

newsletter

NOTICE OF MEETING & documents:

TORONTO WORKERS' HEALTH & SAFETY LEGAL CLINIC

ANNUAL GENERAL MEETING 22 October 2014.²

at 180 Dundas Street West, 19th Floor; 5:30 pm.

1. Last AGM minutes.³⁴
2. Annual Report.⁵
3. Financial Report.⁶
4. Appointment of auditor.
5. Election of new Board members & thanks to previous.
At this AGM, $\sim\frac{1}{2}$ of all Board positions⁷ will become vacant - to be filled for two-year terms. Also other vacancies would be filled.
6. Other business.
7. Discussion topic = With changes from LEGAL AID ONTARIO, is our Clinic to exist in the future?

Refreshments -- All welcome -- Please Post.

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From TWH&SLC -- [2014 08 21. course outline -- H&S law & policy & physics & chemistry.pdf](#)

<http://www.workers-safety.ca/>

→ Main Menu → NEW: course ...

AGM September 2014. Annual Report. ⁹¹⁰

The Toronto Workers' Health and Safety Legal Clinic exists to promote and provide access to justice to low income non-union workers/organizations by providing advice, representation, public legal education and law reform concerning occupational health and safety and related workplace laws through consistently high quality services in

TORONTO WORKERS' HEALTH & SAFETY LEGAL CLINIC

a cost-effective, efficient and innovative manner.

The Clinic's activities in pursuit of those goals are described below under the following headings:

1. Law Reform
2. Casework
3. Outreach (including networking, community development and education)

1. LAW REFORM

The Clinic continues to promote improved occupational health and safety laws and their enforcement. As well, we promote improved WSIB laws on behalf of our client community. The Clinic's law reform activities are as follows:

- (i) Oral submissions regarding the WSIB Appeals Procedures;
- (ii) Oral submissions in reference to Draft WSIB Policies;
- (iii) Oral submissions on Ministry of Labour enforcement role as part of the Occupational Health and Safety Strategy;
- (iv) Oral submissions on Experience Rating to the Chief Prevention Officer;
- (v) Oral submissions on Prevention Review Programs to the PPRG (Prevention Program Review Group);
- (vi) Oral submissions concerning Vulnerable Workers as part of the Provincial Occupational Health and Safety Strategic Plan;
- (vii) Oral submission on Health and Safety Awareness Training and Working from Height Training.

2. CASEWORK/ADVICE

As reported in our Annual Funding Application submitted during December 2013, our open cases from outside the GTA/905 tripled. These out-of-town clients are able to conveniently visit our office and attend at the Ontario Labour Relations Board or the Human Rights Tribunal on the same day because we are located close to both Tribunals. Most of our out-of-town clients are unfamiliar with Toronto so our location, which is just across the street from the bus station and one block from the subway, is helpful. The majority of our clients both in advice and casework come from the GTA, however, and during the reporting period and the Funding Application, the number of advice calls to the 905 had gone up 10% and the number of advice calls from other non-GTA locations such as 519, 705 and 613 also went up 10%.

Presence on the Internet - As reported in the Funding Application, we have increased our presence on the internet and have both Facebook and Twitter accounts as well as our website. When we compare our statistics of 2013 to one year prior, our advice statistics are up 8%, our occupational advice is up 27% and workers comp advice is down

TORONTO WORKERS' HEALTH & SAFETY LEGAL CLINIC

16%. Occupational health and safety reprisal matters were reported in our Annual Funding Application as making up 30% of our new cases opened.

The Clinic acted for its first reprisal client arising from our involvement with the Spanish Speaking Migrant Farm Worker community via our articling student, funded by the Law Foundation of Ontario for three years. The migrant farm worker was from Mexico and he was exposed to pesticides due to poor health and safety practices at a greenhouse in Leamington Ontario. The worker was fired for raising health and safety rights at work when he contacted a Ministry of Labour inspector. The Clinic filed a reprisal Application at the Ontario Labour Relations Board and acted for the worker on this matter. The matter had a positive outcome in the form of a settlement. With the assistance of staff at the Workers Action Centre, this individual worker has since met with the Deputy Minister of Labour during occupational health and safety/employment standards stakeholder meetings. He provided valuable insight into the circumstances faced by migrant farm workers working with pesticides in greenhouses in south-western Ontario. He illustrated the need for further enforcement by Ministry of Labour inspectors when he recounted the negative effect of the reprisal against him for raising health and safety concerns. This as well as other efforts have contributed to the Ministry of Labour decision to roll out joint inspections (i.e., employment standards and health and safety in Ontario workplaces).

2014 Casework/ Advice Update - In 2014 up to the end of August, our advice calls went up 8% from 283 occurring between January and August of 2013 as opposed to 304 occurring between the same period in 2014. In 2013, however, we opened 44 new cases in the same time period and in 2014 we opened 41 cases, down 3 cases from 2013. However, due to a leave we were short-staffed during May of 2014, which likely explains the slight decline in the number of cases opened in the first eight months of 2014.

3. OUTREACH/PUBLIC LEGAL EDUCATION

Our community legal worker continues to be dedicated to providing public legal education sessions in the community on occupational health and safety and other workplace law areas. As reported in our Funding Application for 2014-2015, the number of public legal education presentations has increased. As a result, we are connected to more community organizations and educational institutions that provide job readiness training and other programs. The Clinic volunteers made a meaningful contribution in this area by assisting with the writing and design of our new pamphlet and materials used in public legal education sessions.

The staff lawyer conducted training on tracking a WSIB claim, workplace law as well as assisting with the Institute of Work and Health on a project examining the workplace inspection process carried out by the Ministry of Labour inspectors. The staff lawyer also did a public legal education session for the Occupational Health Clinic for Ontario Workers' medical and nursing staff on how to interpret Workplace Safety and Insurance Board files.

The Clinic Director as part of the Prevention Council and as participant in the Vulnerable Workers Working Group made submissions and participated in discussions concerning Ministry of Labour enforcement and its role in occupational health and safety strategy across the province, as well as feeding into the Annual Health and Safety Strategy for Ontario. We participated in oral submissions concerning mandatory awareness training for all Ontario workers as well as a training package for those working from heights.

Clinic staff continue to attend community development meetings involving migrant farm workers and legal aid clinic workers across the province.

