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Lisa Nagele-Piazza (00:00)
Welcome to The FP 5: Five Things for Your 9-to-5. We help employers make sense of the fast moving world of workplace law and compliance by breaking down topics into five parts. I'm Lisa Nagele-Piazza from the Fisher Phillips content team.

Employers around the country need to comply with a growing patchwork of laws on fair pay, pay data reporting, and transparency in job ads and the hiring process. Compliance has become increasingly complex as more states and even cities pass their own nuanced requirements that vary from location to location. And the stakes are getting higher as penalties for violations rise.

Kathie Caminiti joins us today to discuss this rapidly changing legal landscape and to share a few practical steps organizations can take to navigate this complex patchwork of regulations. Kathie is a partner at Fisher Phillips in our New Jersey and New York offices and co-chairs the firm's Pay Equity and Transparency Practice Group, as well as the Wage and Hour group. Kathie, thanks for being on the show today.

Kathleen McLeod Caminiti (01:05)
Thanks for having me, Lisa.

Lisa Nagele-Piazza (01:07)
Now this is a very complicated area of law and one that's changed a lot recently and it's just going to continue to change. So Kathie, why don't you tell us what initially drew you to the pay equity area of law?

Kathleen McLeod Caminiti (01:18)
Well, honestly, pay equity is something that I really didn't focus on too much until maybe about seven or eight years ago where I would see more and more pay equity cases coming up, really an avalanche of state law regulations, pay reporting requirements that were really kind of taking hold in the legal space.

Also, personally, in addition to professionally, I like to see equality. I like to see people getting paid for what they're worth. You know, I felt like being a lawyer, the convergence of where my heart is and where the legal profession was going was a very interesting area to explore.

Lisa Nagele-Piazza (02:13)
Yeah. And you've been with Fisher Phillips for quite a while now, is that right?

Kathleen McLeod Caminiti (02:18)
Yeah, over 20 years.

Lisa Nagele-Piazza (02:21)
Wow. So how has the legal profession changed in that time?

Kathleen McLeod Caminiti (02:28)
Dramatically. When I started practicing law, young lawyers would go to the stacks and there'd be huge libraries and you'd have to pull a book off the shelf that was a case book and then you'd have to go to these other smaller

books to make sure that cases were still valid and you spent a lot of time in the stacks. They called them "researching." And you made a lot of friends in the stacks as young lawyers, honestly.

Lisa Nagele-Piazza (02:57)
Sure, that makes sense.

Kathleen McLeod Caminiti (03:00)
Now the library is mostly virtual in many, many places and AI is the thing. You know, AI is so much of what we used to have to spend hours researching. I could ask my phone and get a reliable answer or at least a good start. So that's really probably such a big change.

Lisa Nagele-Piazza (03:24)
Absolutely. So what advice would you have for new associates that are just starting out?

Kathleen McLeod Caminiti (03:30)
Well, I probably have like three pieces of advice. Number one, don't trust everything you read on your computer. Just because you have AI doesn't mean you don't have to use your brain.

Number two, you have to learn to think like a lawyer. You have to really look at not just the first answer, but the first five answers, synthesize it, and then apply it to the problem. The AI gives you the answers. The lawyer has to apply it to the problem. And frankly, AI and machine learning and agentics will also be able to apply it to the base problems. You need to know your client, their problem. You need to be creative, being willing to stretch the law. And those are really important skills.

And the last thing is the distinguishing factor, I'd say, between, you know, your computer or an AI agent is the people: the relationships, getting to know your clients, your partners, your colleagues, so that you are building that community in the law with your friends and your colleagues and your clients to be able to best service your client and frankly, make you happier.

Lisa Nagele-Piazza (04:57)
Yeah, those human elements are so important and hopefully they're not going away.

Kathleen McLeod Caminiti (05:02)
I think the AI is only going to take us so far: we're people, we're humans. We need that human connection. And young lawyers who can master and maintain those relationships and those connections will be more successful professionally and happier personally.

