Here's why Disc Chipper users are going back to Drum Chippers.

**More** Dumping Fees.  
**More** Repair Costs.  
**More** Downtime.  
**More** Fuel Consumption.  
**More** Overheating.

Do you need to chip everything?

If you're like most disc owners, you've been chipping more of what was once sold as firewood (or left for people to take), and have watched your dumping fees go up and your productivity go down. Your crews spend more time running to the dump, clearing jammed chutes, washing down radiator screens and waiting for overheated engines to cool.

The Asplundh Whisper Chipper not only offers lower operating costs, but extremely low life cycle costs. And, how many used disc chippers have you seen for sale after ten years of service?

Are you spending more on fuel?

At 70- to 120-feet per minute, it takes a disc chipper almost three times longer than a Whisper Chipper to chip six-inch material. How much more fuel do you think it uses? And, with the engine running longer, you're looking at shorter engine life and, again, higher operating costs.

Are you paying hydraulic mechanics more?

The chart below compares replacement parts for a Whisper Chipper with those of a popular disc chipper.

<table>
<thead>
<tr>
<th>Chippers</th>
<th>Whisper Chipper</th>
<th>Disc Chipper</th>
</tr>
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<tbody>
<tr>
<td>Blades</td>
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<tr>
<td>Belts</td>
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<tr>
<td>Cutter Bar</td>
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</table>

**Hydraulic System**

<table>
<thead>
<tr>
<th>Whisper Chipper</th>
<th>Disc Chipper</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>Feed wheels, feed teeth, bearings, bushings, feed wheel springs, feed wheel yokes, etc., etc.</td>
</tr>
</tbody>
</table>

When you consider downtime. That translates into more time making money and less spending it.

Are you ready to think about a drum chipper?

The Whisper - designed, built, used and backed by Asplundh - carries a one-year warranty honored by the most extensive service in the industry. Plus, with full-sized Whispers starting at $8950, you'll keep your investment at its lowest and your yield at its highest.

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Safety is the most important factor in an arborist’s work. This issue covers how to avoid injuries and how to prepare yourself for the rigors of tree work.

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40 FROM THE FIELD
Tree Care Industry magazine was born in June 1990 and this month we begin a new year.

The past 12 months have been very exciting and rewarding. We started at ground "0" with a game plan, and a solid commitment for advertising from supplier members of the National Arborist Association. Our goal was—and still is—to provide the latest information with articles and input from all over the country in an easy-to-read, useable format. Our most important goal was to be user-friendly—to the readers and advertisers.

We established an editorial calendar to address the tree care industry’s needs. We believed our proximity to the mainstream of the industry coupled with our desire to produce a successful publication that would pump financial resources back into the industry would make TCI a success. Tree Care Industry is owned by the National Arborist Association, a non-profit organization. Surplus revenues will support the National Arborist Foundation, ISA’s Research Trust and other needs of the industry.

While Editor Peter Gerstenberger and I had written articles for other publications, we had never published or edited a four-color magazine. To ensure quality presentations, professional layout and efficient production, we hired a professional Associate Editor, Angela Cosgrove. Pat Felix had never sold an advertisement in her life but NAA's supplier members came through with ads, advice and support. We had a long list of contributing editors and a professional Associate Editor, Angela Cosgrove. Pat Felix had never sold an advertisement in her life but NAA's supplier members came through with ads, advice and support. In our first issue we had 32 advertisers.

In 1990 we also sponsored our first trade show. TCI EXPO was a huge success. Being user-friendly and addressing the needs of the industry made the difference. This year, TCI EXPO will be in Columbus, Ohio, on December 5 through 7. We will have more than an acre of exhibits. Our seminar program will feature many speakers new to Ohio. Detailed information will follow in future issues.

With this issue of Tree Care Industry, we enter our second year of publication. More than 90 suppliers have advertised in TCI. A long list of contributing editors has been established and grows continually. We have added Tom Clancy to the staff to sell advertising full time. While the number of pages in the magazine hasn’t grown significantly, every issue has a few more ads and a more professional appearance.

We appreciate the many positive comments from our readers and our advertisers. The support has been terrific. Thank you, one and all.

As we prove to our advertisers that we serve their needs, increased resources will enable us to increase the size of the magazine and our circulation will grow as well. Our commitment to provide you with the very best will never change. This is your magazine. Your input will only make TCI better.
When your tree & brush disposal requirements get beyond the point of hand feeding, Bandit has the whole tree chipper for you!

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Every year presents its own challenges to the tree care business. With many areas of the country facing economic uncertainty, 1991 may be even more of a challenge than past years. From Maine to California, company owners report that competition is keener than ever before. Economic slowdowns spawn low-overhead tree companies which typically underbid the established firms. Backlogs and profit margins dwindle. Sales and production people scramble to stay in the black.

Since accidents are more likely to happen when crews are straining for production, it becomes more important for owners, salespeople and crew members to think safety. Pay extra attention to the things out there that can get you.

You may not know what those things are. As they say, hindsight is 20/20, but you cannot afford to rely on hindsight.

Let the experience of other companies be your guide. In 1990, the National Arborist Association surveyed the firms represented on its Safety Committee to get their views on the most serious lost-time accidents. With well over 25,000 employees in the field, the collective exposure of those firms is massive. Their lost-time injury statistics show us where and how employees are being injured, and help us design injury-prevention programs.

Listed below are the leading causes of lost-time injuries in order of their severity, along with some thoughts on prevention.

**Back injuries**

Workers hurt their backs by pulling brush, lifting heavy and odd-shaped items, slipping on rough terrain, overreaching for objects and falling from equipment.

