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## Oh Snap! Employee Lawfully Terminated For Profanity-Laced Facebook Post

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We've all seen a social media post that makes us cringe and question why someone would post it. Often this is due to extremely profane or vulgar language someone chooses to include in his or her post. Over the years, however, the National Labor Relations Board (NLRB) has declared that some [offensive outbursts by employees](#) – including those that occur online – cannot serve as ground for their termination if the employees are engaged in “protected activity.” Good news: the NLRB just released an [advice memo](#) from its general counsel's office that upheld the termination of an employee who crossed the line in a social media post.

At issue in the case was an oilfield service company. A supervisor at the company posted a picture of a new piece of fracking equipment on Facebook. One of the supervisor's reports saw the post and commented:

“I'm f\*\*\*ed we are f\*\*ed lord help us should just work for [supplier's] so called supervisors in the field are going to f\*\*\* this up and can't wait for them to ask me questions I'm not going till I get paid.”

The post concluded with an emoji of a middle finger. The company terminated the worker for this profanity-laced post.

The employee filed a charge with the NLRB asserting he was engaged in concerted, protected activity when he made the post, which, according to

him, rendered his termination unlawful. The NLRB's general counsel disagreed. The advice memo noted that there was no indication that the employee was acting in concert with other workers or raising an issue of common concern among the workforce. Generally, conduct must be concerted in nature (i.e., [involve two or more employees](#)) for it to be covered under the National Labor Relations Act.

While employers should still carefully evaluate the context and content of social media posts before using them as a basis for discipline, this case is another reminder that employees [don't have carte blanche](#) to post offensive content related to their organizations.