UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 20

SUTTER WEST BAY HOSPITALS d/b/a
CALIFORNIA PACIFIC MEDICAL CENTER,
A SUTTER HEALTH AFFILIATE

Cases 20-CA-34705
20-CA-34899

and

CALIFORNIA NURSES
ASSOCIATION/NATIONAL NURSES
ORGANIZING COMMITTEE (CNA/NNOC)

ACTING GENERAL COUNSEL'S EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE'S DECISION

Pursuant to Section 102.46 of the of the Rules and Regulations of the National Labor Relations Board, Counsel for the Acting General files the following exceptions to the Decision of Administrative Law Judge Gerald A. Wacknov, that issued on September 21, 2010.

No.	Page	Lines	Exception
1.	13	25	Acting General Counsel takes exception to the Judge's recommended order to dismiss the complaint in its entirety.
2.	13	19	Acting General Counsel takes exception to the Judge's conclusion of law that Respondent has not violated the Act as alleged in the complaint.
3.	12	7-8	Acting General Counsel takes exception to the Judge's finding that the parties reached impasse on October 26, 2009.
4.			Acting General Counsel takes exception to the Judge's failure to make any findings concerning: Respondent's August 21, 2009, informational meeting with employees, at which Respondent's new health plan was presented to unit and non-unit employees; and failure to make complete findings concerning the parties' negotiations at each bargaining session from the resumption of negotiations on July 8, 2009, through Respondent's declaration of impasse on October 27, 2009.

5.	12 13	12-24 1-9	Acting General Counsel takes exception to the Judge's failure to find that Respondent's communications to employees concerning its new health plan demonstrates the new health plan was implemented as a fait accompli.
6.			Acting General Counsel takes exception to the Judge's failure to make any findings concerning Respondent's internal communications demonstrating its decision to implement its new health plan as a fait accompli.
7.	13	5-9	Acting General Counsel takes exception to the Judge's finding that *Brannon Sand and Gravel Company*, 314 NLRB 282 (1994) was dissimilar to the instant case.
8.			Acting General Counsel takes exception to the Judge's failure to make any findings concerning whether, absent overall impasse, the health plan was a subject that was reviewed annually, outside of the overall impasse before implementation doctrine, and that no meaningful opportunity to bargain was provided to the Union prior to implementation.
9.			Acting General Counsel takes exception to the Judge's failure to make any findings concerning whether, absent overall impasse, the pension plan was a subject that was reviewed annually, outside of the overall impasse before implementation doctrine, and that no meaningful opportunity to bargain was provided to the Union prior to implementation.
10.			Acting General Counsel takes exception to the Judge's failure to conclude Respondent's implementation of its new health plan violated Section 8(a)(5) and (1).
11.			Acting General Counsel takes exception to the Judge's failure to conclude Respondent's implementation of its new pension plan violated Section 8(a)(5) and (1).
12.			Acting General Counsel takes exception to the Judge's failure to issue a recommended order requiring Respondent to: rescind its unlawful unilateral changes; restore the bargaining unit employees' health and pension benefits as they existed prior to January 1, 2010; make employees whole for all increased medical costs or out of pocket costs incurred by employees as a result of its unilateral changes; post a Board Notice electronically

			and in conspicuous places in its facilities; and to pay quarterly compound interest on any monetary award.
13.	12	fn. 14	Acting General Counsel takes exception to the Judge's failure to give weight to the testimony of Jonica Brooks.
14.	12	fn. 13	Acting General Counsel takes exception to the Judge's finding that as of October 26, 2009, the Union continued to insist on the 2006 health plan design.

DATED AT San Francisco, California, this 9th day of November, 2010.

Respectfully submitted,

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FORM NLRB-877
(4-84)

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

SUTTER WEST BAY HOSPITALS d/b/a CALIFORNIA PACIFIC MEDICAL CENTER, A SUTTER HEALTH AFFILIATE and CALIFORNIA NURSES ASSOCIATION/NATIONAL NURSES ORGANIZING COMMITTEE (CNA/NNOC)	Cases 20-CA-34705 20-CA-34899 DATE OF MAILING November 9, 2010

AFFIDAVIT OF SERVICE OF ACTING GENERAL COUNSEL'S EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE'S DECISION

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document*(s)* by electronic mail upon the following persons:

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Subscribed and sworn to before me on **November 9, 2010**	DESIGNATED AGENT **NATIONAL LABOR RELATIONS BOARD**