



Employee Privacy Rights may be Trumped by Third Party Requests for Disclosure of Contact Information

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The California Supreme Court ordered the County of Los Angeles to disclose non-union employees' contact information to SEIU Local 721. The Union sought to amend the bargaining agreements to require the County to disclose addresses and phone numbers of non-members. The Supreme Court considered whether California's right to privacy outweighed the Union's right to the information. Notwithstanding the Court's finding that there was a right to privacy and the disclosure amounted to a serious intrusion, the Court concluded that the Union's interest was sufficiently important to justify the intrusion.

The Supreme Court first addressed and concluded:

- the Union's request for the employees' home addresses and phone numbers was relevant to its bargaining obligations,
- the disclosure violated the employees' right to privacy and was a serious invasion of privacy, and
- the Union's interest in the non-union employees' contact information outweighed the employees' privacy rights and alternate means of communicating with employees, such as bulletin board postings or union meetings, were inadequate.

Finally, the Court noted that employees and the County could put into place procedural safeguards themselves that would limit or preclude disclosure of non-members' information such as via collective bargaining:

Employers like the County remain free to bargain for a notice and opt-out procedure in negotiating collective bargaining agreements with employee unions. Public employers can also draft employment contracts that will notify employees their home contact information is subject to disclosure to the union and permit employees to request nondisclosure. Finally, nothing in the relevant statutes or case law appears to prohibit agencies such as PERB or

ERCOM from developing notice and opt-out procedures that would allow employees to preserve the confidentiality of their home addresses and telephone numbers."

Although this decision is regarding a public employer, it has significance for private employers as well given the Supreme Court's conclusion that employees have a right to privacy in their personal contact information. This will be important in deciding when and how to disclose such information to third parties; e.g., vendors, insurance companies, benefits providers, future employers, in litigation [class or representative actions]. Careful consideration should be given before any disclosure is made to ensure proper safe guards are implemented.