

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

SPECIALTY HOSPITAL OF WASHINGTON
– HADLEY, LLC,

Respondent

Case 5-CA-33522

and

1199 SEIU, UNITED HEALTHCARE
WORKERS EAST, MD/DC DIVISION,

Charging Party/Union

MOTION FOR RECONSIDERATION AND MOTION TO STAY

By order dated November 25, 2008, Chairman Schaumber and Member Liebman denied Respondent's December 3, 2007 Motion for Summary Judgment and by same order remanded this matter to the Regional Director for the scheduling of a hearing. Respondent Specialty Hospital of Washington – Hadley ("Hadley") hereby seeks reconsideration of that order and requests a stay of any hearing the Regional Director may schedule.

Pursuant to Section 3(b) of the National Labor Relations Act ("Act"), the National Labor Relations Board ("Board") may only rule on a matter before it if there is a properly constituted quorum of Board Members. On December 3, 2007, when Hadley originally filed its Motion for Summary Judgment, the Board had a full compliment of five Members as provided in Section 3 of the Act. Since January 1, 2008, however, there have been only two Board Members (Chairman Schaumber and Member Liebman). Section 3 of the Act requires that the Board have at least three Board Members to properly issue decisions. As a result, the Board's November 25 order was not issued by a properly constituted quorum of Board Members. Accordingly,

Respondent Hadley requests that the November 25 order be rescinded as void *ab initio* until such time as there is a properly constituted panel of Board Members to reconsider the matter.

Moreover, it is important to note that Chairman Schaumber and Member Liebman in the November 25 order specifically note that, in their view, this matter involves a “novel successorship issue” and is a matter of “first impression.” Therefore, Chairman Schaumber and Member Liebman are not merely applying extant law (which in Respondent’s view is more than sufficient to require dismissal of the underlying complaint) but are taking the initial step in what they view as the creation of new legal precedent. Thus, the Board’s November 25 order is also contrary to the Board’s long standing policy of not overruling or creating new precedent when there are less than four Members.

For all the foregoing reasons, Respondent requests that the Board reserve its November 25, 2008 Order in this matter and thereafter rule on Respondent’s Motion for Summary Judgment only after it has a properly constituted quorum of members.

Respectfully submitted,

SPECIALTY HOSPITAL OF WASHINGTON --
HADLEY, LLC

By: _____

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Date: December 19, 2008

CERTIFICATE OF SERVICE

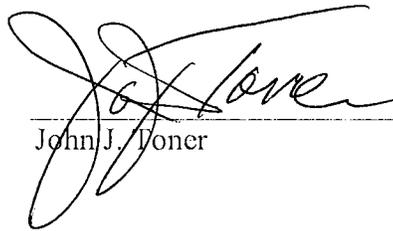
This is to certify that a true copy of MOTION FOR RECONSIDERATION AND MOTION TO STAY was served this 19th day of December , 2008, upon:

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