EXHIBIT 7

Tyler M. Paetkau, State Bar No. 146305
HARTNETT, SMITH & PAETKAU
777 Marshall Street
Redwood City, CA 94063
Tel: (650) 568-2820
Fax: (650) 568-2823
Email: tpaetkau@hslawoffice.com

Attorneys for Respondent and Employer
MISSION NEIGHBORHOOD HEALTH CENTER

NATIONAL LABOR RELATIONS BOARD

NATIONAL UNION OF HEALTHCARE WORKERS, Petitioner, vs. MISSION AREA HEALTH ASSOCIATES DBA MISSION NEIGHBORHOOD HEALTH CENTER, Respondent.	Case No.: 20-RC-85529 **RESPONDENT AND EMPLOYER MISSION NEIGHBORHOOD HEALTH CENTER'S MOTION FOR RECONSIDERATION OF REGIONAL DIRECTOR'S 8/9/12 DECISION AND DIRECTION OF ELECTION** Date of Hearing: July 26, 2012 Hearing Officer: Lana Pfeifer

I. INTRODUCTION AND BACKGROUND

Respondent and Employer Mission Area Health Associates dba Mission Neighborhood Health Center ("Health Center") respectfully submits this petition to re-open evidence or, in the alternative, for reconsideration (the "Petition") of the Regional Director's August 9, 2012 Decision and Direction of Election (the "Decision").

This Petition arises out of the National Labor Relations Board's abuse of discretion, clear errors, and violation of the Health Center's constitutional, procedural due process rights in presenting its case before the NLRB. The unassailable record demonstrates that the NLRB did not provide adequate notice of the issues to be addressed at a rescheduled hearing regarding a disputed bargaining unit. As a result of this blatant violation of Health Center's procedural due process rights, Health Center was unable to present additional percipient witness testimony from certain supervisors excluded by law from the bargaining unit under the NLRA. Health Center has filed concurrently seven Affidavits of its Executive Director, Pharmacist-In-Charge and Charge Nurses demonstrating that the Regional Director clearly erred in concluding that Health Center's Pharmacist-In-Charge and Charge Nurses were not supervisors, and improperly including them in the bargaining unit.

Accordingly, by this Petition Health Center respectfully requests that: (1) the NLRB re-open the evidence to consider Health Center's concurrently filed percipient witness Affidavits; (2) the NLRB grant a stay of any election proceedings until the Regional Director's erroneous Decision is set aside and corrected; and, in the alternative, (3) the NLRB reconsider the Decision based on the new percipient witness Affidavits and Health Center's ***uncontradicted*** evidence presented at the July 26, 2012 hearing.

II. ARGUMENT

A. The NLRB Has Authority to Hear Health Center's Petition Due to Extraordinary Circumstances and to Reopen the Record to Correct Its Clear Errors.

The NLRB has authority to re-open and reconsider additional evidence after the close of the hearing. 29 U.S.C. § 102.65(e) provides:

> A party to a proceeding may, because of extraordinary circumstances, move after the close of the hearing for reopening of the record, or move after the decision or report for reconsideration, for rehearing, or to reopen the record. No motion for reconsideration, for rehearing, or to reopen the record will be entertained by the NLRB or by any regional director with respect to any matter which could have been but was not raised pursuant to any other section of these rules: *Provided, however,* That the regional director may treat a request for review of a decision or exceptions to a report as a motion for reconsideration. *Id.*

Section 102.48(d)(1) of the NLRB's Rules and Regulations authorizes Health Center to move for "reconsideration, rehearing, or reopening of the record after a Board decision or order" based on the "extraordinary circumstances" underlying the contested hearing. These records must be "newly discovered" within the meaning of Section 102.48(d)(1). Section 102.48(d)(1) and (2) provide in part: "evidence which has become available only since the close of the hearing . . . shall be filed promptly on discovery of such evidence." *See Fitel/Lucent Technologies*, 326 NLRB 46 (1998) (motion to introduce evidence as newly discovered must show that movant acted with reasonable diligence to uncover and introduce evidence); *Seder Foods Corp.*, 286 NLRB 215, 216 (1987) ("Newly discovered evidence is evidence that was in existence at the time of the hearing, and of which the movant was excusably ignorant").

