Texting On The Job Can Be Costly

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A recent decision by the Supreme Court in a case called City of Ontario v. Quon should be viewed as a warning in big capital letters to workers everywhere. The Supreme Court ruled that a public employer did not violate an employee's Fourth Amendment rights when it searched an employee's text messages. This decision should not really surprise anyone: When employees use company-issued equipment on company time, they should not expect their communications to be private. Nevertheless, many employees fail to heed this modern workplace reality.

For employers, the lesson is that electronic communications policies should not only be established, but should also be periodically reviewed and updated to ensure that they cover new technologies and forms of communication (such as Twitter or other social networking sites), and that they are reasonable and practical in light of society's ever-changing norms. A private employer generally has far greater latitude than a public employer when it comes to searching and monitoring employees' communications, but any search should be tailored to fit the circumstances and to avoid unnecessary intrusion into employees' personal lives.

Lessons for employees: Assume that when you communicate electronically - whether by e-mail, blog or a social networking site - you are creating a permanent record. Write every e-mail or text as if your bosses are looking over your shoulder, because there's a good chance they are. And remember that you may not be given the opportunity to explain your intentions or the context in which you made the remark. A comment made sarcastically or in jest can take on a very different meaning when viewed in isolation, and can have serious, unintended consequences. Unnecessarily cautious? This is definitely a situation in which it is always better to be safe than sorry.

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