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Andrew Brought Featured in Bloomberg Law and USA Today Regarding OSHA Criminal Enforcement

Spencer Fane attorney Andrew Brought was recently featured in *Bloomberg Law* and *USA Today* for his thoughts on how Occupational Safety and Health Administration (OSHA) violations, typically enforced with civil fines against a company, can, in some instances, be escalated to criminal charges and criminal enforcement.

Bloomberg Law's "Corn Dust Convictions Show Perils of Safety Compliance Missteps" investigated corporate officials who obstructed an investigation into a deadly corn dust explosion, their prison sentencings a powerful example of how OSHA can refer violation cover-ups to the U.S. Justice Department to trigger more severe criminal charges. Andrew was quoted in an explanation of individual implications for falsifying or obstructing evidence, stating, "The Justice Department as a general rule is looking to charge and fine individuals culpable for conduct. There has been a trend in the last five years or so for individual accountability."

Later in the article, Andrew's insight was again featured to explain how ongoing OSHA violation inspections, while limited by maximum fines, can lead to felony prosecutions under U.S. Environmental Protection Agency (EPA) laws such as the Clean Air Act. He explained, "Under environmental laws, mere negligence or simple negligence can lead to a criminal conviction or indictment, whereas the standard for OSHA cases is 'willful'."

Despite recent spikes in individual charges for workplace safety violations, OSHA violations, in general, remain a company problem. In *USA Today*'s "New York Roofing Contractor Pleads Guilty to OSHA Violation Involving Worker's Death in 2022," Andrew emphasized the standard remains: "From an evidentiary standpoint, the primary OSH Act crime requires the government prove that the employer willfully violated a safety

standard and the violation caused the death of the employee. Also, because an OSH Act crime is a misdemeanor and not a felony, the maximum punishment is capped at $500,000 as a Class B misdemeanor (although subject to the Alternative Fines Act).” Additionally, he noted that because OSH Act crimes apply to “any employer,” companies, not individuals, remain the primary target.

At Spencer Fane, Andrew counsels manufacturers, industrial clients, and businesses with complex EPA and OSHA challenges. A dependable and responsive advocate, he offers pragmatic and business-focused solutions to help his clients achieve their goals.

Read “Corn Dust Convictions Show Perils of Safety Compliance Missteps” here and “New York Roofing Contractor Pleads Guilty to OSHA Violation Involving Worker’s Death in 2022” here. Please note, a subscription may be required.