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control representative*

INSURANCE LOSS CONTROL ASSOCIATION

eNews

SEPTEMBER 2012

www.insurancelosscontrol.org

2012 Annual Conference

[Click here to make your reservation today!!](#)

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The ILCA conference will be held on October 8th, 9th, and 10th in Columbus, OH. The conference will be held at the DoubleTree Hotel, 175 Hutchinson Ave., 614-885-3334. Rooms for the hotel will be discounted to \$109 per night for ILCA members. Members should identify themselves as coming to the ILCA conference to receive the discounted room rate. Members staying at the hotel will receive a full hot breakfast which is included in the nightly room rate. To make a room reservation online for the conference, go to: [DoubleTree Hilton](#).

All members of the conference will have a reception Monday night, hot lunch on Monday and Tuesday, and snacks/beverages for breaks. **We have a break and a lunch still available for sponsorship.**

If your company would like to sponsor a break/lunch, please contact Scott Doyle (sdoyle98@gmail.com) or Kristi Ruxlow (administration@insurancelosscontrol.org).

A field trip on Tuesday to the Ohio Fire Academy is included in the conference agenda. We will also have a business meeting that must be conducted at each conference.

Conference cost is \$345 for members of ILCA and \$430 for nonmembers. Any group bringing 10 or more persons can take advantage of a group rate of \$325 per person.

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2012 CONFERENCE AGENDA

Monday, October 8th

7:00 am	Breakfast
7:30 am	Registration
8:00 am	Welcome and Opening Remarks Scott Doyle, President, ILCA TranStar Technical Services, Inc.
8:15 am-9:30 am	Lightning / Surge Protection Bob Turner—Turner Lightning Protection
9:30 am—9:45 am	Break
9:45 am—11:00 am	Infrared Scanning Sean Benham—CNA
11:00 am—12:00 pm	ILCA Business Meeting Scott Doyle, President, ILCA TranStar Technical Services, Inc.
12:00 pm—1:00 pm	Lunch
1:00 pm—1:15 pm	Alexander & Schmidt—Conference Partner
1:15 pm—2:45 pm	Electrical Safety / Arc Flash Paeder Lynch—Mid City Electric
2:45 pm—3:00 pm	Break
3:00 pm—4:30 pm	Security Systems Keith Jentoft—RSI Video Technologies
4:30 pm	Closing Remarks Scott Doyle, President, ILCA
5:00 pm—6:00 pm	Reception

2012 CONFERENCE AGENDA**Tuesday, October 9th**

7:00 am—8:00 am	Full Breakfast
8:00 am—9:15 am	Nanotechnology Laura Hodson—CDC
9:15 am—10:30 am	Slips / Trips / Falls Steve Spencer—State Farm
10:30 am—10:45 am	Break
10:45 am—12:00 pm	Crane Safety Ron Pack—Crane 1 Services
12:00 pm—1:00 pm	Lunch
1:00 pm—1:15 pm	Load Buses
1:15 pm	Depart for Ohio Fire Training Academy
2:00 pm—4:00 pm	Field Trip at Ohio Fire Training Academy
4:00 pm	Depart for Doubletree by Hilton Worthington

Wednesday, October 10th

7:00 am—8:00 am	Breakfast
8:00 am—9:15 am	Distracted Driving Amy Stewart and Max Kabrick
9:15 am—10:30 am	Flammable Liquids Ron Hein—CNA
10:30 am—10:45 am	Break
10:45 am—12:00 pm	How Adults Learn? Brett Gillilan—Ohio Board of Workers' Compensation
12:00 pm—12:15 pm	Closing Remarks Kevin Matthews, President, ILCA

SPONSORSHIP OPPORTUNITIES FOR THE 2012 ANNUAL CONFERENCE

ILCA is pleased to announce NEW pricing for our sponsorship and advertisement opportunities available during the two and a half day conference on October 8-10, 2012.

Any company participating in sponsorship and/or advertising in the 2012 Conference will also receive free advertising in ILCA eNews for one year.

Conference Partner—\$1,500

Includes: Exhibit space and 2 full registrations. (Registrations must be in our hands by **9/7/12**.) We welcome you to make a ten minute “presentation” to the attendees during the conference. We will insert your 3 hole punched brochure into our conference binder. This fee does not include Hotel registration.

Exhibitor

1 Table—One day only—\$200

1 Table—Entire conference—\$350

Luncheon—\$600—Available Monday, Tuesday

Includes: Announcements before and after lunch, signage, notation and thank-you in conference agenda, web link to your website, table for materials and a vendor’s insert in the conference binder. Encouraged to have small logo giveaways and all the possible contacts you can create by networking. Luncheon sponsors will also receive a special mention and a 3.5”x5” advertisement space in the post-conference newsletter.

