

## Cell Phone Legal Sins Include Driving, Textual Harassment

Publication

9.11.09

It is almost unimaginable to live in today's business world without a cell phone. Over the last 15 years, they have become an indispensable piece of equipment, offering the benefits of streamlined communications channels and 24-hour-a-day availability. However, employers are starting to become familiar with the hidden pitfalls of workplace cell phone usage, forcing them to reckon with some unintended consequences.

For one, round-the-clock access to your employees is not always a good thing, especially when it can get you in hot water with pay disputes. Employees who are paid hourly should not be conducting work business while off-the-clock, including responding to quick e-mails or texts or handling a brief cell phone call.

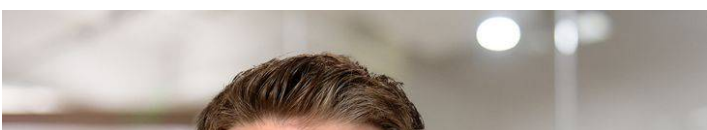
The second problem cropping up with ever-increasing regularity is harassment conducted via text message — "textual harassment." The communication is instantaneous, cannot be retrieved, and survives forever, which can lead people to say things they immediately regret. There is a growing number of lawsuits and employee complaints that include offensive text messages as evidence of inappropriate behavior, most commonly flirtatious emails from male supervisors to female subordinates or co-workers.

Finally, come Jan. 1, 2010, local employers will need to be wary of the newest trap that cell phone usage can cause. On that day, Oregon law will prohibit all drivers from using cell phones unless the device is operated in hands-free mode. Once the practice is deemed illegal, it will be easier for anyone injured by a driver who causes an accident while talking on a cell phone to recover in a negligence action against not only the driver, but the employer of that driver if the accident takes place while driving for the company. Employers will want to revise written policies and practices to ensure that employees do not take to the road while talking or texting on the phone.

---

This article appeared in the September 11, 2009 issue of *The Portland Business Journal*.

### ***Related People***





**Richard R. Meneghello**  
Chief Content Officer  
503.205.8044  
[Email](#)