



OSHA 30/30®

A thirty minute update
on OSHA law every thirty days

with
Manesh Rath

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D.C. Circuit Ruled on Exposing Employer Defenses in Multi-Employer Worksite Case

July 22, 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 *TCP Specialists v. Sec'y of Lab.*
- ◆ Multi-Employer Citation Policy
- ◆ OSHA's Arguments
- ◆ TCP's Arguments
- ◆ D.C. Circuit's Decision
- ◆ What Employers Should Do

Background

- ◆ C6 Operating hired Jaguar, Reliance, and TCP to perform workover on well
- ◆ Dec. 5, 2022: TCP crew assigned to perform two wireline operations
- ◆ Noticed increase in well pressure during second operation; alerted site safety supervisor
- ◆ Employees congregated around well; safety supervisor ordered depressurization



The Incident & Citation

- ◆ Jaguar opened valve but did not close another valve, causing flood of pressure
- ◆ Corroded segment of pipe ruptured and flailed violently, killing and severely injuring three workers
- ◆ TCP cited under the General Duty Clause; contested citation
- ◆ TCP sought judicial review in the D.C. Circuit



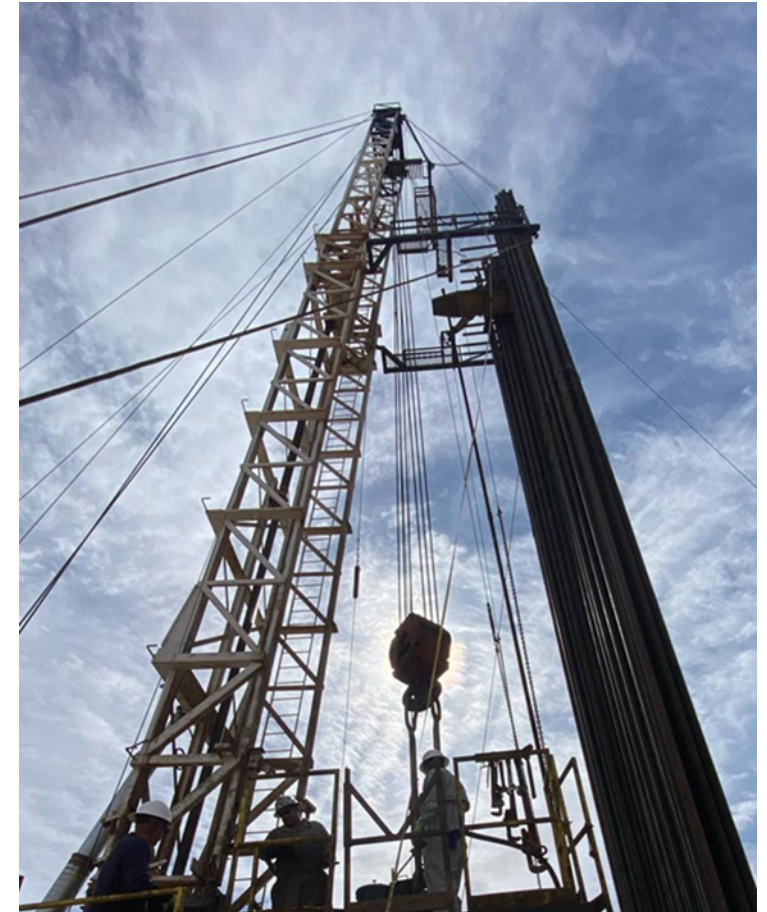
Multi-Employer Citation Policy

- ◆ 1999 OSHA Enforcement Directive; on a multi-employer worksite, OSHA can cite:
 - ◆ Creating Employer
 - ◆ Exposing Employer
 - ◆ Correcting Employer
 - ◆ Controlling Employer
- ◆ OSHA alleged TCP was an exposing employer



OSHA's Arguments

- ◆ Hazard existed, was recognized by TCP supervisor, and caused death or serious injury
- ◆ Expert: Buffer zone was an effective means of abating the hazard
- ◆ Expert: Implementing a buffer zone was feasible, but TCP failed to do so
- ◆ TCP lacked relevant safety and health policies and procedures



TCP's Arguments

- ◆ Hazard was defined as proposed abatement
- ◆ TCP did not create the hazard
 - ◇ Did not have control over the depressurization process
 - ◇ Notified C6 of the pressure buildup
- ◆ Buffer zone would not have protected workers; workers near wellhead at the time of accident were performing essential tasks



D.C. Circuit's Decision

- ◆ Absence of a buffer zone was not classified as hazard
- ◆ TCP had control over location of employees
- ◆ ALJ was entitled to weigh conflicting evidence regarding pipe fragments
- ◆ Expert testimony on presence of employees was credible; TCP had not applicable safety and health policies



What Employers Should Do

- ◆ You are responsible for protecting your own employees – even when another contractor controls the work
- ◆ Strive to remove employees from hazards that they do not need to be near; discipline violations
- ◆ Clearly identify hazardous phases of work before they begin
- ◆ Set up a communication plan





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at 1:00 p.m., Eastern Time

August 19th, 2026

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Please join us at 10:00 AM Eastern U.S.
August 26th, 2026
www.khlaw.com/REACH-3030



Please join us at 1:00 PM Eastern U.S.
August 12th, 2026
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Thank You

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