The effects of improper lifting and over-exerting the back can be immediate or can show up over time. Most injuries are the result of muscle strains or sprains, and are most likely to occur first thing in the morning or immediately after lunch when muscles are cold. Back pain can be nature’s warning to change your work habits before your back is irreparably damaged.

Prevention involves proper warm-up and stretching, proper lifting technique, good planning and common sense in or around equipment. (See the article called “Taking Care Of Your Back” on page 16 of this issue for tips on how to prepare your back for the rigors of tree work.)

The NAA’s proposed Back Injury Prevention Program, which is scheduled for production this year, will address the causes of strain and strain-type injuries, demonstrate with video the preferred methods for lifting and present basic stretching and warm-up exercises that reduce injuries.

**Falls from trees**

The leading causes of falls from trees are improper roping techniques, failure to tie in, incorrect crotching of line or excessive dependence on climbing spikes.

To any experienced climber, these occurrences probably conjure certain pictures. How to prevent them comes from good old common sense. How many of you have come within inches of cutting through your safety strap with a chain saw? I have heard of climbers who buy wire-core flip lines because they are prone to hitting them with their saws, but such lines aren’t indestructible. Have you ever come close to cutting off the limb you are tied in to? Have you ever had a spike kick out or a supporting branch break unexpectedly? These experiences teach you something, don’t they?

Any mistake that causes you to fall from a tree is one that you rarely get to make more than once. This is why experienced supervision is so important for preventing falls, especially for beginning climbers and new employees who may have picked up bad habits somewhere else. This aspect of safety is a perfect example of why it is important for field employees to be involved in the safety program. Successful safety programs often use a mentor
program for on-the-job training or an employee task force to encourage employees' active involvement.

**Chain saw cuts**

Kickback is by far the leading cause of chain saw cuts. Good technique—including proper stance, knowing where the bar tip is, keeping two hands on the saw and never cutting with the upper quadrant of the bar tip—will prevent most accidents. Make sure that the chain brakes on your saws work and have not been disconnected.

The equipment is important, too. Chain saw manufacturers are now required to provide at least two anti-kickback features on all saws. Make sure that the raker teeth on the chain have not been filed excessively.

Arborists are increasingly advocating the use of saw pants and other types of ballistic protection, especially when using saws on the ground. Many even find them comfortable enough to wear while climbing. Ballistic leggings are much more commonplace today and much more effective, with the introduction of Kevlar and other materials. You may see the price of saw pants drop somewhat in the next few months, and the products have definitely become more comfortable and practical for daily use.

A chain saw policy cannot ignore training. Chain saw manufacturers and distributors are getting into the act with chain saw clinics and training videos.

**Cuts from other tools**

Injuries also can happen while using pole saws and hand saws. Make sure your climbers are trained to position themselves out of the swing of their hand saws on the follow-through, and make sure they hang pole saws vertically with the blade facing away from them.

**Poison plants & insect stings**

It is vital to find out if any of your field people are allergic to insect stings. If one is, keep a bee sting kit with that person at all times and train workers in aerial rescue and first aid. Poison plant rashes are far less serious, but they can still cause lost time and discomfort. Recognizing and avoiding poisonous plants is the best line of defense. You may want to call a reputable arborist supply house for recommendations on cleansers or ointments in case you accidentally come in contact with them.

**Being struck by falling objects**

Getting employees to make a habit of wearing their hardhats will prevent the many senseless accidents caused by falling trees or limbs. Note the use of the word habit. The most effective
hardhat policy is one that requires employees to wear one at all times while working.

**Eye injuries**

Eyes can be injured by foreign objects such as wood chips or branches. As is the case with hardhats, it is best to have a policy requiring employees to wear eye protection at all times while on the job. Employees who wear system helmets with face screens or shields must also wear separate eye protection.

**Vehicle accidents**

Moving vehicle accidents or bodily injury caused by the public hitting workers can be prevented to some extent by the proper use of signs and cones. Even with these warning devices in place, it is best to be defensive. You cannot control the actions of others, and several arborists have been killed in recent years when passing vehicles ignored the signs and cones, slamming into the parked truck or chipper. Trucks should be positioned so chippers can be operated from the curb. Equipment repair, saw sharpening and saw fueling should be done off the roadway.

**Slips, trips, & falls**

Falling from equipment can perhaps best be avoided by keeping personnel off areas of the truck not designed as work surfaces. Falls while on the ground can be prevented by carrying sand for traction on icy job sites.

**Electrical contact**

Any arborist who is going to work within 10 feet of any conductor must first be qualified to do so with training in electrical hazards and aerial rescue. This requirement applies to everybody. It is Part One of the basic doctrine for electrical safety. Proper training is available from the NAA and occasionally through utility companies.

Part Two is that all conductors, even CATV and phone lines, shall be considered energized with potentially fatal voltage. Why? As little as 1/10th of an amp of current can kill a person, and conductors can be energized far in excess of the voltage and amperage they normally carry. When there is any doubt about whether a tree near conductors can be safely pruned or removed, call the utility company. They generally will be more than happy to tell you if the area is safe to work in if it means avoiding possible damage to the conductors.

A set of regulations called the Electrical Safety-Related Work Practices Standard went into effect last December. This Occupational Safety and Health Administration standard affects the residential/commercial tree company whose employees must come within 10 feet of an electrical conductor during the course of normal tree care work. It does not apply to line clearance. The standard eliminates the Catch-22 in which these companies used to find themselves: You couldn't do this type of work unless you were qualified and you couldn't be qualified unless you had done this type of work.
Time is money in the tree care business, and the time you save with Versalift puts money in the bank.

