

OSHRC Disapproves Use of General Duty Clause as Enforcement Tool

Prepared for the Katten Safety Advisory Group

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The general duty clause (OSH Act § 5(a)(1), or "GDC") was the centerpiece of a pair of recent decisions by the Occupational Safety and Health Review Commission ("OSHRC"). OSHRC vacated the GDC violation in a heat illness case, and affirmed the GDC violation in a workplace violence case. Significantly, Commissioners Heather MacDougall and James Sullivan indicated their reluctance to use the GDC in work situations not contemplated by Congress – the GDC is supposed to be a "stopgap" until standards are adopted, and should not be used as a "gotcha" or "catchall."

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