California Nurses Association - Legal Dept.
Attn: Allen, Pamela
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ALTSHULER BERZON LLP
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Superior Court of California, County of Alameda
Wiley W. Manuel Courthouse

California Nurses Assn/Nat'l Organizing Comm. Plaintiff/Petitioner(s) VS. Stern Defendant/Respondent(s) (Abbreviated Title)	No. RG08381780 Application Re: Other Exparte Granted Date: 04/21/2008 Time: 11:00 AM Dept: 102

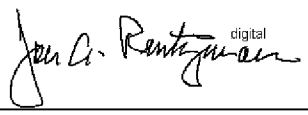
IT IS ORDERED that respondent's Application to vacate the temporary restraining order issued April 15, 2008 is GRANTED.

Although Labor Code sections 1138-1138.4 appear to govern this case, it also appears that whether they do under these facts is a case of first impression in California. In either event, the Court is of the opinion that the temporary restraining order must be and hereby is VACATED. First, if these provisions apply, neither the petition nor the Court addressed their requirements prior to issuance of the order. Second, if they do not apply, the relief sought in the petition is not supported by the declarations submitted with it. It would be improper for the Court to consider later submitted filed in connection with this motion.

Without objection, the Court takes judicial notice of respondent's exhibits A through G.

Further hearing on the request for injunctive relief under the petition is stayed pending the outcome of the hearing on respondent's special motion to strike, currently set in Department 31 on June 4, 2008. The hearing previously set for May 1, 2008 is VACATED. The Court will notify the parties of the date and time of any further hearing.

Dated: 04/22/2008



Commissioner Jon Rantzman

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FILED
ALAMEDA COUNTY
APR 21 2008
CLERK OF THE SUPERIOR COURT
By _____ Deputy

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Attorneys for Plaintiffs
CALIFORNIA NURSES ASSOCIATION/
NATIONAL NURSES ORGANIZING COMMITTEE

CALIFORNIA SUPERIOR COURT

FOR THE COUNTY OF ALAMEDA

CALIFORNIA NURSES ASSOCIATION/NATIONAL NURSES ORGANIZING COMMITTEE. Plaintiffs, vs. ANDREW STERN and All Staff Members of SERVICE EMPLOYEES INTERNATIONAL UNION AND DOES 1 THROUGH 10, Defendants.	Case No.: RG08381780 DECLARATION OF MICHAEL LIGHTY IN SUPPORT OF INJUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEES AND AGAINST DEFENDANTS' MOTION TO DISMISS TEMPORARY RESTRAINING ORDER (CCP § 527.8) Date: Time: Courtroom: Judge:

I, Michael Lighty, hereby declare and state as follows:

1. I am currently employed as the Director of Administration and Operations for the California Nurses Association/National Nurses Organizing Committee (CNA/NNOC) at its headquarters located in Oakland, California. I began my employment with CNA/NNOC in February 1994 as a Labor Representative with responsibility for negotiating and enforcing collective bargaining agreements on behalf of registered nurses employed in acute care hospitals throughout the State of California. I served as the Political Director for CNA beginning in

November 1995, and was promoted to the position of Director of Administration and Operations for CNA in October 1999. As Director of Administration and Operations I report directly to the Executive Director and am responsible for oversight and day-to-day administration and operation of the organization, which currently serves as the exclusive collective bargaining representative for approximately 80,000 registered nurses. Most of those nurses work and reside in California, but CNA/NNOC has been actively organizing Registered Nurses across the United States for the past several years and also serves as the exclusive collective bargaining representative for RNs employed at hospitals in Maine, Illinois and Nevada, and has thousands of affiliate members throughout the United States who have expressed interest in representation, but who are employed at hospitals that have not yet been organized.

2. CNA/NNOC is governed by a 35-member board of working Registered Nurses, elected from among the general membership. The organization maintains offices in Oakland, Sacramento, Glendale, Santa Clara and Fresno, California, and in Chicago, Illinois, Washington, DC, Augusta, Maine and San Antonio, Texas. CNA/NNOC currently employs approximately 200 individuals across the country, several of whom work from their homes in states where the organization does not maintain an office.

3. In my capacity as Director of Administration for CNA/NNOC, I oversee several departments within the organization. The Manager of Human Resources reports directly to me and, jointly, we are responsible for ensuring the safety and security of CNA/NNOC employees.

4. In early March 2008, the Service Employees International Union (SEIU) issued a press release announcing union elections to be held at nine hospitals in Ohio operated by a hospital system there known as Catholic Healthcare Partners. CNA/NNOC objected to those elections as anti-democratic and against the interests of the Registered Nurses employed by Catholic Healthcare Partners because they were not requested by the employees, but, rather, by the employer pursuant to an agreement with SEIU.

