



**American Society of Safety Engineers**  
*Protecting people, property, and the environment since 1911*  
**Greater San Jose Chapter**

<http://www.assesj.org> [email:gsjc@assesj.org](mailto:email:gsjc@assesj.org)



May 2010 Newsletter

**Topic: HISTORIC MOMENTS IN  
WORKPLACE SAFETY**

## The Haymarket Riot of 1886

[Glenn Demby, Esq.](#)

In 1886, Chicago was one of the world's leading centers of labor activism. The burning issue of the time was the fight for the 8-hour work day. On May Day, the workers of Chicago went out on a one-day general strike. But demonstrations continued for the next two days. Anarchists and radicals got involved. The Chicago police started rounding people up.

On May 3, things turned violent. A peaceful demonstration in support of striking workers at the McCormick Reaper plant turned into a riot. Police opened fire killing one person and arresting dozens of others.

But the trouble was just beginning. The next day, thousands gathered in Haymarket Square to protest the police violence at the McCormick plant. At the end of the rally, the police moved in. Suddenly, a bomb exploded. One police officer was killed instantly. Six other officers suffered wounds that would ultimately prove fatal. 60 others were injured. The number of civilians killed and wounded is unknown. The person who threw the bomb was never identified. But eight men were tried and found guilty. Four were hanged, one committed suicide, two remained in jail for the rest of their lives and one was pardoned.

In 1889, socialists from all over the world met in Paris for the First Congress of the Second Socialist International. Among other things, they voted to establish an international day of celebration for the working man. The day they chose: May first, in commemoration of the Haymarket riot.

## Upcoming Chapter Meetings

To reserve a seat via e-mail, please send your name, telephone number and email address to:

[reservations@assesj.org](mailto:reservations@assesj.org)

**Tuesday, May 11, 2010 - 12:00pm - Biltmore Hotel & Suites**

### Safe Handling of Active Pharmaceutical Ingredients in a Research Environment

Presentation by Sean Collins, MSPH, CIH - Associate Director of EHS and Security, Durect Corporation

Sean is an EHS professional with 15 years experience, primarily in the electronics and pharmaceutical industry. His past employers include IBM, Applied Materials and ALZA/Johnson & Johnson. Currently Sean is Associate Director of EHS and Security at Durect Corporation, an emerging specialty pharmaceutical drug delivery company. Durect Corporation, a spin-off of ALZA since 1998, has research and development and manufacturing facilities in Cupertino, Vacaville and Birmingham, Alabama. Sean is a Certified Industrial Hygienist and holds a BS in Biology from Cal Poly and a MSPH in Industrial Hygiene from San Diego State.

### June 8, 2010: Chemical Facility Anti-Terror (CFAT) Program Update

Presentation by The Department of Homeland Security

More details to come...

## Topic: EDITORS' NOTE

### Happy Occupational Safety & Health Professional Day

Safety is sometimes perceived as a thankless job, but without your work, more people would be injured or killed on the job.

Wednesday, May 5 is Occupational Safety & Health Professional Day and today we celebrate your ongoing commitment to protecting others.

Thank you for all that you do to help make our workplaces safer and healthier.



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## **Topic: DIARY OF AN OSHA INSPECTOR**

### **The Case of the \$25,000 Snapshot**

[Nick O'Shay](#)

I used to hate George Eastmann.

Who's George Eastmann? He's the guy who invented the camera. Thanks to his invention, Ol' Nick almost didn't make it as an OSHA inspector. Let me tell you what happened.

#### **Back in the Day**

Remember 1979? Jimmy Carter. Hostages in Iran. Long gas lines. "National malaise."

1979 was the year I got hired as an OSHA inspector. And it was also the year I almost got fired from said position.

It happened at the Shipp Rex Building downtown. Contractors were installing a new plumbing system. Somebody called to complain about improper shoring of the trenches. The AAD [**Editor's note:** AAD is short for Associate Area Director, the officer whose duties include the assignment of inspections] sent me over to have a look.

I drove down there but I could have flown. You see, I had been on the job only a couple of months and I was getting impatient at how few assignments I had received. Now, here was my big break, a chance to prove my stuff. A construction site! Look out, world, here comes Nick O'Shay.

#### **Measure for Measure**

Looking back, I realize what a fool I was. Inspector O'Shay was out to administer a whuppin' and those guys at Shipp Rex never had a chance.

During the walkaround [**Editor's Note:** This is the part of the inspection where the inspector tours the workplace checking for violations] I went down to the excavation took measurements and did my calculations. Sure enough, I found that the walls of the 12-foot-deep trench weren't properly supported. It's a good thing I got there when I did. One more hour and we might have been dealing with a total cave-in!

