

Presented:
31st Annual
Labor & Employment Law Conference

May 30-31, 2024
Austin, Texas

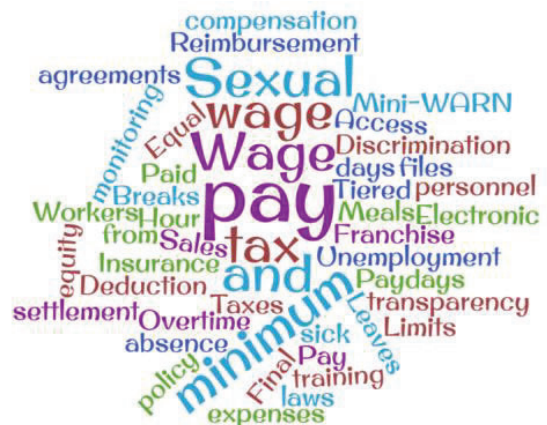
We're Still Trying to Figure It Out: Best Practices and Legal Compliance in the Evolving World of Remote Work

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The Old Remote Problem

- Myriad state and local laws regulating all aspects of employment
- Employees working in other jurisdictions often governed by local law
- Employers allowing remote work in other jurisdictions must establish means of compliance



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The Lawyer's Role

- Can you represent an employer who faces a claim from an employee in a state where you are not licensed?
- Can you represent an employee in a state where you are not licensed if you are licensed in the state in which the employer is domiciled?

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Texas Rule 1.01. Competent and Diligent Representation

- (a) A lawyer shall not accept or continue employment in a legal matter which the lawyer knows or should know is beyond the lawyer's competence, unless:
- (1) another lawyer who is competent to handle the matter is, with the prior informed consent of the client, associated in the matter; or
 - (2) the advice or assistance of the lawyer is reasonably required in an emergency and the lawyer limits the advice and assistance to that which is reasonably necessary in the circumstances.

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Texas Rule 1.01. Competent and Diligent Representation

Comment:

Accepting Employment

1. ... Competent representation contemplates appropriate application by the lawyer of that legal knowledge, skill and training, reasonable thoroughness in the study and analysis of the law and facts, and reasonable attentiveness to the responsibilities owed to the client.
4. A lawyer possessing the normal skill and training reasonably necessary for the representation of a client in an area of law is not subject to discipline for accepting employment in a matter in which, in order to represent the client properly, the lawyer must become more competent in regard to relevant legal knowledge by additional study and investigation. If the additional study and preparation will result in unusual delay or expense to the client, the lawyer should not accept employment except with the informed consent of the client.

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Texas Rule 5.05. Unauthorized Practice of Law

A lawyer shall not:

- (a) practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction;

Comment

5. Authority to engage in the practice of law conferred in any jurisdiction is not necessarily a grant of the right to practice elsewhere, and it is improper for a lawyer to engage in practice where doing so violates the regulation of the practice of law in that jurisdiction. However, the demands of business and the mobility of our society pose distinct problems in the regulation of the practice of law by individual states. In furtherance of the public interest, lawyers should discourage regulations that unreasonably impose territorial limitations upon the right of a lawyer to handle the legal affairs of a client or upon the opportunity of a client to obtain the services of a lawyer of his or her choice.

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First appeared as part of the conference materials for the
31st Annual Labor and Employment Law Conference session

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