

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
NOTICE

Case 18-CA-211382

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements *will not be granted* unless good and sufficient grounds are shown *and* the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in *detail*;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

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**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 18**

**MAYO CLINIC HEALTH SYSTEM**

**And**

**SEIU HEALTHCARE MINNESOTA**

**Case 18-CA-211382**

**COMPLAINT AND NOTICE OF HEARING**

This Complaint and Notice of Hearing is based on a charge filed by SEIU HEALTHCARE MINNESOTA (Charging Party). It 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 Rules and Regulations of the National Labor Relations Board (the Board) and alleges that MAYO CLINIC HEALTH SYSTEM (Respondent) has violated the Act as described below.

1. (a) The charge in this proceeding was filed by the Charging Party on December 11, 2017, and a copy was served on Respondent by U.S. mail on December 12, 2017.

(b) The first amended charge in this proceeding was filed by the Charging Party on February 27, 2018, and a copy was served on Respondent by U.S. mail on the same date.

2. (a) Respondent is a nonprofit nationwide healthcare organization engaged in medical care, research and education at medical campuses throughout the United States, including its operation of a hospital and clinic located in Albert Lea, Minnesota.

(b) During the past calendar year, Respondent, in conducting its operations described above in subparagraph (a), derived gross revenues in excess of \$250,000.

(c) During the past calendar year, Respondent, in conducting its operations described above in subparagraph (a), purchased and received at its Albert Lea, Minnesota hospital, goods and services valued in excess of \$50,000 directly from suppliers located outside the State of Minnesota.

(d) 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.

3. At all material times, SEIU Healthcare Minnesota has been a labor organization within the meaning of Section 2(5) of the Act.

4. 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/or agents of Respondent within the meaning of Section 2(13) of the Act:

Jeff Vomhof - Senior Labor Specialist

Ashlee Asp - Labor Relations Specialist

Barbara Liddell - Senior HR Advisor

5. (a) On December 7, 2017, the Charging Party announced, pursuant to Section 8(g) of the Act, that its members would cease work concertedly and engage in a 24-hour strike at Respondent's Albert Lea hospital on December 19, 2017, and unconditionally return to work on December 20, 2017.

(b) On December 19, 2017, certain employees of Respondent represented by the Charging Party and employed at Respondent's Albert Lea hospital ceased work concertedly and engaged in a strike.

(c) On December 20, 2017, striking employees unconditionally offered to return to work.

(d) Since on or about December 20, 2017, Respondent has failed and/or delayed the reinstatement of certain economic strikers following their unconditional offer to return to work, including by:

- (i) utilizing non-bargaining unit employees to continue to perform bargaining unit work.
- (ii) utilizing temporary employees from referral agencies to perform bargaining unit work in excess of hours required by agreements with the referral agencies; and
- (iii) failing to permit striking employees to return to their former positions when no individuals were performing that work.

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

All full- time and regular part-time skilled maintenance employees employed by Respondent at its Albert Lea, Minnesota facility; excluding all other employees, managers, guards and supervisors as defined in the National Labor Relations Act.

(b) The following employees of Respondent, herein called the General Unit, constitute a unit appropriate for purposes of collective-bargaining within the meaning of Section 9(b) of the Act:

All full- time and regular part-time cooks, dietary aides, housepersons, laundry persons, materials management, utility persons, and nursing assistant/escorts employed by Respondent at its Albert Lea, Minnesota facility; excluding Registered and Licensed Practical Nurses, Office Employees, Building Tradesmen, Part-Time Student Employees, Short-Time Vacation Employees, Apprentices, Interns, Trainees, and Technicians, and guards and supervisors as defined in the National Labor Relations Act.

7. (a) At all material times, the Charging Party has been recognized by Respondent as the designated exclusive collective-bargaining agent of the Skilled Maintenance Unit described above in paragraph 6(a). This recognition has been embodied in a series of collective-bargaining agreements, the most recent of which was in effect from October 1, 2012 until September 30, 2015.

