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Employer Denied Access to Employee GPS Data

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A federal district court in Indiana recently denied an employer's motion to compel discovery of employee GPS data in defense of an action brought under the [Fair Labor Standards Act](#) (FLSA). *Crabtree v. Angie's List, Inc.*

Plaintiffs asserted claims for denial of overtime pay during a one-year period in which they worked as Senior Sales Representatives. Plaintiffs often used their personal electronic devices for work purposes. In order to defend Plaintiffs' claims that they worked 10-12 hours per day, the employer sought GPS and location data from the Plaintiffs' phones to "construct a detailed and accurate timeline of when Plaintiffs were or were not working." Plaintiffs objected contending that the request implicated significant privacy concerns especially where the GPS data would not necessarily accurately reflect whether Plaintiffs were working at any given time.

One of the reasons for the employer's request was because the manner in which the company kept track of the employees' time was by recording the time the employees logged into and out of their computers' Salesforce software. However, that system did not necessarily reflect if employees were not working even though they were logged in. Thus, the company sought the GPS data to help confirm the employees' physical location.

In analyzing the employer's motion to compel, the court expressed concern with the fact that disclosing GPS data from a personal device covering 24 hours per day for one year would result in tracking Plaintiffs' movements well outside of their working time. The court stated that the employer "has not demonstrated that the GPS/location services data from Plaintiffs' electronic devices would be more probative" than data already in the company's possession. As such, the court ruled that the examination of Plaintiffs' personal devices "is not proportional to the needs of the case."

Based on this case, it is apparent that courts continue to be protective of personal data. [As we have recently emphasized](#), it is important for employers to find methods by which they can accurately track employee work time without having to rely on data from the employee's personal devices.

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