

**United States Government
National Labor Relations Board
OFFICE OF THE GENERAL COUNSEL**

Advice Memorandum

DATE: June 5, 2009

TO : Alan Reichard, Regional Director
Region 32

FROM : Barry J. Kearney, Associate General Counsel
Division of Advice

SUBJECT: National Union of Healthcare Workers
(Alta Bates Summit Medical Center)
Case 32-CB-6635

This case involving Section 8(b)(1)(A) allegations was submitted to the Division of Advice for review in light of the current dispute between the SEIU-UHW-W and Respondent National Union of Healthcare Workers (NUHW).

The charge, filed by Alta Bates Summit Medical Center, alleges that the NUHW violated Section 8(b)(1)(A) by restraining or coercing its employees in the exercise of their Section 7 rights by falsely and coercively suggesting that NUHW is the employees' validly recognized bargaining representative. The Employer contends that the NUHW, its agents and supporters, engaged in this conduct by: attempting to gain access to interior areas of Alta Bates' facility, attempting to secure paid official leave for stewards with NUHW sympathies, filing grievances under the SEIU contract, claiming to have a contract with the Employer, and calling for meetings and soliciting financial contributions on Alta Bates' property.

We conclude in agreement with the Region that the charge should be dismissed, absent withdrawal, in the absence of sufficient evidence to establish that by engaging in the above conduct, the NUHW coerced employees in violation of Section 8(b)(1)(A). Although NUHW agents have attempted to enter the facility, the Employer has denied them access as non-representatives. There is no evidence that the NUHW agents accompanied their attempts with threats or other coercive conduct. Although employees who had been SEIU stewards sought paid official time to attend a steward meeting shortly after imposition of the trusteeship, there is insufficient evidence tying their request to NUHW instructions, which likely would not be coercive under Section 8(b)(1)(A) in any event. An NUHW

supporter's demand to file grievances also is not evidence of Section 8(b)(1)(A) coercion, inasmuch as the individual was an SEIU steward at the time and thus sanctioned by the contract to act as she did. The further actions of NUHW agents and supporters - advertizing meetings and soliciting financial support on Alta Bates' property and making claims that it is the lawful employee representative - were not accompanied by threats, violence or other coercive conduct and is not violative of Section 8(b)(1)(A), standing alone.

B.J.K.