

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

Washington, D.C.

USC UNIVERSITY HOSPITAL

and

NATIONAL UNION OF HEALTHCARE  
WORKERS

Case No. 21-CA-39656

Case No. 21-CA-39693

Case No. 21-CA-39798

Case No. 21-CA-39799

Case No. 21-CA-39808

and

Case No. 21-CA-39870

**EXCEPTIONS BY USC UNIVERSITY HOSPITAL TO DECISION BY ADMINISTRATIVE  
LAW JUDGE**

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On April 11, 2012, Administrative Law Judge Gregory Z. Meyerson issued his decision and recommended order on the above-captioned consolidated cases. Pursuant to Rule 102.46(a), Respondent USC University Hospital (the "Hospital"), files exceptions to the following findings and conclusions:

1. "I conclude that the Respondent violated Section 8(a)(5) and (1) of the Act when it unilaterally eliminated the extra shift bonus for pulmonary function technicians and eliminated the OR blood gas lab mandatory on call schedule for the pulmonary function technicians, as alleged in complaint paragraphs 10 through 13, 18 and 19."

(Decision, at 11:20-23).

2. "Darren May and Basil Nasir testified at length that over the course of their employment, they had regularly received an ESB when they were called back to work from the on call schedule. While the confusing payroll records somewhat call into question the precise regularity with which they received ESB pay, I believe that they testified credibly. Despite their confusion over the payroll records, I am convinced that to the best of their knowledge, they received this ESB pay, until it was discontinued by the Respondent around October 1, 2010. This does not mean that they always received the ESB payment for call back work, but that they received it often enough to believe that they were entitled to it."

(Decision, at 9:12-20).

3. "Counsel for the Respondent argues that the burden of proof to establish a past practice rests with the party seeking to establish that practice. I agree that is where the burden lies, and while it is not entirely free from doubt, I believe that the General Counsel has met that burden."

(Decision, at 9:26-29).

4. "By the following acts and conduct the Respondent has violated Section 8(a)(1) and (5) of the Act:

(a) Making unilateral changes in its employees' terms and conditions of employment since on or about October 2010, by eliminating the Extra Shift Bonuses paid to the pulmonary function technicians and the OR gas lab technician who are called back to work from the On Call Schedule;

(b) Making unilateral changes in its employees' terms and conditions of employment since on or about February 1, 2011, by eliminating the mandatory OR Blood Gas Lab On Call Schedule for the pulmonary function technicians and the OR gas lab technician.”

(Decision, at 28:17-26).

The Hospital objects that these findings and conclusions are not supported by the evidence on the record, are not consistent with the applicable law and are in direct contradiction to other findings in the Decision.

DATED: May 9, 2012

BATE, PETERSON, DEACON, ZINN & YOUNG LLP

By:   
Linda Van Winkle Deacon

Attorneys for Respondent  
USC UNIVERSITY HOSPITAL

**PROOF OF SERVICE**

STATE OF CALIFORNIA        )  
  ) ss.  
COUNTY OF LOS ANGELES    )

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My electronic mail address is: [zdavis@bpdzylaw.com](mailto:zdavis@bpdzylaw.com). My business address is 888 S. Figueroa Street, 15<sup>th</sup> Floor, Los Angeles, California 90017.

On May 9, 2012, I caused to be served the foregoing document described as **EXCEPTIONS BY USC UNIVERSITY HOSPITAL TO DECISION BY ADMINISTRATIVE LAW JUDGE** on the interested parties in this action by transmitting a true copy thereof to electronic addresses as follows:

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**By ELECTRONIC MAIL:** I caused such documents to be transmitted to the electronic mail addressee and the transmission was reported as complete and without error.

I declare under penalty of perjury under the laws of the state of California that the above is true and correct.

Executed on May 9, 2012, at Los Angeles, California

  
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Zelde Davis