



**NLRB Grants Employees Presumptive Right  
to Use Employers' Email Systems for  
Section 7 Activity**

On December 11, 2014, the National Labor Relations Board (NLRB) held in *Purple Communications, Inc.*, that employees have a presumptive right under Section 7 of the National Labor Relations Act (NLRA) to engage in concerted activities while at work using their employer's email system for the purpose of collective bargaining or other mutual aid or protection (i.e., to engage in union organizing or to criticize wages, benefits, or working conditions). The Board held that "[it] will presume that employees who have rightful access to their employer's email system in the course of their work have a right to use the email system to engage in Section 7-protected communications on nonworking time."

Employers can rebut this presumption "by demonstrating that special circumstances necessary to maintain production or discipline justify restricting its employees' rights." The Board noted, however, that "it [would] be the rare case where special circumstances justify a total ban on nonwork email use by employees." And if such a case were to occur, the employer "must demonstrate the connection between the interest it asserts and the restriction."

This decision overrules *Register-Guard*, a prior NLRB decision which held that employees do not have a right to engage in Section 7 activity using their employer's email system or computer equipment.

In light of *Purple Communications*, employers should review their policies and practices relating to email communications during both working and nonworking hours. For more information and guidance on this subject, please contact a member of our Labor and Employment Law Practice Group.

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