The Top 10 OHS Compliance Cases of 2026 (So Far) & Their Impact on You

While written statutes and regulations provide the general rules, they're not the only source of OHS laws. Every year, courts, arbitrators, and tribunals hand down crucial rulings applying the laws to actual situations on the ground. For purposes of OHS compliance, these rulings are where the rubber meets the road because they illustrate not only what the laws say but what they ***actually mean*** *in real life. Here are what we believe to be the 10 most significant OHS compliance cases from the first six months of 2026 and, most importantly, an explanation of how they may affect your own OHS program and what you should do to protect your company.*

1. Supreme Court Opens Door to Intimate Partner Violence Money Damages Lawsuits

The year's most important occupational health and safety (OHS) court case didn't involve an OHS law or happen in a workplace. It was a lawsuit for money damages brought by a woman against her ex-husband for physical assault, humiliation, and infliction of emotional distress during the course of their 16-year marriage. In a 6-3 ruling, the Supreme Court of Canada recognized a new tort allowing victims of intimate partner

violence to bring these kinds of cases in civil court [*Ahluwalia v. Ahluwalia*, 2026 SCC 16 (CanLII), May 15, 2026].

Takeaway & Impact on You: Intimate partner violence, aka sexual and domestic violence, becomes an OHS compliance issue when it happens in the victim's workplace. Previously, victims of these incidents had limited legal recourse. That's because the OHS laws are enforced by the government via prosecution or imposition of administrative monetary penalties rather than by individual victims in private lawsuits. *Ahluwalia* opens a new door allowing victims to sue for money damages. Limits apply: In addition to having to prove abusive conduct, the victim is allowed to sue only the person that abused them. Consequently, the new tort probably won't pose a significant liability threat to employers. But that's not the point. The broader significance of *Ahluwalia* is in echoing parallel trends shaping OHS laws of extending legal protections of domestic violence including in the workplace. **Bottom Line:** Simply having a workplace violence prevention plan is no longer enough. You also need to incorporate protections against workplace domestic violence into the prevention plan. Find out how to implement an effective Workplace Domestic Violence Prevention Plan to protect your own workers.

2. British Columbia Dishes Out Highest OHS Fine of the Year

A venerable retailer that's been selling plumbing supplies in British Columbia since opening its first store in Victoria in 1892 was fined $521,694 for multiple OHS violations. WorkSafeBC inspectors issued the penalty after observing damaged and unsafe storage rack violations in use at the company's Penticton store, a high-risk and repeat violation, as was the second violation cited of failing to ensure that storage racks were installed by a qualified person according to the manufacturer's or an engineer's instructions [*Andrew*

Sheret Limited, January 8, 2026].

Takeaway & Impact on You: BC has the strictest OHS storage rack requirements in Canada. However, the same thing can happen at any site where materials are racked, stacked, piled, and stored. Use the OHS Insider storage rack inspection checklist to avoid potential violations and penalties at your workplace.

3. Lack of Privacy Controls Undermines Bus Company's AI-Based Drivers' Safety System

A cautionary tale about the dangers of relying on digital technology to resolve OHS challenges began when a bus company installed an artificial intelligence (AI) remote surveillance system in all vehicles, using cameras mounted on windshields to capture both the interior, including the driver's workstation, and front of the vehicle. The federal arbitrator ruled that the newly installed AI-based Samsara system gathered much more extensive personal data than the conventional video cameras the company had previously used and that the resulting harms to drivers' Charter privacy rights outweighed the relatively minor improvements to safety. Moreover, the AI system's remote real-time viewing and other features allowed the company to use the system to gather and access data for purposes other than safety. Result: The company had to stop using the system within 90 days and pay $100 in privacy damages to each affected driver. The company appealed but the court upheld the ruling [*Coach Canada Workers' Union (CSN) v. NewCAN Coach Company ULC (Coach Canada*), 2026 CanLII 27321 (CA SA), March 5, 2026].

Takeaway & Impact on You: Many AI-based OHS systems rely on personal monitors, scanners and other technologies that gather and analyze extensive personal data to measure how workers

carry out their job duties. While this output may yield significant safety improvements, it may also raise concerns under privacy laws. Things often come to a head when companies use AI-based surveillance cameras inside company vehicles to ensure safe driving. Find out about the 11 ways you can use AI to improve workplace safety and OHS compliance without trampling on workers' privacy rights.

