

OSHA compliance, investigations and citation appeals

Strategic advice in addressing workplace safety



More than 50 locations, including London, Houston, New York,
Toronto, Mexico City, Hong Kong, Sydney and Johannesburg.

Attorney advertising

Overview

No matter the size or scale, every employer is vulnerable to workplace safety scrutiny. The risks from state and federal enforcers are significant, and are increasing rapidly. It's important to have proactive legal counsel that can act quickly, provide practical guidance and vigorously defend the company's interests. We know the ropes when it comes to compliance with the Occupational Safety and Health Administration's (OSHA's) standards and regulations.

We have represented every type of employer and facility, from oil refineries and pipelines, to construction sites, to food processing facilities, to industrial equipment manufacturers and power generation facilities, to corporate employers. We have a track record of success containing legal issues, avoiding additional proceedings, resolving matters quickly, avoiding unnecessary publicity and winning at the various stages of proceedings. We work with clients to devise business strategies and solutions on the front end to anticipate and avoid complex litigation.

Our national OSHA team also has notable experience in representing employers in complex incident investigations and administrative and court proceedings under OSHA and similar acts. Generally, in these investigations, we have worked cooperatively and effectively with the OSHA representatives and government attorneys so that determinations favorable to the client are obtained which can provide leverage for successful citation negotiations and resolutions of often-accompanying civil, and even criminal, matters.

In addition, we regularly partner with Business & Legal Resources (BLR), a leading provider of compliance and training business solutions in the HR-employment, compensation and safety arenas, to provide clients with master classes throughout the year, covering front-of-mind labor and employment, legal and regulatory issues and developments.

Services provided

We provide our clients with comprehensive federal and state Occupational Safety & Health Act related services, including:

- Privileged incident investigations
- Regulatory compliance assessments
- Training and workplace audits
- OSHA investigator negotiations
- Citation appeals
- Witness interviews and discovery
- Administrative law trials and mandamus proceedings
- Civil and criminal litigation defense
- COVID-19, water-borne pathogen and other infectious disease-related issues

Deep industry knowledge to meet your needs

Norton Rose Fulbright's OSHA team is passionate in defending client's interests. Our lawyers have deep industry knowledge and broad experience across a range of industries, key to providing each client with the best results.



