training, for auto auction drivers.

**Sources:** Safety Unlimited News Service, [“Car Auction Co and Staffing Agency Pay Hefty OSHA Penalties,”](#) Apr. 13, 2018; U.S. OSHA, [“U.S. Department of Labor Cites Lynnway Auto Auction For Exposing Employees to Numerous Hazards,”](#) Nov. 19, 2017; Lowell Sun, [“After Billerica auto-auction tragedy, lawsuits and questions loom,”](#) May 22, 2017; Boston Globe, [“Mother killed in Billerica crash was working her first day on the job,”](#) May 3, 2017; New England Cable Network; [“She Loved Her Family’: Brother IDs Car Auction Crash Victim,”](#) May 3, 2017; MassLive.com, Lynnway Auto Auction, where 3 people were killed, was cited for two serious violations by OSHA in 2014,” May 3, 2017

# NEW YORK AND ATLANTIC RAILWAY

New York, New York

- Immigrant workers face workplace discrimination and are assigned to hazardous tasks without proper training and equipment
- Workers suffer amputation, brain injury, impaired vision
- Supervisors give workers false credentials, tell them to hide from safety inspectors



At NYAR Railway, immigrant workers were given hazardous tasks without proper equipment or training and told to hide when federal or state inspectors were on site.

“When we were working on the tracks in Long Island City, because of a lack of training, a man lost his fingers,” recalls **Antonio Adame**, a former worker at New York and Atlantic Railway (NYAR). “I didn’t see it happen, but I saw the finger lying on the ground. I felt fear in my whole body.”

Adame is one of a group of 18 workers from Mexico, Ecuador and the Dominican Republic who are suing NYAR, a private firm that hauls freight across hundreds of

miles of tracks owned by the Long Island Rail Road (LIRR), a public transit agency.

The lawsuit, filed in New York state court in February 2018, names NYAR and three of its executives, Bruce A. Lieberman, Peter Gilbertson, and Paul Victor.

Adame and his co-workers say they were exposed to unsafe working conditions and never provided with training or equipment needed to carry out hazardous work

assignments. They suffered injuries including amputation, a traumatic brain injury, impaired vision and rashes.

NYAR and its executives, workers say, created fraudulent “certifications” which falsely claimed that workers were trained and qualified to work in rail yards, where they repaired broken rails, operated chain saws, and were exposed to pesticides and other toxic chemicals.

The lawsuit documents that immigrant workers were hired from informal “shape-ups” at Home Depot parking lots. One of the plaintiffs, Franklin Lopez, said that to get to their jobs in the railyard, “workers were instructed to climb a wall there and jump over a fence.”

The U.S. rail industry operates under numerous federal and state regulations to protect workers and passenger from hazards associated with working and traveling on fast-moving, heavy equipment. But NYAR executives went to extraordinary lengths to avoid complying with safety rules, workers say. They were

instructed to hide in nearby bushes or behind rail cars whenever federal or state inspectors were on site.

“They were treated as if they were disposable,” Kristina Mazzocchi, an attorney representing the workers, told The New York Times. “They were subjected to deplorable health and safety conditions.”

The immigrant workers, who were paid off the books in cash – \$120 a day for shifts that sometimes lasted 12 hours or more – are also suing for wage theft and racial discrimination. Immigrant workers were given the most hazardous assignments, given inferior clothing and equipment, and were subject to repeated racial slurs and insults.

“As soon as I arrived, I said my name is Robney,” says **Robney Carabajo**, also a plaintiff. “But they told me they’d call me ‘Pancho’ because it was easier for them to pronounce. They called another guy ‘King Kong.’ No one likes to be called a slur. Everyone should be called by their name.”

### **Agenda for Action: Calls to End Contract; Begin Federal Investigation**

- After learning of safety hazards documented by immigrant workers in their lawsuit, union and community leaders called for the Long Island Railroad (LIRR) to terminate its contract with New York and Atlantic Railway (NYAR).
- Anthony Simon, general chairman of the Sheet Metal, Air, Rail and Transportation Union (SMART) said that LIRR should cancel its contract with NYAR. Trained and qualified SMART members – who are already LIRR employees – can maintain New York-area freight lines.
- Mary Parisen of Civics United for Railroad Environmental Solutions, endorsed the proposal to hire trained union workers as a way to ensure safety on LIRR tracks.
- Rep. Kathleen Rice, who represents Nassau County in Congress, called on the Federal Railway Administration to investigate NYAR safety practices.

