



Department of Justice

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Middle District of Pennsylvania**

FOR IMMEDIATE RELEASE
MONDAY, JUNE 7, 2021
WWW.JUSTICE.GOV/USAO/PAM

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**NEW JERSEY COMPANY FINED \$325,000 AND SENTENCED TO A TWO YEAR
TERM OF CORPORATE PROBATION FOR COMMITTING AN OSHA VIOLATION
THAT RESULTED IN A WORKER'S DEATH**

SCRANTON- The United States Attorney's Office for the Middle District of Pennsylvania announced today that Dana Container, Inc., ("Dana"), a company headquartered in Avenel, New Jersey, was sentenced by United States Magistrate Judge Joseph F. Saporito, Jr. to pay a fine of \$325,000 and to serve a two-year term of probation for willfully committing an OSHA violation that resulted in an employee's death.

According to Acting United States Attorney Bruce D. Brandler, in or about March of 2019, using the trade name "Dana Rail Care," Dana contracted with another firm to clean crude oil residue from approximately 100 rail cars that were located at a rail yard in Pittston, Pennsylvania. Under regulations issued by the Occupational Safety and Health Administration ("OSHA"), an employee who is tasked by his or her employer to work in a confined space, like the interior of a rail car, must be protected in various ways. Employers are required to test and monitor atmospheric conditions within the space to ensure that the atmosphere is non-hazardous and to purge, flush or ventilate the space as necessary to eliminate or control any atmospheric hazards, including oxygen concentrations below 19.5 percent. Employers must also outfit any employee tasked with working in any atmosphere considered to be potentially hazardous with a particular type of OSHA-certified respirator.

On May 31, 2019, a Dana employee entered one of the rail cars at the Pittston site in order to scrape crude oil from the walls of the car. About 30 minutes later, the employee collapsed inside the car. He later died on scene, with the cause of death ruled asphyxiation. The atmosphere inside the car was determined to be oxygen-deficient and although Dana was aware of applicable OSHA regulations, the employee had not been outfitted with the proper OSHA-certified respirator. At sentencing, Dana represented to the Court that it is no longer in the business of cleaning crude oil from rail cars. Under the terms of its probation, Dana is required to make regular, monthly payments in satisfaction of the \$325,000.00 fine, as well as to immediately report any future OSHA citations to the Court.

“The death of the employee was a tragedy and could have been avoided if the company had followed the regulations for this type of dangerous activity,” stated Acting U.S. Attorney Bruce D. Brandler. “Our office and OSHA take these cases very seriously and willful violations of OSHA regulations will be aggressively prosecuted to deter this type of behavior and ensure that workers are protected. Our investigation continues as to any individuals who may have criminal responsibility for this tragic event.”

This matter was investigation by the Occupational Safety and Health Administration (OSHA) and by the United States Department of Labor, Office of Inspector General, Office of Investigations. The case was prosecuted by Assistant U.S. Attorney Jeffery St John.

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