The Clinic continues to work with other groups who share similar goals and objectives. These groups are:

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1. Workers' Compensation Network
2. Toronto Injured Workers Advocacy Group (TIWAG)
3. O.F.L. Health and Safety Committee
4. Employment Standards Work Group (ESWG)
5. Institute of Work and Health and Occupational Health Clinic for Ontario Workers (OHCOW)
6. The Ontario Bar Association, WSIB Section
7. Prevention Program Review Group
8. Prevention Council
9. Experience Rating Working Group

Clinic staff also participates in a two-part Specialty Clinic presentation to the staff of Find Help (211). In keeping with tradition, every year both Clinic lawyers speak about new developments in WSIB and OH&S on the Labour News Program, which runs for an hour at 8:00 p.m. every Thursday night on 1610 AM Radio. Again, in 2014 the Clinic Director and Clinic Board Treasurer will be hosting placement students from the University of Toronto's Engineering Strategies Project. The 2014 projects will be more elaborate, involving 4th Year Engineering students.

4. STATISTICAL INFORMATION

As reported in the 2014-2015 Funding Application, our 2013 statistical information is as follows:

Casework	74
Summary Advice	411
Law Reform	18
Community Legal Education	109
Community Development	30

5. MEMBERSHIP REPORT

As of December 31, 2013 the Clinic had 150 members and a newsletter mailing list of approximately 200 names of individuals and organizations.

6. LEGAL AID ONTARIO

The Clinic has participated in a Co-location Project involving ten specialty clinics and the ACLCO. This is part of Legal Aid Ontario's push to achieve administrative savings and back office savings by co-locating clinics. As a result of our participation, our funding is guaranteed until April 1, 2017. Currently the Clinic is participating in sub-committees of the Co-Location Project. These sub-committees are the Site Selection Committee, the Shared Resources Committee, The IT Committee and the Design Committee. It is hoped that we can maintain our funding and stability by moving forward with this project.

7. VALUE FOR MONEY AUDIT

The Clinic participated in a Value for Money Audit during March 2014. The Project reviewed all specialty clinics in Toronto. We are awaiting the final report.

Clinic Board members & committees.

Clinic Board membership is elected for staggered two-year terms.¹²³ ~1/2 of the Board was elected, or re-elected, at the previous AGM : ⁴⁵⁶⁷

● **ending ~October 2015:**

Sumaiya Sharmeen	Selvathy Kumar
John Field	Georgina Clinton
Diana Dongak-Lee	Genevieve D'Iorio
	Carl Mohan

● **ending ~October 2014:**

Hilary Balmer	Jason Achorn
Ivan Lancaric	Titilayo Igor
Victoria Padel	Bola Ore
Michael Grossman	[1 vacancy]

Clinic committees continue after the AGM until Board or Executive decisions would make changes. As of before the coming AGM, committee membership:

● **Executive Committee** - [to assist the Board in its functions, and to act for the Board when the Board is unable to meet] :

Carl Mohan - Chair
Hilary Balmer - Vice-Chair
Michael Grossman - Treasurer
Jason Achorn - Secretary
Ivan Lancaric - Member-at-Large

● **Personnel Committee** - [To negotiate with Clinic staff on terms and conditions of their employment and to resolve all other personnel matters that may arise] :

Carl Mohan (*ex officio*)
Hilary Balmer
John Field
Diana Dongak-Lee
Victoria Padel

● **Outreach Committee** - [To develop and implement strategies for reaching non-unionized workers with OH&S problems and to monitor and evaluate all outreach undertaken by the Clinic] :

Carl Mohan (*ex officio*)
Hilary Balmer
Jason Achorn
Victoria Padel
Diana Dongak-Lee
Genevieve D'Iorio
Bola Ore

● **Planning & Priorities Committee** - [To set Clinic priorities in relation to casework, community education and organizing and law reform, within parameters of Objectives of the Clinic as established by the Board; to decide which kind of cases the Clinic will undertake and whether or not particular cases fall within one of these categories] :

Carl Mohan (*ex officio*)
Hilary Balmer
John Field
Selvathy Kumar

● **newsletter Committee** - [To consider improvements to the Clinic's *newsletter*] :

Carl Mohan (*ex officio*)
Michael Grossman
Genevieve D'Iorio
Bola Ore

● **Website Committee** - [To consider improvements to the Clinic's website] :

Carl Mohan (*ex officio*)
John Field
Michael Grossman
Victoria Padel



Case & comment --

R v McFeeters

Canada Labour Code.

M. Grossman

...Shortly after 9:10 am, Mr. F... and Mr. R... discovered Mr. H..., the chamber door latch of Bagger # 2 was impaled in the right side of his head. ...

Reported previously in this *newsletter*¹² were the *information* document³ and the transcript of the guilty pleas of the individual accused persons at Ontario Court of this Niagara case under the *Canada Labour Code*.⁴ The transcript of the guilty plea of the corporation has also been received. And, the response of the Ontario Ministry of Labour to our Clinic's *Freedom of Information* request has been received.⁵ A review of these documents, along with the news report,⁶ and a consideration of *R v GMC*,⁷ allow for a reasonable chronological narrative speculation:

McFeeters is an interprovincial trucking company located near the US border, and much of its business is US interstate; this is, for business in Canada, a Canadian federal labour jurisdiction. Associated with its trucking business is a wood shavings operation that has bagging/baling machinery; this could be within the Ontario provincial labour jurisdiction, but it could also be Canadian federal because of the related trucking business.

Inspectors of the Ontario Ministry of Labour were active on-site, at McFeeters, on three occasions:

On 06 February 2002, there was a wide-ranging walk-through kind of inspection, that included comment about the bagging machines and guarding. Lock-out (of energy source) procedures were also mentioned (but not clearly regarding the bagging). That McFeeters should be considered federal was mentioned. There were no MOL orders. Alex Graovac (later to be an accused in the case arising out of the 13 July 2011 incident) signed-off as recipient of the report.

On 27 March 2006, a MOL presence resulted from a finger crushing and amputation in a machine two days before. No MOL action followed, notwithstanding that orders and prosecution would often flow from such a happening - for example as in *R v Pal*.⁸ Again, Alex Graovac signed-off as the recipient of the report.

On 27 August 2007, there was again a MOL presence at McFeeters, and again, Alex Graovac signed-off as recipient of the report: "... NO INSPECTION WAS CONDUCTED. THE EMPLOYER STATED THAT THEY ARE A FEDERALLY REGULATED WORKPLACE, FEDERAL ID #242658 ..."

In January 2011, a worker had a machine-related head injury that required some medical attention. Machine guarding seems to have been a problem. No government inspectional activity is revealed in documents seen so far.

On 13 July 2011, Alan Hicks, a worker for about eight weeks, while attending to a bagging machine, while "... listening to an MP3 player with one ear bud in his ear ... ," died of "... A blunt force penetrating injury of the head while under the influence of Tetrahydrocannabinol^[9] due to an industrial accident." The machine was neither adequately guarded nor locked-out. Niagara Police attended at the scene that day, taking control, and presumably (hopefully) federal labour inspectors

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were there too. The next day "... [presumably federal] Health and Safety Officers re-attended the site and issued a danger direction, directing that the balers be removed from service because of the guarding deficiencies. ..."

