



## Agriculture

### *Overview*

**Agricultural employers know that “farm to table” wouldn't exist without a tremendous amount of work behind the scenes - and the unique workplace challenges you face require experienced counsel ready to help you along the way. We know you have many workers out in the fields or in off-site plants, and your labor availability fluctuates season to season. In addition, you're subject to many unusual requirements other employers don't face, from capturing “time worked” in the field and unionization efforts to worker housing and sanitation standards. Even the definition of “agriculture” varies in different states and contexts, which can change the way you can legally operate. Our team helps agricultural employers anticipate, prevent, and resolve issues you face in all of these areas so you can keep growing and fulfill the critical role you play.**

Fisher Phillips lawyers have worked with agricultural employers ever since our founder, “Ike” Fisher, detoured from his family’s produce business to counsel citrus growers in the Southeastern U.S. We advise on critical issues including the Fair Labor Standards Act (FLSA), the H-2A temporary foreign agricultural worker program, the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), and the Occupational Safety and Health Act (OSHA), as well as the myriad of state and federal laws and regulations that apply to businesses in the industry. And, while our overriding objective is always to prevent disputes before they arise, we’re well prepared to defend you if they do.

Labor and employment law is all we do. We couple a deep knowledge of the sector and plaintiff-side lawyers (as well as their tactics) with the resources of a large firm, a combination that competitors simply can’t match. With offices in California, Arizona, the Pacific Northwest, Midwest, Central Plains, and throughout the Southeastern U.S., our national view is informed by a nuanced understanding of the issues affecting various regions and commodities. Because we’ve dealt with

issues and cases across the country, we're better able to reduce risk, predict outcomes, and craft winning strategies.

Members of our team work with the National Council of Agricultural Employers, the Virginia Agricultural Growers Association, the North Carolina Growers Association, the California Association of Winegrape Growers (CAWG), California Citrus Mutual, the Western Growers Association, the California League of Food Processors (CLFP), the Grower Shipper Association of Central California (GSA), the Agricultural Personnel Management Association, Western Agricultural Processors Association (WAPA), California Cotton Ginners & Growers Association, and several other state and local agricultural associations. Our lawyers routinely speak and present on issues of importance to the industry – everything from recent legislative developments to the impact of COVID-19

We represent agricultural businesses, including growers, shippers, packers, producers, contractors, ag-tech Companies, farms, dairies, ranches, greenhouses, nurseries, orchards, hatcheries, and industry associations in connection with all labor and employment law needs, including the following:

## **H-2A PROGRAMS**

We'll help you create, comply with and defend programs that bring in foreign workers to fill temporary and/or seasonal jobs, including completing the necessary petitions, forms and certifications with the U.S. Department of Labor (DOL) and relevant state agencies. Our lawyers have extensive experience navigating the provisions of the H-2A program, the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), and the FLSA to obtain DOL authorization and working with U.S. Citizenship and Immigration Services to secure individual worker visas. We routinely handle appeals before administrative law judges and in court and have defended employers against labor trafficking allegations. We also defend employers in investigations or audits by the Department of Labor, which are common occurrences for employers in the H-2A program.

## **OSHA COMPLIANCE**

Our lawyers understand the myriad safety challenges of farming, processing, and distribution operations and the unique regulations that apply at both the federal and state plan level. Our dedicated OSHA and [FP Safety Solutions](#) teams can help you maintain a safe and healthy working environment, create appropriate procedures to manage risk and minimize exposure, assess hazards, comply with regulations, handle abatement commitments, and prevent and manage inspections. If necessary, we'll assess and contest any citations and help negotiate favorable resolutions.

## **TRADITIONAL LABOR RELATIONS**

We create and implement preventive labor relations programs and provide trainings, procedures and union avoidance protocols for agricultural employers of all sizes. Our lawyers regularly represent clients before the National Labor Relations Board (NLRB) and, in California, the Agricultural Labor Relations Board (ALRB). We're skilled at dealing with union organizing efforts, negotiating collective bargaining agreements, NLRB and ALRB proceedings, labor arbitrations, unfair labor relations charges, and handling and resolving business disruptions and strikes.

Our attorneys are on the forefront of legal challenges to "card check" legislation and know the tactics and practices unions use in these types of campaigns and best practices to defend your company from attack. Our attorneys are also mounting challenges to the constitutionality of state laws that rob workers of their rights to a secret ballot election and compel agreements with unions through compulsory arbitration schemes, including a federal court challenge to New York's Farm Laborers Fair Labor Practices Act.

## **WAGE & HOUR LITIGATION DEFENSE**

Litigators on our team defend agricultural employers in single plaintiff and class action wage and hour cases in state and federal courts, as well as before the Agricultural Labor Relations Board in California. Our lawyers have unparalleled experience in California Private Attorneys General Act (PAGA) claims in the agriculture sector. We understand how to capture "time worked" and apportion wages at dispersed workplaces where few punch a clock and appreciate the unique transportation issues affecting your operations. Our team has extensive experience advising and defending actions involving state-specific wage orders (including those in California) and overtime requirements. Our firm-wide capabilities enable us to ramp up litigation whenever necessary.

## ***Insights***

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INSIGHTS

04/18/24

### **Labor Issues In Full Bloom This Spring for California Agriculture Employers: Here's What You Need to Know**

Rebecca Hause-Schultz, Alden J. Parker, Joshua H. Viau

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NEWS

04/01/24

### **Agriculture Co-Chair Quoted on Efforts to Make Changes to the Farm Labor Fair Labor Practices Act**

Joshua H. Viau

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INSIGHTS

12/20/23

## California Employers' New Year's Resolution: Make These 2 Key Changes to the Mandatory Notice You Give to New Hires

Benjamin M. Ebbink

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INSIGHTS

11/16/23

### Minimum Wage Will Increase to \$15.13 for Most New Jersey Employers on January 1

Sarah Wieselthier

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05/19/23

### California Governor Confirms Unionization of Agricultural Employees Through "Card Check" Process: Your Top 3 Takeaways

Benjamin M. Ebbink, Rebecca Hause-Schultz, Alden J. Parker

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### 4 Trends for Cannabis Industry Employers to Track in 2023

Lisa Nagele-Piazza, Catharine Morisset, Brett M. Wendt, Alexander A. Wheatley

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03/17/23

### Agricultural Employers Learn New Methodology to Calculate Wage Rates: 4 Things You Need to Know

Christina Anton, Rebecca Hause-Schultz, Alden J. Parker

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### California Ag Officials Publish Guidance On Card Check Legislation: 6 Things Employers Need to Know

Benjamin M. Ebbink, Rebecca Hause-Schultz, Alden J. Parker

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INSIGHTS

11/02/22

### New Year, New \$14.13 Minimum Wage in New Jersey

Sarah Wieselthier

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## Top 10 New California Employment Laws Signed into Effect by Governor Newsom

Benjamin M. Ebbink

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