

**UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
DIVISION OF JUDGES**

<p><b>DHSC, LLC, d/b/a AFFINITY MEDICAL CENTER, COMMUNITY HEALTH SYSTEMS, INC., and/or COMMUNITY HEALTH SYSTEMS PROFESSIONAL SERVICES CORPORATION, LLC, a single-employer and/or joint employers, <i>et al.</i></b></p> <p><b>and</b></p> <p><b>CALIFORNIA NURSES ASSOCIATION / NATIONAL NURSES ORGANIZING COMMITTEE (CNA/NNOC)</b></p> <p><b>UNITED STEEL, PAPER AND FORESTRY RUBBER; MANUFACTURING, ENERGY ALLIED INDUSTRIAL AND SERVICE WORKERS INTERNATIONAL UNION, AFL-CIO</b></p>	<p>08-CA-117890, <i>et al.</i></p>
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**GENERAL COUNSEL'S OPPOSITION  
TO RESPONDENT HOSPITAL OF BARSTOW'S MOTION  
FOR SUMMARY JUDGMENT AND MOTION TO DISMISS  
PARAGRAPH (54) OF THE SECOND AMENDED COMPLAINT**

Pursuant to Section 102.24(b) of the Board's Rules and Regulations, Counsel for the General Counsel respectfully files this Opposition to Respondent Barstow's October 31, 2016 Motion for Summary Judgment and Motion to Dismiss Paragraph 54 of the Second Amended Complaint ("Motion").

Respondent Barstow filed the Motion pursuant to Section 102.35(a)(8) of the Rules and Regulations of the National Labor Relations Board for an entry of judgment, or alternatively, dismissal of Paragraph 54 of the Second Amended Complaint ("Complaint"). Counsel for the General Counsel respectfully requests that Respondent Barstow's Motion be denied in its entirety because it is untimely and was improperly filed.

Respondent Barstow's Motion should be denied in its entirety because it is untimely. Section 102.24(b) of the Board's Rules and Regulations require that the Motion

be filed no later than 28 days prior to the scheduled hearing. Section 102.24(b) states in relevant part:

All motions for summary judgment or dismissal shall be filed with the Board no later than 28 days prior to the scheduled hearing. Where no hearing is scheduled, or where the hearing is scheduled less than 28 days after the date for filing an answer to the complaint or compliance specification, whichever is applicable, the motion shall be filed promptly.

The hearing involving Respondent Barstow is scheduled to begin on November 14, 2016. Respondent Barstow filed the Motion on October 31, 2016 – a mere 14 days prior to the scheduled hearing. For the Motion to be considered timely, Respondent Barstow should have filed by no later than October 17, 2016. Respondent Barstow failed to do so. Moreover, Respondent Barstow was not privileged to file the Motion less than 28 days prior to the hearing because its Answer to the Complaint was not due within 28 days preceding the scheduled hearing. Since the Motion does not comport with the timeliness requirements of Section 102.24(b), the Motion is untimely and should be denied in its entirety.

Moreover, the Motion should be denied because it was improperly filed. Section 102.24(a) of the Rules and Regulations states in relevant part, that “[a]ll motions for default judgment, summary judgment, or dismissal made prior to the hearing shall be filed in writing with the Board pursuant to the provisions of § 102.50.” Under this Section, Respondent Barstow was required to file the Motion with the Board. Yet, Respondent Barstow filed the Motion with the Division of Judges. Accordingly, the Motion was improperly filed and should be denied in its entirety.<sup>1</sup>

**DATED** at Los Angeles, California this 1<sup>st</sup> day of November, 2016

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<sup>1</sup> If Respondent Barstow’s Motion is not denied as untimely and/or as improperly filed and an Order to Show Cause issues, Counsel for the General Counsel respectfully intends to file a substantive opposition to the Motion per Section 102.24(b) of the Board’s Rules and Regulations.

/s/ J. Carlos González

J. CARLOS GONZALEZ

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**Re: DHSC, LLC, d/b/a AFFINITY MEDICAL CENTER,  
COMMUNITY HEALTH SYSTEMS, INC., and/or  
COMMUNITY HEALTH SYSTEMS PROFESSIONAL  
SERVICES CORPORATION, LLC, a single employer and/or joint employers, et al.**  
Case 08-CA-117890, et al.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the GENERAL COUNSEL'S OPPOSITION TO RESPONDENT HOSPITAL OF BARSTOW'S MOTION FOR SUMMARY JUDGMENT AND MOTION TO DISMISS PARAGRAPH (54) OF THE SECOND AMENDED COMPLAINT was served on the parties listed below via email on November 1, 2016.

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