

Summary Judgment – Invasion of Privacy

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Matthew H. Greene and Timothy J. Wadman, while serving as Special Assistant Attorneys General for the Commonwealth of Massachusetts, recently obtained summary judgment in favor of their clients, the Norfolk County District Attorney's Office and a State Police Detective assigned to the Office. The plaintiff asserted claims for negligent and intentional invasion of privacy as well as negligent and intentional infliction of emotional distress, arising out of the extraction of evidence from her cell phone in connection with an ongoing investigation into alleged criminal conduct.

At the summary judgment stage, the Court agreed with the Office's position that the Mass. Tort Claims Act, M.G.L. c. 258, s. 2, operated to bar the plaintiff's claims, which arose out of intentional torts. Moreover, the Court found that the plaintiff's claims against the Office were barred by the doctrine of prosecutorial immunity, where they derived from the alleged conduct of the Office's personnel while gathering evidence in furtherance of an anticipated criminal prosecution. Similarly, the Court determined that the State Police Detective was shielded from liability under the doctrine of common law immunity, where the plaintiff's allegations pertained to actions taken in good faith within his discretion as a public official. As a result, the Court entered judgment in favor of the Office and the State Police Detective on all counts.