

## MDM&C Update

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### ***WORKING AT HOME – HARASSMENT LAWS STILL APPLY***

In an effort to continue operations in the face of ‘stay at home’ orders, many employers have numerous employees working remotely. Unfortunately, one thing that we have noticed is that people often say things in emails and make comments on social media that they would not make in a traditional workplace setting. That can be problematic for employers.

Mark Uhlenbrock was a pilot working for United Airlines when he began a consensual sexual affair with a flight attendant. While in the relationship the flight attendant was photographed by Mr. Uhlenbrock at times with her permission and at times without her knowledge. When the relationship ended, Mr. Uhlenbrock posted nude photographs of the flight attendant on the internet. She sued and collected a \$110,000 judgment against him, but he continued posting the nude photographs with her name and address. He was arrested, convicted and sentenced for cyber-stalking.

Before he was convicted and sentenced, the flight attendant sought help from United in getting Mr. Uhlenbrock to stop posting the nude photographs, which were often accompanied by insulting and degrading remarks. United did not intervene and the EEOC sued on behalf of the flight attendant for sex harassment. The EEOC argued that United had an obligation to stop the harassment even though it occurred on-line. The EEOC contends that an employer has an obligation to do so, if the harassment affects the job. Thus, at least according to the EEOC, an employer faces potential liability if it fails to intervene when it has notice on on-line harassment of its employees.

A few months ago, United settled the case for \$321,000. As part of the settlement United agreed to change its sex harassment policy to note that harassment affecting the workplace can occur off the premises and on-line.

Employers should remind employees that its policies regarding discrimination and harassment remain notwithstanding that employees are working remotely. What is unacceptable in the traditional workplace remains unacceptable in the virtual workplace.

If you have any questions about this or any other employment issue, please feel free to contact **Bernard E. Jacques** at [bjacques@mdmc-law.com](mailto:bjacques@mdmc-law.com).

### *Offices*

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