



FP Editors' Picks for Best Written Insights of 2023

Insights

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The three editors of our FP Weekly publication took some time to review the past year's writings – almost 500 published pieces – and pick out our favorites. Below you'll find a top 10 list from each of us. They include our firm's most popular pieces, our most creative insights, and our most significant and practical summaries of workplace law developments. It was hard for each of us to narrow it down to just 10, but below you'll find the results of our hard work – the cream of the crop from Fisher Phillips in 2023.

Rich Meneghello, Chief Content Counsel

1. **FP's Workplace Law Forecast 2024** – For the second year in a row, this annual publication was my favorite thing our firm produced all year. It's a thorough recap of the past year but also a forward-looking peek at what our attorneys expect to see in the new year. It's sometimes hard to coax predictions out of attorneys given their risk-averse nature, but they did a great job here and I have heard nothing but great feedback about this report.
2. **AI Notetaking Tools Are All the Rage – But Should You Use Them? Employers Should Weigh These Risks First** – This was definitely the first – and could still be the only – guidance out there for employers to help them navigate a new and growing trend. I always love when we get out ahead of the pack when it comes to helpful articles like this, especially related to a topic that is sure to garner lots of attention for the foreseeable future.
3. **Congressman Provides AI Roadmap for Employers at FP's Conference: Your 10-Step Playbook** – No doubt the highlight of my professional year was organizing and attending our AI Solutions @ Work Conference in Washington, D.C., this past September, and the highlight of the conference was listening to a Time AI 100 thought leader talk about artificial intelligence and provide employers with an easy compliance pathway. This Insight recaps Representative Ted Lieu's talk – it's a must read.
4. **7 Things Employers Couldn't Say About Unions if NLRB's General Counsel Has Her Way** – I like to steer clear of clickbaity headlines ("This One Shocking Change Can Melt Away Those Extra Pounds!") but I really like this Insight because of how eye-catching the title is. And the article actually delivers! It's a great recap of a warning from an agency head that provides practical guidance about what employers can and can't say to workers thanks to a new interpretation of the law.

5. **Viva Mexico: Why U.S. Employers are Now Spreading Their Wings in Mexico** – It was an exciting time for our firm when we opened our first international offices in Mexico this past year, so this article seemed very timely and appropriate. I was personally unaware of all of the changes that have happened in the past few years leading employers to find a much more attractive business landscape in Mexico, so this piece was eye-opening and interesting to me.
6. **When Employees Speak Out: An Employer's Playbook for Responding to Controversial Opinions** – This is one of the most recent of the Insights I've listed as my favorites from the past year, just published a few weeks ago, and I have a feeling it will be one of our more popular pieces well into 2024. It's timely, it's sobering, it's thoughtful – and it's a critical read for employers. A really well-structured Insight that I enjoyed editing and that I know you will appreciate reading.
7. **Labor Department's Proposed Overtime Rule Could Raise Salary Floor to \$55k: Here Are 8 Ways Employers Can Prepare Now** – Any law firm can provide you with a review of some new legal development, but what really sets our firm apart is that our attorneys then provide you with practical guidance on how you can adjust your business practices to meet this change. And this Insight does this wonderfully. One of the biggest and most-anticipated developments of the year was the release of the proposed OT rule, and our Wage and Hour leaders did a great job offering employers a good roadmap on what they should do to prepare for the new rule to take effect.
8. **What's Your "End Game" for 2024: Some Taylor Swift-Inspired New Year's Resolutions for Employers (FP's Version)** – Did I list this one as a favorite just to make sure I looked a little cooler to my 22-year-old daughter? Perhaps. But what's undeniable is that the enthusiasm and energy from our four #FPSwifties who wrote this piece comes through on the written page. Any Taylor Swift fan who reads this will leave with a smile on their face, and even non-Swifties will appreciate the helpful guidance.
9. **Pandemic-versary is Upon Us: The 5 Ways Your Workplace is Different Now Than 3 Years Ago** – I know it's not the most popular thing to sit back and reflect upon the pandemic that is (knock on wood) now in our rearview mirror, but this Insight does a great job recapping a few critical ways that our workplace lives are different now in the wake of COVID-19. By taking a big step back and looking at how things have changed, you might realize ways that you need to adjust your business practices if you haven't already done so. A really thought-provoking read.
10. **Why AI is a Critical Issue in the Hollywood Strikes – And Takeaways For Introducing AI into Your Workplace Without Conflict** – It's funny how written content can sometimes take on a life of its own. I helped write this piece with our Labor team leaders, and it started out as a quick recap of how AI was a key element in the Hollywood strikes. But as we started writing it, it transformed into a broader piece for all employers, discussing the best ways they could introduce AI into the workplace without causing problems. I think this will be another one that employers will continue to read and gain insight from all throughout 2024.

