

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
SAN FRANCISCO BRANCH OFFICE

HUNTINGTON HOSPITAL, an affiliate of
SOUTHERN CALIFORNIA HEALTHCARE
SYSTEMS

and

Case 31-CA-25790

SEIU NURSE ALLIANCE, LOCAL 121RN

Rodolfo L. Fong-Sandoval Atty., Region 31,
Los Angeles, CA, for General Counsel.

James Rutkowski, Atty., (*Van Bourg, Weinberg,
Roger & Rosenfeld*), with *Steven K. Ury, Atty.* on
the brief, both of Los Angeles, CA, for Charging Party.

Michael R. Goldstein, Atty., (*Musick, Peeler,
Garrett, LLP*), Los Angeles, CA, for Respondent.

DECISION

Statement of the Case

WILLIAM L. SCHMIDT, Administrative Law Judge: The issue presented for resolution here is whether a supervisor's directive barring an employee from discussing unionization on work time in a hospital's work area and barring the same employee from discussing unionization with another employee over a hospital telephone violated the National Labor Relations Act (Act).

SEIU Nurse Alliance, Local 121RN (Local 121RN or Union) filed the underlying unfair labor practice charge on July 2, 2002,¹ and later amended it on September 11. The charge alleged that Huntington Hospital, an affiliate of Southern California Healthcare Systems (Respondent, Hospital or Huntington), violated Section 8(a)(1) of the Act. The Regional Director for Region 31 issued a formal complaint on November 26.² It alleges that Respondent's supervisor, Ron Campbell, violated Section 8(a)(1) of the Act on June 21 by verbally promulgating a rule barring employees from discussing union matters in work areas during work time, and another rule prohibiting employees from

¹ All dates refer to the 2002 calendar year unless otherwise indicated.

² At that time, the Regional Director consolidated this case with Case 31-CA-25853 filed on August 7 by an individual. In an order dated January 30, 2003, the Regional Director severed the two cases, dismissed the complaint allegations arising from Case 31-CA-25853, and approved the withdrawal of the charge in that case.

soliciting for the Union over hospital telephones. Respondent filed a timely answer denying that it engaged in the unfair labor practices alleged by the Regional Director.

I heard this case at Los Angeles, California, on February 20, 2003. After reviewing the entire record,³ resolving credibility issues based on a variety of factors, including the demeanor of the witnesses,⁴ and after considering the briefs filed by all parties, I have concluded that Respondent violated the Act based on the following

Findings of Fact

I. Jurisdiction

Huntington Hospital, an affiliate of Southern California Healthcare Systems, a California corporation, operates an acute care facility located at 100 W. California Boulevard, Pasadena, California. In the 12-month period prior to the issuance of the complaint, Huntington Hospital purchased and received at its Pasadena facility goods valued in excess of \$50,000, directly from points outside the State of California. During the same period, Respondent derived gross revenues valued in excess of \$250,000 from the operations conducted at its Pasadena facility. For these reasons, I find that the Board has statutory jurisdiction over this dispute, that Respondent's operations satisfy the existing discretionary standard established by the Board for exercising its jurisdiction and that it would effectuate the policies of the Act if the Board did so in order to resolve this labor dispute.

II. Alleged Unfair Labor Practices

A. Relevant Facts

Local 121 RN conducted an organizing campaign from January through July seeking to become the exclusive collective-bargaining representative for the Huntington's registered nurses (RNs). Union organizer Tanya Boone led that effort. She held meetings with interested RNs from Huntington to describe the organizing process and to provide them with authorization cards as well as other literature for use in soliciting RNs to align themselves with the representation cause. Union officials abandoned their campaign and never filed an election petition. Boone charged that the RNs' organizational zeal cooled after Huntington gave them "huge raises."