Break—\$300— Monday (2) RESERVED, Tuesday (1) RESERVED, Wednesday (1) AVAILABLE

Includes: Announcement before and after break, signage, notation and thank-you in conference agenda, web link to your website and a vendor’s insert in the conference binders. Get all of the possible contacts you can create by networking.

Vendor’s Insert—\$150—Insertion of your company brochure and information.

- ⇒ B&W advertisement—the company can either provide an electronic file which we can reproduce in black and white or the company can submit the pre-printed material (3-hole punched) to us for inclusion in the binder. Material must be submitted by **September 20, 2012**.
- ⇒ Color advertisement, brochure, or flyer—the company must submit the pre-printed (3-hole punched) material to us for inclusion in the binder. Materials must be submitted by **September 27, 2012**.

Sponsorship opportunities are on a first come, first serve basis. Sponsorship payments must be received no later than **September 21, 2012**.

Contact Kristi Ruxlow at 309-696-2551 or by email at administration@insurancelosscontrol.org for reservations and payment information.

OHIO FIRE ACADEMY FIELD TRIP

ILCA is arranging a field trip to the Ohio Fire Academy during our annual conference. This will include a tour and discussion with representatives of the Fire Prevention and Code Enforcement Bureaus.

The Ohio Fire Academy is a training center for Ohio's Emergency Responders including Firefighters, EMS, and Law Enforcement. It is one of seven departments under the Ohio Department of Commerce, Division of State Fire Marshal. These include:

- ◆ Ohio Fire Academy
- ◆ Fire Prevention (Nursing homes, Schools, Public Fire safety programs)
- ◆ Code Enforcement (State facility inspections, assisting local fire departments, licensing of hotels and motels)
- ◆ Underground Storage Tank Regulations (BUSTR)
- ◆ Fire & Explosion Investigation
- ◆ Testing and Registration
- ◆ Forensic

The Ohio Fire Academy holds a wide range of course offerings with instructor led classes held through the year and online training. Course listings are posted on their website.

The campus is located on a 65 acre tract of land just outside of Reynoldsburg, Ohio and is comprised of four main structures.

- ◆ Main office, lab, and classroom facility which also houses a dormitory, kitchen and workout facility.
- ◆ Burn building used for aerial ladder operations, confined space training, rescue training, search and rescue, and firefighter self-rescue.
- ◆ Training Tower / Search & Rescue complex. The tower is used for a variety of training and includes interior and exterior stairs, an elevator, and an operating sprinkler / standpipe system. An attached to the tower search and rescue area has an inside maze used to teach rescue techniques.
- ◆ Apparatus/Equipment Building used for storage of firefighting equipment.

The grounds include a driving course, 10 acre pond, and confined space trenches.

Further information can be found at <http://www.com.ohio.gov/fire/>. Click on State Fire Marshal on the blue header to bring up information.

The field trip should be very interesting and we look forward to seeing you at the conference and joining us on this field trip.

Employer Achilles Heel

Supervisor Failure to Enforce OSHA Compliance

By Mark A. Lies II

INTRODUCTION

One of the oldest stories known to man involves that of Achilles, the legendary Greek warrior who was a leader at the Fall of Troy. According to the *Iliad*, his mother was a goddess who wanted him to be immortal. She immersed him in the River Styx which had magical powers to create immortality but unfortunately did not immerse his heel by which she held him. Achilles' heel was his fatal weakness and he was killed in the battle of Troy when he was shot in the heel with a poisoned arrow. The analogy to an employer's Achilles' heel is the failure of supervisors to enforce OSHA compliance which can lead to employer civil and criminal liability.

SUPERVISORY DEMOGRAPHICS

Currently, the American workplace is undergoing a seismic demographic change as the so-called "Baby Boomer" generation retires and is replaced by members of the upcoming generations:

- Baby Boomer (1946 - 1960)
- Generation X (1961 - 1982)
- Generation Y/Millennial Generation (1983-2001)

This transition is particularly critical in the area of occupational safety and health compliance, more specifically, the legal duty of the supervisor to enforce OSHA compliance. Unless the new breed of supervisors from Generation X, Y/Millennial are aware of their duty to enforce compliance and, more importantly, how to impose and document compliance through discipline, this legal duty will not be performed and the employer, and the supervisor, can be subject to civil and criminal liability under OSHA.

