

*United States Government*  
*National Labor Relations Board*  
OFFICE OF THE GENERAL COUNSEL  
**Advice Memorandum**

DATE: May 30, 2018

TO: Valerie Hardy-Mahoney, Regional Director  
Region 32

FROM: Jayme L. Sophir, Associate General Counsel  
Division of Advice

SUBJECT: Google, Inc.  
Case 32-CA-164766

506-0170  
506-2001-5000  
506-2017-0800  
506-2017-1700  
506-4001-5000  
506-4033-1000  
506-4033-1800  
506-4033-3100  
506-4067-9000  
506-6060-5000  
506-6070-5000  
506-6090-4500  
512-5036-0117

The Region resubmitted this case to Advice because of the Employer's request for reconsideration of our conclusion that the Charging Party was engaged in protected concerted activity when [REDACTED] posted comments on the Employer's internal social networking platform seeking clarification about the scope of the Employer's anti-harassment policies—specifically, whether such policies prohibit employees from criticizing workplace diversity and inclusion initiatives—and complaining about bullying of politically conservative employees. We conclude that none of the Charging Party's comments were unprotected. Although [REDACTED] comments were somewhat insensitive towards women and minorities in light of the conversation's context, no employer would reasonably believe that permitting such comments could lead to a hostile work environment. Since the statements were protected, the Employer violated Section 8(a)(1) by issuing the Charging Party a final written warning based exclusively on the protected posts and by threatening [REDACTED] for engaging in that conduct.

**FACTS**

Google, Inc. ("Employer") is engaged in the business of developing and providing information technology, web development, internet-related services, online

advertising technologies, search systems, cloud computing, and related software. It has approximately 60,000 employees worldwide and is headquartered in Mountain View, California. The Charging Party began working for the Employer on January 12, 2015 as a software engineer.<sup>1</sup> [REDACTED] is responsible for writing code, debugging operating systems, and performing related tasks.

The Employer hosts an intranet employee discussion forum, known as internal Google Plus (“G+”), that is only visible to and accessible by its employees.<sup>2</sup> Any employee assigned to any Employer facility in the world can post messages on G+ “threads” relating to any topic, work and non-work alike. Many employees post items of interest relating to their working assignments, their personal lives, and current events.

Shortly after [REDACTED] was hired, the Charging Party began observing and participating in conversations on G+. In March, after [REDACTED] posted a meme, i.e., a photographic image with text, in a G+ discussion thread, the Employer gave [REDACTED] a verbal counseling for [REDACTED] post. The thread included a discussion of a [REDACTED] coworker’s reported sexual harassment, and the Charging Party’s post stated, “I am (b) (6), (b) (7)(C) ... has a complete breakdown over some dude’s cheesy pickup line.” Many of the Charging Party’s coworkers took offense with the meme and reported it to Human Resources. A Human Resources Business Partner informed the Charging Party that [REDACTED] should not post comments like that.<sup>3</sup>

The Charging Party believed that certain employees were being harshly and unfairly criticized within the G+ online community for expressing unpopular social, political, and workplace policy viewpoints. Specifically, the Charging Party believed that employees were unfairly denounced when they spoke out against the Employer’s various workplace diversity and social justice initiatives and stated that the programs disfavored [REDACTED]. The posted criticisms of such opinions were often contentious and included calls for those expressing the unpopular viewpoints to be disciplined or even terminated. Because the Employer allows coworkers to submit comments to another employee’s supervisor, and those comments can in turn be used in evaluating

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<sup>1</sup> All dates are in 2015.

<sup>2</sup> This internal forum is not to be confused with the public version of G+, which is a social media platform open to the general public. All references to G+ in this memorandum are solely to the Employer’s internal discussion forum.

<sup>3</sup> The Charging Party does not include the verbal counseling that [REDACTED] received in March as part of the current charge.

the employee, the Charging Party also believed that [REDACTED] could be disciplined if commenters on G+ who disagreed with [REDACTED] submitted comments to [REDACTED] supervisor.