(b) At all material times, the Charging Party has been recognized by Respondent as the designated exclusive collective-bargaining agent of the General Unit described above in paragraph 6(b). This recognition has been embodied in a series of collective-bargaining agreements, the most recent of which was in effect from December 1, 2013 until November 30, 2016.

8. At all material times, based on Section 9(a) of the Act, the Charging Party has been the exclusive collective-bargaining representative of the Skilled Maintenance Unit and the General Unit.

9. At all material times, the Charging Party has requested that Respondent bargain with it as the exclusive collective-bargaining representative of the Skilled Maintenance Unit and the General Unit.

10. (a) About November 27, 2017, the Charging Party requested that Respondent bargain collectively about the issue of short staffing in the Skilled Maintenance Unit and its effects on employee safety, work distribution and other issues.

(b) Since about December 12, 2017, Respondent has failed and refused to bargain collectively about the subjects set forth above in paragraph 10(a).

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(c) The subjects set forth above in paragraph 10(a) relate to the wages, hours, and other terms and conditions of employment of the Skilled Maintenance Unit and are mandatory subjects for the purposes of collective bargaining.

11. (a) Since about November 27, 2017, the Charging Party, in the Skilled Maintenance Unit, has requested by letter that Respondent furnish the Charging Party with the following information:

1. Copies of any management studies or criteria for determining (or reducing) the number of skilled maintenance employees at Mayo - Albert Lea produced during the past 5 years.
2. Copies of any management studies or criteria for determining (or reducing) the number of skilled maintenance employees elsewhere in Mayo that may have an impact on a decision over staffing levels at Mayo - Albert Lea during the past five years.
3. Copies of any emails, memos, proposals, notes or other internal documents related to the number of skilled maintenance employees during the past five years.

(b) The information requested by the Charging Party, as described above in paragraph 11(a), is necessary for, and relevant to, the Charging Party's performance of its duties as the exclusive collective-bargaining representative of the Skilled Maintenance Unit.

(c) Since about December 12, 2017, Respondent, in writing, has failed and refused to furnish the Charging Party with the information requested by it as described above in paragraph 11(a).

12. (a) Since about August 4, 2016, and again on November 27, 2017, the Charging Party in the General Unit has requested by letter that Respondent furnish the Charging Party with the following information:

1. Copies of all current bargaining unit job descriptions;
2. Current work rules that affect bargaining unit employees;
3. Policies related to employment conditions and benefits including a copy of employee handbooks or manuals;
4. Occurrence reports;

5. A list or schedule of shift times and normal schedules for each classification;
6. Copies of all training programs available to bargaining unit employees.

(b) The information requested by the Charging Party, as described above in paragraph 12(a), is necessary for, and relevant to, the Charging Party's performance of its duties as the exclusive collective-bargaining representative of the General Unit.

(c) From about June 11, 2017, to about January 30, 2018, Respondent unreasonably delayed in furnishing the Charging Party with the information requested by it as described above in paragraph 12(a).

13. By the conduct described above in paragraph 5, 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.

14. By the conduct described above in paragraph 5, 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.

15. By the conduct described above in paragraphs 10, 11 and 12, 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.

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

#### **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 April 9, 2018, or postmarked on or before April 8, 2018.** 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](http://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 **July 30, 2018 at 1:00 p.m. in the NLRB Hearing Room, at the Federal Office Building, 212 3<sup>rd</sup> Avenue South, Minneapolis, Minnesota**, 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 Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: March 26, 2018

**/s/ Jennifer Hadsall**

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JENNIFER HADSALL  
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Attachments

## Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: [www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules\\_and\\_regs\\_part\\_102.pdf](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf).

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at [www.nlr.gov](http://www.nlr.gov), click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

**Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement.** The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

### I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

### II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered

**in evidence.** If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close-of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

### III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.