Prosecution under the *Canada Labour Code* followed, with the individual guilty pleas, and then fines imposed, 02 October 2013; and the corporate 02 August. As revealed during those proceedings, Alex Graovac, appears to have been unaware of the federal jurisdiction until 13 July 2013; notwithstanding having effectively signed-off otherwise, 27 August 2007. Such a lapse is understandable and excusable in view of the reasonable assumption (based on no mention in any document revealed so far) that federal inspectors were never at McFeeters until action by Niagara Police, 13 July 2011. Whatever criticism the provincial MOL might deserve, at least its inspectors sometimes attended.

The employer-expressed deep remorse at the court proceedings should be accepted as genuine.

Mention of the killed worker with "... an MP3 player with one ear bud in his ear ...," and "... under the influence of Tetrahydrocannabinol ..." deserves comment. The moral focus for analysis of the cause of the tragedy is the employer's heavy-duty responsibility to have machines guarded, and with lock-out procedures actively in-place. The employer should not have operated otherwise; and a government inspector should not have allowed such operation. In this context, federal or provincial does not matter; some government should have intervened for prevention.

If an MP3 player is seen as problem, it is also the employer's responsibility as the controller of the workplace. If drug use is so important as to be mentioned, then there should be a proper analytical chemistry report, complete with error statement, explaining how the chemical determinations - qualitative and quantitative -- were made, and how "influence" may be defined and judged. The laboratory's quality assurance regime should be indicated. To simply offer only "... influence of Tetrahydrocannabinol ..." is bad science, and disrespectful to the dead.

Perhaps the most significant policy aspect of this tragedy is the historical absence of a federal inspectional presence until the local police took control of the site.

From the transcript of the guilty plea of the corporation -- ¹⁰

[2014 07 21. R v McFeeters corporation plea transcript.pdf](#) :

Information No. 12 2836
ONTARIO COURT OF JUSTICE
HER MAJESTY THE QUEEN
v.
MCFEETERS ENTERPRISES INC.
and GREGORY MCFEETERS and
ALEX GRAOVAC

PROCEEDINGS AT GUILTY PLEA
BEFORE THE HONOURABLE
JUSTICE A.J. WATSON
on August 2, 2013

at ST. CATHARINES, Ontario

APPEARANCES:
D. Ives Counsel for the Crown
R. Simmons Counsel for McFeeters Enterprises
ONTARIO COURT OF JUSTICE
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Transcript Ordered:.....July 11, 2014
Transcript Completed: ...April 29, 2014
Ordering Party Notified:...July 21, 2014 [1]
FRIDAY, AUGUST 2, 2013
...

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MS. IVES: The intention is to have the company enter a plea today to count 14.

...

MS. IVES: In relation to the death of a worker at the work place.

THE COURT: ... this was judicially pre-tried and so I do actually recall the circumstances from the pre-trial, although at that point it was not resolved and obviously counsel had worked toward a resolution in relation to this matter and I'm advised that there is to be a plea today, was it from the company today?

MS. IVES: From the company today and the two individual accused, we're still sorting out certain facts ... the anticipation is they will plead to certain charges on the 29th of August.

THE COURT: All right, well you see that count 14 alleges both Greg McFeeters and G. McFeeters Enterprises Inc.

MS. IVES: That's correct, at the conclusion of the plea by the company, I will request that the causation of death charges in relation to the individuals be withdrawn.

THE COURT: All right, maybe you could just explain to me then, what, what are the pleas that are being anticipated in the future?

MS. IVES: Mr. McFeeters will plead guilty to count nine and Mr. Graovac will be pleading guilty to count 12.

THE COURT: McFeeters, this is Greg McFeeters?

MS. IVES: That's correct.

THE COURT: With count nine and count 12 is, I'm sorry?

MS. IVES: Mr. Graovac.

THE COURT: Alex Graovac, yes, okay. Now, is this Mr. Simmons?

MR. SIMMONS: Yes.

THE COURT: All right, Mr. Simmons, are you here today then, who is here on behalf then of the corporation?

MR. SIMMONS: I am.

THE COURT: All right, and I have to tell you that in the past and maybe, maybe it's different with *Occupational Health and Safety*, but normally we have an officer or an owner of the corporation that appears on behalf of the corporation. Is there any difficulty that the Crown has with counsel appearing on behalf of the corporation?

MS. IVES: The *Code* permits in the summary process for them to appear by agent.

THE COURT: Summary? All right, thank you. That's of course, that's correct, thank you. All right, in normal course, I would ask about plea comprehension provisions but I take it that counsel is thoroughly apprised of those and is prepared to concede that this is a fully informed and voluntary plea on the part of the corporation, is that correct?

MR. SIMMONS: That's correct, Your Honour.

THE COURT: All right, then madam clerk, if you could please arraign G. McFeeters Enterprises in relation to count 14 only and you will note that Greg McFeeters, are you withdrawing as against Greg McFeeters?

MS. IVES: Yes, that's correct.

THE COURT: All right, so count 14 should be noted as withdrawn against Greg McFeeters and if you

would please arraign count 14 in relation to the corporation.

CLERK REGISTRAR: So, G. McFeeters Enterprises Inc. stands charged that between the 31st day of March 2011 and the 13th day of July, 2011, operating at 2825 South Grimsby Road # 21, Smithville, Ontario, both being employers within the meaning of Part 2 of the *Canada Labour Code*, wilfully failed to ensure proper, sorry, failed to ensure Premier Tech Bagger # 2, a machine with exposed moving parts, was equipped with guards to prevent access to the area of exposure and was safe under all conditions of its intended use, contrary to subsection 13.13(1) of the *Canada Occupational Health and Safety Regulations* and paragraph 125.(1)(t) of the *Canada Labour Code*, knowing that this was likely to cause the death of or serious injury to an employee, thereby committing an offence under subsection 148.(3) of the *Canada Labour Code*. So, G. McFeeters Enterprises, how does, how does that enterprise plead to the charge?

MR. SIMMONS: Guilty

THE COURT: All right, and if you could please note, madam clerk, on the information that counsel Mr. Simmons is acting as agent for G. McFeeters Enterprises Inc. Thank you, yes, the facts please?

MS. IVES: G. McFeeters Enterprises Incorporated is a medium sized company with about 30 employees. It is located in Smithville, Ontario. The business consists primarily of a for hire trucking operation that provides transport services across international boundaries and it also operates a wood shavings production and packaging or bagging plant that is functionally integrated into the trucking operations.

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THE COURT: May I ask you, do, are you actually reading from a statement of fact?

