

THE CHATGPT PLAINTIFF IS BECOMING A PEO PROBLEM

Insights
May 6, 2026

The ChatGPT Plaintiff Is Becoming a PEO Problem

You may have heard about the rise of the “ChatGPT plaintiff,” the pro se litigant who decides to sue their employer without an attorney to assist them, believing that generative AI tools like ChatGPT, Claude, Perplexity, Gemini, or CoPilot are enough to get them where they want to go. They are filing more employment lawsuits, drafting motions and discovery requests faster, and doing so with a level of sophistication that would have been unimaginable five years ago. What do PEOs need to know about this latest litigation trend, and what can you do to protect your organization and your clients?

The Numbers Are Hard to Ignore

Pro se employment lawsuit filings increased 49% last year (from roughly 4,100 to 6,400 cases nationally), whereas attorney-led workplace law filings only grew by 15%. Fisher Phillips attorneys handling these cases say AI is a primary driver of the pro se explosion.

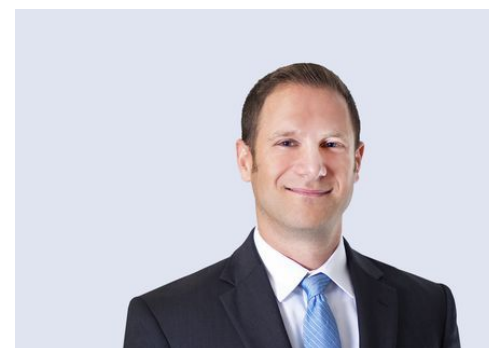
Tools like ChatGPT allow unrepresented plaintiffs to generate professional-looking pleadings in minutes, research case law (accurately or not), respond to motions with speed that surprises even experienced defense counsel, and pursue appeals that previously would have exhausted a pro se plaintiff’s patience and resources long before reaching that stage.

Related People



John M. Polson
Chairman & Managing Partner

949.798.2130



Evan Shenkman
Chief Knowledge & Innovation
Officer

908.516.1089

The practical consequences for employers are significant: inflated settlement demands, warped litigation budgets, and cases that simply don't resolve the way they used to. One FP attorney estimates businesses should plan for at least a 10 to 15% increase in litigation spending to account for the new pro se reality. Another described a pro se plaintiff who filed a seven-page memo to strike affirmative defenses within 30 minutes of receiving an answer. That's the employer story. The PEO story adds another level of complexity.

Co-Employment Means Co-Exposure

When a worksite employee files suit, they often name every entity that looks like an employer. That means PEOs often get pulled into these cases as a named co-employer with potential liability, and not just as a peripheral party. The same dynamics driving up costs and inflating settlements for individual employers apply to PEOs, with one important difference: PEOs face this exposure across their entire client portfolio simultaneously.

A mid-sized PEO serving several hundred client companies will soon be dealing with several AI-assisted pro se cases at any given time if they aren't already. And each case will demand attorney attention, citation verification, discovery responses, and strategic decisions about settlement. The volume problem that one employer experiences in isolation becomes a portfolio-wide operational challenge for a PEO.

And there's another layer worth considering. Your clients' general HR infrastructure (like onboarding documents, handbooks, disciplinary records, and termination paperwork) are often handled by your PEO team. These documents become the evidentiary record in employment litigation, and ChatGPT plaintiffs may turn their attention to them. It's easy to imagine a pro se plaintiff prompting their AI system to find "what do I need to win my case" and then try to build arguments directly against documentation your PEO helped create. That means the quality of that documentation matters more now than it ever has.

What PEOs Should Be Doing

The strategic response operates on two levels: internal and client-facing.

- Internally, PEOs should revisit their litigation budget assumptions. The 10 to 15% contingency estimate for



**David J. Walton, AIGP,
CIPP/US**

Partner

610.230.6105

Service Focus

AI, Data, and Analytics

Litigation and Trials

Industry Focus

PEO

Resource Hubs

AI Governance Hub

employers applies to PEOs as well, and likely understates the exposure for organizations managing co-employer relationships at scale. Legal teams and outside counsel should have a shared protocol for flagging AI indicators in pro se filings: citation errors, leftover ChatGPT prompts in documents, implausibly fast turnarounds, and briefs that explain basic legal concepts at length as if educating a non-lawyer reader.

- PEOs should also review indemnification provisions in their client service agreements with co-employment litigation risk specifically in mind. As pro se cases become more expensive to defend, the contractual allocation of that expense between PEO and client could deserve a fresh look.
- On the client-facing side, this is an opportunity to add value. Many PEO clients (particularly smaller businesses with limited legal knowledge) have no idea this trend is coming for them. You can walk clients through the new litigation landscape, help them audit their HR documentation for gaps, and connect them with employment counsel before a pro se filing lands are doing exactly what a strategic HR partner should do.
- Finally, don't overlook the documentation quality point. Clean, consistent, well-maintained employment records can help reduce the effectiveness of AI-assisted plaintiffs who are prompting their way toward arguments. If the evidentiary record is tight, the AI will have less to work with.

The Takeaway

The rise of the ChatGPT plaintiff reflects a permanent shift in the competence and confidence of pro se plaintiffs. And this will only continue to evolve as AI becomes more capable and more widely used. For PEOs, the co-employment structure that creates so much value for clients also creates shared exposure to this emerging litigation reality. The PEOs that get ahead of it – through smarter contracts, better documentation practices, and proactive client education – will be better positioned than those that treat it as someone else's problem.

Conclusion

Fisher Phillips will continue to monitor developments and provide updates as warranted, so make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information direct to your inbox. For further information, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney on the firm's [PEO Team](#).

This article is reprinted with permission from PEO Insider where it appeared in the May 2026 edition, available [here](#).