5. In a memorandum dated March 13, 2008 from Dennis Rivera, a vice president of Service Employees International Union and Chair of the Council of SEIU Healthcare Leaders, the SEIU Healthcare Steering Committee issued a memorandum dated March 13, 2008

2008, describing what UHW should be doing in terms of "participation in the national C.N.A. campaign." (A copy of Ms. Henry's March 28 email is attached as Exhibit 2.)

8. As the "campaign" continued, SEIU agents began appearing unannounced at the homes of members of the CNA Board of Directors, starting with a visit to Margie Keenan's home in Long Beach late on the afternoon of April 10, followed by a visit to Debbie Cuaresma's home in Bolden Park that same evening. Both Margie Keenan and Debbie Cuaresma described these encounters as very frightening.

9. I met with Rose Ann DeMoro and other CNA/NNOC senior staff members on the evening of April 10 to discuss the growing aggression of SEIU's tactics. I, along with others, encouraged Ms. DeMoro to cancel a speaking engagement scheduled for the evening of Saturday, April 12, at a conference in Dearborn, Michigan, sponsored by an organization that publishes a monthly newsletter known as *Labor Note* because it had been rumored that SEIU planned to disrupt her keynote speech. Reluctantly, Ms. DeMoro made a decision on April 11 to cancel her appearance at the *Labor Notes* conference. She arranged for Malinda Markowitz, a member of the CNA Council of Presidents, to speak in her stead and provided the conference organizers with a short video taped greeting to be played as an introduction to Ms. Markowitz' speech.

10. The conference sponsor announced to all attendees early in the day that Ms. DeMoro had cancelled her appearance due to a rumored disruption. Unfortunately, Ms. DeMoro's absence did deter SEIU. There are several newspaper and internet blog accounts of the SEIU invasion of the Saturday night banquet at the *Labor Notes* conference. CNA/NNOC officers and staff who attended the conference reported finding that a flyer vociferously attacking Rose Ann DeMoro had been slipped under the hotel room doors of hundreds of conference attendees so that they saw it immediately upon rising Saturday morning. (copy attached as Exhibit 4.) It was reported that throughout the day Saturday, April 12, SEIU representatives distributed more anti-DeMoro flyers and disrupted *Labor Notes* conference seminars with constant heckling about Rose Ann DeMoro whenever CNA/NNOC representatives were present, saying "Rose Ann should be fired," "Rose Ann is not a nurse" and "your boss gets too much

announcing resolutions passed by that committee on March 12, pledging to "plan and execute a comprehensive national program to take all lawful action feasible in an (sic) campaign directed at CNA . . . [and to] dedicate the necessary financial and human resources in order to carry out this critical program." The same memorandum announces an April 12 resolution passed by the Nurse Alliance of SEIU Healthcare Executive Committee "to take on CNA with an aggressive, bold, comprehensive, strategic campaign . . . to move fast with the entire resources of our Union behind us to ensure that CNA is stopped once and for all." (A copy of the March 13, 2008 Rivera memo is attached as Exhibit 1.)

6. Indeed, in the month since those resolutions were passed, CNA has been subject to a barrage of harassing tactics. The anti-CNA campaign began with frequent, abusive telephone calls from purported SEIU members to the main reception lines at CNA's various offices, as well as to cell phones carried by CNA staff (including Executive Director DeMoro). SEIU established a website (www.shameoncna.com) for the purpose of condemning CNA for objecting to a union representation election arranged by the employer in Ohio and, in addition to the website, began sending a series of glossy campaign mailers from its Washington, D.C. headquarters to the homes of at least many thousands of licensed registered nurses in California, similarly condemning CNA's criticism of the Ohio elections.

7. The campaign escalated with SEIU deploying a reported 200 organizers to hospital facilities in California at which CNA represents Registered Nurses for purposes of distributing anti-CNA literature and attempting to engage nurses in conversation for purposes of disparaging CNA. There is, apparently, some dispute within SEIU about execution of the anti-CNA campaign as evidenced by documents posted on a website maintained by a large SEIU Local in California, United Healthcare Workers - West (UHW). The website (www.seiuvoice.org) is, apparently, a forum for UHW to share information about what appear to be very pronounced differences of opinion on internal governance within SEIU. Posted under the "Documents" tab on the website are many categories of documents, including one called "CNA's Attack on SEIU's CHP campaign in Ohio." Under that heading are a number of documents, including an email from SEIU Vice President Mary Kay Henry dated March 28,

International's use of violence and to protest the use of union dues to attack other rank-and-file union members. (Both letters attached, collectively, as Exhibit 5).

14. CNA/NNOC personnel who were at the Labor Notes event remain shaken and are fearful of additional attacks when at work both in the CNA offices and at the hospitals to which they are assigned to represent and organize nurses. While I was not at the Labor Notes conference on April 12, I have reviewed several eye witness accounts of the undeniably violent invasion of the conference that was targeted directly at CNA and its Executive Director. Based on those accounts and discussions with persons who were present, a decision was made for CNA/NNOC to petitioned this Court immediately for a temporary restraining order against SEIU and its President, Andy Stern, in an effort to protect staff and officers from further attacks. (Accounts from eye-witnesses to the April 12 attack are attached as Exhibit 6.)

