

Employer Not Liable for Terminating Employee After Facebook Message

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An Ohio court recently ruled that an employee's termination did not fall within the public policy exception to the employment-at-will doctrine and dismissed the employee's claims against the employer. The employee, erroneously believing that a supervisor with whom she had a contentious relationship had been fired, sent a message through Facebook celebrating the news of the firing. The message was sent to coworkers, one of whom provided the supervisor with a copy. When the employer questioned the employee about the message, the employee denied sending or typing the message, and claimed her Facebook account had been hacked. After an investigation, the employer determined that the employee actually had sent the message and terminated her for dishonesty, as she repeatedly lied about her actions. The employee sued, alleging that she had been wrongfully terminated in violation of the public policy of free speech established by the First Amendment. The court held that private employers cannot be liable for public policy wrongful discharge claims based on the First Amendment, as the First Amendment requires state action. The court also dismissed the employee's claims for interference and retaliation under the Family and Medical Leave Act.

TIP: While some expressions of employee speech using social media may be protected, employers nonetheless may enforce their lawful employment policies.

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