Lisa Nagele-Piazza, Legal Content Counsel

1. **Did Workplace DEI Programs DIE Following the Supreme Court's Affirmative Action Decision? 6 Steps You Should Take to Ensure Compliance** – The Supreme Court issued some blockbuster opinions in 2023, and the decision curbing race-conscious admissions practices in higher education sent shockwaves through the employer community. Did the ruling affect corporate diversity, equity, and inclusion (DEI) programs? The answer is not crystal clear. This Insight tackles the business implications of the SCOTUS decision and provides practical pointers for employers that want to continue their DEI efforts.
2. **7 Steps to Upskill Your Workforce for the AI Era** – This year was all about AI and the impact of ChatGPT and other generative AI tools on the workplace. As technological advances are made, business needs change, jobs evolve, and new skills become critical for success. This forward-thinking Insight explores the skills that will be in demand over the next five years and new ways to carry out your mission.
3. **Deal of a Lifetime – or Jailtime and Fines? 5 Best Practices to Avoid Foreign Corrupt Practices Act Violations** – I love the scenario presented in the intro of this Insight. It reminds me of the issues we tackled on the International Moot Court Board back in law school, but it's also rooted in reality: *The local political party chairman said he'll support your business license application if his company gets the exclusive rights to provide janitorial services at your local affiliate's new offices. You need janitorial services there anyway – and this seems like a win-win – so you accept his proposal. Did you know you may have just committed a U.S. federal crime?* I bet your interest is piqued, too, and you want to read more about the FCPA.
4. **Is the 4-Day Workweek Right for Your Business? Top 4 Things for Employers to Consider Before Implementing this Trend** – Is Thursday the new Friday? This has been a hot topic for a few years now, and although not every employer can or will implement this type of policy, the concept of a four-day workweek is probably here to stay. In some industries, it could be a valuable attraction and retention tool as businesses compete for top talent and workers adapt to the post-COVID world of work. But is it right for your business? This Insight does a fantastic job of weighing the pros and cons and highlighting the main points for employers to consider before changing to a four-day workweek.
5. **Is Unlimited PTO the Answer to Employers' Great Resignation Concerns? Practical Tips to Unveil a Policy at Your Workplace** – This is another topic that has generated a lot of buzz in recent years. Is unlimited paid time off (PTO) too good to be true? While such policies can boost employee morale and reduce costs for employers, there are a host of employee relations and legal issues to consider. Our author team discusses why you'll need to develop a robust policy and ensure it is consistently applied if you want to implement this practice.
6. **FP Weekly Checklist: Do Your Job Descriptions Need an Update for 2023?** – I'll always be an HR pro at heart, and we love a checklist! This compliance-focused Insight goes over the critical steps employers should consider taking each year to ensure their job descriptions are accurate and up to date.
7. **An Employer's Guide to Rethinking Bereavement Policies for a Modern Approach to Well-Being** – While we're on the topic of practical HR advice, here's a piece that got a lot of traffic this

Benny – While we're on the topic of practical HR advice, here's a piece that got a lot of traction this year, which shows that employers truly are focused on the mental health and well-being of their employees. HR teams are always thinking about how their policies can be updated to meet the changing needs of their employees – especially with five generations represented in the workplace right now. Grief unfortunately can impact us all, and this piece offers a fresh look at how you can support your workers in difficult times.

8. **Looking to Celebrate International Women's Day? Here's a 5-Step Action Plan to Support Women in Your Organization** – International Women's Day is a global holiday that brings attention to issues that affect women, including workplace inequities. Although it's just one day, proactive employers can carry the momentum throughout the year. In this Insight, our FP attorneys offer some great ideas on how to bolster women in the workplace and help improve your company's efforts to hire, retain, and promote women.
9. **Using Employees' Requested Pronouns: It's About Dignity, Respect, and Workplace Compliance** – Employees are more likely to thrive in a workplace where they feel included, which highlights the importance of providing a safe and healthy space for all. Accordingly, using an employee's requested pronouns is essential to convey respect in addition to helping you stay compliant with anti-discrimination laws. I really like this Insight because it provides a quick refresher, as well as some best practices for creating a safe and legally compliant work environment for transgender and non-binary employees.
10. **ChatGPT Shows the Magic of AI — But Beware the Ghost in the Machine: 3 Caveats for Employers** – We published this Insight in January when many people were just learning about ChatGPT, and employers were starting to realize that an AI revolution was coming. As our author notes: *ChatGPT is just the tip of the iceberg*. While GenAI technology has continued to evolve over the last 12 months, many of the words of caution identified in this piece still apply as you explore new tools and evaluate their impact on your business.

