

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

**SPRAIN BROOK MANOR NURSING
HOME, LLC et al.**

and

Case 02-CA-089480

**1199 SEIU UNITED HEALTHCARE
WORKERS EAST**

ORDER¹

The petition of SC & BP Service, Inc. to revoke subpoena duces tecum B-709366 is granted in part. We find that the scope of Paragraph 8 is overbroad to the extent it seeks documents and correspondence between the Petitioner and “any other union.” Without prejudice to the General Counsel’s right to subpoena these documents if their relevance can be established and the scope more clearly defined, we grant the petition to revoke on this limited point.²

In all other respects, the petition is denied, as the subpoena seeks information relevant to the matter under investigation and describes with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

² Member Hirozawa views Paragraph 8 of the subpoena as sufficiently narrow temporally and sufficiently related to the charges under investigation to warrant denial of the petition to revoke.

Member Johnson also finds that the scope of the request in Paragraph 5 is vague and overbroad to the extent it seeks Petitioner’s documents within the “New York Metropolitan Area.” This definition is unclear, and the General Counsel has not established the relevance of this range of documents to the allegations under investigation. He therefore would limit the request to documents described in Paragraph 5 from Petitioner’s facilities falling under the same management subdivision or organization [e.g. the same division] of the Petitioner as the facility in question, if any, in New York City and Westchester County, New York. He would do so without prejudice to the General Counsel’s right to subpoena documents from other clearly-defined geographic areas, provided their relevance is established.

Board's Rules and Regulations. Further, the Petitioner has failed to establish any other legal basis for revoking the subpoena.³ See generally *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).

Dated, Washington, D.C., February 6, 2014.

PHILIP A. MISCIMARRA, MEMBER

KENT Y. HIROZAWA MEMBER

HARRY I. JOHNSON, III MEMBER

³ The Petitioner's argument that the Acting General Counsel lacked the authority to prosecute this case is rejected. Contrary to the Petitioner, the Acting General Counsel was properly directed to perform the duties of that office under the Federal Vacancies Reform Act, 5 U.S.C. Sec. 3345(a)(3), and not under the National Labor Relations Act, 29 U.S.C. Sec. 153(d). *The Ardit Company*, 360 NLRB No. 15, slip op. at 1 (2013).