

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 16**

**NATIONAL NURSES ORGANIZING  
COMMITTEE-TEXAS/NATIONAL NURSES  
UNITED (BAY AREA HEALTHCARE GROUP,  
LTD. D/B/A CORPUS CHRISTI MEDICAL  
CENTER AN INDIRECT SUBSIDIARY OF HCA  
HOLDINGS, INC.)**

**RESPONDENT**

**and**

**Case 16-CB-225123**

**ESTHER MARISSA ZAMORA, an Individual**

**CHARGING PARTY**

**GENERAL COUNSEL'S ANSWERING BRIEF TO  
THE *AMICUS CURIAE* BRIEF OF THE  
AMERICAN FEDERATION OF LABOR AND  
CONGRESS OF INDUSTRIAL ORGANIZATIONS**

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Date: January 4, 2021

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Counsel for the General Counsel, pursuant to Section 102.46(i)(4) of the Board's Rules and Regulations, submits General Counsel's answering brief to the *amicus curiae* brief of the American Federation of Labor & Congress of Industrial Organizations (AFL-CIO).

The AFL-CIO's arguments largely expand on the arguments already advanced by Respondent Union in this case and the Board should not permit such to delay consideration and disposition of this case. As discussed in various previous briefs and contrary to the arguments advanced in the AFL-CIO's *amicus* brief, the General Counsel's proposed findings and remedy in this matter would simply clarify rather than drastically change the existing law regarding the scope of a labor organization's duty to produce documents requested by bargaining unit employees.

## GENERAL COUNSEL'S CASE

Similar to Respondent, the AFL-CIO seeks to deflect the Board's attention from the true issues in this case. The General Counsel has not advocated for an earth shattering change to Board precedent applying to all "employer-union" agreements as the AFL-CIO contends. The General Counsel merely asks the Board to come to the common sense conclusion that employees have an interest in agreements, such as the neutrality agreement in this case, between their employers and their unions. The General Counsel does not rest such conclusion in some due process-depriving manner as the AFL-CIO would have the Board believe. Instead, the evidence has established the interest of *this employee* in *this case* and the Respondent Union's obligation to provide the document to her under established Board law.

As elaborated in the General Counsel's prior submissions, this is ultimately a straightforward case involving a union's duty to provide information to a bargaining unit employee. Charging Party Esther Marissa Zamora requested a copy of a neutrality agreement maintained by her Employer and her Union. The Charging Party requested the document to determine whether she had been treated fairly by her Employer. The Charging Party only made such request to her Union after her Employer expressly cited the neutrality agreement as a basis for denying her an employment privilege enjoyed by other employees and after her Employer refused to provide her with a copy.

The at-issue neutrality agreement, like collective bargaining agreements, hiring hall rules, grievance procedures or similar documents, is relevant to bargaining unit members and may set contractual terms and conditions of employment that apply to bargaining unit employees. A union has a duty to provide such documents to any unit employee who requests them, especially here,

where the Charging Party requested the document to determine whether she had been treated fairly by her Employer.

This sort of agreement, which is a side agreement to a collective-bargaining agreement, has a clear connection to the relationship between the Union and the Employer in this case, and reasonably would be expected to pertain to terms and conditions of employment. Respondent owes a fiduciary duty to bargaining unit employees, like Zamora, to be transparent and truthful concerning matters that affect them, such as the Union's relationship with the Employer. Respondent breached this duty in this case. By refusing to provide Zamora with the neutrality agreement and by replying to her request in bad faith, the record established that Respondent has violated Section 8(b)(1)(A) of the Act.

## **CONCLUSION**

The AFL-CIO's amicus arguments largely overlap and expand on the arguments already advanced by Respondent Union in this case. The Board should not permit such to delay consideration and disposition of this case. The General Counsel respectfully urges the Board to reverse the ALJ's credibility determinations, factual findings and legal conclusions resulting in dismissal of the Complaint as fully elaborated in the General Counsel prior Exceptions 1 through 14, brief in support and Reply Brief to Respondent's Cross-Exceptions.

**DATED** at Fort Worth, Texas this 4<sup>th</sup> day of January 2021.

/s/ Roberto Perez  
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**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the above and foregoing General Counsel's Answering Brief to the AFL-CIO's brief as amicus curiae has been electronically filed and served this 4<sup>th</sup> day of January 2021 upon each of the following:

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