I cited the construction company for a laundry list of trenching violations and ordered them to fix the problem right away. Later, we'd fix the fine at \$25,000.

I was feeling pretty satisfied with myself. But the guys at Shipp Rex were anything but. They kept on insisting that the trench was safe and that my measurements were wrong. To me, it all sounded like your basic denial, typical stuff. "Tell it to the judge," I was thinking.

But something was not quite right.

"Have you ever measured a trench before, Inspector O'Shay?," asked one of the construction company officials.



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My heart sank a bit. Sure, I've measured trenches before. Just not during an actual inspection. Was my lack of experience that obvious?

### **The Picture Tells the Story**

It turns out that I had good cause for concern. The construction company contested [Editor's Note: Contested is the technical term for appealing an OSHA citation] the citation. A hearing was held before an Administrative Law Judge. It was a humbling experience.

During the walkaround inspection, I had been accompanied by a construction company representative. (The OSHA laws give employers the right to have a representative accompany the inspector during the walkaround inspection.) Anyway, this company representative brought along a Polaroid and took snapshots of the inspection.

So during the hearing, the construction company presented as Exhibit A, photographs of Nick O'Shay measuring the walls of the trench. And guess what?! The photos showed—as plain as day—that I was holding the tape measure at an angle. The construction company guys had been right all along: My measurements and subsequent calculations were completely wrong!

All the charges against the company were dismissed. And yours truly was in a heap of trouble.

### **The Moral**

I did manage to keep my job. In fact, the experience made me a better inspector. Sure, I learned the right way to measure a trench. But the important thing is that I adjusted my attitude and gained a clearer understanding of what an OSHA inspector is all about. Although we can be tough, our job is not to "nail" employers. It's to help them eliminate hazards and ensure a safe and healthy place to work.

But there's also an important moral in this story for you employers out there. I'm here to tell you that I still make mistakes during inspections. So do my colleagues, even the most experienced ones. Unfortunately, those mistakes may result in unwarranted citations and fines.

As an employer, you need to be aware of the fallibility of OSHA inspectors and take steps to catch any mistakes they make. One of the best measures is to have a representative accompany the OSHA inspector during the walkaround inspection and take photos, notes and measurements, like the guys from Shipp Rex did.

They say a picture is worth 1,000 words. But for the construction company at Shipp Rex, it was worth a lot more than that. One photo saved them \$25,000.

Oh, by the way, I've since made my peace with George Eastmann.

\* \* \* \* \*

Be careful out there and remember, I'll be watching you.

Nick O'Shay



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**Upcoming ASSE events:**



**Get a Preview of What You'll Hear at Safety 2010:**

ASSE has lined up an impressive selection of keynote/luncheon speakers for Safety 2010.

- **Andrew Winston**, author of Green to Gold. Listen to his latest podcasts at [www.andrewwinston.com](http://www.andrewwinston.com).
- **David Michaels**, OSHA administrator. Listen to his closing remarks at NIOSH's recent green jobs summit at [www.cdc.gov/niosh/docs/video/safe\\_green\\_jobs](http://www.cdc.gov/niosh/docs/video/safe_green_jobs).
- **Geoffrey Colvin**, author of The Upside of the Downturn. Find a podcast about his book at <http://www.biztalkradioshow.com/Podcast/tabid/124/ItemId/49/Default.aspx> and listen to his interview with Charlie Rose at [www.charlierose.com/view/interview/9856](http://www.charlierose.com/view/interview/9856).
- **Joe Malarkey**, motivational speaker and star of an entertaining series of videos that can be viewed at [www.joemalarkey.com/youtubevideos.htm](http://www.joemalarkey.com/youtubevideos.htm).

**Chapter Officers  
2009-10**

- President**  
Tyler Nguyen
- President-Elect**  
Ron Scholtz
- Past-President**  
Jay Jamali
- Treasurer**  
Mostafa Pournejat
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David Krack
- Government Affairs**  
John Steele
- Newsletter Editor**  
Scott Sidlow
- Vice President - Special  
Projects**  
William Krutil

**2010 San Jose Chapter PDC**



**SPEAKERS & TOPICS:**

"Nano Technology Safety and Health Concerns"  
 Speaker: Rick Kelly  
 Facility and EH&S Manager - Lawrence Berkeley National Laboratory

"Design For Safety (DFS) & Prevention through Design (PtD)"  
 Speaker: Jay Jamali, CSP, CHMM, CHCM  
 EHS Director - Enviro Safetech

"Cal/OSHA Standards: Upcoming, Proposed and Being Considered"  
 Speaker: Marley Hart  
 Executive Officer - California OSHA Standards Board