

OSHA 30/30[®]

A thirty minute update on OSHA law every thirty days

with **Manesh Rath**



THE FATE OF THE 180 DAY ENFORCEMENT LIMIT

March 22, 2017

1001 G Street NW, Ste. 500 W,
Washington, D.C.



www.khlaw.com

Presented by:

Manesh Rath

Partner

rath@khlaw.com

Javaneh Nekoomaram

Associate

nekoomaram@khlaw.com

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rath@khlaw.com

202-434-4182

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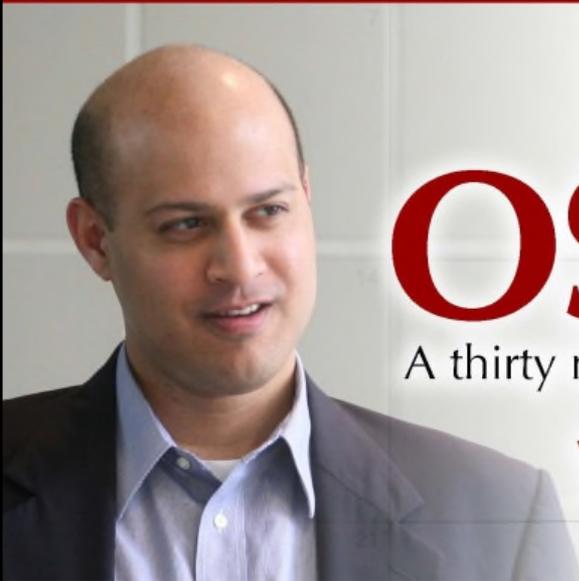


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 - 2012 *Volks* Decision (“*Volks II*”)
 - Extension of *Volks* holding to PSM- *Delek Refining*
 - Revised rule
- Challenges to the rule – current, potential
- Tolling the limitation period with the discovery rule?
- Implications for employers
- Outlook on future of this regulation

BACKGROUND ON RECORDKEEPING RULE

- Section 8 of OSH Act (Recordkeeping):
 - Each employer shall make, keep and preserve...such records regarding his activities
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 - No citation may be issued under this section after the expiration of six months following the occurrence of any violation
- Section 1904.29 (Recordkeeping Rule)
 - Must record injury within 7 days of knowledge of injury and preserve records for 5 years from the end of the year covered

BACKGROUND ON RECORDKEEPING RULE

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 - Alleged 67 violations
 - Oldest violations = 4 1/2 years
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FINAL RULE SUMMARY

- Final rule “clarifies” employer’s continuing obligation to make and maintain accurate injury and illness records
- “Clarifies” OSHA’s longstanding position that employer’s duty to record an injury or illness continues for the full 5-year retention period
- “The rule simply returns us to the standard practice of the last 40 years”- former Assistant Secretary Dr. David Michaels
 1. Maintain *accurate* records for five years
 2. Duty to record injuries and illnesses is an ongoing obligation
 3. Provide “accurate” records on request

CONGRESSIONAL CHALLENGE TO RULE

- H.J.Res. 83:
 - “Resolved ... that Congress disapproves the rule ... and such rule shall have no force or effect.”
 - 2 Former BLS Commissioners



CONGRESSIONAL CHALLENGES TO RULE

- Congressional Review Act (CRA)
 - Allows Congress to review and disapprove rules before they take effect
- February 21, 2017: H.J. Res. 83 introduced
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TOLLING THE LIMITATION PERIOD

■ Discovery Rule

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WHAT EMPLOYERS SHOULD DO:

