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***Your Employment Law Bulletin from***  
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**KRUCHKO &  
FRIES**

**May 3, 2011**

**Loose Lips Sink the Employer's Ship**

Earlier this year, the Supreme Court ruled unanimously in favor of a former hospital lab technician who alleged that he was fired from his job because his supervisors were hostile to his responsibilities as a member of the US Army Reserves. In *Staub v. Proctor Hospital*, a 15-year employee of the hospital brought suit under the Uniformed Services Employment and Reemployment Rights Act ("USERRA"). He claimed his supervisor scheduled him for different shifts without notice as "payback" for the department having to work around his Army Reserves training schedule. Another supervisor called Staub's training obligations "a bunch of smoking and joking and a waste of taxpayers' money."

The hospital argued that it should not be held liable for discrimination because the actual discharge decision was made by someone other than Mr. Staub's immediate supervisors. The Court disagreed, holding that employers can be liable for discrimination even in circumstances where the decision-maker was unbiased, so long as the decision-maker relied on input from a biased non-decision-making supervisor.

It is always amazing to us that supervisors don't realize that what they say can result in employment liability for their employer. It makes you want to institute a "gag" rule for supervisors in the workplace. The supervisor in the *Staub v. Proctor Hospital* case probably thought he was merely engaging in a bit of humorous political rhetoric. Instead, he may have cost his employer thousands of dollars in discrimination liability.

There is too much at stake for supervisors to be expressing an opinion about matters that have nothing to do with the performance of the employees they supervise. Whether joking or not, supervisors need to realize that "loose lips can sink the employer's ship."

***THE EMPLOYMENT LAW FIRM OF KRUCHKO & FRIES***

Kruchko & Fries is committed to an intensive employment law practice limited to the representation of management in all phases of labor, employment and benefits law, equal employment opportunity law, wage and hour law, occupational safety and health law, and related litigation. Our Firm's practice is concentrated in Maryland, Pennsylvania, Virginia and Washington, D.C.; however, our clients are located throughout the country.

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## **UPCOMING WEBINAR:**

Kruchko & Fries is proud to announce the launch of its ongoing Webinar series designed to inform business and HR professionals about important and emerging issues in the realm of Labor and Employment law. The first Webinar (HRCI accredited) will be May 11, 2011, from 1:30-2:30pm EDT, and the topic will be:

***"Social Networking: A Liability Trap for Unsuspecting Employers."***

You may register for the webinar via our website at [www.kruchkoandfries.com](http://www.kruchkoandfries.com)

## **Speakers**

**If you are interested in having an employment law attorney from the Law Firm of Kruchko & Fries speak at an event or provide in-house training, then please call us at:**

**Maryland (410) 321-7310    Virginia (703) 734-0554**

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