MS. IVES: Yes.

THE COURT: All right, it would make it, I think, easier for the court if we could have a copy of the statement filed after you've read it in, assuming it's all agreed to, as, and we can mark it as an exhibit, but go ahead and,...

MS. IVES: Certainly.

THE COURT: ...thank you.

MS. IVES: McFeeters Enterprises is therefore a federal work undertaking or business within the meaning of Section 2(b) of the *Code*. Parts of this also include the counts relating to the individual accused. It's not my intention to read that aspect in today but I'm happy to provide the court with the entire statement today in the anticipation the pleas will be entered on the 29th,...

THE COURT: All right.

MS. IVES: ...if you wish.

THE COURT: No, what I want is I want the record to reflect what is being pled to today. It's just, makes it easier for me rather than taking notes...

MS. IVES: If I could just have....

THE COURT: ...to have something, when it's a complicated plea like this, which this is, and it's a very serious situation, to have an agreed statement of fact that would be filed, rather than my having to take handwritten notes.

MS. IVES: If I could have a moment. The first part is simply background facts and my friend has indicated he has no objection to reading in all the background facts at this point.

THE COURT: All right.

MS. IVES: Mr. McFeeters is the sole owner and corporate director of McFeeters Enterprises. As a result, both the company, McFeeters Enterprises and Mr. McFeeters are employers^[2] within the meaning of Part 2 of the *Canada Labour Code* because they employ one or more employees. Mr. Graovac is the operations manager for McFeeters Enterprises. As operations manager he exercises supervisory and management responsibilities and in this role he acts on behalf of McFeeters Enterprises and Mr. McFeeters. He is therefore also an employer within the meaning of Part 2 of the *Canada Labour Code*.

^[3] Mr. Alan Hicks was a temporary worker on the payroll of KAS Personnel Services Incorporated, which had been supplying temporary workers to McFeeters Enterprises for many years. The contract between KAS Personnel Services and McFeeters Enterprises allowed McFeeters Enterprises to hire any temporary worker as a permanent employee after 600 hours of temporary work which had been done in the case with prior workers.

^[4] Mr. Hicks was assigned to McFeeters Enterprises on May 18th, 2011 and had been working there as a general labourer about eight weeks before his death on July 13th, 2011. During this time, McFeeters Enterprises controlled and directed all aspects of Mr. Hicks' work. They provided him with the tools and equipment needed on the job and directed Mr. Hicks to different work areas depending on the needs of and at the discretion of the company. Mr. Hicks worked alongside permanent employees and reported to and was supervised by different supervisory employees acting on behalf of McFeeters Enterprises. He is therefore an

employee within the meaning of Part 2 of the *Canada Labour Code*. Count 14 against McFeeters Enterprises relates to McFeeters Enterprises wood shavings production and packaging operation.

^[5] In 2003, McFeeters Enterprises acquired new and more automated packaging equipment which allowed for increased production of their product. The two Premier Tech four stage automatic balers or baggers were installed and became operational by fall 2004. The packaging plant is usually run by the supervisor, Rondon Rowley, with three other staff. On July 13th, 2011, one employee was sick and the packaging plant was being operated by Mr. Rowley and a coworker, Mr. Fleming. Although the balers are automated, the operation requires constant monitoring, to ensure broken bags do not end up shrink-wrapped on a skid. In addition, there is housekeeping and cleanup work to do in this work area due to accumulated, accumulation of wood shavings and plastic bag cuttings.

^[6] Mr. Hicks was last seen by co-workers, removing broken bags of wood shavings and dumping them into the bulk area. He was working in the area around and between Premier Tech Bagger # 1 and Bagger # 2. This was a common practice and Mr. Hicks was expected to be cleaning up around the balers as part of his general labourer duties. Mr. Hicks was wearing shorts, a T-shirt, gardening gloves, safety boots and a baseball cap. He was listening to an MP3 player with one ear bud in his ear. None of this was uncommon or of concern to his co-worker, supervisor, or the operations manager. Mr. Hicks' co-worker, Mr. Fleming, indicated that Mr. Hicks was his normal self. His employer and co-workers felt he was a good and hard worker.

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[7] Shortly after 9:10 am, [13 July 2011] Mr. Fleming and Mr. Rowley discovered Mr. Hicks, the chamber door latch of Bagger # 2 was impaled in the right side of his head.[8] The two men summoned the first aid attendant and Mr. Graovac. At 9:25 a.m., a call was placed to the Niagara Emergency Medical Services. Despite the efforts of Mr. Hicks' co-workers and the First EMS responders, Mr. Hicks died as a result of his injuries and was pronounced dead at the work place. His body was removed by firefighters once the machinery was dis-assembled.

[9] The coroner's report included toxicology reports and a cause of death determination. The report states, "Post mortem examination result by Dr. J. Fernandes of the Hamilton Forensic Unit indicated that death was due to a blunt force penetrating injury of the head. Toxicology revealed Tetrahydrocannabinol at a level suggesting recent use." The pathology unit report states, "Cause of death: A blunt force penetrating injury of the head while under the influence of Tetrahydrocannabinol due to an industrial accident."

[10] Guarding is an engineering control and the prescribed means of controlling hazards, specifically mechanical hazards, the general requirements for machine guards are outlined in section 13.13 of the *Canada Occupational Health and Safety Regulations*. At the time of Mr. Hicks' death, there was only minimal guarding in place, namely barrier fencing at one particular area of each baler. This barrier fencing had an access door for employees to use that was not padlocked or interlocked and moving parts of the balers were still accessible. The minimal guarding in place therefore did not prevent persons working around this machinery from contacting moving parts of the balers and

therefore did not meet the requirements of Section 13.13.

[11] On July 14th, 2011, Health and Safety Officers re-attended the site and issued a danger direction, directing that the balers be removed from service because of the guarding deficiencies. At the time of Mr. Hicks' death, McFeeters Enterprises was aware that the unguarded balers created a risk of serious injury and or death. I've indicated in the manufacturer's operating manual, correspondence from the manufacturer recommending the installation of additional fencing around moving parts.

[12] McFeeters Enterprises internal operating manual and the provision of grabbing devices to employees to keep their distance from unguarded moving parts while picking up bags and debris around the machinery.

[13] In addition, an incident involving the balers had occurred earlier in January 2011, resulting in another employee suffering a head injury that required seven stitches. The company was aware that a similar incident could occur again, resulting in an injury to another worker, unless the company installed interlocked fenced guarding around the perimeter of the machinery and obtained a quote of approximately \$5000 to install the necessary guarding. Despite knowing of the hazard and the risk to employees, the company chose to defer installing the guarding for financial reasons, thereby choosing to allow the hazard to remain unguarded, despite knowing it could result in serious injury or death to employee. The installation of guarding prescribed by Section 13.13 of the Regulations would have eliminated the possibility of contact with moving parts of the machinery that employees were required to work in close

proximity to and would have prevented Mr. Hicks' death.

