

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

**BENEDICTINE HEALTH CENTER,
BENEDICTINE SISTERS BENEVOLENT
ASSOCIATION, BENEDICTINE HEALTH
SERVICES, AND ST. SCHOLASTICA
MONASTERY, AS A SINGLE EMPLOYER**

and

Case 18-CA-196456

AFSCME COUNCIL 5

ORDER

The Petition to Revoke subpoena duces tecum B-1-WZN7EP, filed by Benedictine Sisters Benevolent Association (BSBA), and the Joint Petition to Revoke and/or Quash subpoenas duces tecum B-1-WZN2YZ and B-1-WZN101, filed by Benedictine Health Center (BHC) and Benedictine Health Services (BHS), are denied. The subpoenas seek information relevant to the matters under investigation and describe with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. Further, the Employers have failed to establish any other legal basis for revoking the subpoenas.¹

¹ In considering the petitions to revoke, we have evaluated the subpoenas in light of the Region's offer to substitute the phrase "[a]n original or true copy of" for the word "all" and the Region's willingness to preliminarily accept a representative sample of 10 documents from each vendor in response to BSBA subpoena paragraph 26 and BHC subpoena paragraphs 17-18.

In addition, this Order is without prejudice to each Employer's prompt submission of a privilege log to the Region identifying and describing each document that the Employer believes in good faith to be subject to the attorney-client privilege or the attorney work product doctrine. The log must provide sufficient detail to permit an assessment of the Employer's claim of privilege or protection. The Employers are directed to produce all responsive documents in their possession not subject to any good-faith claim of privilege or protection.

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., December 27, 2017.

MARK GASTON PEARCE,	MEMBER
LAUREN McFERRAN,	MEMBER
WILLIAM J. EMANUEL	MEMBER

Further, with respect to documents responsive to BHC subpoena paragraph 42, BHS subpoena paragraph 24, and BSBA subpoena paragraph 40, the Employers may, consistent with the Region's offer, redact the documents to the extent that they reveal motives of attorney representation, litigation strategy, or the specific nature of services provided by the attorney. See *Clarke v. American Commerce National Bank*, 974 F.2d 127, 129 (9th Cir. 1992).