Autonomous Vehicles (AVs) are on the brink of changing life as we know it, and that includes the ways you interact with your workforce. Millions of AVs are expected on our roads in the next few years. The potential benefits—lower transportation costs, fewer traffic accidents, the drastic reduction of traffic congestion, and a significant decrease in adverse environmental impact—make widespread adoption of this technology inevitable. The Fisher Phillips AV team is here to help you successfully navigate the labor and employment issues that are sure to arise.

As this emerging technology changes the very nature of how we get around, numerous labor and employment legal issues will affect the wide range of service and product suppliers involved in the development, production, and operation of AVs. The impact will also be felt by employers outside the AV industry as the technology becomes more prevalent both in and out of the workplace. Because AVs remain largely unregulated and unprecedented, there promises to be an explosion of litigation.

Our AV group draws on experience from numerous practice areas across the firm.

**Employee Defection and Trade Secrets**

Billions of dollars have been spent developing AV technology. Companies in this space must protect the confidentiality of their information. This requires prevention and, potentially, litigation. Fisher Phillips attorneys have the deep, national experience required to help.

Prevention: The AV industry is technology-based and information-driven. Departing employees present risks of trade secret theft and unfair competition. Likewise, sensitive information is frequently shared throughout the supply chain continuum. You must ensure you adequately protect your information through carefully drafted, enforceable contracts. In addition, you must audit and update
applicable policies and procedures, train your employees, and ensure you have physical and electronic security controls.

Litigation: Our AV team includes attorneys who specialize in non-compete and trade secret litigation and have litigated literally thousands of cases in virtually every state across the country. These matters frequently include emergency applications for injunctive relief; we are accustomed to rapidly deploying to initiate or defend temporary restraining order actions in any location with little advance notice.

**Data Privacy and Cybersecurity**

To ensure maximum safety, AVs will need to communicate with each other, the surrounding infrastructure, and with a host of platforms. Data privacy and cybersecurity is a serious concern given widely recognized worries about hacking.

Our clients in the AV space can count on us to assist with identifying information vulnerable to a breach, preparing breach incident response plans, identifying applicable statutory and regulatory requirements, ensuring protection across the supply chain continuum, and training employees to spot and respond to data breach incidents. When breaches occur, our attorneys are highly qualified to handle the litigation that will arise.

**Workplace Safety**

AVs are becoming more prevalent in industrial settings, and will continue to impact employers’ safety programs. AVs present unique safety concerns that must be addressed in order to avoid accidents and potential citations under OSHA’s machine guarding standards and general duty clause. Our workplace safety group has the experience and depth in this space to advise our clients and identify these unique safety concerns.

**Labor, Unionization, and Collective Bargaining**

As companies transition to AVs, they will be able to reduce the number of employees in driving occupations. As a result, unionized companies need to plan ahead to address these reductions and our team is here to assist. You should start negotiating terms in new collective bargaining agreements that would provide you with more flexibility when this change comes. Just as has occurred with automation in manufacturing, you must anticipate that the unions will fight the loss of these jobs.

**General Employment/Gig Economy**
As AV technology becomes increasingly more prevalent in the workplace, it promises to raise numerous general employment issues that our team is well-positioned to advise on, including in the gig economy realm:

- ADA Accommodations
- Employment Discrimination
- Worker Misclassification

**Government Advocacy**

The introduction of AVs promises to increase our clients’ needs for effective legislative and regulatory advocacy at both the state and federal level. Our attorneys are prepared to advise our clients on the legislation that has arisen and may still be to come. Areas apt for additional regulatory and legislative action include:

- Data Privacy
- Labor/Wage and Hour
- Workplace Safety

**Government Contract Compliance**

To achieve their full potential, AVs must communicate with the world around them. Vehicle-to-infrastructure (V2I) communication involves the exchange of safety and operational data between vehicles and the transportation infrastructure that supports them. Massive upgrades to our infrastructure will be required, but state and federal governments lack the technical expertise to implement these changes. They will need to partner with the private sector. Employers supporting this intensive infrastructure effort should minimally consider the following questions:

- Will you be entering into contracts with government agencies that subject you to OFCCP’s jurisdiction as a federal contractor?
- Will you be providing supplies or services that are necessary to the performance of a federal contract such that you become a federal subcontractor under OFCCP’s jurisdiction?
- Will you have contracts with states that impose affirmative action compliance requirements?

**Equity, Venture, and Multifamily Investors**

We recognize that the acceleration of the AV space will be propelled by venture capital, private equity, and multifamily investors, all of which will drive rapid expansion. We also know what this means: investors managing portfolio companies will need high level responsiveness, on-the-spot advice, and industry familiarity. Fisher Phillips has both the bench and the agility to advise
investment firms about all employment-related matters facing their portfolio companies, at any stage of a deal:

- We can quickly bring any newly acquired portfolio company into legal compliance with effective employment policies and protective measures.
- Does a portfolio company need new management? We are uniquely positioned to draft equity-based compensation arrangements to help you secure top operational talent.
- And just as your companies grow, we will cater to each stage of development. We craft employment-documents to help protect the two most important assets to any company in this space: technology and data.

In short, we understand investors’ unique, time-sensitive needs, and we are here to meet them. We’ve been doing exactly that for decades.

**Publications**

Thinking About Automation? Be Ready to Address These Subjects in Bargaining Process  
1.14.20

Thinking About Automation? Don’t Forget About the Duty to Bargain  
12.3.19

Thinking About Automation? Don’t Forget to Consider Labor Laws Along the Way  
10.9.19

9.9.19

8 Tips to Prevent Autonomous Vehicle Cyber Breach Liability  
5.22.18

**Speaking Engagements**

Navigating Transit Workforce Issues Arising from Automation/Electrification  
GoToWebinar, 2.5.20