

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

Advice Memorandum

Date: November 4, 2009

TO : Alan Reichard, Regional Director
Region 32

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

SUBJECT: SEIU-UHW-W
Case 32-CB-6799

This case involving Section 8(b)(1)(A) and (2) allegations was submitted to the Division of Advice for review in light of the current dispute between Respondent SEIU-UHW-W (SEIU) and Charging Party National Union of Healthcare Workers (NUHW).

The charge alleges that the SEIU retaliated against Charging Party Julio Galindo, an NUHW supporter, by causing his Employer, Kaiser Permanente, to transfer him to a different Antioch, California facility. The investigation revealed, however, that the transfer was a result of a bargained-for agreement between SEIU and Kaiser to resolve a staffing dispute that arose from the Employer's decision to consolidate its operations. The SEIU initially included open NUHW supporters including Galindo on its bargaining team and excluded them only after they were openly hostile to the SEIU's goals and position. Thereafter, the SEIU's treatment of Galindo was no different than that of other represented employees affected by the consolidation, without regard to their support for or against SEIU.

Accordingly, we agree with the Region that the instant charge should be dismissed, absent withdrawal.

B.J.K.