



## Fisher Phillips Litigators Pull Back Curtain On 2 Novel Trial Strategies That Will Come Up In COVID-19 Litigation

Insights

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Just as the pandemic arrived in the United States at the end of February, Fisher Phillips attorneys were educating a select group of inside counsel about the dangers of catastrophic jury and arbitration awards and providing practical suggestions on how best to prevent such situations. Now that plaintiffs' attorneys are beginning to unleash COVID-19 employment litigation on businesses across the country, the lessons taught at the Fisher Phillips Inside Counsel Conference 2020 take on a newfound significance.

In this [three-minute recap video](#) containing interviews with Fisher Phillips litigators and an experienced general counsel, you'll learn about two of the most creative strategies that plaintiffs' attorneys are beginning to employ to their benefit to obtain jaw-dropping jury and arbitration awards – including tactics that begin to unfold at the very onset of litigation. You'll also hear advanced practical lessons from [Karl Lindegren](#) and [Kristen Nesbit](#) that employers and their lawyers can take once these lawsuits get served and all the way through trial, especially when it comes to the incoming deluge of emotionally charged COVID-19-related litigation.

Specifically, you'll get acquainted with the **Reptile Theory**, a strategy to frighten jurors and decisionmakers in way that used to only be found in personal injury actions. Employers and their defense attorneys need to prepare for this tactic early on or face disproportionately large awards. You may even utilize a version of this theory to your own advantage through creative defensive maneuvers.

You'll also hear about the **Gatekeeper Effect**, a method by which plaintiffs' attorneys can convince a judge to validate and lend credence to their own theories by admitting expert testimony supporting their claims. The key to defending against this tactic? Educating the judge early and often about what's going on and putting it in context to enable your side to control the narrative.

You can [watch the video here](#) and connect with the [Fisher Phillips COVID-19 Litigation and Class & Collective Actions Group here](#). In the meantime, we will continue to monitor COVID-19 litigation and report on any developments that may impact your business. Make sure you are subscribed to [Fisher Phillips' Alert System](#) to get the most up-to-date information.

For further information, contact your Fisher Phillips attorney, the author, or any member of [our Post-Pandemic Strategy Group Roster](#). You can also review our [FP BEYOND THE CURVE: Post-](#)

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[Pandemic Back-To-Business FAQs For Employers](#) and our [FP Resource Center For Employers](#).

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*This Legal Alert provides an overview of a specific developing situation. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.*

### ***Related People***

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