



PEO Advocacy and Protection

Overview

We have represented, advocated for, and protected the professional employer organization (PEO) industry from the early days of “employee leasing” when there was little to no licensing and limited legal certainty—to the present day where there is broad legal recognition of the PEO model, with over 40 states and the IRS recognizing it. We are proud to be a member of, contributors to, and a Medallion Partner of the National Association of Professional Employer Organizations (NAPEO). Our firm and/or our members serve as a Board Member of NAPEO, General Counsel for FAPEO, and a member of PACE.

With us, there’s no learning curve. We live in *your* world. We speak your language. We know your concerns – *and* how to address them.

LITIGATION AND EPLI CLAIMS

We defend litigation and EPLI claims filed against PEOs and their client companies. Defending PEOs and managing claims efficiently is an essential part of our PEO practice. We zealously defend these claims while maintaining a clear focus on efficiency, practicality, and communication. We leverage technology and our extensive knowledge of the PEO industry to maximize effectiveness and efficiency.

We also handle disputes between PEOs and their clients, including litigation over the interpretation and enforcement of service agreements; while the definition of “joint employment” is constantly evolving, our attorneys are in the forefront of protecting PEOs from overreaching by plaintiffs’ counsel and governmental agencies on this crucial issue.

BENEFITS, TAX, AND UNEMPLOYMENT INSURANCE CONSULTING, AUDITS, AND DISPUTES

Our benefits and tax lawyers know the nuances and intricacies of compliance as it pertains to PEOs. These areas are more complex now than ever in the wake of pandemic-related legislation such as the CARES Act. Our lawyers provide day-to-day consulting in these areas as well as audit and dispute representation. We provide unemployment insurance consulting and represent PEOs before courts and administrative agencies when states pursue penalties, interest, and back taxes against PEOs.

WAGE & HOUR, PAYROLL, AND PAYROLL TAX

Payroll and payroll tax services, the most basic services a PEO provides its customers, can also be the most complex. When coupled with today's remote workforce creating expansion into multiple tax jurisdictions, those complexities for PEOs seem to grow exponentially. Our attorneys can provide analysis of complex questions pertaining to the Fair Labor Standards Act and employee classification, as well as help develop policies and best practices for payroll-related compliance. We represent PEOs in wage and hour disputes, in both administrative and court proceedings, and assist with the negotiation of settlements. Payroll laws and regulations in both the federal and state arenas change rapidly, and we work with PEOs to provide updates and suggestions for new practices.

We also help PEOs and their customers navigate the increasingly complex landscape of local, state, and federal pay transparency and pay data reporting requirements. Pay equity audits and litigation alleging pay equity claims are also among our areas of strength.

LICENSING, CERTIFICATION, AND COMPLIANCE

From the earliest days of PEO licensing, we have represented PEOs before state licensing boards and state regulatory agencies regarding PEO licensure, discipline, and ongoing compliance issues. We also work with our PEO clients to obtain and maintain IRS Certified PEO status.

CLIENT SERVICE AGREEMENTS

Service agreements are the blueprint for PEO businesses and often are the framework for defending against threats to the PEO model. We protect PEOs by drafting, modifying, and updating service agreements to reflect their unique business model and help PEOs comply with the complex regulatory landscape they face.

HUMAN RESOURCES AND WORKSITE EMPLOYEE COMPLIANCE

Relying on our extensive knowledge management resources, we prepare and update Human Resources documents. We provide seminars and training programs to help keep your HR professionals updated on best practices and the ever-changing legal landscape faced by PEOs. We also provide on-demand consulting for employee relations issues that arise with worksite employees, advising on best practices and strategies for addressing daily HR challenges. We

provide PEO-tailored advice on major topics such as FLSA, FMLA, ADA, NLRA, OSHA, FCRA, and EEO laws, and their state equivalents.

MERGERS AND ACQUISITIONS, CONSULTING, DUE DILIGENCE, AND NEGOTIATIONS

We work with PEOs and investors, along with their corporate transactional counsel, to conduct due diligence and to provide consulting services regarding the purchase and sale of PEOs. We are often called upon by transaction counsel to review industry specific issues. Our lawyers are essential resources in any transaction involving PEOs.

STARTUP CONSULTING AND EXECUTION

We guide startups through the legal landmines that could sidetrack a successful enterprise. We help PEOs by providing them with their client service agreement and other documents, including those pertaining to employee onboarding and offboarding, benefits plan design and strategies, liability insurance strategies, licensing and registration compliance, and ongoing compliance guidance where business and legal strategies intersect.

WORKPLACE SAFETY AND WORKERS' COMPENSATION PROGRAMS

Our deep bench of workplace safety lawyers is a ready resource for PEOs needing assistance. Our safety practitioners draw on experience in industry and government. We also assist with a variety of strategic workers' compensation insurance related matters, such as claims management, captive consulting, and premium audits/disputes.