Lisa Nagele-Piazza (05:22)
Yeah, agreed.
Well, the first thing we're going to talk about today, Kathie, can you give us a quick overview of federal and state equal pay laws?

Kathleen McLeod Caminiti (05:37)
Yes, there's been an evolution in equal pay over the last 60 years. The federal Equal Pay Act was signed into law by John Kennedy and it was just a gender, "men and women should be paid the same for equal work," equal pay for

equal work. That law had its limitations in some of the technical applications. And then over time, you saw this evolution where you saw states legislating pay equity. And it wasn't just men and women, it was all protected classes. So New York and New Jersey, where I am barred, have very robust pay equity laws that cover all protected classes, not just gender, but race, national origin, religion, age. Also the ability to explain pay differentials are different on the federal level versus the state levels. State laws require a much more exacting analysis in terms to justify a pay differential, say a man is getting paid more than a woman.

Lisa Nagele-Piazza (06:45)
Okay, so does that come down to like that equal pay for equal work versus maybe like substantially similar and that kind of analysis?

Kathleen McLeod Caminiti (06:54)
Exactly, exactly right. And also, you're not looking just at men and women, but you might be looking at somebody of a different faith or a different age. So those are really important. So the pay component, and the protected class component.

Lisa Nagele-Piazza (07:13)
So it sounds like complying with multiple jurisdictions can be a problem if you're an employer that's in more than one state. What are some of the compliance issues that come up?

Kathleen McLeod Caminiti (07:26)
Well, this is a practical issue. Some of the state laws have very, very robust penalties. So that's a failure-to-comply issue, I guess, but a six-year statute of limitations and treble damages is big bucks.

Lisa Nagele-Piazza (07:41)
Wow, yeah, it's not just a compliance, it's not just to sort of check the box. Exactly, gotta. there are steep penalties.

Kathleen McLeod Caminiti (07:50)
I think one of the takeaways, Lisa, for this is that the law requires equal pay for equal work and really, you know, across all jurisdictions if you're paying for the job, the job requirements, that will set establish you well for complying with the equal pay.

Lisa Nagele-Piazza (08:15)
Yeah, that's a great point. And that actually is a good segue into our next topic that we're going to talk about. The second thing we'll discuss today are bans on asking job applicants about their prior pay. Salary history bans continue to expand across the country, and they're really changing the way that employers approach recruiting and compensation. I know I was a recruiter back in the day, and asking job applicants what they're currently earning or details about their salary history was commonplace. And now that's changed a lot in recent years.

Kathleen McLeod Caminiti (08:56)
Yeah, absolutely. You know, the philosophy behind the salary history bans is that it perpetuates discrimination. It perpetuates paying certain classes of individuals, women, people of color lower because asking what their current pay is to establish their pay at a future organization or a new employer really perpetuates a start low, stay low problem. So that is the basis for those questions.

And really, you should be paying to the job and what the individual's expectations are. So job ranges, pay ranges are important so that you're evaluating what the value of the role is to an organization. And expectations and asking somebody not what they're paid at their current employer, but what their expectations are and why is a question as to “I expect to get paid such and such because I have the following skills, the following distinguishing factors.” That's really the legitimate question in the analysis.

Sometimes people take entry-level jobs for personal reasons or they may have graduated from college in a difficult time, in the middle of a pandemic, for example. And, you know, they had loans to pay, so they took a position early on and now they're looking to really get paid what they're worth. So, you know, salary history bans are really designed to, you know, make sure people get paid what they're worth for the role.

Lisa Nagele-Piazza (10:49)
Yeah. And as you mentioned, job candidates can talk about what their expectations are. Is there, it seems like maybe with some of the new state laws that are coming up, there might be a little obligation for the employer to sort of show their cards first if asked, is that true?

Like, I think sometimes there's a little bit of a game in the job hunt and in the interview process of, well who's going to reveal first what their expectations are versus what the employer might be prepared to pay. How is that addressed in some of these pay transparency laws?

