

NLRB Judge Strikes Hooters Franchise Social Media Policy

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An Administrative Law Judge (ALJ) for the National Labor Relations Board recently ruled that a Hooters franchise unlawfully fired a waitress who complained that a bikini contest was rigged. The ALJ also struck down the company's mandatory arbitration and nondisclosure agreements and nine employee handbook rules. The waitress was discharged for cursing at the winner of the contest, posting disparaging comments about coworkers and managers on social media outlets, and violating a number of work rules.

The ALJ found that certain of the employee handbook rules were overbroad and violated the National Labor Relations Act, including rules prohibiting staff from discussing tips with other workers and guests, prohibiting unauthorized dispersal of sensitive company material, and a rule forbidding employees from posting negative comments about the company and from posting any information regarding a coworker on social media. The ALJ also invalidated the company's confidential information and nondisclosure agreement, finding the agreement impermissibly prohibited the disclosure of any information pertaining to terms and conditions of employment.

TIP: Employers, even those with non-union employees, should be aware that the NLRB is aggressively reviewing social media policies. Employers should have their policies reviewed by counsel.

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