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## Texting case shows need for clear rules on tech tools

Here at Insurance Professionals of New England, Inc. we are proud to provide value added service delivered with a social conscience. We wanted to mention a few highlights of an informative article titled “Texting case shows need for clear rules on tech tools” by Judy Greenwald, and provide you with a link to the complete article. The article is from an insurance industry periodical called “Business Insurance”. A few excerpts from the valuable article are:

### Supreme Court to rule on employers’ rights to monitor networks-

A text messaging case argued last week before the U.S. Supreme Court highlights the importance of employers developing up-to-date technology policies and applying them consistently, observers say.

Katherine H. Parker, a partner with Proskauer Rose L.L.P. in New York, agreed that the ruling could affect public and private employers. “To the extent the opinion does address the written policy, that can impact public and private employers, because many private companies have the same kinds of policy that the public employer had in this situation,” she said. (*City of Ontario, Calif., et al. vs. Jeff Quon et al.*) “And the extent to which the court addresses how the policy might impact expectations of privacy... it could impact how employers draft their policies regarding computer use,” Ms. Parker said.

Daniel I. Prywes, a partner at law firm Bryan Cave L.L.P. in Washington, noted that while the “traditional rule is that private employers can monitor employee communications through employer provided networks and equipment, provided that the employers have given notice of such monitoring to employees beforehand,” there also “have been quite a few courts that have been niggling away at that general rule, and carving exceptions for this.”

Based on oral arguments, many observers said they expect the Supreme Court to overturn the 9<sup>th</sup> circuit’s ruling. Regardless of the high court’s ultimate decision, the case highlights the importance of having consistent, up-to-date policies, observers say. It “basically tells employers that they need to be careful how they draft their policies and how they follow their policies,” said Boris Segalis, an associate with law firm Hunton & Williams L.L.P. in New York.

“Employers would be wise to revisit their electronic communications policies” before the Supreme Court issues its decision, said Devjani Mishra, a partner with law firm Seyfarth Shaw L.L.P. in New York.

In addition, “employees really would be well-advised to segregate their personal from their public electronic devices,” said Ms. Mishra. “The bottom line is, in 2010 it’s pretty easy to get a free e-mail account,” she said. “There’s really no reason employees should be using the work-supplied e-mail account or pagers” for personal use.

*Below is the link to the “Business Insurance” website with the complete article.*

<http://www.businessinsurance.com/article/20100425/ISSUE01/304259947>