**Sources:** LongIsland.com, [“Rep. Rice Calls on Federal Railroad Administration to Ensure LIRR Freight Rail Safety,”](#) Mar. 7 2018; New York Newsday, “LIRR should run own freight service again, union chief says,” Mar. 5<sup>th</sup>, 2018; New York Times, [“Railway Workers Sue, Citing Discrimination and Low Pay,”](#) Feb. 14, 2018; Supreme Court of the State of New York, “Adame, Loljana et.al. vs Anacostia Rail Holdings and New York and Atlantic Railway,” Feb. 14, 2018; Mirer Mazzocchi Julien & Chickedantz, PLLC [“NYAR Workers,”](#) video recording.



# PATTERSON UTI ENERGY

Houston, Texas

- **Five workers dead in an explosion in Quinton, Oklahoma**
- **110 OSHA violations and 13 workers dead in the past decade**
- **U.S. Senate: Patterson "one of the worst violators of workplace safety laws"**



Inspections underway at site of gas well explosion in Quinton, Oklahoma, one of the worst onshore drilling disasters in U.S. history.

On January 21 of this year, five workers in Quinton, Oklahoma lost their lives after an explosion on a natural gas drilling platform operated by Patterson UTI. The Texas-based company has a long history of safety violations, including a death toll that now adds up to 13 workers in the last decade.

Due to burning fires after the explosion, it took 29 hours to recover the bodies of the workers who died in Quinton. They were found in the “doghouse,” or control room

of the drilling platform. Their bodies were so severely burned that the medical examiner had to request dental records from the victims’ families to make a definitive identification.

The workers who died are:

- **Roger Cunningham**, 55, of Seminole, Oklahoma
- **Josh Ray**, 35, of Fort Worth, Texas
- **Cody Risk**, 26, of Wellington, Colorado
- **Matt Smith**, 29, of McAlester, Oklahoma

- **Parker Waldrige**, 60, of Crescent, Oklahoma

The disaster in Quinton was one of the worse onshore drilling incidents in U.S. history, and the deadliest event in the oil and gas industry – onshore or offshore – since 2010 Deepwater Horizon rig explosion. Red Mountain LLC, based in Oklahoma, owns the welling site and hired Patterson UTI to operate it.

According to Reuters, OSHA has cited the company 110 times in the past decade, and it has the second-worst fatality rate in the oil and gas industry. In 2008, a report from the U.S. Senate Committee on Health, Education, Labor and Pensions described Patterson as “one of the worst violators of workplace safety laws.”

The January disaster is currently under investigation by OSHA, the U.S. Chemical Safety Board, and the Oklahoma Corporation Commission (OCC). An initial

incident report by an OCC inspector reported a "confirmed violation" of agency rules.

OSHA's authority to cite employers for safety violations at oil and gas wells is limited because the industry is specifically exempted from an agency standard on “Process Safety Management of Highly Hazardous Chemicals.” The exemption was granted in 1992, reports the Tulsa World, because “separate regulatory rules specific to the [oil and gas] industry were to be developed. However, that never materialized as the matter later was dropped from the agency’s regulatory agenda.”

Like other companies, however, Patterson UTI is subject to OSHA’s general duty clause. This requires employers to provide workplaces that are “free from recognizable hazards that are causing or likely to cause death or serious harm to employees.”

### **Agenda for Action: Oversight, Consensus on Standards Needed**

- The oil and gas industry has operated outside of OSHA's Process Safety Management Standard since 1992 and has not stepped in to create an alternative industry-wide consensus standard.
- The loss of lives at BP-owned Deepwater Horizon, Patterson-UTI, West Fertilizer Company and other incidents shows ongoing risk to workers, residents and the environment.
- Joint health and safety programs, such as those developed by the United Steelworkers – who represent many workers in oil and gas refineries – have made significant gains and can serve as a model for this industry.