On April 22, the Charging Party observed a comment thread where employees harshly criticized a coworker for expressing [REDACTED] views against the Employer's "diversity town hall" webcasts. The coworker had written, "I've yet to see effective 'increasing diversity' efforts which do not bring unfairness against [REDACTED] (e.g. lowering the hiring bar for minorities, or arranging events where [REDACTED] are or feel excluded)." The coworker received negative feedback on the same discussion thread from other employees, including supervisors. These included comments such as, "Frankly, I could care less about being 'unfair' to [REDACTED]. You already have all the advantages in the world." Others called for the coworker to be reported for [REDACTED] comment. The coworker's manager later joined the discussion thread and apologized for the coworker's comments, saying they were "not acceptable behavior" and that [REDACTED] would resolve the matter "on the official channels." After reading the thread, the Charging Party sent an email to Human Resources supportive of the coworker and complaining about how employees had treated the coworker for criticizing the Employer's workplace diversity initiatives. Human Resources pledged to look into the matter further.

On April 24, the Charging Party began talking with four like-minded coworkers on a separate G+ discussion thread regarding their own experiences working for the Employer.<sup>4</sup> The group discussed what they perceived to be the mistreatment of employees, such as themselves, who hold unpopular workplace views (including calls for their discipline), the Employer's failure to react to reported concerns regarding such mistreatment, and some suggestions on preserving evidence.

On May 8, one of the Charging Party's colleagues (who was also on the April 24 discussion thread) wrote an open letter to Human Resources and posted it on G+. The letter challenged Human Resources' handling of complaints by employees holding unpopular workplace views. The Charging Party commented on the thread where the letter was posted, echoing the author's complaints that Human Resources failed to respond adequately to harassment complaints.

On May 20, the Charging Party emailed Human Resources and again complained about the mistreatment of coworkers on G+ for expressing views inconsistent with those held by a majority of employees. The Charging Party raised concerns about employees being criticized for their political beliefs and targeted for their race or gender, and concerns about expressing unpopular opinions regarding workplace policies that could result in their discipline. Human Resources replied and,

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<sup>4</sup> It is unclear if this thread was private or viewable by all employees.

thereafter, held two videoconferences with the Charging Party. During the video conferences, a Human Resources representative said that [REDACTED] was aware of the issues and had acted on them where it was appropriate.

On July 30, an employee posted a blog article summarizing research concerning the departure of women from the tech industry (the “IndustryInfo thread”). Employees commented on the article, with some criticizing the article and its factual assertions. On August 3, an Employer Senior Vice President (“Vice President”) stepped in to express [REDACTED] disappointment in the direction of the discussion, to reinforce that underrepresentation in tech is a real problem that the Employer has a responsibility to help change, and to call critics out on missing the forest for the trees and offending other employees in the process. The Charging Party contends that [REDACTED] discussed this thread with two other employees on August 4 and 5 because they were concerned about coworkers’ calls for the Employer to terminate those who had “derailed” the IndustryInfo thread.

On August 5, the Vice President followed up on the IndustryInfo thread by initiating a G+ thread in which [REDACTED] shared the personal story of one [REDACTED] software engineer who planned to leave the technology field due to the unwelcoming and hostile work environment. In [REDACTED] post, the Vice President called for employees to create a supportive working environment for minorities of any kind. Another employee responded to this post by sharing [REDACTED] own similarly negative experiences, and others offered empathy and ideas for constructive change. On August 6, the Charging Party directed the following comment on the thread to the Vice President:

[m]any Googlers have claimed that it is “harassment” or some other rule violation to critique articles that push the Social Justice political agenda. A few Googlers have openly called for others to be fired over it. Do you support this viewpoint, and if so, can we add a clear statement of banned opinions to the employee handbook so that everybody knows what the ground rules are?

After a few employees negatively responded to [REDACTED] comment, the Charging Party continued to question the Employer’s official stance on this issue. Eventually, the Vice President replied, “I think to ask for a rule book is missing the point. But if you want a succinct summary: don’t do what you’re doing here. Contact me privately if you want to know more.” The thread continued with several comments from other employees, both in support of the Charging Party’s original question and in opposition.

Later that same day, after the Vice President’s response in the discussion thread, the Charging Party emailed the Vice President and asked several follow-up questions including: “Did I violate any policies by posting in your G+ thread? If so, which ones?”; “Do you think it’s reasonable for Googlers to ‘dogpile’ on fellow

employees who express unpopular opinions in good faith, or would you consider that harassment?"; and "Do you think it's reasonable for Googlers to call for coworkers to be fired based on expressing unpopular opinions, or does that cross a line?" The Vice President responded, declining to answer any of the questions directly but noting that (b) (6) found the "context" of the Charging Party's original posted comment "inappropriate." The Charging Party replied in a lengthy email, citing a number of circumstances where (b) (6) believed like-minded coworkers were mistreated for expressing their views on G+. (b) (6), (c) again asked a number of questions about the Vice President's views on the Employer's policies. The Vice President refused to engage, deferring to Human Resources and remarking, "I am not required to reply[;] I choose to spend my time on other matters."

