



For Once, NLRB Rejects Online Protected Activity

News

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Steven Bernstein was quoted in *Corporate Counsel* on October 31, 2014. The article “For Once, NLRB Rejects Online Protected Activity” examined the National Labor Relations Board’s decision not to extend National Labor Relations Act protection to a group of workers who badmouthed their employer on Facebook.

Steven was quoted on his takeaways from the case.

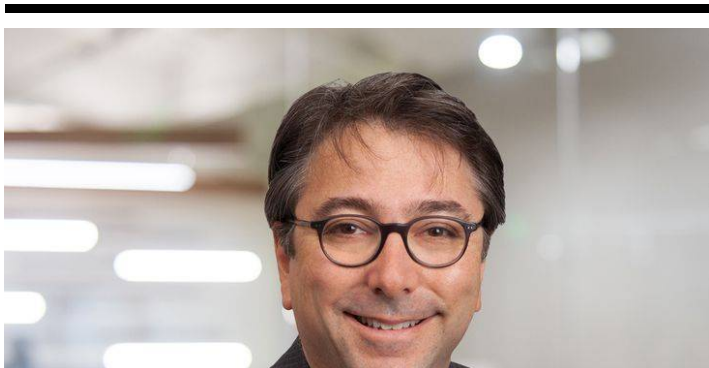
Steven agreed that the employees in the case went many steps too far. “They seem focused on besmirching the name of the employer and acting out some individual vendettas, which is not what the act was designed to protect,” Steven told CorpCounsel.com.

Just because employers have notched a victory here doesn’t mean that everyone is free to start disciplining or dismissing workers who take to social media to express frustration. Pennington emphasized that the set of facts and employee behavior in Richmond is hardly typical, and employers still have to use immense care in these situations. “If you can find a clear expression of intent to be insubordinate, then I think you might be safe disciplining based on that,” Steven said. “But if it’s a discussion of working conditions, even if it’s profane, even if it’s offensive, it is presumptively protected.”

To read the full article, please visit [*Corporate Counsel*](#).

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