

# THE FINE PRINT

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USPA Conference

June 22, 2016

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# 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

# Public figures

## General-purpose public figure

- High level of fame & notoriety
- Public figure for all purposes & contexts

## Limited-purpose public figure

- Fame & notoriety only in certain context
- Public figure defamation standard only applies to areas where figure has fame & notoriety

# 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

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- 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 or protection

# Examples



Hey, [Steph Curry](#), those f\*\*\*ing Warriors just put me on probation! Has this ever happened to you?



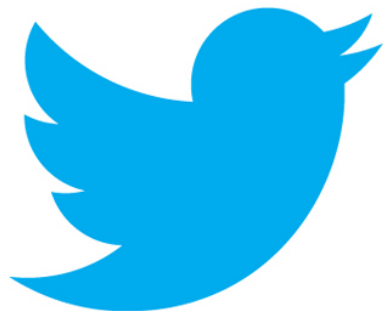
@PieFactoryWorker

This place is a pig sty!

# USW SOCIAL MEDIA GUIDELINES

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# USW Social Media Guidelines

The background of the slide is an aerial photograph of an industrial facility, likely an oil refinery, with a large plume of white smoke rising from the center. The image is partially obscured by text boxes.

**@OilWorker**

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

# 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?



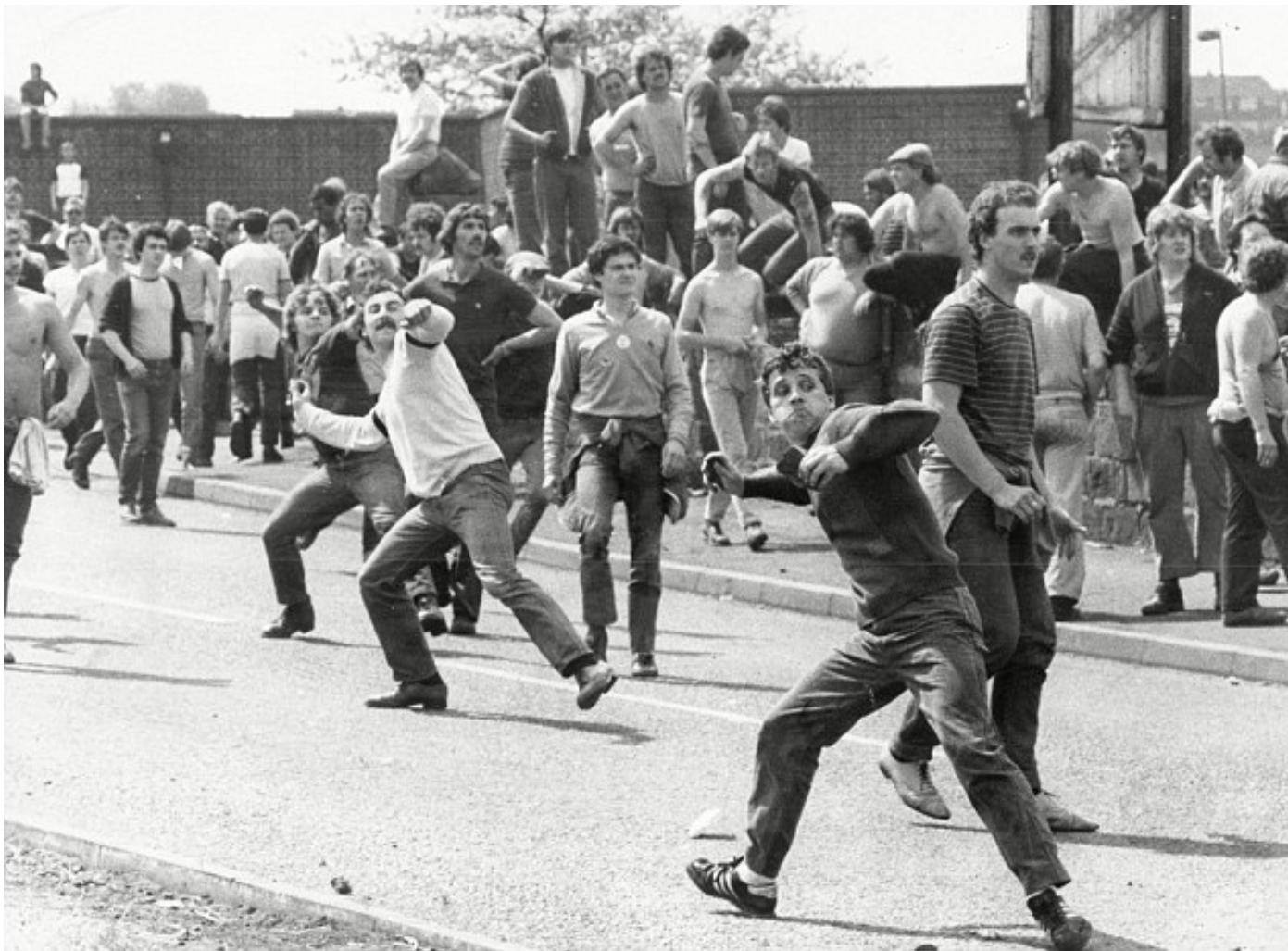
Tomorrow the school board will try to explain why scab labor is ok! Come to the meeting at 7 pm!



@uswlocal12345

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

# 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

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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