

Feds: Woman illegally fired over Facebook remarks

9 November 2010, By SAM HANANEL , Associated Press

(AP) -- A Connecticut woman who was fired after she posted disparaging remarks about her boss on Facebook has prompted a first-of-its-kind legal case by federal authorities who say her comments are protected speech under labor laws.

The National Labor Relations Board alleges that American Medical Response of Connecticut Inc. illegally fired Dawnmarie Souza from her job as an emergency medical technician late last year after she criticized her supervisor on her personal [Facebook](#) page and then traded Facebook messages about the negative comments with other employees.

The complaint, filed Oct. 27 by the board's Hartford, Conn., regional office, could set a precedent for employers to heed as more workers use [social networking sites](#) to share details about their jobs.

"It's the same as talking at the water cooler," said Lafe Solomon, the board's acting general counsel. "The point is that employees have protection under the law to talk to each other about conditions at work."

Federal labor law has long protected employees against reprisal for talking to co-workers on their own time about their jobs and working conditions, including remarks that may be critical of managers. The law applies whether or not workers are covered by a union.

NLRB officials claim the Connecticut ambulance company has an unlawful policy that prohibits employees from making disparaging remarks about supervisors and depicting the company "in any way" over the Internet without permission.

"This is the first complaint we've issued over comments on Facebook, but I have no doubt that we'll be seeing more," Solomon said. "We have to develop policies as we go in this fast-changing

environment."

The trouble for Souza started when her supervisor asked her to prepare an investigative report when a customer complained about her work, according to the complaint. Souza claimed she was denied representation by her union, the Teamsters Local 443.

Later that day, Souza logged onto her Facebook page from a home computer and wrote: "Looks like I'm getting some time off. Love how the company allows a 17 to be a supervisor."

A 17 is the code the company uses for a psychiatric patient. Souza also referred to her supervisor with two expletives. Her remarks drew supportive Facebook postings from other colleagues.

John Barr, an attorney representing the company, said the real reason Souza was fired was because of two separate complaints about her "rude and discourteous service" within a 10-day period. He said Souza would have been fired whether the Facebook comments were made or not.

Barr said the company understands that workers have right to talk about wages and working conditions. But he said it stands by its policy against employees discussing the company on the Internet, including social media sites.

"If you're going to make disgusting, slanderous statements about co-workers, that is something that our policy does not allow," Barr said.

Jonathan Kreisberg, director of the board's regional office in Hartford, said the company's policy is overly broad. He acknowledged that the law protecting worker speech has some limits, such as not allowing employees to disrupt the workplace or engage in threatening conduct. But Kreisberg argued that Souza's Facebook comments did not cross a legal line.

"Here she was on her own time, on her own computer and on her own Facebook page making these comments," Kreisberg said. "If employees are upset about their supervisor and get together on their own time talk about him, criticize and call him names, they can do that."

A hearing on the case before an administrative law judge is set for Jan. 25.

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