4. Court Sentences Excavation Contractor to $460,000 Fine for C-45 Criminal Negligence

A British Columbia trial court convicted an excavation contractor of two counts of C-45 criminal negligence resulting in the death of one worker and serious injury to another after a retaining wall collapsed and fell into a trench. Prosecutors asked for a $1 million global penalty; the contractor argued for a $345,000 fine. The sentencing judge decided that $400,000 plus a $60,000 victim's surcharge would be high enough to penalize the company for its inadequate training and "insufficient appreciation of foreseeable risks in trench work." But it had since implemented "proactive" OHS programs and was "a very different company today than it was at the time of the incident." Having already lost customers and goodwill, loading on a more massive fine the way the prosecution wanted would serve only to threaten the survival of its business [*R. v J. Cote and Son Excavating Ltd*., 2026 BCSC 626 (CanLII), April 15, 2026].

Takeaway & Impact on You: C-45, aka the "Westray law," was enacted to hold companies accountable for egregious safety violations that result in death or serious injury. Specifically, Section 217.1 of the *Criminal Code*, requires the prosecutor to prove that a person with control over how work is carried out failed to take reasonable steps to prevent bodily harm to persons carrying out the work and that such

failure was due to “wanton or reckless disregard for safety.” Once a defendant is found guilty, the principles of criminal sentencing addressed in the *J. Cote* case come into play. Find out what you can do to manage criminal liability risks under C-45 and protect corporate officers and directors from liability.

5. Nova Scotia Top Court Sets High Standard for Justifying OHS Compliance Order

OHS inspectors issued a Stop Work and five Compliance Orders to an excavation subcontractor after determining that the excavation work was too close to a tower crane at the site. The subcontractor appealed the Order to comply with the requirement to “ensure that a utility pole, building, or other structure is provided adequate support or removed if the utility pole, building or other structure may become unstable because of excavation or trenching activity.” The Labour Board set aside the Order along with the $500 Administrative Monetary Penalty (AMP), reasoning that the risk of the crane’s collapsing, while possible, wasn’t probable. Now it was the government’s turn to appeal. But the Nova Scotia high court ruled that the Board’s decision wasn’t erroneous and disallowed the appeal [*Nova Scotia (Occupational Health and Safety) v. DJ Excavation Inc.,* 2026 NSCA 24 (CanLII), March 17, 2026].

Takeaway & Impact on You: This is a noteworthy case because courts and tribunals typically defer to OHS enforcers and prosecutors in interpreting the terms of OHS regulations. That’s why employers lose OHS appeals far more frequently than they win them. While it deals with technical excavations issues, the principles in this case in terms of inspector discretion would also apply to other enforcement situations. Use the OHSI Excavations Compliance Game Plan to avoid

excavation and trenching violations at your site.

6. Contractor With History of OHS Violations Can't Blame Victim for Fall Injury

An Alberta roofer tripped over his rope and fell to the ground 7.1 metres below. The framing contractor got hit with a $1,000 AMP for failing to ensure adequate fall protection. We did everything we could to keep the worker safe, the contractor insisted, noting that the victim had just completed fall protection certification training, had three years' experience, and admitted to being at fault by leaving himself too much rope. But the OHS officer refused to revoke the penalty, especially since the contractor had received four different fall protection OHS orders in the past five years. The Labour Relations Board dismissed the appeal. Although there was room for debate over blame for the most recent incident, it was reasonable for the officer to dish out a penalty for a fall protection violation given the contractor's recent history of noncompliance [*C-Bros Contracting 2005 Ltd. v Occupational Health and Safety*, 2026 ABOHSAB 1 (CanLII), January 21, 2026].

Takeaway & Impact on You: Although the penalty in this case was only $1,000, courts and tribunals have relied on the same principles to justify OHS fines in the six figures. The takeaway is that blaming workers for OHS violations and injuries almost never works, especially when a company has a track record of violations. Use the OHSI Due Diligence Scorecard and accompanying Case Summaries to draw other important lessons that you can use to assess whether your own OHS program meets the standards of due diligence.

7. General Toolbox Talks Training Not Enough to Avoid Liability for Machine Violation

Another important due diligence case took place in Newfoundland where a court found the owner of a fish processing plant guilty of two OHS violations resulting in serious injuries to a worker who got her arm caught in a mussels declumping machine. In rejecting the company's due diligence defence for failing to ensure the machine was properly locked out, the court noted that its general rule requiring motors to be shut off was neither in writing nor "fleshed out to include lockout" when required by OHS regulations. Although "toolbox meetings" were held, they didn't specifically cover the declumper machine [*R. v Triton Ocean Products Limited*, 2026 CanLII 2062 (NL PC), January 16, 2026].

