

The logo for Fisher Phillips, consisting of the words "Fisher" and "Phillips" stacked vertically in white, bold, sans-serif font, set against a red, angular, ribbon-like background.

**Fisher
Phillips**

Inside Counsel Conference 2020

A large, abstract graphic of a wave in shades of red, pink, and purple, curving across the right side of the page. The wave has a glowing, ethereal quality with multiple overlapping layers of color.

A New Wave in Workplace Law

February 26–28, 2020

Wednesday, February 26, 2020

Welcome to The Diplomat Beach Resort



Welcome Reception & Dinner

6:00pm - 10:00pm

South Palm Court

Enjoy the stunning view of the Atlantic Ocean while enjoying some tastes and sounds of the tropics.

Join us for sunset at the beach as we kick off this year's program. Connect with colleagues and Fisher Phillips attorneys over refreshments and dinner at the South Palm Court.

Optional Activities

If you're able to arrive early, please be our guest at the Diplomat Spa + Wellness retreat for a relaxing and refreshing treatment in the afternoon. If golf is more your speed, join us for 18 holes. Or just kick off your shoes and stick your toes in the sand and enjoy some beach time.

7:30–8:30 am

Breakfast

8:30–8:45 am

Welcome/Opening Remarks

8:45–9:45 am

Avoiding the Catastrophic Loss: Jury Trials, Arbitrations, and the Multi-Million-Dollar Verdict

Speakers

Karl Lindegren, Fisher Phillips (Irvine), Kristen Nesbit, Fisher Phillips (Los Angeles), Lisa A. Stephenson, Esq., Vice President and General Counsel, CRST International, Inc.

With the increase in restrictions on employers and expansion of the scope in whistleblowing and disability-related laws, we are seeing a continued increase in the number of large awards both from juries and arbitrators. This discussion will look at the basics behind this increase and how best from a lawyer and client perspective to fight back to avoid a large jury verdict or arbitration award. We will explore how plaintiffs are succeeding in this area along with the latest tactics and strategies employers are using to combat them across the country. This starts long before the lawsuit is filed and continues with selection of counsel, preparation of the case, and ultimately decisions as to which cases to try.

9:45–10:45 am



KEYNOTE ADDRESS

Radical Candor, Avoiding Lawsuits, And Being A Kickass Boss

Speakers

Kim Scott, Author, "Radical Candor: Be a Kick-Ass Boss Without Losing Your Humanity"

Being candid with your colleagues is easier said than done. Doing it in a way that shows you care about them is even more difficult. And soliciting feedback about yourself is hardest of all. But understanding what coworkers and outside counsel think of your performance and behavior and telling them what you think of theirs – when done the right way – can go a long way toward building stronger relationships with your outside attorneys and your colleagues in the office. This session, led by *New York Times* bestselling author Kim Scott, will walk you through this dynamic process, as outlined in her book, *Radical Candor: Be a Kickass Boss Without Losing your Humanity*.

10:45–11:00 am

Break

11:00–12:00 pm

Surprise! Meet Your New Employees...The People You Thought Worked For Someone Else Or Themselves

Speakers

Chris Boman, Fisher Phillips (Irvine), John Polson, Fisher Phillips (Irvine), Farrah Fielder, Esq., General Counsel, Engage

No issue is hotter in the world of employment than independent contractor, employer, and joint employer status. Who employs whom (or who can be held liable as an employer) is literally the question of the day. No one wants to learn the answer to that question through a class action or an enforcement audit. This session will bring you up to speed on the latest developments, make some predictions about the future, and provide practical tips to help you manage through the uncertainty.

12:00–1:15 pm



KEYNOTE LUNCH SESSION

All Hands On Deck: Charting a Metaclusive Course for Workplace Culture

Speakers

Tristan Higgins, Esq., metaclusive founder, metaclusive llc, Regina Petty, Fisher Phillips Chief Diversity Officer (San Diego)

Your company has implemented a diversity and inclusion program that deploys best practices for hiring, promotion, discipline, anti-discrimination, pay equity, benefits, and other aspects of personnel management. But is that all that's needed to achieve an inclusive workplace culture? Join our keynote speaker Tristan Higgins, Esq., metaclusive llc, and Fisher Phillips partner and Chief Diversity Officer Regina Petty, for this informative and important lunch session. They'll help you go beyond the standard checklists and data so your organization can achieve a transformed environment where your employees feel like they belong – a metaclusive workplace where your employees truly belong and feel valued.

