



OSHA 30/30®

A thirty minute update
on OSHA law every thirty days

with
Manesh Rath

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Judge Ruled on Whether a Staffing Agency Could be Held Liable for Alleged HazCom Violations at Client's Workplace

September 16, 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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Victoria Tinker



Victoria Tinker advises clients on litigation matters in multiple areas, including false claims, product liability, and regulatory compliance. She represents clients, from emerging start-ups to Fortune 500 companies, before state and federal courts.

Victoria is adept at identifying pathways to resolve client disputes before the need for litigation; however, if litigation is unavoidable, her extensive experience proves invaluable to clients. She handles all aspects of litigation, including pre-trial dispositive and procedural motions, extensive discovery processes, expert witnesses - in addition to having first chair trial experience - all while collaborating with partners and key stakeholders to develop the most compelling litigation case.

Prior to joining Keller and Heckman, Victoria was a commercial litigation associate in private practice where she focused on a broad array of corporate matters, including contract, partnership, and real property disputes. During law school, Victoria served as a student attorney for the Washington College of Law Civil Advocacy Clinic.



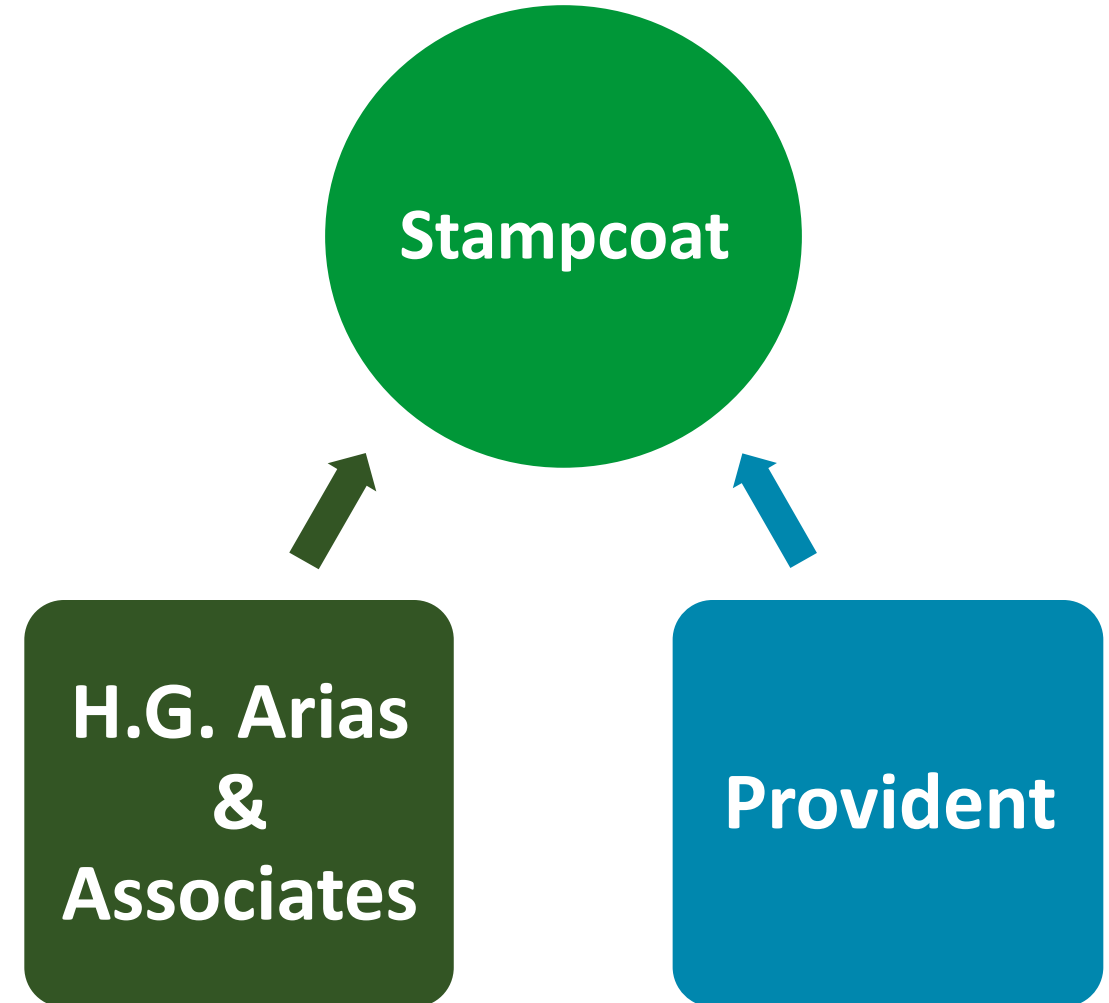
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Topics to Be Discussed

