

June 18, 2015

## NLRB Rules 'Vulgar' Union Buttons Allowed

In our [prior alerts](#), we notified you of the National Labor Relations Board's (NLRB) recent decisions clarifying when, in the current board's estimation, an employer violates Section 7 of the National Labor Relations Act (NLRA) by restricting employee speech.

As a supplement, employers may be interested to read the NLRB's recent decision in [Pac. Bell Tel. Co.](#), 362 NLRB No. 105 (June 2, 2015). The NLRB found Pacific Bell and Nevada Bell (d/b/a/ AT&T) violated Section 7 of the NLRA by prohibiting union members from wearing vulgar union buttons. The union buttons at issue stated:

- "WTF Where's the Fairness"
- "FTW Fight to Win"
- "Cut the Crap! Not My Healthcare!"

Section 7 of the NLRA allows employees to wear union insignia, including buttons, in the workplace. This right may be restricted, but the employer has the burden to prove special circumstances that justify the restriction. Here, AT&T argued the buttons had a profane "double entendre"; it did not want its technicians wearing them inside customers' homes and businesses. While the NLRB noted the buttons may have been in questionable taste, they were not—according to the NLRB—so overtly vulgar or obscene as to allow a restriction.

The NLRB's decision should remind employers to take caution when engaging in actions that may impact employee speech.

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*This document is intended to provide you with general information regarding the NLRB's Pac. Bell Tel. Co. decision. The contents of this document are not intended to provide specific legal advice. If you have any questions about the contents of this document or if you need legal advice as to an issue, please contact the attorneys listed or your regular Brownstein Hyatt Farber Schreck, LLP attorney. This communication may be considered advertising in some jurisdictions.*