

Ex-worker sues McDonald's over taping of voice-mail intimacies

By Ben Dobbin
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ROCHESTER, N.Y. — It was a short-lived, middle-distance love affair. They worked at McDonald's restaurants in towns 60 miles apart. To fill the void between their get-togethers, Michael Huffcut and Rose Hasset left messages for each other on their voice mail at work.

Their boss allegedly monitored the whisperings, recorded them and played them for Huffcut's wife, Lisa. Huffcut was fired.

Huffcut and Hasset have ended their two-month liaison. The Huffcuts have recon-

ciled, but a legal question is left hanging: How private is the American workplace?

In a federal lawsuit, Huffcut is seeking \$1 million in damages from McDonald's Corp.; Harry Harvey 3d, a fellow McDonald's supervisor; and longtime employer Fred Remillard, who operates 12 McDonald's franchises in western New York.

The couple contended Remillard violated privacy rights guaranteed them by federal law and inflicted emotional anguish, embarrassment and loss of reputation and income.

The case could become the nation's first to test whether conversations recorded in electronic voice mail boxes are granted the

same confidentiality protections as live telephone calls or postal mail.

It also delves into the ill-charted terrain of how far an employer can go in eavesdropping at work for business reasons.

The American Civil Liberties Union argues that covert electronic monitoring generally should be avoided. The US Chamber of Commerce counters that employers should not be legally restrained in trying to ensure their telephones, computers and other property are used strictly for business.

"When people speak privately, they must be free of uninvited scrutiny and detection," said the couple's lawyer, Raymond M.

Schlather. "We've got to build a wall around that kind of private communication."

Huffcut, now 41, joined McDonald's out of high school, starting at the counter and working his way up to regional supervisor in Elmira. Hasset was one position below store manager in a McDonald's in Binghamton when their affair turned serious in 1993.

The lawsuit alleges that Harvey, another of Remillard's area supervisors, intercepted the lovers' messages and transmitted them to Remillard's voice mail. Huffcut says he had been told his voice mail was private.

It claims Harvey, at his boss' direction, played a tape of the messages for Mrs. Huff-

cut in December 1993. When Huffcut found out, he confronted Remillard about the propriety of his action and was fired. Later, Hasset was promoted to store manager. Why Mrs. Huffcut was told of the affair "is one of the dark mysteries of all this," Schlather said. "From our perspective, it was totally unnecessary."

Robert Ellis Smith, publisher of Privacy Journal, a monthly newsletter based in Providence, said "employers certainly have the right to listen in on business-related conversations. They probably don't... have the right to listen further when it's clearly private and personal."