

THE DIRTY DOZEN 2019

CAUTION CAUTION CAUTION CAUTION



COSH

WORKERS' MEMORIAL WEEK
APRIL 22-29, 2019

Workers' Memorial Week

April 22 - 29, 2019

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 unions, 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.

Our Mission

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 conditions and practices; promote effective health and safety programs; organize direct action against egregious employers; and wage campaigns for effective safety and health 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.



Drew Wynne died in October 2017 from exposure to methylene chloride while painting his business.

A Dirty Dozen Company Cleans up its Shelves

Lowe's agrees to stop selling toxic paint strippers

In April 2018 National COSH named Lowe's, the nation's second largest hardware chain, as a "**Dirty Dozen**" company. We selected the company due to ongoing sales of paint strippers containing methylene chloride. The chemical can be highly toxic even in small doses. More than 60 deaths have been linked to methylene chloride since 1980.

In May of 2018, Lowe's agreed to a request from the Safer Chemicals, Healthier Families coalition and announced it would no longer sell products containing methylene chloride and a related substance, N-methylpyrrolidone (NMP). Lowe's was the first major retailer to take action, and other major companies followed, including Home Depot, Sherwin Williams, Walmart and Menard's.

A follow up survey of 12 Lowe's stores found no methylene chloride-based paint strippers, but four stores carried an NMP-based product. When contacted by Safer Chemicals, Healthier Families, company representatives pledged to remove those products.

Lowe's operates more than 2,300 U.S. stores. National COSH commends Lowe's for acting to remove a proven – and preventable – health risk from its shelves. Workers and consumers will be safer as a result. We encourage Lowe's, and all retailers, to take further steps to restrict products containing harmful chemicals that pose health hazards to workers.

The Dirty Dozen 2019

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

National Council for Occupational Safety and Health
(National COSH)



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Executive Summary

Death at Work: Are employers doing enough to prevent fatalities?

According to the U.S. Bureau of Labor Statistics, 5,147 people died from workplace trauma in 2017. This is a slight decrease from 5,190 deaths in 2016. But the overall trend is still heading in the wrong direction: fatalities have increased by 11 percent since 2012.

95,000 Deaths from Long-Term Exposure

In addition to more than 5,100 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.

Cutbacks in Enforcement, Inspectors and Funding

Despite the high cost to workers and the U.S. economy of workplace illness, injury and death, federal OSHA and other agencies continue to operate with insufficient resources:

- **US OSHA now has just 875 inspectors to cover 9 million U.S. workplaces.**
- **It would take 158 years** for OSHA to inspect all workplaces under its jurisdiction.
- **OSHA enforcement activity is down 7.4 percent** in the first five months of FY 2018,
- **The price of a worker's life: \$7,500** -- the median fine following a workplace fatality.
- **The FY 2019 proposed budget eliminates two critical safety programs** – OSHA's Susan Harwood Training Grants and the U.S. Chemical Safety Board

Who is Most at Risk?

- **Latinx workers:** 903 Latinx workers died on the job in 2017 representing a 15 percent increase since 2012, and 17 percent of all U.S. fatalities from workplace trauma.
- **Immigrant workers:** suffered 927 deaths from acute trauma at work in 2017, an increase of 12.5% since 2012.
- **Contract workers:** 811 contract workers died on the job in 2017, a 50 percent increase since 2011. This represents 16 percent of total U.S. deaths from workplace trauma.

Actions to offer better protection to Latinx, immigrant and contract workers include:

- Ending exploitation based on immigration status, culture, language or class
- Safety training in a language workers understand
- Safety compliance despite ethnic and racial differences
- Bilingual OSHA and state safety inspectors
- Host firms and staffing firms must be jointly responsible for workplace safety
- Proper safety training, equipment and support for all contract workers

THE 2019 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.

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(Companies are listed in alphabetical order)

AMAZON

Six worker deaths in seven months; 13 deaths since 2013.

ATLANTIC CAPES FISHERIES AND BJ'S SERVICES

\$675,000 settlement of sexual harassment case – after workers who complained were fired.

BEDROCK DETROIT

Cited for \$3,500 in safety violations, launched an aggressive campaign which included telling inspectors “how to do their jobs and who they were allowed to inspect.”

BEIZA BROTHERS HARVESTING

Miguel Angel Guzman Chavez, an immigrant farmworker, died from heat exhaustion on a Georgia tomato farm. OSHA fined Beiza Brothers Harvesting for exposing Chavez to “hazards of high ambient temperatures and working in direct sunlight.”

FACEBOOK AND ACCENTURE, COGNIZANT, PROUNLIMITED AND TECH SOLUTIONS

Low-paid moderators remove objectionable content from Facebook -- including hate speech, pornography, and images of suicides, murders and beheadings.

GENAN

Byron Jones, 26, pulled into a tire shredder and killed during his fourth day on the job.

INTEGRA HEALTH MANAGEMENT, INC.

A 25-year old social service worker was stabbed to death while visiting a client – after reporting safety concerns about a previous home visit

JOHNS HOPKINS HOSPITAL

Four out of five nurses report they have been victims of workplace violence; one out of four say Hopkins ignores these dangerous events.

MCDONALD'S USA

More than two dozen workers have filed EEOC complaints about sexual harassment; workers strike to protest the company's failure to act.

PURDUE PHARMA AND THE OPIOID INDUSTRY

Workers, suffering in pain from preventable injuries, are among the primary victims of America's opioid crisis. To sell painkillers, Purdue targeted patients with workplace injuries – and their doctors.

TOOMA ENTERPRISES

39-year old Jason Holmes dies in a trench collapse, with no shoring or trench box present.

XPO

One worker died and six women have suffered miscarriages in an overheated, high-stress warehouse. After an exposé and a union organizing drive, XPO closed the warehouse.

Death at Work: Are we doing enough to prevent fatalities?

- In Tampa, Florida a social service worker, working alone, is stabbed to death *after* she warned her supervisors about safety concerns.
- In Sheldon, Texas, 26-year old **Byron Jones** dies during his fourth day on the job at a massive tire recycling plant, crushed to death by a shredding machine which lacks proper safeguards.
- In Colquitt County, Georgia, immigrant worker **Miguel Angel Guzman Chavez** dies from heat exhaustion while picking tomatoes on a day when the heat index reached 105 degrees. He has been in the United States for less than a week.



Are employers doing enough to prevent the deaths of these and other workers?

Death at work in 2017

The U.S. Bureau of Labor Statistics (BLS), which compiles an annual Census of Fatal Occupational Injuries (CFOI), reports **5,147 deaths** due to acute workplace trauma in 2017, the most recent year for which data are available.¹

Almost all these fatalities are preventable. Byron Jones, Miguel Chavez, Stephanie Ross and thousands of workers would be alive and with their families today if their employers listened to workers, followed safety laws, and actively followed well-established protocols to reduce the risk of illness, injury and death.

The 5,147 workplace deaths from acute trauma reported by BLS in 2017 is a slight decrease from 5,190 deaths in 2016 but the overall trend is still heading in the wrong direction: fatalities have increased by 11 percent since 2012.²

¹ U.S. Bureau of Labor Statistics, "[Census of Fatal Occupational Injuries](#)," December 18, 2018

² *Ibid.*

Death from Long-term Occupational Exposure

In addition to deaths from acute trauma – events like a workplace homicide, getting crushed by a machine, or collapsing from heat exhaustion – workplace safety experts estimate that as many as **95,000** U.S. workers die each year from exposure to long-term occupational hazards.³

This terrible toll includes work-related cancer from toxic substances like asbestos and other carcinogens; respiratory and circulatory diseases; and other conditions linked to hazardous exposures.

In some cases, due to lack of proper safety training and the failure of employers to provide information about workplace hazards, workers may lose their lives without being aware they are suffering from an occupational illness.

Like deaths from acute trauma, fatalities from long-term occupational exposure are preventable, if steps are taken to recognize and eliminate workplace hazards. Employers frequently will not spend the time or money to take these actions on their own. An empowered workforce, combined with rigorous enforcement of safety laws, can make the difference between life and death in the workplace.

Cutbacks in Enforcement, Inspectors and Funding

Instead of taking all necessary steps to reduce the risk of workplace illness, injury and death, the U.S. Occupational Safety and Health Administration (OSHA) and other critical agencies are being required to operate with fewer resources.

- **US OSHA now has just 875 inspectors to cover 9 million U.S. workplaces.** This is the lowest number of inspectors in the 46-year history of the agency.⁴
- **It will take 158 years, with current resources, for OSHA to inspect all workplaces under its jurisdiction.**⁵
- **OSHA enforcement activity is down 7.4 percent** in the first five months of FY 2018, compared to the previous year.⁶
- **The price of a worker's life: \$7,500.** That's the median fine imposed on employers by U.S. OSHA following a workplace fatality.⁷

Despite a pressing need for more health and safety enforcement, training and regulation, the 2019 federal budget proposal from the U.S. Office of Management and Budget would zero out two critical programs:⁸

- **Susan Harwood Training Grants**, a \$10.5 million OSHA program which allow unions, workers' centers, employer trade associations, universities and other qualified organizations to provide health and safety training to vulnerable workers and hard-to-reach populations.