B. <u>The NLRB's Last-Minute Notice of the Issues to Be Addressed at the Hearing Denied Health Center's Constitutional Right to Procedural Due Process</u>.

Procedural due process requires "***meaningful*** notice . . . and . . . [a] ***full and fair*** opportunity to litigate." *Lamar Advertising of Hartford*, 343 NLRB 261, 266 (2004) (emphases added). To be "meaningful," the notice must provide a party with a "clear statement" of the issues to address. *Id.* "It is axiomatic that a [party] cannot fully and fairly litigate a matter unless it knows what the accusation is." *Champion Int'l Corp.*, 339 NLRB

672, 673 (2003).[1] *See, e.g., Willamette Tug & Barge Co.*, 300 NLRB 282, 283 (1990) ("We need not decide exactly how many days' notice would be required for such a meaningful opportunity; **we find the . . . same day notice clearly insufficient**") (emphasis added).

The indisputable evidence demonstrates that the NLRB did not provide adequate or sufficient notice of the issues to be addressed at the rescheduled July 26, 2012 hearing. Affidavit of Tyler M. Paetkau ("Paetkau Aff."), ¶¶ 3, 4 & Exhibit ("Ex.") 3, 6; Health Center's Post-Hearing Brief, filed on August 2, 2012, at pp. 1- 2. The evidence demonstrates that Health Center immediately and fully cooperated with the NLRB's information and document requests. *Id.* at ¶ 2 & Exs. 1-7. On July 19, 2012, the Board Agent unilaterally cancelled the original July 20, 2012 hearing, stating without explanation or elaboration that ["Given that a new petition has been filed the hearing slated for tomorrow, July 20, has been cancelled"] the original petition was withdrawn. *Id.* at ¶ 2 & Ex. 3. The Board Agent never informed Health Center why the original petition was withdrawn or the specific issues to be addressed at the rescheduled hearing. Exs. 3, 6. In fact, the Board Agent and Hearing Officer, Lana Pfeifer, sent conflicting electronic mail messages and did not provide sufficient advance notice of the issues to be addressed. ["***As of now***, it ***appears*** that we will be meeting tomorrow, July 26, for a hearing on whether a *Sonotone* election is appropriate and ***possibly with respect to the potential supervisory status of a few bargaining unit positions***"; "I wanted to **put the parties on notice** concerning a few things"; "it would be **very helpful** to have the below at the hearing concerning the asserted professional employees"]. Ex. 6. (emphasis added).

Finally, on July 25, 2012 at 5:48 p.m. – after normal business hours – Ms. Pfeifer sent an email to counsel for Health Center, Tyler Paetkau, stating that supervisory status of the Pharmacist In Charge and the Charge Issues was an issue for the rescheduled hearing the next morning at 10:00 a.m. and that live witness testimony would be "very helpful." *Id.* at ¶ 3 & Ex. 6.

[1] It is also "axiomatic, of course, that the mere presence in the record of evidence relevant to an unstated accusation 'does not mean the [defending] party . . . had notice that the issue was being litigated." *Conair Corp. v. NLRB*, 721 F.2d 1355, 1372 (D.C. Cir. 1983).

