



OSHA 30/30[®]

A thirty minute update
on OSHA law every thirty days

with
Manesh Rath

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Judge Dismissed OSHA Citation in Product Unloading Accident for Insufficient Evidence

May 20, 2026

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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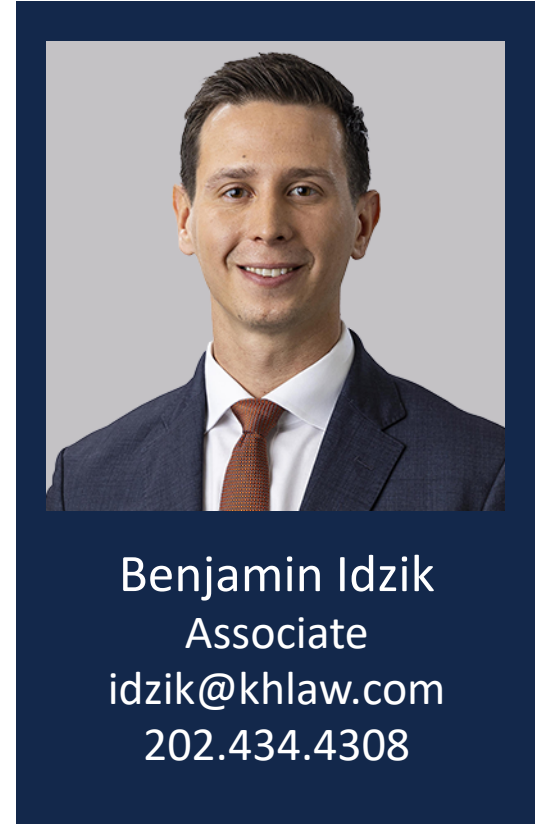
Benjamin Idzik



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 *Americold Logistics*
 - ◆ Background
 - ◆ Process of Unloading
 - ◆ The Incident
- ◆ Establishing a Violation of the General Duty Clause
- ◆ OSHA's Arguments
- ◆ Americold's Defenses
- ◆ ALJ's Decision
- ◆ What Employers Should Do

Facts of *Americold Logistics* — Background

- ◆ Americold runs a cold storage warehouse in La Porte, Texas, that receives, stores, and ships refrigerated and frozen products
- ◆ Many products are received via rail
- ◆ Once received, Americold employees unload product, place it in storage, and subsequently prepare it for shipment to the next step of the supply chain



Process of Unloading

- ◆ An initial assessment of the cars to be unloaded
- ◆ Pre-shift between supervisors, shift tailgate meeting, and railcar crew-only tailgate meeting
- ◆ Two employees open the car door; a forklift driver connects the car to the dock via a “dock plate”
- ◆ Before unloading began, a supervisor would assess the state of the load and determine if the railcar crew’s unloading plan needed adjustment



The Incident

- ◆ MR and another employee were charged with unloading a car with palletized boxes of frozen chicken feet
- ◆ Car inspected and approved for unloading
- ◆ A stack of pallets collapsed onto MR and the other employee
- ◆ Following hospitalization self-report, OSHA conducted inspection and issued a citation under the general duty clause



Elements of General Duty Clause

A condition exposed workers to a hazard

The hazard was recognized by employer or in the industry

The hazard caused or was likely to cause death or serious harm

A feasible means for eliminating or materially reducing the hazard existed

OSHA's Arguments:

- ◆ Americold allegedly exposed its employees to a struck-by hazard by requiring them to work near pallets with leaning boxes
 - ◇ Employee testified that he regularly complained to Americold about having to work shifted loads
- ◆ Americold allegedly knew of the hazard because supervisor observed shift during transit
- ◆ Safety program was allegedly insufficient; hazard could have been abated if proper program was in place



Americold's Arguments:

- ◆ Boxes were not leaning during unloading; boxes that shifted are not necessarily hazardous
- ◆ Employee complaints weren't about safety
- ◆ Safety policy was adequate
 - ◇ Inspection prior to unloading
 - ◇ Training and daily tailgates
 - ◇ Monitoring
- ◆ The proposed abatement measures were framed in terms of results not corrective actions
 - ◇ Some were outside of Americold's control
 - ◇ Lacked specificity, *e.g.* "secure an unstable load through use of a device."



ALJ's Decision

- ◆ Hazard established in the moments before the pallet fell over
- ◆ Americold's safety program was sufficient; exercise of employee judgment alone does not undermine efficacy
- ◆ Abatement measures that "might" be effective, or that merely describe a desired result, are not sufficient
 - ◆ Which protective device should have been used?
 - ◆ What is the evidence that it would be more effective?
 - ◆ What would a process to remove unstable loads look like?



What Employers Should Do

- ◆ Conduct regular hazard assessments
- ◆ Training on hazard recognition
- ◆ Record employee complaints
- ◆ Task supervisors with monitoring and documenting safety violations
- ◆ Document OSHA inspections
- ◆ Prepare explanations of task procedure, safety protocols
- ◆ Create record of empowering stop work
- ◆ Evaluate defenses based not just on alleged violation, but also proposed abatement





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June 10, 2026
www.khlaw.com/REACH-3030



Please join us at 1:00 PM Eastern U.S.
August 12, 2026
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at 1:00 p.m., Eastern Time

June 17, 2026

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Thank You

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