[14] McFeeters Enterprises has now installed interlocked fenced guarding around the perimeters of the baling machineries. They are therefore now in compliance with the requirements of Section 13.13. There is no prior prosecution history, either in....

THE COURT: Just a moment, I'm just going to deal with the issue of the facts. On behalf of the McFeeters Enterprises Inc., does McFeeters Enterprises Inc. admit the facts as being correct?

MR. SIMMONS: Yes.

THE COURT: All right, given then the plea of guilt to count 14 in the information and the admission of facts that has been made by counsel on behalf of G. McFeeters Enterprises Inc., the corporation will be found guilty of count 14, thank you.

MS. IVES: There is no prior prosecution history against McFeeters Enterprises, either in terms of prior prosecutions or any compliance issues. There are two victim impact statements to provide the court, and my friend has had the opportunity to review those and I understand is satisfied with the vetting that has been done by the prosecution.

THE COURT: Thank you and so are there people present in the court who are involved...?

MS. IVES: No, we spoke with the family members today and they indicated that they did not wish to attend.

THE COURT: All right, I just wanted to know if there were family members in the courtroom. There are two victim impact statements?

MS. IVES: That's correct.

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THE COURT: All right, if you could just...

MS. IVES: One is from the mother and one is from the step-father.

THE COURT: All right, the victim impact of Larry Lerette who is the deceased's step-father will be Exhibit, will be Exhibit Two, are you going to file a copy of your statement of fact?

MS. IVES: Yes.

THE COURT: All right, the statement of fact will be marked Exhibit One, that has been read into the record. Exhibit Two will be the victim impact statement from Larry Lerette and Exhibit Three will be the victim impact statement from Debra Lerette and I'm going to review those statements myself.

EXHIBIT NUMBER 1 - Prosecution Summary - Produced and Marked

EXHIBIT NUMBER 2 - Victim Impact Statement of Larry Lerette - Produced and Marked

EXHIBIT NUMBER 3 - Victim Impact Statement of Debra Lerette - Produced and Marked

THE COURT: Were you aware that both victims indicated that they wished to read their statement aloud in court?

MS. IVES: Yes, they did initially. That's why we spoke to them again today...

THE COURT: Yes.

MS. IVES: ...and today they indicated that they did not wish to be present...

THE COURT: All right.

MS. IVES: ...and were still in Hamilton.

THE COURT: All right, just for the record, I want to ensure that that is indeed the case. One moment. How old was the deceased when he passed away?

MS. IVES: He was 32 years old.

THE COURT: Thirty two, all right, I've read the victim statements, thank you. Now, with respect to penalty?

MS. IVES: There is a proposed joint submission before the court of a \$90,000 fine against the company. The fine was reached, taking into account the fact that there is a guilty plea in this case, a lack of any prior prosecution history by the company, the rectification of the issue by the company in terms of the installation^[15] of the guarding and the range of the sentences that has been posed in similar types of cases that have involved the fatalities to workers where fines have been imposed ranging from \$60,000 and in cases of multiple fatalities, as high as \$200,000. Taking those facts into account in this case, the position of the prosecution is that the \$90,000 recognizes the aggravating factors that are present in terms of the prior, prior incident that had occurred and while also recognizing them mitigating factor that the company has, after the incident, taken steps to properly ensure compliance and the safety of its workers on an ongoing basis. It also takes into account the financial circumstances of the company itself.

THE COURT: All right, Mr. Simmons, your submissions?

MR. SIMMONS: My friend touched upon most of the issues. It is a first offence. We have saved the court and many witnesses approximately five days of trial at a minimum. The company has shown remorse with this guilty plea. It is a small family owned business and so a \$90,000 fine is a substantial fine, meeting all of the factors as set out in the, in the case law and we believe that it is the appropriate, it's in the appropriate range to meet all of the factors.

THE COURT: All right, thank you.

REASONS FOR SENTENCE

WATSON, J. (Orally):

Tragically once again, we have a worker, Alan Hicks, who was killed in the work place.

There is an aggravating factor in this case beyond obviously a fatality that has occurred in the workplace, and that is that the company was put on notice earlier in the year that the problem ought to have been dealt with and they did not do that because of financial circumstances.

General deterrence has to be a predominant consideration in determining fines to be imposed on corporations who are in contravention of these regulations which are obviously in place in order to ensure that the workplace is safe. We all expect the work places within which we are employed to be safe and that is why the standards are in effect. It is a very, very unfortunate incident that occurred here.

I agree that the range of sentence that has been suggested is that this is within a range of sentence that is being suggested jointly which is within an appropriate range and this fine submission comes to me by way of a joint submission and I cannot say that the joint submission is outside of an appropriate range and I will accede to it.

The fine to the corporation will be one of \$90,000.00 and I suppose the only issue then at this point is whether or not the corporation requires some time to pay the fine.

MR. SIMMONS: We are asking for one year which is the standard in the provincial legislation as well.

THE COURT: All right, is the Crown content with a one year...

MS. IVES: Yes, we are.

THE COURT: ...period of time within which to pay? All right, the corporation will have one year within which to pay the fine. Now, I have been advised that there are still more pleas that are going to be entered in relation to this matter.^[16] Can you advise me...?

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MR. SIMMONS: We have agreed to an August 29th date before Your Honour, in which time we hope to have another, two pleas and joint submissions.

THE COURT: All right and those were the two pleas that were indicated to count nine and count 12?

MS. IVES: That's correct.

THE COURT: Is that correct? All right.

MS. IVES: At this point I would ask to also withdraw counts 13, 15 and 16 against Mr. McFeeters. Those are the other counts involving the causation of death.

THE COURT: Yes.

MS. IVES: And count 13 against Mr. Graovac.

THE COURT: Okay, so far, count 14 was withdrawn against Greg McFeeters and you're indicating counts 13, 15, and 16 is withdrawn against Greg McFeeters and count 13 involving the other defendant?

MS. IVES: Yes, Graovac.

THE COURT: Graovac.

MS. IVES: And then all other counts against the company can now be withdrawn on the plea to the one count.

THE COURT: All right, and then the Crown withdraws the outstanding charges against the corporate accused?

MS. IVES: Yes.

THE COURT: Thank you. All right.

MS. IVES: Thank you, Your Honour.

THE COURT: Thank you. I'm going to ask, madam clerk, will you be relying upon the victim impact statements in relation to the other two pleas or not?

MS. IVES: Yes, I have copies of them.