The Board Agent's electronic mail messages dated July 19, 24 and 25, 2012, and the Hearing Transcript ("Hrg. Tr.") at 70:3-71:18, 74:5-84:20, 96:21-99:21, show on their face that Health Center did not receive sufficient notice of the issues to be addressed at the July 26th hearing, in order to have the constitutionally required "meaningful opportunity" to respond. Paetkau Aff., ¶¶ 2-4 & Exs. 1-7. Health Center was unable to arrange all relevant witnesses to appear at the hearing the next morning, July 26, 2012, because the Board failed to provide proper and "meaningful" notice. *Id.* At all times leading up to the date of the hearing, Health Center actively communicated with the Board Agent regarding the scope of the *evolving* issues for the potential hearing. *Id.* Per the NLRB's specific request, Health Center brought relevant job descriptions and a witness, its Human Resources Director (Becky Hucke), to authenticate them and describe their job duties. *Id.*

Ms. Hucke testified based on her personal knowledge of the relevant job descriptions and duties. Hrg. Tr. at pp. 21-56 & Employer's Exhibits E-1 – E-3(e). Although Health Center met its burden of proving by a preponderance of the evidence that the Pharmacist In Charge and Charge Nurses qualify as supervisors under the NLRA, to the extent that additional live testimony matters, Health Center was denied procedural due process, particularly as to those issues raised *sua sponte* by the Board – not Health Center – quite literally on the eve of and even during the hearing itself. Hrg. Tr. at at 70:11-18, 71:4-18, 74:5-84:20, 96:21-99:21; Exs. 6-7 to Paetkau Aff.

The NLRB's denial of Health Center's constitutional right to procedural due process denied Health Center a fair hearing and substantially prejudiced Health Center's right to exclude statutory supervisors from the bargaining unit. The NLRB's mishandling of the hearing process, and its failure to provide adequate notice to Health Center of the issues to be addressed at the rescheduled hearing, constitute "extraordinary circumstances" justifying Health Center's Petition.

The NLRA charges the Board Agent with the duty to "inquire fully into all matters and issues necessary to obtain a full and complete record upon which the Board or the

Regional Director may discharge their duties." 29 C.F.R. § 102.64. Nevertheless, the Board Agent also abused her discretion in denying Health Center's eminently reasonable request for a brief continuance of the hearing so that it could present additional percipient witness testimony (Hrg. Tr. at 70:11-18, 71:4-18, 74:5-84:20, 96:21-99:21), particularly since Health Center only received "notice" of the supervisory issues at 5:48 p.m. the night before a 10:00 a.m. hearing. Exs. 6-7 to Paetkau Aff. Indeed, Health Center could have presented the requested live witness testimony before the Regional Director even issued his erroneous Decision. Affidavit of Brenda Storey ("Storey Aff."), ¶ 6.

C. The Regional Director's Decision Misstates The Record Evidence, Draws Unreasonable Adverse Inferences, Engages In Impermissible Speculation And Misstates The Governing Law.

Both the Health Center and the Regional Director agree that supervisor status depends on whether the employee has the *authority* to engage in one of the twelve enumerated supervisory actions, assuming the other two parts of the test are fulfilled. Decision, at 13, 14; Health Center's Post-Hearing Brief, at 5.

The Regional Director's purported summary and characterizations of Ms. Hucke's testimony at the hearing (*see* Decision at pp. 5-12, 14-16, 18-19) are unfortunately not faithful to the actual hearing transcript record. *See, e.g.*, Hrg. Tr. at 34:18-37:14, 41:17-19, 41:23-42:3, 45:9-47:2, 65:16-67:16 (uncontradicted testimony regarding supervisory duties of Health Center's Pharmacist-In-Charge and Charge Nurses); *and compare* Decision at p. 16 (criticizing Ms. Hucke's alleged "conclusory" testimony).

Significantly, Ms. Hucke was the only witness to testify at the hearing. Neither Petitioner nor Intervenor offered any witness testimony, or a shred of documentary evidence at the hearing. Hrg.Tr. at 3 (only witness provided was by Health Center), 4 (only evidence introduced was by Health Center). Intervenor also filed no post-hearing brief and took no position as to supervisor status. Hrg. Tr. at 12:11-21. Petitioner also expressed no opinion and made no argument as to whether the Charge Nurses are supervisors.

