

## SAFETY

# SECOND COMPANY CONVICTED FOR CONSTRUCTION ACCIDENT

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*Articles like this highlight the importance of an effective Safety Management System in your business. This employer spent over \$400,000 in an attempt to improve their safety systems yet was still convicted and received a fine in excess of \$170,000. Penalties for workplace incidents are increasing (not to mention the industrial manslaughter laws in many states of Australia) and we need to work together to ensure work health and safety is a top priority of your daily operations. Failure to have a simple safety management plan could put you in jail and/or close your business.*

*AGWA are here to help you manage your safety requirements and answer any questions you may have. Templates for many safety documents are available on the Members Portal of the AGWA website. For more information, contact [melissa.baker@agwa.com.au](mailto:melissa.baker@agwa.com.au)*

GABY GRAMMENO

Business Australia

A court has convicted and fined a wall panel installer for its part in an incident when a wall panel, being lifted by a mobile crane, fell and injured two workers. This is the second prosecution to follow the accident at a Kellyville building site – a specialist crane contractor was previously convicted after it failed to ensure a qualified dogman was used to attach loads to a pallet hook.

### UNQUALIFIED LABOUR HIRE WORKER USED

The contractor who supplied and installed wall panels was engaged to install panels at a building site where nine buildings, containing 58 townhouses, were under construction. The panels were being lifted to various levels on the buildings using a mobile crane operated by another contractor.

On 15 December 2017, a pack of panels was attached to a pallet hook and loaded onto the crane by a labour hire worker engaged by the panel installer. The labourer was not a qualified dogman.

As the panels were lifted, the bottom panel broke through the plastic wrapping and fell. The 76 kg panel struck two workers who were standing at ground level near the formwork frames on the building. They were hit on the head and shoulders and knocked over.

Their injuries were relatively minor, but they could have been serious – or even fatal – had they been standing in a slightly different position. For this reason, the panel contractor was charged with exposing workers to a risk of death or serious injury.

### COMPANY DIDN'T COMPLY WITH ITS OWN SWMS

The case was heard in the District Court of New South Wales.

The Court heard that the risk of workers being struck by objects falling from a height during crane work was known to the panel contractor. The risk had been identified in the company's Safe Work Method Statement (SWMS) for taking delivery of panels, and there was plenty of publicly available guidance material identifying that risk and setting out relevant control measures.

The company's SWMS identified control measures including setting up an exclusion zone, using only qualified dogmen to attach and direct the load, and following the manufacturer's instructions and the crane SWMS for use of the pallet lifter, among other measures.

The evidence revealed that the labour-hire worker had inserted the tines of the pallet hook under the second panel from the bottom, instead of the bottom one, which subsequently broke through its plastic wrapping, fell and hit the scaffolders.

At the earlier prosecution resulting from this incident, evidence was presented that the contractor responsible for operating the crane, and providing qualified dogmen, chose to use the one dogman it provided to land the loads, rather than to attach them to the pallet

hook. In the circumstances, a qualified dogman should have been undertaking the latter task.

The crane contractor pleaded guilty and was fined \$150,000, after a 25 per cent discount off the nominal fine of \$200,000 for the guilty plea.

The judge took the view that the contractor installing the panels was a bit less culpable for incident. After the incident, the company took a range of steps to improve its safety systems, including:

- Training its supervisors and managers (at a cost of \$36,000).
- Employing a full-time safety and support co-ordinator (\$75,000 pa).
- Implementing an electronic reporting system to manage safety-based documentation.
- Introducing a general company induction (over \$70,000).
- Engaging external auditors to implement quality management systems and obtaining relevant certifications (over \$200,000).
- Increasing the frequency of documented safety meetings.
- Enrolling 11 employees in a five-day dogman qualification course (\$41,000).
- Engaging a company to overhaul the safe work instructions concerning the handling and installation of the panels.

The company co-operated with SafeWork NSW in its investigation and its director expressed deep remorse for the incident and the injuries sustained.

Nevertheless, the panel contractor had pleaded not guilty, so it was not entitled to the 25 per cent discount for a guilty plea. The company was convicted and fined \$170,000 plus costs.

The bottom line: Work that should properly be undertaken by dogmen (or others with appropriate skills and qualifications) should not be assigned to unqualified labourers. The use of mobile cranes to raise loads on construction sites carries risks, and available guidance material should inform practice.

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