



# Insights: Top Disputes & Investigations

Labor and Employment





## Labor and Employment

Even before COVID-19, the legal landscape for labor and employment was changing rapidly. Pay equity, non-discrimination, anti-harassment and employee vs. contractor classification, amongst others, had all become important issues. Now, with COVID-19 and the record levels of unemployment and upheaval to labor markets it has created, the range of labor and employment issues subject to litigation is likely to increase significantly.

In this section, of our **2020 Insights: Top Disputes & Investigations**, we highlight our work helping clients resolve disputes on major Labor and Employment projects.

# Statistical Analysis in a Wage and Hour Class Action

An insurance company that was facing allegations of unpaid overtime and missed meal periods and rest breaks from a California class of more than 1,000 claims adjusters. Legal counsel retained FTI Consulting to provide a testifying expert, who submitted multiple declarations that challenged the Plaintiffs' proposed trial plan and the use of their expert's survey results as statistical evidence of class-wide liability and damages.

In May 2019, the Court agreed with FTI's argument that (1) Plaintiffs' expert failed to show that the survey responses are representative of the entire class, and (2) the survey responses are inaccurate and biased, making them unreliable. The Court excluded all evidence related to the survey provided by the Plaintiffs' expert. The case settled favorably for FTI's client.

## Subject Matter Experts



**Daniel Slottje**  
Senior Managing Director



**Brendan Rogers**  
Managing Director

# Calculating Profit Sharing in Alleged Wrongful Termination

Counsel for a large private telecommunications company retained FTI Consulting in a dispute with a former employee. The former employee, who had a profit-sharing agreement with the company, alleged that he was wrongfully terminated and was owed profits pursuant to that agreement.

FTI analyzed the company's financial records and assisted the company in preparing financial statements that would help calculate what the employee was owed under his agreement with the company. This was more challenging than usual because the profit-sharing agreement contained terms not ordinarily used in GAAP accounting and the company did not keep its business records in the same format that the terms of the agreement specified.

While completing this work, FTI provided additional value by assisting the company through a delinquent audit. FTI provided analysis and worked with the company's third-party auditors to help satisfy audit requirements.

## Subject Matter Experts



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