Kathleen McLeod Caminiti (11:27)
Well, it is a little bit of a dance because, you know, employers who are knowledgeable regarding the legal requirements and restrictions are going to be careful, right? They're not going to ask. But it also is in everybody's best interest to make sure that you're not advancing a candidate who, you know, who will not be happy in the organization because the pay is too low or you don't want to hire the wrong person, nor does somebody want to come in and find out that they’re immediately at the ... you know, that there's not room for advancement in terms of pay.

Lisa Nagele-Piazza (12:16)
And so that leads us to our third thing for today. Let's talk about federal and state requirements to report pay data. Obviously, there's been a lot of movement in this area. We're seeing more states require employers to submit pay data reports that are essentially aimed at identifying compensation disparities. So what trends are you seeing? And maybe you can just talk a little bit too about what had happened on the federal level in this area.

Kathleen McLeod Caminiti (12:46)
Yes, absolutely. In terms of the federal law, the EEOC and the federal contractor rules, there were requirements to make pay reporting. There still are. And there was an advancement that the pay data reporting would be more specific, more granular with respect to what was required under the federal law. Those requirements have kind of been pulled back substantially by the federal government and it really varies based on administration in terms of, you know, what the requirements are there. But as has happened in the pay equity and transparency space, the states are really filling the gap there. The states, even back when they federal Equal Pay Act wasn't as robust as intended, the states have filled the gaps with respect to pay equity and transparency requirements. And it's very much so with respect to pay data reporting.

And that's a huge trend in pay equity these days. There's a lot of states that have or are looking at pay data reporting. So California has pay data reporting. There's data due this month in May of 2026. Illinois has paid data reporting requirements. New Jersey has paid data reporting requirements that are anticipated. They've been proposed. And that's the trend.

Lisa Nagele-Piazza (14:27)
So the states that collect this data, how are they using it?

Kathleen McLeod Caminiti (14:31)
It varies. Initially, they're collecting data and I think just housing it in a database. They haven't quite figured out on a state level what they're going to do with it. So currently, I think it's just gathering data and maybe using some, you know, looking at trends and statistics.

The real issue, Lisa, is what they, I think they could or maybe will do with the data later. So that's not so much what are they doing today, but it's what the Division of Civil Rights will do with that data later from an enforcement perspective or from my perspective as a litigator, what a plaintiff's lawyer would do with that data once they have that. Once it's out, you know what does the data show about a workforce in terms of pay equity compliance? And once it's kind of out in the world, once that data is out there, you can do a lot with numbers both as an enforcement agency and as a plaintiff's lawyer looking to file a class action lawsuit, quite frankly.

Lisa Nagele-Piazza (15:53)
And as you mentioned, that can be very expensive.

Kathleen McLeod Caminiti (15:57)
Well, that's for sure.

Lisa Nagele-Piazza (16:07)
This is the FP5. I'm Lisa Nagele-Piazza. We're here with Kathie Caminiti. Kathie is a partner at Fisher Phillips in our New Jersey and New York offices. She co-chairs our Pay Equity and Transparency Practice Group, as well as our Wage and Hour Group. Just as a reminder, you can find a link to our pay equity compliance guide that we've been discussing in our podcast show notes.

And the fourth thing for today, which is everybody's favorite thing, litigation.

Pay equity claims are becoming more common and plaintiff's attorneys are increasingly focused on compensation practices and transparency policies. So what are the litigation trends that employers are most concerned about right now? You had mentioned obviously the pay data collection.

Kathleen McLeod Caminiti (16:54)
Yeah, as she said, litigation is certainly one of favorite things. I mean, I'm a class action litigator. That's what I like to do professionally along with obviously advising clients.

But litigation trends, really, I would point out a couple. First, they're on an uptick for sure. There's more and more litigation filed every day. And that's a function of a couple of different things, separate apart from pay equity.

Number one, in the employment space, you know, with a downturn in economy and layoffs, there are more people who are filing lawsuits. It's just the way it is. And when they are filing a lawsuit, they are including not just wrongful termination claims, but they are including in just about every lawsuit, a pay equity component if they are in a protected class.

Second of all, you're seeing more and more class action claims because of data that's available. More knowledge about the law, more plaintiff's lawyers realizing there's more money in a class action than there is in an individual suit. So that's a very important kind of trend.

And also, again, we've talked a little bit about AI during our conversation today. It's easy for a plaintiff to, you know, who feels aggrieved, somebody who feels that they've been aggrieved and that they weren't paid properly to run a search using, you know, Google or their favorite AI tool and create a complaint and file a lawsuit as a pro se litigant. So just that natural trend, we're seeing an uptick in litigation in general.

And on pay equity specifically, because I was talking general litigation trends, but pay equity specifically, really the key and why pay equity litigation is on the rise and why I really think it will explode is it's a very simple in legal terms prima facie case. Is somebody in a protected class? And are they paid lower for the same job and then somebody's not in a protected class? No intent required.

Lisa Nagele-Piazza (19:26)
So it's really easy just to see on the surface that this is what's happening.

Kathleen McLeod Caminiti (19:30)
Yeah, well, what's the job? Am I in a protected class and am I paid lower? That's no intent to discriminate. The question of comparators varies by state to state and some states a single comparator is enough. And so it may be that though it's not just necessarily looking at averages. But it may be a one-to-one comparison.

Lisa Nagele-Piazza (20:03)
What are some of those comparators?

Kathleen McLeod Caminiti (20:05)
Well, one of them would be, I know if you're looking at men versus women, the other protected class could be a person of color versus a white male. It could be age. know, is there somebody who is in their 50s and 60s paid less than somebody that's just hired? That could be a function of a lot of things. Somebody in a role for 20 years versus somebody that's new newly hired. Right? So you would think, OK, that's to be expected. And maybe it is. But it may just be that the market is hotter in 2026 than it is in, you know, 1995 when somebody joined the workplace and three percent raises over the period of time. You're creating a gap. Employers need to be careful about bringing somebody in who is new at a higher rate than somebody that's doing the same position.

Lisa Nagele-Piazza (21:06)
Absolutely.

So the fifth and final thing I wanted to talk about today: we've mentioned litigation and how costly violations can be. What can employers do to reduce litigation risk and to also get prepared to meet new requirements?

Kathleen McLeod Caminiti (21:29)
So really, doing a pay equity audit or study is a really good idea. It's a good idea for two reasons. Number one, you know, most employers, certainly our clients, really want to be compliant. They want to comply with the law. So knowing what your pay landscape is and whether you are paying people the same for the same work.

So knowing whether you're actually compensating individuals in the same job in a comparable way is important to many organizations, not just for the pay equity compliance, but also retention and attraction of employees. So that's really important. Obviously, I'm a pay equity lawyer, so complying with the law is paramount. But doing that audit, knowing what your data shows is really an essential first stop.

Lisa Nagele-Piazza (22:36)
Yeah. And as you mentioned, employers might not even realize they have these disparities if one person has been getting 3% raises every year and is now behind the market where you're hiring new people at higher rates. And doing that audit can help you to adjust those things. It might also help you to keep your employees, to retain employees because if somebody's underpaid, then they might think, "I need to go elsewhere now to get a higher salary."

Kathleen McLeod Caminiti (23:05)
I had two things to add too, Lisa. One is a public service announcement and that is when you're doing a pay equity audit it really should be subject to the attorney-client privilege.

Lisa Nagele-Piazza (23:20)
That's a really important point.

Kathleen McLeod Caminiti (23:22)
It is, because the last thing an employer who's trying to be compliant wants to do is gather all of this information and do an analysis and not have it covered by the privilege. So you've basically silver-plattered all of your information, either for an agency who's doing an audit, external audit for compliance, or a plaintiff's lawyer who's going to come in and ask a question in discovery, have you ever done an audit? Please give it to me, thank you very much. So it's essential that you're doing your pay equity audit under a privilege protection. Also pay equity lawyers know what they're doing so they can guide you. Minor technicality.

And the other is a kind of a shameless plug. So and that is that you know Fisher Phillips we have a lot of experience doing pay equity audits, we've got lots of cool tools and partners that we work with that leverage technology and things to do that but really the most important thing is, you know: know what your pay is how you're paying people and if you review your pay practices as well as your pay data, do it under a confidential, privileged manner so that you can really evaluate your practices and your compensation. And if there's a spot here or two, a hot spot here or two, you can fix it. And that's what most employers really want to do.

Lisa Nagele-Piazza (25:13)
So Kathie, this is one of my favorite parts of the episode where we get to know our guests a little better in five questions. Are you ready for them?

Kathleen McLeod Caminiti (25:24)
I am.

Lisa Nagele-Piazza (25:21)
First, what's your favorite month of the year and why?

Kathleen McLeod Caminiti (25:24)
I have to say it's September for a couple reasons. It's still summer and I love the summer. And the second reason is I love the fresh start, back-to-school feeling. The new notebook, the new calendar, the ability to kind of approach work or home or your to-do list fresh with a new start.

Lisa Nagele-Piazza (25:49)
That's a good point. It's my favorite month for a vacation because it's still like summer and everybody's back to school.

Second question. Tell us somewhere you've always wanted to travel to and why. Speaking of travel.

Kathleen McLeod Caminiti (25:54)
I love to travel. So I've been fortunate enough to go to many cool places, but I haven't been to Asia yet. So I'd to go to Asia. I'd love to go to Tokyo. I'm thinking since Fisher Phillips has offices in Japan, there's no time like the present to get to know our colleagues in Tokyo and Japan.

Lisa Nagele-Piazza (26:28)
Absolutely. Yeah, Tokyo's at the top of my list too. Third question, do you have any nicknames?

Kathleen McLeod Caminiti (26:35)
None that I know of.

Lisa Nagele-Piazza (26:39)
Other than just shortening Kathleen to Kathie.

Kathleen McLeod Caminiti (26:42)
Right, Kathie, yeah, I mean Kathie, I'm sure that my husband and children probably have a few choice nicknames for me, but I don't know what they are.

Lisa Nagele-Piazza (26:54)
I don't think I have any nicknames either, so we're in the same boat there. And what's one talent that most people don't know you have?

Kathleen McLeod Caminiti (27:02)
I consider myself like Jane Q. Public. Like I am really good at figuring out like trends and knowing like what's going to be hot, what's going to be, whether it's the latest Sarti Spritz that's coming from Europe or you know the fact that wearable technology is going to, you know, be the rage. I'm really good at predicting trends.

Lisa Nagele-Piazza (27:31)
That's great. That actually also helps with Fisher Phillips so that you can predict the trends in pay equity and transparency and all of that, as we've been talking about today.

Kathleen McLeod Caminiti (27:40)
Yeah, yeah, well, absolutely. think I said that that's we founded the Pay Equity Practice Group because we thought it was going to be a big deal and we were right.

Lisa Nagele-Piazza (27:51)
Yeah, absolutely. And the last question to get to know you a little better. Do you prefer coffee, tea, or neither? Something else?

Kathleen McLeod Caminiti (28:00)
Coffee.

Lisa Nagele-Piazza (28:00)
Yeah. I am a coffee person too, so I get that.

All right. Well, that's all the time we have for now. Thanks again for being on the show, Kathie.

Kathleen McLeod Caminiti (28:10)
Thanks so much. This is really enjoyable conversation. Great way to start the day.

Lisa Nagele-Piazza (28:15)
Absolutely.

And thank you for listening to the FP5. For other insights from Fisher Phillips, visit fisherphillips.com.

And be sure to check out our guide to employer pay equity compliance that we've linked in this podcast episode show notes. We'll see you next week.

And just a reminder, listening to this podcast does not constitute legal advice and does not establish an attorney-client relationship. For more information, visit fisherphillips.com/legal-notices.