

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5

HOLY CROSS HEALTH d/b/a HOLY
CROSS HOSPITAL

Respondent

and

Case(s): 05-CA-182154
05-CA-187452

NATIONAL NURSES ORGANIZING
COMMITTEE/NATIONAL NURSES
UNITED (NNOC/NNU), AFL-CIO

Charging Party

**MOTION TO SEVER AND REMAND SPECIFIC ALLEGATIONS TO THE REGIONAL
DIRECTOR FOR APPROVAL OF WITHDRAWAL, AND FOR THE BOARD TO
CONTINUE PROCESSING ALL REMAINING ALLEGATIONS**

Counsel for the General Counsel respectfully requests the Board to sever and remand the specific allegations identified in its April 8, 2020 Notice to Show Cause, to the Regional Director of Region 5 for further processing and ultimately the approval of the Charging Party's withdrawal requests. Additionally, counsel for the General Counsel respectfully requests the Board to continue processing the remaining allegations identified in the Consolidated Complaint and Notice of Hearing and Administrative Law Judge's (ALJ's) decision. In support of this motion, counsel for the General Counsel states the following:

The National Nurses Organizing Committee/National Nurses United (NNOC/NNU), AFL-CIO (Charging Party Union) filed charges in Cases 05-CA-182154 and 05-CA-187452 on August 16, 2016 and November 3, 2016, respectively. After multiple amended charges, on

February 27, 2017, the Regional Director issued an Order Consolidating Cases, Consolidated Complaint and Notice of Hearing for the instant charges.

These cases were heard in Baltimore, Maryland before the Honorable Michael A. Rosas on May 18 through 19, and 23, 2017. On July 21, 2017, ALJ Rosas issued a decision finding that Respondent violated Section 8(a)(1) Act by:

1. Prohibiting nurses against the use of its electronic communications systems;
2. Prohibiting nurses from discussing the Charging Party in nursing stations, corridors, stairwells, elevators, and immediate patient care areas;
3. Threatening employees with more onerous working conditions and/or loss of benefits if employees chose union representation;
4. Interrogating or coercing nurses by stating that nurses had been called at home and harassed by the Charging Party and asking that a nurse alert Respondent if this happened to her;
5. Calling hospital security to respond to nurse engaged in protected concerted activities;
6. Recording nurses' names and threatening to "take the matter to the nursing coordinator;"
7. Quelling nurses' interest in speaking with prounion nurses;
8. Taking photographs from a nearby conference room of nurses' protected concerted activities and disseminating those pictures to other managers and supervisors;
9. Threatening a nurse with more onerous working conditions and loss of benefits if the nurses selected the Charging Party;
10. Presenting certain changes to working conditions as eventualities if a union represented the nurses;
11. Interrogating and interfering with nurses by asking nurses if they were discussing the Charging Party and instructing them that there were prohibited from such discussion in the hospital.

(JD slip op at 24-25).

On July 21, 2017, the instant cases were transferred to the Board. Then, on August 18, 2017, Respondent filed exceptions to the ALJ's Decision and a brief in support of its exceptions. On September 15, 2017, in response to Respondent's exceptions and brief in support of exceptions, counsel for the General Counsel and the Charging Party Union both filed answering briefs to the Board.

On April 8, 2020, the Board issued a Notice to Show Cause to all parties requesting responses addressing possible severance and remand to the ALJ regarding the specific allegations that Respondent violated Section 8(a)(1) of the National Labor Relations Act by maintaining a policy that: (1) overbroadly defined “solicitation” as “[a]pproaching a person for the purpose of . . . promoting, encouraging, or discouraging participation, support, or membership in any organization; or promoting a doctrine or belief” and (2) prohibited solicitation using the Respondent’s email system. The Board subsequently granted counsel for the General Counsel’s request for extension of time to respond to its Notice to Show Cause to May 22, 2020.

On April 30, 2020, the Charging Party submitted a withdrawal request concerning the two specific allegations identified in the Board’s Notice to Show Cause.

Based on the foregoing, counsel for the General Counsel respectfully requests that the Board grant the General Counsel's Motion to sever and remand the two allegations identified in the Board’s Notice to Show Cause to the Regional Director for further processing and approval of the Charging Party's withdrawal request, and for the Board to continue processing all remaining allegations.

Dated at Baltimore, Maryland, this 21st day of May, 2020

/s/ Brendan Keough
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CERTIFICATE OF SERVICE

This is to certify that on May 21, 2020, a copy of counsel for the General Counsel's Motion to Sever and Remand Specific Allegations to the Regional Director for Approval of Withdrawal, and for the Board to Continue Processing all Remaining Allegations was served by e-mail on:

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