

Thrown From motorcycle—Insp # 1668457 Edd Kirby's Adventure, LLC.

A 47 year old male employee was moving/riding a motorcycle when he wrecked and was thrown into a security fence.

Service employees had been working on a Ducati 1100cc sport bike motorcycle owned by the previous owner of the dealership to move it to a new location and for the family to sell. The victim, a detailer, asked if the motorcycle was ready to move to the clean-up garage for cleaning. As it was ready to be moved, he got on and rode the motorcycle out of the service garage and past the clean-up garage, continuing to ride to the upper parking lot of the facility. It has been determined that the victim had experience riding motorcycles.

It was learned through employee and employer interviews that it was normal for technicians to take vehicles to the upper lot after they had been worked on in order to ensure that they were functioning properly. Taking vehicles to the upper lot was not an uncommon practice. The motorcycle was in functioning condition with no noted mechanical issues or defects.

While in the upper lot, based on the markings observed at the scene, the victim laid down the motorcycle while attempting to make a left-hand turn to return to the dealership. The victim was not provided with and did not wear a helmet or any other protective clothing or gear. The motorcycle and the victim slide into the curb, crashing through the metal security fence, landing on the shoulder of the highway on-ramp near the guardrail. He was taken to Erlanger hospital and later succumbed to his injuries.

### **Citation(s) as Originally Issued**

A complete inspection was conducted at the accident scene. Some of the items cited may not directly relate to the fatality.

#### **Citation 1 Item 1      Type of Violation: Serious      \$4000**

**29 CFR 1910.132(d)(1)(i):** The employer did not select and have each affected employee use, the types of personal protective equipment that would protect the affected employee(s) from the hazards identified in the hazard assessment.

In that the employee was not provided with a protective helmet while riding/moving the Ducati 1100cc motorcycle from the service garage to the clean-up garage, the employee wrecked the motorcycle while in the upper lot, resulting in a fatality.

#### **Citation 2 Item 1      Type of Violation: Other-than-Serious      \$1000**

**TDLWD Rule 0800-01-03-.05(1)(a)1:** Within eight (8) hours after the death of any employee as a result of a work-related incident, the employer did not report the fatality to the TOSHA Division of the Tennessee Department of Labor and Workforce Development.

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In that the employer did not report an employee fatality that occurred on 04/20/23 until the onsite inspections opening conference that occurred on 05/05/23.

**Citation 2 Item 2a    Type of Violation: Other-than-Serious    \$100**

**29 CFR 1910.1200(e)(1):** Employer had not developed or implemented a written hazard communication program included the requirements outlined in 29 CFR 1910.1200(e)(1)(i) and (e)(1)(ii).

In that the employer did not develop and implement a written hazard communication program for the hazardous substances used at the facility such as: Mighty Full Synthetic 5W-30 Motor Oil, Daytona Chemical Full Synthetic CVT Fluid Conditioner, and Daytona Chemical DOT 4 Brake Fluid, exposing employees to chemical overexposure hazards.

**Citation 2 Item 2b    Type of Violation: Other-than-Serious    \$0**

**29 CFR 1910.1200(g)(8):** The employer did not maintain in the workplace copies of the required safety data sheets for each hazardous chemical and did not ensure that they were readily accessible during each work shift to employees when they were in their work area(s).

In that the employer did not maintain copies of the SDS's for the hazardous substances used by employees at the facility, such as: Mighty Full Synthetic 5W-30 Motor Oil, Daytona Chemical Full Synthetic CVT Fluid Conditioner, and Daytona Chemical DOT 4 Brake Fluid, exposing them to chemical over exposure hazards.

**Citation 2 Item 2c    Type of Violation: Other-than-Serious    \$0**

**29 CFR 1910.1200(h)(1):** Employees were not provided effective information and training on hazardous chemicals in their work area at the time of their initial assignment and whenever a new hazard that the employees had not been previously trained about was introduced into their work area.

In that employees were not provided with effective training that specifically addressed the hazards associated with the use of hazardous substances at the facility such as: Mighty Full Synthetic 5W-30 Motor Oil, Daytona Chemical Full Synthetic CVT Fluid Conditioner, and Daytona Chemical DOT 4 Brake Fluid, exposing them to chemical over exposure hazards.

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