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# Legal Matters®

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## Fitbits may be helpful tool in employment cases, but reliability concerns still an issue

**W**earable technology has exploded in popularity over the past few years as a way of monitoring fitness, athletic performance, health and alertness. Fitbits can track things like calories burned, your heart rate at different times, the steps you've taken over the course of a day or a week, your blood sugar levels and even your sleep patterns.

This is useful information for people to monitor their own wellness metrics, but it could also potentially be useful evidence in legal disputes. Data from Fitbits and other wearable devices has already been used in personal injury cases in Canada. In one case, an injured woman used a Fitbit to show how much less active she was now than before the accident in question. Fitbit data also helped authorities in Pennsylvania support criminal charges against a woman who falsely reported that a man broke into her house while she was sleeping and raped her. The data showed that she was actually awake and out of bed at the time of the alleged home invasion.

There are plausible scenarios where Fitbit data could help resolve legal disagreements arising in the workplace by boosting



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a worker's claim of mistreatment or undercutting such an accusation.

For example, let's say a worker sues for handicap discrimination claiming the employer refused to reasonably accommodate the employee's disability by denying a more flexible schedule, a more convenient work location or scaled-down job requirements. If the court ordered the employee to produce wearable device data

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