

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3
4 WILLIAM A. BAUDLER, Regional
5 Director of the Thirty-Second
6 Region of the National Labor
7 Relations Board, for and on
8 behalf of the National Labor
9 Relations Board,

10 Petitioner,

11 v.

12 AMERICAN BAPTIST HOMES OF THE
13 WEST, doing business as PIEDMONT
14 GARDENS,

15 Respondent.

No. C 11-2480 CW

ORDER GRANTING
PETITIONER'S
MOTION TO MODIFY
SECTION 10(j)
INJUNCTION
(Docket No. 59)

16
17 Petitioner Regional Director of the Thirty-Second Region of
18 the National Labor Relations Board (NRLB) William A. Baudler, for
19 and on behalf of the NRLB, moves for modification of the
20 injunction previously issued by the Court at his request against
21 Respondent American Baptist Homes of the West pursuant to section
22 10(j) of the National Labor Relations Act (NLRA), 29 U.S.C.
23 § 160(j). Respondent has not filed a response to this motion.
24 Amicus Curiae Service Employees International Union, United
25 Healthcare Workers--West opposes the motion. Having considered
26 the papers filed by the parties, the Court GRANTS Petitioner's
27 request.

28 On July 19, 2011, the Court issued an injunction pursuant to
section 10(j) of the NLRA, ordering, inter alia, that Respondent

1 reinstate to their former positions and previous wage and working
2 conditions twenty-five former employees who were permanently
3 replaced after a strike, pending resolution of the underlying case
4 before the NLRB. On July 20, 2011, Respondent filed a notice of
5 appeal of the injunction to the United States Court of Appeals for
6 the Ninth Circuit.

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8 Subsequently, on August 9, 2011, the Administrative Law Judge
9 (ALJ) issued a Decision and Recommended Order, in which he found
10 that Respondent's motivation for permanently replacing these
11 striking employees did not render the permanent replacement
12 unlawful, and that Respondent was not obliged to reinstate those
13 employees to their former positions of employment.

14 On August 22, 2011, because of the ALJ's adverse ruling,
15 Petitioner moved the Court for an order removing from the Section
16 10(j) Injunction those terms related to the reinstatement of these
17 employees. On October 6, 2011, the United States Court of Appeals
18 for the Ninth Circuit remanded the appeal to this Court for the
19 limited purpose of enabling this Court to amend the Section 10(j)
20 Injunction.

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22 In light of the ALJ's ruling and Petitioner's request and
23 based upon the entire record before the Court, the Court finds
24 that the Section 10(j) Injunction shall be modified as follows:

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26 Respondent is no longer enjoined and restrained from refusing
27 to reinstate employees to their former positions of employment
28 because the employees joined or assisted the Union by, among other

1 things, participating in a strike, or because they engaged in
2 other protected concerted activities for the purpose of collective
3 bargaining or other mutual aid or protection; and

4 Respondent is no longer ordered to offer interim
5 reinstatement to Sherwin S. Amorsolo, Zegenech Bayou, Maggie
6 Bellinger, Yohanes Beraki, Pacita Bumatay, Marieth Romero Carmona,
7 Calvin Christian, Bonnie Conley, Judith Coston, Besima Ferhatovic,
8 Sanjanette Fowler, Elisa Haile, Keiyana Kemp, Johnny Lee, Salvador
9 Miranda, Michael Morrow, Sheila Nelson, Janie Ragsdale, Michelle
10 Reynolds, Yordanos Segal, Paramjit Sekhon, Palwinder Singh, Denesha
11 Singleton, Carmen Smith, Pierre Williams, and Rosa Zelaya to their
12 former positions and previous wages and working conditions.
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14 All other terms and provisions of the Section 10(j)
15 injunction remain in full force and effect.

16 IT IS SO ORDERED.
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19 Dated: 11/1/2011


CLAUDIA WILKEN
United States District Judge

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