



# A Good Handbook is No Substitute for Good Management Training

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Catharine Morisett was interviewed by *The Puget Sound Business Journal* on August 28, 2015. In the interview, Catharine discussed the big employment law issues that employers are struggling with and what they should be keeping an eye on now so as not to be in trouble later.

**What was the draw moving to Fisher Phillips?** I have been practicing law since 1999. After completing a state appeals court judicial clerkship post-law school, I worked at a medium-size (80 lawyer) West Coast general practice firm and a large (over 700) national workplace law firm before joining Fisher Phillips. As an employment law litigator who also believes that a little bit of preventive medicine goes a long way, I was drawn to Fisher Phillips' commitment to provide practical business solutions for employers' workplace legal problems and the firm's dedication to exceptional client service. These commitments are reflected in how the firm manages both its business and its top talent. We are lawyers for employers, who offer deep and broad knowledge and experience in the area of the law we know best. The opportunity to help launch the firm's Seattle office was a once-in-a-lifetime chance. Joining the firm has exceeded my expectations.

**You specialize in labor and employment law, what are top three issues/questions that your business clients bring to you these days?** How to legally, effectively, and proactively manage leave and performance issues for individuals with physical or mental health disabilities continues to be one of the most challenging areas for employers. Employers often struggle through the "Bermuda Triangle" of FMLA, state leave, and workers compensation rights and obligations. On the wage and hour front, employers continue to risk liability from both private claims and enforcement actions for misclassifying employees as independent contractors. As a Washington state and Alaska-licensed practitioner, some of the most interesting questions I get these days involve workplace drug testing and drug free workplace policies given those states legalization of medical and recreational marijuana.

**What's the one thing that businesses should be doing in regards to labor and employment law that they probably aren't?** Business should be implementing effective and comprehensive management training geared towards workplace legal issues. Supervisors are not only the first line of defense to avoid workplace claims, but also are the first line interacting with employees on a daily basis. Their daily actions have far-reaching effects that can yield fewer claims and happier employees. A good handbook policy is not a substitute for good management. The need for training

goes beyond typical anti-harassment training, and should touch on all aspects of workplace law, such as rest period requirements, reasonable accommodations, what reasonable suspicion really means when it comes to drug-free workplace policies, and why proactive performance management is so crucial to defending many employee claims. I often conduct “lunch with a lawyer” question and answer sessions with my clients’ managers and find these go far in helping employers identify compliance issues and improve day to day employee interactions.

**There are always new regulations that give rise to the next big labor and employment law issue that companies will need to deal with. What’s the next big thing that Seattle area business clients are going to encounter?**

Paid sick leave laws continue to be a nationwide trend and are particularly challenging for employers operating in multiple jurisdictions. For example, here in the Northwest, companies with any employees working in Tacoma need to become compliant with that city’s new mandatory paid leave law — which is not identical to Seattle’s — by February 2016. Oregon’s new statewide paid sick leave law goes into effect January 1, 2016. Again, on the wage and hour front, employers across the U.S. should monitor the proposed Department of Labor rule that will increase the “salary basis” portion of many of the overtime exemption tests from roughly \$23,600 per year to \$50,440 per year.

**This year we marked the 25th anniversary of the American’s with Disabilities Act, how are companies doing with compliance and what are the biggest issues we still encounter?** When the ADA was passed, I think that the average person thought more in terms of public access and workplace accommodations for individuals with physical disabilities. These include building access ramps or providing reasonable accommodations to workers in terms of equipment, such as providing special telephones to hearing-impaired employees. Because Washington State has a long history of a broad legal definition of disability — broader than the definition that existed for a long time under the federal ADA — employers often miss that a worker with a temporary injury or mental health illness is legally disabled. In the past decade, I have seen employers struggle more and more with what qualifies as a reasonable accommodation for individuals with mental health conditions and how to lawfully manage performance issues that may arise for these employees.

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