LEGAL STATUS OF SUPERVISOR

In the workplace, the supervisor occupies a critical role. Since the employer is typically a corporation, it must act through its employees. Those employees who are designated as supervisors (typically employees who have the authority to hire, fire, enforce discipline or enter into contractual relationships) are considered under the law to be "agents" of the employers with authority to create legal liability against the employer for their actions, including their negligent or intentional acts which may constitute violations of the OSHA Act or regulations.

Unfortunately, many supervisors do not realize that they occupy this status or the extent to which their actions (either their affirmative actions or their failure to take actions when necessary) can create legal liability. More importantly, many supervisors are totally unaware of their own exposure to personal liability (for monetary judgments against them and their financial assets) or worse, personal criminal liability.

DUTY TO TRAIN SUPERVISOR

Obviously, if the workplace is not being directed by skilled supervisors, chaos is a likely outcome. Thus, just as it is necessary to train the supervisor to supervise the production at the workplace, it is necessary to provide training regarding the operation of several laws which will be intimately involved with the supervisor's day to day interaction with employees, including:

- Occupational Safety and Health Act (OSHA)
- Whistleblower Laws
- State Civil and Criminal Laws Relating to Workplace Safety and Health

OCCUPATIONAL SAFETY AND HEALTH LAW

From the outset, the supervisors must be made aware of their role as the primary enforcer of the employer's safety and health policies, through walkarounds to identify hazards and violations and the imposition of written or verbal (with documentation) discipline on employees who have violated the policies. Obviously, in order to perform this function the supervisor must have also received prior in-depth training to be capable of identifying workplace hazards and the OSHA regulations or employer policies which are applicable. It is crucial that the employer document this training in order to establish that it has a competent supervisor fulfilling this role.

LANGUAGE AND LITERACY BARRIERS

The training obligation imposed on the supervisor is further complicated by the fact that the supervisor may not have the ability to communicate with his/her employees because of a language or cultural barrier. If these barriers are not bridged, the supervisor cannot train his subordinates as to the required safety or health matters (*e.g.*, hazard communication, LOTO, fall protection, etc.) nor can he/she effectively communicate disciplinary action either verbally or in writing. It is strongly recommended that bilingual face-to-face training and written materials be utilized to meet this obligation.

HAZARD ANALYSIS

In addition, supervisors must be clearly made aware that their failure to identify hazards and to enforce the safety and health policies can lead to the issuance of civil citations by OSHA with, in some cases, significant monetary penalties against the employer. More importantly, the supervisor's training must include potential employer and supervisor criminal liability under federal law for fatalities due to the supervisor's action in causing violations of regulations because of conduct which is intentional or indifferent in nature. Under state law, there may be additional criminal liability facing a supervisor which far exceeds those under federal law.

OSHA INSPECTION RESPONSIBILITY

Another area of concern is the supervisor's role in responding to an OSHA inspection. The supervisor is most likely totally unaware of the rights of the employees, the employer and OSHA during an investigation and how to assert the rights of employees and the employer. Moreover, he must be aware of criminal liability for obstructing the inspections and the duty to provide truthful responses to the agency.

WHISTLEBLOWER LAWS

Finally, supervisors may have no awareness of whistleblower laws which protect employees against adverse employment action (termination, demotion, etc.) when they complain to the employer about workplace hazards which would constitute protected activity. Again, the supervisor must be made aware that any such complaints made to the supervisor must not be used as a basis for negative action against the employee, despite the supervisor's belief that such complaints may be factually incorrect or are being made to embarrass, or worse, to cause the supervisor to be subject to negative job action by the employer.

GENERATIONAL ATTITUDES TOWARD DISCIPLINE

Because of widely varying generational attitudes toward discipline of any sort in our society, the employer faces a significant task in assuring that supervisors understand the concept within the workplace and how to effectuate disciplinary action in a professional manner. For example, supervisors from Generation X and Y/Millennial, may simply not comprehend the concept of discipline since they have not experienced it at home (e.g., both parents have careers and are not present to observe behavior and impose discipline) or in school (because of the significant restraints imposed on educators regarding student discipline) or through the media (which frequently illustrates inappropriate conduct or violation of societal rules as the norm).

With these challenges, an employer cannot assume (1) that the new cadre of supervisors are formally trained and/or culturally attuned to confront employees who violate safety and health procedures (2) equipped to communicate to the employee violator that certain conduct is impermissible in a positive, supportive manner, (3) aware of how to document the discipline that has been imposed and, finally, (4) the obligation to follow up to ensure that corrective action has been taken, and if not, to evaluate whether further discipline or termination is appropriate.