³ *Journal of Occupational and Environmental Hygiene*, "Global Estimates of the Burden of Injury and Illness at Work in 2012," Vol. 111, 2014 – Issue 5

⁴ National Employment Law Project, "[Workplace Safety Enforcement Continues to Decline in Trump Administration](#)," March 2019

⁵ AFL-CIO, "[Death on the Job: The Toll of Neglect](#)," April 2018

⁶ National Employment Law Project, "[Workplace Safety Enforcement Continues to Decline in Trump Administration](#)," March 2019

⁷ AFL-CIO, *op.cit.*

⁸ Office of Management and Budget, "[Budget of the U.S. Government](#)," Fiscal Year 2019

- **The U.S. Chemical Safety Board**, with a total FY 2018 budget of \$11 million. The agency investigates major chemical explosions and leaks, focusing on root cause analysis and preventing future major chemical incidents.

These two programs represent the tiniest fraction of a proposed \$4.75 trillion federal budget – but both have a large impact when it comes to improving conditions and understand safety hazards for workers and communities.

Action Needed to Protect Workers

Fortunately, during the past two budget cycles, bipartisan majorities in Congress have rejected efforts to eliminate Harwood training grants and the Chemical Safety Board. But significantly more funding is needed to give OSHA the personnel power to do its job effectively. Furthermore, rather than simply stopping harmful actions, legislators should consider pro-active measures to provide better protection against preventable risks in the workplace.

Three important bills are now before Congress:

HR 1309, The Workplace Violence Prevention for Health Care and Social Service Workers Act⁹

Health care and social service workers are five times as likely to suffer a serious assault on the job than other workers - causing pain and sometimes death that is often preventable. H.R. 1309 would compel OSHA to issue a standard requiring health care and social service employers to establish a violence prevention plan.

HR 1074, The Protecting America's Workers Act (PAWA)¹⁰

Despite a well-documented need to better protect workers, the U.S. Occupational Safety and Health Act OSH act has never been meaningfully updated since it was enacted in 1970. PAWA will save lives by:

- Extending coverage to state and local employees in states currently uncovered
- Improving whistleblower protections for workers who call attention to unsafe working conditions
- Deterring employers from flouting the law by increasing penalties for serious violations.

S 1082, The Bringing an End to Harassment by Enhancing Accountability and Rejecting Discrimination (BE HEARD) in the Workplace Act:¹¹

This legislation would put an end to mandatory arbitration and non-disclosure agreements, which are used to silence victims and protect harassers; require employers to enact harassment prevention strategies; and expand protections to cover more workplaces and populations

⁹ Congress.gov, [“H.R.1309 - Workplace Violence Prevention for Health Care and Social Service Workers Act,”](#) accessed April 2, 2019

¹⁰ Congress.gov, [“H.R.1074 - Protecting America's Workers Act,”](#) accessed April 2, 2019

¹¹ Congress.gov, [“S.1082 - A bill to prevent discrimination and harassment in employment,”](#) accessed April 11, 2019

Who is most at risk?

In 2017, 903 Latinx workers died on the job representing a 15 percent increase since 2012, and 17 percent of all U.S. fatalities from workplace trauma.¹²

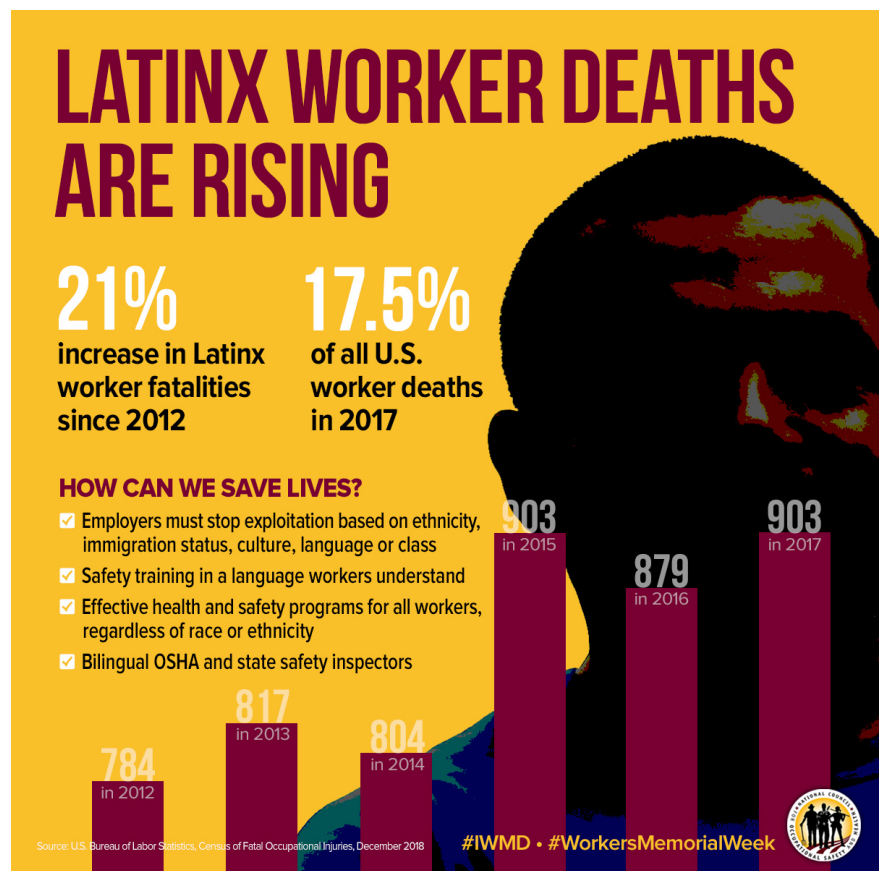
A nationwide survey by the Pew Research Center shows that more than half of Latinx respondents report they have experienced racial discrimination or unfair treatment.¹³ Sadly, this plays a role in exposing Latinx workers to greater risks at work, since they often do not receive proper training or safety equipment or materials in their own language.

Immigrant workers suffered 927 deaths from acute trauma at work in 2017, an increase of 12.5 percent since 2012 and 18 percent of total U.S. workplace fatalities.¹⁴

Contract workers are also frequently denied proper 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 eleven contract workers died on the job in 2017, a 50 percent increase since 2011. This represents 16 percent of total U.S. deaths from workplace trauma.¹⁵

Sensible and achievable actions can offer better protection to Latinx, immigrant and contract workers:

- Ending exploitation based on immigration status, culture, language or class
- Safety training in a language workers understand
- Safety compliance despite ethnic and racial differences
- Bilingual OSHA and state safety inspectors
- Host firms and staffing firms must be jointly responsible for workplace safety
- Proper safety training, equipment and support for all contract workers



¹² U.S. Bureau of Labor Statistics, *op.cit.*

¹³ Pew Research Center, [“Roughly half of Hispanics have experienced discrimination,”](#) June 29, 2016

¹⁴ U.S. Bureau of Labor Statistics, *op.cit.*

¹⁵ *Ibid.*

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There is no reason for a worker to visit a potentially dangerous client alone. Or to get crushed to death by an improperly designed recycling machine. Or to die from heat exposure without access to breaks, shade and water. Yet these preventable and tragic incidents continue

In observance of Workers' Memorial Week, National COSH is identifying these "Dirty Dozen" employers who expose workers and communities to unnecessary risks.

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; and
- 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.¹⁶ This matches the experience of workplace safety professionals, who know that joint union-management safety programs can provide important resources to protect all workers.

National COSH Team

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¹⁶ *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

Amazon

*Headquarters in Seattle, Washington;
Incidents in facilities and operations in California, Maryland and Texas*



Aviators Rick Blakely, Sean Archuleta and Conrad Jules Aska died when an Atlas Air jet carrying cargo for Amazon crashed into Trinity Bay in Texas

- **Six workers have died at U.S. Amazon facilities or operations since November 2018.**
- **Death toll at Amazon since 2013: 13 workers dead**
- **Recent investigations have uncovered:**
 - **a high incidence of suicide attempts**
 - **workers urinating in bottles because they are afraid to take breaks**
 - **workers left without resources or income after on-the-job injuries**

Amazon was named a Dirty Dozen employer in April 2018. The e-commerce giant posted \$11.2 billion in profits in 2018 while paying no federal income tax. Despite these vast resources, there is little evidence the company has made a significant effort to address worker complaints about stress, overwork and other conditions which can lead to illness, injuries and even fatalities.

All six workers who died at Amazon facilities and operations during the past six months were employees of other firms or contract workers, rather than full-time Amazon employees.