The next day, the Charging Party posted a final comment on the G+ thread started by the Vice President. In that post, (b) (6) proclaimed that (b) (6), (c) questions about the Employer's harassment policy were sincere and "directly relate to the subject of this post (i.e. [the Vice President] and many others chiding unnamed Googlers for posting unspecified wrongthink on Industry[In]fo)." (b) (6), (c) also called on (b) (6), (c) coworkers to "reflect on how political minorities . . . might feel about the work environment at Google" and asserted that the "vicious replies" (b) (6), (c) received illustrated the "cultural problem we need to fix." Finally, (b) (6), (c) made known that the Vice President had refused to engage with (b) (6), (b) (7) via email, and (b) (6), (c) invited (b) (6), (c) coworkers to contact (b) (6), (b) (7) privately or join a new internal mailing list ("g+/freespeech") to discuss the subject of speech at work.

Around this same time, the Charging Party communicated over email with fellow employees to protest the Vice President's and other employees' responses in the August 5 discussion thread. They further discussed how to frame arguments to management and considered the possibility of hiring a lawyer. Additionally, the Charging Party worked with other employees to draft an email to the Employer protesting the negative treatment they had experienced for expressing their views. They also sought to relay comments made by managers on G+ about "blacklisting" employees whom they would not select for assignments because of their controversial opinions. The email was eventually sent by one of the employees (not the Charging Party, who also was not copied on the email) to upper management.

On August 7 and 9, the Employer received emails from two employees complaining about the Charging Party. The first complaint expressed concern that (b) (6) had not learned (b) (6), (c) lesson from the Vice President's public admonition because in a recent email to the g+/freespeech group, the Charging Party complained about blacklisting experienced by conservative employees and human resource's biased handling of bullying complaints lodged by such employees. Specifically, the complaining employee asserted that the Charging Party's political views were actually "thinly-veiled hostilities towards (b) (6), (c) fellow employees," and objected to the

Charging Party's usage of the term "social justice warrior" because the employee viewed it as shorthand for women and minorities who have the "audacity to stand up for themselves." The second complaint cited the Charging Party's March meme as well as an August 8 email to the g+/freespeech group in which the Charging Party lamented that the perpetrator of the sexual harassment incident referenced in the March meme had [REDACTED] reputation ruined "all over one silly comment made in the distant past." This comment was made in the context of the Charging Party's description of the "mob justice" problem at the Employer, and [REDACTED] explicitly noted that [REDACTED] was not arguing that the perpetrator's speech should have been permissible.

On the morning of [REDACTED], the Charging Party received an invitation from a Human Resources Manager for a meeting that afternoon. In between this invitation and the meeting, the Charging Party spoke with [REDACTED] supervisor, who holds the title [REDACTED]. The Charging Party asked whether [REDACTED] was being discharged. The [REDACTED] replied that [REDACTED] was not being discharged, but would receive a stern warning. The [REDACTED] then told the Charging Party that [REDACTED] was doing enormous damage to [REDACTED] career by getting involved in these threads.

The Charging Party attended the meeting later that day, along with the Human Resources Manager and the [REDACTED]. The [REDACTED] began the meeting by referencing the August 5 thread initiated by the Vice President. The [REDACTED] said the Charging Party's comments in the thread were inappropriate, and that the Charging Party was being given a final written warning. During the meeting, the Charging Party protested the final written warning by saying it was retaliation for filing complaints with Human Resources. The Human Resources Manager denied this and said that the Employer had taken action against other employees for inappropriate postings, but did not mention their names.<sup>5</sup> Also during the meeting, the [REDACTED] reiterated what [REDACTED] had told the Charging Party that morning, namely to stop getting involved in these threads and focus on [REDACTED] work. According to the Employer's disciplinary policy, the next step after a final written warning is termination.

The final written warning states that the Charging Party was being disciplined for violating the Employer's Appropriate Conduct Policy and Code of Conduct.<sup>6</sup> The

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<sup>5</sup> The Employer, in fact, issued a verbal counseling and written warning to two other employees who posted derogatory and confrontational comments toward the Charging Party on the August 5 thread.

