



## Employment Issues Around a Work from Home Workforce

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### Issues Relating to Location:

- Differing state employment laws.
  - Meal and rest times.
  - Overtime.
  - Discrimination/Harassment Training.
  - Wage Payment.
  - Tax Issues.
- Cities/municipalities
- Notice posting.
- Restrictive Covenant enforceability.



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## Best practices for workers in different locations

- State Survey.
- Have robust WFH Policy. Should include, in part:
  - Authorization required to work outside of state of hire.
  - Must report exact location of all work performed remotely.
  - Cannot work in another state or country for more than fifteen (15) days without written approval.
- Post required notices electronically.
- Consider adding forum and choice of law provisions to employment agreements.
- Update employee handbook and policies to include addendums for various states and ensure current policies encompass remote work.

## Wage and Hour Concerns:

- Overtime for non-exempt employees.
- Tracking hours can be challenging.
- Can lead to claims of wage-and-hour violations for unpaid overtime.
- Claims can result in liquidated damages and attorney fees.



## Wage and Hour Concerns:

- Travel time
- Pay for all hours worked:
  - Overtime.
  - Work not requested but suffered or permitted.
- Real risk with "off the clock" tasks that can add up:
  - Unpaid work for after-hours emails, phone calls, etc.
  - Recent disputes of computer start-up time.



## Wage and Hour Concerns:

- DOL: obligation to exercise reasonable diligence in tracking hours for remote employees.
- Due diligence:
  1. Reasonable reporting procedure; and
  2. Compensate for all reported hours of work.
- Impractical efforts to investigate unreported hours not required.
- Reporting procedures are not "reasonable" if:
  - prevents or discourages from reporting working time;
  - does not provide proper training on the procedure; or
  - requires waiver of right to compensation for hours worked.

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## Title search: Employment Issues Around a Work From Home Work Force

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56<sup>th</sup> Annual William W. Gibson, Jr. Mortgage Lending and Servicing Institute session  
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