Entertainment



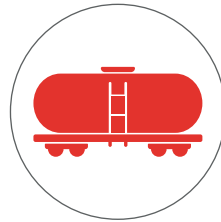
Consumer and industrial products



Retail



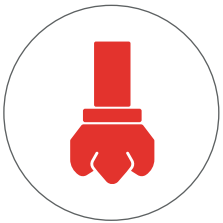
Manufacturing



Transportation



Onshore and offshore oil, gas and transitional energy



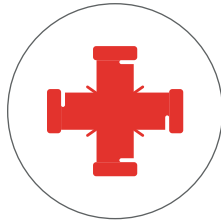
Drilling and operations



Petrochemical refineries and chemical plants



Pharmaceutical



Pipelines



Healthcare



Research facilities



Construction



Telecommunications

Recent representative OSHA experience

- Currently representing a specialty chemical company in relation to an administrative hearing appeal of OSHA citations issued following an explosion and fire that killed one, and significantly burned two, at its plant in Crosby, Texas.
- Currently representing the owner-operator of a chemical plant in Pasadena, Texas, in state litigation MDL arising from an over-pressurization event at the facility that resulted in the release of ethylene, which ignited and caused a flash fire and resulted in over 150 claims. Our team is also assisting with navigating the complex and often overlapping issues of OSHA investigation, criminal investigation and regulatory compliance related to the aftermath of this event.
- Represented Bombardier Transportation in its response to OSHA investigation and Department of Labor complaint related to fatal fall from heights at Houston Bush Intercontinental Airport.
- Represented Stripes, LLC in its response and resolution of OSHA investigation regarding confined space fire and fatality.
- Represented Sunoco Logistics in its response and resolution of OSHA investigation involving welding-related explosion.
- Advised Mariner Health Northwest in its response to OSHA investigation on mold exposure.
- Defended a criminal enforcement action by the US Department of Justice against a petrochemical facility based on an OSHA investigation of a contractor fatality caused by a tank explosion.
- Handled the investigation of an explosion of a pressurized combustion chamber at a large research facility in San Antonio resulting in one death. We negotiated a settlement with OSHA.
- Provided guidance to respond to OSHA investigations, including document requests and site inspections, related to cellular tower fatalities in multiple states.
- Represented numerous companies, including Miller Auto and D.B. Miller, Inc., in responding to OSHA retaliation claims.
- Representing a petroleum refinery in defending an OSHA product safety management investigation and enforcement action related to an explosion and fire originating from a fuel-gas fired heater.
- Provided advice to a retail company related to OSHA COVID-19 regulatory requirements.
- Provided advice to industrial facilities on OSHA's COVID-19 requirements and guidance.
- Provided advice to industrial operations on employee testing and exposure limits for various chemicals.
- Prevailed in a trial before Cal/OSHA on citations issued against, a national staffing company, for allegedly inadequate accident investigation.*
- Defense of Cal/OSHA citations against a large national retailer involving serious injury (amputation) and foot protection.*
- Defense of a large national retailer in a Federal OSHA citation in Ohio, an Oregon state OSHA citation and Hawaii state OSHA citations.*
- Prevailed on behalf of Marine Terminals Corp. in trial on a Federal OSHA citation arising from an employee fatality.*
- Petitioned Cal/OSHA Standards Board, on behalf of a leading motor vehicle company, for permanent variance from permissible exposure levels of airborne contaminants standard.*
- Counseled the University of California San Francisco Medical Center regarding HazCom and asbestos-related OSHA whistleblower matters.*
- Counseled DermOne on OSHA compliance requirements for outpatient dermatology clinics along the Eastern Seaboard.*
- Advised and represented various companies in OSHA investigations and citation negotiations and appeals from, respectively, workplace employee electrocution fatalities, refinery accidents, pipeline failures, office ladder falls, traumatic brain injury incidents, recycling facility fatality incidents and multiple refinery turnaround, staffing and independent contractor incidents (including multiple fatalities).*

*These matters were led by Josh Henderson or Kevin Mayer prior to joining our firm.

Meet the team



Mario Barrera

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Mario Barrera has more than 25 years' experience handling first chair cases and trying those cases to verdict. In recognition of his trial experience, he has been admitted into the American Board of Trial Advocates. He has also handled an extensive number of arbitrations to a final decision. Mario is board certified in the area of employment and labor and his specialty areas include discrimination, harassment, retaliation, wage and hour, collective bargaining and OSHA. With respect to OSHA, he has advised clients on compliance issues, incident investigations, witness interviews and citation appeals. He has also spoken on numerous OSHA panels and provided training programs to clients in a variety of industries.



Brittany Covert

Associate, Houston

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Brittany Covert focuses her practice on energy, infrastructure and environmental litigation matters. She has developed significant OSHA experience, responding to incidents and participating in on-site OSHA inspections at multiple chemical plants, fuels facilities and other industrial manufacturing plants. She has also participated in preparation of OSHA Informal Conferences and ALJ Hearings. Further, Brittany has recently assisted clients in drafting COVID-19 Pandemic Response Plans.



Josh Henderson

Partner, San Francisco | Los Angeles

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For over 20 years, Josh Henderson has represented employers in a wide variety of industries on labor and employment matters. His OSHA practice is national in scope. Josh provides strategic and practical advice on compliance with workplace safety regulations, OSHA inspections, and has successfully defended employers at trial, including cases involving fatalities and serious injuries. In addition, Josh is a trial and appellate litigator and trusted advisor on issues ranging from labor-management relations, whistleblowing and employment discrimination and harassment claims. A prolific writer and frequent public speaker on employment and workplace safety issues, Josh also has been interviewed recently for several pieces in Bloomberg and Law360 on COVID-19 and the workplace.



Jackie Karama

Associate, Los Angeles

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Jackie Karama focuses her practice on business and corporate litigation. Jackie has a broad range of experience counseling and defending companies and business owners in product liability, pharmaceutical, medical device, mass torts and toxic exposures matters. She also counsels clients regarding federal and state OSHA compliance and other workplace safety standards. While in law school, Jackie was a judicial extern for the Honorable Richard M. Neiter, former United States Bankruptcy Judge for the Central District of California.



