

**LESSONS FROM THE CHILDREN OF ISRAEL IN THE WILDERNESS**

The children of Israel vigorously complained against the Lord and he sent serpents among them. Moses was commanded to make a serpent of brass and whoever went to look at the serpent of brass on the pole would live or regain life.

1. Mothers took their children and helped them to touch the snake of brass on the pole.
2. The strong men took their elderly parents and helped them to look and touch.
3. Wives and husbands took their spouse to the pole and made them touch it.
4. Many people refused to look and live and complained even more.
5. Some tried magic potions but they would not work and only deceived others.
6. Some waited until the pain was so bad they could not walk and were carried.
7. Some tried to exterminate all of the invading snakes but there were too many.
8. The clever ones went quickly to the brass snake on pole and got full immunity.

**BEWARE THE PLAGUE NO 2**

If you think that we have beaten the virus then please think again. USA thought that they would come to an end when they got to 100,000 deaths. Unfortunately USA got a second wave and is now heading for another 100,000 deaths and this will befall them within the next few weeks.

Oregon Man caught plague from his cat



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**John 3:14-15 (KJV)**

Just as Moses lifted up the snake in the wilderness, so the Son of Man must be lifted up, that everyone who believes may have eternal life in him.

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 July 2020



**NB: UNBELIEF & DISBELIEF CAUSE COSTLY SELF CONFIDENCE. EDITION FOR ALL NEW CLIENTS TO HELP AVOID PROSECUTIONS.**

The most common problem we have in getting new clients is the pervasive nature of Kiwi Ingenuity and self confidence. We are not only the world champions at Rugby (normally) we have the ability to beat all comers anytime. Not only are we the leaders in the physical sports and even the Americas' Cup but we have the mental ability to beat anyone when and how we choose.

Until recently, it was common for 90% of all NZ Managers to have absolutely no regard for Health and Safety at Work laws as "we know it all and we do it all and don't be silly, we have got it all covered – did you not know that?"

The problem is that 90% of our NZ Managers do not know the difference between Sharia Law and English Law. The same applies to 90% of NZ Lawyers. They simply cannot understand that they have zero chance of defending a client using the normal logic and accepted understandings of English Law.

One of the most critical things in relationship to our world standing in terms of Injury Prevention is that NZ happens to be near the bottom of the world classification as we are so full of self confidence that we could not possibly be wrong and if we happen to be that unlucky – well it was just our bad luck with the wrong inspector and on the wrong day and it would have to be our worst machine or worst operator.

I remember a Manager of a big sawmill in the South Island and let us call him Tim. Tim had a slab chopping machine get jammed at half cycle and the operator took off the cover and used a 4x2 to decompress or release the jogger wheel. It flew into action and promptly broke his arm. Tim called me and I handled the accident and all of the case was logged, photographed and referred to DoL / OSH then no action.

Three months later on a lady Inspector visited the site and Tim did not bother to tell me about the pending visit as he was super confident that he could handle it. Firstly he annoyed the Inspector by telling her that high heeled shoes were not suitable for walking around at a sawmill and he did not offer her a pair of gumboots.

She proceeded to complete an inspection of all of the machinery & she happened to notice a machine with somewhat faulty guarding. When she raised the issue with Tim he forgot to tell her that he would refer the matter to the Safety Manager immediately with authority to get the local Engineers Ltd to get it fixed pronto with lockout in the meantime. He simply responded "Yes I am aware of this and was just getting around to it." Roundtuits happen to explode when you least expect them to and Tim ended up with a \$50,000 fine under the 1992 laws in 2005 when \$250k was the maximum.

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### THE MORAL OF THE LEAD STORY OR EDITORIAL

1. Nobody knows how to handle an Inspector determined to find a defect.
2. Female inspectors deserve full attention and all of the respect they demand.
3. Self confidence can be perverse and guaranteed to trip you up every time.
4. You must always be looking for ways to continually improve your standards.
5. Do not fall into the trap of becoming twice as culpable, plus twice as liable.
6. We are delighted to record that 98% of our clients are on the right path.

