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## **NCLA Defends Founder of *The Federalist* from Outrageous NLRB Action Instigated by Random Tweeter Who Is Not an “Aggrieved” Party Under Federal Labor Law**

*Joel F. v. FDRLST Media, LLC*

**Washington, DC (January 14, 2020)** — A tweet in jest by Ben Domenech, a co-founder and publisher of NCLA client FDRLST Media, LLC, which publishes the online magazine, *The Federalist*, resulted in the filing of a formal charge with the National Labor Relations Board (NLRB). The charging party, Joel F., a Tweeter who saw the post, retweeted it at the NLRB, and then he filed a complaint about the tweet with the NLRB, claiming that sending it constituted an “unfair” labor practice.

The [tweet](#) in question was posted on June 6<sup>th</sup> by Mr. Domenech who jokingly wrote from his private account: “FYI @fdrlst first one of you tries to unionize I swear I’ll send you back to the salt mine.” The governing statute only allows an “aggrieved” person (such as an employee) to file a charge with the Board. However, the NLRB has interpreted “aggrieved” to mean *any* person. This broad interpretation allows anyone who deems himself aggrieved—including a completely uninvolved person like Joel F.—to weaponize the NLRB’s investigatory processes against others with whom they disagree. In Domenech’s case, the charging party is someone on Twitter, completely unrelated to *The Federalist* or its employees.

Armed with this misguided complaint, NLRB is now subjecting FDRLST and Mr. Domenech to an onerous enforcement action that the agency lacks the jurisdiction to pursue. NCLA has filed a [motion](#) asking the NLRB administrative law judge to dismiss the case outright for lack of jurisdiction.

“A random person on Twitter cannot claim ‘unfair labor practice’ just because a joke didn’t sit well. Individuals who are not directly impacted by the consequences of a comment on social media should not be allowed to co-opt the muscle of the federal Administrative State to bring frivolous complaints, but that is exactly what happened here. We are hopeful that the ALJ will grant our motion to dismiss and limit the NLRB’s investigatory and prosecutorial jurisdiction to those actually ‘aggrieved.’”

—**Adi Dynar, NCLA Litigation Counsel**

“No employee objected to Ben’s joke, and no one actually in a position to perceive or complain about an unfair labor practice did so. Setting aside the fact that NLRB apparently lacks any sense of humor, this investigation is a colossal waste of taxpayer dollars. This case will at least establish that NLRB must tell troublemakers like Joel F. to MYOB.”

—**Mark Chenoweth, NCLA Executive Director and General Counsel**

Visit case summary page for more information: <https://nclalegal.org/joel-f-v-fdrfst-media-llc/>

## ABOUT NCLA

NCLA is a nonprofit civil rights organization founded by prominent legal scholar **Philip Hamburger** to protect constitutional freedoms from violations by the Administrative State. NCLA's public-interest litigation and other *pro bono* advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans' fundamental rights. For more information visit us online: **NCLAlegal.org**.

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