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13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA
 15 SAN JOSE DIVISION

17 SERVICE EMPLOYEES
 18 INTERNATIONAL UNION, LOCAL 121
 19 RN and SERVICE EMPLOYEES
 20 INTERNATIONAL UNION, UNITED
 21 HEALTHCARE WORKERS - WEST,

Plaintiffs,

v.

22 LOS ROBLES REGIONAL MEDICAL
 23 CENTER et al.,

Defendants.

Case No. C-09-05065 JF

**JOINT STATUS REPORT¹ AND
 [PROPOSED] ORDER SETTING
 STATUS CONFERENCE**

Judge: Hon. Jeremy Fogel

27 ¹ Due to a clerical error, a separate statement by Plaintiffs only was filed as Docket #79.
 28 This document is intended as the correct joint statement and the prior separate statement should be disregarded.

1 THE PARTIES HERETO, BY AND THROUGH THEIR AUTHORIZED
2 COUNSEL OF RECORD, REPORT TO THE COURT AS FOLLOWS, PURSUANT TO THE
3 COURT'S ORDER OF MAY 26, 2010:

4 1. Consistent with this Court's orders of November 17, 2009 and December
5 11, 2009, the parties' dispute was submitted to arbitration. The parties completed two days of
6 hearing with mutually agreed Arbitrator Matthew Goldberg. Both parties rested their cases on
7 February 3, 2010.

8 2. After receipt and review of post-hearing briefs by the parties, Arbitrator
9 Goldberg issued his Opinion and Award dated July 5, 2010. A true and complete copy of the
10 same is annexed as Exhibit A.

11 3. The "Award" section of the Opinion and Award states, in full:

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13 "The grievances are sustained in part and denied in part. The
14 Employer's implementation and enforcement of its H1N1 and
15 seasonal flu infection control policies at or near the beginning of
16 December, 2009 was contrary to Articles 14.2, 42 and 102 of the
17 Agreement. The Employer is ordered to meet and bargain with the
18 Union in good faith to determine a mutually agreeable means of
enforcing its policy without violating the provisions cited, and
reducing the potential that the policy might have for discrimination
and/or violation of the just cause provisions of the Contract.

The Arbitrator retains jurisdiction for the purposes of
implementation and/or interpretation."

19 (Exhibit A, page 33.)

20 4. **Position of Plaintiffs:** Plaintiffs allege that the Defendants have not
21 complied with the Arbitrator's award. Although Plaintiffs have made demands to bargain as
22 required by the Arbitrator's award, Defendants have failed to respond to the demands in any
23 meaningful way. For that reason, Plaintiffs have advised Defendants that they intend to seek
24 leave to file additional pleadings in this action, which would include a Petition to Confirm the
25 Arbitrator's award.

26 5. **Position of Defendants:** Without expressing any opinion on the validity or
27 enforceability of the Arbitrator's award, Defendants deny Plaintiffs' allegations of
28 noncompliance. (In any event, Defendants are prepared to comply as requested by the Union

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PROPOSED ORDER

Based on the foregoing stipulations and representations, the Court makes the following order:

1. The court will conduct a status conference in this matter at 10:30 am on September 10, 2010. ~~{Counsel may appear by telephone.}~~
2. The parties may file written statements not to exceed three (3) pages each no later than three (3) days before the status conference.

IT IS SO ORDERED.

Dated: August 16, 2010.



The Honorable Jeremy Fogel
United States District Judge