

Publication

08/01/2018

The Social Media Tightrope: First NLRB Decisions Show Employers Face Tough Balancing Act for Policies and Procedures

Sonya Rosenberg authored the article "The Social Media Tightrope: First NLRB Decisions Show Employers Face Tough Balancing Act for Policies and Procedures," published by *Thomson Reuters News & Insight* on October 26, 2012.

Social networking sites have become the modern-day water coolers. They provide employees with an unprecedented platform to interact and express their opinions about their coworkers, managers and jobs — and to do so more freely than ever before. Faced with the now undeniable reality of pervasive social networking by employees, many employers have implemented various policies and practices to attempt to mitigate any negative consequences of disgruntled employees using social media to post disparaging or harmful remarks about work.

Recent developments, however, suggest that such policies and practices may lead to unintended, serious legal consequences. In September 2012, the National Labor Relations Board (the "NLRB" or the "Board"), which has become the unlikely lead player in shaping the developing law in the social media realm, issued its first two decisions involving employer social media policies and practices. As a result of these decisions, employers must be careful in designing policies that could impact

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employees' social media activities, and approach each social media disciplinary issue thoughtfully, on its facts.

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