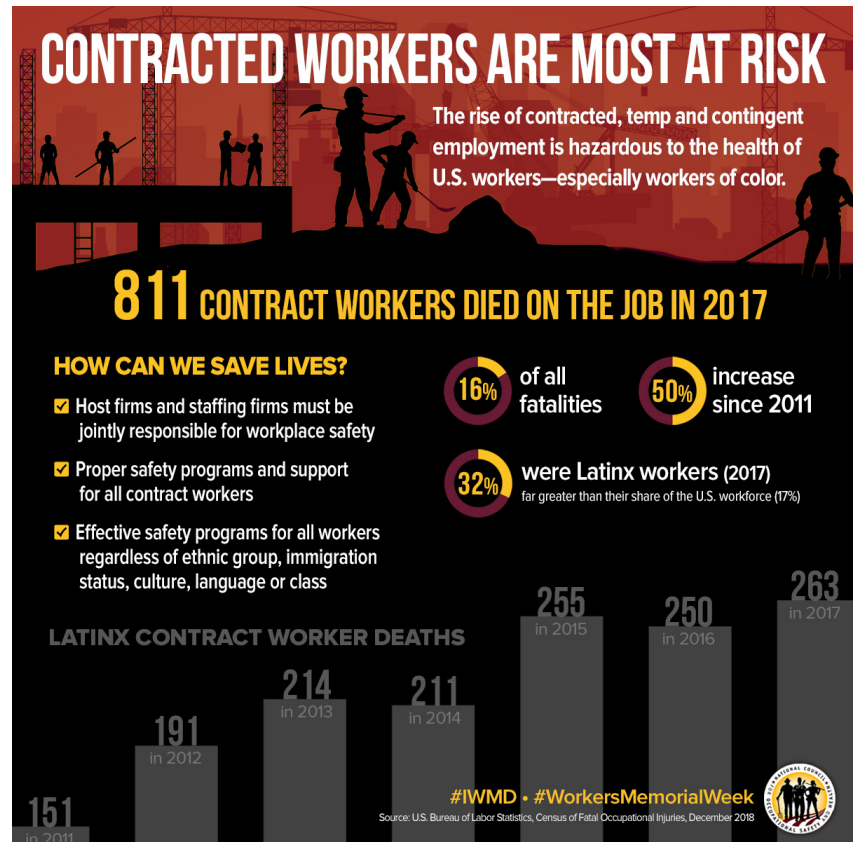
- **Andrew Lindsay** and **Israel Espana Argote**, contract workers, died when the wall of an Amazon warehouse collapsed during a severe storm in Baltimore in November 2018.
- **Brien James Daunt** fell to his death during construction of an Amazon warehouse in Oildale, CA in January 2019. Falls from a height are a well-known – and preventable – hazard in the construction industry, with long-established protocols to reduce risks. CalOSHA is investigating the incident.
- Aviators **Ricky Blakely**, **Conrad Jules Aska** and **Sean Archuleta** died in February when an Air Atlas plane, carrying cargo for Amazon, crashed into Trinity Bay, southeast of Texas. Blakely and Aska worked for Air Atlas and were members of the Airline Professional Association (APA), Teamsters Local 224. The National Transportation Safety Board (NTSB) is investigating the incident.

Prior to the tragic accident, Atlas Air pilots told Business Insider “they thought an accident was inevitable” due to rapid growth, low pay and “inexperienced pilots taking to the skies.”

In April, pilots working for Atlas Air and two other freight airlines that carry Amazon Cargo – Southern Air and ABX Air – protested poor working conditions during demonstrations at the Cincinnati/Northern Kentucky International Airport.

Investigations of working conditions at Amazon show the high price paid by workers for the company's rapid delivery system. Workers labor at a relentless pace, with constant monitoring of their activities. This high stress environment leads to physical and emotional ailments – but reports indicate that the company does not provide adequate support to those suffering on-the-job injuries.

- **Between 2013 and 2018, the Daily Beast found 189 calls to 911 for “suicide attempts, suicidal thoughts, and other mental-health episodes”** from 46 U.S. Amazon warehouses in 17 states. “It’s this isolating colony of hell where people having breakdowns is a regular occurrence,” said Jace Crouch, a former Amazon employee at a Lakeland, Florida warehouse.
- **James Bloodworth, who spent three weeks undercover as an order picker in an Amazon warehouse** in Rugeley, England, found “a workplace environment in which decency, respect and dignity were absent.” Bloodworth saw a Coke bottle filled with urine on a warehouse shelf and reports that his co-workers wouldn’t take bathroom breaks for fear of being tagged for “missing productivity.”
- **Bloodworth reports the company treated illness as a “misdemeanor,”** assigning him a point that could have led to dismissal when he took a sick day. But plenty of people get sick or injured while working at Amazon. Freedom of information requests by the GMB union uncovered 600 ambulance calls to the company’s UK warehouses over a three-year period.
- **Injured workers are treated poorly by Amazon,** reports *The Guardian*. The newspaper found “numerous cases of Amazon workers suffering from workplace accidents or injuries in its gigantic warehouse system and being treated in ways that leave them homeless, unable to work or bereft of income.”



For example, Vickie Shannon Allen, a former worker at an Amazon warehouse in Texas, was dropped as a patient by a company doctor after an injury sustained while working on a machine that lacked proper guarding. She turned down a \$3,500 settlement that would have required her not to speak about her injuries and wound up living in her car in the parking lot of the warehouse where she once worked.

Jeff Bezos, founder and CEO of Amazon and its single largest shareholder, is currently the richest person in the world. His fortune estimated at \$131 billion.

Agenda for Action

Workers and allies are organizing across the country to demand safe, decent conditions at Amazon and other warehouses, including demonstrations, walkouts, and calls for public accountability.

COSH groups, along with community and labor supporters, are calling for public agencies to require Amazon and other companies that receive taxpayer subsidies to strengthen protections, including allowing workers to join a union through a card check process, a key way to ensure that workers have a strong vehicle to address safety concerns and other workplace issues.

A New Jersey coalition, including the New Jersey Work Environment Council, a National COSH affiliate, is developing a code of conduct for warehouses that receive public resources.

Sources: *Business Insider*, [“Pilots who fly for Amazon Air are protesting poor working conditions and pushing for a better contract,”](#) April 11, 2019; *Business Insider*, “An Amazon Air plane crashed in February, killing all 3 people on board. Weeks earlier, several pilots said they thought an accident was inevitable,” March 21, 2019; *The Guardian*, [“Revealed: Amazon employees are left to suffer after workplace injuries,”](#) April 2, 2019; Daily Beast, [“‘Colony of Hell’: 911 Calls From Inside Amazon Warehouses,”](#) March 11, 2019; Forbes, [“This is the Richest Person in the World,”](#) March 4, 2019; Yahoo Finance, *USA Today*, [“Amazon Prime Air plane crash: Pilots admit cargo planes face ‘higher levels of risk’,”](#) February 27, 2019; [“Amazon will pay \\$0 in taxes on \\$11,200,000,000 in profit for 2018,”](#) February 16, 2019; 23ABC News Bakersfield, [“Man who fell, died at Amazon fulfillment center construction site identified,”](#) January 12, 2019; *Baltimore Business Journal*, [“Two dead in partial building collapse at Amazon warehouse in Southeast Baltimore,”](#) November 3 2018 *The Guardian*, [“I worked in an Amazon warehouse. Bernie Sanders is right to target them,”](#) September 17, 2018; *The Guardian*, [“Accidents at Amazon: workers left to suffer after warehouse injuries,”](#) July 30, 2018; Vice, [“Ambulances Were Called to Amazon Warehouses 600 Times in Three Years,”](#) May 31, 2018

The Dirty Dozen

Atlantic Capes Fisheries and BJ's Services

Cape May, NJ and Fall Rivers, MA

- **At a New Bedford, MA seafood processing plant, managers, supervisors and co-workers repeatedly harass female co-workers**
- **Harassment includes unwanted touching, solicitations for sex and crude comments.**
- **Two women are fired after filing complaints with the U.S. Equal Opportunity Employment Commission**
- **In a January 2019 settlement, Atlantic Capes Fisheries and BJ's Services agree to prevent misconduct and make payments to workers**

"If you want to work here, you have to let me do what I want." That's the chilling message Margarita Fuentes Herrera received from a male supervisor in 2013, during her first week on the job at Atlantic Capes Fisheries, a seafood processing plant in Fall River, Massachusetts.

The threat against Herrera was not an isolated incident. At least three other women in the plant – all immigrant workers – were routinely harassed, including supervisors and managers who would touch their hips and buttocks.

With help from the Centro Comunitario de Trabajadores, a workers' center serving the immigrant community in New Bedford and surrounding communities, Herrera and her co-workers filed a harassment complaint with the U.S. Equal Opportunity Employment Commission (EEOC).

Soon afterwards, two of the workers who filed the complaint -- Mirna Pacaja and Paula de Leon Carrillo -- were fired by Atlantic Capes and BJ's Services.

In September 2017, after an unsuccessful attempt to reach a settlement, the EEOC filed a lawsuit against both companies. The legal action described repeated incidents of physical and verbal harassment, including "unwanted touching, solicitations for sex, and crude comments about female workers' bodies."

"Despite knowledge of the pervasive harassment," the agency charged, "neither ACF nor BJ's made any efforts to stop the harassment or punish the harassers."

In January 2019, the two companies agreed to settle the complaint. (ACF had acquired the Falls River plant from another company in 2013, after the original complaints of harassment.) Neither firm admitted wrongdoing, but agreed to a \$675,000 payment, to be shared by the four women who originally filed complaints and others who came forward.

After the settlement was announced, de Leon Carillo -- who no longer works at Atlantic Capes -- told the *Boston Globe* that she feels connected to other women who have spoken out as part of the #MeToo movement.

"I feel a connection, because what they suffered, I suffered in my own flesh," she said. "I feel proud of them, and of myself... I had the courage to lift my voice."



