

NLRB Decision Strikes Down Whole Foods Market's Recording Restrictions in the Workplace



Does your company have policies prohibiting audio or video recording or photography in the workplace? If so, your company may need to rethink those policies in light of the recent National Labor Relations Board ("NLRB") decision in Whole Foods Market Inc., which call such policies into question.

Whole Foods had two policies prohibiting recordings in the workplace without prior management approval: (1) "It is a violation of Whole Foods Market policy to record conversations, phone calls, images or company meetings with any recording device (including but not limited to a cellular telephone, PDA, digital recording device, digital camera, etc.) unless prior approval is received." (2) "It is a violation of [company] policy to record conversations with a tape recorder or other recording device (including a cell phone or any electronic device) unless prior approval is received from your store or facility leadership." The grocery chain's legitimate business justification for the recording restrictions was "to encourage open communication, free exchange of ideas, spontaneous and honest dialogue and an atmosphere of trust."

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Federal Overtime Expands under New FLSA Rule

On May 18, 2016, the U.S. Department of Labor issued the final version of the overtime exemption rule which will take effect on December 1, 2016. The rule more than doubles the minimum salary threshold for "white collar" overtime exemptions under the Fair Labor Standards Act ("FLSA"), extending protection to millions more American workers. The minimum salary threshold to qualify for exemption is now \$47,476 per year.

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The Federal Jurisdictional Hook for Trade Secrets: Defend Trade Secrets Act

President Obama signed the federal Defend Trade Secrets Act ("DTSA") into law on May 11, 2016, the most significant federal intellectual property measure since the Lanham Act in 1946. The DTSA passed with broad, bipartisan support in both the House and Senate, atypical of today's Congress.

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Minneapolis Approves Sick and Safe Time Ordinance: What Employers Need to Know

On May 27, 2016, the Minneapolis City Council gave unanimous approval to an ordinance requiring employers with six or more employees to provide paid sick leave to workers. Minneapolis employers should take note of the following provisions of the ordinance, which go into effect on July 1, 2017:

- "Employee" includes full-time, temporary, and part-time employees that work within Minneapolis for at least 80 hours in a given



year for the same employer. Independent contractors are not considered employees.

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