

## PUBLICATIONS

*Sticks and Stones: A Federal Definition Of Workplace Violence May Not Match Yours*, HR MAGAZINE (September 2011)

*Don't Take Your Safety Program for Granted: Take Action To Limit OSHA Citations*, COMPLIANCE MAGAZINE 4 (January 2011)

*Top 10 OSHA Recordkeeping Questions Employers Get Wrong*, EHS TODAY (September 2010) (cover story)

*Will You Be A Target for The New OSHA Sheriff?: Five Things Employers Should Do To Avoid Willful And Repeated Violations*, EHS TODAY (July 2010)

*Form 300 Logs: 10 Ways to Get into Trouble with OSHA*, FACILITY SAFETY MANAGEMENT (June 2010)

*Think You Recognize A Recordable Work Injury?*, CONTRACTOR MAGAZINE (May 2010)

*OSHA Imposes Reflective Vests on Construction Industry Without Rulemaking*, EHS TODAY 54 (Feb. 2010)

*Review Commission Re-Examining Stale Violation Issue*, OCCUPATIONAL HAZARDS (January 2008)

Chapters author and editor, OCCUPATIONAL SAFETY AND HEALTH LAW HANDBOOK (Government Institutes, 2d ed., 2007)

*The Multi-Employer Doctrine: End of the Line or a Chance for a Fresh Start?*, OCCUPATIONAL HAZARDS (June 2007)

*Important Decision on Coverage of Flammables Under OSHA's PSM Standard*, 26 PROCESS SAFETY PROGRESS 3 (March 2007)

*OSHA's HazCom Standard Does Not Require Chemical-Specific Training*, OCCUPATIONAL HAZARDS (Dec. 2006)

*The Oft-Missed Step – Documentation of Safety Discipline*, OCCUPATIONAL HAZARDS (January 2006)

*OSHA Cites Hospitals Based On Medical Kit Interpretation*, OCCUPATIONAL HAZARDS (December 2004)

*Medical Kit Citings*, MATERIALS MANAGEMENT IN HEALTH CARE (November 2004)

*Passage of House Bill Advances Important OSHA Reforms*, LEGAL BACKGROUNDER (October 1, 2004)  
(Washington Legal Foundation)

*Don't Let OSHA Be Quick to Call You A "Willful" Violator,* OCCUPATIONAL HAZARDS (March 2004)

*Appeals Court Sets OSHA Straight on Willful Violations Of Law*, LEGAL OPINION LETTER (January 30, 2004) (Washington Legal Foundation)

*Nagging Problems Under OSHA's New Recordkeeping Rule*, OCCUPATIONAL HAZARDS (March 2002)

Chapter author, OCCUPATIONAL SAFETY AND HEALTH LAW HANDBOOK (Government Institutes, 2001)

*Supreme Court Curtails Judicial Deference To Federal Agencies*, LEGAL OPINION LETTER (July 13, 2001) (Washington Legal Foundation)

*The Supreme Court Substantially Cuts Back on Chevron Deference: United States v. Mead Corp., 533 U.S. \_\_\_ (2001) (No. 99-1434, June 18, 2001)*, published by the Energy & Mineral Law Foundation at <<http://www.emlf.org/lastowka.htm>> (June 2001)

*What Does OSHA's New Self-Audit Policy Mean For Employers?*, OCCUPATIONAL HAZARDS (October 2000)

*Chemical-Specific or Hazard-Category Training?*, OCCUPATIONAL HAZARDS (August 2000)

*The Strange Case of L.R. Willson*, CONSTRUCTOR MAGAZINE (January 2000)

*Deference to Agency Interpretations: Abdication to Ambiguity*, 20 ENERGY & MIN. L. INST. Ch. 3 (2000)

*A Tale of the Goose and the Gander*, OCCUPATIONAL HAZARDS (March 1999)

*Liability On Multi-Employer Worksites*, OCCUPATIONAL HAZARDS (Oct. 1998)

*Host-Employer Liability for Contractor Violations – IBP Raises New Questions*, 24 EMPLOYEE RELATIONS L.J. 155 (1998)

*OSHA's Misuse of the Plain View Doctrine to Expand Inspections*, OCCUPATIONAL HAZARDS (June 1998)

*OSHA Liability of 'Controlling' Employers – Time for Reexamination*, 23 EMPLOYEE RELATIONS L.J. 163 (1998)

*Mandatory Safety Programs: OSHA's Ultimate Regulation?*, LEGAL BACKGROUNDER (February 20, 1998) (Washington Legal Foundation)

*Sweeping Changes in Store With OSHA's Safety Program Standard*, OCCUPATIONAL HAZARDS (May 1997)

*Repeat OSHA Prosecutions Violate The Double Jeopardy Clause*, OCCUPATIONAL HAZARDS (December 1996)

*Pre-Emption: A Defense Against Dual Regulation of Safety and Health Issues*, OCCUPATIONAL HAZARDS (October 1996).

