

CLIENT ALERT: The NLRB Upholds Macy's Ban on Employee Use of Customer Data - By William F. Joy

The National Labor Relations Board on August 14, 2017 found that a Macy's, Inc. policy prohibiting employees from using or disclosing customer information did not violate Section 8(a)(1) of the National Labor Relations Act.

The NLRB stated:

While employees generally have a Section 7 right to appeal to their employer's customers for support in a labor dispute, the disputed rules do not restrict such appeals. Instead, they prohibit the disclosure of information about customers obtained from the Respondent's confidential records.

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The "Use and Protection of Personal Data" and "Confidentiality and Acceptable Use of Company Systems" rules are similarly lawful to the extent they prohibit the use or disclosure of social security numbers or account numbers. We recognize that those rules also limit the use or disclosure of customer names and contact information, which employees could use for the purpose of appealing to customers regarding a labor dispute or their terms and conditions of employment. But both rules, by their terms, only apply to customer names and contact information obtained from the Respondent's own confidential records. The Act does not protect employees who divulge information that their employer lawfully may conceal.

The case is *Macy's, Inc. and United Food and Commercial Workers Union, Local 1445*. Case 01-CA-123640, 365 NLRB No. 116.

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