Adrian Ventura, Executive Director of Centro Comunitario de Trabajadores addressing Atlantic Capes Fisheries workers

Agenda for Action

Under the consent decree signed with the EEOC in January, Atlantic Capes Fisheries and BJ's Service must:

- Create and/or revise policies prohibiting sex discrimination, including harassment;
- Provide sexual harassment training to managers and workers;
- Policies and training must be available in English and Spanish; and
- Track and investigate complaints of sexual harassment and provide copies of complaints to the EEOC.



Workers at Atlantic Capes Fisheries want clear language and appropriate sexual harassment training.

Strong measures are needed to ensure that other companies like Atlantic Capes engage in proactive measures to avert sexual harassment, and to penalize those that fail to act. The proposed *Bringing an End to Harassment by Enhancing Accountability and Rejecting Discrimination in the Workplace Act* (BE HEARD), introduced by Senator Patty Murray (D-WA) and Rep. Katherine Clark (D-MA) in April 2019, is intended to protect workers and hold employers accountable.

Sources: *Boston Globe*, [“Settlement reached in sexual harassment case against Fall River seafood plant,”](#) January 31, 2019; *The Herald News*, [“Atlantic Capes Fisheries, staffing agency to pay \\$675,000 to settle sex harassment lawsuit,”](#) January 31, 2019; *Business Insurance*, [“Fisheries company, staffing agency settle harassment suit,”](#) January 31, 2019; *Seafood Source*, [“Atlantic Capes Fisheries settles sexual harassment suit for USD 675,000,”](#) January 31, 2019; U.S. Equal Opportunity Employment Commission – Press Release, [“Atlantic Capes Fisheries & BJ’s Service Co. to Pay \\$675,000 to Settle EEOC Sex Harassment and Retaliation Lawsuit,”](#) January 30, 2019

Bedrock Detroit

Detroit, Michigan

- In 2016, Michigan OSHA cites Bedrock – owned by billionaire Dan Gilbert – and proposes \$3,500 in fines for exposing workers to hazards, including unguarded windows 34 stories off the ground
- Bedrock aggressively challenges the citations, scheduling a meeting with top state officials and a follow-up session where they told state safety officials “how to do their jobs and who they were allowed to inspect.”
- Bedrock’s bullying tactics have a “chilling effect” on safety oversight, resulting in fewer inspections, fines and citations

Billionaire Dan Gilbert owns more than 100 companies, including mortgage lender Quicken Loans, the NBA Cleveland Cavaliers, several casinos, and real estate and development ventures in Detroit and elsewhere.

Bedrock Detroit is a Gilbert-owned commercial real estate company “specializing in the strategic development of urban cores.”

Despite Gilbert’s vast holdings, executives at Bedrock Detroit reacted aggressively when the company was hit with a modest fine -- \$3,500 -- for exposing workers to safety hazards during construction at the David Stott building in Detroit. The violations included unguarded windows in a work area 34 floors above the ground.

According to a January 2019 investigation published in the *Detroit Free Press*, Bedrock executives reacted by scheduling a meeting in May 2017 at the Lansing offices of then-Michigan Governor Rick Snyder. The governor did not attend -- but members of his executive staff did, along with senior managers from the Michigan Occupational Safety and Health Administration (MIOSHA), the agency that issued the fines.

Bedrock executives told state officials that as owners and developers of real estate, they were not day-to-day managers and therefore could not be cited for safety violations. The *Free Press* found, however, that Bedrock Detroit frequently acted as a general contractor and directly supervised construction activities on properties owned by the company.

Two weeks later, Bedrock executives met with veteran MIOSH inspectors to make their case that the company was “exempt from inspection” because the firm does not “control its construction sites.” During the session, the *Free Press* reports, “industry officials [were] schooling experienced inspectors on how to do their jobs and who they were allowed to inspect.” The safety citations resulting from the 2016 inspection of the Stott construction site were dismissed. In addition, according to the newspaper:

The meetings between MIOSHA management and Bedrock leadership have had a chilling effect on agency oversight of Bedrock and its contractors, according to sources. A Free Press review of MIOSHA records appears to support their assertions. Inspections and proposed penalties have fallen off at Bedrock-owned properties since the Stott was inspected.

In the two years leading up to and including that inspection, MIOSHA opened six inspections of 14 employers working at Bedrock properties, found 31 violations and collected \$21,000 in penalties. In the two years after



Billionaire Dan Gilbert. Executives at Bedrock Detroit, one of many firms he owns, reacted aggressively when the company was cited for safety violations.

the Stott inspection, MIOSHA opened three inspections of four employers contracted to work at Bedrock properties, found two violations and assessed no penalties.

“Safety has been and will always be the top priority at all of Bedrock’s work sites,” stated Bedrock CEO in a response to the *Free Press*. Others are concerned, however, that a firm owned by a wealthy and well-connected investor appears to be using its clout to avoid regulatory oversight.

“An enforcement agency should never be influenced by power or money,” says Ken Moore, president of the Michigan State Employees Association (MSEA), the union representing MIOSHA inspectors.

“For anyone to suggest a company can dictate when MIOSHA should come or shouldn’t come, it circumvents the whole purpose of the law, which gives it the authority to do inspections,” says Celeste Monforton, a lecturer on public health at Texas State University and a former official at U.S. OSHA and the U.S. Mine Safety and Health Administration.

Agenda for Action

- Employers must be held accountable to equal treatment of all employers, regardless of size or political influence
- Agencies such as Federal and State OSHA should avoid interference with professional safety inspectors, who must act independently when applying safety laws and regulations
- Employers must be held accountable for safety violations based on fair enforcement of applicable law – not claims by property owners that “someone else” is responsible for safety.

Source: Bedrock Detroit; Rock Ventures; *Detroit Free Press*, “[Sources: Gilbert's Bedrock lectured inspectors on how to do their jobs,](#)” January 10, 2019

Beiza Brothers Harvesting

Moultrie, Georgia

- Miguel Angel Guzman Chavez, an immigrant farmworker, dies from heat exhaustion on a Georgia tomato farm – less than one week after arriving in the United States
- OSHA fines Beiza Brothers Harvesting for exposing Chavez to “hazards of high ambient temperatures and working in direct sunlight.”
- As temperatures rise due to climate change, millions who work outdoors and indoors are at risk of heat stress – but there is still no comprehensive federal standard to protect workers

“He came looking for a better way of life,” Colquitt County Coroner Verlyn Brock told the *Moultrie Observer*. Brock was reflecting on the tragic death of Miguel Angel Guzman Chavez, a 24-year old immigrant farmworker from Mexico, who arrived in the United States on June 20th, 2018.



Five days later, Chavez was dead. He collapsed while picking tomatoes on a day when the heat index reached 99.1 degrees. According to an OSHA investigation, Chavez

“was overexerted and began to show symptoms of heat exhaustion. The employee passed out, and was taken to a nearby medical facility where he died.”

The U.S. Occupational Safety and Health Administration (OSHA) fined Beiza Brothers Harvesting, a labor contracting firm, over \$12,000 for Chavez’ death, citing the company for failure to comply with the “general duty” to provide a safe workplace, as well as failure to train workers about hazardous chemicals. After an informal settlement in January 2019, the fine was reduced to \$10,348.

As climate change continues to increase temperatures in the U.S. and around the globe, more than 15 million workers with outdoor assignments in construction, farming, mining, transportation and other industries are at risk of heat stroke and heat exhaustion. Exposure to extreme heat can be fatal, as evidenced by the untimely – and preventable – death of Miguel Chavez.

OSHA was successful in using the general duty clause of the Occupational Safety and Health Act to enforce protections against extreme heat in this case. A more recent ruling by the U.S. Occupational Safety and Health Review Commission (OSHRC) – *U.S. Secretary of Labor v A.H. Sturgill* -- calls into question the agency’s ability to use the general duty clause for this purpose.

An OSHA citation against A.H. Sturgill, a roofing contractor, following the death of a temporary employee working in extreme heat, was overturned by the OSHRC. Commissioner Heather McDougall wrote that OSHA was attempting to “construe the general duty clause to cover work situations in ways that Congress never intended.”

Agenda for Action

- Heat prevention programs must be provided for all outdoor and indoor workers without fear of retaliation.
- A coalition of 130 organizations – including Public Citizen, the United Farmworkers and National COSH—has petitioned OSHA to protect workers by issuing a specific standard requiring employers to reduce the risk of heat stress for all workers. Congress must act on this urgent issue.
- Even without a specific standard in place, OSHA needs to require employers to protect workers from heat stress under the General Duty clause of OSHA.
- COSH groups and allies across the country are also pressing for state measures that require worker protections from heat-related illness.