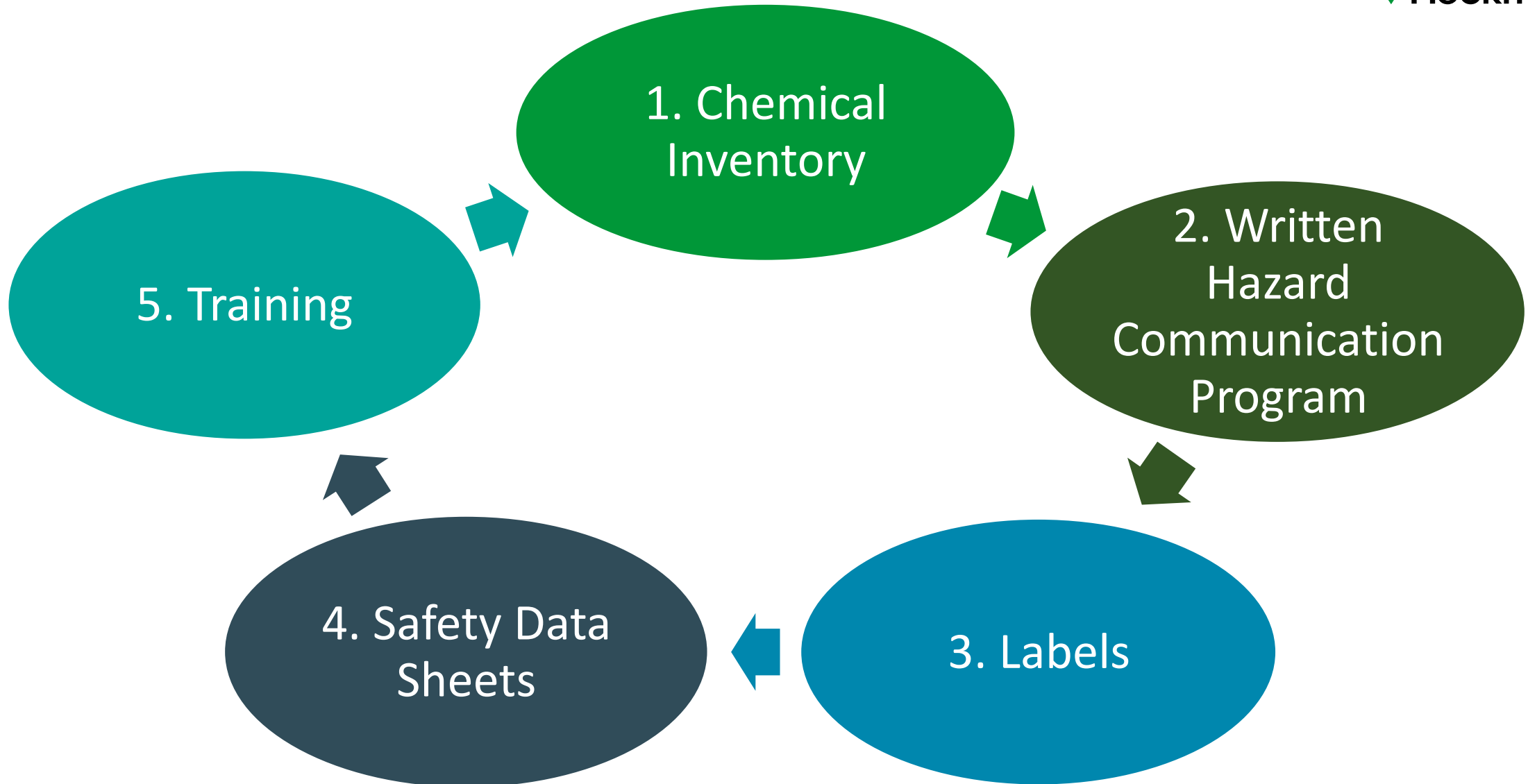
- ◆ Facts of the case, *Secretary of Labor v. H.G. Arias & Associates*
- ◆ Background on the OSHA Hazard Communication Standard
- ◆ OSHA's Citation and Its Arguments
- ◆ *Arias'* Defenses
- ◆ The Administrative Law Judge's Decision
- ◆ What Employers Should Do

Facts of the case, *Secretary v. H.G. Arias & Assoc.*

- ◆ Stampcoat manufactures stamped metal products
 - ◇ Employs about 25 workers
- ◆ Stampcoat also brings on about four employees from a staffing agency, H.G. Arias & Assoc.
- ◆ Stampcoat's production manager, Jose Estrada, supervises all of them
- ◆ Stampcoat hires Provident to create written safety policies



