



LOS ANGELES BUSINESS JOURNAL

The New Flexible Hybrid Workplace

A Roadmap for Employers

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On May 25th, employment law pros Dana Kravetz and Lara Shortz, both partners at Michelman & Robinson, LLP, presented an informative discussion, “Navigating the Flexible/Hybrid Workplace: A Roadmap for Employers,” that hit upon the following topics:

- **The Home Office:** How Did We Get Here?
- **COVID-19:** An Imperfect Testing Ground for the Work-From-Home Movement
- **The Importance of Engagement:** Fostering Integrated, Collaborative and Cohesive Teams
- **Legal Considerations:** Wage & Hour Law, Workplace Bias and the Like

Many thanks to these two thought leaders for sharing their critical insights on what every business needs to know. A recording of the presentation is available on the Los Angeles Business Journal website at labusinessjournal.com/events.



Lara A. H. Shortz
Employment Advice, Counsel & Executive Disputes Chair
 Michelman & Robinson, LLP



“Many companies and employees are asking about reimbursement for home office expenses. Here in California, laws require a level of reimbursement for necessary work-related expenses, meaning businesses will be on the hook to cover certain costs associated with working from home.”

Dana A. Kravetz
Firm Managing Partner
 Michelman & Robinson, LLP



“Questions around workplace efficiencies, a focus on work/life balance, and the steady drumbeat of awareness pertaining to employee health, wellness and commuter issues meant that—sooner or later—employers would be forced to reevaluate the traditional nine-to-five. COVID-19 simply hastened that inevitability.”



“As more and more employees begin working from home and the hybrid model settles in, some may begin to question whether they *should* be operating remotely. That being said, it’s incumbent upon employers to ensure that the time workers spend in the office is productive and meaningful, with team meetings and other face-to-face opportunities that maximize the onsite experience.”



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First Person: My View of the Flexible and Hybrid Workplace

By DANA KRAVETZ

Back in mid-March 2020, news of the novel coronavirus in the U.S.—and an onslaught of stay-at-home orders—suddenly changed the face of the domestic workplace. In the blink of an eye, employers and employees across industries shifted gears and set up shop at kitchen tables and home offices nationwide, as remote work became a necessary tool to combat the spread of COVID-19.

No doubt about it, the pandemic has been an utter catastrophe the world over. Yet for many in the labor force, COVID-19 has brought with it at least one silver lining—a transition to a new way of working.

Some would argue that the pandemic itself is the reason employers have embraced a more flexible workplace—be it one that allows employees to work off-site entirely or welcomes hybrid schedules with certain days at the office and others telecommuting. I offer a different perspective.

In my view, COVID-19 is—and was—simply a catalyst that brought to the surface long-simmering issues related to work/life balance, health and wellness, and workplace inefficiencies that, absent the pandemic, would've ultimately required a reassessment of the traditional nine-to-five model.

A SKEWED TRIAL RUN

As it turned out, COVID-19 forced management's hand and served as an imperfect testing ground for a growing work-from-home movement—a movement facilitated, in part, by the advent of Zoom, Microsoft Teams and similar tech that's enabled us to stay connected and just a click or two away wherever we may be. Yet this grand, pandemic-driven experiment—one that Gallup reports had nearly 70% of full-time employees in the U.S. operating remotely during COVID-19's darkest days—doesn't adequately reflect the way in which flexible or hybrid workplaces will operate going forward.

Here's why. During the infancy of the pandemic, employers' major focus was on having the necessary tools in place to allow workers to function off-site. Thankfully, technology proved that businesses could, for the most part, seamlessly operate even if employees were not all together in one place. What we can't forget is that the unfortunate circumstances we all experienced during the thick of things in 2020—and then again when the delta and omicron variants spread—made sure of that.

When stuck at home with nowhere to go, it was relatively easy for us to concentrate on our jobs and remain engaged with others in the scattered workplace. With conditions on the ground limiting our ability to run to the store, step out for leisurely lunches, or shuttle the kids to soccer practices, we were less likely to put projects on hold or leave until later those calls to check in with colleagues. Consequently, for months employers have heard a common refrain from those working remotely, "I've never been more productive!" Funny what a lack of distractions can do for workplace efficiencies.

But today the worst of the pandemic looks to be behind us and life seems to be creeping back toward normal. Mask mandates have



largely been lifted, travel has resumed, more and more Americans have rolled up their sleeves for vaccinations and boosters, and people of all ages are re-entering society. That being said, the dynamics of the workplace appear to be forever changed.

THE FLEXIBLE AND HYBRID WORKPLACE IN THE WAKE OF COVID-19

Post-pandemic, employers that permit employees to continue working remotely would be wise to take stock of their operations and shift their collective focus away from whether workers are able to adequately handle their jobs from home. Presumably, the past couple of years has confirmed that they absolutely can, depending, of course, upon the particulars of any given role.

Employers should now be asking themselves some different questions concerning the very fabric of the redefined workplace. For instance:

- How will team members situated in varied locations be integrated in such a way as to foster collaboration, interaction and departmental cohesion?
- How can a team approach to work be maintained and optimized when not all team members are playing on the same field?
- How will those off-site be received by others in the office, so that efficiencies are maximized and potential resentments are kept to a minimum?
- How can an open-door policy be fostered within the new workplace paradigm to ensure that colleagues engage with one another, ask questions, serve as guides and mentors, and

provide help when needed?

In the traditional office model, we say "good morning" to co-workers upon arrival, "hello" when we pass them in the halls, we tell our bosses when we're headed out for a bite and pop our heads into colleagues' offices for chats about any number of topics. The importance of these interactions can't be overstated, and employers must find ways to nurture—or even demand—the same kind of behavior, even when a portion of the office is away from the office.

COVID-19 had so many of us isolating and hunkering down in our own environments, which is exactly the opposite of what's necessary to preserve a healthy and fully functioning workplace. Notwithstanding the flexible and hybrid schedules coming out of the pandemic, an intentionality around employee collaboration and engagement is as important as ever—just as it is in the conventional office setting.

IN CLOSING, SOME LEGAL CONSIDERATIONS

As an employment lawyer, I'd be remiss if I didn't touch upon a small handful of legal factors that management should keep top of mind when giving the green light to remote work.

First and foremost, wage and hour laws apply whether or not employees are showing up to the office. This means that issues regarding employee classification, overtime compensation, meal and rest breaks, off-the-clock work and the like can't be overlooked simply because workers are doing their jobs from home.

Next, it must be understood that, as a rule, remote employees are generally covered under workers' compensation policies when injuries or illnesses occur while they're acting in the interest of their employers. Accordingly, companies are responsible for providing a safe work environment for telecommuters, which is no easy task.

Finally, harassment and similar workplace problems don't disappear simply because employees aren't physically in each other's presence. For this reason, clear policies and procedures should be implemented enabling real and immediate HR connectivity for remote workers.

Certainly, there are plenty of additional legal considerations to keep management up at night—workplace bias and home office/work-related expense reimbursement obligations, among them—as the flexible and hybrid workplace continues to evolve. As it does, cultivating a unified and connected workforce is job number one for employers.

Dana A. Kravetz is the firm managing partner of Michelman & Robinson, LLP, a national law firm headquartered in Los Angeles, with additional offices in Orange County (California), San Francisco, Dallas, Houston, Chicago and New York. His practice is focused on the representation of management in a range of employment law matters – discrimination, wrongful termination, whistleblower and class action litigation, sexual harassment prevention, workforce reduction, hiring best practices and wage and hour issues, included. He can be contacted at (310) 299-5500 or dkravetz@mrlp.com.