1:15–1:30 pm

Break

BREAKOUT SESSIONS 1

1:30–2:30 pm

BREAKOUT A

Managing, Calculating, and Internally Communicating Risk Stemming From the Tsunami of Class Actions and PAGA Lawsuits in California

Speakers

Lonnie Giamela, Fisher Phillips (Los Angeles), Todd Scherwin, Fisher Phillips (Los Angeles), Susan V. Stucker, Esq., VP, Legal - Litigation, Risk & Employment, HD Supply Law Department, Phil Marchion, Esq., Associate General Counsel, Labor and Employment, VF Corporation

Through a review of recent caselaw, new statutes, and interactive hypotheticals, this presentation will review developing trends specific to California class action and PAGA litigation. The presentation will also provide guidance from in-house counsel on internally communicating risk and building support for operational changes to ensure future compliance with applicable state and federal law. Attendees will also participate in a mock wage-hour audit to calculate risk and apply principles to an internal audit.

BREAKOUT B

The Surge of Immigration Restrictions Engulfing Employers

Speakers

Shanon Stevenson, Fisher Phillips (Atlanta), Gary Hodgson, Esq., VP, Deputy General Counsel, Randstad US, Tim Sipe, Esq., Sr. Labor & Employment Counsel, Newell Brands

Gone are the days when immigration issues rarely made a splash on in-house counsel's desk. Now in-house counsel must stay abreast of complex immigration issues, such as:

- employee identity theft uncovered through the resurrection of Social Security No-Match letters, medical insurance companies refusing to cover an employee because the employee's SSN belongs to another covered individual, and/or ACA electronic filings kicking out SSNs that do not match IRS records;
- how to structure an acquisition deal when a large percentage of the acquired workforce is unauthorized to work in the U.S.;
- monitoring compliance issues associated with unknown foreign national contractors on U.S. visas working onsite; and
- unpredictable adjudications of work visas.

During this session, you'll hear a panel discussion with in-house counsel who will present best practices for employers to address the surge of immigration restrictions and how they intersect with benefits and employment issues.

2:30–2:45 pm

Break

**BREAKOUT
SESSIONS 2**

2:45–3:45 pm

BREAKOUT A

Surfing the Next Wave in Workplace Accommodations

Speakers

Rick Grimaldi, Fisher Phillips (Philadelphia), Janet Fiore, President and CEO, The Sierra Group

Join us for a hands-on presentation where attendees will learn how to accommodate employees through the use of cutting-edge assistive technologies, creative solutions, and an interactive process that complies with legal requirements while retaining productive, committed employees. This program focuses on positive solutions that create a collaborative environment for the employer and employee while highlighting the use of technology and compliance to retain employees in a tight labor market. Our panel includes Janet Fiore, a national authority on disability, diversity, and compliance policy and procedure for business. She's an award-winning speaker and consultative trainer who routinely provides media input as well as testimony for Congress, the GSA, and the Department of Veterans Affairs. As a woman with numerous disabilities, Janet combines her business and rehabilitation expertise, along with her own professional and personal accommodation experiences, in order to 'drive up' employment success for all of her customers.

BREAKOUT B

The New Tide of Pay Equity Class Actions: Lessons From the Trenches

Speakers

Cheryl Pinarchick, Fisher Phillips (Boston), Adam Sloustcher, Fisher Phillips (San Diego), Megan Winter, Fisher Phillips (San Diego), Patrick Keran, General Counsel, SeaSpine

Pay equity is a growing claim du jour for plaintiffs' attorneys both on an individual and collective basis. Many states have enacted legislation greatly expanding employers' obligations and the protected classes from those under the federal Equal Pay Act. This presentation will provide practical lessons from a team of Fisher Phillips attorneys and inside counsel who have defended a pay equity class action. It will detail the significant aspects of the growing patchwork of new state and big-city equal pay laws, how to take advantage of the "safe harbors" under many state equal pay laws, the significant financial consequences of pay equity claims, and avenues for companies to avoid, or prepare to defend, claims through privileged audits.

