

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

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MONTEFIORE MEDICAL CENTER : Case Number: 02-CA-229024
 :
-and- :
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NEW YORK STATE NURSES ASSOCIATION :
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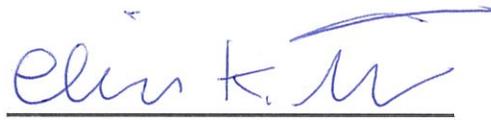
EXCEPTIONS OF CHARGING PARTY,
NEW YORK STATE NURSES ASSOCIATION

Charging Party New York State Nurses Association (“NYSNA”) takes exception to the May 30, 2019 decision of Administrative Law Judge Kenneth W. Chu (“ALJ”). NYSNA’s specific exceptions are as follows:

1. The ALJ’s finding that supervisor Shalom Simmons should be credited over the testimony of three Registered Nurses (“RNs”) who reported to her. Decision, p. 15 at lines 16-24.
2. The ALJ’s finding that Simmons was credible because she was “aware and knowledgeable of employees’ Weingarten rights” and the need to refrain from threatening employees regarding their Section 7 rights. Decision, p. 15 at lines 17-20.
3. The ALJ’s finding that of the three RN witnesses, Andrea Guzman, Una Davis and Marie Kiffin, “no one spoke up when Simmons allegedly made this threat.” Decision, p. 15 at lines 4-9.
4. The ALJ’s finding that Guzman, Davis and Kiffin should not be credited because “no one spoke up when Simmons allegedly made this threat.” Decision, p. 15 at lines 4-9.

5. The ALJ's finding that Guzman, Davis and Kiffin should not be credited because none of the RNs testified that they were afraid to confront Simmons after she threatened them. Decision, p. 15 at lines 9-10.
6. The ALJ's finding with respect to Guzman, Davis and Kiffin, that "no testimony was proffered that they spoke afterwards about the threat." Decision, p. 15 at lines 11-12.
7. The ALJ's finding that Guzman, Davis and Kiffin should not be credited because "no testimony was proffered that they spoke afterwards about the threat." Decision, p. 15 at lines 11-12.
8. The ALJ's finding that "the contemporaneous statement made by Simmons on the day of the incident outweighs" the testimony of Guzman, Davis and Kiffin. Decision, p. 15 at lines 1-2.
9. The ALJ's finding that "Simmons testified that Guzman did not need a delegate but if she wants one, Simmons suggested Davis attend as the charge nurse along with a union delegate" and that this testimony was consistent with her June 25, 2018 e-mail to Justine Huffaker. Decision, p. 14 at lines 26-36.
10. The ALJ's exclusion of evidence related to past threats made by Simmons in the Weingarten rights context and finding that Simmons should be credited based on an alleged lack of past coercive statements by Simmons. Decision, p. 10, n.7; p. 15 at lines 22-24.

Dated: June 27, 2019



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