

Working from Home during the Pandemic: Your Rights Regarding Reimbursement

As a result of government directives and employers' judgment calls related to the coronavirus pandemic (COVID-19), many employees must now work from their homes. In these difficult times, we recognize that many of us are fortunate to be able to work from home. Nonetheless, under California law, employers are required to reimburse employees for the reasonable business expenses they incur as a result of working from their homes or apartments.

When employees work remotely, they incur costs that employers must reimburse. Examples include cell phone costs (unless the employer provides the cell phone and pays for the service plan), internet service, printer costs, and even the cost of home office space (e.g., a portion of rent or mortgage payments).

California Labor Code Section 2802(a) provides in relevant part that “[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer ...”

In *Cochran v. Schwan's Home Service, Inc.*, 228 Cal.App.4th 1137 (2014), the California Court of Appeal held that an employer was obligated to pay for at least some portion of employees' cell phone plans even where those plans provided unlimited minutes of use, *i.e.*, even where there was no incremental cost to employees for using their personal devices for work purposes. See also *Herrera v. Zumiez, Inc.*, 953 F.3d 1063, 1078 (9th Cir. 2020) (if the use of a personal cell phone is required by the employer, then reimbursement is required, regardless of whether the employee would have incurred the same cell phone expenses anyway).

While California courts do not appear to have addressed the precise issue, it stands to reason that an employer also is required to reimburse employees for the reasonable costs of a home office if they are required to work from home. As the California Supreme Court noted in *Gattuso v. Harte Hanks Shoppers, Inc.*, 42 Cal.4th 554, 562 (2007), the purpose of section 2802 is to “prevent employers from passing their operating expenses on to their employees.” If employers mandate that employees work from their homes, employers should reimburse a reasonable sum for the expenses incurred by the employee, including their workspace.

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