3:45–6:00 pm

Beach Time/Free Time



Reception & Dinner Cruise

Thursday, February 27, 2020

6:00–7:00 pm

Diplomat Landing

Join us for refreshments before we depart for our cruise promptly at 7pm.

7:00–10:00 pm

The Grand Floridian

Enjoy a majestic dinner cruise along the Intracoastal waterway aboard the 128-ft luxury yacht The Grand Floridian.



7:30–8:30 am

Breakfast

8:30–9:30 am

The Latest Trends in Preventing and Defending Class and Collective Actions

Speakers

Kathie Caminiti, Fisher Phillips (New Jersey/New York), Jim Fessenden, Fisher Phillips (San Diego), Hagood Tighe, Fisher Phillips (Columbia)

During this panel discussion, we will review the latest developments in class action litigation and wage and hour law, the traps plaintiffs' attorneys are exploiting, and best methods for litigation prevention and risk control under both state and federal law. We will also explore opportunities to deal with the DOL Wage and Hour Division under the Trump administration, including the PAID program, commenting on proposed regulations, and requesting Opinion Letters. Finally, we will share different ways to assess class and collective actions claims, including defense strategies for opposing certification and when and whether it makes sense to explore settlement as a means of early resolution.

9:30–10:30 am



KEYNOTE ADDRESS

“Welcome Back, We Never Missed A Beat” – Keeping Your Ship Afloat In Troubled Waters

Speakers

Mark Smolik, Esq., General Counsel and Chief Compliance Officer, DHL Supply Chain

When it comes to our professional and personal lives, we all assume tomorrow will come and be like any other day. But what if life circumstances cause you to unexpectedly be absent from work or other emergency job responsibilities arise that lead you away from your main role for an extended period? Our second keynote speaker will provide practical, real-life lessons about how to prepare for such an event, including coordinating with key leaders in your organization and your trusted outside counsel to ensure smooth sailing. Even if you've never been in such a situation, the concepts he'll share will help you navigate your clients and your team through the many challenges that arise when the unexpected happens.

10:30–10:45 am

Break

BREAKOUT SESSIONS 3

10:45–11:30 am

BREAKOUT A

The Ebb and Flow of Labor Relations Policy and Procedure at the NLRB

Speakers

Steve Bernstein, Fisher Phillips (Tampa), Reyburn Lominack, Fisher Phillips (Columbia), Letitia F. Silas, Esq., Sr. Associate General Counsel (Labor) and Director of Labor Relations, Howard University/Howard University Hospital

The regulatory arena governing labor relations seems to be shifting by the week. A panel of Fisher Phillips labor lawyers and outside counsel will reflect on what has been a busy 18 months for the current Republican-controlled NLRB, highlighting the most significant developments affecting employers in the short term, while offering a glimpse into what may be looming on the horizon. From new rules altering the joint employer test and “quickie elections,” to employer-friendly decisions regarding independent contractor standards, protected concerted activity, non-employee and off-duty employee access rights, and workplace rules, the tide has turned for union and non-union businesses alike. How long will this trend last, and what's at stake? Our panelists will chart a practical course toward recapturing your flexibility in this favorable climate.

10:45–11:30 am

BREAKOUT B

Spoliation of Evidence: Inside Counsel Now Have Both a Sword and a Shield Under the Amended Federal Rules of Civil Procedure

Speakers

Brent Cossrow, Fisher Phillips (Philadelphia), Scott M. Waldman, Esq., Chief Legal Officer, Berkshire Hathaway HomeServices Fox & Roach Realtors® and The Trident Group

For years, the playing field seemed to be titled against employers when it came to sanctions for the mishandling and loss of evidence. The proliferation of computers, smart phones, email, text messages, intra-company instant messaging and other technologies in the workplace made employment litigation fertile ground for spoliation cases, which put in-house counsel on the front lines of these battles. This is now changing. The 2015 amendments to Federal Rules of Civil Procedure Nos. 24, 26, and 37 ushered in a new wave of spoliation rules. This presentation will discuss how the amendments have been interpreted by federal courts favorably for employers, creating new opportunities to go on the offensive in discovery.

