

Home Sweet Home? Employers And Employees Are Just Scratching The Surface Of How Work And Home Fit Together

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Employers and their lawyers spend a lot of time focused on current developments and medium term trends, as they must. But after you have worked in employment law for a while, it is interesting to stop and reflect every now and then on the inexorable long term trends that shape our workplaces. (And that is actually pretty useful in effectively addressing shorter term issues.) Two stand out for me:

1. Regardless of how one spins year to year blips, [private sector unions have consistently declined](#) over the course of many decades.
2. The consistent increase of statutory protections for employees since Title VII was passed in 1964. Battles over particular laws on the federal, state and local level aside, over time the categories of [people protected by discrimination laws](#) consistently increases.

While not quite as enduring yet, the increasing importance of home to work seems to be one of those trends, so this week H is for Home. The 40 hour week at the employer's fixed location that was the predominant working arrangement at the dawn of employment law in the first third of the 20th century has over the past few decades become increasingly less common for a combination of many reasons:

- Technology allows more working flexibility.
- Changing family structures demand more flexibility.
- Economic pressure pushes employers to seek more flexibility and, frankly, to minimize the employee benefits costs that tend to come with full-time employees.

These changes manifest themselves in a number of legal issues. To what extent is an employer required to allow [work at home \(or telecommuting\)](#)? It is more difficult in the environment of 2014 to say that is not a reasonable accommodation. Some states require employers to consider [flex time arrangements for some employees](#). Does an employer have any obligation to ensure the safety of the home workplace? And what if an employee is injured at home while working? How does the employer manage the introduction of home into its [electronic systems via personal devices](#)? These

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are some of the key issues that we are working on, but this is one of those trends, it seems, that our successors twenty years from now that our successors will see as one of those half century or more shifts.