Can Your Boss Require Genetic Testing?

In a case too strange to be anything but true, Judge Amy Totenberg (sister of NPR legal reporter Nina Totenberg) wrote a recent - and hysterical - opinion about the case of the “devious defecator,” answering the burning question of whether your boss can test your DNA to see if you’re the culprit when someone poops on the floor at work! (http://www.washingtonpost.com/news/volokh-conspiracy/wp/2015/05/30/test-for-devious-defecator-was-unlawful-judge-rules/)

The long haul transportation and storage company Atlas Logistics discovered that someone had been defecating in its warehouse and suspected that it was a disgruntled employee. In order to identify the culprit, the Company required suspected employees to submit DNA cheek swabs. Two employees sued, claiming a violation of the heretofore unused Genetic Information Nondiscrimination Act (“GINA”) by taking their genetic information. Neither employee was a match. The guilty devious defecator remains on the lam.

The defense argued that there was no discrimination involved, but the judge found that merely asking for the information could lead to discrimination and was an invasion of their privacy.

While genetic testing is not a widespread phenomenon in the U.S., we now have the first case interpreting the little known law and adding the privacy prescription to the mix.

So…never fear, your private genes can remain just that - private, at least at work.