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**EMPLOYEE SAFETY AND WORK-RELATED INJURY:  
Recent Trends in the Law and Managing Your Risks**

**Toronto – November 29, 2007**

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**Enforcement and Regulatory Offences**

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**INTRODUCTION**

- **More inspectors = more (lengthy) trials**

**BACKGROUND**

- **Regulatory offences as characterized by defendants, public and observers**

3

**CATEGORIES OF OFFENCES**

- **Crime – Federal, mainly in Criminal Code**
  - **New workplace offence**
- **Regulatory – strict liability**
- **Absolute liability**
- **Administrative monetary penalties**

4

**REGULATORY OFFENCE – AN EXAMPLE**

- **Requirement to test water**
- **Inspection of system and search for records**
- **Difference between an inspection and an investigation**
- **Replies and production of documents are often required**

5

**CAUTION**

- **Charter rights may arise if subject to quasi-criminal investigation**
- **People have more rights than organizations**

6

### **CHARGES**

- **A charge requires full disclosure by Ministry**
- **Settlement discussions – pretrial hearings and pretrial court motions may follow**

7

### **TRIAL**

- **Are pros and cons to a trial**
- **For a trial – must have**
  - **Proof beyond reasonable doubt**
  - **Defences such as due diligence**
  - **Fines are increasing**
- **Against a trial**
  - **Publicity**
  - **Internal systems revealed**
  - **No fine reduction**
  - **Costs**

8

**PENALTIES**

- **Ontario favours fines – large fines!**
- **Other consequences**
  - **Lost revenues**
  - **Suppliers**
  - **Employees**
  - **Reputation**
  - **Capital**
  - **Shareholders**
  - **Confidence**

9

- **Better to be charged with true crime due to regulatory offence penalties, appeals**
- **Present sentencing is not constructive nor effective in prevention**

10

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