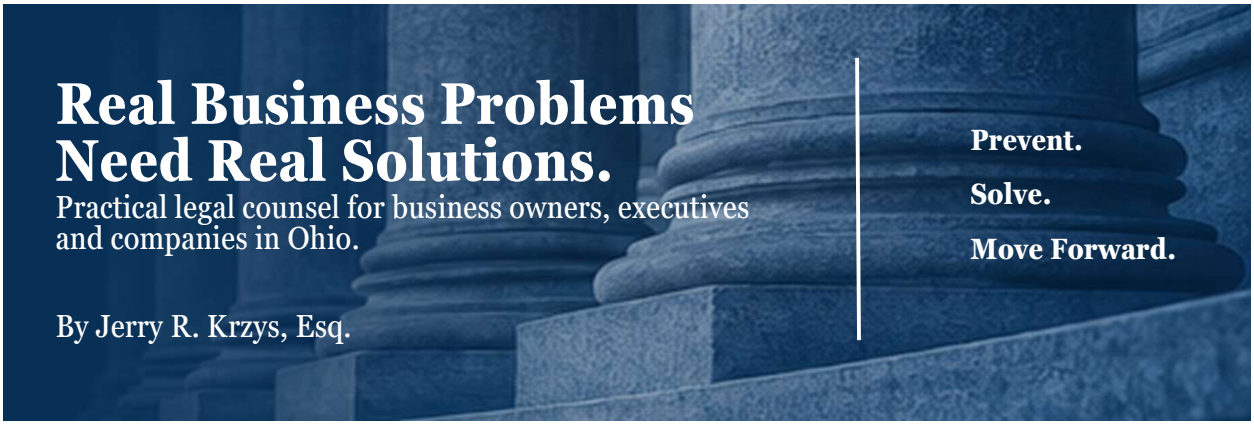
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The Machine Guard Someone Removed Years Ago Can Become Today's Lawsuit

What Ohio Employers Should Learn from Camara v. Gill Dairy, L.L.C., 2026-Ohio-3056

A machine is repaired. A guard has to come off to reach a pump, belt, shaft, blade, coupling, or other component. The repair is finished. Production resumes. The guard is never put back on. Months or years pass. Employees learn to work around the exposed hazard. Someone may complain about it. Someone may order a replacement part. The machine keeps running. Eventually, an employee is seriously injured.

At that point, the question may no longer be limited to whether the company should have repaired the machine sooner. Under Ohio law, the history of how the guard came off can affect whether an injured employee has a claim against the employer outside the workers' compensation system.

That is the practical significance of Camara v. Gill Dairy, L.L.C., 2026-Ohio-3056. The Ohio Supreme Court did not hold that every missing guard creates an employer intentional-tort claim. It did not hold that an employer becomes liable merely because management knows a guard is missing. What the Court did hold is important for any business that operates machinery: when evidence permits a finding that the employer deliberately removed an existing equipment safety guard, the statutory presumption in R.C. 2745.01(C) can apply without a separate showing that the employer also made a specific decision never to replace the guard.

For manufacturers, contractors, industrial and field-service companies, farms, warehouses, and other businesses that depend on equipment, that makes machine history, maintenance practices, repair documentation, and management response to missing guards more than operational details. They can become evidence.

1. The Accident Was Years in the Making

Jose Camara worked as a farm laborer for Gill Dairy. In April 2019, he was investigating an oil leak on a sand spreader connected to a tractor by a rotating power take-off shaft, or PTO shaft. His

clothing became caught in the unguarded rotating shaft. He was pulled toward the machinery and thrown over the shaft, suffering severe and permanent injuries.

The machine had not always been unguarded. According to the trial record described by the Supreme Court, the manufacturer supplied two guards: one covering the PTO shaft and another covering the point where the shaft connected to the spreader's gearbox. The machine also carried warnings telling users to keep the guards in place.

The history mattered. Gill Dairy purchased the spreader in 2011. In 2016, it hired a company to replace a hydraulic pump located near the coupling guard. The repair required removal of that guard, which could be reattached when the work was complete. By March 2018, a video showed the coupling guard missing and half of the shaft guard missing. Camara testified that the machine remained in that condition from when he began working there in 2017 until his 2019 injury.

There was more. Camara testified that he raised concerns about the unguarded shaft in 2017 and was told not to worry and to keep working. An OSHA investigator later reported that one owner said the PTO shaft had been without a guard for as long as he could remember. And in January 2019, only months before the accident, the company obtained a quote for a new PTO shaft assembly.

Those facts did not conclusively establish who removed every guard or exactly when. But they created a record from which a jury could draw conclusions about the machine's condition, its repair history, management's knowledge, and the company's role in removing the guard. That distinction became central to the case.

2. Ohio Makes Employer Intentional-Tort Claims Difficult - With an Important Safety-Guard Presumption

Ohio's employer intentional-tort statute sets a demanding standard. Under R.C. 2745.01(A), an employer generally is not liable for an intentional tort unless the employee proves that the employer acted with intent to injure or with the belief that injury was substantially certain to occur. The statute then defines "substantially certain" to mean deliberate intent to cause injury. R.C. 2745.01(B).