Sources: U.S. Occupational Safety and Health Administration, [Inspection: 1325173.015 - Beiza Brothers Harvesting, L.L.C.](#); *Business Insurance*, ["Heat-related citations against roofer vacated in general duty clause test,"](#) March 1, 2019; *Moultrie Observer*, ["OSHA fines company after farm worker dies,"](#) January 10, 2019; *Mother Jones*, ["Farmworkers Are Dying from Extreme Heat,"](#) August 24, 2018; [Public Citizen to Acting Assistant Secretary of Labor Loren Sweatt](#), July 17, 2018; *Moultrie Observer*, ["Farmworker, 24, dies after collapsing in field,"](#) June 25, 2018

The Dirty Dozen

Facebook and Accenture, Cognizant, ProUnlimited and Tech Solutions

Menlo Park, CA; Phoenix AZ; Austin, TX

- **Facebook contracts with outside companies for low-paid moderators who remove objectionable content from its global social network**
- **“Every day, every minute... heads being cut off” Moderators review hundreds of posts during a shift – including hate speech, pornography, and images of suicides, murders and beheadings**
- **A former employee says: “I don’t think it’s possible to do the job and not come out of it with some acute stress disorder or PTSD.”**

National COSH, like millions of businesses and non-profit organizations and billions of other users worldwide, uses Facebook to communicate with friends, followers and colleagues. We expect Facebook to quickly remove objectionable content – or to prevent it from getting posted in the first place.

Facebook relies on its vast army of users, rather than paid employees, to flag offensive posts. Once content has been flagged, one of Facebook’s 15,000 moderators, spread across the globe, will review it to see if the words or images violate an ever-changing set of internal company guidelines. If so, the post will be deleted.

The vast majority of Facebook moderators do not actually work for Facebook. Instead, moderators work for outside firms like Accenture in Austin Texas; Cognizant in Phoenix Arizona, Pro Unlimited in Menlo Park, California, or New Jersey-based US Tech Solutions.

Moderators suffer PTSD: **Selena Scola, Erin Elder and Gabriel Ramos**, three former Facebook moderators employed by outside companies to monitor content, have filed a class action lawsuit against the social media giant. The company, they say, is violating California law by failing to provide a safe work environment.

“[E]xposure to highly toxic and extremely disturbing images through Facebook’s content review systems,” the plaintiffs say, has led them to suffer “significant psychological and trauma and/or post-traumatic stress disorder (PTSD).”

Scola, who originally filed the lawsuit against Facebook in September of 2018, was employed by ProUnlimited. Elder and Ramos joined the lawsuit in March 2018. Elder worked for ProUnlimited and Accenture, while Ramos was employed by US Tech Solutions, ProUnlimited, Accenture and AccentureTech.

Facebook responded to Scola’s original complaint by stating that she had no right to sue the company because she was never a direct employee.



“Every day, every minute... heads being cut off.” *The Guardian* interviewed several Facebook moderators in 2017. “There was literally nothing enjoyable about the job,” one moderator told the newspaper. “You’d go into work at 9 am every morning, turn on your computer and watch someone have their head cut off. Every day, every minute, that’s what you see. Heads being cut off.”

“Every day people would have to visit psychologists,” the worker said. “Some couldn’t sleep or they had nightmares.”

Training assignment: Would you delete a murder video? A detailed investigation by *The Verge*, based on interviews with current and former employees of Cognizant in Phoenix, found a sharp contrast with Facebook’s plush headquarters in Silicon Valley:

“[C]ontractors labor in an often cramped space where long lines for the few available bathroom stalls can take up most of employees’ limited break time. And while Facebook employees enjoy a wide degree of freedom in how they manage their days, Cognizant workers’ time is managed down to the second.”

Cognizant employees, *The Verge* reports, earn an average of \$28,800 annually – a fraction of the average yearly pay at Facebook, which exceeds \$240,000. One Cognizant employee left the room sobbing and suffered panic attacks after a training exercise. She was required, in front of other trainees, to demonstrate whether she would delete a video which showed a murder in progress.

Many Cognizant employees, reports *Verge* technology editor Casey Newton, “develop severe anxiety while still in training, and continue to struggle with trauma symptoms long after they leave.”

Moderators frequently leave their high-stress jobs after a year or less. Although the effects of watching violent imagery for hours on end may linger for years, neither Facebook or Cognizant provides counseling or any other mental health support for former employees.

Agenda for Action

- **Safe tools and mental health treatment:** The class action lawsuit against Facebook calls on the company to provide “content moderators with safe tools, systems, and mandatory ongoing mental health” and to “establish a medical monitoring fund for testing and providing mental health treatment” for current and former moderators.
- **Pay raise for moderators:** After writing in detail about the difficult working lives of Facebook moderators, *The Verge*’s Casey Newton told *NPR* that Facebook should raise the salary of moderators.

"When you think of other people in these similar first responder-type roles — a police officer, a firefighter, a social worker — those folks are in many cases going to be making something more like \$60,000 a year," said Newton. "They're policing the terms of our public debate."

Sources: [Scola, Elder, and Ramos v. Facebook](#), Superior Court of California, County of San Mateo; National Public Radio, [“Propaganda, Hate Speech, Violence: The Working Lives Of Facebook's Content Moderators,”](#) March 2, 2019; CNet, [“Facebook faces complaints from more former content moderators in lawsuit,”](#) March 1, 2019; *The Verge*, [“The Trauma Floor: The secret lives of Facebook moderators in America,”](#) February 25, 2019; *The Guardian*, [“Underpaid and overburdened: the life of a Facebook moderator,”](#) May 25, 2017

The Dirty Dozen

Genan, Inc.

Sheldon, Texas and Viborg, Denmark



Byron Jones, 26, died on his fourth day at work at Genan, Inc.

- **Byron Jones, 26, dies in January 2018 on his fourth day on the job at a Genan, Inc. tire recycling plant in Sheldon, Texas**
- **Jones, father of a three-year old daughter, is pulled into a tire shredder and killed**
- **Following an investigation, OSHA issues 20 citations against the company, with recommended fines of over \$200,000. Fines are later reduced to \$100,000**

On January 26, 2018, Byron Jones was on the job for his fourth day of work at a tire recycling facility in Sheldon, Texas.

The plant, owned by Denmark-based Genan, Inc., is the largest facility of its kind in the world. Despite Genan's size and resources, the company failed to provide a safe working environment. Byron Jones lost his life as a result of this preventable tragedy. He was 26 years old and left behind a wife and a three-year old daughter.

Jones was clearing a tire jam inside a shredder; when he reset a functioning light curtain, the machine restarted. As a result, he was pulled into the machine and killed.

Under U.S. safety laws and standards, hazardous machines such as shredders must be designed and operated so they cannot restart when a worker is at risk while performing repairs.

Following an investigation, the Occupational Safety and Health Administration (OSHA) cited Genan, Inc. in 2018 for 20 violations of U.S. safety law, including 16 serious violations, with recommended fines of over \$200,000. Following an informal settlement, one of the serious violations was dismissed, and fines reduced to \$100,000.

Genan, OSHA stated, failed to provide a workplace “free from the recognized hazards which are causing or likely to cause death or serious physical harm... employees were exposed to dust explosion, deflagration and fire hazards caused by equipment used to recycle tires.”

The company was cited for violating safety standards on locking out and tagging hazardous equipment, requirements for scaffolding, and permits for working in a confined space.

Agenda for Action

- In recycling and other industries, employers must prevent fatalities and other severe harm to workers by safeguarding all equipment and establishing an effective health and safety program.
- Recycling is a high hazard industry, with rates of injury higher than other industries, including other sectors of the waste recovery industry. Employers and OSHA should initiate Special Emphasis Programs to improve health and safety programs in this industry
- In 2015, National COSH, MassCOSH, the Partnership for Working Families and GAIA published “Sustainable and Safe Recycling: Protecting Workers Who Protect the Planet,” a report on hazards in the recycling industry and how to address them. Key recommendations include:
 - Evaluation of contractors based on health and safety practices;
 - Requiring contractors to submit a written Illness and Injury Prevention Program; and
 - Require contractors to promptly abate any OSHA violations.

Sources: KTRE-TV, “[OSHA levies \\$100K in fines against tire shredding facility for death of former Crockett man](#),” Sept. 4, 2018; *Houston Chronicle*, “[Houston-area father killed after getting caught in industrial shredder](#),” Jan. 31, 2018; [U.S. Occupational Safety and Health Administration, Inspection Detail, Inspection: 1291035.015 - Genan Inc.](#); GAIA, Partnership for Working Families, MassCOSH, NationalCOSH, “[Sustainable and Safe Recycling: Protecting Workers Who Protect the Planet](#),” 2015

Integra Health Management

Owings Mills, MD and Tampa, FL



Social worker Stephanie Ross, 25, was stabbed to death by a client.

- **A 25-year old social service worker is stabbed to death while visiting a client on assignment for Integra**
- **The murdered social service worker had reported safety concerns after a previous home visit with this client, who had a history of violent behavior**
- **Following the tragic incident, Integra is cited and fined by OSHA. The company appeals the citations**
- **In a landmark ruling, the U.S. Occupational Safety Health and Review Commission upholds the citations, recognizing OSHA's authority to hold employers accountable to prevent workplace violence**

Integra is a social service company which contracts with clients, referred by health insurers, who need assistance in coordinating medical care for chronic conditions. The company employs case workers who visit clients at their homes to provide services.

In October 2012 Stephanie Ross, a 25-year old Integra caseworker in Tampa, Florida visited a client with a history of violent, criminal behavior. Following her first visit, she filed a progress report stating that the client:

...said a few things that made [her] uncomfortable... [S]he was not comfortable being inside alone with [him] and will either site outside to complete [the] assessment or ask another [service coordinator] to accompany her.

