

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 20**

QUEEN OF THE VALLEY MEDICAL CENTER

and

**Cases 20-CA-191739
20-CA-196271
20-CA-197402
20-CA-197403**

**NATIONAL UNION OF HEALTHCARE
WORKERS (NUHW)**

**ORDER CONSOLIDATING CASES, CONSOLIDATED COMPLAINT
AND NOTICE OF HEARING**

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board) and to avoid unnecessary costs or delay, IT IS ORDERED THAT Cases 20-CA-191739, 20-CA-196271, 20-CA-197402, and 20-CA-197403, which are based on charges filed by National Union of Healthcare Workers (NUHW or Union) against Queen of the Valley Medical Center (Respondent), are consolidated.

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Board's Rules and Regulations and alleges that Respondent has violated the Act as described below.

1. The charges in this matter were filed by the Union on the dates set forth in the following table, and copies were served on Respondent by regular mail on the dates indicated.

Case Number	Amendment	Date Filed	Date Served
20-CA-191739	N/A	January 20, 2017	January 24, 2017

20-CA-191739	First Amended	February 1, 2017	February 2, 2017
20-CA-191739	Second Amended	February 14, 2017	February 16, 2017
20-CA-196271	N/A	April 3, 2017	April 5, 2017
20-CA-197402	N/A	April 21, 2017	April 24, 2017
20-CA-197403	N/A	April 21, 2017	April 24, 2017

2. (a) At all material times, Respondent has been a California public corporation with offices and places of business located at 1000 Trancas Street, 980 Trancas Street, 3448 Villa Lane, and 3421 Villa Lane in Napa, California and has been engaged in the business of operating an acute care hospital providing inpatient and outpatient medical care.

(b) During the calendar year ending December 31, 2016, Respondent, in conducting its business operations described above in subparagraph 2(a), derived gross revenues in excess of \$250,000.

(c) During the period of time described above in subparagraph 2(b), Respondent, in conducting its business operations described above in subparagraph 2(a), purchased and received at its facilities in Napa, California products, goods, and materials valued in excess of \$5,000 directly from points outside the State of California.

3. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and has been a health care institution within the meaning of Section 2(14) of the Act.

4. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

5. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

Niell Barker	--	Director, Pharmacy
John Bibby	--	Vice President, Human Resources, St. Joseph Health
Bill Candella	--	Director, Employee Advocacy & Labor Relations, St. Joseph Health
Jill Gruetter	--	Business Agent, Human Resources
Stacy Guck	--	Manager, Sterile Processing Department
Bruce Kevin Herring	--	Director, Environmental Services (EVS)
Kathy Hutchison	--	Representative, Human Resources
Ralf Jeworoski	--	Manager, Operating Room
Diane Kriegel	--	Interim Director, Surgical Services
Elizabeth LuPriore	--	Interim Manager, Surgical Services
Shanay Marquez	--	Supervisor, Outpatient Laboratory
Sherri Roe	--	EVS Supervisor
Olive Romero	--	Administrative Director, Laboratory/Pathology
Donna Schelling	--	Director, Human Resources
Janette Taylor	--	Manager, Patient Access Services
Harold Young	--	EVS Supervisor

6. (a) The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All nonprofessional employees, including technical employees, employed at Respondent's facilities located at 1000 Trancas Street, 980 Trancas Street, 3448 Villa Lane, and 3421 Villa Lane in Napa, California; but excluding all other employees, skilled maintenance employees, business office clerical employees, confidential employees, guards and supervisors, as defined in the Act.

(b) On December 22, 2016, the Board certified the Union as the exclusive collective-bargaining representative of the Unit.

(c) On various dates between November 15, 2016 and March 24, 2017, by bargaining with the Union regarding terms and conditions of employment, Respondent recognized the Union as the exclusive collective-bargaining representative of the Unit.

(d) At all times since December 22, 2016, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

7. On or about December 19, 2016, Respondent, by EVS Director Herring, at Respondent's 1000 Trancas Street facility, threatened employees with unspecified reprisals for engaging in Union activities.

8. (a) On or about March 28, 2017, Respondent, by Human Resources Director Schelling and Laboratory/Pathology Administrative Director Romero, at Respondent's 1000 Trancas Street facility, denied the request of its employee Jennifer Mini to be represented by the Union during an interview.

(b) Respondent's employee Jennifer Mini had reasonable cause to believe that the interview described above in subparagraph 8(a) would result in disciplinary action being taken against her.

(c) On or about March 28, 2017, Respondent, by Laboratory/Pathology Administrative Director Romero, at Respondent's 1000 Trancas Street facility, conducted the interview described above in subparagraph 8(a) with its employee Jennifer Mini, even though Respondent denied the employee's request for Union representation.

9. Respondent, by EVS Director Herring, at Respondent's 1000 Trancas Street facility:

(a) On or about November 7, 2016, changed the work schedule of its EVS Department employee Miguel Arroyo from an evening shift to a day shift;

(b) On or about November 11, 2016, removed its EVS Department employee Rene Frogge from her fixed work assignment in Linen.

