

Case Scenario: **Injury on an Elevated Fork Lift Truck**

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Expert's Job Assignment: Analyze the accident cause for the insurance company

I Case Synopsis

1. The injured worker was an electrician working for a contractor to do miscellaneous electrical wiring at a residence.
2. One of the tasks was to string a 120 volt supply line to a job trailer that was located across the road from the residence.
3. To do this work the electrician elected to use the uplift forks of a fork lift truck as a work platform in order to pull the wires across the road.
4. While he was on the uplifted forks and the fork lift truck was moving across the road he came in contact with some electrical overhead lines.
5. He did not suffer significant electrical injury, but the impact caused him to fall to the ground, where he did suffer physical injuries.

II Expert Analysis

From my reading of the case documents my opinion is that the injuries that the injured suffered were caused by the fall from the fork truck's forks, rather than the electrical shock he suffered. The electrical shock may very well have rendered him momentarily unable to react, thus preventing him from stopping the fall. However the egregious, in my mind, failure of his employer to provide any fall protection, and their allowance of the dangerous use of a wooden pallet on the forks on a fork lift truck as a work platform, were the overwhelming cause of this accident.

III Conclusions

My recommendation to the insurance company was that the following state and federal statutes had not been followed. It was my opinion that the employer electrical contractor was primarily at fault for not educating their employee properly so that he could do his job safely and for failing to:

- (i) Provide a safe working environment;
- (ii) Provide proper education in safety procedures;
- (iii) Provide proper scaffolding;
- (iv) Provide a required third party "Spotter" at the job site;
- (v) Provide proper protection from overhead electrical lines;
- (vi) Provide proper mechanical equipment to do the job;
- (vii) Provide proper fall protection.

NEW YORK LABOR LAW

200. General: Duty to protect health and safety of employees;

“Enforcement. 1. All places to which this chapter applies shall be so constructed, equipped, arranged, operated and conducted as to provide reasonable and adequate protection to the lives, health and safety of all persons employed therein or lawfully frequenting such places.”

202-h. High-voltage proximity. “1. This section may be known as the "high-voltage proximity act".

2. Definitions. For the purpose of this section:

(a) "High-voltage lines" means electrical conductors installed above ground and having a voltage differential in excess of six hundred volts between any pair of conductors or between any conductor and ground...

(b) "Dangerous proximity" means a distance within ten feet of high-voltage lines...

3. Prohibited activity. (a) No employer or supervising agent of an employer shall require or permit an employee to... come within dangerous proximity of a high-voltage line... unless precautionary action has been taken to protect against the danger from contact with such high-voltage line...

240. Scaffolding and other devices for use of employees. “1. All contractors and owners... shall furnish or erect... devices which shall be so constructed, placed and operated as to give proper protection...(to workers)...

241. Construction, excavation and demolition work. “All contractors... shall comply with the following requirements:

6. All areas in which construction...is being performed shall be so...equipped...so as to provide... adequate protection and safety to the persons employed therein or lawfully frequenting such places.

NEW YORK WORK RULES

12 NYCRR 23-1.5 Protection in Construction, Demolition, and Excavation Operations: General Responsibility of Employers

“(a)Health and safety protection required. All places where employees... perform work of any kind... shall be so constructed...so as to provide... adequate protection for the lives, health and safety of such persons... No employer shall...permit an employee to work under working conditions which are not in compliance with the provisions of this Part (rule)...

12 NYCRR 23-1.13 Protection in Construction, Demolition, and Excavation Operations: Electrical Hazards

“(b) General.

(1) Precautions. All power lines and power facilities around or near construction... shall be considered as energized...

(3) Investigation and warning... The employer shall post and maintain proper warning signs where such a circuit exists. He shall advise his employees of the locations of such lines, the hazards involved and the protective measures to be taken.

(4) Protection of employees. No employer shall...permit an employee to work in...proximity to any part of an electric power circuit... unless the employee is protected against electric shock...

(6) Notifying utility company. At least five normal working days before work is begun... the employer shall notify in writing the utility whose power line may be affected.

(d) High-voltage power circuits(over 300 volts to ground) at construction, demolition and excavation sites.

(1) At any construction...site where any person or equipment is required to approach nearer than 10 feet to any overhead...power line...such approach shall not be made unless...

(i) The owner of such power line...shall be notified...by the employer that...an approach is to be made.

(ii) In...one normal working day following the receipt of such...notice, the owner of the...power line... shall...make recommendations for the procedure to be followed in performing any work...

(iii) The employer shall follow the procedure recommended...

12 NYCRR 23-1.16 Protection in Construction, Demolition, and Excavation Operations: Safety Belts, Harnesses, etc.

“(a) Approval required. Safety belts, harnesses and all special devices for attachment to hanging lifelines shall be approved.

(b) Attachment required. Every approved safety belt or harness provided...to an employee...shall be used by such employee... At all times during use such...safety belt...shall be properly attached...(so that) any fall shall not exceed five feet.

(c) Instruction in use. Every employee who is provided...a...safety belt...shall be instructed...in the proper method of...such safety belt...

12 NYCRR 23-1.29 Protection in Construction, Demolition, and Excavation Operations: Public Vehicular Traffic

“(a) Whenever any construction...is being performed...in close proximity to a street...such work area shall be...controlled by designated persons.

12 NYCRR 23-9.2 Power Operated Equipment: General Requirements

This section mostly deals with the specifications, use, maintenance, etc. of construction equipment, except for the last paragraph:

- (i) Riding. Persons shall not ride on the loads, buckets, blades, slings, balls, hooks, or similar parts of power-operated equipment or machines.

12 NYCRR 23-9.8 Power Operated Equipment: Lift and Fork Trucks

“(k) Riding on forks. No person shall stand or ride on the forks of a moving fork lift truck.”

FEDERAL OSHA REGULATIONS

OSHA 29 CFR 1926.416 Electrical: General Requirements

“[1926.416\(a\)\(1\)](#) No employer shall permit an employee to work in such proximity to any part of an electric power circuit that the employee could contact the electric power circuit in the course of work, unless the employee is protected against electric shock by deenergizing the circuit and grounding it or by guarding it effectively by insulation or other means.”

OSHA 29 CFR 1926.501 Fall Protection: Duty to Have Fall Protection

“[1926.501\(b\)\(1\)](#)

"Unprotected sides and edges." Each employee on a walking/working surface...which is 6 feet or more above a lower level shall be protected...by the use of guardrail systems...(etc.)

OSHA 29 CFR 1926.552 Cranes, Hoists, and Derricks: Material, Personnel Hoists, and Elevators

“[1926.552\(b\)\(1\)\(ii\)](#)

No person shall be allowed to ride on material hoists except for the purposes of inspection and maintenance.”

OSHA 29 CFR 1926.950 Power Transmission and Distribution: General Requirements

This entire section outlines the requirements to work near any electrical lines.

OSHA 29 CFR 1926.951 Power Transmission and Distribution: Tools and Equipment

This entire section outlines the requirements for the proper tools and equipment to be used while working near any electrical lines.

OSHA 29 CFR 1926.952 Power Transmission and Distribution: Mechanical Equipment

This entire section outlines the requirements for the proper mechanical equipment to be used while working near any electrical lines.

OSHA 29 CFR 1926.955 Power Transmission and Distribution: Overhead Lines

“1926.955(b)(8)

A designated employee shall be utilized to determine that required clearance is maintained in moving equipment under or near energized lines.”

OSHA 29 CFR 1926.503 Fall Protection: Fall Protection Training

This entire section outlines the training that an employer is required to give employees to educate them about fall protection.