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## MTC FCU Lawfully Discharged Employee Over Post

By Gary Klotz  
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The article about the discharge of Gerri Cannon for a Facebook posting overemphasized her alleged, but non-existent, legal rights and underemphasized the actual rights of her former employer, MTC Federal Credit Union.

MTC lawfully discharged Ms. Cannon. Like almost all non-unionized employees, except senior executives with employment contracts, she was presumably employed on an “at-will” basis, which means that her employer could have discharged her for any reason except an illegal reason. Discharging Ms. Cannon for her ill-advised Facebook posting was not an illegal reason.

Ms. Cannon’s constitutional rights under the First Amendment are irrelevant. MTC is a private sector employer, and the constitution only deals with what the government, not private sector employers, can or cannot do with respect to individuals.

MTC did not violate any of Ms. Cannon’s rights under statutory law. She was not a whistleblower disclosing illegal conduct by her employer, she was not engaged in “protected concerted activity” under the National Labor Relations Act with respect to her workplace and she was not opposing unlawful discrimination by her employer. She merely responded to a political comment expressed by Mr. Tef Poe, a Black Lives Matter activist and rapper.

An employer, such as MTC, has the legal right to discharge an employee for off-duty conduct when there is a link between that conduct and the employer’s legitimate business interests. That link exists, for example, when the employee’s off-duty conduct damages an employer’s public image.

That is exactly what happened to MTC: Ms. Cannon’s Facebook posting resulted in a firestorm of negative publicity and could cause a loss of members and business for MTC. The credit union had the right to discharge Ms. Cannon because of the negative publicity that her off-duty Facebook posting caused and because of its need to avoid further actual or potential reputational damage.

The fact that Ms. Cannon “posted the comment on her personal time and personal Facebook site” is simply irrelevant. Her posting negatively affected her employer, its brand, and its business. MTC lawfully and appropriately tried to minimize the damage and to protect its business interests by discharging her.

Ms. Cannon and other employees who work for credit unions or, for that matter, any other employer that serves the public should follow a simple rule when posting anything on social media that may be controversial or offensive: If you would not want to see your post on the six o’clock news, don’t post it!

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