In order to accomplish this educational process, the employer must conduct training for supervisors in the means and methods to utilize to enforce discipline in a positive, professional manner. Thereafter, supervisors need to be observed to evaluate whether they are in fact implementing the necessary disciplinary procedures (which may be required under a labor agreement or employee handbook), and if not, to coach the supervisor to develop these skills.

CONCLUSION

As the regulatory environment in the workplace becomes more aggressive, it is more important than ever that supervisors, particularly Generation X and Y/Millennial, understand their role in enforcement of safety and health procedures and the liabilities they can create for themselves or their employer if they fail to perform this duty. Careful attention to career development of these supervisors as to the means and methods of positive employee relations, including constructive discipline, will allow these supervisors to accomplish these tasks.

2012 ILCA Annual Conference Registration Form

First Name:		Last Name:		<p>Registration Fees Members: \$345 Nonmember: \$430 Group of 10 or more: \$325 per person</p> <p>Hotel DoubleTree by Hilton Hotel Columbus-Worthington 175 Hutchinson Avenue Columbus, OH 43235 Phone: 614-885-3334 Fax: 614-846-4353</p> <p>The room rate is \$109 per night, single or double occupancy, plus tax. Reserve rooms no later than Monday, September 17, 2012, to receive the group room rate. Refer to the Insurance Loss Control Association Conference when making your reservation.</p> <p>Airport Transportation to the Hotel The hotel does not offer a shuttle from the Port Columbus International Airport. Transportation to the hotel can be obtained by proceeding to the baggage claim and use either a taxi cab or shuttle service. Service runs 24 hours a day.</p> <p>Cancellation Cancellations made 10 or more business days prior to the start of the conference are 100% refundable. Cancellations made less than 10 business days prior to the start of the conference are 50% refundable. No refunds after October 8, 2012.</p> <p>Accommodation In accordance with Title III of the American with Disabilities Act, we invite all registrants to advise us of any disability and any request for accommodation for that disability. Please submit your request with this registration form.</p> <p>What to wear Business casual is suggested for this event.</p>
Job Title:				
Company Name:				
Address:				
City:		State:	Zip Code:	
Daytime Phone:		Fax:		
Email Address:				
<p>Method of Payment (Payment by check is due with registration form)</p> <p><input type="checkbox"/> Enclosed is check # _____ payable to ILCA (in U.S. Dollars)</p> <p>Grand Total Due/Enclosed: \$ _____</p> <p>Payment and Registration by Credit Card: Visa, AMEX, MasterCard or Discover must be completed online at www.insurancelosscontrol.org or by emailing a request to Kristi Ruxlow at administration@insurancelosscontrol.org. Credit Card payments will be securely processed by PayPal.</p>				
<p>Copy this form for multiple registrations, mailing them together with one check.</p> <p>RETURN THIS COMPLETED FORM WITH PAYMENT TO:</p> <p>ILCA PO BOX 346 MORTON IL 61550</p> <p>Questions, call Kristi Ruxlow, Administrative Coordinator at 309-696-2551.</p>				
Dietary/Special Needs Requested:				
Emergency Contact Person:				
Name:		Relationship:	Phone:	
<p>Field Trip:</p> <p><input type="checkbox"/> I will be attending the field trip to the Ohio Fire Academy on Tuesday, October 9th.</p> <p><input type="checkbox"/> I will NOT be attending the field trip to the Ohio Fire Academy on Tuesday, October 9th.</p> <p><i>The bus is scheduled to depart from the hotel at 1:15 pm. The bus is scheduled to depart from the Ohio State Fire Academy at approximately 4:00 pm to return to the hotel.</i></p>				



Insurance Loss Control Association

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2012 Board Members:

- President — Scott Doyle**
- First Vice President — Kevin Matthews**
- Second Vice President — Ron Huber**
- Secretary — Larry Peterson**
- Financial Secretary — Stig Ruxlow**
- Member at Large — Dave Waggamon**
- Member at Large — Kirby Utt**

Thank you to our vendors!

Please visit the ILCA Website. Follow the links to our Vendor Directory for info about these companies and their services:



RSI Video Technologies
4455 White Bear Parkway, Suite 700
White Bear Lake, MN 55110
Phone: 877-206-5800



Brotherhood Mutual Insurance Company

6400 Brotherhood Way
Fort Wayne, IN 46825
Toll Free: 800-333-3735
www.brotherhoodmutual.com



Midwest Technical Inspections, Inc.

www.mtinspections.com
5555 Arlington Drive East
Hanover Park, IL 60133
Toll Free: (800) 451-5621
Phone: (630) 894-4110
Fax: (630) 539-4526

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Technical Services, Inc.**

www.transtartech.com
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Marietta, GA 30062
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