

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**UNITED HEALTHCARE WORKERS – WEST,
SERVICE EMPLOYEES INTERNATIONAL
UNION (KAISER PERMANENTE)**

and

Case 32-CB-7081

MONIQUE PETERS

ORDER¹

The petition to revoke subpoena ad testificandum A-891305 filed by United Healthcare Workers-West, Service Employees International Union (the Union) is denied.² The subpoena seeks information relevant to the matter under investigation and describes with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. Further, the Union has failed to establish any other legal basis for revoking the subpoena. See generally *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).

The Union's petition to revoke subpoena duces tecum B-616861 is granted in part, with respect to paragraphs 1, 2, 4, and 5 of the subpoena. The sole allegation in the unfair labor practice charge involves the Union's alleged refusal to provide information, and the information at issue there is substantially identical to the documents requested in paragraphs 1, 2, 4, and 5 of the subpoena. Under these circumstances, where the primary issue to be decided in the unfair labor practice

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

² With respect to the subpoena ad testificandum, Member Hayes would hold the petition to revoke in abeyance for thirty days to provide the Region an opportunity to file a supplemental opposition explaining what further evidence is necessary to determine if a complaint should issue, and why such evidence can only be obtained through the affidavit of the Union's business representative. He joins his colleagues with respect to other issues.

proceeding is whether the Charging Party is entitled to the requested information, we will not require the Union to produce this information prior to a hearing on the merits. See, e.g., *Electrical Energy Services*, 288 NLRB 925, 931 (1988).³

The Union's petition to revoke subpoena duces tecum B-616861 is denied in part, with respect to paragraph 3 of the subpoena. Paragraph 3 seeks information relevant to the matter under investigation and describes with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. Further, the Union has failed to establish any other legal basis for revoking paragraph 3 of the subpoena. See generally *NLRB v. North Bay Plumbing, Inc.*, supra; *NLRB v. Carolina Food Processors, Inc.*, supra.

Dated, Washington, D.C., June 24, 2011

WILMA B. LIEBMAN,	CHAIRMAN
MARK GASTON PEARCE,	MEMBER
BRIAN E. HAYES,	MEMBER

³ Our granting of the Union's petition in these respects is without prejudice to the Region's issuance of a new subpoena duces tecum seeking the same documents in the event an amended charge is filed.