

My privacy rights in Massachusetts may have been violated; is the inappropriate release of my private/confidential information to one person enough to substantiate a valid claim?

3 March 2014

Answer: Yes, in Massachusetts release to one person is enough. But keep in mind the release still must be deemed: 1) serious or substantial; and 2) unreasonable. Mass. Gen. Laws. c. 214 § 1B.

The Supreme Judicial Court of Massachusetts was asked the certified question from a federal court the following:

Can disclosure of private facts about an employee among other employees of a corporation constitute sufficient publication to infringe the employee's right of privacy?

In addressing the question, the SJC stated that it had indicated that intracorporate release of information would be a violation in the past and answered "Yes." Bratt v. Int'l Bus. Machs. Corp., 392 Mass. 508, 519. In doing so, the SJC deviated from the Restatement (Second) of Torts § 652D (1977), which required the disclosure of private facts to the public at large. Id. It rejected the defendant's argument that since the disclosure was to only a few other employees, there was not a violation.

Some years later, in a non-employment context, the SJC reiterated the law that in Massachusetts release to only one person is enough. In *Tower v. Hirschhorn* the Court found that release of confidential information to one (or two) adversarial witnesses in litigation could be deemed a release and cited its prior decision of *Bratt*. 397 Mass. 581, 587-88 (1986).

So, if you find yourself a victim of the release of personal/confidential information about you, do not be dissuaded by those that think since the release was only to a few people that you have no claim. In Massachusetts, one is enough!

In the event that you believe your privacy may have been violated in Massachusetts, please feel free to contact this office.

Contact: George E. Bourguignon, Jr., Esq.

Phone: (508) 769-1359 or (413) 746-8008

Email: gbourguignon@bourguignonlaw.com

Website: <http://www.bourguignonlaw.com>