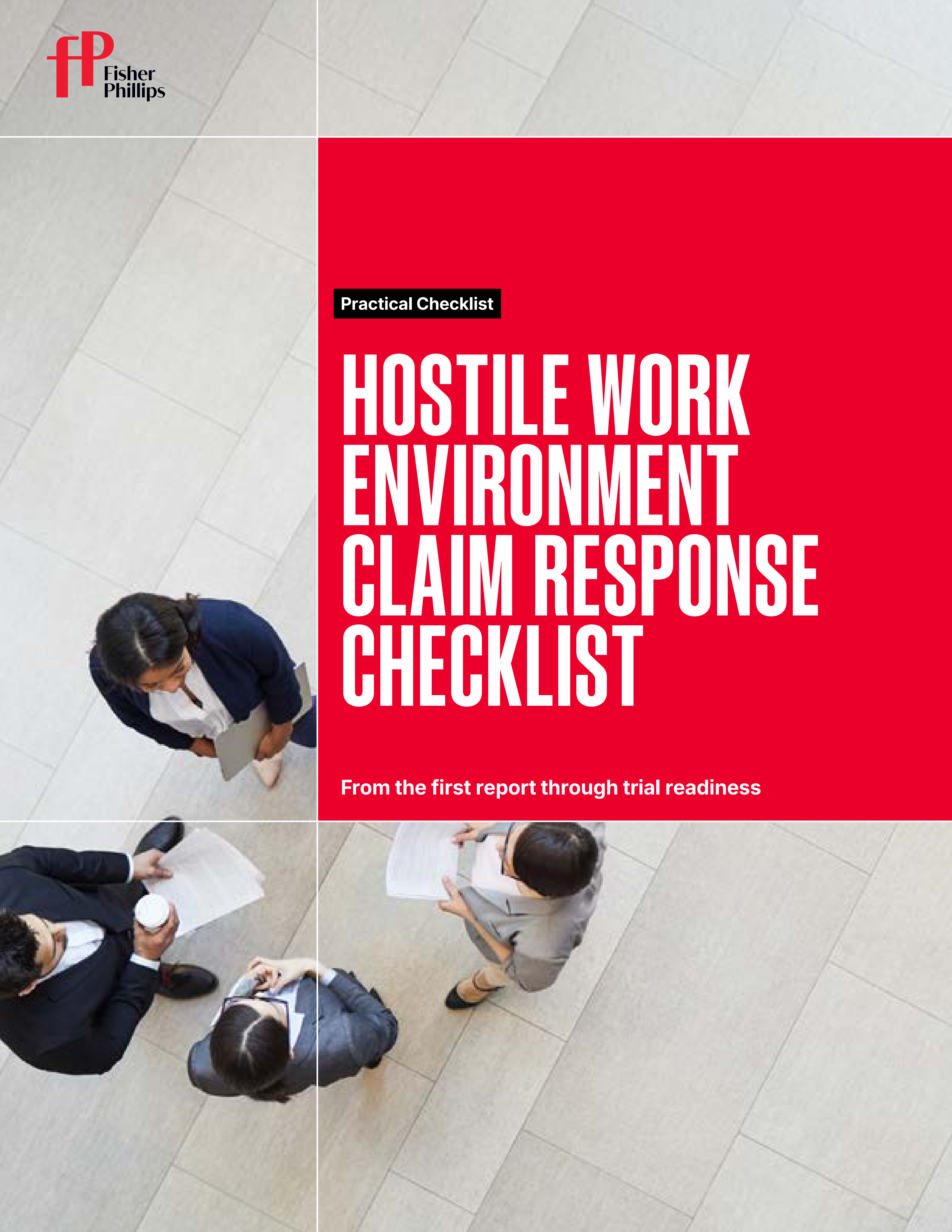

Practical Checklist

HOSTILE WORK ENVIRONMENT CLAIM RESPONSE CHECKLIST

From the first report through trial readiness

USE THIS CHECKLIST

Assign an owner and target date to each item. Document the reason for interim decisions while the information is fresh.

1 Stabilize the matter – first hours

- [ ] **Activate the response team.** Identify legal, HR, compliance, security, communications and business leads; designate one decision coordinator.
- [ ] **Address safety and contact.** Determine whether immediate protective measures are needed and how the parties will interact during the review.
- [ ] **Separate without retaliation.** Consider reporting lines, schedules, access and leave options; record why each measure is neutral and reasonable.
- [ ] **Identify escalation obligations.** Determine when the CEO, board chair, audit committee, insurer or other stakeholders must be informed.
- [ ] **Check conflicts.** Decide whether in-house counsel, outside counsel or an independent investigator should lead each workstream.
- [ ] **Set communications discipline.** Name one spokesperson and one internal source of truth; remind the team not to speculate in writing.

