
OSHA STANDARDS MAYBE CONSIDERED AS SOME EVIDENCE OF THE STANDARD OF CARE

December 8, 2009 | Law Alerts, News

Wendland v. AdobeAir, Inc.

Ct. Appeals, Div. One, December 8, 2009

Authored by the [JSH Appellate Team](#)

Plaintiff fell into an open pit in a building controlled by Defendant. Plaintiff presented expert testimony as to the steps Defendant should have taken to prevent persons from falling into the open pit, relying heavily on OSHA standards applicable to open pits in general. The court held that OSHA standards were relevant even though plaintiff was not an employee of defendant. They “assist” a jury’s determination of negligence because they represent the community’s judgment as to what conduct is reasonable and what conduct is not.” To ensure that the evidence was not improperly used to establish the standard of care, the court indicated that a limiting instruction should be given to the jury explicitly stating that the OSHA standards may be considered only as some evidence of the standard of care.