

Unions Get Free Pass From The NLRB When It Comes To Facebook Postings?

April 21, 2015 | [National Labor Relations Board, Labor And Employment](#)



**David J.
Pryzbylski**
Partner

Anyone who follows this labor blog (or even remotely monitors labor relations issues) knows employers have been getting hammered by the NLRB in recent years for disciplining employees for making inappropriate comments on Facebook (as well as maintaining policies meant to deter such conduct). So what happens if a union allows illegal content to be posted on its Facebook page? Does it face the same level of scrutiny that an employer would? Unfortunately, it appears the answer may be “no.” On April 17, the DC Circuit Court of Appeals published a decision, *Weigand v. NLRB*, in which it reviewed the NLRB’s dismissal of an employee’s charge against a union based on the union’s failure to remove allegedly threatening comments from its Facebook page. Specifically, the union created a Facebook page during a strike against an employer to communicate with its members. Only union employees had access to the page. During the work stoppage, some union employees posted threatening remarks about employees who chose to cross the picket line, including a comment inquiring whether picketers could “bring the Molotov Cocktails” to the hotel where “scabs” were staying. Despite being posted on the Facebook page maintained and monitored by the union, union officials never removed these comments, disavowed them, or otherwise indicated they did not support them. While the comments may have been threatening and improper, the NLRB, who was affirmed by the DC Circuit, ruled that there was no evidence union officials authorized or encouraged the individuals (who were union members) to post the comments; so no violation against the union was found. Given the NLRB has dinged employers for disciplining employees for making disparaging remarks about supervisors, etc., this decision is troubling. A copy of the court’s opinion can be found [here](#).

RELATED PRACTICE AREAS

Labor and Employment

Labor Relations

National Labor Relations Board (NLRB)