

Does Your Social Media Policy "Chill" Protected Speech?

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Garvey Schubert Barer Legal Update, February 14, 2011.

Summary

Horror stories abound of employees using social media to bash their employers, their products and services, and their co-workers. Also frightening are well-publicized estimates of lost employee productivity due to employee use of social media during company time. In response to these increasing problems, many employers have adopted policies governing employee use of social media such as Facebook, Twitter, and MySpace, both inside and outside the workplace. However, very recent legal developments have shown that there is a serious risk that adopting an overly restrictive social media policy may be construed as a violation of the National Labor Relations Act ("NLRA").

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