Fewer set-ups, more worktime are just two reasons the VERSALIFT VO-50 is the choice of tree care professionals from coast to coast. It’s been field proven to be an effective, hardworking, and dependable tool.

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of work. This standard permits res/com employees to perform limited line clearing incidental to their regular work so long as they are properly trained and supervised. Incidentally, the NAA’s EHAP program has been recognized by OSHA to provide adequate training. Specific training requirements go into effect in August.

Substance abuse

Nobody’s perfect, and sometimes even the most highly valued employee can have personal problems that affect his work performance and his safety as well as the safety of those around him. Many of us have been in the awkward position of working with or managing such a person. Remember, it takes special training to help such a person. Leave counseling to the professionals. Confidential referral is a service that was started for, and in some cases by, large employers. Today, there is a proliferation of this type of service, at least in metropolitan areas. Almost any size company can take advantage of it.

For example, a large Midwestern tree firm began making confidential referral available to its field employees several years ago. The service uncovered a significant alcohol and drug dependency problem among this firm’s most valued production employees that management would have never suspected. More important, the service succeeded in getting help for these employees before they hurt themselves or any of their co-workers.

Many causes, one cure

Other significant causes of lost time include cuts, bruises and heat exhaustion. This is by no means the end of the list, but a common thread in preventing all tree care-related accidents is to adopt a “safety first” attitude. A very wise person once said that you don’t find good employees, you make them. I equate “good” with “safe and productive.” You make a safe and productive employee by first showing your commitment to him and by providing for self-improvement and accident prevention training.

The basis for all safety policy and accident prevention training is the ANSI Z133 standard. This 16-page booklet is available through the International Society of Arboriculture as well as the National Arborist Association. If you are creative, a good communicator and have the time, the ANSI standard is all you need to develop a credible safety program. Few tree care managers meet all three of those requirements. At one time, only large companies could afford to develop sophisticated self-improvement programs. Now, with the multitude of NAA and other programs developed for the tree care industry, all employers have access to powerful tools for preventing accidents.

As good as tree care safety programs may be, the bottom line will always be attitude. Mark Twain probably said it best: “It is better to be careful a hundred times than to get killed once.”

Peter Gerstenberger has served as Director of Safety & Education for the National Arborist Association since 1985.
Opportunities are there

Bob Felix's editorial in the January issue of TCI brought up a good point: "Most arborists are 'tree men' first and businessmen last. When economic conditions are good, they make money in spite of themselves. When economic conditions are poor, only those who pay attention to the business side of their company survive."

I agree, but I also think most "tree men" let themselves get brainwashed about the importance of these "economic conditions." While it's almost impossible not to hear the doom and gloom reports, you can't let it make you think your business has to suffer from it.

Sure times are tough. But to me, that means opportunities are waiting to happen. While other companies respond to doom and gloom by closing early, turning off the lights and discontinuing their answering services, I'll be out making sales.

Bob says companies are finding that their existing clients are carefully guarding their disposable income and only buying what they must. If we accept that, then we don't know it is people buy. We as tree professionals must know that people buy what makes them feel good—in our case, the feeling that they are maintaining and beautifying their valuable property—and that desire doesn't stop during "bad times." Nobody is going to sacrifice the family food budget to have their trees trimmed. But everyone has disposable income, and it's the job of every sales person to help people decide what to do with it.

If you let the prophets of doom and gloom brainwash you, you are giving your clients a reason not to buy from you. You are giving up.

I was amazed recently to hear a couple of tree business owners tell me in Long Island that times were tough and business was slow. This is the place with the wealthiest ZIP code in America, a median income of $54,800, annual gross product of $41 billion, and the prospect of 200,000 new jobs in the current decade. If you can't make a tree business thrive in Long Island, where can you?

I don't believe business ever has been or ever will be good in the "marketplace." Business is either good or bad between your ears.

Opportunities are everywhere; it all comes down to mental attitude—regardless of the times.

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Pesticide Regulations

Should Local Communities Be Allowed To Enact Their Own?

The outcome of a case currently before the U.S. Supreme Court could determine permit requirements for pesticide applicators. At issue is whether local communities can enact their own requirements. But are community regulations necessary, or does the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) adequately protect individuals and the environment?

The language of FIFRA shows that Congress intended to preempt local regulations, but regulations at the community level are gaining momentum in several areas around the country. Most notable is the case of Wisconsin Public Intervenor v. Mortier, currently being debated in the U.S. Supreme Court. Oral arguments in the case began in April, but a decision is not expected before midsummer.

The story begins in April 1981 when the town of Casey, Wisconsin, adopted a resolution banning the use of "herbicides and pesticides" on public lands and along public roads. In 1983 the town passed an ordinance requiring a public hearing before herbicides could be applied.

In 1984 the resolution was modified when Ralph Mortier, a resident of Casey, applied for a permit to aerially apply Roundup on 20 acres of land as site preparation for planting Christmas trees. His application was denied. Only hand spraying of 10 acres was permitted.

The original ordinance was redrafted in 1985, adding fungicides to the list as well as a requirement that the permit applicant list the status of the pesticide in the Environmental Protection Agency’s re-registration program.

The Wisconsin Forestry/Rights-of-Way/Turf Coalition and Mortier filed suit against the town of Casey in September 1986. The judge found in favor of the plaintiffs and, immediately following the hearing, declared the town ordinance void.