10. On or about March 17, 2017, Respondent, by Human Resources Director Schelling, Interim Director of Surgical Services Kriegel, and Manager of Sterile Processing Department Guck, at Respondent's 1000 Trancas Street facility:

(a) Changed the work schedules of employees in the Sterile Processing Department;

(b) Changed the shift start time of its employee Martha McNelis.

11. Respondent engaged in the conduct described above in paragraphs 9 and 10 because the named employees of Respondent assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

12. On or about March 24, 2017, Respondent withdrew its recognition of the Union as the exclusive collective-bargaining representative of the Unit.

13. On or about April 3, 2017, Respondent ceased allowing the Union to use meeting rooms at Respondent's 1000 Trancas Street and 3448 Villa Lane facilities.

14. On or about April 23, 2017, Respondent, by Human Resources Director Schelling, rescinded the parties' agreement dated February 17, 2017 regarding the temporary closure of the kitchen and cafeteria at Respondent's 1000 Trancas Street facility.

15. (a) The subjects set forth in paragraphs 10, 13 and 14 relate to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective bargaining.

(b) Respondent engaged in the conduct described above in paragraphs 10, 13 and 14 without affording the Union an opportunity to bargain with Respondent with respect to this conduct and without first bargaining with the Union to agreement or a good-faith impasse.

16. (a) Since about December 15, 2016, the Union has requested, by email to Human Resources Director Schelling and Director of Employee Advocacy and Labor Relations Candella, that Respondent furnish the Union with the following information:

(i) How long it has been the case that there have been two designated linen positions at Respondent;

(ii) On what date was the linen position Rene Frogge previously held first posted;

(iii) Job descriptions for the linen positions, including the job description for the linen position previously held by Frogge, as well as the new job description for the new linen position;

(iv) Any evidence that the workload in linen has decreased drastically in the past 2-3 months; and

(v) Any Respondent policies which cover linen handling and laundry, including any staff trainings.

(b) Since about January 24, 2017, Respondent has failed and refused to furnish the Union with the information requested by it as described above in subparagraph 16(a).

17. (a) Since about January 24, 2017, the Union has requested, orally to Director of Employee Advocacy and Labor Relations Candella, Human Resources Business Agent Greutter, EVS Director Herring, Human Resources Business Agent Hutchison, and Human Resources Director Schelling, that Respondent furnish the Union with information that would justify Respondent's changes to scheduling in the EVS Department.

(b) Since about January 24, 2017, Respondent has failed and refused to furnish the Union with the information requested by it as described above in subparagraph 17(a).

18. (a) Since about January 10, 2017, the Union has requested, by email to Human Resources Director Schelling and Director of Employee Advocacy and Labor Relations Candella, that Respondent furnish the Union with the following information:

(i) Information regarding bargaining unit members. For each member of the bargaining unit represented by the Union, please provide the following:

(1) Gender;

(2) Race/Ethnicity;

(3) Shift differential pay rate and/or premiums and wage differentials in lieu of benefits;

(4) Benefited status (e.g., benefited or non-benefited);

(5) Health insurance coverage level (e.g., employee only, employee plus spouse, employee plus children, family);

(6) The number of hours worked by pay code (e.g., straight time, overtime) during the past 12 months;

- (7) Seniority date;
- (8) Date of birth;
- (9) Home address;
- (10) Home telephone number;
- (11) Cell phone number; and
- (12) E-mail address.

(ii) Personnel Handbooks and Regulations: Please provide copies of any personnel handbooks, written rules, regulations, policies or procedures governing bargaining-unit employees, including those applicable to particular departments, work units, or shifts.

(iii) Health and Welfare Benefits: Please provide:

(1) A copy of current Plan Document and Summary Plan Description for each plan available to bargaining-unit members;

(2) Monthly premiums for each coverage level (Employee Only, Employee Plus Child, Employee Plus Spouse, Family);

(3) Monthly premium contributions required from a full-time and part-time employee for each coverage level (Employee Only, Employee Plus Child, Employee Plus Spouse, Family); and

(4) The number of employees enrolled in each plan and at each coverage level.

(iv) Retirement Plans. Please provide: The Audited Financial Statement and Trustees' Report for the three most recent years available for each plan.

(v) Cost of Benefits to Employer. Please provide the total annual costs to the Employer for 2014, 2015, and 2016 for:

- (1) Retirement;
- (2) Health Coverage;
- (3) Dental Coverage;
- (4) Vision Coverage;
- (5) Life Insurance; and
- (6) Long Term Disability.

(vi) Bargaining-Unit Work Hours and Payroll. Please provide the total annual hours and total annual payroll for the bargaining unit for 2014 and 2015 in aggregate and by classification.

(vii) Bargaining-Unit Non-Work Hours. Please provide the total annual hours for the following items for 2014, 2015, and 2016:

- (1) PTO and/or vacation
- (2) Sick Leave and/or Extended Sick Leave
- (3) Education Leave

(viii) Staffing Matrix. Please provide staffing matrices and the numbers of staff by classification for each shift and work station.

