

“Strike For Black Lives” Planned For Monday, July 20, 2020

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As reported by the Associated Press and CNN Business, employees in at least 25 states across the country intend to strike this coming Monday, July 20, 2020, as part of the Strike for Black Lives. Unions supporting this event include the Fight for \$15, SEIU, the Teamsters, the American Federation of Teachers, the United Farm Workers, the United Food and Commercial Workers, the Communication Workers of America, and the Amalgamated Transit Union. Other organizations also support the Strike, including the Americans Civil Liberties Union and environmental groups.

The Strike’s objectives include traditional labor issues like increasing worker pay, the provision of paid healthcare and sick leave, enhanced worker safety, improved child care support, among other things. However, the Strike also explicitly supports many of the issues that were the subject of protest after the death of George Floyd, such as police reform and the eradication of systemic racial discrimination.

The Strike calls for a full day walk-out. Alternatively, the Strike also encourages those who cannot strike to, among other things, take a knee, pledge of silence, or other recognition for 8 minutes 46 seconds at noon on July 20, reflecting the time-period that a Minneapolis police officer had his knee on George Floyd’s neck prior to his death.

From a purely legal perspective, employees who are not striking for their or their co-workers’ terms and conditions of employment are arguably not engaged in protected concerted activity under the National Labor Relations

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Act. But such a determination could be very fact intensive. Employers are advised to carefully consider the protections afforded by the Act, their rights under any existing collective bargaining agreement, whether striking workers are engaged in protected political speech, and other possible legal issues.

Furthermore, given that the Strike explicitly addresses race discrimination, employers who deny permission to employees to attend the Strike or take adverse action against those who do may also potentially face claims of race discrimination. Therefore, employers who decline an employee's request for time off to attend the Strike, or take action against those who do, should have sound business reasons for doing so as well as a consistent practice of taking comparable action in similar situations not involving issues of race.

Finally, in addition to legal concerns, employers should also carefully balance possible employee morale and public relations issues stemming from the highly visible nature of the movement against existing policies and workplace rules that may be implicated by a walkout. If you have concerns or questions about the July 20 Strike for Black Lives, please contact a Laner Muchin labor attorney for assistance.