

TEACH APPROPRIATE SPEECH

Or risk liability for employees' derogatory on-line comments about customers

Recent District of Hawaii decision suggests social media policies are more important than ever, despite NLRB's dramatic limits on employers' ability to police employee speech on the Internet



THE CLAIM

Howard v. Hertz

After a Facebook discussion among several Hertz employees about a customer that included racially charged statements and information about the customer's declined credit card, the customer sued, alleging negligent supervision, negligent retention, and negligent training by the employer.



MOTION TO DISMISS DENIED

The employer moved to dismiss arguing the customer failed to allege any basis to hold it responsible for the employees' on-line statements. The court denied the motion, reasoning the customer alleged Hertz's computer might have been used and that Hertz was aware one of the employees had a propensity for posting "hostile statements and information" about customers.

Check out PIERCE ATWOOD'S HR SMART TOOLS for help.

LIMIT EXPOSURE FOR NEGLIGENCE

1. BE PROACTIVE

Be sure your social media policy prohibits employees from posting confidential or derogatory information about customers, from work or home. Teach employees about the policy on a regular basis, using concrete examples.

2. AND REACT

If you learn an employee is violating your social media policy and posting derogatory or private information about customers, take prompt and effective action to stop the behavior and, if possible, mitigate the harm.



For more information about the Howard case for assistance preparing a social media policy and/or training program that protects your interests while complying with the NLRA, please contact a member of our Employment Group