11:30–11:40 am

Breakout Transition

**BREAKOUT
SESSIONS 4**

11:40–12:25 pm

BREAKOUT A

One Way or Another: Picking the Best Way to Show a Departing or Misbehaving Executive the Door

Speakers

Steve Roppolo, Fisher Phillips (Houston), Todd Fredrickson, Fisher Phillips (Denver), Gina Casias, Associate General Counsel, Danone

Using New Wave musical artists to guide the way, the presenters will address the unique issues in-house counsel face when the focus of a complaint of workplace harassment or discrimination is in the C-suite. When the subject of a complaint of workplace misconduct is a highly placed executive, special attention must be paid to how the investigation is conducted, clearly defining attorney-client relationships to maintain privilege. The program will also cover how to successfully navigate the negotiation of a severance agreement to ensure that the executive's departure is not disruptive and minimizes the risk of litigation.

BREAKOUT B

The Digital Divide: Legal Risks with Digital Addictions, Social Media, and Workplace Tech

Speakers

Danielle Moore, Fisher Phillips (San Diego), Miranda Watkins, Fisher Phillips (San Diego), Lesley Pate Marlin, Esq., Senior Counsel, Labor and Employment, Northrop Grumman

Modern technological advances have created a “digital divide” between employers and employees. The surge in use and popularity of smartphones, social media, and other emerging technology has spawned several modern employment law concerns, including digital addictions, technology-based discrimination, BYOD and wage-hour concerns, and social media based adverse actions. This program will explore everything device-related, including the rise in digital addictions and whether employers must accommodate such addictions, performance management of device-related performance issues, employer benefits of using efficiency-based technology balanced against employee privacy, morale, and discrimination concerns, as well as modern BYOD and wage-hour concerns that arise from the use of devices.

12:30–1:15 pm

Networking Lunch

1:15–2:15 pm

Don't Get Caught in the Undertow: Ethics for Inside Counsel

Speakers

Christine Howard, Fisher Phillips (Tampa), Art Lambert, Fisher Phillips (Dallas), Tiffany Fleckenstein, Esq., VP, Assistant General Counsel, SignifyHealth

This topic will cover advanced ethics issues frequently faced by corporate counsel, such as the scope and waiver of a company's attorney-client privilege during internal investigations, pitfalls that can result in privilege waivers, and how legal advice may enable a company to assert an "advice of counsel" defense during litigation. Specifically, the session will provide an overview of the privilege in the corporate context, the use of confidentiality agreements impacting the privilege, inadvertent discovery of employees' privileged communications, the implications of asserting the advice of counsel defense, and waiving the privilege in internal investigations.

2:15 pm

Concluding Remarks and Dismissal

Registration Information

Registration

Online:

<https://cvent.me/GV8y2R?RefId=web>

Cost

\$795 per person

Fisher Phillips clients receive a discounted registration rate. Please contact your Fisher Phillips attorney to receive the registration discount code. Multiple attendees receive a 10% discount.

The Diplomat Beach Resort

Fisher Phillips has arranged a discounted block of rooms at \$369/night. The group rate is available through February 4, 2020. This rate does not include taxes or additional charges that may apply. All changes/cancellations to reservation are responsibility of the attendee. You can make your reservation by clicking [here](#).

NOTE: Your credit card will be charged a minimum deposit of one night's room and tax at the time of reservation.

CLE Information

CLE credit is anticipated for this program, including 1 hour of Ethics credit.

To confirm whether CLE is available in your respective state, please email FPEvents@fisherphillips.com in advance.

Registration is Limited

We limit our registration because we find it creates a more interactive conference with heightened opportunities for the attendees to meet and spend quality time with their peers and the presenters.

