

**Case 373. 28-year-old painter died when he fell from a second story roof while painting deck spindles.**

A 28-year-old painter died when he fell from a second story roof while painting deck spindles. A deck had been constructed over the second story roof of a residential home. The deck was approximately 24-feet 6-inches above grade. There was approximately 6-8 inches of shingled roof between the deck edge and the gutter. The deck railing had been partially rebuilt a few months prior to the incident. The spindles/balusters had been installed between the upper and lower railing. The spindles were held to the railings by small staple-type nails. The decedent had stained/painted the upper and lower railings, most likely while standing on the deck. The incident occurred while he was staining/painting a section of spindles. Several coworkers witnessed the decedent working outside of the rails and told him he should use a ladder to paint the outside of the spindles. Several ladders were available at the incident site, but were too short; a ladder that was long enough was at another location. The decedent was not utilizing fall protection equipment when he climbed over the railing and stood on the second story sloped roof, which was 21-feet 3-inches above grade. It appears he was holding onto a deck spindle with a knot in the wood while reaching for his paint brush. The spindle broke at the knot and the decedent lost his balance/footing and fell to the pavement below. The top of the spindle was found on the ground near him; the bottom of the spindle did not become unsecured from the base of the railing. Emergency response was summoned and transported the decedent to a nearby hospital where he died several hours later. Responding police matched the two spindle pieces to determine that the spindle piece found on the ground was the mate to the lower spindle found still attached to the deck.

The MIOSHA Construction Safety and Health Division issued the following Serious citations to the firm at the conclusion of its investigation:

**SERIOUS: GENERAL RULES, CS PART 1, RULE 408340114(1):**

An employer shall develop, maintain, and coordinate with employees, an accident prevention program, a copy of which shall be available at the worksite.

An employee engaged in a wood painting/staining operation while working from varying elevated heights above six feet.

**SERIOUS: FALL PROTECTION REF, CS PART 45:**

- RULE 1926.501(b)(13):

Each employee engaged in residential construction activities 6 feet (1.8 m) or more above lower level shall be protected by guardrail systems, safety net system, or personal fall arrest system unless another provision in paragraph (b) of this section provides for an alternative fall protection measure. Exception: When the employer can demonstrate that it is infeasible or creates a greater hazard to use these systems, the employer shall develop and implement a fall protection plan which meets the requirements of paragraph (k) of 1926.502.

No fall protection equipment provided, or in use, to employee engaged in an elevated painting/staining operation. Employee standing on the outside of deck railing (21 feet and 3 inches above grade), with no fall protection in use, was painting/staining new spindles/balusters of newly renovated deck railing. Employee fell (21 feet and 3 inches) to pavement below.

- RULE 1926.503(a)(1):

The employer shall provide a training program for each employee who might be exposed to fall hazards. The program shall enable each employee to recognize the hazards of falling and shall train each employee in the procedures to be followed in order to minimize these hazards.

No fall protection training program provided to employee who might be exposed to fall hazards. Employee was not training and was unable to recognize fall hazards and/or procedures to minimize these types of hazards.