Edward Clark Lewis
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Eddie Lewis, who leads the firm's environmental law practice in the United States, regularly represents clients on OSHA matters. His OSHA practice particularly emphasizes industrial incident response and process safety management (29 CFR 1910.119) issues. Eddie's OSHA practice ranges from providing regulatory compliance advice to personally responding to the scene of industrial incidents to work with OSHA and other regulatory authorities. He takes a hands-on approach, working with clients to formulate overall legal strategy, interact with OSHA investigators, prepare witnesses, conduct privileged incident investigations, negotiate settlements with OSHA, and if necessary, contest OSHA citations before administrative law judges. Previously, Eddie worked as a chemical engineer which contributes to his knowledge of technical issues and industrial processes, as well as his ability to work effectively with facility engineers, operators and environmental and safety personnel. His practice frequently involves legal issues in which catastrophic incidents and/or complex technical issues are at the forefront.



Kevin MacNeill
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Kevin MacNeill is a member of the New York bar and for years has been active in the American Bar Association's Occupational Safety and Health Law Committee. He has over 25 years of experience representing employers in all areas of labor and employment law. Kevin is also licensed to practice law in Canada, where he has successfully defended employers in occupational safety prosecutions involving fatalities and serious injuries. With extensive experience in the related fields of workers' compensation and disability accommodation, Kevin offers a holistic approach to safety issues facing employers.



Kevin Mayer
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Kevin Mayer has litigated and tried cases in multiple federal, state, territorial and tribal courts, as well as before government agencies and administrative bodies, over his 35-year career. His exceptional skill in the courtroom is evidenced by his role as counsel-of-record in some of the most important appellate decisions for tort litigation defense over the past three decades. Kevin is a nationally recognized OSHA expert, counselor and litigator who routinely advises clients in connection with OSHA compliance counseling and internal audits, incident investigations and witness interviews, and citation appeals and administrative law trials. He has worked with clients on OSHA matters in virtually every industry, including food, consumer goods, industrial manufacturing, refineries and pipelines, energy generation plants and government contractor/military installations. Kevin has been advising the firm's clients throughout the country on OSHA issues pertaining to COVID-19 since the outbreak of the pandemic. He is also one of the country's leading defense lawyer in Legionnaire's Disease and other water-borne pathogen litigation, and routinely speaks to industry groups and building owners on these issues.



Jamila S. Mensah
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Jamila Mensah's practice covers all areas of employment law, and she regularly advises clients on a wide range of issues, including OSHA-related safety and compliance matters. Since the inception of the COVID-19 crisis, Jamila has routinely advised clients in various jurisdictions on OSHA issues and has defended clients before OSHA in response to claims of whistleblower retaliation.



Thomas E. Reddin

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Tom Reddin has more than 30 years of experience successfully representing employers in OSHA related compliance audits, investigations, citation contests and administrative proceedings. He has successfully litigated more than 50 OSHA citation contests for employers and has on-the-ground experience dealing with catastrophic and accident/fatality investigations. This experience allows him to provide immediate and effective guidance to employers and safety professionals when a workplace injury occurs. Tom's experience in OSHA proceedings includes companies in the construction, oil and gas, manufacturing, hospitality and long-term care industries. A frequent speaker before business and professional associations, Tom has made numerous presentations on labor and employment law, litigation strategies and Occupational Safety and Health Law.



Troy Vancil

Counsel, San Antonio

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Troy Vancil is an attorney with 24 years of experience in strategically and creatively representing clients through both personal injury litigation and OSHA matters. Troy has coordinated and conducted multiple early accident responses to workplace emergencies and accidents. In doing so, Troy strives to provide immediate employer guidance in interacting with OSHA, while also anticipating client needs for civil litigation and OSHA enforcement proceedings. Troy's experience with OSHA investigations and enforcement proceedings includes a wide array of industries that include general industry, petroleum companies (from drillers to processors to retailers), transportation providers and telecommunication infrastructure.



Jeffrey Webb

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Jeff Webb's practice focuses on complex and high stakes litigation including disaster response, product liability, and commercial litigation. His aggressive and proactive litigation experience involves all aspects of pretrial and trial/arbitration work. Jeff leverages his mechanical engineering degree and years of experience working in-house for a major manufacturer to collaborate with clients to identify and mitigate operational and product risks through effective and pragmatic solutions, as well as to strategically defend litigation and regulatory matters when they arise, including as it relates to serious personal injury and wrongful death matters.

 **NORTON ROSE FULBRIGHT**

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Law around the world

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