Anne Nowlin, the employee involved here, is a part-time surgical nurse who has worked for 26 years in the Hospital's surgical department. She supported the Union's organizing drive and actively participated in the campaign. Toward the end of May, Nowlin and 41 other Huntington RNs signed an invitation distributed at the Hospital asking RNs to attend a Union-sponsored "Open House" at a Pasadena hotel to discuss the formation of a union. GC Exh. 3. Nowlin talked with several other Hospital RNs about unionization both before and after this Open House. Her campaign activities led to

³ Transcript corrections: T. 39:7 and 11 change to "GC Exhibit 3."

⁴ My findings reflect the credibility resolutions using, in the main, various factors summarized by Judge Medina in *U.S. v. Foster*, 9 F.R.D. 367, 388-390 (1949). In making the findings below, I have considered all of the testimony and documentary evidence. I do not credit testimony inconsistent with my findings. Added discussion of credibility determinations appear below.

a verbal admonishment by Ron Campbell, the Hospital's manager of surgical services, who supervises that department's RNs.

5 The surgical department's physical setup is contained within a rectangular enclosure. It contains 15 operating rooms, with a control desk located in the center of one side. The control or surgical desk serves as the department's nerve center where the patient control coordinator, the department secretaries, a computer bank and six or seven telephones are located. More telephones are scattered throughout the department in the operating rooms, the outer and inner cores, the changing rooms, and the lounges maintained for the nurses and the doctors. The lounges are located to the left of the control desk. Four offices are located down a short hall to the right of the control desk.

15 The Hospital maintains a formal written policy (Policy No. 840.3) pertaining to employee standards of conduct. R Exh. 3. The most recent version became effective February 1, 2000. Policy No. 840.3 contains the Hospital's limitations concerning the solicitation and distribution of literature. *Id.*, p. 2. The Hospital bars non-employee solicitation and distribution on Hospital property at all times and for any purpose. The following provisions apply to employees:

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1. SOLICITATION – Employees of the Hospital may not solicit during working time for any purpose. Employees of the Hospital may not solicit, at any time, for any purpose, in immediate patient care area, such as patients' rooms, operating rooms, places where patients receive treatment, such as x-ray and therapy areas, or in any other area that would cause disruption of health-care operations or disturb patients, such as corridors in patient treatment area, rooms used by patients for consultations with physicians or meetings with families or friends.

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2. DISTRIBUTION – Employees may not distribute literature during working time for any purpose. Employees may not distribute literature at any time for any purpose in working areas. Working areas are all areas in the Hospital, except cafeterias, gift shops, employee lounges, lobbies, and parking areas.

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a. WORKING TIME is defined as both the working time of the employee doing the soliciting or distributing and the employee to whom the soliciting or distributing is directed. Working time does not include off-duty periods, such as break periods or mealtimes.

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45 The Hospital also has a formal written policy concerning the personal use of hospital telephones. The most recent revision, Policy No. 421, also became effective February 1, 2000. GC Exh. 4. Policy No. 421 limits the use of hospital telephones to the "employees['] own time. . .at employees['] own expense." The policy establishes these procedures in connection with personal calls:

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i. Personal calls should be made during break periods away from the work area on pay telephones located throughout the hospital. With prior approval from management, personal calls may be made during work time. All personal long distance calls that are billed to HMM shall be reimbursed by employee as directed by management.

- II. Incoming personal calls will be accepted with management notification and supervision. If the call is of an emergency nature, the call should be accepted away from the work area for privacy and to prevent disruption of the work force.

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One pay phone is located outside the surgery department's family lounge. Other hospital pay phones are located adjacent to the cafeteria in a separate building from the surgical department.

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Bonnie Ciribassi, Huntington's vice president of patient care services and chief nursing executive, acknowledged that the Hospital does not attempt to bar employees from engaging in discussions about personal matters at work. However, she explained, if an employee's personal conversation detracts from patient care or occurs "in an inappropriate arena," then management will counsel the employee. Ciribassi also acknowledged that Huntington does not prohibit employees from using hospital phones for limited personal calls. Managers, according to her and other documentary evidence, only counsel employees about personal phone calls where such calls become excessive or interfere with patient care. As to both personal conversations and phone calls, Ciribassi asserted that the Huntington policy would permit employee discussion about unionization other than outright solicitation or any other nonwork topic so long as the discussion does not detract from patient care, occur in the presence of patients, or addresses matters one of the participants chooses not to discuss.