In 1988, the Public Intervenor and the town appealed that ruling, and the case has since made its way to the U.S. Supreme Court.

A brief filed in March in support of Mortier stated that “allowing each local government in the U.S. to concoct its own scheme for regulating pesticides would make it impossible to maintain the comprehensive system of coordinated federal and supplementary state regulation which Congress sought to achieve through enactment of FIFRA.”

Here is an example of what could result if the Supreme Court rules in favor of the Public Intervenor. First, a myriad of communities around the country might propose requirements similar to those in Casey, Wisconsin. Such laws would mean that tree companies would have to meet several application requirements instead of one state regulation.

Right-of-way management using growth regulators would be severely hampered. Aerial application for gypsy moths, tent caterpillars or other insects would be tied up in the permit application process long enough to lose the battle against such pests. Where would it end?

Whatever the court decides, the controversy will not end quickly. Robert Rosenberg, State Government Affairs manager for the National Pesticide Control Association said, “However it turns out, I don’t think that’s the end of it. Either side that loses, I think they are fully prepared to go to Congress with it. It’s just one more step in a long battle.”
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Trees Are Growing
— Are You?

By Don Blair

My father believed in cycles. He tracked those cycles for 73 years from 1911 until his passing in 1984. He had a strategy and a belief that seemed to work very well for him. He saved as much money as he could during boom times so that he was in a good position to ride out the slower times. Having a little extra cash during slowdowns enabled him to make sound investments in real estate at bargain prices. His buying power for goods and services was stronger during slowdowns as well.

M.F. Blair was in the business for the long haul. He was fond of saying, “The trees keep growing; if (our clients) don’t do something this year, they’ll have to do something next year. We’ll be ready for them; it’ll just cost them a little more because (the trees) grew that much more.” Blair was right. I watched people put things off as long as they could through the early 1970s. But the trees kept growing and from the mid-70s until now, everybody who performed some type of service was in demand. Now, everybody who doesn’t do anything is saying: “It’s not like it was. There’s no backlog.” For us, the trees keep growing. For others, the paint will keep peeling, the pipes will keep leaking, the cars will keep breaking, until everything needs to be fixed.

The trees keep growing, even as you read this. I used to say of tree conditions in the San Francisco Bay Area: “If it rains this winter, we’ll prune oaks. If there is drought, we’ll remove pine trees, but there is always something to do.” Right now, arborists in the Bay area should be counting their blessings or curses. Five years of drought left plenty of dead pines, a killer freeze in December left a lot of restorative work, and heavy rain in March left the oaks in their glory this spring. There’s plenty to do.

Meanwhile, there are things that you can do to improve your backlog and market share. If you are a little slow, consider it an opportunity. My father did. Of course, his idea of an opportunity meant pulling weeds, painting the barn or scraping the rust from the insides of the spray tanks with a wire brush. My idea of an opportunity is to get out and personally call on some favorite clients that you haven’t done anything for in the last few years. The trees have been growing (or dying) all that time. Taking an unsolicited interest in the progress of your clients’ trees might be just the nudge that they need to have you do something.

Reevaluate your sales tactics. If you’ve been used to selling a huge package, you may be getting fewer blanket approvals than you did in 1988. The client might refuse the whole job before admitting he doesn’t have the money. Offer a comfortable choice.

While you’re walking the grounds, tell the client that you can offer sev-
eral performance options: You can do the work all at once; you can offer a 3-to-5-year plan; or you can prioritize the work by the needs of the trees. I sold plans and priorities through good times and bad for several reasons. First, we were too small a company to get tied up on a huge project. Second, planning ahead assured the client that we were in this for the long haul. Third, prioritizing by tree need—not client dollar—established our ethics and professionalism. In slow times, it was reassuring to me that I was booking the promise of work years in advance. If things are just a little slow, enjoy being able to handle your workload with less stress. Don’t shortcut your work, maintain your standards of quality, keep your loyal customers happy so they’ll be with you through good times and bad.

Turn a 7-hour removal into an 8-hour day by making it a training session. If you’ve been dying to try out a speed line or some other aspect of technical rigging but you’ve been too rushed before, seize the opportunity. Use the quieter periods to upgrade your personnel in all aspects of tree maintenance so that they are ready to fly when things pick up again. The trees are still growing, are you?

Donald F. Blair, president of Sierra Moreno Mercantile Company, Big Pool, Maryland, is an arborist, entrepreneur and teacher.

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Taking Care

By Brian Barnard

Back injury is the leading cause of lost time in arboriculture, and the major contributing factor to the high cost of workers compensation insurance. Pulling, twisting, and slipping are the most common causes. Improper lifting techniques cause muscle strain and discomfort.

Much of the pain and suffering from back injuries can be avoided. A few minutes of stretching and warm-up exercises first thing in the morning and after lunch, along with proper lifting techniques, a healthy diet and an appropriate amount of sleep will help eliminate most injuries. The following exercises and lifting techniques were compiled by the Safety Committee of the National Arborist Association.

Warm up first

A daily exercise program can help keep you productive and feeling fit. A short warm-up each morning to stretch the back, shoulder and leg muscles can be done in a few minutes. Some of these can even be done in the truck on the way to the job site. If you have any doubts of your ability to safely perform these exercises, consult with a physician before attempting them.

Let’s start with your neck. Lower your head, attempting to touch your chin to your chest. Feel the back of your neck stretch. Slowly raise your head, holding your chin up as far as possible. Repeat the front to back movement. With your chin to the chest, slowly rotate your head looking over your left shoulder and then your right shoulder. Repeat 6 times.