**Sources:** Tulsa World, "[OSHA standards moot in Quinton rig explosion because of exemption for oil-and-gas industry](#)," Feb. 3, 2018; Reuters, "[Driller at center of Oklahoma well blast has history of deadly accidents](#)," Jan. 26, 2018; E&E News, "[Rig wreckage probed for cause of deadly Okla. Blast](#)," Jan. 24, 2018; Tulsa World, "[Officials describe harrowing scene as explosion ignited deadly inferno at drilling rig](#)," Jan. 23, 2018.

# SARBANAND FARMS

Sumas, Washington

- After blueberry picker Honesto Silva Ibarra is hospitalized in August 2017, 70 co-workers go on strike to protest unsafe conditions.
- The strikers are fired from their jobs and evicted.
- Without shade, rest breaks, and adequate food and water, farmworkers suffer from “dizziness, headaches, partial facial paralysis.”



Farmworkers demand answers after the death of Honesto Silva Ibarra  
Photo by Edgar Banks

During the first week of August 2017, farmworker **Honesto Silva Ibarra** complained of headaches at his job in Washington state for Sarbanand Farms, one of the nation’s largest producers of fresh blueberries. His supervisor ignored his concerns and refused his request for a ride to the airport so he could return to Mexico.

Like more than 600 others at Sarbanand Farms, Ibarra was a legal migrant worker

from Mexico with an H2A agricultural visa provided by the company and its labor contractor, CSI Visa Processing. Sarbanand Farms is a subsidiary of California-based Munger Farms.

Ibarra later collapsed, was taken to a medical clinic and diagnosed with dehydration. He was transferred to Harborview Hospital in Seattle, where he died a few days later. Ibarra was 28 years

old at the time of his death and the father of three children.

On Friday August 4, while Ibarra was still being treated at Harborview, 70 of his co-workers went on a one-day strike to protest unsafe conditions. The next morning, Sarbanand Farms fired the striking workers and evicted them from company-provided housing.

The fired workers camped out at the home of a nearby supporter and continued their protest with support from *Familias Unidas por la Justicia*, a farmworkers union based in Burlington, WA and Community to Community, an advocacy group in Bellingham.

Following an investigation, the Washington Department of Labor and Industries (DLI) stated in February 2018 that Ibarra's death was unrelated to his job in the blueberry fields. The agency cited an autopsy from the King County Medical Examiner finding that Ibarra – who was diabetic – died from “natural causes.” (Diabetes, when properly treated, is not a fatal condition.)

The DLI did find, however, that Sarbanand Farms – which charges workers \$12 a day for meals –failed to provide adequate food and rest breaks for workers. The agency levied a fine of \$149,800 against the company, its largest ever for agricultural meal and rest violations.

### **Call to Action: Class Action Lawsuit Against Sarbanand Farms**

- In January 2018, former workers at Sarbanand Farms filed a class action lawsuit against the company, stating they were subject to forced labor, unsafe conditions and required to live in a fenced-in labor camp.
- The legal claim is based on testimony from farmworkers who reported they were forced to work up to 12 hours a day; discouraged from using sick time; required to work in “sunbaked fields with hazy smoke,” and denied adequate shade, water and nutrition.
- “H-2A agricultural workers are the most vulnerable and least protected farm workers in our country,” said Columbia Legal Services attorney Joe Morrison, who is representing the workers. “You cannot import thousands of workers... exclude them from key labor laws and expect that everything will work out fine.”

