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Rule Against Non-Union Workplace "Disruptions" Can Run Afoul Of NLRA

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A recent opinion from an Administrative Law Judge (ALJ) serves as an important reminder for non-unionized employers. As we previously explained, Section 7 of the NLRA gives employees the right to form, join or assist labor organizations. It also guarantees employees the right to engage in other concerted activities for the purpose of mutual aid or protection. Even in the absence of a labor union, an employee complaining about wages, hours or working conditions on behalf of himself or herself and other employees cannot be disciplined or discharged for such conduct under the NLRA.

In *Purple Communications*, an ALJ found that a work rule that prohibited workers from "[c]ausing, creating, or participating in a disruption of any kind during working hours on Company property" unreasonably interfered with the Section 7 rights of employees to engage in protected concerted activity. According to the ALJ, the employer's work rule did not define or limit the meaning of "disruption" or state that is was not intended to refer to Section 7 activity. Accordingly, workers could "reasonably interpret [the rule] to outlaw some such activity."

The NLRB has been taking an increasingly aggressive stance with respect to rules that *could be* construed as have a chilling effect on an employee's right to engage in protected concerted activity. Thus, *all employers* are encouraged to seek legal counsel to determine whether seemingly innocuous policies might inadvertently be found to violate Section 7 of the NLRA. The opinion can be found here.

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