



MONITORING THE USE OF COMPANY COMPUTERS BY EMPLOYEES by Laura K. Sitar

The California Constitution guarantees all Californians certain inalienable rights, including the right to privacy. That right doesn't automatically disappear when your employees sit down to send emails or surf the Internet on company owned computers. Well drafted company policies are necessary to establish and communicate privacy limits.

Employees have a "reasonable expectation of privacy" at work. When company computers are involved, that right must be balanced against an employer's need to monitor computer use to improve productivity, protect employer and customer information and sometimes even to prevent workplace harassment. Employees should be given notice of any restrictions an employer places on the use of company computers as well as the company's intent to monitor that computer use.

A well drafted policy will state the following:

- 1) Whether personal use of company computers is allowed and the limits of personal use;
- 2) That the company reserves the right to monitor or access all internet or email usage; and
- 3) That employees have no expectation of privacy when using company computers.

SAMPLE POLICY: COMPUTER, NETWORK AND INTERNET USE

The Company's computers, networks and Internet access are important tools for everyday operations and are provided to facilitate Company business. No employee should have an expectation of privacy in his or her use of any Company provided computer or network whether used or accessed on or off Company property. The Company retains the unlimited right to access and review all traffic transmitted by or through Company-provided equipment and services. The Company intends to engage in such reviews on a regular basis and to take steps necessary to correct inappropriate or unauthorized use of Company resources.

Limited use of Company-provided communication equipment for personal business may be allowed. Personal use is never allowed when it would interfere with job responsibilities. Personal use may not violate state or federal laws, including the Health Insurance Portability and Accountability Act. Additionally, offensive and/ or disruptive communications or messages containing sexual, racial, or

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degrading commentary will not be tolerated. Inappropriate use will be grounds for disciplinary action.

About the Author:

A shareholder at Wroten & Associates, Laura Sitar defends medical malpractice, employment, and elder abuse cases. She litigates cases on behalf of doctors, dentists and long-term care facilities involving all types of employment actions including sexual harassment, wrongful termination, retaliation and wage and hour claims. She also provides employment related risk management services to help clients avoid litigation. Ms. Sitar became an attorney after a 15-year career in corporate management where she directed the human resource function of a 2000 employee, \$100 million region. Since commencing a second career in law 10 years ago, she was a senior associate with a prestigious healthcare defense firm before joining Wroten & Associates, where she is a shareholder.

Ms. Sitar graduated cum laude from Tufts University, in Boston Massachusetts in 1979. She attended Western State University, College of Law, where she graduated summa cum laude and valedictorian of her class in 1998. While at Western State she clerked for Justice William Rylaarsdam on the California Court of Appeals and successfully argued a sexual harassment and retaliation claim before the Ninth Circuit Court of Appeals. She was a recipient of the 1998 Fellowship of the American Board of Trial Advocates. Ms. Sitar has been a member of the California State Bar since 1998 and is admitted to practice in the U.S. District Court for the Central District of California.

To learn more about Wroten & Associates, Inc. visit www.wrotenlaw.com . Contact Laura directly at lsitar@wrotenlaw.com .