The Regional Director also erred in drawing unsupportable inferences and conclusions from Health Center's unrebutted evidence. For example, the Regional Director faulted Ms. Hucke and Health Center for not having personal knowledge of specific disciplinary actions and hiring/firing decisions during Ms. Hucke's brief six-month tenure as the Health Center's Human Resources Director. Decision at pp. 6, 7, 14. There are two fundamental problems with the Regional Director's fatally flawed analysis.

The first flaw in the Regional Director's analysis is that the law properly focuses on a supervisor's *authority* to engage in classic supervisory duties such as disciplining, hiring, scheduling, performance evaluating, etc., and whether the putative supervisor's recommendations in this regard carry particular weight. *See NLRB v. Kentucky River Community Care*, 532 U.S. 706, 711-12 (2001); *accord In re Croft Metals, Inc.*, 348 NLRB 717, 721 (2006) (supervisor status exists under the NLRA if the employee has the authority to engage in any one of the twelve enumerated supervisory actions). Second, it is perverse for the Regional Director to use the absence of employee performance and hiring issues during the immediately preceding six months *against* the Health Center and Ms. Hucke. Indeed, the undisputed fact that Ms. Hucke has not been consulted on these employee performance issues logically means that the subordinate employees performed well in the past six months, that the supervisors (the Pharmacist In Charge and the Charge Nurses) have done an excellent job managing and supervising their subordinate employees, and that Health Center's employees are happy and productive, or a combination of these logical reasons.

The Regional Director's conclusion and inference that the Pharmacist-In-Charge and Charge Nurses did not *exercise* their supervisory power frequently during the last six months, or that they did not feel the need to consult Ms. Hucke regarding any performance counseling issues during this short time period, far from supporting the Regional Director's totally unsupported speculation (Decision at pp. 6-8, 14, 15) actually supports Health Center's position regarding the supervisor status of its Pharmacist-In-Charge and its Charge Nurses. It indicates that these statutory supervisors supervised and managed their subordinate employees

(the Pharmacy Techs and the Medical Assistants) on a daily basis without incident, *i.e.*, they performed their delegated supervisor duties so well, exercising their own independent judgment and discretion on behalf of Health Center.

Ms. Hucke's actual unrebutted and uncontradicted hearing testimony, as contrasted with the Regional Director's improper "spin" on it, established the following beyond a preponderance of the evidence – indeed, it was the ***only evidence presented on these key points***:

> Question: "Can you describe, whether by reference to the job description or just from your own knowledge, what are the duties of the charge nurse?"
> Answer: "They directly supervise the medical assistants in each clinic. They provide supervision to them. They hire and -- they have the ability to hire and fire those medical assistants. And they do their performance evaluations."
> Hrg. Tr. at 34:15-24 (emphasis added).

> Question: "Are the charge nurses included in the list of employees or positions in the bargaining unit?"
> Answer: "They are not."
> Question: "And why not?"
> Answer: "Because they supervise the staff that are in the bargaining unit." *Id.* at 37:7-14 (emphasis added).

> Question: "Do any of these charge nurses not supervise two or more medical assistants?"
> Answer: "No, they all do." *Id.* at41:17-19 (emphasis added).

> Question: "And does this [Employer's Ex. 3(b)] accurately reflect the job descriptions, the duties and responsibilities, of the pharmacist in charge?"
> Answer: "It does." *Id.* at p. 45:9-12; *see also id.* at 45:13-47:2 (explaining title and supervisor duties changes).

Furthermore, and contrary to the Regional Director's reliance on the out-of-date list of employees from the expired collective bargaining agreement (Decision at p. 5[2]), Ms.

[2] "According to [Ms.] Hucke, the pharmacist-in-charge supervises three or four pharmacy techs, but the list of employees in the petitioned-for/historical unit introduced by the Employer indicates that there is only one pharmacy tech currently employed by employer." The Regional Director's surmise from an out-of-date list ignored Ms. Hucke's extensive testimony regarding the numerous changes in job titles and duties over time. Hrg. Tr. at p

Hucke testified – without objection or any contrary evidence – that the Pharmacist-In-Charge actively supervises "three or four" Pharmacy Technicians who now work at the Health Center. Hrg. Tr. at 46:21-47:2.