Takeaway & Impact on You: The takeaway from *Triton* is that general training isn't enough to ensure compliance with requirements pertaining to specific operations, tools, or equipment. The other fatal flaw that undermined the company's due diligence defence was failure to keep records documenting the safety training it provided. Don't make the same mistakes! Find out how to carry out an OHS Training Compliance Audit as part of a broader OHS Safety Training Records & Documentation Compliance Game Plan.

8. Ontario High Court OKs COVID-19 Infection Negligence Class Action Against Nursing Home Operator

Seventy-three long-term care residents died of COVID-19 during a six-week period in 2021. The victims and their families filed a class action lawsuit accusing the facility of gross

negligence in failing to properly plan and implement policies and procedures to respond to the pandemic. The lower court concluded that there were enough common legal issues, including whether the facility's failure to protect the residents amounted to gross negligence, to justify allowing the case to go forward as a class action. The Ontario Court of Appeal upheld the ruling. In addition to having to face a class action, the facility was ordered to pay $35,000 to cover the legal costs of the appeal [*Head v. 859530 Ontario Inc*., 2026 ONCA 231 (CanLII), March 31, 2026].

Takeaway & Impact on You: This is a very concerning case to the extent it signals that the door is open to for infection victims and their families to file negligence lawsuits, including class actions, against the operators of the site or facility where they got infected. That's especially true in the majority of Canadian jurisdictions that didn't pass legislation during the COVID era making business and land owners immune from such lawsuits. And even where such immunity legislation exists, it doesn't extend to measles, Ebola, hantavirus, influenza, and other infectious illnesses on the spread. All of this makes it imperative for employers to implement OHS measures to protect exposed workers, clients, and visitors against infection risks. Find out how to use the OHSI Infection Exposure Control Plan to protect workers from infectious illness.

9. Arbitrator Affirms Employer's Right to Ban Safety-Sensitive Workers from Using Legalized Drugs at Work

An important federal case sheds light on where courts draw the lines between individual privacy rights and employers' rights to keep workers sobered. It began right after Canada legalized

cannabis in 2018, when an airline adopted a new safety policy banning flight attendants, flight directors, and other high-risk employees from consuming any drug, whether legal or illegal, at work. The union claimed the policy was unreasonable and that affected employees' privacy rights outweighed the airline's safety concerns. But based on previous cases upholding similar bans and affirming the employer's overriding need to ensure that safety-sensitive employees are fit for duty, the federal arbitrator disagreed with the union and rejected the grievance [*CUPE, Local 4041 v. Air Transat*, 2026 CanLII 44306 (CA SA), May 6, 2026].

Takeaway & Impact on You: Workers' rights to consume legal drugs away from work aren't a licence to do their jobs while impaired, especially when they perform safety-sensitive duties. The key to the *Air Transat* ruling is that the airline's no-drug policy was based not on zero tolerance or principles of laws and morals, but the universally accepted understanding that workers who perform safety-sensitive jobs must be fit for duty at all times. Find out how to create a legally sound Substance Abuse & Fitness Duty for Policy at your workplace.

10. OK to Fire Worker for Psychologically Harassing Co-Worker on Social Media

A recent case focuses on a Belle Centre usher that sent a female coworker in whom he had unrequited romantic interest 150 messages on social media platforms over the course of 10 months. When she ghosted him on Facebook Messenger, he kept up the barrage on Instagram while also cranking up the romantic tone. Feeling creeped out, the co-worker made her lack of romantic interest clear and repeatedly asked the usher to stop the messages. But her pleas fell on deaf ears. Finally, the coworker complained to management about not feeling safe at

work, which led to an internal investigation and the decision to terminate. The Québec arbitrator ruled that there was just cause to terminate for psychological harassment, reasoning that the continuous stream of unwanted compliments and highly intrusive messages undermined the co-worker's dignity, psychological integrity, and sense of security at work [*Teamsters Québec, local 1999 c L'Aréna des Canadiens inc.,* 2026 CanLII 3888 (QC SAT), January 16, 2026].

Takeaway & Impact on You: The employer's duty to protect employees from workplace harassment has become a common theme in OHS litigation. The moral of this case is that this duty extends to harassment committed by one worker against another online, including in the form of postings on social media sites. Find out how to implement an effective Workplace Violence and Harassment Compliance Game Plan at your site.

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Drop me a line at glennd@bongarde.com and let me know what you think were the biggest OHS cases of 2026.