

"Picture Perfect": NLRB ALJ Finds Company's Photographing Of Employees Holding Demonstrations Inside Plant Illegal Along With Its Policy Limiting Employee Photography

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**David J.
Pryzbylski**
Partner

On Thursday, May 15, 2014, a NLRB Administrative Law Judge (ALJ) ruled an employer violated the National Labor Relations Act (Act) by photographing hundreds of employees who were conducting in-plant marches in support of their contract demands that were at the center of pending successor contract negotiations between a union and the company. The company argued its photography was justified because the employee marches disrupted production and it needed to monitor the situation. The ALJ, however, rejected the employer's arguments and determined the photographing of the employees violated the Act because it constituted unlawful "surveillance." The ALJ heavily relied on the fact that the demonstrations were "peaceful" and no one was ever disciplined by the company for their involvement in the marches. The ALJ also determined that the company -- an aircraft and military equipment manufacturer -- committed an additional violation of the Act by maintaining a rule that placed significant limitations on employees' rights to use camera devices in the workplace (e.g., they had to show a valid business justification for using the device, had to get prior authorization, etc.). The company argued it needed such a rule to protect its confidential and proprietary production processes. The ALJ again rejected the employer's arguments and found that the policy, as drafted and enforced, unlawfully "chilled" employee rights under the Act. The ALJ indicated that because the company permitted non-employees to take tours of its facilities and take photographs without any restrictions and also released a DVD into the "public domain" containing video footage of its operations, the policy was overbroad. The employer has indicated it is going to appeal the decision to the full NLRB, so stay tuned to the blog for further developments. This case is the latest in a long line of recent cases where the NLRB is coming down on employer workplace policies that are common to many, if not most, companies around the country. Accordingly, it is critical to keep abreast of the latest cases to ensure workplace practices and policies remain in compliance with the Act. [A copy of the decision can be found here.](#)

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