



LEGAL Q&A

Q Can a public employer search an employee's text messages?

A Yes. On June 17, 2010, in *City of Ontario v. Quon*, No. 08-1332, the U.S. Supreme Court unanimously ruled that a California city's search of a employee's text messages on a City owned pager was reasonable and done for legitimate reasons, and didn't violate the employee's Constitutional rights.

Ontario's electronic communications policy provided the City the right to monitor usage of electronic devices. The City's wireless contract had a texting limit per month. An audit revealed that one employee violated the policy by over using the pager for personal texts. The employee sued the City claiming the search was a violation of his Fourth Amendment rights. The Court ruled that the City had a legitimate business reason to conduct the non-invasive audit.

It is critical for employers to have a policy outlining the terms on using company owned devices and reserving the right to monitor for legitimate reasons, effectively reducing an employee's expectation of privacy.



Jay S. Becker is the Chair of Giordano, Halleran & Ciesla's Labor and Employment Practice Group and the co-author of www.njlaborandemploymentlaw.com Blog. He can be reached at jbecker@ghclaw.com.