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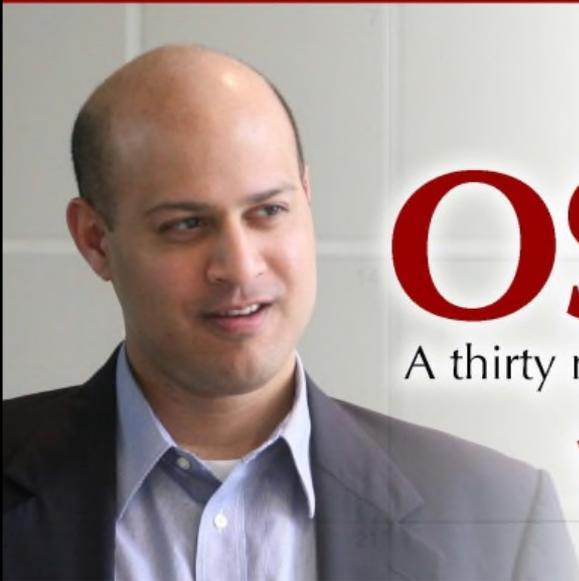
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Please join us

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Thank you!

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Washington, DC 20001

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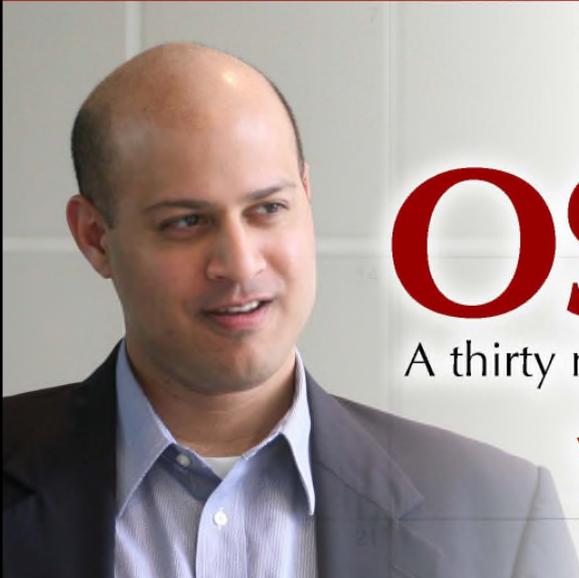
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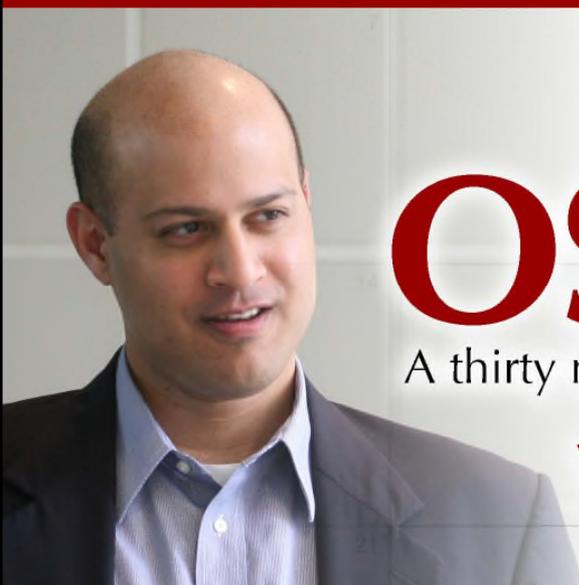
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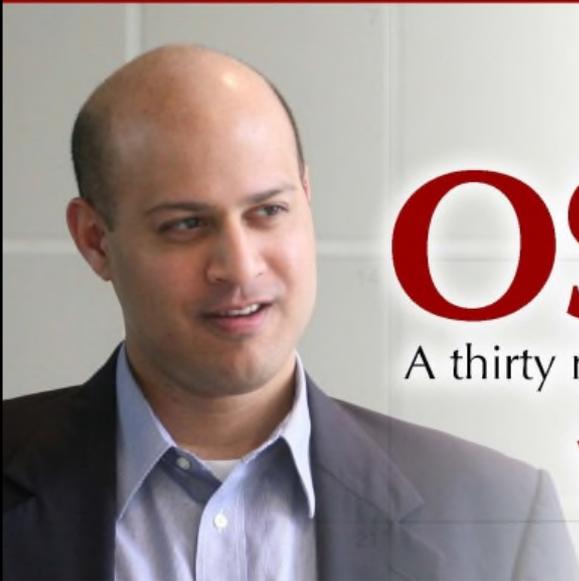


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