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Consistent with Ciribassi's testimony, Nowlin and other surgical department employees described the commonplace nature of discussions about non-work matters such as summer vacation plans, weekend activities, television programs, and other topics personal in nature which regularly occur in work areas and non-work areas during work time and break time. In essence, Nowlin credibly explained that everyone within this professional culture knows when to speak and what should be spoken about at any given time. For example, Nowlin explained that non-work talk among members of the surgical staffs even occurs during portions of certain surgical procedures:

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Q You indicated earlier it was not uncommon for discussions that take place during surgeries about non-work-related topics; is that correct?

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A Yes.

Q You are saying – what percentage of the surgeries that you take part in would you say such non-work-related discussions occur?

A Almost all surgeries.

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Q Can every one in the room hear these discussions that are taking place?

A Yes.

Q I assume there are some parts of the surgery that are more critical than others and do the discussions tend to take place at certain points in the surgery?

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A There is definitely ebb and flow of tension. When the patient is being induced into anesthesia you won't hear any conversations like that. During the draping there might be a little conversation, the patient is asleep. These conversations are not taking place when the patient is awake and if any surgeries – there is no conversation like that during a local anesthetic where the patient is awake and has been given Halothane like you would get at the dentist office. Then the surgery starts and that is

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intense and during the intense parts of the surgery, looking for tumors, waiting for the biopsies, it is a very intense job.

5 The stress is very high and when the biopsy comes back negative or the patient – the open-heart patient comes off the bypass machine and heart starts beating again, there is a big sigh of relief and that is when you are going to hear, oh, my gosh, what are you doing this weekend, did you see the Joe Millionaire, that kind of thing, that is when you hear that.

10 Closing, we have closing music, crank up the speed, let's get going, the patient is fine now, everything is okay and that is when things get lighter hearted and then when the patient is – when the anesthesiologist starts [to] bring the patient out of the anesthesia there is again, they are respectful, that this is a critical time in the patient's life and you won't hear
15 that conversation again.

No one seriously contradicted Nowlin's assertion that a considerable amount of the conversation, which occurs after a patient has been anesthetized for surgery, pertains to
20 non-work matters because it serves as a tension reliever. Music accompanies nearly all surgeries and frequently there are discussions about particular musical selections. During orthopedic surgeries, the discussions tend toward sports and sports personalities as those topics tend to be favored by the orthopedic surgeons. "The surgeon is the most respected person in the room," Nowlin explained, "and usually we kind of follow his lead."

25 Around the control desk, the surgical department's nerve center, a staff member typically notes the pending arrival of patients in the area to signal that others present should cease personal banter and adopt an appropriate, businesslike decorum. Departure from these unwritten standards, Nowlin implied, could adversely affect a peer's perceptions about the employee's professionalism.

30 The Hospital does not strictly enforce its written telephone policy. No evidence establishes that department supervisors insist that employees use only the pay phones for personal calls. Instead, surgery department employees use hospital telephones throughout the department to make and receive business and personal calls even in the
35 presence of supervisors. From time to time, employees are paged for incoming calls over the department's public address system and, occasionally, the pager announces that the call is personal. At other times, the charge nurse or a control desk secretary who receives an incoming call for an RN will prepare a brief note about the call and pin it on a nearby bulletin board.

