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Employment Law Update: Second Circuit Upholds NLRB Decision Regarding Recording Conversations in the Workplace

06/02/17

In the fall, our blog post "[Recording Conversations in the Workplace—Take Two: Can an employer have a policy forbidding the recording of conversations in the workplace?](#)" discussed the National Labor Relations Board (NLRB) decision, [Whole Foods Market Inc. and United Food Workers, Local 919](#), which found Whole Foods' policy banning employees from recording conversations in the workplace was overbroad and violated the National Labor Relations Act. Whole Foods appealed the NLRB's decision to the Second Circuit, and on June 1, 2017, the Second Circuit upheld the NLRB's decision. However, the court specifically noted that not all employer no-recording policies will likely violate the National Labor relations Act, explaining that "[i]t should be possible to craft a policy that places some limits on recording audio and video in the work place that does not violate the Act." We will continue to provide updates on this issue.

Attorney

- Tracy Armstrong