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LITIGATION DEPARTMENT

ALERT

DATA SECURITY - LITIGATION UPDATE

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U.S. Bioservices Corp. v. Lugs (D. Kan. January 21, 2009)

- Employees allegedly obtained their employer's confidential business information and disclosed this information to a competitor.
- The court held that the Computer Fraud & Abuse Act does not cover employee misuse of information taken from an employer if the employee is *initially authorized* to access the data.
- The Seventh Circuit and W.D. Washington have held that an employee loses authorization the moment he acts against his employer's interest.

Lasco Foods Inc. v. Hall & Shaw Sales, Mktg., & Consulting LLC (E.D. Mo. January 22, 2009)

- Employer alleged that an ex-employee deleted e-mail from a corporate laptop and delayed returning the laptop to the employer.
- The court held that the delay in returning the laptop and the deletion of information both constituted a "loss" under the Computer Fraud & Abuse Act.
- The claim under Computer Fraud & Abuse Act was nonetheless dismissed because the employer failed to allege that the access was not authorized.

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