THE COURT: All right, so you have others for that purpose. Thank you, thank you, sir.

... WHEREUPON THESE PROCEEDINGS CONCLUDED



Case progress -

R v Metron Cases continue

Prosecutions of Metron (the corporation), and individuals related to it, have been reported previously in this *newsletter*.¹²³⁴⁵⁶⁷ The story continues in Toronto courthouses:

- **30 October** 2014, Old City Hall, courtroom 111, 9am., to be traversed to go before Justice Greene. *OH&S Act* -- for resolution.
- **09 December** 2014, Superior Court, 361 University Avenue,⁸ 9:30am., *Criminal Code* -- to-be-spoken-to.
- **05 January** 2015, Superior Court, 361 University Avenue, 10am., *Criminal Code* - trial [to start]. ■

Opinion --

Misuse of safety laws - vehicle raid - Ontario.

M. Grossman

Recent news reports¹² of Ontario highway safety authorities doing a vehicle inspection blitz so that federal immigration enforcement officials could have ready access to foreign-looking people -- to facilitate deportations -- has drawn

human rights criticisms. Well-deserved criticisms.

But there is more to criticize: The use of deceit in the promotion of health & safety programs.

What has happened is that a legitimate and socially necessary inspection process has been perverted so as to cheapen that process, and sow fear in those who should willingly take part in that process.

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A truck inspector and the truck operator should be able to engage, with civility, in a conversation about truck safety. Perhaps the inspector would offer compliments as to how safe the truck is, and send it on its way. Perhaps not. Perhaps safety issues need to be discussed; perhaps the operator has some explaining to do; perhaps some repairs need to be made. Perhaps the inspector needs to order that truck off the road – then and there.

This conversation is necessary for both worker and public safety. To use it as a guise for another purpose is deceitful, and that deceit severely

wounds the conversation, and damages actual safety efforts.

Deceit is frequently used as a criminal law enforcement tool. Stings are routinely employed. Within limits, the Supreme Court of Canada allows this,³⁴⁵⁶ perhaps with encouragement.

It would appear that the law is that Canada need not be truthful to its citizens and others, so long as is for good purpose.

I would accept this, if that good purpose were, for example, for an emergency and life-saving rescue, immediately after which the truth would be told. But not

to try to catch immigration violators at routine safety checks. The real safety process is cheapened, and the credibility of safety inspectors is severely damaged. Actual safety suffers.

It may be that immigration laws should be enforced with the severity that Canada's elected government wants. But don't mix that with other legitimate and necessary functions of government. Deceit here is wrong, and arguably Ontario's roads and streets are more dangerous because of it. Perhaps Canada's legal/moral compass needs recalibration. ■

in the press -

● In *The Globe and Mail* : "SAFETY / Teen's death [at a Drumheller gravel-crushing site] puts Alberta youth labour law under scrutiny / Labour: Review of Alberta's employment standards expected in fall."^{2 3}

● Also in *The Globe and Mail* : "Nein danke, Canada." "... dispute settlement ... mechanisms in trade agreements ... domestic environmental health and safety regulations ..."⁴

● In the *Toronto Star* : "Province accused of racial profiling / Vehicle raid targeting undocumented immigrants labelled discrimination." "Provincial authorities have been accused of racial profiling after they participated in a joint vehicle inspection blitz last week with border enforcement officials that targeted undocumented migrants. ..." ^{5 6}

TORONTO WORKERS' HEALTH & SAFETY LEGAL CLINIC

- In *Canadian Occupational Health & Safety News* : "RCMP has seen 31 officer suicides since 2006."⁷
- In *The New York Times* : "In Germany, Union Culture Clashes With Amazon's Labor Practices."⁸
- Also in *The New York Times* : "Long Days in the Fields [in N.Y. state], Without Overtime Pay."⁹
- Also in *The New York Times* : "N.F.L. Agrees: Brain Trauma In 1 in 3 Players / In Court Documents, N.F.L. Cites Higher Rates of Brain Trauma."^{10 11} ■

<http://www.workers-safety.ca/>

<https://www.facebook.com/pages/Toronto-Workers-Health-and-Safety-Legal-Clinic/226662537458898?fref=ts>

<https://twitter.com/TWHSLC> ■

data added to <http://www.workers-safety.ca/> ¹³

documenting Clinic's law reform advocacy, etc.

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[2014 08 21. course outline -- H&S law & policy & physics & chemistry.pdf](#)

[2014 07 27. course outline -- H&S law & policy & physics & chemistry.doc](#)

[2014 07 27. course outline -- H&S law & policy & physics & chemistry.pdf](#)

[2014 07 21. R v McFeeters corporation plea transcript.pdf](#)

[2014 07 22. McFeeters MOL FOI.pdf](#)

[2014 06 18. MOL FOI McFeeters.doc](#)

[2014 06 13. 119 OR 3d Part 8 page lxii -- Course Ad.pdf](#)

[2014 03 31. HILBORN.PDF](#)

[2014 02 28. Financial Report.PDF](#)

[1992 07 31. 8 OR 3d Part 5 page vi.PDF](#) ■

NOTES:

AGM 2014. **NOTICE OF MEETING.** Data in this issue of this *newsletter*, mailed to all members of record, form formal notice as legally required.

?previous: <http://www.workers-safety.ca/> →

Home page → Main Menu → Publications → Downloads → [2011 06 AGM 2013 09. Vol.21 No.4.doc](#)

TORONTO WORKERS' HEALTH & SAFETY LEGAL CLINIC

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AGM Minutes - September 25, 2013

MINUTES OF THE ANNUAL GENERAL MEMBERSHIP MEETING OF THE
TORONTO WORKERS' HEALTH & SAFETY LEGAL CLINIC,
WEDNESDAY, SEPTEMBER 25, 2013

Present: An attendance list is attached to these minutes.

Chair of the Board Carl Mohan called the meeting to order.

QUORUM ACHIEVED.

1. AGENDA

Moved by Selvathy Kumar and seconded by Hilary Balmer that the agenda as circulated be approved. CARRIED.

2. MINUTES OF THE AGM OF OCTOBER 24, 2012

Moved by Victoria Padel and seconded by Ivan Lancaric that the minutes of the AGM be approved. CARRIED.

3. ANNUAL REPORT

Linda presented an overview of the Clinic activities over the past year. Motion to approve the Annual Report: Moved by Kier Munn and seconded by Hilary Balmer. CARRIED.

4. AUDITORS REPORT FOR THE PERIOD ENDING MARCH 31, 2013

Michael Grossman discussed the financial position of the Clinic which remains unchanged and in order. Moved by Genevieve D'Iorio and seconded by Ivan Lancaric that the Clinic accepts the financial report. CARRIED.

