



Covid-19

UPDATE:
April 16, 2020

**Coronavirus / COVID-19
Response Team**

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**FLSA and Labor Issues
in a COVID-19 World**

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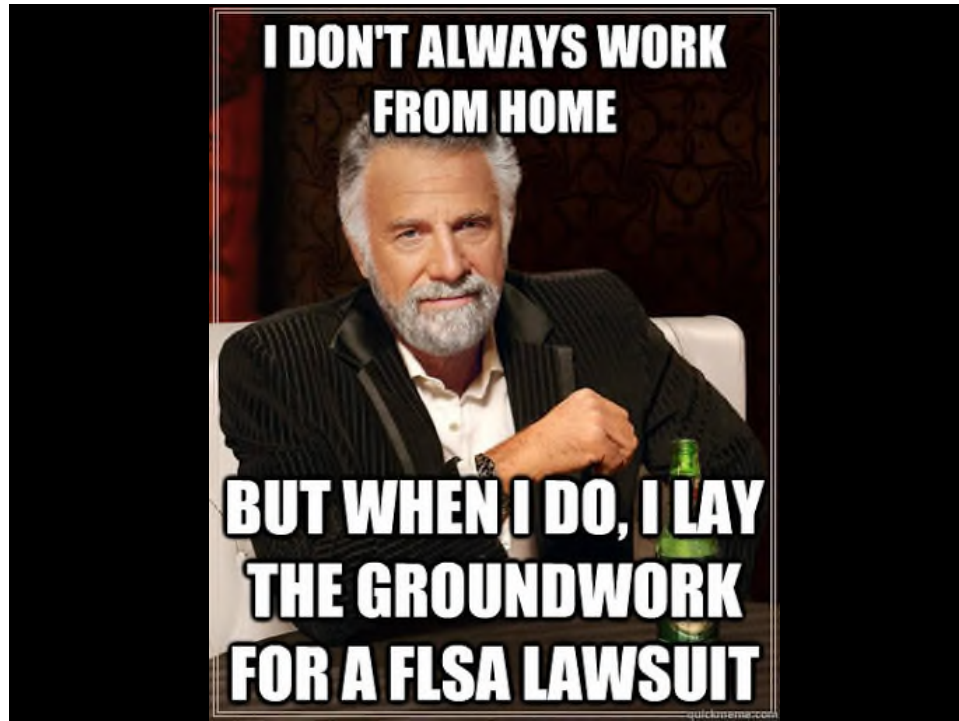


FLSA Issues

- Salary/wage reductions
- Teleworking for non-exempt employees
- Extra pay for employees who continue to work (sometimes called “hazard pay”)
- Questions?

Salary/Wage Reductions

- Exempt:
 - Can I reduce the salary of an exempt employee?
 - Can I reclassify an exempt employee as a non-exempt employee?
 - Can a salaried exempt employee volunteer to take a partial week off of work due to lack of work?
- Non-Exempt:
 - Is it legal for an employer to reduce the wages or number of hours of an hourly employee?



Teleworking for Non-Exempt Employees

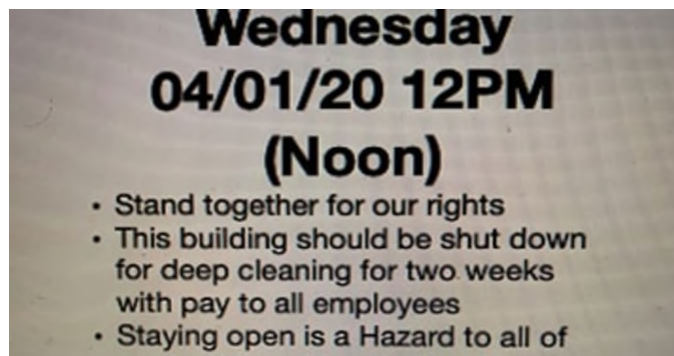
- General Rules
- Methods for timekeeping
- FFCRA Regulations
 - “all in a day’s work” is not the rule

Extra pay

- Non-exempt employees
 - Bonuses (looking forward)
 - Gifts (discretionary, looking back)
 - Percentage of total pay as bonus
- Government funded bonuses?
- Exempt employees

Labor Issues

1. Non-union employers
2. Union employers



Non-Union Employers

1. Strikes / Slowdowns

4/15/2020

COVID-19 Strike Map

COVID-19 Strike Map

- 13,000 Carpenters Strike in Mass
- Nursing Home Nurses Strike
- Pilgrim's Pride Meatpackers - 04/03/20...
- 180 Latina Flan Makers Strike
- Perdue Meatpackers
- Pittsburgh Sanitation Workers - 03/25/2...
- Kroger Warehouse Workers
- Instacart Workers Strike Nationwide
- Instacart Workers strike
- Birmingham Bus Drivers Strike
- Detroit Bus Drivers Strike
- Amazon Warehouse Workers Walkout
- Naval Shipyard Workers Strike
- Perdue Chicken Workers Strike
- 1,000 Immigrant Meatpackers Walk-Off 1...
- Chrysler Workers Strike
- Baltimore Wastewater workers strike
- McDonalds Workers strike
- McDonald's Workers Strike

COVID-19 Strike Map - Google My Maps

Sign in

Canada

United States

Mexico

<https://www.google.com/maps/@39.29254118552C42,18512096168898j4>

Non-Union Employers

2. Concerted Protected Activity



1. Concerted

- Was it taken in concert - "*in, with, or on the authority of others*" or "*in preparation for group action*"?

2. Protected

- Was it done for the purpose of "*mutual aid and protection*"?

Non-Union Employers

3. Work rules

The NLRB's *Boeing* rule is good – 3 categories

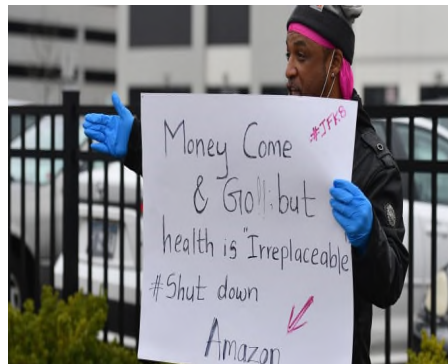
Some policies potentially at issue:

- Social media policies
- Civility rules
- No recording rules
- Non-disparagement rules
- Speaking to the press
- Non-solicitation/distribution
- Property rights / IT systems

Non-Union Employers

4. Union free strategies

- Fertile ground for organizing
- Employee engagement/comms are critical



Unionized Employers

- Strikes . . . but we have a no-strike clause?
- Union relations/ communications
- Requests to bargain
 - Not for mid-term change
 - The NLRB's new "covered by" rule
 - Legal compliance



Unionized Employers

- Unilateral changes (e.g. incentive pay/benefits)
- Information requests
- Grievances/ contract liability (e.g. layoffs)
- Overall labor strategy
 - Opportunities?
 - Negotiations strategies / do we extend?





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