The Ohio Supreme Court has emphasized how narrow that standard is. In Houdek v. ThyssenKrupp Materials N.A., Inc., 134 Ohio St.3d 491, 2012-Ohio-5685, ¶ 25-26, the Court held that absent deliberate intent to injure, an employer is not liable on an employer intentional-tort claim merely because a workplace condition was dangerous or the employer knew injury was substantially certain in the ordinary sense of those words.

But R.C. 2745.01(C) creates a specific evidentiary rule for equipment safety guards. Deliberate removal by an employer of an equipment safety guard creates a rebuttable presumption of intent to injure when injury occurs as a direct result. The presumption does not automatically establish liability. The employer can present evidence to rebut it. But getting to the presumption can materially change the case.

The Court had previously explained in Hewitt v. L.E. Myers Co., 134 Ohio St.3d 199, 2012-Ohio-5317, syllabus. that "deliberate removal" occurs when an employer makes a deliberate decision to lift, push aside, take off, or otherwise eliminate a guard from the machine. Camara addresses what a plaintiff must prove when the guard was removed and not put back.

3. What the Supreme Court Actually Held

The Twelfth District Court of Appeals had framed the case in a way that effectively required more than proof of deliberate removal. It concluded that the employee also needed evidence of a considered decision not to replace the guard. The Supreme Court rejected that additional substantive requirement.

The Court focused on the statutory text. R.C. 2745.01(C) requires deliberate removal. It does not separately require proof that the employer specifically decided that the guard would never be reattached. The Court also made clear that deliberate removal may be proved with circumstantial evidence, not only direct testimony from someone admitting that he removed the guard.

That does not mean knowledge of a missing guard is enough. The Supreme Court expressly cautioned against that reading. An employer's awareness that a guard is missing, standing alone, does not establish deliberate removal. The employee still must present evidence from which the factfinder can conclude that the employer deliberately removed the guard.

In Camara's case, the trial record contained evidence from which a jury could reasonably reach that conclusion: a repair that required removal of the coupling guard, later images showing guards missing, testimony about the machine's condition over time, evidence concerning repair work, and other circumstantial evidence. The Supreme Court therefore reversed the appellate judgment that had taken the verdict away and remanded the case for consideration of issues the court of appeals had not reached.

For business owners, the important distinction is this: a broken or missing guard and an employer's deliberate removal of a guard are not legally identical. But when a guard was removed during maintenance or repair and the equipment was returned to service without it, the history of that decision can become the center of the case.

4. The "Temporary" Repair Can Become the Permanent Condition

Machines are often opened up because someone needs to get the job done. A guard blocks access to a pump. A cover has to be removed to change a belt. A shield interferes with maintenance. A component fails during a busy production run. Someone removes the guard with every intention of reinstalling it later.

The legal and operational problem is what happens next. If the machine goes back into service before the guard is reattached, "temporary" can become normal. The next shift assumes the machine has always been that way. A supervisor sees employees using it and does not know the repair history. Maintenance personnel change. The person who removed the guard leaves the company. Months later, nobody can explain when the guard came off, who authorized the work, whether a replacement was ordered, or why the equipment remained in service.

Camara shows why that history matters. The relevant event may have occurred years before the accident. A business that waits until an injury to reconstruct the history may find that the most important facts exist only in old work orders, photographs, vendor invoices, text messages, parts quotes, employee recollections, or not at all.

5. Decide Who Has Authority to Remove a Guard - and Who Must Put It Back

A company with machinery should not leave guard removal to informal custom. Management should know who is authorized to remove guards, under what circumstances, and what must happen before equipment returns to service.

That does not require turning every repair into a legal project. It does require an operational rule that matches the risk. If a guard must be removed for service, the work order or maintenance record should identify the equipment, the reason for removal, the person or vendor performing the work, and whether the guard was reinstalled before release. If it cannot be reinstalled, the record should identify why, what interim controls were used, who decided whether the machine could operate, and what corrective action remains open.

The purpose is not to manufacture favorable evidence after the fact. It is to make the company's actual safety and maintenance process visible while decisions are being made. Good records help management catch unfinished work. They also reduce the chance that years later everyone is trying to reconstruct a critical repair from memory.

6. A Missing Guard Should Be Treated as an Open Problem, Not Part of the Machine

One of the most dangerous forms of normalization is familiarity. Employees may work around a missing guard for months without an incident. That history can make the condition feel less urgent, even though the underlying hazard has not changed.

A business should have a straightforward escalation path when anyone discovers a missing, damaged, defeated, or improvised guard. The first questions are operational: What is the hazard? Should the equipment be removed from service? Can the guard be restored immediately? If not, who has authority to decide what happens next?

The second set of questions is historical: Was a guard originally installed? Was it removed during maintenance? Did it break or detach through wear? Was it altered by an employee, outside vendor, or prior owner? Has anyone previously reported the condition? Is there an open parts order or prior quote?

