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IN A CASE OF FIRST IMPRESSION, CONNECTICUT COURT PROTECTS EMPLOYERS' RIGHT TO MONITOR EMPLOYEES VIA GPS DEVICES

Vitka v. City of Bridgeport, Docket No. CV 08-4022961S
(December 31, 2007)

A Connecticut Superior Court recently ruled on a case of first impression and held that an employer was not required to provide notice to its employee that the employer's vehicles had been equipped with global positioning systems (GPS). Plaintiff Stephen Vitka is a fire inspector for the City of Bridgeport Fire Department who operated one of the defendants' motor vehicles that was equipped with GPS, without knowledge that the vehicle was equipped with the device. The defendants, City of Bridgeport Fire Department and its fire chief, brought a disciplinary action against Vitka based on information gathered from the GPS. Vitka moved for an order preventing his employer from holding the disciplinary hearing, alleging that the defendants violated sections 31-48b and 31-48d of the Connecticut General Statutes. Defendants filed a Motion to Dismiss.

Section 31-48b, in relevant part, prohibits employers from operating electronic surveillance devices "in areas designed for the health or personal comfort of the employees or for safeguarding of their possessions, such as rest rooms, locker rooms or lounges." The court found that the statute did not apply, as a city motor vehicle was not tantamount to an area designed for the employee's "health or personal comfort" or to safeguard the employee's possessions.

Section 31-48d provides that employers engaging in electronic monitoring must provide written notice to employees, informing them of the types of monitoring that might occur. The statute defines electronic monitoring, in part, as the "collection of information on an employer's premises" The court looked at the legislative history of the statute and concluded that an employer was not required to provide notice if the monitoring occurred in a public place. The court found that, like 31-48b, this statute also did not apply to electronic monitoring taking place in a city motor vehicle, which was not considered to be within the definition of "employer's premises" and, accordingly, granted the defendants' Motion to Dismiss.

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This ruling is significant and will have a widespread impact, as GPS devices are becoming more prevalent and more affordable. Employers should be encouraged by the decision, which may result in greater productivity by employees who travel regularly while on the job. It is probable, however, that similar employer action will continue to be challenged until the issue is ruled upon by a higher court.

This Employment Alert was prepared by Christopher L. Brigham and Angel Peterson, a third year law student at Quinnipiac University School of Law, who will be joining Updike, Kelly & Spellacy, P.C. as an associate in September, 2008. For further information on this case or any other employment related question, please contact Christopher L. Brigham of the Employment Law Practice Group at Updike, Kelly & Spellacy, P.C. at (203) 786-8310 or cbrigham@uks.com.

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