Despite this warning, the social service worker was assigned to complete several more home visits by herself. On the fourth visit, in December 2012, the client stabbed her nine times and left her bleeding on a front lawn. She died later that day.

Following the tragedy, the U.S. Occupational Safety and Health Administration (OSHA) investigated and cited Integra, under the general duty clause of the OSH Act, for failing to provide a workplace free from the hazard of workplace violence. OSHA recommended a fine of \$7,000.

Integra appealed the citations, which were upheld by an OSHA administrative law judge. Integra appealed again to the U.S. Occupational Safety and Health Review Commission. (OSHRC). National COSH, along with the Service Employees International Union and the National Association of Social Workers, filed an *amicus curiae* brief.

In a landmark decision issued in March 2019, the OSHRC upheld the citation and fines against Integra. The Commission rejected Integra’s argument that workplace violence was not a foreseeable hazard for the company’s caseworkers, and upheld OSHA’s authority to address workplace violence under the general duty clause of the OSH Act.

“The Integra decision is significant,” attorneys Mark S. Druex and Alexandra M. Romero wrote in *Lexology*, “because it eliminates any doubt that... employers are on notice of their responsibility to address the risk of violence.”

Agenda for Action

In its original citation against Integra Health Management, OSHA specified steps a social service employer should take to reduce the risk of workplace violence:

- Create a written workplace violence prevention program,
- Determine the behavioral history of clients,
- Have procedures in place to inform staff of previous incidents of violence,
- Train employees to recognize aggressive behavior and train them in methods of de-escalation,
- Provide staff members with reliable means of summoning assistance, and
- Establish liaisons with local law enforcement agencies.

The *Workplace Violence Prevention for Health Care and Social Service Workers Act*, introduced in Congress in February 2019 by Rep. Joe Courtney (D-CT) and Rep. Bobby Scott (D-VA), would require OSHA to issue a workplace violence standard covering the healthcare and social service industries.

Sources: *Lexology*, [“In a Case of First Impression, OSHRC Holds that Incidents of Workplace Violence Are Citable Under the OSH Act’s General Duty Clause,”](#) March 26, 2019; *EHS Daily Advisor*, [“Workplace Violence Citation from OSHA Upheld in Significant Decision,”](#) March 14, 2019; *EHS Today*, [“OSHRC Holds Integra Health Management Accountable for Workplace Violence,”](#) March 8, 2019; *Occupational Health and Safety*, [“OSHRC Affirms Citation in Workplace Violence Case,”](#) March 8, 2019; U.S. Occupational Safety and Health Review Commission, [Secretary of Labor v. Integra Health Management, Inc. – Decision, March 4, 2019](#); NASW, National COSH, SEIU, [Secretary of Labor v. Integra Health Management, Inc. – Brief of Amici Curiae](#), December 18, 2015

Johns Hopkins Hospital

Baltimore, Maryland



Nurses at Johns Hopkins Hospital in Baltimore rally for job safety and workplace rights

- **Four out of five nurses at Johns Hopkins Hospital (JHH) in Baltimore report they have been victims of workplace violence**
- **One out of four say JHH ignores these dangerous events**
- **Only one in 15 nurses at JHH say they always have the gloves they need “to protect from hazardous materials”**
- **A *Tampa Bay Times* investigation finds that although Johns Hopkins “wrote the rules on patient safety... its hospitals don’t always follow them.”**

Johns Hopkins Hospital in Baltimore is ranked by U.S. News and World Report as the best hospital in Maryland and the third-best in the nation. But an investigation by *The Tampa Bay Times* found that despite a reputation as a “national leader in patient safety... the renowned Johns Hopkins Hospital in Baltimore and its five sister hospitals haven’t always followed those principles.”

The newspaper’s findings are confirmed by nurses at JHH’s flagship hospital in Baltimore. Nurses began a union organizing drive in 2018, in part to address concerns about unsafe working conditions.

According to a 2018 survey conducted by National Nurses United at Johns Hopkins Hospital in Baltimore:

- **79 percent of nurses reported they experienced workplace violence,**
- **27 percent said the hospital ignores these dangerous events,**
- **Only five percent of JHH nurses say they “always” have the staff they need to provide safe patient care, and**
- **Only six percent of JHH nurses report they have the quality of safety gloves they need to protect them from chemical exposure and other hazards.**

The Tampa Bay Times investigation, published in December 2018, uncovered at least nine cases where hospitals that are part of the Johns Hopkins health system were found “making preventable errors or setting aside basic safety rules.”

In one instance, according to court records, a pediatric burn unit at JHH in Baltimore continued operations “after its leader begged administrators to shut it down, saying the unit had made mistakes that left children disfigured.”

The most important rule developed by Johns Hopkins to reduce medical errors, reports *The Times*, is straightforward: “Listen to the frontline staff.”

But when nurses in Baltimore advocated for a union to address high workloads, inadequate staffing and other issues that impact safe patient care, hospital executives did the exact opposite. The hospital implemented what one nurse called “an intense anti-union campaign.”

Union supporters say the hospital fired RN Vivian Obijekwu in retaliation for her union activity. Obijekwu, who was seven months pregnant and had recently requested family leave, was terminated shortly after she led a delegation of African-American nurses who confronted management about patient safety and equality in the workplace.

The U.S. National Labor Relations Board (NLRB), charged with enforcing U.S. labor law, has filed three unfair labor practice complaints against JHH in Baltimore. The hospital, NLRB officials say, violated federal law by preventing nurses from exercising their right to communicate with one another about workplace issues.

Agenda for Action

Nurses at Johns Hopkins Hospital in Baltimore continue to advocate for union representation to address concerns about safe staffing and patient care.

- Citing *The Tampa Bay Times* investigation as well as safety issues raised by RNs, an editorial in *The Johns Hopkins News-Letter*, a student newspaper, states:

“Hopkins has violated patient trust and failed to uphold the core principle of the Hippocratic Oath. We can’t allow these mistakes to be repeated, because they can mean the difference between life and death.”

“It’s up to us as students,” the newspaper writes, to carry on the mission of our founder” to provide quality health care and serve as a community resource.

- ***The Workplace Violence Prevention for Health Care and Social Service Workers Act***, introduced in February by Rep. Joe Courtney (D-CT) and Rep. Bobby Scott (D-VA), would create a new safety standard mandating the Johns Hopkins health system and other employers to reduce the risk of workplace violence faced by their employees.

Sources: *Baltimore Sun*, [“Johns Hopkins Hospital accused of retaliating against unionizing nurses, including firing one,”](#) February 14, 2019; *Tampa Bay Tribune*, [“Johns Hopkins wrote the rules on patient safety. But its hospitals don’t always follow them,”](#) December 29, 2018; ; *Johns Hopkins News-Letter*, [“Hopkins Hospital continues to undervalue the lives of its patients,”](#) December 6, 2018; National Nurses United, [“NURSES AT RISK: Insufficient Protections at Johns Hopkins Hospital Compromise Nurse and Patient Health and Safety,”](#) December 2018; *Baltimore Sun*, [“Federal labor board finds further evidence of Johns Hopkins interfering in union effort,”](#) November 14, 2018; *Baltimore Sun*, [“Federal labor board finds Johns Hopkins Hospital tried to deter nurses from forming union,”](#) October 31, 2018; *U.S. News and World Report*, [2018-19 Best Hospitals Honor Roll and Medical Specialties Rankings](#), August 14, 2018

The Dirty Dozen

McDonald's USA

*Headquarters in Chicago, Illinois
Franchises and corporate-owned stores around the globe*



McDonald's workers are fighting back against sexual harassment on the job.

- **Since 2016, more than two dozen workers have filed EEOC complaints about sexual harassment in McDonald's restaurants**
- **In September 2018, McDonald's workers across the U.S. strike to protest the company's failure to address harassment on the job**
- **McDonald's says it is "confident our independent franchisees" take sexual harassment seriously**
- **Workers and supporters say that McDonalds, USA – which dictates food, menus, pricing and other policies for franchisees– has joint responsibility for workplace conditions and must take steps to stop sexual harassment**

McDonald's is the world's largest restaurant chain and the second largest private-sector employer. Most workers at the fast-food giant are employed by individual franchisees, who operate the majority of McDonald's restaurants.

As workers organize to improve their jobs, however, they are insisting that McDonald's USA – which dictates all aspects of franchise operations – is jointly responsible for wages and working conditions.

Forty percent of women in the fast-food industry say they have been sexually harassed at work, and McDonald's is no exception.

- **October and November 2016:** Fifteen McDonalds' workers in eight states filed complaints with the U.S. Equal Employment Opportunity Commission (EEOC), stating they were sexually harassed at work. One manager showed lewd pictures to a worker; another offered to pay for sex
- **May 2018:** Ten additional McDonald's workers, including a 15-year-old girl from St. Louis, filed EEOC complaints, with assistance from the Time's UP Legal Defense Foundation. Workers describe "rampant harassment, workplace groping and suggestive comments"
- **September 2018:** On behalf of four workers, the EEOC filed suit against a McDonald's franchisee in Muleshoe, Texas. The complaint stated that workers were subjected to "physical touching, sexual jokes, and display of pornographic images." The franchise operator, the EEOC stated, "received complaints from female employees about the sexual harassment... but Defendant failed to prevent further harassment by taking prompt effective remedial measures."