**Sources:** 2018; Seattle Times, [“Dozens of Mexican workers left in limbo after Whatcom County farm walkout,”](#) August 11, 2017; The Stranger, [“Working Conditions at Washington Blueberry Farm Amounted to Forced Labor, Lawsuit Claims,”](#) Jan. 25, 2018; The Stranger, [“State Fines Sarbanand Farms \\$150,000 for Failing to Give Workers Breaks,”](#) Feb. 1, 2018; [BARBARO ROSAS and GUADALUPE TAPIA, vs. SARBANAND FARMS, LLC, MUNGER BROS., LLC., and CSI VISA PROCESSING USA, LLC.,](#) U.S. District Court, Western District of Washington, No. 18-CV-00112



# TESLA MOTORS

Fremont, California

- “A company of the future under working conditions of the past”
- Recordable injuries 31% higher than industry average
- Serious injuries 83% higher than industry average.
- The company claims a recent reduction in injuries, but an independent investigation finds the company “has failed to report some of its serious injuries,” so that “injury numbers look better than they actually are.”



Tesla workers in Fremont, CA rally for safe working conditions and workplace rights

Tesla Motors, led by high-profile CEO Elon Musk, is a leading U.S. manufacturer of electric vehicles, with an auto assembly plant at an auto assembly plant in Fremont, California. According to testimony from workers, research by National COSH affiliate Worksafe, and recent citations by Cal/OSHA, Tesla's clean cars are produced by workers who must endure dirty, unsafe working conditions.

In February 2017, **Jose Moran**, a four-year employee at Tesla, published a blog post at Medium.com detailing health and safety problems at the company. “I often feel like I am working for a company of the future under working conditions of the past,” he wrote.

*Most of my 5,000-plus coworkers work well over 40 hours a week, including excessive mandatory*

*overtime. The hard, manual labor we put in to make Tesla successful is done at great risk to our bodies.*

*Preventable injuries happen often. In addition to long working hours, machinery is often not ergonomically compatible with our bodies... A few months ago, six out of eight people in my work team were out on medical leave at the same time due to various work-related injuries*

Worksafe, a National COSH affiliate based in Oakland, issued reports in May 2017 and again in December 2017, showing data which confirmed concerns raised by Moran and other Tesla workers. Key findings:

- Recordable injuries for workers at Tesla Motors were 31 percent higher than for the rest of the automotive industry in 2015 and 2016. A recordable injury or illness, as defined by OSHA, requires medical treatment beyond first aid.
- The rate of serious injuries among Tesla workers, requiring days away from work, restricted duty or job transfer, was also much higher at Tesla than at other auto factories: more than double the industry average in 2015 and 83 percent higher in 2016.

Injury rates at the company “topped some industries commonly associated with risky work, such as sawmills and slaughterhouses,” reported the Los Angeles Times. “Tesla: Is Safety Sacrificed to Production?” asked *EHS Today*.

In January 2018 Cal/OSHA cited Tesla Motors for failure to provide legally required information and training to workers who handle hazardous chemicals at the Fremont plant, including failure to provide results of air monitoring inside the plant. According to the San Francisco Chronicle, Tesla was cited for more than 30 safety and health violations between 2012 and 2017.

In February, Tesla Vice President for Environmental, Health, and Safety Laurie Shelby claimed the company’s recordable injury rate “has improved nearly 25% percent from 2016 and is now equivalent to the most recent published industry average.” But an investigation by *RevealNews.org* found that Tesla isn’t really reducing injuries – just failing to report them accurately.

After reviewing OSHA records and interviewing workers, reporters Will Evans and Alyssa Jeong Perry concluded that Tesla “has failed to report some of its serious injuries on legally mandated reports, making the company’s injury numbers look better than they actually are.”

## **Agenda for Action: Tesla workers Win Changes, Press for Union Rights**

- Despite attempts by Tesla management to intimidate them, Tesla workers are organizing to form their own union and taking their concerns public.
- As a result, workers have already won significant gains, including:
  - ✓ Raises equaling \$2.00 an hour
  - ✓ Responses to some – not all – the safety concerns identified in Worksafe reports
  - ✓ Improvements in Tesla’s confidentiality policy
- Union supporters at Tesla say these gains – and other workplace issues – should be addressed in a negotiated union contract, so Tesla cannot make unilateral policy changes.

