NLRB's OK of Facebook Firing Leaves Questions Unanswered

News
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John Donovan, a partner in the Atlanta office, was quoted in the October 2 *Law360* article "NLRB's OK of Facebook Firing Leaves Questions Unanswered." The article reported on a National Labor Relations Board decision that condoned the firing of a BMW salesman over his Facebook comments about an accident that occurred at an adjacent dealership also owned by the company. The decision indicates that not all employee social media posts will be considered protected by federal labor law, but the ruling leaves employers still unsure of where the board draws the line. Other postings made by the same employee criticizing a marketing event taking place at the dealership were not addressed by the board. The ruling offers employers only limited guidance on what kinds of posts they can base actions. John noted, "The board never reached that part, so we don't know what the NLRB would have said about the posts that were critical of the employer's business decisions." He added, "The decision was good for employers in the sense that they upheld the decision [that the firing was lawful], but not so good in the sense that it doesn't tell you how far the board is going to go in finding that an employee's conduct that is critical of his employer is protected."

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