

DOL releases guidance on tracking remote employee hours, Newsday, ft. Keith Gutstein

Keith Gutstein, Esq., co-managing partner of the Long Island office of Kaufman Dolowich & Voluck, LLP and co-chair of the KD Labor & Employment Law practice group, was quoted in a *Newsday* article written by Jamie Herzlich - October 8, 2020.

The growth in employees working remotely since COVID has created some timekeeping concerns.

With one in four U.S. workers working entirely from home since the pandemic, according to Gallup, tracking normal workday hours can become more complicated for some employers as nonexempt employees work from home and may have home and child care demands that disrupt or extend the normal eight-hour workday.

To help clarify employer responsibility as it relates to tracking teleworking employee hours, the U.S. Department of Labor released guidance that highlights an employer's responsibility to compensate hours worked whether the work was requested or approved by the employer.

Keith Gutstein, co-managing partner of the Woodbury office of Kaufman Dolowich & Voluck LLP, says it's critical having a system where time can be tracked accurately be it by calling in, logging in or even email submission of records.

Courts in a wage-and-hour dispute will consider if the employer had knowledge of the unscheduled work through "reasonable diligence," such as work-related email correspondence after the employee's normal hours, says Keith Gutstein, co-managing partner of the Woodbury office of Kaufman Dolowich & Voluck LLP.

That's why it's critical having a system where time can be tracked accurately be it by calling in, logging in or even email submission of records, he says, noting in absence of records, the burden continues to be on employers to challenge hours claimed to have been worked by employees.

It may even pay to implement a flexible telework arrangement if they have to work unconventional hours, Gutstein says. But if you do, he recommends putting it in writing, specifying the hours they plan to work outside of their normal schedule.