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Technology, Law, and the Workplace: Week in Review

This week, the National Labor Relations Board once again waded into the controversial waters of social media. Earlier this week, the Regional Director in Buffalo, New York issued a complaint against a nonprofit employer for its discharge of five employees based on statements made by the employees on Facebook. According to [the NLRB's press release](#):

The case involves an employee who, in advance of a meeting with management about working conditions, posted to her Facebook page a coworkers allegation that employees did not do enough to help the organizations clients. The initial post generated responses from other employees who defended their job performance and criticized working conditions, including work load and staffing issues. After learning of the posts, Hispanics United discharged the five employees who participated, claiming that their comments constituted harassment of the employee originally mentioned in the post.

This latest "Facebook firing" case provides yet another example as if employers needed one more of the broad stance being taken by many Regional Offices of the NLRB. Under this view, any online discussions regarding work conditions are protected activity under Section 7 of the National Labor Relations Act. Whether the National Labor Relations Board, and ultimately the courts, will adopt this approach is another matter. However, the message for employers today remains the same: be sure to think carefully before taking action against an employee for that employee's online discussions about work conditions.

Technology in the Workplace

- (Another) DOL Online Resource: OSHA Recordkeeping Tool ([Delaware Employment Law Blog](#))
- NLRB complaint: Fired for Facebook posting ([NLRB Press Release](#), [LawMemo](#), [Labor Relations Today](#), among many others)
- Searching for a Job? Try Looking at Your Hand-Held First ([NY Times](#))
- Are you better off without a social media policy? ([Ohio Employer's Law Blog](#))
- Tech distractions for workers add up ([USA Today](#))
- Can working virtually increase happiness? ([BNET](#))
- Is Your Company's Social Media Launch Ahead Of Its Compliance Program ([Social Media Law Update](#))
- Social Media Activity In The Workplace And The Computer Fraud And Abuse Act ([Social Media Law Update](#))
- TekSystems – A Traditional Resolution ([Smooth Transitions](#))

- More on the NLRB Division of Advice Memorandum regarding Phoenix, Arizona reporter firing ([Labor Relations Counsel](#), [Delaware Employment Law Blog](#))

Technology and the Law More Generally

- Student Says Facebook Got Her Kicked Out ([Courthouse News](#))
- U.S. Agencies Plan a Public Forum on Location Services ([Bits](#))
- California Bill Targets Social Networking Privacy ([Privacy & Information Security Blog](#))
- Did you know? A prevailing defendant may recover e-discovery costs ([Employer Handbook](#))
- U.S. International Strategy for Cyberspace ([White House](#), [NY Times](#))
- Outside Counsel Fees May Be a Qualified Loss to Meet the CFAA's \$5000 Jurisdictional Requirement ([Trading Secrets](#))

Technology in the News

- Internet Filters Set Off Protests Around Turkey ([NY Times](#))
- In This Sky, the Planes Fly Alone ([NY Times](#))
- Facebook, Foe of Anonymity, Is Forced to Explain a Secret ([NY Times](#))
- New Ways to Exploit Raw Data May Bring Surge of Innovation, a Study Says ([NY Times](#))
- Speaking Up in Class, Silently, Using Social Media ([NY Times](#))
- With Chromebook, the forecast looks increasingly cloudy ([American Public Media](#))