



## California Litigation and Appellate

### Overview

*“FP does the best, most consistent job of delivering great results. This firm strategically puts together the right talent and the right level of experience for each case. Their lawyers work together effectively and efficiently [...]”*

*There are employment firms with higher profiles and higher hourly rates, but there is no employment law firm with better lawyers getting better results.”*

*--Client quoted in The Legal 500 (2020)*

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**With its expansive gig economy, stringent laws governing the workplace, and increasingly aggressive plaintiff’s bar, California presents employers with unique and formidable challenges. State-specific laws on harassment, discrimination, and retaliation under the California Fair Employment and Housing Act (FEHA), and under the state Labor Code, add layers of complexity well beyond that in other states. Most businesses must comply with stringent requirements imposed by the California Consumer Privacy Act (CCPA). And the rules are constantly changing. Now, more than ever, you need seasoned litigators who see the big picture to protect your business before and after a lawsuit hits.**

Fisher Phillips’ team in California includes more than 150 litigators with an outstanding record of success defending businesses in employment suits of all kinds and sizes across the State. Whether you are facing a wage and hour, Private Attorneys General Act (PAGA), misclassification, trade secrets, retaliation, whistleblower, workplace safety (OSHA), discrimination, harassment, data privacy or any other type of claim in California, we have the skills, knowledge, experience, and resources to avoid lawsuits and, whenever necessary, dig in and fiercely defend you in and out of

court. Objective client and peer reviews have earned us recognition as a Band 1 ("Highly Regarded") practice in California (*Chambers USA*, 2022).

True to our Firm's founding principle, we are not just excellent lawyers—we are business partners who present real world solutions to legal threats and challenges. Spanning six offices, our California Litigation Team leverages comprehensive, up-to-the-minute knowledge of the evolving laws to your advantage; importantly, a key member of our team previously was lead policy advisor to the California legislature on all labor and employment matters, providing us with invaluable insight into what the laws really mean – and what's coming next.

Your business goals and your definition of "success" guide us at every step. After all, you're not in the litigation business – you need a realistic, practical, and efficient way to deal with the actual problems that employment related claims and litigation create. We share one goal: to efficiently achieve the very best result for your business in every single matter we handle.

## **HOW WE CAN HELP**

### ***FEHA/Single-Plaintiff Cases***

We represent management against claims of discrimination, retaliation, harassment, FMLA violations, whistleblower claims, defamation and more.

We constantly interact with plaintiffs' lawyers and understand their tactics, helping us to anticipate their next moves and create effective defense strategies and preventive best practices. We also quickly evaluate the merits at the outset of every single-plaintiff matter and realistically estimate the ultimate litigation costs to prevent cases from languishing in an expensive state of indecision.

Each year, our attorneys litigate single-plaintiff actions through trial and arbitrations that achieve extraordinary outcomes for our clients. Over the past five years alone, we have arbitrated or tried to verdict FEHA/single-plaintiff cases on behalf of clients ranging from Fortune 500 companies to privately held multi-billion-dollar companies to small business owners, in various industries including hospitality, automobile, manufacturing, logistics and transportation and aviation.

### ***Class and Collective Actions***

No matter how solid your internal policies, California's maze of wage and hour laws makes class actions more likely than in other states. These often involve overtime, meal and rest breaks, "off-the-clock" or "rounding," and misclassification claims. Our attorneys defend some of the largest class actions in California that involve claims under the California Labor Code, Cal WARN, California Equal Pay Act and pattern and practice suits brought by administrative agencies or individuals based on disparate impact of company practices and policies.

### ***PAGA Actions***

Given their potential for great exposure – including the possible “stacking” of penalties – and lax procedural requirements, PAGA claims can be more threatening than standard wage and hour cases. In fact, many unwary businesses have been decimated by PAGA damages awards.

Routinely handling a docket of more than 100 separate PAGA cases at any given time, our team has deep experience formulating effective PAGA litigation defense plans. We have defeated PAGA claims through summary judgment, at trial, and obtained many settlements that completely dismissed such suits, ranging from small matters to global resolutions involving thousands of employees. Our team has defeated class certification in many complex wage and hour class action cases at both the state and federal levels for employers across all manner of industries. Moreover, we know how to creatively attack PAGA claims; for example, our team has proactively taken corrective actions to eliminate all PAGA liability and attacked PAGA in the legislature.

### ***California Consumer Privacy Act (CCPA)***

Our lawyers guide businesses through the many steps required to avoid potentially severe, “per consumer” penalties imposed by the CCPA’s sweeping rules governing how employers collect, use, and disclose their employees’ and “consumers’” personal information. Working with clients, we devise incident response plans and defend their interests in litigation and enforcement actions that arise.

## **FISHER PHILLIPS LITIGATION RESOURCES**

### ***Support & Technology***

Drawing on our deep bench of attorneys, we deploy lean teams with a firm grasp on the issues and an overriding commitment to handling your matter efficiently and cost-effectively. We’ll partner with you at the outset of every engagement to set goals and budgets (including any alternative fee arrangements) and ensure frequent communication at every step afterwards.