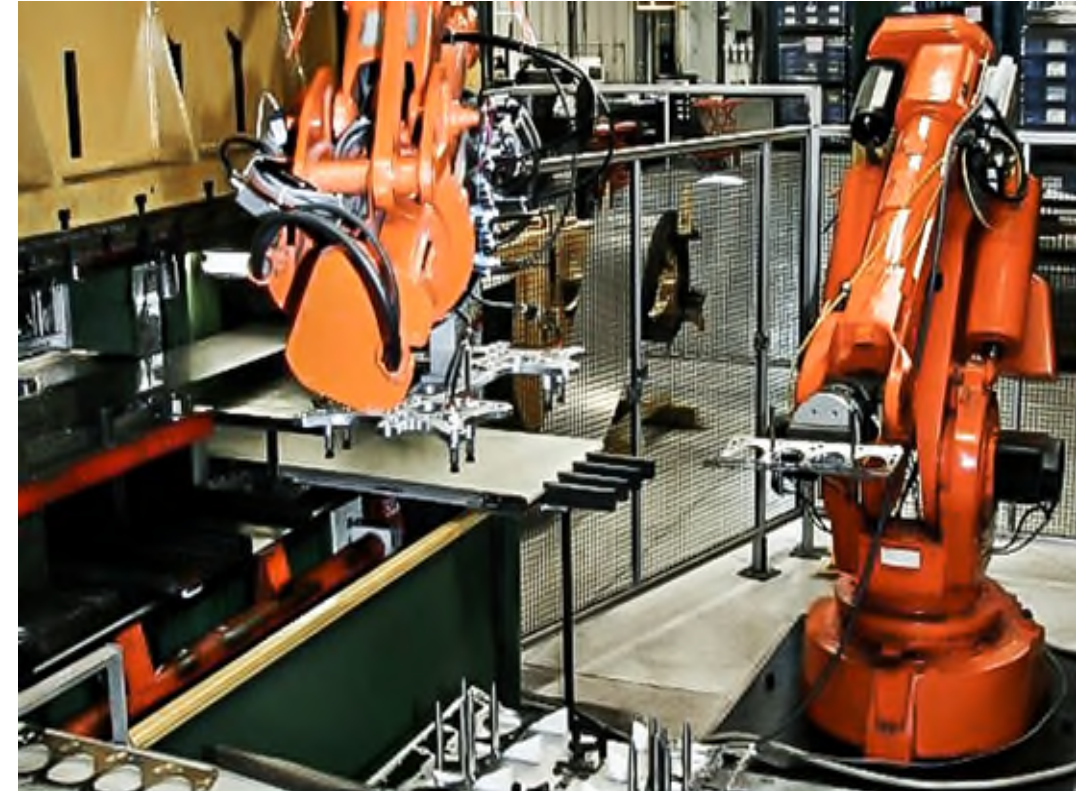
Hazard Communication Standard



H.G. Arias & Associates



- ◆ Arias screens and hires employees, leases them to clients
- ◆ Arias covers payroll, etc.
- ◆ Arias trains workers on basic or general safety subjects
 - ◆ Using PPE
 - ◆ LOTO
 - ◆ Materials Handling
 - ◆ Warning regarding safe handling of chemicals
 - ◆ Instructed to read client's Safety Data Sheets



The Inspection

- ◆ Inspection under NEP for amputation hazards
- ◆ Compliance Officer Pena walked through with Stampcoat's production manager
- ◆ Noticed cleaning supplies, marked with hazard pictogram
- ◆ Asked Area Director for permission to expand scope of inspection to include hazcom
- ◆ Looked at Stampcoat's SDSs
- ◆ Reviewed Provident's Hazcom training attendance sheet
- ◆ Cited Arias for failure to train



