

Ministry of Labour

Freedom of Information and
Privacy Protection Office

400 University Ave.
10th Floor
Toronto, Ontario
M7A 1T7

Telephone: (416) 326-7786
Fax: (416) 314-8749

Ministère du Travail

Bureau de l'accès à l'information et
de la protection de la vie privée

400, avenue Université
10^e étage
Toronto (Ontario)
M7A 1T7

Téléphone : (416) 326-7786
Télécopieur : (416) 314-8749



November 4, 2013

Ms. Nancy Johnson
Labour Relations Specialist
Occupational Health and Safety/Workers Compensation
Ontario Nurses' Association
85 Grenville Street, Suite 400
Toronto, Ontario
M5S 3A2

Dear Ms. Johnson:

RE: ACCESS REQUESTS #13-766 to #13-768

I am writing in response to your letter dated October 10, 2013. I understand that your requests are for details on the final disposition of charges concerning three Ministry of Labour prosecutions. I have enclosed copies of the ministry's prosecution disposition forms regarding each matter specified by you.

Should you have any questions about this decision, please contact Mr. James Houston of this office at (416) 326-6705.

I trust the enclosed records will be of assistance to you.

Sincerely,



Susan Buchanan
Manager

SB/jh
Enclosures

Prosecution Disposition Form

LSB File No.: 0020-000015448Client File No.: 5810147Def #1: Niagara Health SystemCharges (as shown on information – include date of offence):

(Bold charges for which convicted)

Niagara Health System, 155 Ontario Street, St. Catharines, Ontario, L2R 5K3, on or about the 4th day of September, 2009, at the City of Welland, in the Central South Region, in the Province of Ontario, did commit the offence of failing as an employer, to ensure that the measures and procedures prescribed by section 35 of Ontario Regulation 67/93 as amended, were carried out in a workplace located at 65 Third St., Welland, Ontario, contrary to section 25(1)(c) of the *Occupational Health and Safety Act*, R.S.O. 1990., c.O.1 as amended.

Conviction Information

Trial: Plea:

Date of Plea: February 18, 2011

Date of Disposition: February 18, 2011

Disposition:

Conviction on Count: 1

Name of JP: Santino Spadafora

Court Location: Ontario Court of Justice
71 King Street
St. Catharines, Ontario
L2R 3H7

Trial Crown: Shantanu Roy

Facts in Support of Guilty Plea:

The defendant Niagara Health System is a "hospital" as defined under the *Public Hospitals Act*. As such, the defendant is bound by the provisions of Ontario Regulation 67/93 as amended, entitled "Health Care and Residential Facilities" and made pursuant to the *Occupational Health and Safety Act*. Niagara Health System is also an "employer" as defined under the *Occupational Health and Safety Act*.

Niagara Health System has a registered corporate address of 155 Ontario Street, St. Catharines, Ontario, L2R 5K3. It operates several hospitals in the Niagara region including one known as the Welland Hospital Site which is located at 65 Third Street in Welland, Ontario. Approximately 1000 workers are employed at the Welland Hospital Site.

On September 4, 2009, at the Welland Hospital Site, an employee of Niagara Health System suffered a fractured right arm after slipping and falling on a wet floor. The area where the worker had slipped and fell was at the threshold of a doorway between a room where dishes were being washed and a hallway. A subsequent investigation of the incident by the Ministry of Labour revealed that water had accumulated on the floor at that location and that notwithstanding the slippery conditions that were present due to the dishwashing process, certain prescribed measures to remedy the situation had not been implemented by the defendant: such as the use of non-slip work surfaces, the provision of dry-standing places or non-slip mats, the provision of drainage adequate in the circumstances, or the use of water resistant, non-slip footwear by workers who may use the work surface in question. This was contrary to section 35 of Ontario Regulation 67/93 as amended and contrary to section 25(1)(c) of the *Occupational Health and Safety Act*, R.S.O. 1990 c.O.1, as amended.

Sentencing Information

Date of Sentence: February 18, 2011

Sentence (per count): \$32,000 + 25% VFS

Joint Submission?: Yes No

Sentencing Factors:

- Size of Company: Approximately 1000 workers are employed at the Welland Hospital Site.
- Scope of Economic Activity: Defendant is a "hospital" as defined under the *Public Hospitals Act*.
- Potential / Actual Harm: An employee of the defendant suffered a fractured right arm after slipping and falling on a wet floor.
- Prior Conviction Information: The defendant does not have a prior record of conviction for offences under the Occupational Health and Safety Act.
- Other(s): Defendant indicated willingness to plead guilty at a relatively early stage of the proceedings. The defendant had spent over \$30,000.00 post incident in order to address and remedy the issue that caused the occurrence of the incident.

Other Ministry's conviction data used in sentencing negotiations / submissions?: Yes No

Appeal Information

Appeal?: Yes No

Type of Appeal:

Sentencing Dealt with on Appeal?:

- Sentence: Imposed Varied Affirmed

Date of Appeal Disposition:

Appeal Disposition:

Appellate Judge / Level of Court:

Crown on Appeal:

File Information

Inspector: Mike Nadeau

Defence Counsel: Matthew Certosimo – Borden Ladner Gervais LLP

Lawyer Completing PDF: Shantanu Roy

Transcript Ordered?: Yes No

Dated: February 28, 2011

CC: Don Hall, Area Director
Carol, Sackville-Duyvelshoff, District Manager
Wayne De L'Orme, Provincial Coordinator
Chris, Boccinfuso, RPC
Mike Nadeau, Inspector
Raj Dhir, Deputy Director – LSB
Line Forestier, Team Lead
MOLLSBLawClerk
Deanna Exner (MOH)

Prosecution Disposition Form

LSB File No.: 6368

Client File No.: 5200099

Def #1

Legal Name: Sault Area Hospital

Charges:

Def #1:

1) On or about the 29th day of June, 2005, in the City of Sault Ste. Marie, in the Northeast Region, in the Province of Ontario, did commit the offence of interfering with, disturbing, destroying, altering or carrying away any wreckage, article or thing at the scene of or connected with the occurrence until permission so to do has been given by an inspector, contrary to section 51(2) of the Occupational Health and Safety Act, R.S.O. 1990, c.O.1, as amended.