2 Preserve the evidence – same day

- [ ] **Issue targeted legal holds.** Include the claimant, accused, relevant managers, HR, witnesses and system custodians.
- [ ] **Suspend auto-deletion.** Address email, text, collaboration tools, mobile devices, call logs, video, access records and relevant applications.
- [ ] **Map evidence sources.** Identify company and personal devices, archived accounts, cloud platforms, cameras, expense systems and calendars.
- [ ] **Preserve before interviewing.** Secure volatile data before witnesses are alerted in ways that could change or delete evidence.
- [ ] **Protect confidential information.** Address the claimant's or accused's access to privileged, proprietary and personal information.
- [ ] **Send preservation notice to opposing counsel.** Request preservation of messages, social media, recordings, medical/damages records and devices as appropriate.

3 Establish the investigation architecture – first 24 hours

- [ ] **Define the mandate.** State the allegations, protected bases, time period, witnesses, systems and questions to be decided.
- [ ] **Clarify independence and reporting.** Identify who retains the investigator, who receives findings and who makes employment decisions.
- [ ] **Sequence interviews.** Start with the complainant or reporting source, preserve key evidence, then interview witnesses and the accused.
- [ ] **Use a consistent credibility method.** Consider corroboration, contemporaneous records, plausibility, motive, opportunity and prior consistent or inconsistent statements.

- [ ] **Separate findings from decisions.** Distinguish what the evidence establishes from what discipline or remediation is appropriate.
- [ ] **Plan privilege intentionally.** Do not assume every investigation or communications document will be protected.

4 Assess the legal and factual exposure – first 72 hours

- [ ] **Test the legal threshold.** Was the conduct unwelcome, based on a protected characteristic and sufficiently severe or pervasive under applicable law?
- [ ] **Identify the actor's role.** Analyze proxy, supervisor, coworker and third-party standards; determine whether a tangible employment action is alleged.
- [ ] **Evaluate prevention and correction.** Test whether policies, reporting paths, training and remedial action were effective in practice.
- [ ] **Review prior complaints and comparators.** Look for consistent enforcement, patterns, notice, retaliation allegations and protected-rank optics.
- [ ] **Build the chronology.** Align alleged conduct, performance decisions, reports, preservation events, investigation steps and public statements.
- [ ] **Inventory parallel risks.** Include retaliation, defamation, whistleblower, privacy, wage, leave, securities, regulatory and unrelated misconduct issues.

5 Coordinate leadership and communications

- [ ] **Prepare a board-level risk summary.** Separate known facts, disputed facts, legal issues, business effects and immediate decisions.
- [ ] **Draft a process-focused holding statement.** Avoid categorical factual claims before the record is complete.
- [ ] **Stress-test every statement for trial.** Assume public language may become an exhibit or impeachment point.
- [ ] **Monitor without amplifying.** Track coverage and employee sentiment, but do not respond to every post or accusation.
- [ ] **Protect internal trust.** Give employees appropriate process information without breaching confidentiality or prejudging the facts.

6 Make the settle-or-try decision

- [ ] **Define the business objective.** Identify whether the priority is confidentiality, speed, precedent, vindication, operational stability or another outcome.
- [ ] **Evaluate admissible proof.** Distinguish what the team believes happened from what can be introduced through credible witnesses and exhibits.
- [ ] **Assess witness risk.** Test the claimant, accused, HR, investigator and decision-makers for credibility, demeanor and cross-examination resilience.
- [ ] **Price the whole exposure.** Include verdict, fees, litigation spend, leadership time, employee impact, investor/customer reaction and future claims.

- **Assess forum risk.** Research the judge, venue, jury pool, local rules, prior rulings, damages environment and media footprint.
- **Document the decision.** Record the recommendation, assumptions, authority, dissent and facts that would cause reconsideration.

7 Prepare for trial from day one

- **Develop three themes and a ten-sentence story.** Keep the defense simple enough to survive discovery and public scrutiny.
- **Create a proof chart.** Link every claim or defense to the required fact, witness, exhibit, evidentiary risk and trial decision.
- **Start the summary-judgment and instruction files.** Use governing law to drive discovery, depositions and proof gaps.
- **Test the worst facts.** Use mock jurors or focus groups before the record hardens and while strategy can still change.
- **Video-test critical witnesses.** Obtain direct feedback on authenticity, defensiveness, minimization and over-coaching.
- **Plan motions in limine.** Address other-acts evidence, social media, sexual-history evidence, lay opinions, recordings, experts and demonstratives.
- **Develop voir dire early.** Normalize competing views, use experience-based questions and plan private follow-up for sensitive disclosures.
- **Prepare a principled damages map.** Do not leave the plaintiff's number as the jury's only framework.

Escalate Immediately

If evidence is missing; a senior executive may be a proxy; retaliation is alleged; prior complaints were ignored; public statements conflict with known facts; or an unrelated compliance issue emerges.

> **Important**
>
> This resource is for educational purposes and is not legal advice. Applicable federal, state, and local law, court rules and organizational obligations vary. Consult counsel for the specific matter.

KEY CONTACT

KRISTEN NESBIT

- Co-Regional Managing Partner
- 213.330.4455 | knesbit@fisherphillips.com

Selected Sources

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Faragher v. City of Boca Raton, 524 U.S. 775 (1998); Burlington Industries, Inc. v. Ellerth, 524 U.S. 742 (1998).

Federal Rules of Evidence (2026), https://www.uscourts.gov/sites/default/files/document/federal-rules-of-evidence.pdf.