

Employers Should Adopt Social Media Policies to Minimize their Liability for Disciplinary Action Relating to “On-line” Postings

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New technology raises new legal issues, particularly in the context of employment law.

Recently, the National Labor Relations Board (“NLRB”) filed a complaint against a company which allegedly violated its employee’s rights by terminating her after she criticized her supervisor on her personal Facebook page. The NLRB contends that in the absence of a company policy to the contrary, all employees have the right to criticize their supervisors and employers, even on internet-based social media sites such as Facebook, Twitter or LinkedIn.

The question is: How far can an employer go in monitoring an employees’ conduct on social media sites and what can it do to control what is posted?

Several years ago, the NLRB held that an employer can legally establish a policy which prohibits employees from using e-mail for non-job-related purposes. Recently, it upheld a company’s social media policy which was intended to minimize the dissemination of company information over the internet.

New technology such as Facebook, Twitter and LinkedIn creates opportunities for employees to criticize the company for whom they work as well as their supervisors and co-workers. The reach of these internet-based communications dwarfs the reach of any communication previously analyzed by the courts. **It is for this reason that we believe it is important for all employers to have carefully crafted social media policies.** These policies have been upheld by the courts and will help support an employer’s action against employees who improperly criticize their employer or its supervisory personnel “on-line”, or divulge sensitive information over the internet.

If you would like help in crafting an appropriate social media policy for your company, please contact [Sharon Stiller](#) at 585-641-3802 or your attorney contact at our firm.