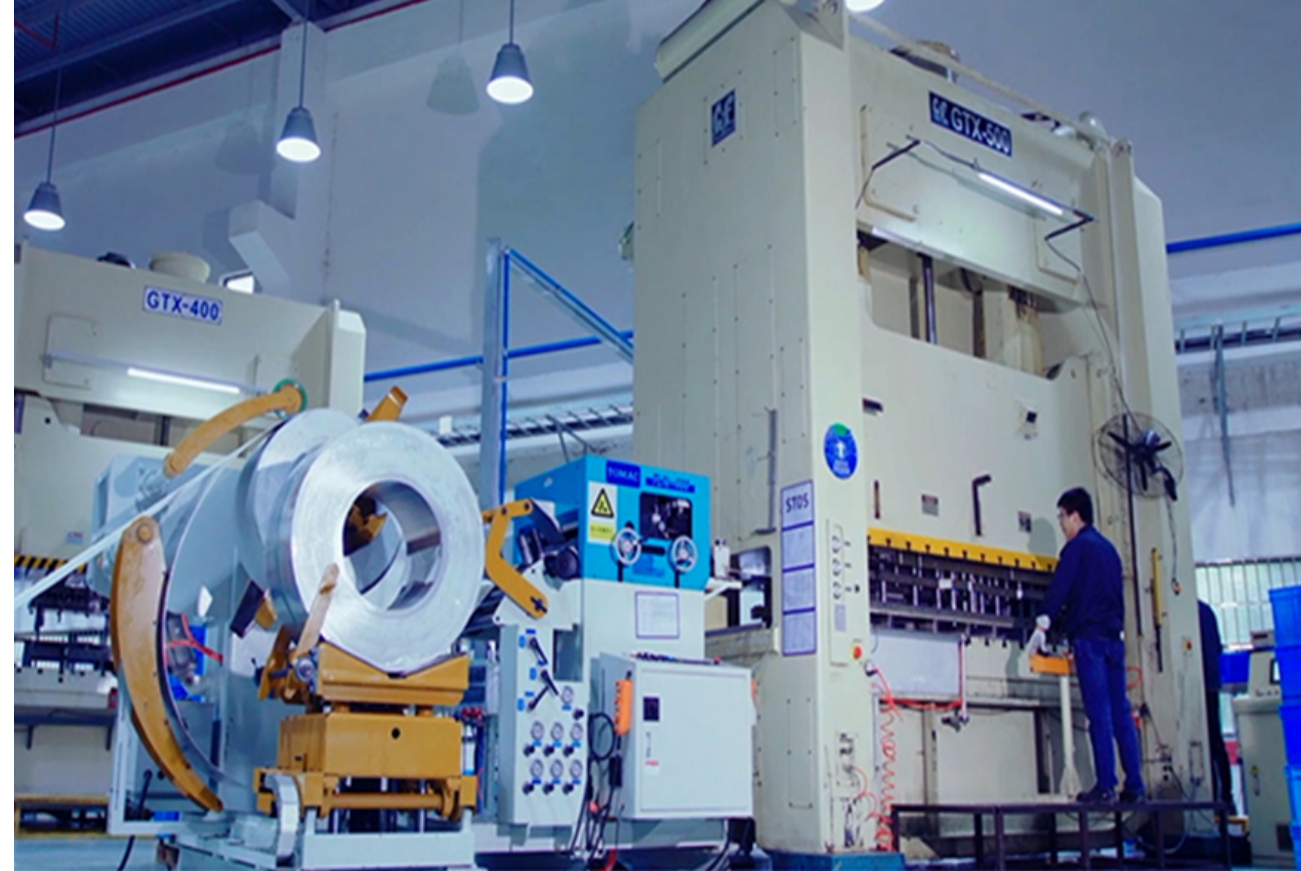
OSHA's Arguments

- ◆ OSHA: Four Arias employees allegedly exposed to hazardous chemicals
- ◆ OSHA: Alleges that they did not receive the required training related to those chemicals
- ◆ OSHA: Hazardous chemicals were present at the worksite, and Arias employees worked at the worksite



Arias' Defenses

- ◆ Arias: the standard does not apply
- ◆ Arias: Arias provided as much training as was feasible and did not have knowledge of the alleged hazards



ALJ's Decision (1)

- ◆ The standard applies
- ◆ The standard was violated – Arias employees were not trained in the safe use of the specific hazardous chemicals present at Stampcoat
- ◆ There is no evidence that employees were exposed to the hazardous chemicals
 - ◆ CO Pena did not say she observed Arias employees using them



ALJ's Decision (2)

- ◆ Employer knowledge of the cited condition was not established
- ◇ OSHA submitted no evidence that Arias knew that Stampcoat had not trained Arias workers
- ◇ Parties didn't dispute that Arias had no knowledge of the onsite hazards or of day-to-day activities at Stampcoat
- ◇ Parties contracted that Stampcoat was responsible for any additional training



What Employers Should Do



For employers who use staffing agency workers:

- ◆ Prepare contract with staffing agency that clearly allocates duty to train staffing agency workers
- ◆ Provide staffing agency with sufficient information to conduct better safety training of its assigned workers
- ◆ Submit to staffing agency relevant safety rules or policies
- ◆ Conduct the training on the first day or before the first day at the worksite
- ◆ Outfit workers with necessary PPE
- ◆ If agency does not send its own supervisor, perform day-to-day supervision of temporary workers



Please join us at 10:00 AM Eastern U.S.
October 21, 2026
www.khlaw.com/REACH-3030



Please join us at 1:00 PM Eastern U.S.
November 4, 2026
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at 1:00 p.m., Eastern Time

October 14, 2026

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Thank You

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