

**FOR THE FIRST TIME IN ONTARIO, COMPANY OFFICIALS CHARGED WITH CRIMINAL NEGLIGENCE CAUSING DEATH FOR WORKPLACE FATALITIES**

Bill C-45 was the amendment to the *Criminal Code* passed in 2003. Bill C-45 allows corporate executives, directors, and managers to be charged under the *Criminal Code* if they act wrongfully or neglect to keep workplaces safe. Since its creation, this provision has seldom been used; however, new charges laid may change that.

On Christmas Eve, 2009 a scaffolding collapsed on a Kipling Avenue highrise building being worked on by Metron Construction Corp. Four workers were killed, and the surviving worker suffered severe injuries to his leg and spine and has sued the companies involved as well as the owner of the highrise building and the labour ministry for roughly \$16.3 million in damages.

In October of this year, three men were charged under the Bill C-45 amendments. Joel Swartz, Metron's president, and two other senior employees were charged with four charges each of criminal negligence causing death and one count each of criminal negligence causing bodily harm. The company was also charged. These charges have potentially huge penalties for both the individuals and the company, including substantial jail time.

The *Criminal Code* charges against the company are in addition to the 61 charges the Ministry of Labour laid against Metron, including failure to provide proper training for the use of a "fall protection system" - and four charges against Swing 'N' Scaff, the makers of the faulty equipment.

These charges represent the first time that senior management employees have been charged in Ontario with criminal negligence causing death for events that took place at the workplace, and perhaps signal a change and growing willingness on the part of police to lay charges under Bill C-45.

The first court date for Metron's senior managers is November 3, 2010.

*October 29, 2010*