(ix) Employee Turnover. Please provide:

- (1) The total number of staff hired, terminated and remaining during 2014, 2015, and 2016; and
- (2) The employee turnover rates for 2014, 2015, and 2016.

(x) Health and Safety Information. Please provide:

(1) A copy of the OSHA 200/300 logs and unedited Sharps Injury Log for each of the past three years; and

(2) The current Blood Borne Pathogen Control Plan and Injury and Illness Prevention Plan.

(xi) Registry/Temporary Personnel. Please provide:

(1) The number of Registry personnel utilized during 2014, 2015, and 2016; and

(2) Expenditures on Registry/Temporary and other supplemental personnel during 2014, 2015, and 2016 by classification.

(b) Since about March 1, 2017, Respondent has failed and refused to furnish the Union with the information requested by it as described above in subparagraph 18(a).

19. (a) Since about March 3, 2017, the Union has requested, by email to Interim Director Surgical Services Kriegel, evidence to support Respondent's asserted operational need for shifting employee Martha McNelis' start time.

(b) Since about March 6, 2017, Respondent has failed and refused to furnish the Union with the information requested by it as described above in subparagraph 19(a).

20. Since about March 21, 2017, the Union has requested that Respondent furnish the following information:

(a) By email to Pharmacy Director Barker and Human Resources Director Schelling:

(i) How management will ensure that all employees are properly trained to perform these new duties;

(ii) How employees are supposed to manage these additional duties given their already overwhelming workload;

(iii) If it is [Respondent's] intention to rotate all [technicians];

(iv) If the plan is to rotate one [technician] per shift to cover [medicine] reconciliation duties, or assign an additional employee per shift; and

(v) If the rotation will happen by seniority.

(b) By email to Human Resources Director Schelling and EVS Director Herring:

(i) The introductory period policy for Respondent;

(ii) The probationary period policy for Respondent; and

(iii) Any policies or procedures regarding discipline or termination for Respondent.

- (c) By email to Patient Access Services Manager Taylor and Human Resources Director Schelling:

(i) Any policies Respondent has on file which deal with productivity;

(ii) Any documents or guidelines explaining how productivity is calculated.

(d) Since about March 21, 2017, Respondent has failed and refused to furnish the Union with the information requested by it as described above in subparagraphs 20(a), 20(b), and 20(c).

21. The information requested by the Union as described in paragraphs 16, 17, 18, 19, and 20 is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the Unit.

22. By the conduct described above in paragraphs 7 and 8, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

23. By the conduct described above in paragraphs 9, 10, and 11, Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

24. By the conduct described above in paragraphs 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, and 21, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

25. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

WHEREFORE, General Counsel seeks all relief as may be just and proper to remedy the unfair labor practices alleged herein, and in addition thereto, the General Counsel seeks the following special remedies:

(1) In order to fully remedy the unfair labor practices set forth above in paragraphs 7 through 21, the General Counsel seeks an Order requiring that at a meeting or meetings scheduled to ensure the widest possible attendance, Respondent's Human Resources Director Donna Schelling read the Notice to employees at Respondent's 1000 Trancas Street and 3448 Villa Lane facilities during work time in the presence of a Board agent. Alternatively, the General Counsel seeks an order requiring that Respondent promptly have a Board agent read the

Notice to employees during work time at Respondent's 1000 Trancas Street and 3448 Villa Lane facilities in the presence of Respondent's supervisors and agents named in paragraph 5 above.

(2) As part of a remedy for the unfair labor practices alleged above in paragraphs 7 through 21, the General Counsel seeks an Order requiring that Respondent allow the Union reasonable access to its bulletin boards and all places where notices to employees are customarily posted.

(3) As part of the remedy for the unfair labor practices alleged above in paragraphs 7 through 21, the General Counsel seeks an Order requiring Respondent adhere to a bargaining schedule setting forth regular intervals and hours for bargaining;

(4) As part of a remedy for the unfair labor practices alleged above in paragraphs 7 through 21, the General Counsel seeks an order requiring Respondent to bargain in good faith with the Union, on request, for the period required by *Mar-Jac Poultry*, 136 NLRB 785 (1962), as the recognized bargaining representative in the appropriate unit.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before June 14, 2017, or postmarked on or before June 13, 2017**. Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users

that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.


NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on at 9:00 a.m. on August 7, 2017, in the Natalie Allen Courtroom, 901 Market Street, Suite 400 (Fourth Floor), San Francisco, California 94103 and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached

Order Consolidating Cases, Consolidated Complaint and
Notice of Hearing
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Form NLRB-4668. The procedure to request a postponement of the hearing is described in the
attached Form NLRB-4338.

Dated: *May 31, 2017*

A handwritten signature in black ink, appearing to read "Jill H. Coffman", written over a horizontal line.

JILL H. COFFMAN
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 20
901 Market Street, Suite 400
San Francisco, CA 94103-1738

Attachments