- **September 2018:** McDonald's workers in ten cities went on strike to protest the ongoing failure of the company and its franchisees to take forceful action to reduce the risk of on-the-job harassment. Striking workers shared stories of horrible harassment on the job, reports *Forbes*:

"A Chicago worker says she was fired after reporting that her manager had asked her if she wanted to see his penis and 'how many penises she could take.' "

The job action is supported by Fight for \$15, a nationwide labor advocacy organization. In Chicago, hundreds of workers and supporters marched on Hamburger University, a McDonald's USA training facility.

- **January 2019:** Lifetime aired a two-hour documentary, hosted by Gretchen Carlson, featuring stories of harassment at McDonald's and other workplaces.



Agenda for Action

McDonald's workers are calling on the global fast food giant to take specific actions to ensure a safe workplace:

- Strengthen and enforce a zero tolerance policy against sexual harassment across the McDonald's system;
- Mandatory trainings for managers and employees in both franchise and corporate locations;
- Create a safe mechanism to report sexual harassment and an effective system to respond to complaints; and
- Form a committee that includes McDonald's workers; McDonald's corporate and franchisee representatives; and representatives of leading national women's rights groups to address the sexual harassment problem at the company.

National COSH launched Our Turn Sexual Harassment Action Network last year to build the power of workers to organize for workplaces free of sexual harassment and assault. Our Turn members are pressing for comprehensive state and federal reforms.

S 1082, *The Bringing an End to Harassment by Enhancing Accountability and Rejecting Discrimination in the Workplace Act*, introduced by Senator Patty Murray (D-WA) and Rep. Katherine Clark (D-MA) in the U.S. Congress this April, would fill gaps in current law. The legislation would require employers to enact harassment prevention strategies and expand protections to cover more workplaces and populations.

Sources: *Variety*, ["Gretchen Carlson on New Lifetime Documentary and the 'Pervasive Epidemic' of Sexual Harassment,"](#) January 14, 2019; KLBK-TV, ["Federal regulators accuse Muleshoe McDonald's of sexual harassment,"](#) September 26, 2018; *Washington Post*, ["You will hear us today': McDonald's workers strike to protest sexual harassment,"](#) September 19, 2018; *Forbes*, ["McDonald's Workers Are Striking Over Sexual Harassment, But Will The Company Act?,"](#) September 17, 2018; *Forbes*, ["The Largest Restaurant Companies In The World 2018: McDonald's And Starbucks At Top Of Food Chain,"](#) June 6, 2018; *Reuters*, ["McDonald's, franchisees hit with sexual harassment complaints,"](#) October 5, 2016; [#MeTooMcDonalds.org/#workerdemands](#), accessed April 4, 2019.

Purdue Pharma and the Opioid Industry

Stamford, CT

- **Workers, suffering in pain from preventable injuries, are among the primary victims of America's opioid crisis**
- **Between 55 to 85 percent of injured workers receive a prescription for opioids, according to the Workers' Compensation Research Institute (WCRI)**
- **Workers in industries with high injury rates, like construction, are more likely than other workers to die from an overdose of opioids**
- **To boost sales of OxyContin, a potent opioid at the center of the epidemic, executives at Purdue Pharma specifically target patients with workplace injuries – and their doctors**

U.S. workers, who frequently suffer in pain from preventable injuries, are among the primary victims of America's opioid crisis. According to the Workers' Compensation Research Institute, between 55 and 85 percent of all workers who are off work for more than seven days receive prescriptions for opioids.

Why are workers now receiving powerful – and dangerous – narcotics for occupational injuries that once might have been treated with less addictive medications?

Part of the answer is the irresponsible behavior of Purdue Pharma, a privately held drug company that developed and aggressively marketed OxyContin, a potent, time-released painkiller that has played a leading part in America's opioid epidemic. To boost sales, the company specifically targeted patients with workplace injuries and their doctors.

The behavior of Purdue Pharma and its executives, unfortunately, is typical of the actions of the entire opioid industry, including manufacturers, distributors and pharmacy companies. Multiple actors exploited the opportunity to sell massive quantities of dangerous prescription drugs to U.S. workers. Despite mounting evidence that too many pills were going into certain communities, corporate executives, medical officials and physicians said nothing and did nothing – until a rising tide of disease and death made the problem impossible to ignore.

Purdue Pharma, once Purdue Frederic, was a small medical supply company purchased in 1952 by three brothers, all physicians: Arthur, Mortimer and Raymond Sackler. The siblings, who are no longer alive, transformed the firm into a Connecticut-based pharmaceutical giant.

Arthur Sackler, a psychiatrist who died in 1987, also owned related businesses, including a medical advertising company; a biweekly newspaper for physicians; and IMS, a still-active analytics firm that buys prescription data from pharmacies and other sources. IMS sells the information it has gathered on as many as half a billion patients to drug companies who want to zero in on the most lucrative markets for their products.

OxyContin hit the market as a potent new painkiller in 1995. Years after Arthur Sackler's death, Purdue Pharma still uses the cross-marketing, cross-company techniques he pioneered. The emphasis, says attorney Paul Hanly, is product sales rather than product safety. "These pronouncements about how safe the drug was emanated from the marketing department, not the scientific department," he told *The New Yorker*. "It was pretty shocking. They just made this stuff up."

Mitchel Denham, a former deputy attorney general for the state of Kentucky who was involved in litigation against Purdue Pharma, also spoke to *The New Yorker* about what he learned during legal discovery. Using data purchased from IMS, he said, Purdue Pharma focused on "communities where there is a lot of poverty and a lack of education and opportunity. They were looking at numbers that showed these people have work-related injuries, they go to the doctor more often, they get treatment for pain."

The results have been stupendous for Purdue Pharma. The drug reportedly generates nearly a billion dollars each year in profits, some \$35 billion since it was introduced more than three decades ago.

For workers in occupations with high injury rates, however, the results have been devastating.

- **In Massachusetts, according to the state's Department of Public Health, construction workers are six times more likely to die from an opioid overdose** than other workers.
- **In Ohio, construction workers are seven times more likely to die from an opioid overdose** than other workers.
- According to the National Safety Council, **70 percent of employers say their business and their workforce has been affected by prescription drug abuse.**
- **Purdue and its top executives pleaded guilty in 2007 to criminal charges** that it had misled regulators, physicians and patients by playing down the risks of OxyContin.
- **The company has been sued thousands of times** and recently settled a lawsuit by the state of Oklahoma for \$270 million.
- **Reuters has reported the firm is considering bankruptcy** to limit its legal and financial liability.
- According to a lawsuit filed in March of this year by the state of New York, **members of the Sackler family -- descendants of the company's founders -- began sheltering assets in offshore entities in anticipation of lawsuits against the company** and its owners.
- Whatever happens to Purdue Pharma and other pharmaceutical companies, **the damage done to American workers by overprescribing of OxyContin and other medications will linger for decades.**

Agenda for Action

Many U.S. workers are first introduced to opioids as a result of painful – and preventable workplace injuries. “The most effective solution,” reports *Lifeline*, a publication of the Laborers Health and Safety Fund of North America, “would likely be to keep workers from experiencing pain in the first place.”

Steps to reduce pain suffered by workers include:

- **Effective monitoring of workplace injuries – including electronic recordkeeping** – so workers, unions and employers can recognize and limit workplace hazards
- An effective workplace ergonomics program to reduce musculoskeletal injuries, says the Laborers' Health and Safety Fund, **“can reduce the risk for injury on the job and could lower the need for prescription pain medications.”**
- **Strong enforcement of existing laws and regulations to prevent employer retaliation against workers** who report on-the-job injuries and safety hazards.
- **Enact state ergonomics measures**, modeled on California's ergonomics standard or New York's safe patient handling requirements.
- **Ensure that workers have swift access to workers compensation** so injuries can be treated effectively, reducing the need for powerful pain medications.

“It's time to change the mindset,” says *Lifeline*, “that dealing with pain is just part of the job.”

Sources: *Lifeline*, LIUNA Health and Welfare Fund, [“Combating the Opioid Crisis Through Injury Prevention,”](#) April 2019; *New York Times*, [“New York Sues Sackler Family Members and Drug Distributors,”](#) March 28, 2019; National Public Radio, [“Purdue Pharma Reaches \\$270 Million Opioid Settlement With Oklahoma,”](#) March 26, 2019; *Reuters*, [“Exclusive: OxyContin maker Purdue Pharma exploring bankruptcy -sources,”](#) March 4, 2019; *New York Times*, [“Workers Overdose on the Job, and Employers Struggle to Respond,”](#) September 25, 2018; *Lifeline*, LIUNA Health and Welfare Fund; [“How Likely Is It a Construction Worker Will Die from Opioids?”](#) March 2018; *Lifeline*, LIUNA Health and Welfare Fund, [“Preventing Opioid Addiction Starts with Preventing Pain,”](#) January 2018; *The New Yorker*, [“The Family that Built an Empire of Pain,”](#) October 30, 2017; Workers Compensation Research Institute, [“Longer-Term Dispensing of Opioids, 4th Edition,”](#) August 2017; *Fortune*, [“This Little-Known Firm Is Getting Rich Off Your Medical Data,”](#) February 9, 2016

Tooma Enterprises

Sterling Heights, Michigan



Jason Holmes, 39, suffocated to death in a trench collapse while working for Tooma Industries

- **39-year old Jason Holmes suffocates to death when a trench collapses at an excavation site in Sterling Heights, Michigan**
- **Contrary to safety guidelines, no trench box is in place and “absolutely no shoring” of trench side walls**
- **Holmes leaves behind his fiancé and two small children**
- **Following an investigation, Michigan OSHA cites Tooma Enterprises for five serious violations, with \$35,000 in proposed fines.**

Jason Holmes was digging at a building demolition sight in Sterling Heights, Michigan in February 2018 when the trench he was working on collapsed around him. Almost instantly, he was buried under seven to nine feet of dirt and debris.