Now for your arms. Stretch your arms out parallel with the ground and make large circles with your hands pointing outward. Make 6 circles in each direction and repeat.

Upper body stretches are next. First, grasp your right wrist with your left hand behind your back. While inhaling, push your arms away from your back as far as you can. Hold that position for a count of 3. Repeat 6 times.
Of Your Back

Now clasp your hands together in front of your chest. Rotate your palms outward and reach forward as far as you can. Hold for a count of 3. As you push outward, take a deep breath. Pull your hands toward your chest while exhaling. Repeat 3 times.

Next, clasp your hands together behind your neck. Inhale, and raise your arms over your head as far as possible with your palms pointed upward. Hold that position for a second. While exhaling, lower your hands back behind your neck. Repeat 3 times.

An exercise that relieves stress in your entire back is the simple backward bend. It is helpful when you have been carrying heavy loads for some time, just after you have finished reaching and leaning forward, or after riding a long time in a vehicle. Stand with your feet shoulders' width apart. Place your hands on your hips. Lean back as far as your back allows by arching your back. Repeat 5 times.

To stretch your lower back, stand with feet shoulders' width apart. Go into a squatting position with your arms between your knees and feet flat on the ground. Hold the palms of your hands facing down as close to the ground as you can. Hold that position for a count of 10, keeping your normal back curve.

Hold on to a stationary object for balance. Raise and bend your left leg behind you, clasping your ankle with your right hand. Now pull your left leg toward your lower back until you feel your thigh muscle begin to stretch. Hold for a count of 10 and repeat with your other leg.

Face a raised object such as the running board of a truck or a block of wood. Place your right foot on it. Keep your left leg straight and rest your hands on your right knee. With your back in its natural curve, slowly bend your right leg. Repeat 3 times with both legs. This will loosen your lower back and leg muscles.
Lift with caution

In addition to stretching exercises, remember these proper lifting habits.
1. Decide in advance how to lift the object.
2. Consider the distance the object is to be moved.
3. Keep the load close to your body.
4. To change direction, move with your feet rather than twisting your back.
5. Use mechanical devices to move large objects.
6. Try to keep your back in the natural curve.
7. Don’t handle anything too heavy or bulky without help.
8. Bend at your knees.

The diagonal lift can be used for many tasks, such as lifting large chunks of wood. Stand with feet apart, straddling the wood, one foot slightly in front of the other, on a diagonal. Maintain the normal back curve and bend at your knees and hips. Grasp the far side of the wood with the hand that is on the same side as the forward foot. Then grasp the opposite side with your other hand. Check your grip before lifting. If the piece of wood slips, the jerking movement could cause injury. Keep head and shoulders up. Lift with your knees and hips, coming to a standing position.

The modified diagonal lift can be used for moving heavy tool boxes or large chain saws. Any items elevated 1 to 2 feet that can be grasped at that height are good candidates for this type of lift. Stand with feet apart, one foot in front of the other. Keep the body slightly over the load with knees bent in a half-squatting position. Lock your back curve in the natural position, tightening your stomach muscles. Bend your hips and grasp the handle firmly. Keep your head up. Do not bend at your waist. Use your leg muscles to straighten, with your knees and hips straightening to complete the lift.

The one knee lift helps bring the load close to your body before completing the lift. Place one foot beside the front of the load, and drop slowly to the other knee. Grip the item firmly at the near and far corners, keeping your head and shoulders up. With your lower back curved in, lift or roll the object to the top of your thigh. Maintaining the same posture, stand with the object cradled close to your body. This lift should be avoided if you have a history of knee problems.

The same techniques are used in the deep squat lift, but one foot is not placed ahead of the other. The deep squat lift should be used when lifting small, light items, or when there isn’t enough space to straddle the object. Using proper body mechanics, squat over the object. Lift the load with arms and cradle it close to your body to reduce strain on your back muscles. However, one foot should be placed ahead of the other when possible so you can get closer to the load, which reduces the stress on your lower back. The diagonal lift also helps keep your balance while lifting.
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We applied for 27 patent claims to the U.S. Patent Office and we were granted all 27. The patent prints above will illustrate some of the simple features of the all-new E-Z Beever chipper.
Product Liability

Is The Manufacturer Always To Blame For An Accident?

By Dan Brandon

A guaranteed formula to avoid being sued: Never produce anything, never take any risk, never accumulate any property or wealth.

A guaranteed formula for being sued: Start a manufacturing company, work hard, listen to the voices of the marketplace and build equipment they ask for to do a difficult job economically, sell thousands of these machines, try to make a lot of money, employ a lot of people, be successful.

That view may seem a bit cynical, but the American dream of starting with nothing and building a successful business may be in danger, says Norval Morey, an entrepreneur who has lived that dream. The problem, Morey says, has reached crisis proportions and the bottom line could be the loss of many jobs.

Morey, president and chairman of the board of Morbark Industries of Winn, Michigan, is a classic business success story.

In just over three decades he led his company from an old blacksmith shop to a multi-million dollar, international concern with a manufacturing facility that covers a million square feet and employs 500 people. He says to duplicate that feat today would be almost impossible. “One or two of these lawsuits would break you almost before you got started,” he says.

The chipper industry grows

It hasn’t always been that way. In fact, Morbark never encountered liability problems until the last few years. “After designing hundreds of products for more than 20 years without a single product liability suit, something has changed. I never even knew what product liability was until a guy tried to sell me product liability insurance.” Morey says. To understand the current situation, one must go back a few years and pick up the story.

