

NOT TO BE INCLUDED
IN BOUND VOLUMES

LS
New York, NY

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

THE NEW YORK PRESBYTERIAN HOSPITAL

and

Case 2-CA-38512

NEW YORK STATE NURSES ASSOCIATION

ORDER DENYING MOTION¹

On April 29, 2009, the National Labor Relations Board issued a Decision and Order in the above-titled proceeding.² The Board found that the Respondent violated Section 8(a)(5) of the Act by failing to furnish the Union with information about nurse practitioners working at the Respondent's facility, including both bargaining unit nurse practitioners represented by the Union and non-unit nurse practitioners on the payroll of Columbia University. On May 7, 2009, the Respondent filed a motion for reconsideration. The General Counsel filed a reply to the Respondent's motion.

¹ Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the Board's powers in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Pursuant to this delegation, Chairman Liebman and Member Schaumber constitute a quorum of the three-member group. As a quorum, they have the authority to issue decisions and orders in unfair labor practice and representation cases. See Sec. 3(b) of the Act. See *New Process Steel v. NLRB*, ___ F.3d ___, 2009 WL 1162556 (7th Cir. May 1, 2009), *petition for cert. filed*, __ U.S.L.W. __ (U.S. May 27, 2009) (No. 08-1457); *Northeastern Land Services, Ltd. v. NLRB*, 560 F.3d 36 (1st Cir. 2009), *reh'g denied*, No. 08-1878 (May 20, 2009). But see *Laurel Baye Healthcare of Lake Lanier, Inc. v. NLRB*, ___ F.3d ___, 2009 WL 1162574 (D.C. Cir. May 1, 2009), *petition for reh'g filed*, Nos. 08-1162, 08-1214 (May 27, 2009).

² 354 NLRB No. 5 (2009)

The Respondent argues that under the United States Court of Appeals for the District of Columbia Circuit's opinion in *Laurel Baye Healthcare of Lake Lanier, Inc. v. NLRB*, ___ F.3d ___, 2009 WL 1162574 (D.C. Cir. May 1, 2009), *petition for reh'g filed*, Nos. 08-1162, 08-1214 (May 27, 2009), the two-member Board does not have statutory jurisdiction to rule on this case. The Respondent's argument is without merit for the reasons stated above in footnote one. Accordingly, the Respondent has not demonstrated extraordinary circumstances warranting reconsideration under Section 102.48(d)(1) of the Board's Rules and Regulation.

IT IS ORDERED, therefore, that the Respondent's motion for reconsideration is denied.

Dated, Washington, D.C. , June 2, 2009 .

Wilma B. Liebman, Chairman

Peter C. Schaumber, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD