



Industries

AGRICULTURE

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“Farm to table.” It does not just happen. Agricultural employers operate a unique workplace – many workers are out in the fields or in off-site plants. Labor availability fluctuates – you have too many workers and then, suddenly, not nearly enough. In addition, agricultural employers are subject to many unusual requirements other employers do not face, from capturing “time worked” in the field and unionization efforts to worker housing and sanitation standards. Even the definition of “agriculture” varies in different states and contexts, which can change the way you can legally operate. We help agricultural employers anticipate, prevent, and resolve issues they face, so they can keep growing.

Fisher Phillips lawyers have partnered with agricultural employers ever since our founder, “Ike” Fisher, detoured from his family’s produce business to counsel citrus growers in the Southeastern U.S. We advise on critical issues including the Fair Labor Standards Act (FLSA), the H-2A temporary foreign agricultural worker program, the Migrant & Seasonal Worker Protection Act (MSPA), and the Occupational Safety and Health Act (OSHA), as well as the myriad of state and federal laws and regulations that apply to businesses in the industry. And, while our overriding objective is always to prevent disputes before they arise, we’re well prepared to defend you if they do.

Labor and employment law is all we do. We couple a deep knowledge of the sector and plaintiff-side lawyers (as well as their tactics) with the resources of a large firm, a combination that competitors simply can’t match. With offices in California, Arizona, the Pacific Northwest, Midwest, Central Plains, and throughout the Southeastern U.S., our national view is informed by a nuanced understanding of the issues affecting various regions and commodities. Because we’ve dealt with issues and cases across the country, we’re better able to reduce risk, predict outcomes, and craft winning strategies.

Members of our teamwork with the National Council of Agricultural Employers, the Virginia Agricultural Growers Association, the California Association of Winegrape Growers (CAWG), California Citrus Mutual, the Western Growers Association, the California League of Food Processors (CLFP), the Grower Shipper Association (GSA), the Agricultural Personnel Management Association and several other state and local agricultural associations. Our lawyers routinely speak and present on issues of importance to the industry – everything from recent legislative developments to the impact of COVID-19.



H-2A Programs

We'll help you create, comply with and defend programs that bring in foreign workers to fill temporary and/or seasonal jobs, including completing the necessary petitions, forms and certifications with the U.S. Department of Labor (DOL) and relevant state agencies. Our lawyers have extensive experience navigating the provisions of the H-2A program, the Migrant and Seasonal Worker Protection Act (MSPA), and the FLSA to obtain DOL authorization and working with U.S. Citizenship and Immigration Services to secure individual worker visas. We routinely handle appeals before administrative law judges and in court and have defended employers against labor trafficking allegations. We also defend employers in investigations or audits by the Department of Labor, which are common occurrences for employers in the H-2A program.

OSHA Compliance

Our lawyers understand the myriad safety challenges of farming, processing, and distribution operations and the unique regulations that apply at both the Federal and State Plan level. Our dedicated OSHA and FP Safety Solutions teams can help you maintain a safe and healthy working environment, create appropriate procedures to manage risk and minimize exposure, assess hazards, comply with regulations, handle abatement commitments, and prevent and manage inspections. If necessary, we'll assess and contest any citations and help negotiate favorable resolutions.

Traditional Labor Relations

We create and implement preventive labor relations programs and provide trainings, procedures and union avoidance protocols for agricultural employers of all sizes. Our lawyers regularly represent clients before the National Labor Relations Board (NLRB) and in California the Agricultural Labor Relations Board (ALRB). We're skilled at dealing with union organizing efforts, negotiating collective bargaining agreements, NLRB and Agricultural Labor Relations Board (ALRB) proceedings, labor arbitrations, unfair labor relations charges, and handling and resolving business disruptions and strikes.

Wage & Hour Litigation Defense

Litigators on our team defend agricultural employers in single plaintiff and class action wageandhour cases in state and federal courts, as well as before the Agricultural Labor Relations Board. Our lawyers have unparalleled experience in California Private Attorneys General Act (PAGA) claims in the agriculture sector. We understand how to capture "time worked" and apportion wages at dispersed workplaces where few punch a clock and appreciate the unique transportation issues affecting your operations. Our team has extensive experience advising and defending involving state-specific wage orders (including those in California) and overtime requirements. Our firm-wide capabilities enable us to ramp up litigation whenever necessary.

■ KEY CONTACTS



**SHEILA M.
ABRON**

- Partner, Columbia
- 803.740.7676
- sabron@fisherphillips.com



**GEORGE A.
REEVES, III**

- Partner, Columbia
- 803.255.0000
- greeves@fisherphillips.com



With hundreds of attorneys across the globe, Fisher Phillips advises and advocates for employers internationally on some of the most complex and high-profile workplace matters. We leverage our employment experience, tech and thought leadership credentials to keep our clients ready for what's next. By understanding their business, we help them adapt faster to a faster-changing world, realize possibilities sooner and more effectively, and stay steps ahead when everything is on the line.

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