

Media Mention: Emily Massey's Article Featured in HR Professionals Magazine

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Business owners and employees often have labor and employment questions.

While situations and factors differ from business to business and employee to employee, there are common questions that are frequently asked. Labor and employment attorney Emily Massey answered her top three most asked questions in her article featured in the September issue of HR Professionals Magazine.



From the article:

1.) Can we discipline or terminate an employee who posted negative comments about the company online?

News travels fast, but bad news travels even faster. We often receive calls from clients and potential clients about how to address situations with employees who post negative content on social media. Navigating these situations is, of course, dependent upon the nature of the comment.

The key legal requirement that employers must keep top of mind is the National Labor Relations Act ("NLRA"), which

protects employees' rights to discuss the terms and conditions of their employment, including wages, benefits, and disciplinary action. The NLRA prohibits employers from retaliating against employees for engaging in this "protected concerted activity," which can include posting online about an employee's, or their coworker's, terms and conditions of employment. Discipline and/or termination from employment based on an employee's use of social media, such as Facebook, may result in a charge being filed with the National Labor Relations Board (the regulatory body that enforces the NLRA). As such, employers should consult legal counsel before taking any type of disciplinary action against an employee related to social media or online posts.

Until this type of situation arises, employers can take several steps to stay ahead of the potential problem:

- *Develop clear policies and appropriate standards on social media use in the workplace. Note that these policies cannot include a broad nondisparagement requirement, which would, by itself, run afoul of the NLRA. Instead, carefully crafted and legally compliant social media policies can help set expectations with employees without infringing on their legal rights.*

- *Educate employees on social media use through new hire or other training.*
- *Train management-level employees on the appropriate steps to take when they hear of unpleasant social media posts. Managers must avoid immediate reaction, which could result in unlawful action, and instead should immediately contact Human Resources or the appropriate internal resource who will help evaluate the appropriate, legally-compliant action.*

You can read the entire article, titled "From Facebook to FMLA to Furry Friends - Frequently Asked Questions in Employment Law, online two ways: Visit www.hrprofessionalsmagazine.com or click here for www.WardandSmith.com. It's also available in print.