

Social Media and Technology in the Workplace

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On September 19, 2014, Maxiel Gomez and I presented a seminar entitled “Social Media and Technology in the Workplace” at the New Jersey Corporate Counsel Association’s Annual Conference. The seminar drew a strong turnout which shows that social media is still a hot button issue for many employers. For those who were unable to attend the conference, here are some of the key takeaways:

- The National Labor Relations Board – Office of the General Counsel (“NLRB”) has issued guidance concerning social media policies promulgated by employers;
- The NLRB takes the position that certain provisions found in social media policies violate Section 7 of the National Labor Relations Act (the “Act”);
- The NLRB has brought enforcement actions against several employers who have terminated employees for allegedly engaged in “concerted activity” on a social media site;
- Many states, including New Jersey, have enacted password protection laws that prevent employers from demanding that an applicant or employee disclose a social media password;
- Employers should be careful that they are not considering information disclosed on social media about an applicant’s membership in a protected class when they make employment decisions;
- Employers can monitor social media to investigate whether employees are engaged in fraudulent or disloyal conduct; and
- Employers should review their social media policies to ensure that they comply with the law and be cautious when they seek to discipline an employee for violating a social media policy.