

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

<p>SPECIALTY HOSPITAL OF WASHINGTON – HADLEY, LLC,</p> <p style="text-align:center">Respondent</p> <p style="text-align:center">and</p> <p>1199 SEIU, UNITED HEALTHCARE WORKERS EAST, MD/DC DIVISION,</p> <p style="text-align:center">Charging Party/Union</p>	<p style="text-align:center">Case 5-CA-33522</p>
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MOTION TO VACATE

Specialty Hospital of Washington – Hadley LLC (“SHW - Hadley”), hereby requests that the National Labor Relations Board (“the Board”) vacate the decisions and orders it has issued in this matter, vacate Administrative Law Judge Eric Fine’s August 26, 2009 decision (“the ALJ Decision”) and vacate its decision and order in Case No. 5-RM-1019. Further, SHW - Hadley requests that the Board issue a briefing schedule to allow the parties the opportunity either to submit new arguments to the Board or to amend the filings already submitted in the above matters.

The June 17, 2010 Supreme Court decision in *New Process Steel v. NLRB* (“*New Process*”) requires that the Board take the above actions. The Court in *New Process* held that the Board was without legal authority to issue decisions and orders during the time period January 2008 thru March 2010, because the Board lacked a proper quorum during that time period. This means that the Board’s November 25, 2008, January 26, 2009 and May 8, 2009 orders in the instant case, along with its January 15, 2009 order in Case No. 5-RM-1019, were issued by a Board panel that did not constitute a proper quorum under *New Process*. Therefore,

those orders and any subsequent decisions which flowed from them were improperly issued and must be vacated.

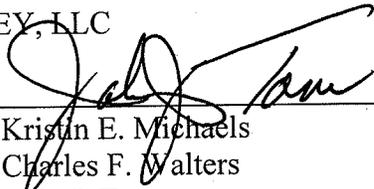
In motions to the Board dated December 3, 2008 and May 7, 2009, SHW - Hadley directly raised the "quorum" issue decided in *New Process* by specifically arguing that a two-member Board panel does not constitute an appropriate quorum. The Board erroneously denied the motions by orders dated January 26, 2009 and May 8, 2009, respectively. As a result of the Board's improper rulings on this issue, a hearing was conducted before ALJ Fine on May 12 and 13, 2009, and the ALJ Decision was issued on August 26, 2009. Inasmuch as the above hearing would not have been conducted but for the Board's incorrect rulings on the "quorum" issue, the ALJ Decision must be vacated and the hearing voided.¹

Based on the foregoing facts, arguments and authorities, SHW - Hadley respectfully requests that this Motion be granted.

Respectfully submitted,

SPECIALTY HOSPITAL OF WASHINGTON –
HADLEY, LLC

By: _____


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Date: July 13, 2009

¹ The ALJ Decision sets forth in detail the procedural history of this case and Case No. 5-RM-1019, noting in particular that the two-member Board specifically ruled on the quorum issue and explicated its views regarding the involved legal issues.

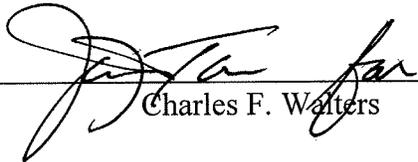
CERTIFICATE OF SERVICE

I, hereby certify that on July 13, 2009 I served via electronic mail a copy of the foregoing

Motion to Reschedule the Hearing, with attachments, on the following:

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