



OSHA 30/30[®]

A thirty minute update
on OSHA law every thirty days

with
Manesh Rath

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ALJ Evaluated Whether Company's Safety Program Provided Adequate Protection

September 17, 2025

Manesh Rath



Manesh Rath is a partner in Keller and Heckman's litigation and OSHA practice groups. He has been the lead amicus counsel on several cases before the U.S. Supreme Court. He has been called to testify before Congress in several hearings relating to OSHA law.

Mr. Rath is a co-author of three books in the fields of wage/hour law, labor and employment law, and OSHA law. He has been interviewed in The Wall Street Journal, Bloomberg, Smart Money, Entrepreneur, on PBS's Nightly Business Report, and C-SPAN.

Mr. Rath served on the Board of Advisors for the National Federation of Independent Business (NFIB) Small Business Legal Center and on the Society For Human Resources (SHRM) Special Expertise Panel for Safety and Health law for several years.

He was voted by fellow members to The Best Lawyers in America 2016-2025 (in 2023, was voted as Lawyer of the Year); selected by Super Lawyers 2016 – 2023; and by corporate counsel as the 2017 Lexology winner of the Client Choice Award.



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Benjamin Idzik



Benjamin (Ben) Idzik advises Keller and Heckman clients on regulatory compliance matters under state and federal environmental, occupational safety and health, transportation, and employment laws.

Specifically, Ben assists clients on issues arising under the Occupational Safety and Health (OSH) Act, Federal Motor Carrier Safety Administration (FMCSA) regulations, and U.S. Environmental Protection Agency (EPA) regulations, such as the Toxic Substances Control Act (TSCA) and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

Prior to joining Keller and Heckman, Ben focused on regulations affecting trade associations and their members. While in law school, Ben served as a legal intern for an advanced nuclear reactor and fuel company and was the Note & Comment Editor for the Catholic University Law Review. He also completed a clerkship at the Montgomery County Circuit Court.



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Topics to Be Discussed

- ◆ Facts of *Sec'y of Lab. v. Hall Trucking, Inc.*
 - ◆ Background
 - ◆ The Incident
 - ◆ Inspection and Citation
- ◆ Establishing a Violation of the General Duty Clause
- ◆ OSHA'S Allegations
- ◆ *Hall Trucking, Inc.*'s Defenses
- ◆ ALJ's Decision
- ◆ What Employers Should Do

Facts of *Sec’y of Lab. v. Hall Trucking, Inc.* – Background

- ◆ Hall Trucking, Inc. is a North Dakota-based, heavy-haul carrier that specializes in moving oil and gas drilling equipment
- ◆ Approximately 100 employees, including “swampers” and truck drivers
- ◆ Owned by Jeff Hall, with on-site supervision handled mainly by Patrick Goertz
- ◆ Goertz responsible for planning and coordinating logistics of equipment moves



Facts of *Sec’y of Lab. v. Hall Trucking, Inc.* – The Incident

- ◆ On November 2, 2022, Hall was in the process of moving a drilling rig near Epping, ND
- ◆ During the move, Truck #3015 was backing up after unloading equipment
 - ◆ Swampers, “AC” and “HC” were providing spotting for the truck
- ◆ AC and HC were walking with their backs to the truck as it backed into a choke point created by other vehicles and equipment
- ◆ HC signaled the truck to continue while AC was in its path causing the truck to fatally strike AC



Facts of *Sec'y of Lab. v. Hall Trucking, Inc.* – Inspection and Citation

- ◆ OSHA Compliance Officer inspected the site the following day
- ◆ The morning before the incident, Goertz led a safety meetings with the swampers
- ◆ Hall maintained written policies like job safety analyses and a training module
- ◆ Single item citation issued under the general duty clause for failing to protect employees from struck-by hazards



Elements of General Duty Clause

A condition exposed workers to a hazard

The hazard was recognized in the industry

Likelihood that hazard could lead to death or serious harm

A feasible means exists for correcting the hazard

OSHA's Allegations

- ◆ Exposing on-foot workers to mobile equipment is a widely recognized hazard in the trucking industry
- ◆ Hall failed to abate the hazard because it did not have an internal traffic control plan
- ◆ Implementing an internal traffic control plan would have been economically and technologically feasible



Hall Trucking, Inc.'s Defenses

- ◆ Oil and gas, not trucking is the proper industry to reference
- ◆ Existing safety program was sufficient to abate the hazard
- ◆ Implementing an internal traffic control plan was not technologically feasible
 - ◇ Dynamic worksite
 - ◇ Not used by other companies engaged in this type of work
- ◆ OSHA admitted that it has no evidence that internal traffic control plans are effective



ALJ's Decision

- ◆ Agreed with OSHA that the relevant industry is trucking
- ◆ Hall's existing program was "incomplete, at best, and merely an unrealized, unimplemented paper program, at worst"
- ◆ Lacked specificity
- ◆ Not effectively communicated to employees
- ◆ Not enforced and fully understood by management



ALJ's Decision (2)

- ◆ Existing safety measures could not provide the same level of protection as cohesive traffic plan
- ◆ Internal traffic protection plan was technologically feasible for Hall per expert testimony
 - ◇ Industry custom not established
- ◆ Rejected Hall's reliance on the 2012 Request for Information
- ◆ Economic feasibility established



What Employers Should Do

- ◆ Industry custom may not be an effective defense
- ◆ Written safety policies must be effectively communicated, understood, and enforced
- ◆ Safety training must be substantive and verified
- ◆ Ensure that supervisors are educated about standing safety policies
- ◆ Safety policies and disciplinary actions must be documented





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at 1:00 p.m., Eastern Time

October 22nd, 2025

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October 1st, 2025
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Thank You

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