

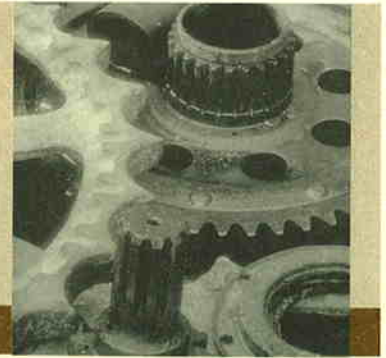
The Consultant

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Team

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Our Fast Response Team

The old adage is "the early bird gets the worm," in accident reconstruction "the immediate investigation collects the evidence." The more reliable the evidence, the better opportunity parties involved in automobile accident litigation have in prevailing in any stage of

litigation. Whether you are a plaintiff's attorney, defense attorney or insurance adjuster, quick response is necessary for the collection of all possible evidence.

In the past, parties involved in accident reconstruction litigation could provide limited evidence to their expert, and experts were allowed to testify on most aspects within their scope of the matter. Many times, if the expert has used evidence that was not collected within a reasonable time frame after the incident, their testimony has been limited due to lack of a true and accurate representation of the scene.

Taking a proactive response to a new accident can be the key to prevailing in your case. This does not mean you have to immediately hire an expert to perform a reconstruction. However, the immediate hiring of a company or individual to perform evidence collection and documentation can provide you with first proactive steps for case preparation. SEAL Corporation's Fast Response Team can provide evidence documentation to



anywhere in the lower 48 states within 24 hours. Depending on your needs SEAL can provide any of the following:

- Total Station scene evidence documentation
- Photographic documentation
- Aerial photography
- Team and equipment mobilization using SEAL's 6-passenger Bonanza aircraft
- Vehicle inspection and documentation
- Scene marking
- Roadway and scene surface coefficient of friction analysis
- Blackbox downloading (GM 1996-2003, Ford 2002-2003, various diesel truck ECM's)

SEAL can limit its scope to just timely collection of evidence, or we can provide complete reconstruction activities with our professional staff of engineers and accredited reconstructionists. Call us concerning our Fast Response Team service and available discounts.

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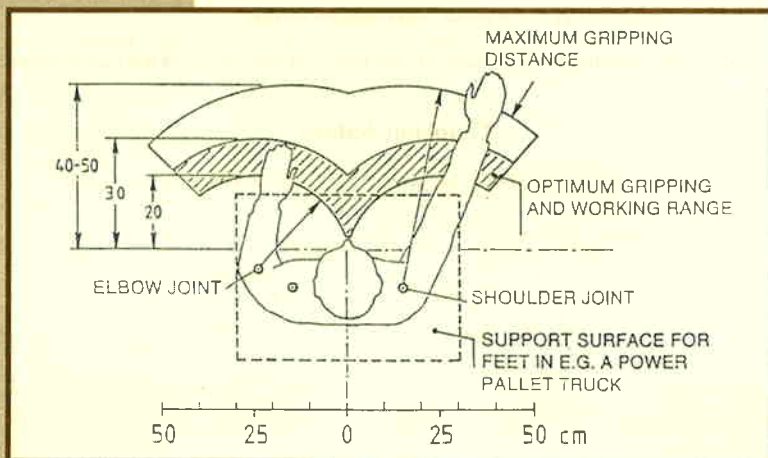


INJURIES ON THE JOB:

Ergonomics and Workers Compensation

On the job injuries can occur because of either an acute event or a chronic onset of injury caused by the work environment circumstances. An acute injury is identifiable as happening over a short duration, an injury such as a cut, fracture or strain, which occurs suddenly. In materials failure analysis terms this would be equivalent to an overload failure.

A chronic injury is one that occurs because of repetitive movement or trauma. In materials terms this would be equivalent to a fatigue failure. The onset of pain and symptoms is gradual, and the cause may not be readily identifiable. Carpal Tunnel Syndrome, epicondylitis (tennis/golf elbow), and other repetitive trauma disorders are common examples of chronic injury.



Example of the ideal gripping and working range for standing work.

Back injuries can occur from either acute or chronic causes, as can many other types of injury. Many times an employer is challenged with determining whether an employee's injury was caused by their employee's work duties or by some other unrelated cause. The employee themselves sometimes may not know the cause of their injury, other times they may try to falsely file a Workers Compensation claim when they know their injury was not job related.

