

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

1621 ROUTE 22 WEST OPERATING
COMPANY, LLC D/B/A SOMERSET
VALLEY REHABILITATION & NURSING
CENTER

and

Cases 22-CA-069152
22-CA-074665

1199 SEIU UNITED HEALTHCARE
WORKERS EAST, NEW JERSEY
REGION

**CHARGING PARTY'S EXCEPTIONS TO THE DECISION
OF THE ADMINISTRATIVE LAW JUDGE**

Charging party, 1199 SEIU United Healthcare Workers East ("Union"), through its attorneys, Gladstein, Reif & Meginniss, LLP, files exceptions to the administrative law judge's decision, pursuant to Section 102.46 of the Rules and Regulations of the National Labor Relations Board ("NLRB"). These exceptions, identified below, involve the ALJ's errors in applying the appropriate remedy for Respondent's unlawful alteration of the scope of the bargaining unit by its elimination of a bargaining unit title without the consent of the Union or the NLRB.

Exception 1: Page 14, lines 39-40. The administrative law judge ("ALJ") erred as a matter of law in finding that the elimination of the bargaining unit LPN classification was a mandatory subject of bargaining, rather than a permissive subject of bargaining.

Exception 2: Page 14, lines 40-42. The ALJ erred as a matter of law by finding that Respondent violated Sections 8(a)(1) and (5) of the Act by failing to provide 1199 with notice and an opportunity to bargain, when the law is well established that an employer cannot eliminate a bargaining unit title without the consent of the Union or the NLRB.

Exception 3: Page 25, line 18. The ALJ erred by not including in her conclusions of law that Respondent violated Sections 8(a)(1) and (5) of the Act by failing to obtain the consent of the

Union before altering the scope of the bargaining unit by its elimination of the LPN job classification.

Exception 4: Page 26, lines 34-35. The ALJ erred by directing Respondent to cease and desist from refusing to bargain with the Union when unilaterally eliminating bargaining unit classifications.

Exception 5: Page 27, lines 15-16. The ALJ erred by directing Respondent of bargain with the Union, upon request, regarding any decision to eliminate the LPN classification. Under well-established law, the proper remedy is to require Respondent to obtain the Union's consent.

Dated: New York, New York
February 25, 2013

Respectfully submitted,

GLADSTEIN, REIF & MEGINNISS

s/ Ellen Dichner

By: Ellen Dichner

817 Broadway, 6th Floor
New York, New York 10003
(212) 228-7727

Counsel for 1199 SEIU United
Healthcare Workers East, New
Jersey Region