

**RD # 010-12  
Wall Township, NJ**

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 22**

**MONMOUTH OCEAN COUNTY HOSPITAL  
SERVICE CORPORATION d/b/a MONOC<sup>1</sup>**

Employer

and

**JORDAN A. BLISS, An Individual**

**CASE NO. 22-RD-084035**

Petitioner

and

**PEMSA – PROFESSIONAL EMERGENCY  
MEDICAL SERVICES ASSOCIATION<sup>2</sup>**

Intervenor

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Board, as amended, herein referred to as the Act, a hearing was held before a hearing officer of the National Labor Relations Board. Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

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<sup>1</sup> The name of the Employer was amended at the hearing.

<sup>2</sup> The name of the Union was amended at the hearing.

Upon the entire record in this proceeding,<sup>3</sup> the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.<sup>4</sup>
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.<sup>5</sup>
3. The labor organization involved claims to represent certain employees of the Employer.<sup>6</sup>
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Sections 9(c)(1) and 2(6) and (7) of the Act.
5. The appropriate unit for the purpose of collective bargaining within the meaning of Section 9(b) of the Act is as follows:

**All full-time, part-time and per diem employees employed by the Employer at its New Jersey facilities in the following titles: Emergency Medical Technicians, Paramedics, Critical Care Flight Paramedics, Registered Nurses, Critical Care Flight Nurses, Field Training Officers, Preceptors, Call Taker I, II and III, Dispatcher I, II and III, excluding all other employees, all office clerical employees, managerial employees, guards and supervisors as defined in the Act.<sup>7</sup>**

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<sup>3</sup> A brief filed by the Employer has been carefully considered.

<sup>4</sup> At the hearing, counsel for the Intervenor contended that unfair labor practices filed by the Union against the Employer should block the processing of the petition. Counsel for the Employer objected to the introduction of this issue. I affirm the Hearing Officer's ruling that sustained the Employer's objection. Evidence of unfair labor practices is not admissible in a representation case hearing. See Section 11228, National Labor Relations Board Casehandling Manual, Part Two, Representation Proceedings.

<sup>5</sup> The Employer, Monmouth Ocean County Hospital Service Corporation d/b/a MONOC, a New Jersey corporation, is engaged in the provision of emergency medical services and ambulance services headquartered in Wall Township, New Jersey with facilities located throughout the State of New Jersey. During the preceding twelve months, the Employer derived gross revenues in excess of \$500,000. During the same period of time, the Employer purchased and received at its Wall Township, New Jersey facility goods and supplies valued in excess of \$5,000 directly from suppliers located outside the State of New Jersey.

<sup>6</sup> The parties stipulated, and I find, that the Intervenor is a labor organization within the meaning of Section 2(5) of the Act.

<sup>7</sup> The Unit description appears as amended at the hearing.

The sole issue in this case is whether the collective bargaining agreement (Joint Exhibit J-1) signed by the Employer and the Intervenor on May 24, 2012 shall serve as a bar to the filing of the Petitioner's decertification petition. The Intervenor asserts that the parties' collective bargaining agreement operates as a bar. I find no merit in this assertion.

At the hearing, the parties entered into a stipulation (Board Exhibit 2) establishing that on June 25, 2007, the Intervenor was certified as the exclusive majority representative of the unit employees described herein for purposes of collective bargaining (Case 22-RC-12797) and since that time, the Employer has recognized the Intervenor as such. The parties also stipulated that this recognition is currently embodied in a collective bargaining agreement which is effective by its terms from July 1, 2012 through June 30, 2013.

It is well established Board law that a contract does not bar an election if a petition is filed with the Board before the execution date of the contract (where it is effective immediately or retroactively) or if a petition is filed with the Board before the effective date of the contract (where it is effective at some time after its execution). *Deluxe Metal Furniture Co.*, 121 NLRB 995 (1958), *National Broadcasting Co.*, 104 NLRB 587 (1953), *Herdon Rock Products*, 97 NLRB 1250 (1951). In applying this principle to the facts of this case, I note that the collective bargaining agreement, signed by the parties on May 24, 2012, was not effective until July 1, 2012. Given that the Petitioner filed its Petition on June 27, 2012, four days before the commencement date of the contract, it is clear that the Petition was filed before the terms of the agreement became effective. Accordingly, I conclude that the parties' collective bargaining agreement does not serve as a bar to the filing of the Petition and I shall order that the parties shall proceed to an election as directed herein.

**DIRECTION OF ELECTION:**

It is hereby directed that at a time and place to be determined by the undersigned an election by secret ballot shall be conducted by the undersigned among the employees in the voting groups found appropriate at the time and place set forth in the notice of election to issue subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the voting groups who are employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States Government may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by **PEMSA – PROFESSIONAL EMERGENCY MEDICAL SERVICES ASSOCIATION.**

### LIST OF VOTERS

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties in the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within seven (7) days of the date of this Decision, two (2) copies of an election eligibility list for the voting groups found appropriate above, containing the full names and addresses of all the eligible voters in each voting group, shall be filed by the Employer with the undersigned, who shall make the list available to all parties to the election. *North Macon Health Care Facility*, 315 NLRB 359 (1994). In order to be timely filed, such list must be received in the NLRB Region 22, 20 Washington Place, 5<sup>th</sup> Floor, Newark, New Jersey 07102, on or before **July 30, 2012**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

### RIGHT TO REQUEST REVIEW

Under the provision of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14<sup>th</sup> Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by **August 6, 2012**. The request

may be filed electronically through E-Gov on the agency's website, [www.nlr.gov](http://www.nlr.gov), but may not be filed by facsimile<sup>8</sup>.

Signed at Newark, New Jersey this 23rd day of July, 2012.

  
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J. Michael Lightner  
Regional Director  
National Labor Relations Board  
Region 22  
20 Washington Place, 5<sup>th</sup> Floor  
Newark, New Jersey 07102-3110

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<sup>8</sup> To file the request for review electronically, go to [www.nlr.gov](http://www.nlr.gov) and select the E-Gov tab. Then click on the E-Filing link on the menu and follow the detailed instructions. Guidance for E-Filing is contained in the attachment supplied with the Regional Office's initial correspondence on this matter and is also located under "E-Gov" on the Agency's website, [www.nlr.gov](http://www.nlr.gov).