**Sources:** RevealNews.org, [“Tesla says its factory is safer. But it left injuries off the books,”](#) April 16, 2018  
[A Fair Future at Tesla, Facebook page](#), accessed April 4, 2018; Jalopnik.com, Tesla, [“Becoming the Safest Car Factory in the World,”](#) Feb. 4, 2018; [“California cites Tesla for poor hazardous chemical training at factory,”](#) Jan. 24, 2018; Worksafe, [“Analysis of Tesla Injury Rates: 2014 to 2017,”](#) May 24, 2017; [“December 2017 Update,”](#) December 2017; EHS Today, [“Tesla: Is Safety Sacrificed to Production?”](#) June 12, 2017; Los Angeles Times, [“Tesla had worse safety records than slaughterhouses and sawmills,”](#) May 25, 2017; Medium.com, [“Time for Tesla to Listen,”](#) Feb. 9, 2017

## VERLA INTERNATIONAL

New Windsor, New York

- **November 20, 2017 explosion at cosmetics plant kills William Huntington, 57**
- **125 workers injured, eight firefighters hospitalized**
- **Verla workers report “an utter lack of occupational health, safety and evacuation training and no protective equipment.”**
- **Safety consultant says disaster was “easily preventable”**

William Huntington, 57, was killed on November 20, 2017 after an explosion at his workplace, a cosmetics factory owned by Verla International in Newburgh, New York. The Times Record Herald reports that Orange County fire investigators say the explosion was “triggered by a spark generated when an employee wiped the residue of a flammable chemical from atop a tank as the volatile liquid was being poured in from a barrel.”

The newspaper also reports that just a year prior to the deadly explosion, the U.S. Occupational Safety and Health Administration (OSHA) cited Verla for “the unsafe practices blamed for the deadly blaze.” The company was charged for failing to properly store and ground containers of flammable liquid.

Between 2013 and 2016, Verla was cited 19 times by OSHA, including thirteen “serious” violations. Violations include failure to provide “maintenance, safeguards and operational features for exit routes, ... eye and face protection, respiratory protection, and medical services and first aid.”

An internal company video, released by Orange County officials, shows in real time the incident that led to the horrific explosion. Kyle Angelo, an independent

safety consultant, reviewed the video and told the Times Record Herald that the tragic explosion and loss of life was “easily preventable.”

The video shows a highly flammable chemical called hexamethyldisiloxane (HMDZ) being drained out of a blue barrel, just before a spark ignited the fire and explosion.

“Pouring out a container of HMDZ is commonly known to create a lot of static discharge,” Angelo told the newspaper. “It’s a really cheap and simple fix for the company to ground (the tank, the barrel and the metal arm). The incident calls into question the company’s administrative controls and its engineering controls.”

Workers at Verla have also expressed grave concerns about the company’s safety practices. At a December 2017 forum sponsored by the Workers’ Justice Center of New York, workers reported nosebleeds and other health issues they believe are caused of exposure to chemicals inside the plant.

Despite the presence of hazardous chemicals used in the production of cosmetics, Verla workers reported they had received no occupational health, safety, and evacuation training. The only

safety equipment they were given, workers said, were “paper masks and hair nets aimed at keeping saliva and hair from contaminating products.”

“We know Verla was a repeat offender,” said Senator Charles Schumer following

the fatal explosion. “We know these violations were deemed ‘serious,’ and we know that some of these sloppy and dangerous workplace conditions contributed to the spread of the fire.”

### **Agenda for Action: OSHA Investigation Underway, Assistance Offered to Workers**

- An OSHA investigation of the causes of the tragic November 2017 explosion at Verla International is still underway.
- The Worker Justice Center of New York and the New York State Department of Labor have offered health, safety and legal resources to workers in the aftermath of the explosion.

**Sources:** FIOS 1 News, [“Dept. of Labor helping workers affected by cosmetics factory fire,”](#) Dec. 7, 2017; Times Herald-Record, [“Advocate: Verla workers described unsafe conditions”](#) Dec. 7, 2017; Times Herald-Record, [“Factory workers, families concerned about safety after deadly fire,”](#) Dec. 3, 2017; WABC-TV, [“Worker ID’d after body found in New Windsor cosmetics plant following explosions, fire,”](#) Nov. 21, 2017; USA Today, [“One missing, nearly 40 hurt in cosmetics factory explosions, fire,”](#) Nov 20, 2017



# WASTE MANAGEMENT

Houston, Texas

- 23-Year old worker killed at a recycling facility
- Company failed to lockout/tagout machinery during repair
- Waste Management, the nation's largest waste disposal company, has been cited more than 60 times by OSHA, with nearly \$1 million in fines.



