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EST. 1979

Facebagged, Twerminated,
and NetWORKed:
Social Media and the Law

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Unemployable due to stupid personal stuff I put on my facebook page.

Me too!


FOR ME, IT WAS AN EMBARRASSING YOUTUBE VIDEO.

Signs of the social networking times.

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Social Media and the
NLRB...OMG?



NATIONAL
LABOR
RELATIONS
BOARD

General Background

- The NLRA prohibits an employer from promulgating workplace rules/policies that would “reasonably tend to chill employees in the exercise of their Section 7 rights.”



General Background

- A rule that does not *expressly* restrict protected activity may nevertheless violate this section of the NLRA if:
 1. Employees would reasonably construe the policy's language to prohibit Section 7 activity;
 2. The rule was promulgated in response to union activity; or
 3. The rule has been applied to restrict the exercise of Section 7 rights.



Can You Do the Following?

- Require employees to post disclaimers and warnings?
- Prohibit use of Company logo?
- Prohibit use of Company e-mail for unionizing?
- Require confidentiality in severance or settlement agreements?
- Regulate employee social media activity on behalf of Company?
- Prohibit “selfies” at work?



Non-Compete Agreements



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Ownership of Accounts



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Technology Developments, the FLSA, and Beyond



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Pokémon Go



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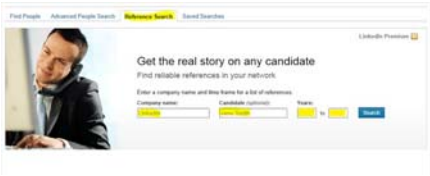
Wearables at Work



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LinkedIn Reference Checks



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Consent to Post?



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Is a Facebook "Like" Free Speech?



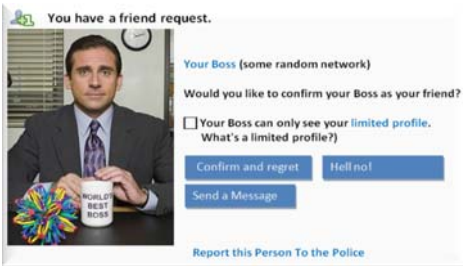
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Social Media Isn't All Bad



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Wanna be my "friend"?



Is this Harassment?



Passwords—Gimme, gimme, gimme?



Lawyers and Border Searches



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I'm not just the President, I'm
also a client...



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"Kardashian" Disclosure Rule



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Questions?

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