



Workplace Safety

Overview

More than ever before, you need to be extra vigilant when it comes to workplace safety – and also in defending challenges to your workplace practices. You need attorneys who can help prevent unsafe conditions, but will also be there if inspections arise, enforcement measures are taken, or catastrophes occur.

The Fisher Phillips Workplace Safety and Catastrophe Management Practice Group provides you with practical guidance to enable you to develop and maintain effective workplace safety and health management programs. From safety compliance and accident prevention to catastrophe response and mine safety and health matters, our experienced team of attorneys is prepared to assist with all of your workplace safety legal needs. And our safety consulting team offers a full range of non-legal consulting services.

We work with clients across the United States in the manufacturing, construction, food processing, health care, and transportation industries.

PREVENTION, PREPAREDNESS AND ENFORCEMENT

We can assist you in developing or updating your safety and health management program, with a special focus on self-audits and inspections, training, recordkeeping, integration of safety programs with other employment policies and procedures, DOT compliance and efforts to minimize related civil liability and repeat citations. We aid in determining areas of vulnerability, determining manager roles, and developing the process needed for a response, whether you need to respond to an Occupational Safety and Health Administration (OSHA) or Mine Safety and Health Administration (MSHA) complaint, government inspection, or whistleblower investigation.

Our team gets involved at the most critical stage: conducting investigations *immediately after* an accident has occurred. That's important because when an OSHA inspector arrives, anything prior probes uncover can open the door to additional claims, such as workers compensation or wrongful death – and much greater potential exposure for you. Given the stakes, you can't entrust this to the insurer's selected lawyers, who can show up late and unprepared.

Fisher Phillips' cross-disciplinary COVID-19 Taskforce helps address issues stemming from the coronavirus pandemic, including workplace safety standards, masking, contact tracing, vaccines, and incident response.

Additionally, we can assist you in establishing and implementing substance abuse testing and prevention programs, as well as policies and procedures addressing violence in the workplace. We can coordinate trauma response, counseling, and threat assessment, and can seek restraining orders and injunctions where appropriate against violent or threatening persons.

GOVERNMENT RESPONSE

If you receive a safety-related citation, we can help you evaluate your position and minimize exposure to penalties and fines. We have broad experience in handling cases involving repeat or willful citations, corporate-wide investigations, whistleblower actions, construction and multi-employer settings, OSHA and MSHA Significant Cases, "Egregious Enforcement Program" (EEP) cases, and catastrophic and high visibility cases such as explosions, crane collapses, and employee fatalities. Whether negotiating a settlement at an OSHA or MSHA informal conference, working on an ongoing OSHA abatement commitment, or defending an employer in litigation before the Occupational Safety & Health Review Commission (OSHRC), we use our knowledge and experience to vigorously defend your interests.

CATASTROPHE MANAGEMENT

We understand the confusion often surrounding workplace catastrophes, but also know that such events demand a quick and effective response. Our team can work with you to develop a strategic plan to address the resulting sophisticated legal issues, handle related media relations, deal with the families of the deceased or injured employees, prepare for possible civil or criminal proceedings, and work with insurers, regulators, experts and other involved parties.

FISHER PHILLIPS SAFETY CONSULTING (NON-LEGAL CONSULTING)

Fisher Phillips has a team of safety consultants who assist clients with regulatory compliance needs, including OSHA inspections, hazard identification, and hazard abatement. They are experienced in consulting, developing safety incentive programs, conducting active shooter trainings and policies, ISO 45001 certification, and customizing safety training compliance programs. The consulting team can also conduct safety audits of facilities for compliance with regulatory standards under OSHA, the National Electrical Code (NEC), the National Fire Protection

Association (NFPA), and the Americans with Disabilities Act (ADA). The site safety audit identifies deficiencies, hazards, and/or areas of non-compliance and provides the organization with recommended corrective actions.

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Recent Experience

Representative Work

- Prevailed on appeal in whistleblower claim under the Food Safety Modernization Act where plaintiff failed to comply with appeal statute, a result never previously obtained under the statute at issue.
- Represented client regarding an excavation related inspection where OSHA cited the employer for willful violations of the trenching standard based on a crew leader being present when an employee entered an excavation greater than five feet in-depth. The willful was dismissed after a hearing.
- Reached favorable settlement in matter concerning combustible dust at client's feed mill, based on OSHA's failure to properly document its claim; this result led, in part, to OSHA adopting a revised procedure concerning documenting combustible dust claims.

- Represented client in a double fatality after an explosion, dealing with multiple regulatory agencies including OSHA, CSB, Fire Marshall, Arson investigators, other related agencies, and interested parties including vendors, contractors, union representatives and counsel for the deceased employees. Ultimately convinced OSHA to withdraw a Willful General Duty Clause violation.
- Obtained complete dismissal of 110(c) claim brought by MSHA against individual supervisor following serious accident at client's rock quarry.
- Successfully appealed and overturned United States District Court's unprecedented opinion that OSHA could extend its statutory limitation period from six months to seven months.
- Assisted a client with issues concerning the first-ever COVID-19 related death in the United States.
- Represented client in an injury incident that resulted in multiple repeat machine guarding and lock out tag out violations; after trying the matter, the machine guarding violations and half of the lock out tag out violations were dismissed.
- Represented a nationally based furniture company in two separate OSHA 11(c) whistleblower retaliation claims. The claimants alleged adverse employment actions and/or termination resulting from their complaints to employee management about unsafe practices at their warehouses concerning a failure by the employer to provide appropriate PPE resulting in multiple employee head and foot injuries. Settled both actions with favorable results.
- Successfully obtained the complete dismissal of an OSHA citation issued after a fatal accident occurring at an internationally-known theme park.

Key Contacts



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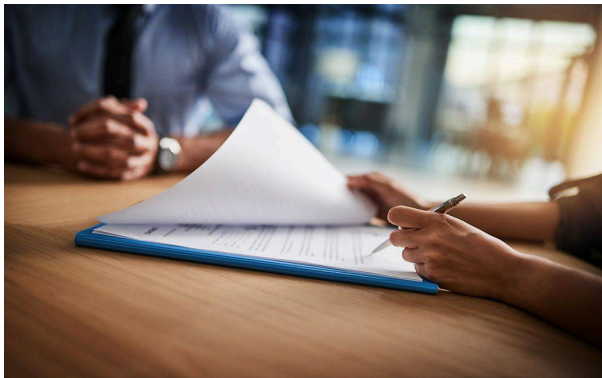
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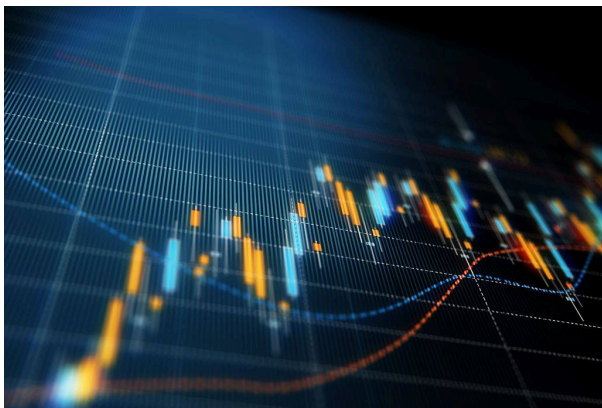
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Workplace Violence Prevention Templates and Services

Frequently Asked Questions for Employers About OSHA



OSHA Inspections Tracker



Visit our OSHA Inspections Tracker map, this map allows employers to examine up-to-the-minute state of workplace safety inspections in a detailed manner.