OSHA

Overview

As most employers know, the United States Occupational Safety and Health Administration ("OSHA") is actively changing and expanding the regulatory framework. Whether subject to oversight by U.S. Department of Labor or by a "state plan", the evolving laws impact virtually every employer and workplace in the country. These changes vary and include everything from an employer's administrative responsibilities under the Occupational Safety and Health Act to developments in OSHA regulations that have a significant impact on how employees must actually execute performance of their work. By staying engaged with and informed of these trends, we successfully assist our clients in maintaining compliance, which in turn helps them reduce experience modifiers, lost time incident rates, negative citation history and other statistics that are extremely important in today's workplace.

Munsch Hardt's OSHA attorneys are counselors, advisors, negotiators, trial lawyers and appellate advocates to a number of companies in Texas and throughout the United States. Employers, large and small, and across all industry sectors, seek our team's assistance in proactively addressing the health and safety issues they face before OSHA enters the workplace, by both being advised by the team of significant regulatory developments and by being informed of enforcement trends. Likewise, our team represents employers in OSHA investigations and defense of Citations and Notifications of Penalty following OSHA inspections. In particular, we have deep experience representing both onshore and offshore drilling and service companies and other energy clients in connection with internal investigations, OSHA inspections and in defending against citations and penalties before the Occupational Safety Health Review Commission (OSHRC).

Our Munsch Hardt OSHA Practice Group provides the following services:

- Litigation – When clients receive an OSHA Citation and Notification of Penalty, our team steps in to evaluate whether it's better to settle or litigate. For those cases where litigation is the best option, Munsch Hardt offers the experience and skills required to help clients put up their best defense. Our attorneys have extensive experience before the OSHA Review Commission, comparable state agencies and federal courts, and we have handled numerous cases involving allegations of willful or repeated violations with proposed penalties in excess of $1 MM.

- Compliance Counseling – For clients with questions about their safety programs or on how to comply with OSHA standards, Munsch Hardt regularly counsels clients in a variety of industries on these issues. We are accustomed to holding training sessions for clients on issues including how to manage an OSHA inspection, best practices for drafting incident reports, and preparing for an NEP inspection. We also assist clients with compliance issues by conducting compliance audits to identify existing OSHA violations. We also conduct attorney-client privileged internal audits in response to complaints, and we work with company personnel and technical experts in conducting privileged investigations following major catastrophes or employee fatalities.

- OSHA Inspections – Munsch Hardt attorneys have the experience you need as you interact with OSHA during an inspection. The time during OSHA's inspection is critical for employers who want to minimize the number and severity of the citations they may receive. During the inspection, we work with employers to ensure they clearly communicate with OSHA and avoid misunderstandings that could lead to additional citations.

- Catastrophe Management – Because a major incident almost always involves investigations by numerous government agencies, Munsch Hardt attorneys help manage multi-agency inspections and handle the litigation that often follows catastrophic incidents. We have managed a number of these instances, and we have dealt with numerous government agencies simultaneously - OSHA, EPA, the Chemical Safety Board (CSB), for example, and local law enforcement and fire departments. We have worked extensively with our clients to develop both corporate and facility-wide strategies to

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help control liabilities during these times of crisis. We also provide advice during these times on issues such as preserving evidence under a litigation hold, negotiating evidence and site-control agreements, and communicating with the work force while the crisis is managed.

Experience

Environmental Litigation
Represented a large waste disposal company in an OSHA compliance and casualty investigation.

OSHA Investigation
Represented international oil and gas drilling company in connection with fatality incident and subsequent OSHA investigation. We served as point of contact for all OSHA-related matters, including wellsite investigation, employee interviews and related inquiries during course of the investigation.

OSHA Investigation
Represented maritime transportation and construction company in joint investigation by OSHA and the United States Coast Guard of uninspected vessels following amputation incident and in connection with subsequent compliance and abatement efforts following investigation.

OSHA Investigation
Represented a real estate developer in an OSHA investigation into an accident and resulting fatality on client's construction site. Guided client through the OSHA investigation process and defended client's rights and interests in communications with OSHA. OSHA ultimately closed its investigation without issuing a Citation and Notification of Penalty.

Professional Liability
When an employee of an oilfield services company was killed on the job from the shifting of fracking sand stored in the client's facility, Munsch Hardt was retained to assist in management of the litigation and the company response to this accident. First, we interfaced with OSHA and provided advice and assistance in all investigations by OSHA. Our management of the OSHA issue resulted in a settlement with OSHA that resulted in findings "other than willful," which greatly limited exposure to suit for the client. Second, we assisted in developing remedial measures to assure no further accidents. Third, we managed the insurance notice and coverage analysis and worked with the carrier and its selected defense counsel. The carrier accepted coverage without reserving rights as to any coverage defense and undertook the unconditional defense of the suit. We also assisted the client in recouping some of the costs of our involvement, particularly the OSHA investigation and remedial measures assistance. Finally, we assisted the company regarding interfacing with the family of the decedent.

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OSHA Litigation

Successfully defended drilling, completions and well services client during OSHA investigations and subsequent OSHRC litigation arising from fatality incident resulting in favorable settlement of OSHA Citation and Notification of Penalty.

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Transportation

Newsroom

Article: Legal - Responding to OSHA's Multi-Employer Citation Policy

Speech: Shareholder Dan Pipitone to Discuss Labor Matters at TWC Conference

Article: Updates to OSHA's Reporting and Recordkeeping Requirements

In The News: Munsch Hardt Poaches Two Attorneys From Houston's Old Guard

Press Release: Munsch Hardt Expands Energy and Maritime Practice Through Addition of Attorney in Houston Office

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