



# New York Post Sports Writer Sues Following Post-Tweet Termination

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The New York Post (“the Post”), a daily newspaper known for its tabloid style journalism, recently terminated sports columnist Bart Hubbuch (“Hubbuch”), after he posted a tweet critical of President Donald Trump. Hubbuch has since filed a lawsuit against the Post in New York State Supreme Court, claiming that the Post, in terminating the writer, has violated New York State Labor Laws.

On President Trump’s inauguration day, Hubbuch posted the following tweet to his personal Twitter account: “12/7/41. 9/11/01. 1/20/17”, comparing Trump’s inauguration to national tragedies like Pearl Harbor and the September 11<sup>th</sup> terrorist attacks. In his complaint, Hubbuch emphasized that the tweet, which has since been deleted from his Twitter account, was posted “outside of work, on his own time, under his own name, in his own home, from his own Twitter feed, and without the use of any of the Post’s equipment or other property.” Hubbuch claims that he was told he would be able to keep his job at the Post if he apologized. Hubbuch apologized via Twitter several times, posting “I have deeply held beliefs and feelings, and I let emotion get the best of me today.” Despite attempts to make amends, Hubbuch was terminated.

In a statement regarding Hubbuch’s termination, the Post stated, “[w]e expect our reporters to interact with the public, including on social media, in a professional manner. Unfortunately, Mr. Hubbuch has engaged in a pattern of unprofessional conduct and exhibited serious lack of judgment, including most recently showing disrespect for the victims of Pearl Harbor and 9/11.” However, Hubbuch’s complaint specifically argues that the content of his tweet was well within the bounds of the Post’s “edgy approach” to journalism and social commentary. The complaint further asserts that “[n]ot known for its sensitivity, the Post regularly exploits tragedy, violence, and death to sell the news.” Furthermore, the complaint contends that “[i]n keeping with its tabloid style, the Post has sensationalized the actual or perceived the fault of democratically elected leaders by running covers showing them dressed up like tyrants responsible for the murder, torture, and repression.”

Hubbuch’s complaint also asserts that the Post is in violation of New York Labor Law Section 201-d. Generally, this law makes it illegal for an employer to “refuse to hire, employ or license, or to discharge from employment or otherwise discriminate against an individual in compensation, promotion or terms, conditions or privileges of employment because of...an individual's legal recreational activities outside work hours, off of the employer's premises and without the use of the employer's equipment or other property...” Hubbuch claims that his private activity on Twitter falls squarely within the very activity protected by Section 201-d.

Finally, the lawsuit alleges that Hubbuch's termination was motivated by "Murdoch's interest in pleasing Trump and not upsetting him, now that Trump has the power to either directly benefit or harm Murdoch..." Media mogul Rupert Murdoch's company, News Corp., has owned the Post since 1976. Hubbuch is seeking monetary damages and is also requesting that he be reinstated to his position at the Post. This case will likely turn on whether the court finds Hubbuch's conduct to be within the scope of the New York Labor Law Section 201-d.

Regardless of whether Hubbuch is successful in his suit, employers should be aware of Section 201-d when making termination decisions, especially if the reasoning for termination is based on "after hours" conduct of an employee.

*If you have any questions or concerns regarding employment related issues, please contact James G. Ryan at [jryan@cullenanddykman.com](mailto:jryan@cullenanddykman.com) or at 516-357-3750.*

*Thank you to Bridget Hart, a law clerk at Cullen and Dykman, for her assistance with this blog post.*

\*Please note that this is a general description of law and does not constitute legal advice.