Consider The Eeger Beever, a hand-fed brush chipper manufactured by Morbark. It revolutionized the way people dispose of brush, limbs and waste wood, and the market responded by purchasing thousands of them.

The chipper industry has flourished because many new environmental laws banned open burning and made it more difficult to dispose of brush at landfills and dumps. If this wood couldn’t be burned or buried, the only alternative was to recycle it by chipping it into material that could be used for a number of applications, including ground cover, mulch and boiler fuel.

Introduced to the market in 1980, the Eeger Beever can chip not only brush, but whole trees as well. It uses about a third of the horsepower of conventional chippers, yet can chip much larger material, up to 10 or even 12 inches in diameter. There is no kickback and the mechanical feed system feeds the material smoothly and steadily at a rate of about 65 feet per minute. A safety control bar on the infeed chute allows the operator to stop and reverse the feeding action, something that was impossible before.

“We designed this machine with all the safety features that could be anticipated at that time by both the designers and the users,” Morey recalls. “Of course, everyone understood that a machine that could take a 10-inch tree, pull it into the chipper disc and chip it could be dangerous, so we did everything we could think of to make it safe.”

A 20-inch steel shroud around the infeed rollers keeps the operator’s hands a safe distance from the feed works. Large, bright decals on both sides warn the operator to never, under any circumstances, put his hands inside the infeed shroud when the machine is running. The added safety control can be reached by the operator from both sides and the top of the machine to instantly stop the feed.

The Eeger Beever performed like nothing ever introduced before and it fit the needs of an environmentally aware market. “We were selling them faster than we could build them,” Morey says. In the first five years of production, disc-style chippers took over 70 percent of the total brush chipper market.

Within seven years, Morbark and other manufacturers had produced and sold more than 7000 disc-style brush chippers and had not heard of a single accident involving the mechanical infeed system. “We were very pleased because we felt that since there were no accidents we must have done a pretty good job of designing the safest chipper possible,” Morey says. “And I still believe it is the safest you can possibly make it.”

Accidents and liability

Suddenly that changed, and several workers were injured when their hands or feet were caught in the feed works of the chipper. To date there have been about a dozen such accidents reported for which the manufacturer has been sued for product liability.

Product liability can be broken down into three basic categories: a machine was manufactured badly and something broke causing an accident; the manufacturer failed to warn of a danger not obvious to someone using the equipment; or the equipment was improperly designed.

“We have no problem with the first two points,” Morey says. “We’ve never had anything break and cause an accident and we can’t be accused of not warning the operator of danger because the machine is plastered with warning decals. So it has always come down to the question of improper design. But how could it be improperly
designed when we had all those thousands of chippers out there for many years without one single accident?"

According to Morey, safety violations are likely to blame for these accidents. "There's no other way to get into the feed wheels. You have to put your hands inside there to get caught," he says.

In any case, in the last two or three years Morbark has been taken to court for product liability lawsuits that Morey is convinced should be handled by workers compensation. "Morbark has to defend itself at a tremendous cost both in money and time," Morey says.

**Legal system gone awry**

Morey blames the problem on a legal system gone awry. "These are strictly workers compensation cases; that's why we have workers compensation—to protect employees and employers in the event of injury," he says. "Regardless of how careless the employee or the employer is, they are covered."

The law also says an employee can't sue his employer for an injury. There is nothing, however, to prevent a company from being sued if a worker was injured while operating one of the company's products.

"First of all, lawyers file suit on a contingency basis. If they lose, the plaintiff didn't lose anything and his lawyer didn't lose much but his time," Morey says. "If they win, they get a percentage of the settlement. In most states, it's 33 percent of what is awarded."

"Then some lawyers cut deals with workers comp where they get a percentage of what they save workers comp. And the plaintiff may actually end up with very little or even owing workers comp. Once the court decides it's a product liability case instead of workers comp, the plaintiff must pay back workers comp any money he has received. But the lawyer still gets his money. As the defendant, we have to pay huge legal fees whether we win or lose."

"Many attorneys, including our own law firm, are ethical people, and this country desperately needs honest lawyers like them," Morey says. "The problem is, they're not all that way."

But the real problem isn't unethical lawyers; the real problem is the system which is allowed to continue. This country desperately needs a change in our legal system."

Several times after an accident was reported, certified letters were sent to every Eeger Beever owner in the company's owners list informing them how the accident happened and warning them to train their operators in proper safety procedures.

The infeed chute was lengthened from 20 inches to 36 inches to keep the operators' hands further from danger. In fact, there has been quite a debate in the industry on this matter. The American National Standards Institute (ANSI), which sets national safety standards for brush chippers, has not made a decision on what length the infeed chute should be. Some in the industry say that a longer infeed chute might be more dangerous because if a...
man tried to put smaller material in the chipper he has to reach farther. Then, if he gets his hands caught in the feed wheels he would have to reach back farther to get to the safety control bar. Morbark currently offers options of 20, 24, and 36 inches, preferring to leave it up to the customer.

"There are those that say 20 inches is too short and those who say that 36 inches is too long," Morey says. "If we build a shorter infeed, some attorneys will argue it should be longer; and if we build a longer infeed, some attorneys will argue it should be shorter."

Morbark has offered an extension kit to convert the infeed chute on machines already in the field from 20 inches to 36 inches. About half of the company’s customers have made the conversion. "We offered them the option and told them, 'If you believe it's safer, it's available,' and we recommend they make the conversion. But there have been accidents with longer infeeds as well as short ones," Morey says.