Although similarly ignored by the Regional Director in his Decision, the Pharmacist-In-Charge's other duties are supervisory in nature as well. The Pharmacist-In-Charge conducts performance reviews for Pharmacy Technicians, recommends hiring and firing in his department (such that his recommendations carry significant weight), schedules, disciplines and provides guidance to his subordinate Pharmacy Technicians specifically regarding leaves of absence or terms of employment. Hrg. Tr. at 47:3-47:19. Ms. Hucke knows these details firsthand through direct conversations with the Pharmacist-In-Charge. Hrg. Tr. at 47:22-2. Again, no one presented even a scintilla of contrary evidence.

The Regional Director based his Decision largely on Ms. Hucke's limited tenure – a six-month period of time. Decision at pp. 6, 7, 14; Hrg. Tr. at 65:11-15. But merely because Ms. Hucke has not personally witnessed all of the classic supervisory duties performed by the Pharmacist-In-Charge and the Charge Nurses during her short tenure does not mean that these supervisors lack the ability and authority to do so. The Regional Director also focused on Ms. Hucke's lack of specific knowledge as to certain duties that the Pharmacist-In-Charge performs. Decision at pp. 14, 15. Inexplicably, however, the Decision completely ignores the undisputed fact that the Pharmacist-In-Charge provides guidance and direction to his subordinate employees. Hrg. Tr. at 47:15-19.

Throughout his erroneous Decision, the Regional Director strains to draw inferences against the clear supervisor status of Health Center's Pharmacist-In-Charge and its Charge Nurses. For example, the Regional Director states that "[a]ccording to [Ms.] Hucke, evaluations do not affect the wages of employees in the petitioned-for/historical unit" (Decision at p. 8), completely and inexplicably ignoring the undisputed historical fact that the expired

5. 10-29 (elimination of x-ray aide, typist, clerk typist, janitor, OB/GYN receptionist, assistant intake service supervisor, laboratory aide, health-ed aide, medical records supervisor assistant and utility worker).

Collective Bargaining Agreement *mandated such wages*! Similarly, the Regional Director states that "the record contains no evaluations filled out by charge nurses nor does it include any evidence showing that a charge nurse's evaluation has ever led to a PIP or other negative or positive consequence for an employee." Decision at p. 8. The sad truth is that even if Health Center had brought in every employee's personnel file, called every employee and supervisor to testify in person at the last minute, reviewed every disciplinary action and hiring/firing decision in minute detail, etc., the Regional Director would have ignored such overwhelming evidence and strained to draw unsupported adverse inferences against supervisor status.

With regard to the Charge Nurses, and although once again ignored by the Regional Director in his Decision, Ms. Hucke testified – without rebuttal or a even a tiny bit of contrary evidence – in great detail as to the Charge Nurses authority to hire, fire, evaluate and schedule, and supervise the medical assistants on a regular basis. Hrg. Tr. at 34:18-37:14 ("[T]hey directly supervise the medical assistants in their clinic . . . they . . . hire and fire those medical assistants . . . they do group interviews . . . they do their performance evaluations"); 65:16-67:16. The Charge Nurses can recommend employment for applicants and they all supervise two or more Medical Assistants. Hrg. Tr. at 36:3-5, 41:17-19. The Charge Nurses' Job Descriptions and duties are nearly identical, excepting the particular clinic (e.g., women's pediatric) where they work. Hrg. Tr. at 34:3-14. The 2012 Charge Nurse Job Descriptions are substantively identical to the older job descriptions. Hrg. Tr. at 36:25-37:4, 41:23-42:3. Ms. Hucke also testified that the Charge Nurses have historically not been included in the bargaining unit *because they supervise the staff who are in the unit*. Hrg. Tr. at 37:7-14; *see also* B. Storey Aff., ¶7 ("The Health Center's Charge Nurses were never included in the bargaining unit formerly represented by SEIU-HCW").