2) Between and including the 29th day of June and the 1st day of July, 2005, in the City of Sault Ste. Marie, in the Northeast Region, in the Province of Ontario, did commit the offence of failing as an employer, to notify an inspector immediately and/or to send a Director a written report within forty-eight hours, of a critical injury, contrary to section 51(1) of the Occupational Health and Safety Act, R.S.O. 1990, c.O.1, as amended.

3) On or about the 29th day of June, 2005, in the City of Sault Ste. Marie, in the Northeast Region, in the Province of Ontario, did commit the offence of failing as an employer to ensure that the measures and procedures prescribed by section 33(1)(a) of Ontario Regulation 67/93, as amended, at a workplace located at 969 Queen St. E., Sault Ste. Marie, Ontario, contrary to section 25(1)(c) of the Occupational Health and Safety Act, R.S.O. 1990, c.O.1, as amended.

Particulars: The defendant failed to ensure that a work surface was kept free of obstructions and hazards, including a box

4) On or about the 29th day of June, 2005, in the City of Sault Ste. Marie, in the Northeast Region, in the Province of Ontario, did commit the offence of failing as an employer to take every precaution reasonable in the circumstances for the

protection of a worker contrary to section 25(2)(h) of the Occupational Health and Safety Act, R.S.O. 1990, c.O.1, as amended.

Particulars: The defendant failed to take the reasonable precaution of ensuring that workers participated in and/or completed training sessions related to occupational health and safety offered by the defendant.

Conviction Information

Trial: Plea:

Date of Plea: January 31, 2007

Date of Disposition: January 31, 2007

Disposition: Guilty

Conviction on Count(s): 2 and 3

Withdrawal of Count(s): 1 and 4

Name of JP: Her Worship Kathleen M. Bryant

Court Location: 99 Foster Drive, Sault Ste. Marie

Trial Crown: Steven Succi

Facts in Support of Guilty Plea / Conviction:

1. Sault Area Hospital was, at all material times, a validly subsisting corporation incorporated under the laws of Ontario.
2. Sault Area Hospital was, at all material times, an employer as defined by the *Occupational Health and Safety Act* ("OHSA") and a health care facility as defined by Ontario Regulation 67/93, as amended.
3. On June 29, 2005, the offence date in question, a worker, Sandra Riggs, was working as a registered nurse for the Sault Area Hospital. She was working as the team leader in a surgical suite when she walked through an open area

leading from a work station to a hallway. A box had been delivered and left in the hallway near the doorway.

4. The worker did not notice the box and she tripped on the box and fell fracturing her left arm suffering a critical injury.
5. The Ministry of Labour was not notified of the critical injury until July 4, 2005.
6. As such, Sault Area Hospital failed as an employer to ensure that a work surface was kept free of obstructions and hazards, including a box contrary to section 33(1)(a) of Ontario Regulation 67/93, as amended, contrary to section 25(1)(c) of the OHSA and to notify an inspector immediately and/or to send a Director a written report within forty-eight hours, of a critical injury, contrary to section 51(1) of the OHSA.

Sentencing Information

Date of Sentence: January 31, 2007

Sentence (per count): \$10,000 for count 2 \$25,000 for count 3

Joint Submission?: Yes No

Sentencing Factors:

- Size of Company: The defendant has a work force of approximately 1700 employees.
- Scope of Economic Activity: The defendant is a not for profit corporation which provides health care services to Sault Ste. Marie and the surrounding area.
- Potential / Actual Harm: The injured worker suffered a fractured left arm
- Prior Conviction Information: No prior convictions
- Other(s): The defendant entered into resolution discussions at the earliest opportunity and accepted responsibility for its actions. This is a very early plea and, as such, has saved the administration of

justice significant time and costs. There was no intention on the part of the defendant not to notify the Ministry of Labour of the critical injury as required by the OHSA. The defendant was extremely cooperative with the Ministry of Labour investigation and its staff has undergone re-training to ensure that such an incident does not reoccur in the future. The defendant had arranged for all managers to receive training regarding proper reporting procedures prior to the incident as well as after the incident. The defendant has created and filled a new position of safety and wellness manager and has established regular meetings with respect to occupational health and safety at the senior executive level.

Other Ministry's conviction data used in sentencing negotiations / submissions?: Yes No X

Appeal Information

Appeal?: Yes No X

Type of Appeal:

Sentencing Dealt with on Appeal?:

- Sentence: Imposed Varied Affirmed

Date of Appeal Disposition:

Appeal Disposition:

Appellate Judge / Level of Court:

Crown on Appeal:

File Information

Inspector: Donald Jones

Defence Counsel: Jacqueline Lund

Lawyer Completing PDF: Joe Ferraro

Transcript Ordered?: Yes No X

Dated: July 3, 2007

CC: Candys Ballanger-Michaud, Area Director
Arlene Smith, District Manager
Murray Baker, RPC
Donald Jones, Inspector
Wayne De L'Orme, Provincial Coordinator
Bridget Lynett, Deputy Director – LSB
Deanna Exner, Counsel – LSB
Kathy Ostachowski, Law Clerk-LSB