40 At the start of each shift, the charge nurse or Campbell conducts a meeting in the nurses' lounge to provide individual assignments and other department information. If a nurse happens to be using the lounge telephone, the supervisor will typically tell that person "hold it down" or to take their conversation elsewhere. The telephones in the
45 change room (the nurses' locker room) and the operating rooms have their own separate numbers. Nowlin estimated that she uses the changing room telephone to make a personal call about once a week and that she overhears that telephone being used for personal calls by others on almost a daily basis. Sometimes the traffic on that telephone becomes particularly heavy so that persons wanting to use it must wait their turn. Nowlin
50 admittedly held discussions with other Hospital employees about the union using the Hospital's surgery department telephones.

When Nowlin talked with others about unionizing the RN staff, she expressed her belief that representation might bring some relief with the Hospital's staffing problems and might help attract new nurses. Exchanges of this nature occurred at a variety of places such as the surgery department's control desk, the nurses' lounge and even in the operating rooms. She also spoke with RNs in other departments both in person and by telephone to promote support for unionization.

One such call by Nowlin occurred in June 2002 during the course of a rare night shift assignment when she telephoned the pediatric unit and asked to speak with Lana Martin, an RN in that unit. Nowlin used a telephone in the nurses' change room for this call while she was on a break. She reached another person in the pediatric unit and asked for Martin. By Nowlin's account, when Martin came to the telephone, Nowlin asked if she had time to talk and received an assurance from Martin that she did. She then went on to say that she called because she knew that Martin had expressed an interest in learning about what was going on with the union. By Nowlin's account, most of the conversation concerned how difficult it was being "one of the very few nurses in her unit who was pro-union."

Nowlin insisted that she spoke to Martin at work only once. A week or so later, Nowlin telephoned Martin at home to inquire as to whether Martin had complained to management about Nowlin's call described above. Martin, on the other hand, claimed that Nowlin called her four to six times one evening "like a telemarketer" while she was attempting to care for her patients. Purportedly, Martin told Nowlin "we weren't interested" in the union since she had been union at her last job and she felt that union had not done anything for her. Martin charged that Nowlin called so many times she asked others to screen her calls and that she told Nowlin that she was too busy with patients to talk with her.

Early on the morning following Nowlin's call to Martin, Katherine Harris, the pediatric manager, held a staff meeting attended by Martin and presumably others from the previous night shift. According to Martin, Harris inquired during the course of the meeting as to whether there "had been any problems with the union." Martin told Harris the night shift pediatric staff received a lot of phone calls about the union and that it was "frustrating" for everyone. She told Harris that the calls she received the previous evening was the straw that broke the camel's back. Martin may have told Harris that she felt the pro-union staffers were harassing them. In fact, Harris claimed, that is exactly the word Martin used when she brought the subject up in the staff meeting. No evidence shows that others chimed in to corroborate Martin's claims to Harris during the meeting or otherwise complained about contacts by other pro-union staffers.

Following that meeting, Harris and Martin spoke privately. Harris asked Martin what had happened and Martin told her that a nurse from the operating room had made so many calls to her the night before that it finally got to the point that she asked "other co-workers to screen her calls to find out if it was the same person calling from the operating room." Martin complained that the calls took her away from her duties with the patients. She identified Nowlin as the caller and told Harris that Nowlin sought to persuade her to become a pro-union representative in the pediatric unit where, purportedly, the Union had little, if any, support.

When Harris finished speaking with Martin, she went to her office and telephoned Campbell in the surgical department to report Martin's charge about Nowlin. In their brief

discussion, Harris told Campbell that Martin felt harassed by the numerous calls she had received the previous evening.

