Remote Workers

Legal Issues and Managing Risk
Requests to Work Remotely

• Worked well as a response to COVID-19
• Encouraged by CDC, OSHA, DOL, EEOC
• Is it right for your firm?
• Is it right for the position?
• Can you make it work?
Issues and Risks

• What laws apply?
• What are the risks of not allowing?
• What are the risks of allowing?
Labor and Employment Laws

• Wage and Hour Laws
  – Timekeeping, Overtime
  – Case regarding applicability
• Anti-Discrimination Laws
• Leaves
• Equipment and Expenses
Managing Risks

• Security
• Contact/Oversight
• Safety/Workers Compensation
• Hiring
Benefits for Employers – Remote Workers

- Increased morale
- Overhead reduced
- Good for the environment
- Increased pool of candidates
- Can increase productivity
Legal Issues

• Liability potential increase
• Policies and procedures need to be in place and implemented
• Need to manage
Policies

• Clear that available only on a case by case basis
• Requirements of satisfactory performance, authorized, nature of job fits
• Trial period
• Need to be responsive, have schedule
• Work space requirements and equipment agreement
Agreements – Special Circumstances

- Detailed as to expectations of employee and employer
- Not an employment contract; can be terminated for no reason
- Employer can visit with notice
- Define responsibilities
- No use of home office for meetings
- Reserve right to modify or cancel
Case Example

• Remote work at client's site;
• Falls asleep on way home and injures other driver
• Is employer vicariously liable? Was employee acting in scope of employment?
Conclusion

• Have written policies and procedures
• Know where employees reside and laws of the states
• Consider remote work or telework agreements for some to define expectations and requirements
• Discuss insurance requirements with broker
Questions?

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For more information and links to resources, please visit the Donovan Hatem website.