### WHAT IS THE MAIN TRAP FOR TODAY'S MANAGERS?

- a) They think that they know ten times more than they actually know. Most managers appoint a Safety Manager from among the staff or get a person who has completed level 3 or 4 OHS at the local Polytechnic. The Business Owner has a copy of the HSE and HSAWA but they are in the filing system and are only referred to when there is a serious accident. The Regulations? "No we don't need them they are only for large companies."
- b) The NZ Manager typically does not understand that by appointing an in house Safety Manager s/he has just made it 100% certain that s/he will break two or three of the laws that clearly state s/he must not do that unless and until s/he can certify that all Directors and Owners are properly trained, qualified & certificated as Safety Officers.
- c) The typical NZ Company has probably sought advice from its Federation or Association and the advice has been incorrect. The vast majority of NZ lawyers will also give the wrong advice based on their training and knowledge.

### CLASSIC DEFIANCE "WE'VE GOT IT ALL COVERED"

Finally we would like to answer the Manager who gives us full assurance that they have got it all covered. They simply do not have it all covered. They have not bothered to find out the facts and have ignored the best evidence that loudly proclaims that 95% of attempted prosecutions are successful. If all of the managers have everything all covered then why are so many prosecutions successful and why are the claims of WorkSafe not thrown out of Court?

### WHAT IS THE FULL LEGAL ROLE OF THE OWNER / DIRECTOR / PCBU

The NZ Owner/Director who honestly wants to know what the law requires should get a copy of the Laws from us plus the Regulations. We will where possible supply at little or minimum charge to cover our time. The Manager must read and re-read all from section 30 which is Management of Risks by Owners PCBU and all the way through until the end of section 44 which is what must be achieved by the Owner. An Owner/Director must not try to pass obligations to a Safety Manager.



Die drei größten Sündigen gehen zum Himmel bei dem Richter. Die beiden Welt- und Hölle gehen zum Teufel, und eine zwischen den Hölle und Hölle. In der Hölle gehen sie auf Welt. 17. März 1814.

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### WHAT ARE THE LAWS THAT ARE FREQUENTLY BEING BROKEN BY THE APPOINTMENT OF A SAFETY MANAGER?

**Section 17 Meaning of PCBU** - this means every Owner and Director & General Manager or CEO of a company or entity or partnership.

**Section 18 Meaning of Officer.** – in plain language this means every Owner and Director and Manager with authority. For example a recent fine in Sydney for one accident event involved nine (9) managers including owners getting prosecuted for the same failure. Owners and Directors cannot pass away their liability. They often double their liability due to failure to get themselves qualified and certificated. They must not appoint another person for their roles.

**Section 28 No contracting out.** A term of any agreement or contract that purports to exclude, limit, or modify the operation of this Act, or any duty owed under this Act, or to transfer to another person any duty owed under this Act—

- (a) has no effect to the extent that it does so; but
- (b) is not an illegal contract under the Illegal Contracts Act 1970.

**Section 29 Insurance against fines is unlawful.** You cannot take out insurance to pay for your fines but you can insure for legal and or Court costs.

**Section 31 Duties not transferrable.** In plain language you cannot make somebody else responsible for your duties and obligations. Each duty holder must comply with that duty to the standard required by or under this Act even if another duty holder has the same duty. It means every Owner, every Director.

### WHAT DOES WORKSAFE HAVE TO SAY ABOUT THIS MATTER? GET A COPY OF THE WORKING TOGETHER TRAINING COURSE

There is one document or training course that is available from WorkSafe and it will tell you exactly the same story in plain language. Near the middle you will find pages that relate to the Owners, Directors and Managers. They are the key people and they cannot pass their strict obligations to another person.

### HOW TO RECTIFY THE SITUATION & BE SURE IT WILL WORK

There is only one solution. Get all Owners, Directors and top Managers qualified as Safety Officers with a formal ticket and Certificate