In addition to authenticating the Job Descriptions, Health Center provided a preponderance of evidence through its witness, Ms. Hucke, as to the extensive supervisory duties of the Charge Nurses. Decision at p. 7; Hrg. Tr. at 34:18-37:14, 65:16-67:16. The Decision also ignores the testimony of Ms. Hucke regarding the Charge Nurses providing

guidance to, and supervision of, their subordinate Medical Assistants, particularly in scheduling, leave of absence, or injury. Hrg. Tr. at 36:16-20.

D. The New Affidavits Establish Supervisor Status of the Pharmacist-In-Charge and the Charge Nurses Beyond a Preponderance of the Evidence.

Health Center has filed concurrently seven Affidavits demonstrating that the Regional Director clearly erred in concluding that Health Center's Pharmacist-In-Charge was not a supervisor. Health Center's Executive Director, Brenda Storey, would have proffered testimony that the Pharmacist-In-Charge was a statutory supervisor. She would have testified to the following key points.

In the 1970s and 1980s there was only one Pharmacist employed by the Health Center. Storey Aff., ¶¶8-9. She would have further testified that in the 1990s, as prescription medications increased in use, a new position – Pharmacy Technician – was developed. *Id.* at ¶8. Because the California Board of Pharmacy requires a Pharmacist to supervise and control the duties of the Pharmacy Technicians, the role of the Pharmacist position at Health Center grew into a supervisory one. Storey Aff., ¶8. "This is how the Pharmacist position significantly changed at the Health Center, after which the title was changed to 'Pharmacist-In-Charge' and he or she then regularly supervised subordinate employees, called Pharmacy Technicians or 'Pharmacy Techs.'" *Id.* The Pharmacist-In-Charge is "primarily responsible for managing a group or a department, maintaining a high standard of patient care, ensuring policies, procedures, State and Federal regulations are being followed, monitoring productivity activity, and overseeing the accuracy of their subordinates' work on a regular basis." *Id.* at ¶9. Further, both the Pharmacist-In-Charge and Charge Nurses "regularly direct the work of the subordinate employees under their direct supervision, schedule their work shifts, provide performance and feedback and impose discipline when necessary, conduct annual performance evaluations, and make effective recommendations regarding hiring and firing of the Health Center's employees in their departments, for the benefit and in the name of the Health Center." *Id.* at ¶10. Significantly, both the Pharmacist-In-Charge and Charge Nurses decide when to hire new

subordinates, which applicants to interview, and "have significant input regarding hiring and termination decisions at the Health Center." *Id.* They perform these supervisor duties on a regular basis in the interests of Health Center, using their own independent judgment and discretion. *Id.* at ¶11.

The Pharmacist-In-Charge, Kenneth Schorner, would have provided testimony that his role as Pharmacist-In-Charge was that of a statutory supervisor. Affidavit of Kenneth Schorner ("Kenneth Aff"). He would have testified to the following key points.

Mr. Schorner is "completely responsible for and manage on a daily basis the Health Center's on site Pharmacy" and he "regularly supervise[s] the Pharmacy Technicians in the Pharmacy." *Id.* at ¶2. His supervisory duties include regularly directing "the work of the Pharmacy Technicians under my direct supervision, schedule[ing] their work shifts, provid[ing] performance feedback and impos[ing] discipline when necessary." *Id.* He decides on his own when to hire additional Pharmacy Technicians, which applicants to interview, and provides significant input for hiring and termination decisions of the Pharmacy Technicians who work in his Pharmacy. *Id.*