Concerning the appointment of the auditor for the next year, there was some discussion as to whether we should, after many years of using Hilborn LLP, explore the possibility of retaining another auditor for next year. It was agreed that the Board would discuss how we select our auditor at a future meeting. Moved by Hilary Balmer and seconded by Ivan Lancaric that we continue for now with the same auditor.

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AGM Minutes - September 25, 2013

CARRIED.

5. ELECTION OF NEW BOARD MEMBERS BY ACCLAMATION

Sumaiya Sharmaine
John Field
Diana Dongak-Lee
Selvathy Kumar
Georgina Clinton
Genevieve D'Iorio
Carl Mohan.

Moved by Michael Grossman and seconded by Victoria Padel that the above list of Board members be acclaimed. CARRIED.

It was then moved by Kier Munn and seconded by Jim Chisholm that there would be a motion of confidence in the Clinic's Board of Directors. CARRIED.

Moved by Hilary Balmer and seconded by Selvathy Kumar that the business portion of the meeting be adjourned at 6:25 p.m. CARRIED.

This was followed by two presentations by the Engineering Strategies Program of the University of Toronto.

Minutes taken by Linda Vannucci.

S:\DIRECTOR\AGM\AGM-2013.MIN

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⁵ See page below.

⁶ A copy of the Financial Report is appended to this *newsletter* issue.

[2014 03 31. HILBORN.PDF](#)

⁷ See page below. ■

annual report -- AGM Sept. 2013.

⁹ Approved by the Clinic's Board, 24 Sept. 2014, for presentation to the AGM.

¹⁰ previous: see in this *newsletter* September 2012, Vol.20, No.5, pages 1-5. ■

Clinic's Board & committees.

¹ Previous : [2013 10. Vol21 No5](#) , pages 8 & 9.

²See: BOARD ORIENTATION MANUAL; CONSTITUTION AND BY-LAWS, ARTICLE THREE.

<http://www.workers-safety.ca/>

<http://www.workers-safety.ca/publications?dir=publications%3A+newsletter%2C+Workers+Guide%2C+FACT+SHEETS%2C+reports%2C+etc%7C2002+06++Board+Manual>

³See in this *newsletter*, April 2012, Vol.20, No.1, page 5. For previous: Oct. 2011, Vol.19, No.2, page 10; Vol.18, No.3, July 2010, page 2; Vol.17, No. 3, June 2009, page 13; Sept. 2009, Vol.17, No.04, page 8.

⁴ For previous see in this *newsletter* - September 2012. Vol.20, No.5, page 1, notes 23 → 28 .

⁵ Board and committee members may be contacted through the Clinic's phone number or e-mail.

⁶ Clinic members who would want to participate on the Board or a committee are invited to contact Linda Vannucci, Lawyer/Director vannucci@lao.on.ca .

⁷See: BOARD ORIENTATION MANUAL; CONSTITUTION AND BY-LAWS, ARTICLE THREE. <http://www.workers-safety.ca/>

<http://www.workers-safety.ca/publications?dir=publications%3A+newsletter%2C+Workers+Guide%2C+FACT+SHEETS%2C+reports%2C+etc%7C2002+06++Board+Manual>

For previous see in this *newsletter* : April 2012, Vol.20, No.1, page 5. October 2011, Vol.19, No.2, page 10; Vol.18, No.3, July 2010, page 2; Vol.17, No. 3, June 2009, page 13; Sept. 2009, Vol.17, No.04, page 8. ■

R v McFeeters Enterprises - case report.

Opinions expressed here are the writer's, and are not necessarily of the Clinic; he may be contacted: d441267@yahoo.ca

¹ [2014 04. Vol22 No1](#) page 3.

² [2014 07 Vol.22 No.3](#) pages 1 - 6.

³ [2014 06 12. R v McFeeters.pdf](#)

⁴ *Canada Labour Code* RSC, 1985, c. L-2

<http://laws-lois.justice.gc.ca/eng/acts/L-2/page-1.html>

⁵ [2014 07 22. McFeeters MOL FOI.pdf](#)

[2014 06 18. MOL FOI McFeeters.doc](#)

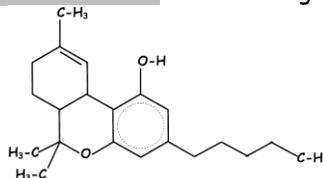
⁶ Jeff Bolichowski, "West Lincoln man killed in industrial accident," *The St. Catharines Standard, Niagara Falls Review*, 13 July, 2011 12:00:00 EDT AM <http://www.niagarafallsreview.ca/2011/07/13/west-lincoln-man-killed-in-industrial-accident>

⁷ *R v GMC* 1984 48 OR 2d 204.

⁸ [2014 05. Vol.22 No.2](#) [2014 04. Vol22 No1](#)

⁹ *Tetrahydrocannabinol* Δ^9 -THC

CAS 1972-08-3 314.45 g/mol.



¹⁰ [2014 07 21. R v McFeeters corporation plea transcript.pdf](#)

¹ [for this copy] [\$20]

² Should be "employers," – an apparent obviously correction is made here for page 7 of the transcript: "... As a result, both the company, McFeeters Enterprises and Mr. McFeeters are employees within the meaning of Part 2 of the *Canada Labour Code* because they employ one or more employees. Mr. Graovac is the operations manager for McFeeters Enterprises. ..." (**emphasis** added.)

³ This paragraph separation is placed in this copy for the convenience of this *newsletter's* readers; it did not appear in the transcript. [2014 07 21. R v McFeeters corporation plea transcript.pdf](#) .

⁴ This paragraph separation ... did not appear in the transcript. ...

⁵ This paragraph separation ... did not appear in the transcript. ...

⁶ This paragraph separation ... did not appear in the transcript. ...

⁷ This paragraph separation ... did not appear in the transcript. ...

TORONTO WORKERS' HEALTH & SAFETY LEGAL CLINIC

⁸ [transcript page 9 line 29→32.]

⁹ This paragraph separation ... did not appear in the transcript. ...

¹⁰ This paragraph separation ... did not appear in the transcript. ...

¹¹ This paragraph separation ... did not appear in the transcript. ...

¹² This paragraph separation ... did not appear in the transcript. ...

¹³ This paragraph separation ... did not appear in the transcript. ...

¹⁴ This paragraph separation ... did not appear in the transcript. ...

¹⁵ [but see *R v Flex-N-Gate*, 2014 05 Vol.22 No.2 page 1.]

¹⁶ [see in this newsletter 2014 07 Vol.22 No.3 pages 1→7.] ■

R v Metron -- case progress.