5 Following the report from Katherine Harris, Campbell went to the Human Resources department and spoke with Susan Harris, a Huntington consultant retained specifically to provide advice to managers concerning the ongoing union activity. Following that, Campbell telephoned Nowlin at home.⁵ After apologizing for telephoning on her day off, Campbell told Nowlin that he needed to speak to her about a very important matter. He then told Nowlin that another nurse had complained that Nowlin had called her five times recently, harassing her to join the union. Nowlin immediately denied that claim. Although she admitted telephoning some nurses about the union, she denied the harassment charge saying, "I have never called anybody more than once. I have called a few people, but I would never call anybody five times, I am not stupid." When Nowlin asked Campbell to identify the person who had made the complaint, 10 Campbell told her that he did not know who it was or where the nurse worked. Campbell then told Nowlin that what she did was "inappropriate and cannot be tolerated." He went on to explain that if she wanted to talk about the union she certainly could but she had to keep her union conversations to the lounge, the changing room or somewhere like that, and not on work time. Nowlin then began to speculate out loud with Campbell about who 20 could have complained. In doing so, she remarked that she had telephoned a pediatric nurse from the changing room while at work on the night shift recently. That led Campbell to ask if she had used a hospital telephone. When Nowlin admitted that she had, Campbell admonished her saying that the "telephones are hospital equipment" and that she should not use hospital equipment to solicit for the union. Campbell admitted 25 that he would not have restricted Nowlin's use of a hospital telephone to discuss matters other than unionization.

B. Argument

30 Counsel for the General Counsel argues that Nowlin's discussion with Martin did not amount to a solicitation that would call into play Huntington's lawful no-solicitation policy. This is so, the General Counsel contends, because Nowlin made no effort to induce Martin to sign an authorization card. In support, General Counsel relies on Judge John M. Dyer's "solicitation" definition in *W. W. Grainger*, 229 NLRB 161, 166-167 35 (1977).⁶ Accordingly, General Counsel contends, Campbell's directives to Nowlin amounted to a "discriminatory promulgation/application of no-talking/don't-use-the-telephone rules." This is so, General Counsel asserts, because Respondent permits its employees and managers alike to discuss non-work related matters other than unionization, both in person and by telephone, during working time and in working areas. 40 In support, General Counsel relies on *ITT Industries*, 331 NLRB 4 (2000) and *St. Joseph's Hospital*, 337 NLRB No. 12 (2001).

45 ⁵ Campbell claimed that he chose to call Nowlin because she was not scheduled to work for several days and he felt the matter required immediate attention.

50 ⁶ In *Grainger*, Judge Dyer stated that "[s]olicitation for a union usually means asking someone to join the union by signing his name to an authorization card in the same way that solicitation for a charity would mean asking an employee to contribute to a charitable organization or having the employee sign a chance book for such a cause or in the commercial context asking an employee to buy a product or exhibiting the product for him from a book or showing the product. . ."

5 The Charging Party contends that even if Nowlin's telephone call to Martin involved a solicitation, it involved no distribution of materials and would be no different than other known uses of the hospital telephone to ask employees "to provide money for lunch or to give rides for the Revlon walk." Charging Party also argues that Martin's harassment claim does not support Campbell's discriminatory instruction to Nowlin that she could not discuss union matters on work time and could not use the hospital telephone equipment to discuss union matters in light of existing practices pertaining to the discussion of other non-work matters by telephone and on work time.

10 Respondent contends that it has no rules barring employees from discussing unionization and prohibiting employees from using the hospital phone system to engage in union solicitation. Therefore, regardless of what Campbell may have said to Nowlin in their telephone conversation that gave rise to this case, Respondent contends that it did not amount to creating a rule of any kind. For this reason, Respondent charges that the complaint "fails to properly describe the alleged unlawful conduct involved." Relying on *SAS Electrical Services*, 323 NLRB 1239, 1254 n. 33 (1997) (no remedial order warranted in the absence of a specific complaint allegation), Respondent argues that the complaint allegations here lack merit and should be dismissed.

20 In addition, Respondent contends that Nowlin violated the hospital's "proper and lawful" solicitation and distribution rule by repeatedly soliciting Martin to sign an authorization card and become active in the organizing drive. All that really occurred, according to Respondent's argument, is that Campbell informed Nowlin that she could not solicit whether by phone or otherwise during working time. Because Campbell merely instructed Nowlin to abide by the Hospital's legitimate solicitation rule, he did not violate the Act during his June telephone conversation with Nowlin.

