



OSHA 30/30®

A thirty minute update
on OSHA law every thirty days

with
Manesh Rath

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OSHA Failed to Convince ALJ that Employer's Safety Training Program was Insufficient

October 22, 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. Sunbelt Rentals*
 - ◇ Background
 - ◇ The Incident
 - ◇ Inspection and Citation
 - ◇ Sunbelt's Safety Program
- ◆ Establishing a Violation of an OSHA Standard
- ◆ OSHA's Allegations
- ◆ Sunbelt's Defenses
- ◆ ALJ's Decision
- ◆ What Employers Should Do

Background

- ◆ Sunbelt is an equipment rental company
- ◆ In June 2023, Sunbelt maintained a temporary materials staging facility in Port Arthur, Texas
- ◆ On June 3rd, two “yard helpers” (the Injured Employee and Joseph Matthews) were assigned to build a temporary “paint hooch”



The Incident

- ◆ Each morning before the work began, Matthews and the Injured Employee participated in morning tailgate meetings led by their foreman
 - ◇ Which included a written “job safety analysis” (JSA)
- ◆ The foreman then supervised the two employees when work commenced
- ◆ On June 6th, after several successful cuts, the Injured Employee, attempted to cut a piece of plywood that he held with his left hand, resulting in a severe injury on this same hand



Inspection and Citation

- ◆ On June 8th, 2023, OSHA conducted an onsite inspection to investigate the accident
- ◆ Interviewed the Injured Employee and Matthews
- ◆ OSHA issued one serious violation of the 29 CFR 1926.21(b)(2)
 - ◇ Failure to instruct each employee in the recognition and avoidance of unsafe conditions



Sunbelt's Safety Program

- ◆ “Engage for Life”
- ◆ General training program included:
 - ◇ New employee orientation
 - ◇ Safety policy manual
 - ◇ Continuing employee education
 - ◇ “Work-site” and “Routine task” JSAs
- ◆ Routine task JSA on circular saws
- ◆ Safety policies were actively enforced



Establishing an OSHA Citation

- ◆ OSHA must prove, by a preponderance of evidence, that:

1) The standard applies to the cited condition;

2) The terms of the standard were violated;

3) One or more of the employees had access to the cited condition; and

4) The employer knew, or with the exercise of reasonable diligence could have known, of the violative condition

OSHA's Allegations

- ◆ OSHA: Sunbelt's safety training was too generic to properly inform employees about the hazards associated with using circular saws
- ◆ OSHA: Sunbelt's routine task JSA on circular saws was insufficient and not otherwise accessible by employees
- ◆ OSHA: CSHO's interview notes allege that the Injured Employee and Matthews never received training on using circular saws



Sunbelt's Defenses

- ◆ Sunbelt's safety training was consistent with what a reasonably prudent employer would provide
- ◆ Circular saw hazards were discussed at general orientation training, tailgate meetings, and on written JSA
- ◆ The circular saw JSA plainly specified how to mitigate kickback hazard
- ◆ CSHO's interview notes were unverified and contradicted by Matthews' testimony at trial



ALJ's Decision

- ◆ Sunbelts' safety training was not too generic, was sufficiently specific
- ◆ The Injured Employee and Matthews received instructions during their morning tailgate meetings, that if followed, would have avoided the hazard
- ◆ The routine JSA on circular saws directly addressed the kickback hazard and was readily available to employees
- ◆ CSHO's interview notes were unreliable compared to in-court testimony
- ◆ Citation vacated



What Employers Should Do

- ◆ Run daily tailgate meetings
 - ◇ Address anticipated tasks
 - ◇ Cover anticipated hazards
- ◆ Consider hazard-specific posters
- ◆ Document training. Verify attendance of attendees
- ◆ Designate an individual to accompany a CSHO during a site inspection
- ◆ Take duplicate records that the CHSO observes, asks, and records
- ◆ Witness testimony is critical. Trial testimony is given greater weight than unverified inspection notes
- ◆ Monitoring, discipline, even if injuries





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at 1:00 p.m., Eastern Time

November 19th, 2025

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Please join us at 10:00 AM Eastern U.S.
December 10th, 2025
www.khlaw.com/REACH-3030



Please join us at 1:00 PM Eastern U.S.
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Thank You

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