² *R v Metron Construction Corporation*, 2013 ONCA 541
2013 09 04 DOCKET: C55883

Her Majesty the Queen, Appellant and Metron Construction Corporation, Respondent; 23 April 2013.
On appeal from the sentence of Justice Robert G. Bigelow, Ontario Court of Justice, Old City Hall, Toronto, 13 July 2012; reasons reported: 2012 ONCJ 506, [2012] O.J. No. 3649.

Judgment of S.E. Pepall JA; with concurrences of M. Rosenberg JA & David Watt JA.

³ www.ontariocourts.ca/decisions_index/en

⁴ www.ontariocourts.ca/decisions/2013/2013ONCA0541.pdf

¹ Vol. 21 No. 5, page 6. 2013 10. Vol.21 No.5 pdf 2013 10. Vol.21 No.5.doc

² September 2013, Vol.21, No.4, page 7.

³ September 2013, Vol.21 No.4 page 7.

⁴ "case in progress ... -- swing-stage scaffold fatalities --" Vol.20 No.2 pages 10 & 11.

⁵ "case still in progress ... -- swing-stage scaffold fatalities --" Vol.20 No.4 page 5.

⁶ See in this newsletter July 2012 Vol.20 No.3 pages 1–4.

⁷ "case still in progress ... -- swing-stage scaffold fatalities --" Feb. 2013, Vol.21, No.1, pages 1 & 2.

⁸ TTC: Osgoode - University Av. & Queen St. W.

--or--

St. Patrick --- University Av. & Dundas St. W. ■

Misuse of safety laws - Vehicle raid - Ontario.

Opinions expressed here are the writer's, and are not necessarily of the Clinic; he may be contacted: d441267@yahoo.ca

¹ Nicholas Keung, Immigration Reporter, "Province accused of racial profiling / Vehicle raid targeting undocumented immigrants labelled discrimination," *Toronto Star*, 19 August 2014, page GT4.

² http://www.thestar.com/news/immigration/2014/08/18/province_accused_of_racial_profiling_in_blitz_targeting_undocumented_migrants.html

³ *R v Hodgson* [1998] 2 SCR 449

<http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1648/index.do?r=AAAAAQAcXVIZW5zYnVyeSBYdWxlwAAAAAB>

⁴ *R v Hart* [2014] SCC 52

<http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/14301/index.do>

⁵ "Mr. Big stings: Supreme Court to rule on admissibility of evidence / Evidence collected in Mr. Big stings at heart of multiple Canadian murder cases" <http://www.cbc.ca/news/canada/mr-big-stings-supreme-court-to-rule-on-admissibility-of-evidence-1.2723406>

⁶ <http://www.bikernews.net/?d=news&p=read&newsid=3029&flush> ■

in the press -

² **Teen death at gravel-crushing site, Drumheller Alberta.** Kelly Cryderman, Calgary, "SAFETY / Teen's death puts Alberta youth labour law under scrutiny / Labour: Review of Alberta's employment standards expected in fall," *The Globe and Mail*, Toronto, 29 July 2014, pages A1 & A4.

³ See also: Jeff Cottrill, "Teen worker killed at gravel crushing site in Alberta," *Canadian Occupational Health & Safety News*, Toronto M3B 2S9, 28 July 2014, Vol.37, No.29, page 2.

⁴ **Nein danke, Canada.** Ramani Nadarajah, counsel, Canadian Environmental Law Association [Toronto], "Nein danke, Canada." "... dispute settlement ... mechanisms in trade agreements ... domestic environmental health and safety regulations ...," *The Globe and Mail*, Toronto, LETTERS TO THE EDITOR, 29 July 2014, page A10.

⁵ **Vehicle raid - Ontario.** Nicholas Keung, Immigration Reporter, "Province accused of racial profiling / Vehicle raid targeting undocumented immigrants labelled discrimination," *Toronto Star*, 19 August 2014, page GT4. http://www.thestar.com/news/immigration/2014/08/18/province_accused_of_racial_profiling_in_blitz_targeting_undocumented_migrants.html

⁷ **RCMP suicides.** Jeff Cottrill, "RCMP has seen 31 officer suicides since 2006," *Canadian Occupational Health & Safety News*, Toronto M3B 2S9, 28 July 2014, Vol.37, No.29., pages 1 & 2.

⁸ **Germany, Union Culture -- Amazon.** Nick Wingfield & Melissa Eddy, "In Germany, Union Culture Clashes With Amazon's Labor Practices," *The New York Times*, Business Day, 05 August 2014, pages B1 & B4.

⁹ **Farmwork - N.Y. state.** Joseph Berger, "Long Days in the Fields [in N.Y. state], Without Overtime Pay," *The New York Times*, 08 August 2014, pages A18 & A19.

¹⁰ **NFL & Brain Trauma.** Ken Belson, "N.F.L. Agrees: Brain Trauma In 1 in 3 Players / In Court Documents, N.F.L. Cites Higher Rates of Brain Trauma." *The New York Times*, 13 September 2014, pages A1 & B12.

¹¹ http://topics.nytimes.com/top/reference/timestopics/people/b/ken_belson/index.html ■

facebook twitter. ■

data added to <http://www.workers-safety.ca/> ■

for future issues:

- *Maquila*. www.maquilasolidarity.org
- Canadian federal OH&S inspections.*
- US Chemical Safety & Hazard Investigation Board.
- topic revisited—Ministry of Labour library. **
- book review: *Occupational Health & Safety—Theory, Strategy & Industry Practice, 2nd Edition.* ***

* David Macdonald, *Success is No Accident / Declining Workplace Safety Among Federal Jurisdiction Employers*, CANADIAN CENTRE for POLICY ALTERNATIVES, Ottawa K1P 5E7; 27 April 2010; ISBN 978-1-897569-88-7 <http://www.policyalternatives.ca/>

<http://www.policyalternatives.ca/publications/reports/success%E2%80%89no%E2%89no%E2%80%89accident>
http://www.policyalternatives.ca/sites/default/files/uploads/publications/reports/docs/Success%20is%20No%20Accident_0.pdf

"Report blasts federal workplace inspection," *Canadian Occupational Health & Safety News*, 03 May 2010, Vol.33, No.17, pages 1 & 2.

** See in this newsletter Vol. 15 No.4.

*** LexisNexis <http://www.lexisnexis.ca/bookstore/bookinfo.php?pid=2089> ■

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not legal advice. This newsletter includes information considered correct and up-to-date according to its context. It also contains opinions. But nothing here should be taken as legal advice. Legal advice should be obtained from professional counsel, which might include our Clinic's lawyers, when acting on a lawyer-client basis.

Errors and misstatements happen, although we try to be careful and strive for accuracy. We would try to correct as soon as possible. Please let us know if you see any needed corrections or explanations. ■