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CRITICISM OF BOSS ON FACEBOOK IS PROTECTED SPEECH?

Can an employee be fired for criticizing her supervisor on an online social media platform such as Facebook or Twitter?

The National Labor Relations Board contends that an employer cannot fire an employee even where the employee's social media posting violated the employer's internet policies and encouraged other employees to publicly post similar negative comments. Such social media postings may be protected concerted activity under the National Labor Relations Act. A hearing on the case will be conducted on January 25, 2011. The implications of this case are unusually broad and may require an entirely different approach to workplace internet use. We will closely monitor this case and provide our recommendations with regard to what, if anything, will need to be done in order to ensure compliance with this emerging legal issue. If you or your company have any questions or concerns regarding this issue, please call our attorneys at 313.465.7000.

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