

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

COVENANT CARE CALIFORNIA, LLC
and COVENANT CARE LA JOLLA, LLC

and

Case 21-CA-090894

LERMA VERA

NOTICE TO SHOW CAUSE¹

On December 22, 2015, the Board issued a Decision and Order finding that the Respondent violated Section 8(a)(1) of the Act by: (1) maintaining and enforcing a mandatory arbitration agreement that requires employees, as a condition of employment, to waive the right to maintain class or collective actions in all forums; and (2) maintaining a rule that prohibits the discussion of terms and conditions of employment by requiring employees to keep information about arbitral proceedings confidential. 363 NLRB No. 80 (2015). On June 29, 2018, the United States Court of Appeals for the Ninth Circuit denied enforcement, in light of *Epic Systems Corp. v. Lewis*, 585 U.S. ___, 138 S. Ct. 1612 (2018), of the Board's first finding. The court also granted the General Counsel's motion to remand to the Board the second issue - whether the confidentiality provision violates the Act under the recently issued decision in *The Boeing Co.*, 365 NLRB No. 154, slip op. at 14-17 (2017), which specifically addresses employer rules that prohibit discussion of terms and conditions of employment.

Accordingly, the Board hereby issues the following notice to show cause why this case should not be remanded to a judge for further proceedings in light of *Boeing*, including, if

¹ Chairman Ring is recused and did not participate in this proceeding.

necessary, the filing of statements, reopening the record, and issuance of a supplemental decision.

NOTICE IS GIVEN that any party seeking to show cause why this case should not be remanded to an administrative law judge must do so in writing, filed with the Board in Washington, D.C., on or before February 27, 2019 (with affidavit of service on the parties to this proceeding). Any briefs or statements in support of the motion shall be filed on the same date.

Dated, Washington, D.C., February 13, 2019.

By direction of the Board:

/s/ Roxanne Rothschild

Executive Secretary