IMMIGRATION, FORM I-9 AND E-VERIFY

PEOs have special immigration considerations with respect to the employees of client companies, as well as their own internal workforces. Issues related to I-9 and E-Verify requirements are especially complex for PEOs, especially in the areas of record retention, risk allocation between a PEO and its client employers, and government audit response strategies. In addition, PEOs often have needs in the areas of employee work-authorization and visa processing, permanent residence sponsorship, and related compliance concerns. Our immigration lawyers dedicate their entire legal practice to these areas and they understand the unique ins and outs for PEOs.

GOVERNMENT RELATIONS AND ADVOCACY

We come to the aid of PEOs when called upon to interpret and address state and federal regulatory actions, whether at the legislature, a regulator's office, or the courtroom. Our lawyers have been instrumental in writing the laws and regulations that have become the bedrock of the PEO industry. We proudly serve as the legislative advocate for NAPEO in California and serve as general counsel and legislative and regulatory advisors to FAPEO.

PRIVACY & CYBERSECURITY SERVICES

Our Privacy & Cyber Team works with PEOs on compliance and litigation matters involving state, federal, and international consumer privacy and cybersecurity laws and regulations. We assist PEOs with the following and more:

- Compliance with the California Consumer Privacy Act (CCPA) and other comprehensive privacy laws in the U.S. and around the world
- Managing vendor and third-party risk
- Defending against claims involving use of website technologies like cookies and pixels
- Conducting cybersecurity audits
- Data breach response, reporting, litigation, and prevention

CORPORATE COMPLIANCE AND GOVERNANCE

Our Corporate Compliance and Governance Practice Group assists PEOs in designing and implementing compliance and ethics programs, employee hotline reporting systems, and record retention programs. In addition, we help PEOs with governmental reporting requirements and related issues to ensure that “Red Flags” are addressed by corporate executives and directors in a timely and effective manner in order to avoid what could become personal liability.

CONSULTING FOR DAY-TO-DAY OPERATIONS

For a PEO, every day brings the potential for new challenges with intertwined legal and practice factors that will complicate efforts to respond. Our PEO Industry Team includes former PEO inhouse counsel and HR professionals who have navigated those day-to-day challenges and understand the importance of avoiding an unintended ripple effect while providing excellent customer service. We understand that PEO customers and employees may raise issues and questions that result in even more questions for the PEO. Often, our attorneys have encountered the same or similar circumstances and can provide the guidance needed to evaluate and resolve the situation.

FP PEOPLELAW

Fisher Phillips is proud to host the annual FP PeopleLaw Conference, which is the only legal conference that brings together participants from PEOs, staffing agencies, and other work management industries. Hosted every spring in beautiful and inspiring Rancho Palos Verdes, CA, the FP PeopleLaw conference assembles thought leaders from all over the country – and the world – to discuss legal and business content tailored to the workforce service industry and to provide solutions attendees can immediately apply to their companies.

EVENT

Monday, March 3, 2025 – Thursday, March 6, 2025

FP PeopleLaw 2025

John M. Polson, Sheldon J. Blumling, Benjamin M. Ebbink, Rick Grimaldi

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INSIGHTS

11/13/24

Understanding Temporary Employment and Professional Employer Organizations (PEOs) in Germany

Mauricio Foeth

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INSIGHTS

10/16/24

How Can PEOs Prepare for Evolving Pay Transparency and Equity Trends? 3 Key Questions to Consider

Benjamin M. Ebbink, Monica Snyder Perl, Sarah Wieselthier

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INSIGHTS

10/10/24

Comprehensive Checklist to Help Businesses Prepare for Soccer's 2026 World Cup

Ted Boehm, Risa B. Boerner, Benjamin M. Ebbink, Nan Sato, Todd B. Scherwin, Adam F. Sloustcher, Lauren M. Sobaski

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PUBLICATION

10/07/24

Partners Share Considerations for PEOs to Prepare for Evolving Pay Transparency and Equity Trends

Benjamin M. Ebbink, Sarah Wieselthier, Monica Snyder Perl

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INSIGHTS

10/07/24

The Next Generation of E-Verify: A Brief Guide for PEOs

Brian J. Coughlin, Catherine "Ree" Harper

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INSIGHTS

09/30/24

New California Law Expands Protections for Freelance Workers: What Employers Must Know + 5 Steps You Can Take to Comply

Benjamin M. Ebbink, Rosa Hernandez, Serineh Terzyan

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EVENT

09/26/24

Doing Business in Mexico: PEOs and EORs

Germán de la Garza De Vecchi, Adriana Mayo

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NEWS

09/04/24

Fisher Phillips Attorneys Provide PEO Leaders 3 Ways To Save Up To 85% On CA Litigation Costs (Thanks To PAGA Reform)

John M. Polson, Richard R. Meneghello

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NEWS

09/04/24

Republished Insight: Reform of Private Attorneys General Act Could Mean Sweet Relief for the Professional Employer Organization Industry: 3 Steps to Save Up to 85% on California Litigation Costs

John M. Polson, Benjamin M. Ebbink

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Partnerships