*Court Holds Repeat OSHA Prosecutions Unconstitutional*, LEGAL NEWS LETTER (October 18, 1996) (Washington Legal Foundation)

*A Defense Against Dual Regulation*, TEXAS LAWYER (Sept. 23, 1996)

*Per-Employee Penalties: A Good End To A Bad Policy*, 25 OCCUP. SAFETY & HEALTH REP. 1536 (BNA April 1996)

*The Overlap Between OSHA and EPA – Redundancy At the Employer's Expense*, OCCUPATIONAL HAZARDS (April 1996)

*Recent Significant Decisions By the Occupational Safety and Health Review Commission*, 21 EMPLOYEE RELATIONS L.J. 169 (1996)

*Will Arcadian and Hartford Roofing End Per-Employee Penalties?*, OCCUPATIONAL HAZARDS (February 1996)

*Administrative Court's Decisions Erode OSHA Penalty Policy*, LEGAL BACKGROUNDER (February 1996) (Washington Legal Foundation)

*Constitution Should Prevent OSHA From Placing Employers In Double Jeopardy*, LEGAL OPINION LETTER (November 1995) (Washington Legal Foundation)

*Inside the OSHA Reform Bills*, OCCUPATIONAL HAZARDS (September 1995)

*Process Safety: Some Real Surprises For Employers*, OCCUPATIONAL HAZARDS (July 1994)

*OSHA and the Design Professional*, CIVIL ENGINEERING (April 1994)

*How Much Judicial Deference to OSHA? The Dangers of Unchecked Administrative Power*, LEGAL BACKGROUNDER (March 1994) (Washington Legal Foundation)

*OSHA Inspections to Enforce the Process Safety Management Standard: There Are Some Real Surprises for Employers*, 1994 PROCESS PLANT SAFETY SYMPOSIUM, Vol. 1, p. 139 (March 1994) (ed. M. Cousins)

*OSHA's 'Egregious' Penalty Policy: Recent Developments and Future Prospects*, 19 EMPLOYEE RELATIONS L.J. 289 (Autumn 1993)

*Effects of OSHA Reform on Enforcement and Litigation*, OCCUPATIONAL HAZARDS (Oct. 1993)

*Ergonomic Hazards: Issues and Arguments under the Occupational Safety and Health Act*, SSA JOURNAL (Sept. 1990)

*Use of General Criminal Laws*, in BNA SPECIAL REPORT, OCCUPATIONAL SAFETY AND HEALTH: SEVEN CRITICAL ISSUES FOR THE 1990'S 48 (1989)

Chapter author, chapter on Federal Mine Safety and Health Review Commission in EDLES & NELSON, FEDERAL REGULATORY PROCESS (2d ed. 1995)

Contributing editor of EHS Today magazine (formerly OCCUPATIONAL HAZARDS).

## PRESENTATIONS

“OSHA Recordkeeping: Common Mistakes That Result in ‘Willful’ OSHA Citations,” before the Conference on Worker Safety, Human Resources and the Environment of the American Meat Institute Foundation (March 10, 2011).

“Developments in OSHA Law,” before the 24th Annual Carl A. Warns, Jr. Labor and Employment Law Institute, sponsored by the Louis D. Brandeis School of Law of the University of Louisville (June 21, 2007)

“The Occupational Safety and Health Review Commission’s Decision on the Multi-Employer Workplace Citation Policy (*Secretary of Labor v. Summit Contractors, Inc.*),” before the Small Business Labor Safety (OSHA/MSHA) Roundtable (May 11, 2007)

Expert witness for the United States Chamber of Commerce at hearing entitled “OSHA and Small Business: Improving the Relationship for Workers,” before the Subcommittee on Employment and Workplace Safety of the Committee on Health, Education, Labor and Pensions of the United States Senate (May 10, 2005)

Panelist in “Ask the Attorney” session, Occupational Safety and Health Lawyers Group Meeting, ORC Worldwide (May 3, 2005)