C. Further Findings and Conclusions

30 I have credited Nowlin's accounts concerning her telephone call to Martin at the hospital and her conversation with Campbell when he admonished her for telephoning Martin. I gained the impression while watching and listening to Martin testify that she harbored a spitefully hostile attitude toward unionization and brought to the witness chair a determined attitude to exaggerate what had occurred as much as possible to discredit the efforts of those who favored organizing the RNs. Furthermore, Respondent brought forth no other employee from that shift in the pediatrics department, RN or staff of any classification, whose help Martin claimed to have sought to ward off the multiple, harassing phone calls Nowlin allegedly made to her. I find Martin's unsupported "harassment" claims lack merit.

40 Martin's lack of credibility aside, I find Katherine (Kathy) Harris' unquestioning acceptance of Martin's claims puzzling. She gave no indication that she sought verification for Martin's claims even though the entire shift staff attended the meeting when Martin spoke up in response to Harris' inquiry about union activities. In the same vein, Kathy Harris undertook no investigation of Martin's harassment claims following their private conversation after the staff meeting. As a result, when Harris telephoned Campbell, she relayed an uninvestigated complaint (from a witness I find lacking in credibility) which, even as late as the close of hearing itself, suffered from the lack of any corroboration at all. As a result, I find no credible evidence supports a conclusion that any of Nowlin's union activities amounted to harassment or that even the limited contact Nowlin admitted having with Martin interfered with patient care.

5 In addition, I credit Nowlin's testimony regarding the substance of her Friday conversation with Campbell. Entirely apart from Nowlin's more consistent and convincing testimony, I agree with the Charging Party's assertion that Campbell's understanding of Respondent's no-solicitation policy reflects his belief that any topic but unionization can be discussed on work time in work locations or on the hospital telephones. This testimony by Campbell lends strong support to Nowlin's account about the substance of Campbell's statements to her.

10 General Counsel cites numerous cases holding, in effect, this kind of censorship to be unlawful. Abundant testimony shows that Huntington makes little or no attempt, whether by its official policies or by the day-by-day conduct of its managers, to monitor or restrict the content of employee interchanges involving nonwork matters where these discussions do not interfere with patient care. Although managers enforce the no-solicitation rule against open and obvious solicitations of all kinds, a considerable amount
15 of commercial solicitation still occurs in work areas on work time. Regardless, I find, in agreement with the General Counsel, that Nowlin's discussion with Martin did not amount to solicitation. Campbell, it appears, assumed the Nowlin-Martin discussion amounted to solicitation simply because they talked about the union campaign. Campbell's admonishment of Nowlin departed from the usual practices and policies that
20 the Huntington managers normally apply to discussions of nonwork matters. By discriminatorily limiting Nowlin's union discussions to the employee lounge on break time and by discriminatorily prohibiting Nowlin from discussing union matters on the hospital telephone, I find that Campbell violated Section 8(a)(1) of the Act. *St. Joseph's Hospital*, 337 NLRB No. 12, p. 2 (2001); *Emergency One, Inc.*, 306 NLRB 800 (1992).

25 Counsel for the General Counsel devotes a section of his brief to quibble with the assertion I made at the hearing that Campbell's phone call to Nowlin did not sound like the promulgation of a rule. In that connection, I pointed to the Board's decision in *Hotel Roanoke*, 293 NLRB 182, 189 (1989) finding that a supervisor's statement to a single
30 employee, though coercive, did not amount to the promulgation of a rule. The briefs by the General Counsel and the Charging Party seek to distinguish the factual circumstances of this case, and other cited cases finding the verbal promulgation of rules, from the *Hotel Roanoke* case.

