Objectives

• Gain familiarity with several laws and other regulations
• Defamation
• National Labor Relations Act
• Election laws

• Identify problematic social media communications
• Practice fixing social media communications
Defamation (tort)

To win a defamation claim, a plaintiff must show:

- A false and defamatory statement concerning another;
- An unprivileged publication to a third party;
- Fault amounting at least to negligence on the part of the publisher; and
- Either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication.
Defamation—public figure

- Defamation concerning a public figure occurs when a communication is made about a public figure concerning his/her conduct, fitness, or role in that capacity if the person making the statement and
  - Knows the statement is false and defamatory or
  - Acts in reckless disregard of these matters or with actual malice
  - NOT negligence
<table>
<thead>
<tr>
<th>General-purpose public figure</th>
<th>Limited-purpose public figure</th>
</tr>
</thead>
<tbody>
<tr>
<td>High level of fame &amp; notoriety</td>
<td>Fame &amp; notoriety only in certain context</td>
</tr>
<tr>
<td>Public figure for all purposes &amp; contexts</td>
<td>Public figure defamation standard only applies to areas where figure has fame &amp; notoriety</td>
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Special considerations

• Labor context
  • Comments have to be false, malicious, clearly libelous and damaging to the plaintiff

• Opinions are never defamatory

• Businesses and corporations can also be defamed
Exercise: Defamatory?

@uswlocal12345

This guy manipulates elections.
NATIONAL LABOR RELATIONS ACT

- Protected concerted activity
- Enforcement
National Labor Relations Act § 7

• Employees shall have the right
  • to self-organization,
  • to form, join, or assist labor organizations,
  • to bargain collectively through representatives of their own choosing, &
  • To engage in other concerted activities for the purpose of collective bargaining or other mutual aid of protection
Hey, Steph Curry, those f***ing Warriors just put me on probation! Has this ever happened to you?
USW Social Media Guidelines

OilCo fires workers for caring about safety! #safetyfirst #nojustcause #OilColsEvil #OilCoKillsWorkers

@OilWorker
The context of a labor dispute

Employee communications

• to third parties in an effort to obtain their support are protected where the communication indicated it is related to an ongoing dispute between the employees and the employers and

• the communication is not so disloyal, reckless, or maliciously untrue as to lose the Act’s protection
Examples: PCA?

@uswlocal12345

Alco is unpatriotic because it invests more in China than at home!

Tomorrow the school board will try to explain why scab labor is ok! Come to the meeting at 7 pm!
Photos and videos
## Copyrights & Trademarks

### Copyrights
- A legal right that grants the creator an original work exclusive rights for its use & distribution
- Fair use: (1) purpose & character; (2) nature of copyrighted work; (3) amount of work used in relation to work as a whole; & (4) effect of use upon potential market

### Trademarks
- A symbol, word, or words legally registered or established by use as representing a company or product
- Liability only when use creates a likelihood as to the origins of goods, services, or commercial activities
ELECTION RULES

Federal election communications do not apply to internet communications!!!!
Member-only communications

Whatever you want

• Coordination with candidates or parties
• Solicitation of PAC contributions
Other communications

- Volunteers for candidates
  - We can give information about needs but cannot give volunteer lists
- GOTV and voter registration
  - Cannot be coordinated with federal candidates or parties
- Campaign contributions
  - Union can solicit or otherwise encourage contributions to campaign
  - Provide link to campaign’s website
  - CANNOT process contributions