Those questions matter because Camara does not collapse every case involving unguarded machinery into deliberate removal. The source of the missing guard remains important. A company is in a much better position when it identifies and addresses that history before an accident rather than after one.

7. Used Equipment Creates a Different Documentation Problem

Manufacturers, contractors, farms, and industrial businesses often buy used equipment. A machine may arrive without every guard it had when new. It may have been modified by a prior owner, rebuilt with non-original components, or operated for years under practices nobody at the purchasing company knows.

That makes the acquisition inspection important. The company should not assume that the condition in which a used machine arrives is the condition in which it was designed to operate. Available manuals, manufacturer diagrams, warning labels, photographs, dealer information, and inspection records may identify missing or altered guarding.

There is also a legal distinction worth preserving. If a company acquires equipment with a guard already missing, that fact is different from evidence that the company itself deliberately removed the guard. But the business still needs to address the safety issue, and later repairs or modifications can create their own history. Documenting the machine's condition when it arrives helps management make the right decision and preserves what was actually known at the time.

8. Employee Workarounds and Complaints Need a Response

Employees closest to the equipment often know first when a guard is loose, missing, damaged, or interfering with the work. They also develop workarounds. Some are sensible temporary measures. Others quietly become the way the job is done.

A supervisor who hears "that guard has been gone forever" should not treat the statement as shop-floor background noise. The company should determine whether the condition exists, how it developed, and what corrective action is appropriate. The same is true when an employee reports that a guard makes the machine difficult to service or that people routinely remove it to clear jams, lubricate components, make adjustments, or speed production.

The response should be documented in proportion to the issue. That documentation can show that management investigated the condition, identified the cause, obtained parts, restricted use, repaired the equipment, retrained employees, or made another considered operational decision. More importantly, it helps make sure the problem actually gets closed.

9. After an Accident, Preserve the Machine and the History

When a serious equipment injury occurs, the instinct to clean up, repair the machine, replace the missing part, or return production to normal can create a second problem. The condition of the equipment and the records surrounding it may become critical evidence.

Before changing the machine, the company should consider whether the scene and equipment need to be photographed, secured, inspected, or preserved. Relevant maintenance records, work orders, manuals, vendor communications, purchase records, parts quotes, videos, photographs, safety complaints, training materials, text messages, emails, and electronic records should be identified and preserved. Appropriate insurers and counsel may need prompt notice.

This is not a reason to leave dangerous equipment in service. It is a reason to separate preservation from operation: document the condition, preserve what needs to be preserved, and then make the equipment safe under a controlled process.

Camara illustrates why. The Supreme Court's analysis relied on a trial record assembled from years of events: repair history, an employee video, testimony, an OSHA report, and a parts quote. Evidence that may seem routine when created can become important when a later dispute turns on who removed a guard and what happened afterward.

10. A Practical Machine-Guarding Management Checklist

For businesses that operate machinery, a useful review does not begin with litigation. It begins with the equipment and the people responsible for it. Management should be able to answer questions like these:

- Which machines have manufacturer-installed guards or interlocks, and are they presently in place and functioning?
- Who is authorized to remove, bypass, modify, or replace a guard?
- Do maintenance procedures require confirmation that guards are reinstalled before equipment returns to service?
- How are missing or damaged guards reported, escalated, and tracked to completion?
- If a replacement part is unavailable, who decides whether the machine can operate in the interim and on what basis?
- Do work orders and vendor records identify when a guard was removed and whether it was restored?

- Are employee complaints, recurring workarounds, and repeated guard removals being investigated rather than normalized?
- When used equipment is acquired, is its guarding compared with available manufacturer information and documented at intake?
- Are photographs, manuals, parts quotes, repair records, and other machine-history records retained long enough to reconstruct significant changes?
- After a serious incident, is there a process to preserve the equipment and relevant evidence before repairs or alterations occur?

The right answer will depend on the equipment, the business, applicable safety requirements, and the circumstances. The point is not paperwork for its own sake. The point is to prevent an unfinished repair, undocumented modification, or accepted workaround from becoming a permanent operating condition nobody consciously chose.

11. The Business Lesson from Camara

Camara is a legal decision about Ohio's employer intentional-tort statute, but the more useful lesson for management is operational. Machines accumulate history. Guards are removed for reasons. Repairs are made by different people over many years. Employees adapt to conditions. Managers change. Records disappear.

When an accident occurs, that history may determine whether the case is viewed as an ordinary workplace injury or whether the employee can invoke the statutory presumption tied to deliberate removal of an equipment safety guard.

The best time to understand why a guard is missing is not after someone gets hurt.

If your workforce operates guarded machinery or heavy equipment, addressing your maintenance, repair, and return-to-service protocols before a problem arises is critical. Ensuring those procedures clearly define who may remove safety devices and exactly how that work is documented can prevent a lingering operational hazard from becoming a serious legal and business problem.

Find the condition. Find the history. Fix the problem. Document what was done.

This article is for general informational purposes only and does not constitute legal advice. Workplace-safety obligations, workers' compensation issues, employer intentional-tort claims, and the application of Ohio law depend on the equipment, facts, evidence, and particular circumstances.