The company also added rubber curtains across the infeed. "Even though there is no kickback with these machines, we put the curtains on to remind the operator. If his hands touch that curtain, he's going too far," Morey says. "We shipped these free to every customer we know of. They only take a few minutes to install and still some of them haven't done it."

Another problem, Morey says, lies in the training some workers receive. "We can send out all the safety manuals in the world, and put warning decals all over the machines, but some of these guys are not ever going to pay attention," he says.

Call for legal changes

Morey doesn’t argue with the need for product liability protection. "If a manufacturer designs an unsafe machine and he knows it and still puts it on the market, he should be sued and he should have to pay. I have no argument with that, but the system we have is ridiculous," he says.

He would like to see the law changed so that attorneys cannot sue without responsibility. "I’d like to see the law changed so that attorneys cannot sue a manufacturer who has clearly no responsibility for the accident without having to pay if they lose. They should have to pay the manufacturer’s legal bills; that would make them think twice before they filed suit," Morey says.

He adds that he’s not too worried about himself. "I’m past 70 years old and I’ve never signed up for Social Security or Medicare. I never had any intention to, but maybe I’ll have to," he says with a chuckle. Then he turns serious. "What happens to me is not important. What’s important are the 500 employees whose jobs may be on the line and the millions of other workers around the country who are really the ones who have to pay for all these ridiculous awards."

Dan Brandon manages Corporate Communications for Morbark Industries.

This article represents the viewpoint of Morbark Industries and not necessarily that of Tree Care Industry magazine.
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You Be The Judge

By Steven R. Semler

Try your hand at confronting labor law issues contained in recent cases. Answers are at the end of the column.

Case 1

An employee who was fired filed discrimination claims with EEOC and a grievance with his employer. The employer settled by a check which had the following typed above the endorsement: Release: By endorsing and or negotiating this instrument, employee covenants not to sue...arbitrate, and releases from all claims and/or demands of whatever kind or nature the (company and the union).

Later the employee sued the employer on the discrimination claim. The employer asked that the case be thrown out of court due to the "release." Do you throw the case out of court?

Case 2

An employer was asked for a reference for a former employee. An executive with the company who had not supervised the former employee replied that the former employee (a construction manager) "was too detail-oriented, lost sight of big picture, and no longer worked for us and that might say enough." The former employee did not get the new job and sued for slander. Does he have a good claim?

Case 3

A $9-per-hour guard submitted an inaccurate time card which resulted in his being overpaid $4.48. He sues for breach of contract, contending that the wording of his employee handbook—stating that employees could be discharged for misconduct—amounted to an implied contractual promise that he could be terminated only for proven misconduct. Does the employee get to present a case to a jury?

Case 4

In a recent case arising in Washington State, an employee sued for wrongful discharge, contending that he was injured by workplace chemicals and was fired when he said he would file a workers comp claim. Does he have a valid claim?

Answers:

Case 1: Yes. The judge held that the release on the back of the check extinguished the discrimination claim. (Such releases are not valid in age discrimination cases and possibly in other cases. There also is no guarantee that another judge would rule similarly.)

Case 2: Yes. The court awarded $250,000. The court relied on the fact that the employer's executive who gave the reference did not have first-hand knowledge of the former employee's work (Moral: Don't give any references; confirm only the dates of employment and job title.)

Case 3: He gets to the jury. The court states that the handbook is an implied contract and that the employee therefore can sue for breach. (Moral: Do not maintain an employee handbook unless it and your employment application have been reviewed by your labor counsel to "de-contract" it.)

Case 4: The court dismissed the case, finding that the workers comp benefits constituted the exclusive remedy for workplace injuries. And with respect to the termination claim, the court faulted the employee for failing to have filed an administrative claim of retaliatory discharge under the Washington State workers comp statute.

Steven R. Semler is a partner in the Washington, D.C. law firm of Semler and Pritzker, which represents the National Arborist Association and corporations with respect to labor law matters. This article should not be taken as legal advice in dealing with particular situations, which only can be given by the employer's own corporate labor counsel.
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Contact: Arbor Age magazine, 818-781-8300

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Contact: American Forestry Association, 800-368-5748

Nov. 13-17
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ISA Grants Available For Research, Education Projects

The International Society of Arboriculture is again taking applications for grants to be used on shade tree research and educational projects. Horticulturists, plant pathologists, entomologists, soil specialists and others are invited to submit brief outlines of proposed projects where a grant might help buy supplies or equipment, hire technical or student help, or otherwise aid the work.

The deadline to apply for 1992 grants is December 1. The ISA trustees have awarded these grants since 1975, and for the past several years awarded 10 grants of $2000 each.

Individuals self-supported or privately or publicly employed are eligible. There is no restriction by religion, race, sex, age, nationality or residence of applicant. The grants are not expected to cover all research costs but to aid, stimulate and encourage scientific studies of shade trees. ISA requires that administrative overhead not be deducted from grants it awards. Recipients will be asked to publish their results in ISA’s “Journal of Arboriculture.”

To apply, candidates must submit their proposals, written in English and no more than two pages in length, telling: name, address and telephone number of one principal investigator; institution(s) and date(s) of investigator’s college and/or graduate degrees; title of the project; purpose of the project (your goal, what you hope to discover); research plan (how you expect to do the work); intended use of the grant money (no overhead allowed); names of other individuals involved in the research; citations to two relevant publications by the researcher; cost of the project; and how long the project will take. It is important to also include an explanation of how your results will help every arborist do daily tree care work.