“The Legal Side of PSM,” Environmental Health and Safety Seminar, Texas Chemical Council and Association of Chemical Industry of Texas (June 10, 2004)

Expert witness for the United States Chamber of Commerce at hearing entitled “H.R. 1583 - Assessing The Impact On Small Business,” before the Subcommittee on Workforce Protections of the Committee on Education and the Workforce of the United States House Of Representatives (June 17, 2003)

“The *Mead* Decision,” Occupational Safety and Health Lawyer’s Group Meeting, Organization Resources Counselors, Inc. (November 13, 2001)

“OSHA’s New Injury and Illness Recordkeeping Requirements,” National Conference of the Academy of Certified Hazardous Materials Managers (August 21, 2001)

“Ergonomics: Still Alive and Kicking,” Spring Production Meeting of the American Boilers Manufacturers Association (April 20, 2001)

“Regulation by Policy Memoranda: What the Future Holds for Rulemaking by Policy Memo After *Barrick Goldstrike* and *Appalachian Power* in the D.C. Circuit, and *American Trucking* in the Supreme Court,” paper presented to Mine Safety and Health Special Institute, Energy & Mineral Law Foundation (March 29, 2001)

“Update on Developments Under The Occupational Safety and Health Act,” National Association of College and University Attorneys (Oct. 20, 2000)

Expert witness at hearing entitled “Under The Radar-Screen Rulemaking at the U.S. Department of Labor: OSHA’s Work-At-Home Policy And Beyond,” before the Committee on Education and The Workforce, Subcommittee On Oversight and Investigations, United States House Of Representatives (April 5, 2000); delivered testimony on “Rulemaking Through The Back Door: How OSHA Imposes New Requirements Through Interpretation”

Expert witness at hearing on “OSHA’s Enforcement Policy on Employees Working At Home,” before the Committee On Education And The Workforce, Subcommittee on Oversight and Investigations, United States House Of Representatives (Jan. 28, 2000); delivered testimony on “OSHA and Its Home Office Policy: Ramifications and Implications”

Interviewed as labor law expert on CNN Headline News and CNN Moneyline News Hour re OSHA home office policy (January 5, 2000)

Testimony before forum of the Senate Subcommittee on Natural Disaster Reduction and the Institute for Business and Home Safety, Washington, D.C., on “When Natural and Industrial Disasters Collide – Planning for An Industrial Disaster” (October 13, 1999)

Guest, “When OSHA Calls,” live television broadcast on WTN (Workplace Training Network) (1999)

“The OSHA Personal Protective Equipment Rulemaking, and the Cooperative Compliance Program,” Meeting of the Steel Manufacturers Association, Human Resources Committee (1998)

“OSHA Standards and Enforcement Update,” Champions of Safety Conference (1998)

“The IBP Case And The Future of Multi-Employer Liability,” Lawyers Committee of The Associated General Contractors of America (1998)

“Host Employer Liability and the *IBP* Decision,” Committee on Occupational Safety and Health of the American Iron and Steel Institute (1998)

Keynote speaker, OSHA Task Group Meeting of the Flexible Packaging Association, “Recent and Forthcoming Developments Under the Occupational Safety and Health Act” (1998)

“The Federal Occupational Safety and Health Act: Duties, Enforcement and Inspections,” National Association of College and University Attorneys (1998)

“Host Employers And Independent Contractors Under The Occupational Safety and Health Act,” Organization Resources Counselors, Inc., Safety and Health Group and Western Occupational Safety and Health Group Joint Meeting (1997)

Responder and panelist on “Separation of Functions – OSHA,” Taft-Hartley Symposium, Columbus School of Law, Catholic University of America (1997)

“Recent Significant OSHA Cases and Settlement of OSHA Cases,” Organization Resources Counselors, Inc., Western Occupational Safety and Health Group Meeting (1997)

“More Cooks for the Broth: OSHA and the Design Professional,” Joint Architects-Engineers Committee in Federal Construction at the American Institute of Architects (1995) (presented with paper)

“OSHA and the Residential Construction Contractor,” Construction Insurance Conference (1994)

Speaker on OSHA topics, Annual Meetings of the Hazardous Waste Action Coalition, Washington, D.C., 1994 and 1995

“OSHA and the Design Professional,” Annual Meeting of the Pennsylvania Consulting Engineers Council (1993)

“Large-Scale OSHA Litigation,” Practicing Law Institute, New York, New York (1990)

Speaker, Industry Council on the Environment, Safety and Health (numerous meetings)