Ray Perez, of Counsel

1. **AI Nightmares: 5 Risks that Keep Business Leaders Up at Night and What You Can Do About It** – Change is rarely easy, and some claim AI will be the most disruptive force since the invention of the wheel. The impact on business will certainly be monumental. David Walton, FP's Chair of the Artificial Intelligence Team, provides an excellent overview of some of the top business impacts and the practical steps employers can take today to manage the effect.
2. **We Know What the NLRB Did Last Summer: 7 Recent Labor Board Moves That Could Haunt You This Fall and Beyond** – Continuing with the "Fright Night" theme, this piece outlines seven key actions by the National Labor Relations Board that are sure to keep employers up at night. The article highlights the everyday impacts of modifications to workplace regulations, such as quickie union elections, contract negotiations, use of non-competes, and other actions that make it easier to unionize.
3. **Supreme Court Makes It More Difficult for Employers to Deny Religious Accommodations: Your 6-Step Action Plan** – I truly enjoy legal writing that takes a complicated subject and makes

it easily understandable – but then goes one step further to show in a hands-on way how it affects business operations. This Insight, written by four of the firm’s thought leaders, dissects an important Supreme Court decision regarding religious accommodations and undue burdens on a business and provides real-world action steps employers can take to ensure compliance.

4. **OSHA’s Proposed Rule Would Allow Union Walkthroughs of All Worksites: Your 7-Step Survival Guide** – Employers often have enough to worry about when OSHA appears at their door seeking to do an inspection. Now, under this proposed rule, non-employees (e.g., union representatives) may soon join the OSHA inspectors during the inspection under certain circumstances. This piece does an excellent job outlining the back and forth of the development of the rule and gives employers action items to prepare for inspections under any set of rules.
5. **SCOTUS Leaves Businesses Hanging: Your 4-Step Plan to Avoid ADA Accommodation “Tester” Cases** – It’s typically easier to write Insights when the Supreme Court issues a definitive ruling. It’s a much tougher job when the Court decides to do nothing. FP attorneys Scott Fanning and Steve Miller wrote an excellent piece describing the uncertain legal landscape and providing action steps for businesses that need to develop tangible policies in an uncertain legal environment.
6. **6 Proactive Tips to Address Employee Defection Concerns Before a Crisis Unfolds** – I liked this piece, as it demonstrates the author’s thorough understanding of the issues and the need for nuanced responses to meet the ever-growing likelihood of theft of intellectual property, trade secrets, and goodwill. Barbara D’Aquila’s overview provides an easy-to-follow roadmap to manage one of the biggest risks facing companies today.
7. **The Die Hard Survival Guide To This Year’s Office Holiday Party** – I have pieces I like for the legal pearls of wisdom, others I like for their effective writing styles, and finally others that pull it all together and become overall favorites. Rich’s article hits all the marks and is easily one of my favorites. Using *Die Hard* (no – it is not a Christmas movie) as the vehicle to provide excellent advice for company holiday parties renders the piece an instant classic.
8. **FP Weekly Checklist: Do You Need a Policy on Workcations, Bleisure Travel, and Hush Trips?** – Any piece that contains the words “Bleisure” and “Portmanteau” (look it up) is a must-read in my book. Keeping employers one step ahead of coming trends is one of the benefits of the firm’s Insight articles. This article is no exception.
9. **EEOC Proposes Updates to Workplace Harassment Guidance: Top 5 Takeaways and Next Steps for Employers** – Employers wishing to be an employer of choice face the tough battle of eliminating unlawful workplace harassment. Unfortunately, what constitutes unlawful harassment often changes from workplace to workplace and from year to year. This piece reviews recent proposed regulations (not yet finalized) issued by the EEOC and provides action steps to put your company in the best position feasible.
10. **The Little-Known Reason Why An Employee’s Job Performance Could Tank Their Exempt Status – and What Employers Can Do About It** – This piece identifies a risk many employers are not aware of – for that reason alone it’s a favorite of mine. In this Insight, Ted Boehm and

Courtney Leyes discuss the implications of not closely monitoring the duties of exempt employees, as well as their overall performance, to ensure compliance with the wage and hour exemptions.

Conclusion

We will continue to monitor workplace law developments and provide updates when necessary, so make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. For further information, contact the authors of this Insight or your Fisher Phillips attorney.

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