



Kaiser Contract Update *May 22, 2020*

A message from Ken Rogers

Union members,

By now you have heard that KP has decided to withhold completion of the contract based on a dispute over a side letter agreement they claim was somehow part of it. The employer has told you their side and the union has offered an explanation but I wanted to take some time to explain how I see it. I was a member of the bargaining committee in 2015 as well as the 2018-2020 team so I know about the history and context of this situation personally. It is a situation that is simple in basic facts but complex in ethical and moral decision making. I hope you will all attend the virtual town hall coming up tomorrow.

So the facts. What KP is doing is illegal but not without precedent (for them). First of all, none of us on the bargaining team saw and once seeing understood their side letter agreement as part of accepting their last, best and final offer for completion of this contract. After all, if it is part of the contract, why isn't in the contract? A side letter agreement is an agreement that parties reach after a contract is completed; it exists as an addendum to the existing document. What happened is that after we agreed to their contract, apparently they wanted a similar (but not exact) side letter agreement as what we had in 2015. I say "apparently" because again, we never saw their 2020 letter. They had reached out to us after the contract was completed to say they wanted to do some "horse trading" over the issue of non-disparagement but offered nothing for this. So when they didn't get what they wanted they did what they have come to do: steal a horse they couldn't trade for. Hence the letter you received from them on Wednesday.

"Disparagement" is a funny term here. As a moral provider of service, don't we have some responsibility to tell the truth about deficits in patient care as they have occurred? We were not looking to start a new campaign here (after all we just settled a contract) but the way the last contract was settled left a bad taste in our mouths. It was a contract agreed to at gunpoint and as anyone not wishing to get shot, we went along. Continuing with our campaign to bring their abuses to light was not on the agenda given the times we are in but we did feel there was an importance to our efforts.

I said their latest actions were not without precedent because they have tried this tactic twice before with other chapters of our union. They did it with the Optical unit in 2014-2015 over retro pay (which they lost and had to pay optical full retro going back to 2012) and with the SoCal PsychSocial after the 2015 contract (again, lost and they had to pay retro from the time of the agreement). They have a bad "habit" of agreeing to terms with unions and then trying to get additional favorable terms after an agreement has been struck. I really didn't think they would do

this with us in the middle of a pandemic but this your employer telling you what they think they can get away with. Any of you with small children know well that they test you from time to time even though they know better.

Their second mistake was to bring up the 2015 contract with people who were there and know better. We did sign a similar agreement in 2015 after the contract (not as a condition of it) to try and improve relations with KP. I agree with them that some progress was made until this last bargaining campaign. But a change in their tactics from grudging collaboration to hostile, “hard” bargaining took place over the past couple of years. The positive relationship they refer to as being “young” is no longer alive at all and it is incredibly disingenuous to think it is. So no, it would not have been our inclination to work with them on a similar side letter agreement had they brought it up with nothing to offer. That isn’t bargaining — that is extortion.

So the situation we are now in is that they are holding the contract hostage until we agree to a side letter agreement we never saw. I am not going to describe the current side letter agreement or the 2015 one or discuss the differences here because for me it is not really about the size of the concession but the boundary violation of the act itself. If I was selling you a car, we came to an agreement on price and when you came to pick up it for the agreed to price I told you “Yeah, it’s the price and whatever I can take out of your refrigerator” would you care about the details of what I planned to take? “Oh, it’s okay honey...he just wants \$4000 and the ketchup bottle.”

You are all mental health providers of one type or another. As such some of you have had professional experience with abusive relationships and power dynamics within them. What I know about these dynamics is the abuser initially violates boundaries in seemingly insignificant ways. “Oh it was just this, it’s not a big deal.” Over time the victim is groomed to accept more and more concessions they are willing to accept things they never would have from day one. This is an employer who keeps pushing boundaries and it is my hope that we view this with our eyes open to the process.

I believe this is a defining moment for our union. It presents us with a real dilemma: If we sell our soul, are we getting fair market value? Agree now and the raises and benefits may start sooner but given the control they would have over the process (since they have proved they can break labor law and we’re not going to do anything) who can say. Even if we do sign, I expect them to move the active date to the date we signed (rather than the real agreement date 4/28). So those raises will be delayed anyway. And in signing, is there a line we won’t cross? They can have the ketchup but if they want the mayo too, it is over my dead body? On the other hand, this is the worse possible time for this delay and believe me they were counting on that. It will take several months to resolve this if we refuse to sign and we would require a similar ruling in our favor to prevail. I am not a legal expert (we will have them at the town hall) but I believe they will lose again. But obviously being paid sooner is better.

So, I will climb off my soap box for now. I am not here to stand judgment over you or get you to follow the party line. I respect your knowledge of your own situations enough to judge this situation accordingly. I can only tell you that I cannot be a party to this and personally I would never agree to sign under these terms. But this is not my decision alone. Share your thoughts with me and I will speak to the will of this service area, personal feelings aside. We have not decided on a process for accepting or rejecting the offer yet but I believe above all else you should have a voice in this. It’s your contract too.

Respectfully,
Ken Rogers, Psy.D.
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Executive Board member
Former Bargaining team member