

## [NLRB Issues Complaint Over Facebook Posts Mocking Supervisor](#)

November 11, 2010 by [Adam Santucci](#)

In what the [National Labor Relations Board's \(the "NLRB"\) Acting General Counsel called a "straightforward case"](#) under the National Labor Relations Act ("NLRA"), the Hartford Regional Office of the NLRB issued a [Complaint \(pdf\)](#) alleging that an employer illegally terminated an employee who posted disparaging remarks about her supervisor on her personal Facebook page. While the October 27, 2010 Complaint is only an accusation, and not a formal ruling from the NLRB, the repercussions of this action are critically important for both unionized and non-union employers.

Employees of the employer, American Medical Response of Connecticut, Inc., are represented by Teamsters Local 443. One of those employees posted negative, critical comments mocking her supervisor on her personal Facebook page. Other employees commented on the posts, which prompted the employee to make further negative statements. The employee was subsequently terminated by the employer for posting the disparaging comments on the Internet, because the posts violated the employer's social media policy. The NLRB conducted an initial investigation, and determined that there was enough evidence to warrant a hearing to determine whether the employer violated the NLRA.

The Complaint alleges that the termination violated the NLRA's prohibition against punishing employees for engaging in concerted protected activity. The NLRB Regional Director has taken the position that the employee's disparaging comments about her supervisor were protected activity under the NLRA because the employee was discussing her working conditions. Under the NLRA, employers are prohibited from punishing employees for concertedly discussing wages, benefits and other working conditions. In the NLRB's view, the fact that other employees commented on the employee's post meant that there was concerted activity by the employees.

Importantly for both unionized and non-union employers, the Complaint also alleges that the employer's policies were overly broad and restricted employees from discussing working conditions. In the view of the NLRB Regional Director, the policies alone violate the NLRA.

While this matter is only at the Complaint stage, the Complaint itself is an eye-opener for many employers and may be another sign of things to come from the NLRB. On [September 9, 2010](#), we added a post about President Obama's appointments to the NLRB, and the likelihood that the NLRB would continue to pursue a decidedly pro-union agenda.

Unionized and non-union employers alike must be sure to review all of their policies, including their social media and internet posting policies, to ensure that the policies do not restrict employees' abilities to discuss wages, hours and other working conditions. Also, we will

continue to provide updates as this case unfolds, so employers should also be sure to check back for further posts.

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