

Steven Swirsky Quoted in "Circuit Court Backs NLRB on Social Media Conduct, Voids Handbook Provision"

Corporate Counsel

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Steven M. Swirsky, a Member of the Firm in the Labor and Employment and Health Care and Life Sciences practices, in the firm's New York office, was quoted by *Corporate Counsel*, in "Circuit Court Backs NLRB on Social Media Conduct, Voids Handbook Provision," by Rebekah Mintzer. (*Read the full version – subscription required.*)

Following is an excerpt:

Unfortunately for Triple Play, the Connecticut restaurant that was in trouble with the labor board, the court only echoed the NLRB. The appeals court confirmed that Triple Play did not have the right to terminate employees who used social media to post negative and even profane comments about restaurant management. And, in an unprecedented move, the board and the appeals court voided a provision of the employee handbook that forbade online critical comments about the company.

Although the Second Circuit ruling was "unpublished"—meaning that other courts don't have to necessarily follow it—it's still another warning sign for companies that want to avoid getting caught in the board's crosshairs.

People



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"It's certainly a decision that the board is conscious of, it's certainly a decision that the unions and the plaintiffs' bar are conscious of," says Steven Swirsky, a partner at Epstein Becker Green in the firm's labor and employment practice. "People tend to listen carefully to what the Second Circuit says."

Also see coverage of this topic in Epstein Becker Green's news program, *Employment Law This Week* (Episode 3: Week of November 2, 2015).