In all cases, if the employee's work environment is not ergonomically friendly for the musculoskeletal group, which gets injured, the injury was likely caused by or will be exacerbated by the poor environment and be a contributing cause. In other words, even if an employee hurts his back while lifting a trash can at home, his injury may not have occurred had his on-the-job workstation not required as much stooping and twisting. Qualified medical experts may or may not be able to distinguish between chronic, acute, or a predisposition for injury based on the work environment.

The best solution for employers is to maintain a work environment free from recognized causes for repetitive motion, or which exceeds the recommended lifting level for the employee involved. NIOSH (National Institute for Occupational Health) has freely made information available and has published the Recommended Lifting Equation, which takes into account the various factors affecting an employee's ability to lift repetitively. While OSHA has not made the lifting equation regulatory, they regularly enforce ergonomic injuries utilizing the general duty clause, which requires that employers maintain their workplace is free from recognized hazards.

When OSHA uses the General Duty Clause to cite an employer, OSHA must demonstrate that:

- The employer failed to keep the workplace free of a hazard to which employees were exposed,
- The hazard was causing or likely to cause death or serious physical harm,
- The hazard was recognized, and
- A feasible means of abatement for that hazard exists.

Injuries (Continued from Page 2)

False claims against Workers Compensation affect the employer's insurance costs, their bottom line and also the benefits available to their employees. The Commission and some employers will actively investigate false injury claims; this is especially true with employers who are not subscribers to Workers Compensation.

Texas is the only state in the nation where Workers Compensation is elective and not compulsory.¹ If certified by the Commission, some employers in Texas can self-insure.

Those employers who do not subscribe to Workers Compensation *should* be among the best performers for safety and lack of on-the-job injuries. "Should" is emphasized in the previous statement because it is for the company's own best interest. When investigating on-the-job injuries for employees of non-subscribers, one might find that these employers have

"Those employers who do not subscribe to Workers Compensation, should be among the best performers for Safety..."

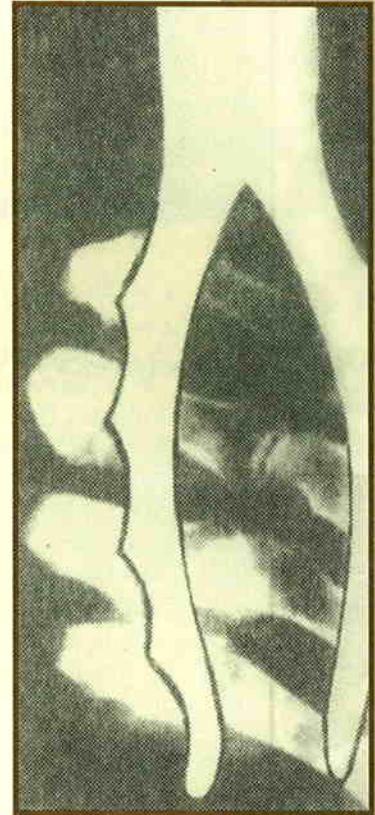
a poor safety program, sometimes worse than some of their subscribing counterparts. Instead, these employers have gone to great lengths to 1) blame the injured employee for getting injured on the job, 2) try to prove the injury did not occur on the job, and 3) try to show that the employee was not really injured.

While a medical expert may be able to determine whether an injury was chronic, acute and consistent with a particular motion, they cannot distinguish whether that motion occurred on-the-job, at home or in a car wreck. Biomechanical and ergonomic analyses can in many cases determine how that motion occurred and whether it is consistent with the job function. Much of the information and data relies on the employee's account of the injury. In an acute incident where there are witnesses, ambulance records and a medical paper trail, the answer is fairly clear. The difficult cases are the ones where the employee was alone, lost consciousness or was being dishonest.

SEAL Corporation can provide expertise regarding safe working environments, evaluate incidents and perform Safety and Engineering evaluations as well as expert testimony for employees or employers that have on-the-job injury issues. Contact us and speak with one of our Certified Safety Professionals, if you have a project requiring some assistance.



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X-ray shows the poor fit of a large hand to the wrench handle, which could affect the hand's movement.

In-house Continuing Education

State Board of Insurance approved CE courses provided to claims managers or legal staff.

Please call 1.800.624.0905 to reserve a course(s).

Accident Recon • Fire Investigation • Ethics • Structural

¹U.S. Dept. of Labor. 2001. *Type of Law and Insurance Requirements For Private Employment. Table 1.* <http://www.dol.gov/esa/regs/statutes/owcp/stwclaw/stwclaw.htm>.