

Worker Convicted of Assaulting Contractor over Excavator Incident



A contractor thought another contractor's worker who was operating an excavator had damaged the contractor's truck. He yelled to the worker, who continued using the excavator to fill the truck. So he opened the excavator door and they started yelling at each other. They struggled in the excavator doorway, with the worker punching the contractor's hand and kicking him in the leg and ribs as the excavator rotated. The contractor fell onto the excavator's tracks and eventually to the ground. The worker was arrested and charged with assault. The court noted that the worker denied having any safety duty toward the contractor. And although the contractor unwisely put himself at risk, he didn't initiate the assault and was trying to hang onto the machine to avoid serious injury. So the court convicted the worker of assault [*R. v. Schultz*, [2014] ONCJ 9 (CanLII), Jan. 9, 2014].