

## Mass Telework During Virus Pandemic Sets Stage for Wage Battles, *Bloomberg Law*, ft. Katherine Catlos

*Katherine S. Catlos, KD partner and Chief Diversity & Inclusion Officer, CIPP/US, CIPM, was quoted in an article written by Erin Mulvaney on California employer issues and Coronavirus published in Bloomberg Law on March 23, 2020.*

*Mass telework blurs the lines around when an hourly worker punches in and punches out, potentially sparking wage and hour battles between employees who typically work in the office and their employers.*

*The novel coronavirus also could trigger legal issues surrounding who's eligible for overtime pay and requirements to be on call, an issue already vexing some courts. Employee reimbursement laws could activate in certain states, questions about disability accommodations will linger, and privacy issues also confront employers, attorneys warn.*

*Covid-19 has brought these issues into sharp focus for many employers that aren't used to managing a remote workforce, as they have typically expected certain jobs to be performed in the office. These can include office workers, such as paralegals, and some technology, accounting, or human resources positions.*

*Meanwhile, employees fear saying no to work off the clock or pressing other rights with a sinking economy and widespread layoffs looming, attorneys say.*

### State Considerations

Some states have extra restrictions for remote work. If mandating telecommuting, for example, California law requires employers to pay for business expenses such as cell phones and internet usage. Keeping time records is the best way to ensure compliance with meal and rest break laws, as well as overtime and minimum wage requirements, said labor and employment partner Katherine Catlos at Kaufman Dolowich & Voluck in San Francisco.

She also said federal and state wage and hour laws could be triggered if employers deduct pay from an exempt employee. The FLSA requires employers to pay full salary to an exempt employee performing any work during a given workweek, Catlos said. California law doesn't allow deductions from salary for absences of less than a full day for personal reasons or for sickness.

Some employers may require exempt staff to take vacation or paid time off in the case of an office closure due to Covid-19, whether for a full- or partial-day absence. If the exempt employee doesn't have sufficient vacation time or PTO available, the employee still must receive the full guaranteed salary for any week in which he or she performs any work to maintain exempt status. The exempt employee doesn't have to be paid for any workweek in which no work is performed. But Catlos said employers should cross-reference their employee handbook to confirm the company hasn't offered more generous benefits.

"If an exempt employee works any portion of a day, there can be no deduction from salary for a partial day absence for personal or medical reasons," Catlos said. "Federal regulations allow partial day deductions from an employee's sick leave bank so that the employee is paid for their sick time by using their accrued sick leave."