<sup>6</sup> The Employer asserted in the final written warning that the Charging Party had violated the Appropriate Conduct Policy's prohibitions on "disorderly or disruptive conduct, including derogatory name-calling, abusive or profane language, intimidation or coercion of co-workers or any 'un-businesslike' behavior toward co-

warning quotes the Charging Party's posts on the August 5 thread in which (b) (6) sought clarification about whether employees are prohibited from criticizing workplace diversity and inclusion initiatives and complained about bullying experienced by politically conservative employees in the workplace. It concludes that these comments were "disrespectful, disruptive, disorderly, and insubordinate [given] the context of [the Vice President's] post on creating a supportive environment." The only other conduct cited in the warning notice was the Charging Party's prior inappropriate posting, i.e. the March meme.

### ACTION

Having already concluded that the Charging Party's posts included protected actions that were the logical outgrowth of shared employee concerns,<sup>7</sup> we now reject the Employer's contention, on reconsideration, that its discipline and threats were lawful efforts to "nip in the bud" the kind of employee conduct that could lead to a hostile workplace. To the contrary, no reasonable employer would consider the Charging Party's somewhat insensitive posts to have fostered a hostile working environment. Indeed, this case exemplifies how an employer, post-*Boeing*,<sup>8</sup> can run afoul of Section 8(a)(1) by applying permissible rules to protected concerted activity.

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workers, TVCs, clients or visitors" and "insubordination, including refusal of a work assignment or improper language toward a manager or management representative." It also asserted that the Charging Party had violated the following provision from its Code of Conduct: "Each Googler is expected to do his or her utmost to create a respectful workplace culture that is free of harassment, intimidation, bias and unlawful discrimination of any kind." The Region has concluded that this latter Code of Conduct provision is now lawful. *See The Boeing Company*, 365 NLRB No. 154, slip op. at 3-4 & n.15 (Dec. 14, 2017) (overruling cases holding that rules regulating basic standards of civility violated the Act). The lawfulness of the above provisions in the Appropriate Conduct Policy is no longer at issue in this case because the policy has since been rescinded. However, in light of *Boeing*, we would now find these rules to be lawful given that they merely prohibit uncivil, disruptive, and insubordinate behavior. *See id.*; *Component Bar Products*, 364 NLRB No. 140, slip op. at 3-6 (Nov. 8, 2016) (Miscimarra, dissenting) (rules banning "[i]nsubordination and other disrespectful conduct" and "[b]oisterous or disruptive activity in the workplace" would be lawful under then-Member Miscimarra's test, which the Board adopted in *Boeing*).

<sup>7</sup> *See Google, Inc.*, 32-CA-164766, Advice Memorandum dated May 31, 2016.

<sup>8</sup> 365 NLRB No. 154, slip op. at 4 n.15.

The Board has acknowledged that it has a duty to balance an employee's statutorily-protected rights against an employer's legitimate right to enforce its workplace rules and managerial prerogatives.<sup>9</sup> An employer's good-faith efforts to enforce its lawful anti-discrimination or anti-harassment policies must be afforded particular deference in light of the employer's duty to comply with state and federal EEO laws.<sup>10</sup> Additionally, employers have a strong interest in promoting diversity and encouraging employees across diverse demographic groups to thrive in their workplaces. In furtherance of these legitimate interests, employers must be permitted to "nip in the bud" the kinds of employee conduct that could lead to a "hostile workplace," rather than waiting until an actionable hostile workplace has been created before taking action.

Where an employee's conduct significantly disrupts work processes, constitutes racial or sexual discrimination or harassment, or creates a hostile work environment, the Board has found it unprotected even if it involves concerted activities regarding working conditions. For example, in *Avondale Industries*, the Board held that the employer lawfully discharged a union activist for insubordination based on her unfounded assertion that her foreman was a Klansman; the employer was justifiably concerned about the disruption her remark would cause in the workplace among her fellow African-American employees.<sup>11</sup> In *Cordua Restaurants, Inc.*, the Board upheld the termination of an employee where the employer had a reasonable, good-faith belief that she had made demeaning and derogatory comments to her coworkers about their race and nationality so as to create a hostile work environment and negatively impact morale.<sup>12</sup> And, in *Honda of America Manufacturing*, the employer lawfully disciplined an employee for distributing a newsletter in which he directed one named employee to "come out of the closet" and used the phrase "bone us" to critique the

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<sup>9</sup> *Brunswick Food & Drug*, 284 NLRB 663, 664 (1987), *enforced mem.*, 859 F.2d 927 (11th Cir. 1988) (table decision).

