



OSHA 30/30[®]

A thirty minute update
on OSHA law every thirty days

with
Manesh Rath

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Recent Decision on One of OSHA's Largest-Ever Penalties

June 17, 2026

Manesh Rath

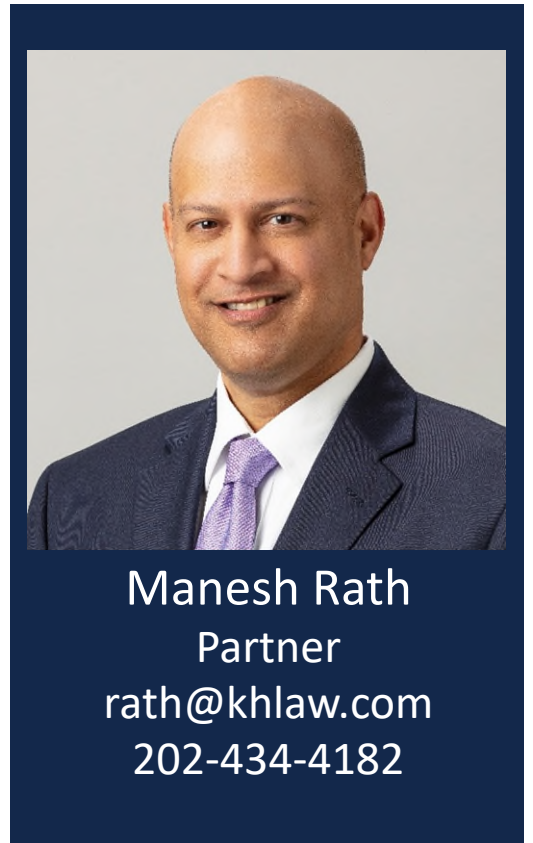


Manesh Rath is a partner in Keller and Heckman’s litigation and OSHA practice groups. He has been the lead amicus counsel on several cases before the U.S. Supreme Court. He has been called to testify before Congress in several hearings relating to OSHA law.

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.



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.



Topics to Be Discussed

- ◆ Facts of *Sec'y of Lab. v. MDLG, Inc.*
- ◆ Phenix Lumber Compared to Highest Penalties Issued
- ◆ Assessing Penalties
- ◆ OSHA's Arguments
- ◆ ALJ's Decision
- ◆ What Employers Should Do

Facts of *Sec'y of Lab. v. MDLG, Inc.*

- ◆ MDLG, Inc. (D/B/A Phenix Lumber Co.) operated a sawmill in Phenix City, Alabama
- ◆ August 2023: Employee attempted to clear jam in woodchipper and was fatally injured
- ◆ Workers reported to police that practice was not uncommon
- ◆ Record of unsafe workplace practice, injuries, and fatalities



Citation & Contest

- ◆ Investigation conducted
- ◆ Citations issued
 - ◆ 5 “serious”;
 - ◆ 22 “willful”;
 - ◆ 1 “repeat”
 - ◆ Total proposed penalties:
\$2,471,683
- ◆ Timely notice of contest
- ◆ Partial settlement; proposed penalty amount disputed
- ◆ OSHA moved for summary judgment



Phenix Lumber Compared to Highest Penalties Issued



Assessing Penalties

- ◆ OSH Act § 17:
 - ◆ Authorizes OSHA to propose penalty amounts
- ◆ Proposed penalty is advisory upon contest
- ◆ OSHRC must give due consideration to:
 - ◆ Employer's size
 - ◆ Gravity of the violation(s)
 - ◆ Good faith of the employer
 - ◆ History of prior violation
- ◆ Gravity is typically the most important factor
- ◆ Funds go to general fund in U.S. Treasury



OSHA's Arguments

- ◆ Citations that posed a low risk of injury to workers were assessed below statutory minimum
- ◆ Citations that posed high risk of injury, were assessed at or near the statutory maximum
- ◆ Phenix Lumber's history of citations warranted classification of "willful"
- ◆ Risk of amputation and fatality warranted classification of "serious"



ALJ's Decision

- ◆ Movant must show that there is no genuine dispute of material fact
- ◆ No evidence supporting Phenix Lumber's denial of the proposed penalty amounts
- ◆ OSHA's proposed penalties were warranted
- ◆ Phenix Lumber's history of violations and fatalities was severe



What Employers Should Do

- ◆ Hazardous tasks governed by written procedures
- ◆ Hazard control plan supported by training
- ◆ Active supervision, assign accountability
- ◆ Correct known hazard as soon as identified
- ◆ Record of corrective actions
- ◆ Management commitment to safety
- ◆ Predictable hazards should be addressed
- ◆ Risk-based prioritization
- ◆ Employee participation – behavior-based management





Please join us at 10:00 AM Eastern U.S.

TBD


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

August 12, 2026

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at 1:00 p.m., Eastern Time

July 22, 2026

www.khlaw.com/OSHA3030

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Thank You

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