

U.S. Supreme Court Ruling May Impact Employers' Computer Use Policies

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The U.S. Supreme Court will soon hear Nathan Van Buren v. United States to decide on a case with far-reaching implications for how employers should establish and enforce policies to regulate and secure information accessed in the workplace. Specifically, the case raises questions about the legality of accessing information (e.g., whether access is authorized or prohibited) and ultimately will decide how the Computer Fraud and Abuse Act (CFAA) is interpreted. The CFAA makes it a federal crime when someone "accesses a computer without authorization or exceeds authorized access, and thereby obtains information from the computer." The forthcoming Supreme Court ruling will decide on whether someone commits a federal crime when they use a computer that is permitted, but data access is in violation of an employer's policy, website terms of service agreements, or other legal restrictions.

The Van Buren case arose following conduct by Nathan Van Buren, a police officer who accessed state and governmental databases to look up a license plate for someone in exchange for payment and not associated with any law enforcement purpose. The lower court held that Van Buren committed a federal crime under the CFAA.

The implications for the workplace of a very broad interpretation of the CFAA may be enormous, leading employers to report unauthorized information access and violation of information policies by employees to law enforcement. Most employers have policies regarding the use of computers by employees, including limiting an employee's ability to access the internet and certain internal databases and systems. These policies, if a broad interpretation of the CFAA is defined by the ruling, would be imbued with the force of law. Such an interpretation could fundamentally impact the enforcement of employer policies.

Takeaway: Upcoming Supreme Court decision may fundamentally impact enforcement of an employer's computer usage in the workplace policies.

If you are an employer and need help navigating New Jersey's employment laws, contact [Stephanie Gironda](#) or any member of the Wilentz [Employment Law Team](#).

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