

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Washington, D.C.**

VERITAS HEALTH SERVICES, INC.
d/b/a CHINO VALLEY MEDICAL
CENTER,

Respondent,

and

UNITED NURSES ASSOCIATIONS OF
CALIFORNIA/UNION OF
HEALTHCARE PROFESSIONALS,
NUHHC, AFSCME, AFL-CIO,

Charging Party.

Case No. 31-CA-29713, 31-CA-29714,
31-CA-29715; 31-CA-29716,
31-CA-29717, 31-CA-29738,
31-CA-29745, 31-CA-29749,
31-CA-29768, 31-CA-29769,
31-CA-29786, 31-CA-29936,
31-CA-29965, 31-CA-29966

**RESPONDENT CHINO VALLEY
MEDICAL CENTER'S REPLY BRIEF TO
ACTING GENERAL COUNSEL'S
ANSWERING BRIEF TO RESPONDENT'S
EXCEPTIONS TO THE DECISION OF
THE ADMINISTRATIVE LAW JUDGE**

For the reasons more fully set forth in Respondent's exceptions, its brief in support of its exception, and its answering briefs to the exceptions filed by Acting General Counsel and the Charging Party Union, Respondent disagrees with the both the "facts" and arguments presented in the Acting General Counsel's Answering Brief ("Answering Brief"). Respondent will not belabor the record before the Board by restating its arguments here, particularly inasmuch as time and space limitations preclude a full and complete explication of the errors included in the Answering Brief. Respondent submits this reply in order to preserve its position before this Board and in any related court proceedings, and to preclude any possible argument that Respondent has waived any of its positions as previously stated by failing to file a reply to Acting General Counsel's Answering Brief. However, Respondent does wish to draw particular attention to the following:

- The vast majority of the "facts" set forth in the Answering Brief were not found by the ALJ in his decision. See, i.e., Answering Brief, pp. 6-12, 30, 36-39, 42-43, 45-47, 48-50, 55-557). The Acting General Counsel did not file exceptions to the ALJ's failure to find such "facts." Accordingly, all "facts" set forth in the Answering Brief that are not included in the ALJ's decision should be stricken and disregarded by the Board.

- The Answering Brief mischaracterizes and misstates Respondent's contentions and arguments, as well as the evidence in the record. See, i.e., Answering Brief, pp. 16, 19, 26, 28, 31, 34, 64-71.

- The Answering Brief provides explanations and justifications for conclusions reached by the ALJ that were not articulated by the ALJ in his decision. See, i.e., Answering Brief, pp. 18-21, 25, 27, 28, 29, 31, 32, 33, 35, 40, 41-42, 43-45, 47-48, 49-50, 52-53, 55, 57-60, 61. The Acting General Counsel did not file exceptions to the ALJ's failure to adopt or articulate such explanations and justifications. Accordingly, all explanations and justifications for conclusions reached by the ALJ that were not articulated by the ALJ in his decision should be stricken and disregarded by the Board.

- The Answering Brief's contentions that Respondent's exceptions and supporting brief lack sufficient specificity to be considered by the Board (see, i.e., Answering Brief, pp. 63-64), is not supported by the cases cited therein and is contrary to Board law. See, i.e., *Smurfit-Stone Container Enterprises*, 357 NLRB No. 144 (2011); *Carson Trailer, Inc.*, 352 NLRB 1274 (2008); *Loudon Steel, Inc.*, 340 NLRB 307 (2003); *United States Postal Service*, 339 NLRB 400 (2003); *Zurn Nepco*, 316 NLRB 811 (1995); *Embassy Suites Resorts*, 309 NLRB 1313 (1992); 29 CFR § 102.46(b)(1).

Dated: February 8, 2012

Respectfully submitted,



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PROOF OF SERVICE BY E-MAIL

I am employed in San Diego County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 501 W. Broadway, Suite 900, San Diego, California 92101.3577. On February 8, 2012, I served a true and correct copy of:

RESPONDENT CHINO VALLEY MEDICAL CENTER'S
REPLY BRIEF TO ACTING GENERAL COUNSEL'S
ANSWERING BRIEF TO RESPONDENT'S EXCEPTIONS TO
THE DECISION OF THE ADMINISTRATIVE LAW JUDGE

by e-mailing the document to the following persons at the e-mail addresses listed below:

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Executed on February 8, 2012, at San Diego, California.



ROSA DYER