Eric "Easy" Russell, died on the job at age 24

At 4:30 a.m. on February 22, 2017, **Eric "Easy" Russell**, 24 was working at a Greenstar Mid- America recycling operation in Akron OH. He was crushed to death when he became caught inside a Machinex single-ram open ended baler. The tragedy occurred when Russell was attempting to fix two broken wires inside the baler chamber. The machine cycled, crushing him to death.

Following an investigation, OSHA cited Greenstar Mid-America for a serious violation, failing to lock out and tag out

energy sources while a machine is being repaired. This is a deadly and well-known hazard, which can claim the lives of workers like Eric Russell who are attempting to keep equipment running so they can do their jobs.

OSHA proposed a fine of \$25,350, the case was settled for \$12,675.

**Luis Castellán**, who worked at a Greenstar recycling plant in Allentown, Pennsylvania, was killed on the job in 2011 when a bale of recycling materials fell on top of him and crushed him to death. **David Russell**,

who worked at the same plant, died in 1999, died after an unprotected fall from a catwalk.

While recycling provides economic and environmental benefits for municipalities, collecting and sorting recyclable materials is an extremely hazardous occupation. According to the U.S. Bureau of Labor Statistics, recycling workers are injured at a rate nearly two-and-a-half times the average for all workers. Seventeen were killed on the job in recycling facilities between 2011 and 2013.

Greenstar Mid-America is a subsidiary of Waste Management, the nation's largest waste disposal company. The multi-billion-dollar company, reports the Center for Media and Democracy, "has been a driving force in the privatization" of refuse collection, a service traditionally provided by municipalities and public employees. Private-sector workers at Waste Management, the Center reports, "are

paid significantly less than their public sector counterparts."

According to ViolationTracker.com, Waste Management was cited by OSHA and the Mine Safety and Health Administration for 68 health and safety violations between 2000 and 2017, with a total of nearly \$1 million in fines.

During 2017, Waste Management and its affiliates had 26 inspections from OSHA agencies, arising from complaints, injury reports (including an amputation) and referrals from other agencies such as the U.S. Environmental Protection Agency. Fourteen of the inspections resulted in findings of safety violations; at only one of these worksites are workers represented by a union.

As noted above (see page 10), workers with a voice on the job can participate in effective union management safety programs, which can reduce on-the-job illnesses, injuries and fatalities.

### **Agenda for Action: Stronger Safety Requirements; End Use of Temporary Workers**

- City governments to evaluate the health and safety records of recycling companies and require these companies to have comprehensive worker safety programs.
- Recycling industry to end the use of temporary workers.
- Cities to enact strong community education programs for greater household separation of waste to minimize dangerous contaminants entering the recycling stream.

**Sources:** Good Jobs First, "[Violation Tracker Parent Company Summary – Waste Management](#)," accessed Apr. 17, 2018; Center for Media and Democracy, "[Waste Management](#)," accessed Apr. 17, 2018; U.S. Occupational Safety and Health Administration, "[Inspection: 1212219.015 - Greenstar Mid America, LLC](#)," 2017; Cleveland.com, "[Akron recycling facility employee killed in baler accident](#)," Feb. 22, 2017; Gaia, Partnership for Working Families, MassCOSH and National COSH, "[Sustainable and Safe Recycling: Protecting Workers Who Protect the Planet](#)," 2015; Allentown Morning Call, "Northampton recycling plant worker injured on the job dies," Oct. 3, 2011

# THE COSH NETWORK

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National COSH serves as a convener and clearinghouse for the COSH Network, which includes local worker health and safety coalitions in communities across the United States.

We work together to coordinate and share information about workplace safety, provide training for workers and advocate for elimination of preventable hazards in the workplace.