35 Although I find Campbell violated Section 8(a)(1) by the disparate restrictions imposed on Nowlin, I find it unwise to characterize this conduct as it has been alleged in the complaint for several reasons. First, this large institutional hospital maintains and publishes rules and policies in a very formalized, written fashion. Second, the policies or
40 rules in evidence here permit the inference that this hospital's rules result from practices consistent in the industry, i.e. the study and consideration of rule proposals by an appropriate committee, submission to the approving executive, and publication by the ordinary instructional means. Third, no evidence supports a conclusion that Campbell had any authority to establish a hospital rule inconsistent with those adopted under the
45 process ordinarily followed by the hospital. Fourth, when Campbell spoke to Nowlin, he imposed restrictions on her and her alone that were inconsistent with hospital practices and policies. And fifth, for those employees whose only contact with this matter will come as a result of the remedial notice, labeling Campbell's conduct as a rule promulgation might tend to confuse or mislead employees about the nature of the
50 conduct that violated the Act especially in view of the formalized policy-adoption environment in which they work. For these reasons, I find it appropriate to characterize Campbell's conduct in terms other than as promulgating a rule.

Even so, I reject Respondent's claim that this case is analogous to the situation found in *SAS Electrical Services, supra*. Unlike the situation there, the facts here demonstrate that Respondent barred an employee from engaging in activity protected by the Act which Respondent fully litigated. Moreover, the General Counsel seeks a remedial order barring the type of conduct found unlawful. Accordingly, I find a remedial order tailored to the specific conduct found unlawful is warranted in this case.

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Conclusions of Law

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1. Respondent is an employer within the meaning of Section 2(2) of the Act engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. The Union is a labor organization within the meaning of Section 2(5) of the Act.

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3. By prohibiting an employee from talking to other employees concerning unionization during work time while permitting other kinds of employee discussion and solicitation; and by prohibiting an employee from using a hospital telephone to discuss unionization while permitting its use for other personal reasons, Respondent engaged in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

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

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Remedy

Having found that the Respondent has engaged in certain unfair labor practices, my recommended order will require it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. My recommended order requires Respondent to post the notice attached hereto as the Appendix so employees will know the outcome of this matter.

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On these findings of fact and conclusions of law and on the entire record, I issue the following recommended⁷

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ORDER

The Respondent, Huntington Hospital, an affiliate of Southern California Healthcare Systems, its officers, agents, successors, and assigns, shall

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1. Cease and desist from

a. Prohibiting any employee from talking to other employees concerning unionization during work time in work areas while permitting other kinds of nonwork discussions and solicitations by employees during work time in work areas.

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⁷ If no exceptions are filed as provided by §102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in §102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

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b. Prohibiting any employee from using a hospital telephone to discuss unionization while permitting its phones to be used for other nonwork discussions.

5 c. In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

10 2. Take the following affirmative action necessary to effectuate the policies of the Act.

15 a. Within 14 days after service by the Region, post at its hospital facility in Pasadena, CA, copies of the attached notice marked "Appendix."⁸ Copies of the notice, on forms provided by the Regional Director for Region 31, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these
20 proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since July 2, 2002.

25 b. Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

30 Dated: August 26, 2003.

Administrative Law Judge

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50 ⁸ If this Order is enforced by a Judgment of the United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

- Form, join, or assist a union
- Choose representatives to bargain with us on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities

WE WILL NOT prohibit any employee from talking to other employees concerning unionization while permitting other types of nonwork discussions and solicitations by employees during work time and in working areas.

WE WILL NOT prohibit any employee from using a hospital telephone to discuss unionization while permitting the hospital telephones to be used for other nonwork discussions.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of the rights guaranteed them by Section 7 of the Act.

**Huntington Hospital, an affiliate of
Southern California Healthcare Systems**

(Employer)

Dated _____ By _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

11150 West Olympic Boulevard, Suite 700, Los Angeles, CA 90064-1824
(310) 235-7352, Hours: 8:30 a.m. to 5 p.m.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE **COMPLIANCE OFFICER** FOR NLRB REGION 31, TELEPHONE (310) 235-7123.