“[T]hey could hear his voice, right when this happened,” Sterling Heights Police Chief Dale Dwojakowski told the *Detroit Free Press*. But rescuers were unable to reach Holmes in time to save his life. He suffocated to death, leaving behind his fiancé and two young children.

Holmes was working for Tooma Enterprises, Inc. The firm was in the process of tearing down an old motel at the site to construct a new office building.

A well-known hazard: Trench collapse is extremely dangerous for workers and is a well-known hazard in the construction industry. Proper safety precautions, according to the U.S Occupational Safety and Health Administration (OSHA), including sloping trench walls to prevent collapse; shoring up walls with hydraulic or other supports to prevent movement of soil; or using trench boxes or other methods to protect workers in the event of a cave-in.

None of these protections were available at the Tooma Enterprises demolition site on the day Jason Holmes died. “There is absolutely no shoring on the scene right now,” said Sterling Heights Fire Chief Chris Martin.”

According to a report from WXYZ-TV 7, “there was no trench box in place.”

In October 2018, following an investigation the Michigan Occupational Safety and Health Administration (MIOSHA) cited Tooma Enterprises for five serious safety violations, proposing \$35,000 in fines. The company was cited, among other issues, for violating Michigan safety standards for excavation, trenching and shoring.

In November 2018, Tooma Enterprises filed notice that it would contest the safety violations. According to a GoFundMe page posted by a family relative, Holmes’ fiancé, who is the mother of his two children, was unemployed at the time of his death.

Agenda for Action

- The Tooma Enterprises demolition site was a non-union project. Union construction workers have access to training and information about recognizing and preventing well-known hazards such as trench collapse.
- Protection against trench collapse – including sloping, shoring up, or trench boxes – must be available and implemented at all excavation sites.
- Instead of contesting fines, companies like Tooma Enterprises which put workers’ lives in danger should cooperate with their employees, regulators and safety officials to reduce risk and provide a safe workplace – as required by law.
- New local ordinances need to be put in place to require that trenching operations have safety equipment in place to proceed with work. Following the preventable deaths of two workers in a trench in Boston in 2016, the city passed an ordinance requiring employers to provide information about their health and safety record before obtaining a permit.

Sources: U.S. Occupational Safety and Health Administration, [Inspection: 1297581.015 - Tooma Enterprises Inc.](#) accessed April 3, 2019; U.S. Occupational Safety and Health Administration, [“Fact Sheet: Trenching and Excavation Safety,”](#) accessed April 3, 2019; WXYZ-TV, [“Deadly metro Detroit trench collapse has family asking why, but answers are few,”](#) March 1, 2018; Detroit Free Press, [“Police ID construction worker killed in Sterling Heights trench collapse,”](#) February 27, 2018; Detroit Free Press, [“Trench collapse kills construction worker in Sterling Heights,”](#) February 26, 2018; Macomb Daily, [“Worker trapped in Sterling Heights trench dies,”](#) February 26, 2018

The Dirty Dozen

XPO

Memphis, TN

- One worker dead, and six women suffer miscarriages in an overheated, high-stress warehouse
- Eleven EEOC complaints of sexual harassment and gender discrimination
- Following a New York Times exposé, a call for a Congressional investigation and a union organizing campaign, XPO announces it will close the Memphis warehouse.
- A U.S. senator says the closing “reeks of retaliation.”

XPO, a shipping and logistics company with over \$17 billion in revenues and more than \$2.5 billion in gross profits in 2018, is not a household name. But the company ships many well-known products from companies like Verizon, Disney and Nike to consumers from warehouse operations all over the globe. One of the company’s warehouses in Memphis, TN, handles cell phones and tablets for Verizon.

WHAT HAPPENS WHEN WORKERS EXPOSE SAFETY PROBLEMS AT XPO?

CLOSED

- XPO is one of the largest transportation and logistics companies in the world.
- At an XPO warehouse in Memphis, summertime temperatures reach 100 degrees or more.
- One worker has died. At least six have suffered miscarriages.
- In 2018, workers began a union organizing drive and filed EEOC complaints.
- In 2019, XPO announced it will close the warehouse.

“This sudden, suspect step reeks of retaliation.”
U.S. Sen. Richard Blumenthal

In California, KQED found indoor workers spent 47% of their workday in extreme heat

Sources: New York Times, Memphis Commercial Appeal, KQED
Photo: CTSabre44

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The pace of work at the Memphis XPO warehouse is punishing. Shifts are frequently 12 hours or longer, with inadequate rest breaks, while management demands that workers pack 120 boxes every hour.

Despite high temperatures in Tennessee, the facility has no air conditioning. During the summer, workers report, the heat inside the XPO facility routinely reaches 100 degrees or more, with so much humidity it can be difficult to breathe.

October 2017: Death on the job: Every week from June through September in 2017, reports *The New York times*, “at least one worker collapsed on the warehouse floor.” In October of that year, Linda Neal fell to the ground while working at XPO and died from cardiac arrest.

A co-worker reported that on the day she collapsed, Ms. Neal “told managers that she was short of breath and asked for an

extra break, but her supervisor rejected the request.” Other employees stated that “managers told workers to keep moving boxes as [Ms. Neal’s] body lay on the floor.”

Following Linda Neal’s tragic and preventable death, workers at the Memphis XPO facility began a union organizing drive to improve their working conditions, with support from the International Brotherhood of Teamsters.

June 2018: Workers file EEOC complaints. By June of 2018, according to the *Memphis Commercial Appeal*, eleven women had filed complaints against XPO facilities in the Memphis area, charging sexual harassment and gender discrimination. Allegations include pushing and shoving female employees, and supervisors pursuing unwanted sexual relationships with female employees.

October 2018: An outbreak of miscarriages. A *New York Times* investigation found that at least six women suffered miscarriages after long days of lifting heavy packages at the Memphis facility (including several instances prior to 2014, when the warehouse was operated by a different firm, New Breed Logistics). At least three of the women had brought in notes from their doctors, requesting light duty, but did not receive alternative assignments.

November and December 2018: Congress calls for more info on XPO. Members of the U.S. Senate and U.S. House, in letters to Verizon, XPO and fellow legislators, demanded further information about working conditions for pregnant women at XPO.

February 2019: XPO announces it will close Memphis warehouse. On February 13, XPO announced it will close the warehouse where Linda Neal died and six women suffered miscarriages. XPO says the closing was dictated by its customer, Verizon. Verizon said the decision was made by XPO.

U.S. Senator Richard Blumenthal (D-CT) said the plant closing “reeks of retaliation.”

On February 25, the company announced that jobs would be available for workers at the closed facility at other XPO warehouses. As of mid-April, however, many workers at the closed warehouse still do not have information about possible new assignments.



XPO warehouse closure “reeks of retaliation” against workers seeking answers about death and miscarriages on the job.

Agenda for Action

- In December 2018 and February 2019, in response to ongoing pressure and investigations, XPO announced new policies and benefits for pregnant women in the workplace.
- Congress should pass and federal agencies must implement a new standard to protect all workers from heat exposure.
- A federal bill requiring employers to make accommodations for pregnant women has been introduced in Congress during every session since 2012 – but the legislation has never advanced to a committee hearing.
- Twenty-seven U.S. states have laws barring discrimination against pregnant women, and requiring employers to provide benefits for pregnancy, birth, and recovery in the same manner as other temporary disabilities.

Sources: *Associated Press*, [“XPO guarantees jobs for employees at Memphis plant,”](#) February 26, 2019; *Memphis Commercial Appeal*, [“XPO Logistics adds insult to injury by closing Memphis warehouse,”](#) February 14, 2019; “Transport Topics,” [“XPO Denies Memphis Plant Closing Is Retaliation,”](#) February 19, 2019; *New York Times*, [“Lawmakers Call for House to Investigate XPO After Workers’ Miscarriages,”](#) December 4, 2018; [“Miscarrying at Work: The Physical Toll of Pregnancy Discrimination,”](#) October 21, 2018; PBS News Hour, [“When workplace conditions put women’s pregnancies at risk,”](#) October 31, 2018; *Memphis Commercial Appeal*, [“Three more female workers at XPO Memphis warehouses file bias charges, union boosters say,”](#) June 21, 2018; WorkplaceFairness.org, [“Pregnancy Discrimination: State Law,”](#); accessed on April 2, 2019

The COSH Network

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.

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