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**Watch: The Weaponization of NLRB Against Ben Domenech’s Joke Tweet Raises Free Speech Concerns**

*FDRLST Media, LLC v. National Labor Relations Board*



*Photo: Ben Domenech, employee of FDRLST Media, plaintiff in FDRLST Media, LLC v. National Labor Relations Board*

**Washington, DC (March 22, 2022)** – The National Labor Relations Board (NLRB) has made a federal case out of a joke on Twitter. FDRLST Media is under federal investigation after Ben Domenech, publisher of the online magazine, posted a satirical [tweet](#) that didn’t sit well with a random Twitter user with no connection to the company. The problem is that NLRB has a regulation that is far more permissive than the statute itself and lets interlopers file complaints. The New Civil Liberties Alliance, a nonpartisan, nonprofit civil rights group, released a [video](#) today critiquing NLRB’s absurd investigation into Mr. Domenech and FDRLST, now charged with supposedly committing an “unfair labor practice,” and detailing the threat to free speech at stake in FDRLST’s appeal of NLRB’s administrative enforcement action, *FDRLST Media, LLC v. National Labor Relations Board*.

Mr. Domenech’s tweet was not an unfair labor practice. FDRLST employees filed affidavits stating they viewed the tweet as a joke, nothing more. Moreover, Mr. Domenech and FDRLST each have the constitutional and statutory right to speak freely and satirically. Mr. Domenech has the right to express his personal views on his personal Twitter account, over which he has complete control and FDRLST has none. FDRLST cannot make Mr. Domenech tweet or delete anything from his personal Twitter account.

The National Labor Relations Act (NLRA) does not empower random people to activate NLRB’s enforcement machinery against employers to punish their employees’ personal speech. NLRB has no statutory authority to prosecute the action because the NLRA only allows an “aggrieved” person to file a charge with the Board.

The case has now been argued before the U.S. Court of Appeals for the Third Circuit. Strong *amicus curiae* support, filed over the free speech concerns the cases raises, has come from the Cato Institute, Reason Foundation, Individual Rights Foundation, Nadine Strossen, P.J. O’Rourke, Penn and Teller, Tech Freedom, the Institute for Free Speech, Pacific Legal Foundation, prominent First Amendment scholars, and others. NCLA urged the Third Circuit to reach the “aggrieved” person statutory issue, as well as the free speech issues in the case, and vacate NLRB’s order for Mr. Domenech to delete his personal tweet because the tweet is (1) not an unfair labor practice, and (2) protected by the First Amendment.

### **Excerpt from the video:**

“Why bother when the stakes seem so low? Because they aren’t. The NLRB erroneously interpreted its own governing statute to mean anyone can press unsubstantiated charges to silence a company’s opposing beliefs. NLRB has no authority to prosecute particular viewpoints and label them as a violation of the law. Individuals have the right to speak freely and satirically to express their opinions under the First Amendment of the U.S. Constitution. And yes, even government agencies have to abide by that ... It’s understandable that those who can’t afford to fight often bend the knee, but in that America, bureaucrats—and the trolls who weaponize them to silence speech they don’t like—will keep on rolling until someone stands up and says ‘no.’”

— **Ben Domenech, employee of FDRLST Media, plaintiff in *FDRLST Media, LLC v. NLRB***

**For more information visit the case page [here](#).**

### **ABOUT NCLA**

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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