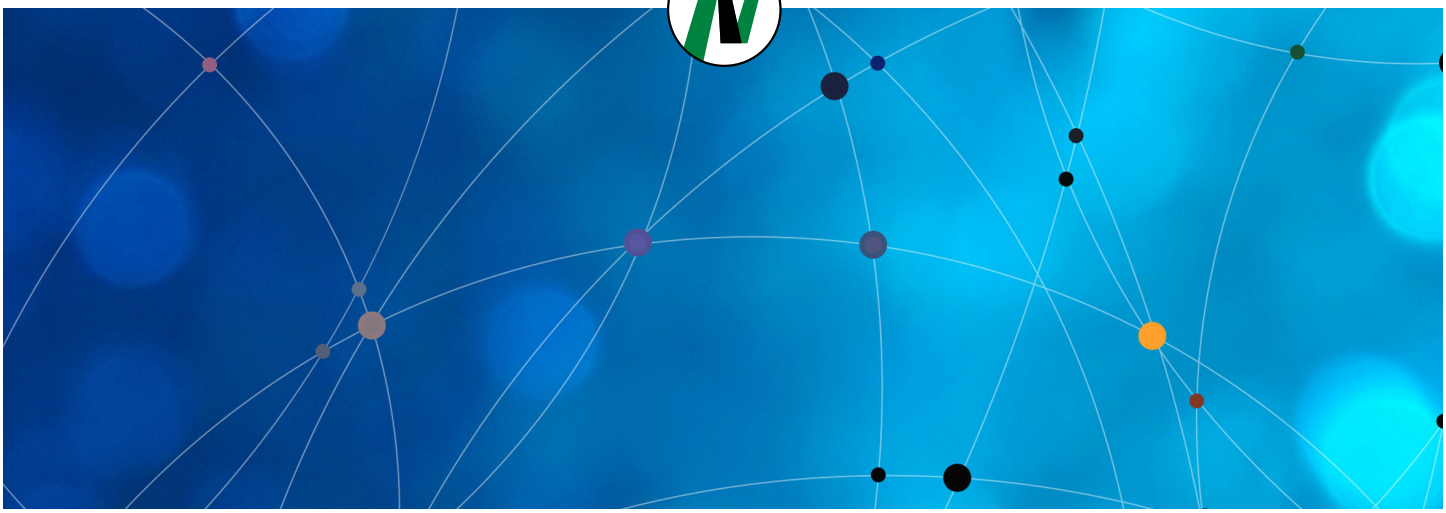

NLRB Released Reports on Cases Involving Social Media

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The National Labor Relations Board (NLRB) Office of the General Counsel has recently released two reports (Report of the Acting General Counsel Concerning Social Media Cases and Operations Management Memo) summarizing several cases that were before the NLRB concerning the protected and/or concerted nature of employees' social media postings and the lawfulness of employers' social media policies and rules (Report).

Both reports emphasized that employer policies should not be so broad such that they prohibit, discourage or chill activity that is protected by Section 7 of the National Labor Relations Act (NLRA) (e.g., discussion of wages or working conditions). The Reports made clear that:

- Specific examples of the type of conduct prohibited should be included in any social media policy (i.e., do not disclose trade secrets, as opposed to do not post sensitive information about the company).
- The policy should carefully carve out and protect employee's specific rights under NLRA; a general saving clause is insufficient.
- The policy should not use vague terms like appropriate or professional without providing clear definitions for those terms.
- Employee comments on social media networks generally are not protected if those comments are mere complaints about or general dissatisfaction with the job (e.g., I hate my job! or My boss is mean!).
- The comments will be protected if they are associated with an expression of shared concern, such as a dialogue about how bad the work environment is and what employees can do to fix it in response to a single employee's wall post about the job.

See the links above for summaries of the cases reviewed.