<sup>10</sup> *Cf. Southern S.S. Co. v. NLRB*, 316 U.S. 31, 47 (1942) (noting that "the Board has not been commissioned to effectuate the policies of the Labor Relations Act so single-mindedly that it may wholly ignore other and equally important Congressional objectives. Frequently the entire scope of Congressional purpose calls for careful accommodation of one statutory scheme to another, and it is not too much to demand of an administrative body that it undertake this accommodation without excessive emphasis upon its immediate task.").

<sup>11</sup> 333 NLRB 622, 637-38 (2001).

<sup>12</sup> 366 NLRB No. 72, slip op. at 2-4 (Apr. 26, 2018).

employer's bonus program.<sup>13</sup> The Board concluded that such language was unprotected because of its highly offensive nature and quoted approvingly an earlier decision:

In view of the controversial nature of the language used and its admitted susceptibility to derisive and profane construction, [the employer] could legitimately ban the use of the provocative [language] as a reasonable precaution against discord and bitterness between employees and management, as well as to assure decorum and discipline in the plant.<sup>14</sup>

In a prior Advice case involving the Employer, we concluded that an employee was lawfully discharged for circulating a memorandum in opposition to the Employer's diversity initiatives that argued, *inter alia*, that innate differences between men and women might explain the lack of equal representation of the sexes in tech and leadership.<sup>15</sup> There we found that the use of stereotypes based on purported biological differences between women and men was so discriminatory and offensive as to likely cause, and did cause, serious dissension and disruption in the workplace.<sup>16</sup> The lawfulness of the discharge was buttressed by the fact that the Employer carefully tailored its message to make clear that the employee was discharged solely because of his unprotected discriminatory statements and that it explicitly affirmed employees' right to engage in protected speech.<sup>17</sup>

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<sup>13</sup> 334 NLRB 746, 747-49 (2001).

<sup>14</sup> *Id.* at 749 (quoting *Southwestern Bell Telephone Co.*, 200 NLRB 667, 670 (1972)). See also *Detroit Medical Center*, Case 07-CA-06682, Advice Memorandum dated Jan. 10, 2012 (white employee at majority-black facility who, after having been demoted due to coworker complaints, made Facebook post about "jealous ass ghetto people that I work with" and complained that the union was protecting "generations of bad lazy piece of shit workers," was not engaged in protected activity; while the employee's complaints implicated Section 7 concerns, his use of racial stereotypes and slurs were opprobrious and led to a serious disruption at work and to an increase in racial tensions).

<sup>15</sup> *Google, Inc.*, 32-CA-205351, Advice Memorandum dated Jan. 16, 2018.

<sup>16</sup> *Id.* at 4.

<sup>17</sup> *Id.* at 4-5.

Here we conclude that, unlike the statements espousing gender stereotypes that we found discriminatory, offensive, and disruptive in the prior Advice case involving the Employer, the Charging Party's somewhat insensitive G+ posts were not so offensive or disruptive as to be unprotected by the Act. The Employer does not point to any particular words the Charging Party used as being derogatory, abusive, or discriminatory such that they might lead to a hostile work environment.<sup>18</sup> Rather, it argues that the Charging Party's posts were provocative and hurtful given the forum in which they were posted, namely, a thread calling for *support* for minorities and sharing a personal story illustrating the negative experiences of women in tech. While we find the Charging Party's chosen forum for raising the free speech rights of employees who are skeptical of diversity and inclusion efforts was not ideal, it was not so offensive as to find (b) (6), (b) comments unprotected. (b) (6), (b) comments arose in the context of a larger conversation that began on the IndustryInfo thread, which triggered concern about the scope of employees' free speech rights when the Vice President intervened to express disapproval of skeptics' comments. Given that the Employer generally welcomes robust debate amongst its employees, and the Vice President initiated the August 5 G+ thread as a follow-up to the IndustryInfo thread, the Charging Party's comments were not "off-topic" to the forum.<sup>19</sup> Likewise, (b) (6), (b) comments were not so objectively offensive as to cause serious discord and disruption

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<sup>18</sup> *Compare with Cordua Restaurants*, 366 NLRB No. 72, slip op. at 3-4 (employer had good-faith belief that employee created a hostile work environment where, among other things, several coworkers accused her of calling them "wetbacks").

