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## **Employees' Expectations of Privacy Limited When Using Company-Issued Electronic Devices**

On June 17, 2010, the United States Supreme Court issued its opinion in the case of *Quon v. Arch Wireless Operating and The Ontario Police Department*. The Supreme Court had to decide whether the City of Ontario had violated the privacy rights of Quon and the officers he texted when, as part of an overage audit, Ontario Police Department Management read transcripts of messages Quon sent on his City-issued pager.

The Supreme Court held that Management's investigation of the SWAT team members' text usage was reasonable. The investigation was motivated by the legitimate work-related purpose of ensuring the City's contractual text character limit was sufficient to meet the City's needs. In addition, the Court held that the investigation was "not excessive in scope" because reviewing the transcripts of Quon's messages was "an efficient and expedient way to determine whether Quon's overages were work-related or due to his personal use."

Even though the Supreme Court's ruled against Quon, the Court made clear that its holding should not be "used to establish far-reaching premises that define the existence, and extent, of privacy expectations of employees using employer-provided communication devices." In other words, employees' privacy expectations depend on the nature of their employment and the social reality in which they work. The Court declined to adopt a more sweeping approach.

The best strategy for employers is to continue to ensure that employee handbooks and electronic communication policies clearly establish that employees have no expectation of privacy in electronic devices provided to them by their employer. Employers should also ensure that these policies are administered strictly and consistently by management.