

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

KAISER FOUNDATION HEALTH PLAN, INC.,  
KAISER FOUNDATION HOSPITALS,  
SOUTHERN CALIFORNIA PERMANENTE  
MEDICAL GROUP, AND THE PERMANENTE  
MEDICAL GROUP, INC.

and

Case 32-CA-169979

ENGINEERS AND SCIENTISTS OF CALIFORNIA,  
IFPTE LOCAL 20, AFL-CIO & CLC

NOTICE TO SHOW CAUSE

On August 24, 2018, Administrative Law Judge Lisa D. Thompson issued a decision finding that the Respondents violated Section 8(a)(1) of the National Labor Relations Act by maintaining two unlawful provisions in their Electronic Assets Usage Policy. The judge applied the standard set forth in *Purple Communications, Inc.*, 361 NLRB 1050 (2014), for determining the lawfulness of an employer's rule restricting employee use of a company's email system. Recently, the Board overruled *Purple Communications* and announced a new standard that applies retroactively to all pending cases. *Caesars Entertainment d/b/a Rio All-Suites Hotel and Casino*, 368 NLRB No. 143, slip op. at 8-9 (2019). In that decision, the Board held, in relevant part, that "an employer does not violate the Act by restricting the nonbusiness use of its IT resources *absent proof that employees would otherwise be deprived of any reasonable means of communicating with each other.*" *Id.*, slip op. at 8 (emphasis added). The parties have not had an opportunity to address whether this exception to the rule of *Caesars Entertainment* applies to the facts of this case. Accordingly, having duly considered the matter,

**NOTICE IS GIVEN** that cause be shown, in writing, filed with the Board in Washington, D.C., on or before March 12, 2020 (with affidavit of service on the parties to this proceeding), why this case should not be remanded to the administrative law judge for further proceedings consistent with the Board's decision in *Caesars Entertainment*, including reopening the record if necessary. Any briefs or statements in support of the response shall be filed on the same date.

Dated, Washington, D.C., February 27, 2020.

By direction of the Board:

Roxanne L. Rothschild  
Executive Secretary