We apply knowledge management, project management, and process improvement best practices to:

- make data-driven, strategic decisions
- harness people, processes and technology for maximum efficiency without compromising quality or responsiveness
- track and report on ongoing matters
- provide greater transparency
- reduce “surprises” such as unexpected costs or unplanned business interruptions.

Through innovative partnerships with [Blue J Legal](#), [LegalMation](#), and [Thomson Reuters](#), we harness the power of artificial intelligence and data science to make better, smarter, and faster legal

predictions.

## ***Insights***

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NEWS

03/25/24

### **Todd Scherwin Profiled in Los Angeles Times Labor and Employment Roundtable**

Todd B. Scherwin

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EVENT

02/07/24

### **2024 California Employment Law Update: Staying Ahead of New Legislation with Fisher Phillips and Ceridian**

Usama Kahf, Lisa Peterson

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PUBLICATION

01/10/24

### **California Attorneys Break Down State's New Legislation Affecting Employers in 2024**

Nicole Kamm, Alyssa Graf

[Read more →](#)

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NEWS

12/19/23

### **Fisher Phillips Partners Honored in Los Angeles Business Journal's 2023 Thriving in Their 40s**

Nicole Kamm, Todd B. Scherwin

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NEWS

11/06/23

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NEWS

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David Witkin

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NEWS

07/17/23

## Fisher Phillips' Los Angeles Office Welcomes Litigator Landon R. Schwob

Landon R. Schwob, Todd B. Scherwin

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NEWS

03/22/23

## Irvine Partner Provides Tips for California Employers After AB51 Ruling

Tyler T. Rasmussen

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NEWS

03/07/23

## Irvine Partner Discusses 9th Circuit Decision: California Employers Can Mandate Arbitration

Tyler T. Rasmussen

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### ***Recent Experience***

#### **Representative Work**

- Defeated class certification in a wage and hour case for a Fortune 500 manufacturer of apparel and footwear. Plaintiffs sought more than \$20 million, alleging they were entitled to additional compensation for time spent undergoing bag security checks, as well as meal and rest periods and overtime, among other claims.
- Won a complete defense verdict against a former employee who alleged retaliation and wrongful termination after complaining about workplace business practices. After winning an order dismissing a leading PEO company from the case, we prevailed at arbitration on behalf of its customer, potentially saving more than \$600,000 in damages and attorney's fees.
- Defeated class certification in wage and hour case where employees sought millions of dollars in damages for a security company's alleged failure to compensate for all hours worked, including overtime and vested vacation time; to grant rest and meal breaks; and to provide accurate wage statements.
- Won summary judgment for a manufacturer whose former employee claimed seven figures in damages for alleged discrimination, wrongful termination, and retaliation based on his illness and disability.

- Won complete summary judgment against allegations including employment discrimination, wrongful termination, and retaliation for a leading healthcare technology company.
- Won summary judgment in a putative wage and hour class action case in which 15,000 workers for a renowned major-market catering company sought California Labor Code section 203 penalties based on an argument that final pay was due at the end of each catering event.
- Defeated class certification in a wage and hour class action alleging misclassification. *Hamilton v. Genesis Logistics, Inc.*
- Won dismissal of class allegations, along with one of the representative class members, for a restaurant in a class action wage and hour suit filed by managers alleging misclassification, unpaid overtime, denial of meal and rest periods in violation of the California Labor Code.
- Obtained voluntary dismissal of plaintiffs' putative class, representative, and individual claims at the pleading stage with an aggressive litigation strategy – including early law and motion and discovery that included an award of sanctions against the putative class representatives and counsel – for the California branch of the world's largest commercial cleaning franchise company. *Rivera, et al. v. Jani-King of California, Inc.*
- Secured dismissal of putative class and representative claims, as well as post-amended complaint waiting time penalty claims, through an aggressive litigation strategy at the pleading stage, including a threatened motion to transfer venue, demurrer, and motion for sanctions. *Bolton v. Vortex Industries, Inc.*
- Defeated conditional certification in a multi-state putative wage and hour class and FLSA collective action. Thereafter, successfully opposed plaintiff's *ex parte* application seeking leave to file a motion for class certification after the deadline set by scheduling order, disposing of plaintiff's putative class claims. *Rivera v. Saul Chevrolet, Inc.*
- Won a U.S. Supreme Court decision establishing that service advisors at automotive dealerships are exempt from the Fair Labor Standards Act's overtime-pay requirement. The case validated a standard practice that auto dealerships had relied upon for decades until a controversial agency decision upended it seven years earlier. *Encino Motorcars, LLC v. Navarro.*
- Defeated a class action claim on behalf of DHL Express and successfully argued to obtain dismissal of the plaintiffs' remaining wage claims for failure to bring them to trial within five years. The plaintiffs appealed but the appellate court affirmed. *Castillo v. DHL Express (USA), Inc.*

## **Key Contacts**



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See all →

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- [Class and Collective Actions](#)