

Manager's Facebook Post Did Not Establish Invasion of Privacy/Emotional Distress Claims

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A Minnesota court recently dismissed the invasion of privacy and intentional infliction of emotional distress claims of a former employee after a manager posted about the employee's termination on Facebook. The case was brought by an aerobic coordinator at LA Fitness who was fired. After the employee's termination, customers posted questions on LA Fitness' Facebook page wondering about his absence. A manager posted a response stating that the decision "had nothing to do with his abilities as an instructor. That wasn't the extent of his job though, and some serious HR/Administrative issues arose surrounding his other responsibilities and parting was the decision. That is all that needs to be said." The court found that because no reasonable person could find that the statement was a highly offensive invasion of the former employee's privacy, the claim for invasion of privacy should be dismissed. Additionally, the court found that the Facebook post and other "insensitive" comments made by coworkers did not rise to the level of extreme and outrageous conduct necessary to state a claim for intentional infliction of emotional distress. The court also dismissed claims of age discrimination, violation of the state whistleblowing law, fraud and tortious interference, although race and gender discrimination and retaliation claims will proceed.

TIP: Employers should consider establishing guidelines for use of social media in the workplace and should communicate these guidelines to employees. Employers should consult with counsel when drafting social media guidelines to ensure the guidelines are consistent with any applicable federal or state law.

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