

Feds settle case of woman fired over Facebook site

February 8 2011, By SAM HANANEL , Associated Press

(AP) -- Employers should think twice before trying to restrict workers from talking about their jobs on Facebook or other social media.

That's the message the government sent on Monday as it settled a closely watched lawsuit against a Connecticut ambulance company that fired an employee after she went on Facebook to criticize her boss.

The National Labor Relations Board sued the company last year, arguing the worker's negative comments were protected speech under federal labor laws. The company claimed it fired the emergency medical technician because of complaints about her work.

Under the settlement with the labor board, American Medical Response of Connecticut Inc. agreed to change its blogging and Internet policy that barred workers from disparaging the company or its supervisors. The company also will revise another policy that prohibited employees from depicting the company in any way over the Internet without permission.

Both policies interfered with longstanding legal protections that allow workers to discuss wages, hours and working conditions with co-workers, the board said.

"I think it certainly sends a message about what the NLRB views the law to be," said Jonathan Kreisberg, the NLRB regional director in Hartford who approved the settlement.

"The fact that they agreed to revise their rules so that they're not so overly restrictive of the rights of employees to discuss their terms and conditions with others and with their fellow employees is the most significant thing that comes out of this," Kreisberg said.

Terms of a private [settlement agreement](#) between the employee, Dawnmarie Souza, and the company were not disclosed, but Kreisberg said the parties reached a financial settlement. Souza will not be returning to work there.

Souza declined a request for comment. A representative for American Medical Response did not immediately return a call seeking comment.

Souza posted the Facebook comments in 2009 from her home computer, hours after her supervisor said a customer had complained about her work. The expletive-filled posting referred to her supervisor using the company's code for a psychiatric patient. Her remarks at the time drew supportive posts from colleagues.

Chuck Cohen, a labor and employment lawyer and former NLRB member during the Clinton administration, said the case will have employers around the country re-examining their Internet policies

"It clearly has resonance because we know the NLRB's general counsel is going to take this position," Cohen said.

But Cohen warned that the case doesn't give employees free rein to discuss anything work-related on [social media](#).

"The line can go over to disloyalty or disclosure of truly confidential information," Cohen said. "This is not without boundaries, but we just don't have a good sense yet of where the boundaries are."

Millions of Americans use [Facebook](#), Twitter and other social media. Kreisberg said the board is looking at a growing number of complaints that explore the limits of corporate Internet policies. The board is an independent agency that supervises union elections, referees labor-management disputes and works to prevent unfair labor practices in the private sector.

Sara Begley, a Philadelphia-based employment lawyer, says image-conscious companies may be taken by surprise that the law protecting employees who want to discuss working conditions extends to social media sites, which can potentially be viewed by thousands or even millions of people.

"I think it's a natural evolution that the law is being broadly interpreted to include social media considering that it's become one of the most prevalent methods of communication," she said.

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