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DIGITAL DISSENT: EXAMINING THE LEGAL IMPLICATIONS OF CYBERPICKETS

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INTRODUCTION

In an era characterized by the pervasive influence of digital technology and the rapid evolution of online social activism, traditional labor disputes and picketing face a period of transformation. This transformation is exemplified by the emergence of cyberpicketing [1, a form of digital protest that leverages the power of the internet to amplify the voices of workers and unions. Methods can include, inter alia, the use of social media campaigns, online petitions, anonymous blogging, whistleblowing, virtual demonstrations, email initiatives, digital boycotts, and participation in online forums[2. The legal community needs to interpret and adapt traditional labor laws to address the issues raised by cyberpicketing.

Whether cyberpickets will constitute a legitimate and long-term form of labor activism[3 in the digital age depends on the establishment of formal regulations on their use and limitations. This note will analyze relevant National Labor Relations Board (?NLRB?) regulations and case law, labor union activity, legislative developments, and scholarly discourse. [4By focusing on the legal challenges posed by cyberpicketing, this note seeks to offer insights into potential avenues for regulatory reform and judicial interpretation. The aim is to balance both the right to labor activism and the right of employers to defend themselves against damaging actions by employees.[5 And in doing so connect the broader principles of our established institutional frameworks with digital protest, ensuring that the digital era's innovations do not come at the expense of fundamental legal values.

This paper will be divided into five parts. First, in Part II I will examine the transformation of picketing from traditional street demonstrations to the digital realm and seek to align cyberpicketing with any other form of picketing. Next, Part III discusses the malicious intentions prevalent in cyberspace, highlighting the potential legal ramifications. Parts IV and V of the note examine how statutes and existing case law provide a legal framework for surrounding cyberpicketing activities. Part VI explores the conflicting interests of employers and employees with respect to cyberpicketing. Additionally, it analyzes various responses by employers to cyberpicketing incidents and considers potential regulatory reforms aimed at balancing the interests of both parties. Overall, this comprehensive exploration provides insights into the legal, ethical, and practical implications of cyberpicketing, offering perspectives for policymakers, legal practitioners, and scholars alike.

[1 A cyberpicket refers to a digital form of protest or collective action initiated by employees toward their employer, aimed at expressing concerns, promoting better workplace conditions, and addressing labor-related issues. See Cyberpicketing to Data Aggregation (Technology Terms), What-When-How, https://what-when-how.com/technology-terms/cyberpicketing-to-data-aggregation-technology-terms/ (Mar. 9, 2013).

[2 Id.

[3 Long-term forms of labor activism refer to sustained, organized efforts by workers and labor groups to advocate for improved working conditions, wages, and labor rights over extended periods. These efforts often include unionization, collective bargaining, strategic litigation, policy advocacy, and public campaigns aimed at systemic change. See generally Ruth Milkman, L.A. Story: Immigrant Workers and the Future of the U.S. Labor Movement 2?3 (Russell Sage Found. 2006).

[4 The NLRB, established in 1935, operates as an autonomous federal entity tasked with protecting employees' rights. These rights include the ability to organize, collaborate for improved working conditions, decide on representation for collective bargaining negotiations with employers, or opt out of such activities. The NLRB administers and enforces the National Labor Relations Act (?NLRA?), reflecting the need for consistency and adjudication in interactions between laborers and employers. Similarly, the

primary purpose of the NLRA is to protect the rights of employees and employers, encourage collective bargaining, and safeguard the rights of employees to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection. See About NLRB: Who We Are, NLRB, https://www.nlrb.gov/about-nlrb/who-we-are (last visited Jan. 27, 2025).

[5 In sum, this note argues that our established institutional frameworks must ensure that the digital era's innovations do not come at the expense of fundamental legal values.

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