



# OH & S: What's Happening in NS

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# OHS - NS

- Relatively quiet
- But 2 points:
  - Psychological harm and bullying
  - Sentencing for OHS

# OHS – Psychological Harm

- Does OSHA and/or Violence in the workplace regulations cover “psychological harassment and bullying”?
  - Put to the test
  - Answer is a resounding “No”



“Can paperwork be accused of bullying?”

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# OHS – Psychological Harm

- Legislation:
  - Violence in workplace reg's under OHSA
  - Apply to certain workplace, retail, etc.
  - “Physical violence and threats” (definition of “violence” in reg's)

# OHS – Psychological Harm

- Labour Board – *Harpell v. Lawton's Drug Store* (Feb 27, 2019 decision)
- Discriminatory Action Complaint - employee claimed discriminated against on basis that she sought enforcement of OHSA.
- Claimed “repeated bullying, harassment, intimidation and psychological violence by senior co-worker”

# OHS – Psychological Harm

- Board said **no way!**
- No extension of meaning of “violence” – does not include “psychological violence”
- Some other provinces may have protection, but not in NS and “ultimately a legislative policy judgment”

# OHS – Penalties/convictions

- OHSA provides:
  - Fine up to \$250,000 (2<sup>nd</sup> offence within 5 years or fatality up to \$500,000);
  - Imprisonment up to 2 years;
- But actual fines lower (2018/19 \$50,000 to \$100,000)



# OHS - NS

- Elements:
  - Fine
  - Victim surcharge
  - Creative sentencing
- Aecon decision (serious injury):
  - \$35,000 fine
  - \$5,250 victim surcharge
  - \$15,000 donation to Nova Scotia Construction Safety Association





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