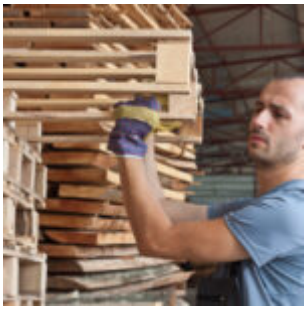
Store Convicted of Safety Violation in Trip-and-Fall Fatality



An empty wooden pallet lay on the floor in the receiving area of a store. A worker was unloading a full pallet from a truck onto a pallet jack. While walking backwards, he tripped on the empty pallet, fell and hit his head on stacks of items. The worker complained of a headache and called in sick the next day. He never returned to work and died two weeks later. The store was charged with failing to ensure the floor was kept free of obstructions, hazards and accumulations of refuse, snow or ice. It argued that it had exercised due diligence and that the worker was at fault for not ‘exercising ordinary prudence.’ But the court convicted it. Empty skids had no business being left on the floor of the receiving area. The empty skid being left on the floor in that area posed a risk that someone might trip over it. The court also noted that ‘if it were a perfect world and all employees were always prudent and careful,’ there would be no need for the OHS laws. And this worker didn’t have a history of failing to work safely. As to due diligence, although the store pointed to its safety sweep program and clean-as-you-go policy, it didn’t produce the receiving area logs, which would show the diligent sweep of this area or the failure to do so as well as the presence or absence of obstructions. The absence of this logbook for the receiving area meant there was no direct evidence on which the court could conclude that workers were actively engaged in

the proper implementation of the safety sweep program with respect to that particular area [*Ontario (Ministry of Labour) v. Wal-Mart Canada Corp.*, [2016] ONCJ 267 (CanLII), May 6, 2016].