

Ontario Employer Guilty of C-45 Safety Crimes



On Dec. 24 2009, a swing-stage scaffold collapsed, killing 4 workers and seriously injuring another. The employer pleaded guilty to criminal negligence causing death under C-45, the law that changed the *Criminal Code* to make wanton and reckless disregard for work safety a federal crime.

Although C-45 was greeted with great fanfare, criminal prosecutions for safety violations have been relatively rare since the law took effect in 2004. The Metron case is an indication this may now be changing—not just in Ontario but all parts of the country.

The company's sole owner/director also pleaded guilty to 4 OHS violations. The court fined the employer \$200,000 and the president \$90,000. In its recently released sentencing decisions, the court noted that for almost 2 months, the use of the scaffold violated several OHS regulations. Although the company did provide safety training to workers on the project, the owner failed to ensure that non-English-speaking workers got written material in their native languages and failed to maintain required training records. But while the court noted that the case involved "serious breaches of health and safety legislation with horribly tragic consequences," neither the company nor the owner had a prior record of safety violations [*R. v. Swartz*, [2012] ONCJ 505 (CanLII), July 13, 2012; *R. v. Metron Construction Corp.*, [2012] O.J. No. 3649, July 13, 2012].

To Find Out More about C-45 & Criminal Liability for Safety Violations

- C-45 Video Training: Protecting Officers and Directors from Liability; Norm Keith, Gowlings