<sup>19</sup> *See Cayuga Medical Center at Ithaca, Inc.*, 365 NLRB No. 170, slip op. at 21-25 (Dec. 16, 2017) (employee's disagreement with management about the competence of fill-in personnel at a staff meeting in which employees were encouraged to speak up was protected notwithstanding that his criticisms were "impolite or more forward and direct than was comfortable" and that management conveyed that it was not "the right forum" to raise such concerns); *Winston-Salem Journal*, 341 NLRB 124, 124-26 (2004) (staff meeting to discuss performance and teamwork was an "appropriate place for [the employee] to raise the issue of unfair treatment" and his comments remained protected notwithstanding that he called his supervisor a "racist" and the employer a "racist place to work"), *enforcement denied sub nom. Media Gen. Operations, Inc.*, 394 F.3d 207 (4th Cir. 2005). *Cf. Cibao Meat Products*, 338 NLRB 934, 934 (2003) ("The Board has specifically rejected the [argument] that an employee who protests a management decision at an employee meeting called to announce that decision is guilty of unprotected insubordination if the employer did not first solicit the employee's views."), *enforced*, 84 F. App'x 155 (2d Cir. 2004) (unpublished decision).

in the workplace, notwithstanding that some employees felt they were insensitive.<sup>20</sup> Since the Employer could not reasonably believe that the Charging Party's posts constituted the kinds of statements that could lead to a hostile work environment, the Employer violated Section 8(a)(1) by applying valid rules prohibiting uncivil and disruptive behavior so as to restrain [REDACTED] protected concerted activities.

In addition, this case is plainly distinguishable from the prior Advice case involving the Employer because there the Employer carefully crafted its discharge communications to make clear that the employee's discharge was based only on the unprotected statements, while giving reassurances that protected speech would be permitted. In contrast, here, the final written warning given to the Charging Party cited [REDACTED] protected postings almost in their entirety, did not even attempt to pinpoint specific statements that the Employer believed crossed the line, and gave no assurances that the Charging Party was permitted to express a dissenting viewpoint on matters related to working conditions.

The Employer's argument that the Charging Party's posting of one final comment after the Vice President's told [REDACTED] "don't do what you're doing here" amounted to unprotected insubordination is likewise unavailing. Where an employee repeatedly refuses to refrain from unacceptable behavior committed in the course of protected concerted activity, an employee may cross the line demarcating protected and unprotected conduct.<sup>21</sup> Here, however, the Vice President's statement amounted to an order to cease posting protected comments questioning the applicability of anti-harassment policies to the speech of diversity and inclusion skeptics, and the Charging Party had not engaged in any conduct that might have warranted such an

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<sup>20</sup> See *Richmond District Neighborhood Center*, 361 NLRB 833, 834 (2014) (objective standard applies to whether conduct is so egregious as to lose protection or render an employee unfit for further service).

<sup>21</sup> See, e.g., *Waste Management of Arizona*, 345 NLRB 1339, 1340, 1352-54 (2005) (employee engaged in unprotected conduct during confrontation about his paycheck where he cursed repeatedly and loudly in front of other employees, refused supervisor's repeated requests to move discussion into office, and made a vague threat to supervisor); *Trus Joist MacMillan*, 341 NLRB 369, 369-70 (2004) (termination for insubordination lawful where employee engaged in name-calling toward supervisor in front of other managers, repeated his comments "despite continued warnings that he stop," and made sexually insulting gestures and statements to supervisor); *Mead Corp.*, 331 NLRB 509, 514-15 (2000) (steward engaged in unprotected conduct where he insulted supervisor in front of other employees at an alleged *Weingarten* meeting and repeatedly refused to leave upon request).

order. Moreover, even if the Vice President's directive is construed as a mere order to stop raising such concerns in this particular forum, the Charging Party's limited defiance of that order did not cross the line; [REDACTED] only posted one final comment after receiving the order, and [REDACTED] desire to post the final message was understandable given that the Vice President refused to answer [REDACTED] questions via email. Thus, the Employer violated Section 8(a)(1) by applying its valid insubordination rule so as to restrain the Charging Party's protected postings.

Accordingly, the Region should continue litigating the complaint allegations that the Employer violated Section 8(a)(1) by disciplining and threatening the Charging Party for [REDACTED] protected comments on the August 5 G+ thread, absent settlement.

/s/  
J.L.S.

ADV.32-CA-164766.Response.Google [REDACTED]