Only one copy of your proposal is needed. All proposals are reviewed separately by each ISA Research Committee member. All finalist proposals are then reviewed by each trustee of the Memorial Research Fund. All applicants are notified in March or April.

Send proposals to Dr. Francis W. Holmes, Chairman, ISA Research Committee, 24 Berkshire Terrace, Amherst, MA 01002-1302.

‘Arboriculture At Its Best’

Workshops, a jamboree, and an exciting program will all be part of the International Society of Arboriculture’s 67th conference and trade show, August 11-14 in Philadelphia.

Pre-conference workshops will be offered on Saturday, August 10, and will include sessions on rigging, cabling and bracing; IPM scouting; IPM marketing; and a presentation on communication skills.

On Sunday, August 11, the International Jamboree kicks off at 9 a.m. in Fairmount Park with four challenging events. Walking tours focusing on insect and disease problems of ornamental plants also will be available. Pesticide certification credit will be given for these tours.

An exciting and informative program is planned for Monday, August 12, and Tuesday, August 13, with presentations by tree care experts from all over the country. Special interest sessions for utility, commercial and municipal arborists will be offered on Wednesday, August 14.

Special activities are planned for spouses and children throughout the conference.

To receive a registration form, contact the International Society of Arboriculture, P.O. Box 908, Urbana, IL 61801. FAX: 217-328-7483.

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NAF Awards Scholarship To UMass Student

The National Arborist Foundation has awarded a $1000 scholarship for the 1991-92 academic year to James D. Redman, who will be a second-year student at the University of Massachusetts—Stockbridge School of Agriculture. The scholarship was made possible by a grant to the Foundation from Arbortech, the truck body manufacturer in Wooster, Ohio.

Redman worked for an architectural hardware firm for 14 years before seeking a career change. He went to work for the Public Utility Division of the F.A. Bartlett Tree Expert Company as a groundman in 1989, and soon worked his way up to foreman. Tree care classes through the local utility plus home study through the National Arborist Association prompted him to enroll at the Stockbridge School last September. He maintained a perfect 4.0 grade point average in his first semester.

When he graduates, Redman hopes to find a position as a utility arborist, town tree warden or general foreman in private tree care. "Ideally, my job would give me a position where I could impart my knowledge of trees to my workers," he says. "In this way, I could further encourage correct and proper tree care."

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New ANSI Committee Formed

A proposed national standard aims to establish a universal outline for all persons involved in the care of shade trees. The ANSI A300 Committee, formed under the auspices of the American National Standards Institute, is currently working on a draft of the standard, which will be known as "Standard Practices for Shade Tree Maintenance."

The purpose of the standard will be to establish specifications for and enhance consumer understanding of tree care. It will also provide direction for employee training.

To ensure all interested parties were involved, 16 professional organizations, companies and government agencies were invited to serve on the committee. The first meeting was held March 19 in Washington, D.C. A final standard will encompass the practical aspects of commercial, residential and utility arboriculture.

ANSI, a private, non-profit membership organization, coordinates the United States voluntary consensus standards system and approves American National Standards. It ensures that all interested, expert parties concerned with the development of standard criteria—whether they be standards of practice or standards of engineering and design—have a hand in the development of those criteria.

At the March meeting, the A300 committee set nine priorities for tree care categories. Those priorities are: pruning; soil modification; construction protection; cabling, bracing and guying; root management; equipment calibration; lightning protection; tree growth regulators; and pest management. The committee felt that the planting and/or transplanting of shade trees is beyond the scope of the standard, so that issue will not be addressed.

The committee also established subcommittees to address three specific areas. The first subcommittee will draft the purpose and scope of A300, the second will focus on pruning techniques, and a third will address pruning classifications. Subcommittee results will be discussed at the next A300 meeting in the fall.

Tim Johnson, president of Artistic Arborist, Inc., a private tree care company in Phoenix, was voted chairman of the committee. Vice chairman will be Paul McFarland, president of McFarland Landscape Services in Philadelphia.

The A300 committee is working on a 2-year time frame to submit a consensus standard to ANSI. "Obviously, we (the A300 committee) are not going to develop standards instantly. The final product must be mutually acceptable and representative of the consensus," Johnson noted.

ANSI administers the only recognized system in the United States for establishing consensus standards. Many ANSI standards have been accepted by government agencies on issues of health, safety and public welfare.
J.P. Carlton Company introduces the Model 2000 self-propelled stump grinder, featuring a 20-hp Magnum Kohler engine, weighing 1200 lbs. and measuring 35 inches wide. The heavy-duty features of the 2000 include a 1-inch thick cutter wheel, 21 inches in diameter with teeth, and a 3-foot tongue cylinder. A 39-inch arch enables grinding of stumps 12 inches below and 34 inches above ground. Timken tapered roller bearings in the pivot head means longer life out of the wear points. Call 800-243-9335 for more information.

Bandit Industries, Inc., introduces the Mighty Bandit II, a simple, gravity-feed drop spout chipper complete with a dual wheel, hydraulic feed system. The Mighty Bandit II is ideal for chipping limbs and brush up to 6 inches in diameter and is especially effective at chipping short blocks of wood and prunings. The Mighty Bandit II is available with both diesel and gas power options ranging from 20 hp to 30 hp. For more information contact Bandit Industries, Inc., 6750 Millbrook Road, Remus, Mich., 49340. Phone: 517-561-2270. FAX: 517-561-2273.

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Jeff Sullivan formerly owned and operated Sullivan Tree Service in Santa Cruz, California. He now resides in Bemidji, Minnesota, and is employed with the wood products division of Potlatch Corporation.

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