

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

SAN MIGUEL HOSPITAL CORP.  
d/b/a ALTA VISTA REGIONAL  
HOSPITAL

and

Case 28-CA-22280

DISTRICT 1199NM, NATIONAL  
UNION OF HOSPITAL AND  
HEALTHCARE EMPLOYEES

ORDER

On March 4, 2008, the two sitting members of the Board issued a Decision and Certification in Case 28-RC-6518, and on June 30, 2008, the two sitting members of the Board issued a Decision and Order Case 28-CA-21896, which is reported at 352 NLRB 809.<sup>1</sup> Thereafter, on June 11, 2010, a three-member panel of the Board issued a Decision and Order in this proceeding<sup>2</sup> which relies, in part, on the earlier decisions in Cases 28-RC-6518 and 28-CA-21896.

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<sup>1</sup> Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the powers of the National Labor Relations Board in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Thereafter, pursuant to this delegation, the two sitting members issued decisions and orders in unfair labor practice and representation cases.

<sup>2</sup> 355 NLRB No. 43.


On June 17, 2010, the United States Supreme Court issued its decision in *New Process Steel, L.P. v. NLRB*, 130 S.Ct. 2635, holding that under Section 3(b) of the Act, in order to exercise the delegated authority of the Board, a delegee group of at least three members must be maintained.

On July 28, 2010, the Respondent filed a petition for review in the United States Court of Appeals for the District of Columbia. The record is due to be filed on September 13, 2010.

In view of the Court's decision in *New Process Steel, L.P.*, pursuant to Section 10(d) of the National Labor Relations Act, the Board hereby sets aside its June 11, 2010 Decision and Order, which is reported at 355 NLRB No.43.<sup>3</sup> The Board will retain this case on its docket and take further action as appropriate.

Dated, Washington, D.C., September 2, 2010

By Direction of the Board:

  
Lester A. Heltzer  
Executive Secretary

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<sup>3</sup> Section 10(d) states "[u]ntil the record in a case shall have been filed in a court, as hereinafter provided, the Board may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it." See also *In re NLRB*, 304 U.S. 486 (1938).