

LAW REVIEW 702
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What Are You Thinking?

When calling or e-mailing, don't use your employer's computer or phone.

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CATEGORY: 1.0 USERRA Generally

I receive a boatload of e-mails and telephone calls (swright@roa.org, 800-809-9448, ext. 730 as a result of my Law Review articles in The Officer and on ROA's website, www.roa.org/law_reviews. Frequently, Reserve or National Guard personnel seeking assistance send me e-mails from their civilian employer's e-mail system.

What are you thinking? Don't you realize the employer can and probably does monitor every e-mail you send or receive at work? The computer belongs to the employer, not to you. Every time you log on, you probably click on a statement acknowledging that you understand and accept that you have no justifiable expectation of privacy when using the computer. That statement has real consequences.

There is another reason to avoid using the employer's computer and e-mail system: your employer probably has a rule against using the computer for non-work purposes. If your employer is annoyed with you for your military-related absences and looking for an excuse to fire you, why give the employer such an excuse? Please read my Law Review 150.

Don't think you can solve this problem by using the employer's computer to access a web-based e-mail system, either. You should assume that any e-mail you send from the employer's computer might be copied and put on the desks of the company president and the personnel director. If you cannot afford a computer and Internet access at home, go to your neighborhood public library to send and receive e-mail relating to a potential claim against your employer.

For similar reasons, I strongly recommend you not use the employer's telephone—or time when you are “on the clock” with the employer—to ask for advice or seek assistance under the Uniformed Services Employment and Reemployment Rights Act. Call outside your work hours on a telephone that does not belong to your employer.

The toll-free number for the National Committee for Employer Support of the Guard and Reserve (ESGR), the Department of Defense organization created to assist National Guard and Reserve personnel with this sort of problem, is 1-800-336-4590. The line is only answered between 8 a.m. and 6 p.m. Eastern Time on regular workdays. If you need to

communicate with ESGR outside regular business hours, I suggest you send an e-mail to Curtis.Bell@osd.mil, the ESGR case manager.

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