## NATIONAL OFFICES

### **National COSH – West**

3727 Camino del Rio South, Suite 210  
San Diego, CA 92108

### **National COSH – East**

Somerville, MA

## COSH GROUPS

### **Connecticut Council on Occupational Safety & Health (ConnectiCOSH)**

683 N. Mountain Rd,  
Newington, CT 06111  
860- 953- 2674  
[www.connecticosh.org](http://www.connecticosh.org)

### **Central New York Occupational Health Clinic**

6712 Brooklawn Parkway  
Syracuse, NY 13211  
315-432-8899  
[www.upstate.edu/cnyohcc](http://www.upstate.edu/cnyohcc)

### **Equality State Policy Center**

419 S 5th St  
Laramie, WY 82070  
307-228-4163  
[www.equalitystate.org](http://www.equalitystate.org)

### **Fe y Justicia Worker Center**

1805 W Alabama St.  
Houston, TX 77098  
832-755-7013  
[www.houstonworkers.org](http://www.houstonworkers.org)

### **Knox Area Worker Memorial Day Committee**

865-573-0655

### **South Florida Interfaith Worker Justice**

150 SW 13th Avenue  
Miami, FL 33135  
305-598-1404  
[www.sfiwj.org](http://www.sfiwj.org)

### **Maine Labor Group on Health (MLGH)**

PO Box 5197  
Augusta, ME 04332  
[www.mlgh.org](http://www.mlgh.org)  
207-622-7823

### **Massachusetts Coalition for Occupational Safety and Health (MassCOSH)**

1532B Dorchester Ave.  
Dorchester, MA 02122  
617-825-7233  
[www.masscosh.org](http://www.masscosh.org)

### **Mid-State New York COSH**

701 W. State St.  
Ithaca, NY 14850  
607-275-9560

### **NH Coalition for Occupational Safety and Health (NHCOSH)**

161 Londonderry Turnpike  
Hookset, NH 03106  
603-232-4406

### **New Jersey Work Environment Council (NJWEC)**

7 Dunmore Ave  
East Ewing, NJ 08618  
609-882-6100  
[www.njwec.org](http://www.njwec.org)

### **New York Committee for Occupational Safety and Health (NYCOSH)**

61 Broadway, Ste. 1710  
NY, NY 10006  
212-227-6440 (o)  
[www.nycosh.org](http://www.nycosh.org)

**North East NY Coalition for Occupational Safety and Health (NENYCOSH)**  
P.O Box 38098  
Albany, NY 12203

**Northwest Arkansas Worker's Justice Center**  
210 S Thompson St.  
Springdale, AR 72764  
479-750-8015  
[www.nwajc.org](http://www.nwajc.org)

**Philadelphia Area Project on Occupational Safety and Health (PhilaPOSH)**  
3001 Walnut St., 5th Fl  
Philadelphia, PA 19104  
215-386-7000  
[www.philaposh.org](http://www.philaposh.org)

**RI Committee on Occupational Safety and Health (RICOSH)**  
741 Westminster St.,  
Providence, RI 02903  
401-751-2015

**Safe Jobs Oregon**  
NW Workers' Justice Project  
812 SW Washington St  
Portland, Oregon 97205  
503-525-8454 x 13

**So. California Coalition for Occupational Safety and Health (SoCalCOSH)**  
1000 N Alameda St  
Los Angeles, CA 90012  
310.435.1423  
[www.socalcosh.com](http://www.socalcosh.com)

**Western NY Council on Occupational Safety and Health (WNYCOSH)**  
2495 Main St., Ste 438  
Buffalo, NY 14214  
716-833-5416  
[www.wnycosh.org](http://www.wnycosh.org)

**Wisconsin Committee on Occupational Safety and Health (WisCOSH)**  
Milwaukee, WI  
414-933-2338  
[www.wiscosh.org](http://www.wiscosh.org)

**Worksafe**  
55 Harrison St. Ste. 400  
Oakland, CA 94607  
510-302-1011  
[www.worksafe.org](http://www.worksafe.org)



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