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# NLRB, Knauz BMW, and…Hot Dogs?

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## NLRB v. Knauz BMW, 13-CA-045452 (July 21, 2011)

As summer makes its slow march towards fall, it seemed prudent to remind employers that hot dogs are not just for company picnics anymore. They can be the basis for a unlawful termination suit by the NLRB.

On May 20, 2011, the NLRB issued a complaint against Knauz BMW alleging unlawful termination of an employee for posting photos and comments on his Facebook page that were critical of the dealership. The offending comments? The employee complained that sales commissions would suffer because customers were only being served hot dogs and bottled water. Of critical importance was the fact that fellow employees had access to the Facebook page. The employee was subsequently terminated.

The NLRB complaint alleges that the Facebook post involved discussions among employees regarding the terms and conditions of employment and, therefore, was protected, concerted activity under Section 7 of the National Labor Relations Act. The NLRB maintained that the communications did not lose protection "based on the nature of the comments."

A one-day hearing in the matter was conducted on July 21, 2011 before Administrative Law Judge Robert Giannasi. No decision has been issued to date.

Due to the relatively few reported decisions concerning social media postings and the workplace, the decision could have far reaching implications for both employers and employees. Check back for updates.