



The Guardian



Helping to Protect You from Employment Law Claims

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Winter 2012

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CAN AN EMPLOYEE GET FIRED FOR CRITICIZING THE WORKPLACE ON FACEBOOK?

By Donald C. Zavala, Jr., Esq.

The tide of social networking sites, such as Facebook and Twitter, has opened up many new concerns for employers, including security and privacy breaches and limiting the use of such sites during work hours. Another area of concern for employers involves dealing with employees who post unfavorable comments about their workplace on these sites. Can you fire an employee over a negative Facebook post? The National Labor Relations Board says no.

In a recent case, the National Labor Relations Board sued a Connecticut company who fired an employee for criticizing her boss on Facebook. This posting generated other Facebook comments from supportive co-workers. **The NLRB argued that the company violated the employee's right, under the National Labor Relations Act, to discuss working conditions among other employees.** The Act prohibits employers from punishing workers, whether union or non-union, for joining together to discuss wages, hours or other working conditions. (The case settled out of court, with the company agreeing to change its social media policy by removing the provision which forbids employees from talking about the company on social media sites.)

What does this mean to private-sector employers? If you have a social media policy, you should make sure it does not forbid employees from talking about the workplace on social networks or otherwise. Remember, workers have a right to discuss *working conditions*, whether it be on Facebook or around the water cooler. However, there are exceptions when it comes to posting comments about work. For example, a posting which makes *personal* and defamatory comments about a supervisor, unrelated to work, may not be protected under the Act.

MINIMUM WAGE ALERT

Effective January 1, 2012, Arizona's minimum wage increased from \$7.35 to \$7.65 per hour. This 30-cent bump is based on the Consumer Price Index for All Urban Consumers (CPI-U), which increased 3.8% from August 2010 to August 2011. Arizona's minimum wage is now 40 cents higher than the current federal minimum wage of \$7.25. A copy of the revised notice to employees that is required to be posted in Arizona workplaces advising of the new minimum wage is available on the website for the Industrial Commission of Arizona.

POSTER ALERT

Beginning on April 30, 2012, most private sector employers (both union and non-union) will be required to post a notification of their employees' rights under the National Labor Relations Act. The NLRB will make copies of this posting available on their website for downloading on or before November 1, 2011. For more information, including internet posting requirements, please go to: <https://www.nlr.gov/news-media/factsheets/final-rule-notification-employee-rights>.

If you would like to have someone added to our mailing list or want your name removed, please contact Loreen at (928) 445-0122

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