

L.A. County Must Provide Non-Union Employees' Home Addresses, Phone Numbers to Union, California Supreme Court Rules

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Los Angeles County must provide the union representing its employees under an “agency shop” agreement with the home addresses and telephone numbers of *all* county employees, including non-union employees, the California Supreme Court has ruled. *County of Los Angeles v. Los Angeles County Employee Relations Comm’n (Serv. Employees Int’l Union, Local 721)*, No. S191944 (Cal. May 30, 2013). Although the Court recognized the non-union employees had a right to privacy in their home addresses and telephone numbers under the California Constitution and their disclosure was a serious invasion of that right, the Court determined the union’s interest in communicating with employees significantly outweighed their privacy rights. The Court further ruled the Court of Appeal erred in imposing procedural requirements limiting the disclosure of the non-union employees’ contact information.

Background

The Service Employees International Union, Local 721 (“SEIU”) is the exclusive bargaining representative of all Los Angeles County employees. The County entered into an “agency shop” agreement with the SEIU that required all employees, as a condition of employment, either to join the SEIU or to pay to the SEIU a fair share or agency shop fee.

Each year, the SEIU is required to send a notice to all non-union employees outlining membership options, applicable fees, and the reasons for the fees. The notice packet also includes forms allowing the employee to join or decline to join the union. Historically, the County did not provide the home addresses or telephone numbers of any employees to the SEIU. Therefore, the SEIU delivered the notices to the Los Angeles County Employee Relations Commission (“ERCOM”), and ERCOM mailed the notices, using address labels provided by the County.

During contract negotiations in 2006, SEIU proposed amending the collective bargaining agreement to require the County to provide it with the names and home addresses of all employees covered by the agency shop agreements. The SEIU maintained that it required this information to provide certain notices to employees and to collect fees from non-union members.

The County rejected the SEIU’s demand for the employees’ contact information, arguing that it was not relevant to any collective bargaining issue and disclosure would violate non-union employees’ privacy rights. The County proposed either to continue the current arrangement or to negotiate a procedure for employees to release their own data. SEIU opposed these alternatives, withdrew its proposal, and filed a charge with ERCOM alleging an unfair employee relations practice. An administrative hearing officer found the contact information was presumptively relevant to SEIU’s representation. ERCOM adopted the hearing officer’s findings and ordered the County to disclose the information. The County petitioned for a writ of administrative mandate, but the trial court denied the petition. The County appealed, and the Court of Appeal reversed, ruling that the non-union employees were entitled to notice and an opportunity to object to the disclosure. The Supreme Court granted the SEIU’s petition for review.

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As a threshold matter, the Supreme Court first examined whether the SEIU's request for the employees' home addresses and phone numbers was relevant to its bargaining obligations. After extensively reviewing analogous federal and California state labor law cases, the Court concluded that the information was relevant and that the County's failure to provide it violated its duty to meet and confer in good faith.

The Court then addressed whether the disclosure violated the employees' right to privacy. The Court agreed with the lower courts that the employees had a reasonable expectation that the County would maintain the privacy of their home addresses and telephone numbers, particularly given the County's longstanding practice of withholding this information. Indeed, the Court noted that employees who chose not to join the union had an "enhanced privacy expectation," and approximately half of the 14,500 non-union employees chose not to disclose this information to the SEIU, although they had numerous opportunities to do so. In addition, the Court concluded that the disclosure of this information "was more than trivial. It rose to the level of a 'serious' invasion of privacy."

The Court then addressed whether the SEIU's interest in the non-union employees' contact information outweighed the employees' privacy rights and concluded that it did. The Court reasoned that because the SEIU owed a duty of fair representation to all employees in the bargaining unit it represents, including non-union members, it required the information to communicate fully with employees. The Court also noted that providing this information would not coerce non-union employees to join the union and that alternate means of communicating with employees, such as bulletin board postings or union meetings, were inadequate.

Finally, although the Court ruled the Court of Appeal erred by imposing an opt-out procedure, the County could bargain with the SEIU to develop such procedures in its labor agreements or include provisions in employment contracts notifying employees that their home addresses and telephone numbers are subject to disclosure and allowing them to request non-disclosure.

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This decision is significant for public and private employers. Public employers who have sought to maintain the confidentiality of their employees' contact information may be faced with demands for disclosure by public sector unions. In addition, the Court's conclusion that employees have a right to privacy in their personal contact information has implications for private employers who may, from time to time, disclose employees' contact information to third parties, such as vendors, insurance companies or benefits providers. Employers should consider reviewing their policies regarding confidentiality of employee information to ensure that they inform employees that their contact information may be disclosed for these reasons.

If you have any questions about this or other workplace developments, please contact the Jackson Lewis attorney with whom you regularly work.

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