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## *I Can See Clearly Now*

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This article is being brought to you by David Fischer of California Employer's Services. Should you have any questions please contact us at 888-358-2221/cell 559-284-1912 we are here to help

Last night I have the privilege of attending the Chapter 5 monthly meeting. The quest speaker was a gentleman by the name of Dan Leiner from Cal-OSHA Consulting. He did an awesome job and like most Cal-OSHA employees on the consulting side really does seem to care.

Below is my take away from this very informative meeting

Cal-OSHA consulting for the most part really does care about helping employers comply. As I was talking with him after the meeting I found out that he has to deal with the same flies in the ointment that all of us consultants do.

What are the flies in the ointment?

### **Flies in the Ointment**

- The first one he did not address with me, but it is true none the less. The so-called High Hazards Safety Program that they tell you to download is not compliant plain and simple. While it does have a Self-Inspecting Check List it does not have a Codes of Safe Practice. It also does not have a form for employees to report unsafe work conditions in the work place. Both of these are an important part of the IIPP. But upper management wants the Cal-OSHA team to encourage their employees both on the enforcement side and the consulting side to use this tool that they claim will keep you safe but doesn't under close examination.
- He agreed with me that the enforcement team has a free reign to cite employers for whatever they feel is necessary. Unfortunately, this could also be violations that are cited but aren't really violations. The enforcement team will let the employer choose to fight the fine knowing that many won't because it will cost some time and some money in most cases. Even if the employer does fight the fine the employer will have a much easier time winning if they have a compliance coach because Cal-

OSHA in general would rather hear from a consultant as opposed to a business owner.

- The things that I am telling you will not come to light unless the right questions are asked by someone who knows the laws and works with Cal-OSHA because Cal-OSHA at large does not want all of the flies in the ointment to come to light...It makes them look bad and shows the flaws in the system.
- Everyone in the Cal-OSHA system knows these things and it makes it hard for the Cal-OSHA Consulting Team because they are the ones that are supposed to help the employer and yet there is only so much they can do because of all of the above.

## **The Solution**

- Get a compliance coach who knows the laws and how they are being enforced. (Who that is is up to you)
- Have your Compliance Coach give you or develop for you a good IIPP Illness Prevention Program, Safety Program, Heat Illness Prevention Program, Hazardous Communication Program. All of these programs are on the hit list if Cal-OSHA Enforcement comes in.
- Get involved in the process don't depend solely on your compliance coach and the materials he provides. Take the time to understand and get familiar with the programs that he develops for you. Make sure that you do what needs to be done on your end to make the programs you just got your friend and not your enemy. If you are not sure ask your compliance coach and he or she should be able to give you a good plan of action that will not take you hours to implement, and then stay consistent with that plan and then compliance becomes easy. If you get in trouble at that point your compliance coach can help you and if you need to go beyond him or her and use an attorney a good compliance coach will be able to give you some choices, if you don't like what your compliance coach offers you can use your own attorney.

## **Cal-OSHA Consultation is not the long term solution:**

The purpose of the Cal-OSHA Consultation is to help employers get on the road to compliance by walking them thru the basics of safety in the workplace, if you depend on the High Hazard IIPP that they hand out you are not going to be compliant any way and you may face a fine for having a deficient safety program I am sure some enforcement officers will pass it even though it is not compliant but I am also sure others won't because they know it does not meet the standard.

But the point is they are there to get you off to a good start, and you can use them to come in from time to time to see how you are doing. But they are not a compliance coach who is working with you on an ongoing basis, and they will not be there for you

should the enforcement team come in and assess a fine. Even if the fine is valid there are things that a compliance coach can do to get the fine lowered or maybe even dismissed.

## **The Conclusion**

I was glad I was at chapter 5 last night, now I can better explain the things I have been seeing but could not wrap my head around them as well as I can now. Dan was great the chapter was great and it was worth the 4 hour drive and the cost of a motel to be there, and the food was good to.