Mr. Schorner also would have authenticated his job description, including that he regularly provides leadership, evaluations, and direction supervision "to the Pharmacy Technicians, 'set the agenda for the department meetings,' and engage in the other supervisory and management duties listed." *Id.* at ¶3. Finally, Mr. Schorner would have testified to his authority, in the interests of the Health Center and based on budget, to "hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline employees under my supervision, including Pharmacy Technicians, and responsibly to direct them, to address and handle their grievances and complaints, or to effectively recommend such personnel actions, using my own independent judgment and discretion." *Id.* & ¶4. Although he consults with his superiors, he routinely makes these personnel decisions and recommendations, as he is "in sole charge of the Health Center's Pharmacy." *Id.* at ¶¶3-4.

IV. CONCLUSION

Accordingly, by this Petition Health Center respectfully requests that: (1) the NLRB re-open the evidence to consider Health Center's concurrently filed percipient witness Affidavits; (2) the NLRB grant a stay of any election proceedings until the Regional Director's erroneous Decision is set aside and corrected; and, in the alternative, (3) the NLRB reconsider the Decision based on the new percipient witness Affidavits and Health Center's ***uncontradicted*** evidence presented at the July 26, 2012 hearing.

Dated: August 17, 2012

HARTNETT, SMITH & PAETKAU

By_____
Tyler M. Paetkau
Attorneys for Respondent and Employer
MISSION NEIGHBORHOOD HEALTH CENTER

PROOF OF SERVICE
(Re: Mission Neighborhood Health Center – Case No. 20-rc-085529)

I, Liliane Lamotte, declare that I am over the age of eighteen years and am not a party to the within cause. My business address is 777 Marshall Street, Redwood City, CA 94063

On August 17, 2012, I served the within:

RESPONDENT MISSION NEIGHBORHOOD HEALTH CENTER'S PETITION TO REOPEN EVIDENCE OR, ALTERNATIVELY, FOR RECONSIDERATION OF REGIONAL DIRECTOR'S 8/9/12 DECISION AND DIRECTION OF ELECTION;

AFFIDAVIT OF TYLER M. PAETKAU IN SUPPORT OF EMPLOYER'S PETITION TO RE-OPEN EVIDENCE OR, ALTERNATIVELY, FOR RECONSIDERATION OF REGIONAL DIRECTOR'S 8/9/12 DECISION AND DIRECTION OF ELECTION;

AFFIDAVIT OF BRENDA STOREY REGARDING JOB DUTIES;

AFFIDAVIT OF LAUREN FIEL REGARDING JOB DUTIES;

AFFIDAVIT OF VIRGINIA SCRIBNER REGARDING JOB DUTIES;

AFFIDAVIT OF PHOEBE ROSSITER REGARDING JOB DUTIES;

AFFIDAVIT OF SHANNON RILEY REGARDING JOB DUTIES;

AFFIDAVIT OF KENNETH SCHORNER REGARDING JOB DUTIES;

AFFIDAVIT OF TELMA HERNANDEZ REGARDING JOB DUTIES.

on interested party(s) in said cause, by delivering a true copy as follows:

X (By Email) I sent a true copy of said document(s) to the email addressee(s) listed below via email to the following recipient(s). The transaction was reported as completed and without error.

Latika Malkani, Esq.
Benjamin J. Siegel, Esq.
SIEGEL, LEWITTER & MALKANI
1939 Harrison Street, Suite 307
Oakland, CA 94612

LMalkani@sl-employmentlaw.com
BSiegel@sl-employmentlaw.com
Yuri Y. Gottesman, Esq
WEINBERG ROGER & ROSENFELD
1001 Marina Village Pkwy, Ste 200

Alameda, CA 94501-1091
ygottesman@unioncounsel.net

Lana Pfeifer, Hearing Officer
NATIONAL LABOR RELATIONS BOARD
Region 20
901 Market street, Ste 400
San Francisco, CA 94103-1735
Lana.Pfeifer@nlrb.gov

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Executed on August17, 2012, in Redwood City, California

Liliane Lamotte