15. Over the weekend of April 12-13 and continuing through April 17, SEIU has continued to send agents to the homes of CNA/NNOC Board members in California. To date, 11 Board members and/or their families have been disturbed at home by loud, angry SEIU representatives. Two more CNA Board members have reported visits that occurred in their absence, evidenced in one case by hand written notes left on her door and in the other case by a neighbor's report of a loud disturbance that resulted in a call to the police. Last week an SEIU official verbally attacked CNA/NNOC employee Joanne Jung at a San Mateo County Labor Council meeting, urging other unions to denounce CNA and describing SEIU's plan to withhold financial contributions to the labor councils unless CNA/NNOC is expelled. Ms. Jung reported that others in attendance walked her to her car when she left the meeting out of concern that she might be attacked. Last Friday, April 18, I received notice that staff in our Chicago office has reported instances of vandalism to their cars and had seen persons known to be SEIU representatives near their office. (A copy of an email message provided to me concerning the Chicago vandalism is attached as Exhibit 7.)

16. It is important to note that even before SEIU agents began appearing at the homes of officers and before the violent disruption in Dearborn, CNA/NNOC understood that there was a threat of physical harm. SEIU has been careful to state publically that its actions will remain

"lawful," but past experience with tactics used by SEIU organizers prompted CNA to take several security precautions at significant expense. Immediately after the SEIU resolutions against CNA were passed, the CNA/NNOC headquarters building was examined by a security company and potential vulnerabilities on exterior doors and throughout the building were reinforced. Security cameras have been installed and 24-hour security guards have been hired for the first time in the 105-year history of the organization to protect the personnel and premises at CNA's offices. Security guards have also been employed to attend continuing education courses CNA/NNOC provides to Registered Nurses at offsite locations and several employees have expressed anxiety about their personal safety and reported taking new security precautions at home.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 21, 2008 at Oakland, California.

MICHAEL LIGHTY

Subject: Dennis Rivera sends this message on CNA outrageous union-busting

Please note the important attachments to this email which you are asked to distribute widely; including two action resolutions on CNA's outrageous union-busting.

The Fact Sheet will provide you with particularly useful information.

* CNA Union-busting Condemned in Two Action Resolutions
* BNA 031208 Article
* Springfield, OH News 031308 Editorial
* Fact Sheet 031208

Valerie Tate, RN
Quality Care Programs Coordinator
Nurse Alliance of SEIU Healthcare
1800 Massachusetts Avenue, NW
Washington, DC 20036
Office: 202.730.7371
Cell: 202.294.1575
Toll Free: 866.633.1177
Fax 202.350.6619

Subject: Dennis Rivera sends this message on CNA outrageous union-busting:
Text of the Memorandum form Dennis Rivera is attached and below:

MEMORANDUM
To: Council of SEIU Healthcare Leaders
Fr: Dennis Rivera, Chair
On: 13 March 2008

Re: California Nurse Association Union-busting: SEIU Healthcare Steering Committee and SEIU Nurse Alliance Resolutions

---

We share with you two resolutions passed by SEIU Healthcare leadership yesterday at the SEIU Healthcare Steering Committee meeting in Chicago, IL. Our healthcare leaders are outraged at C.N.A.'s behavior; and agree to immediately initiate a national program to protect healthcare members' bargaining rights and organizing.

EXHIBIT I

money."

11. CNA/NNOC's participation in the conference ended abruptly with the melee that occurred when hundreds of people wearing purple SEIU logo clothing and carrying anti-CNA picket signs broke through security lines and into the ballroom in a very loud, violent manner, just as 900 conference attendees were sitting down for dinner. It was reported by those in attendance that the attack was clearly directed at CNA and, in particular, at Rose Ann DeMoro. Many of the picket signs carried by the SEIU invaders had photographs of Ms. DeMoro on them, along with disparaging statements about her, personally. An SEIU representative ran to the podium at the front of the room and yelled into the microphone that "Rose Ann DeMoro is a union buster." The CNA officers and staff who were in attendance were immediately evacuated.

12. Needless to say, Malinda Markowitz did not give a speech on behalf of Ms. DeMoro. The CNA/NNOC organizers in attendance at the conference were instructed not to attempt to return after they had been evacuated. That evening, SEIU issued a press release containing a statement by SEIU Vice President Mary Kay Henry boasting that 800 SEIU members had travelled to Dearborn to protest against CNA and Rose Ann DeMoro, asserting that Ms. DeMoro had cancelled her appearance at the last minute "anticipating the scrutiny her actions were expected to receive." (A copy of SEIU's April 12 press release is attached as Exhibit 4.)

13. SEIU's attempt to dismiss the attack as nothing more than a peaceful exercise of free speech is undermined by the fact that it occurred by forced entry and resulted in several injuries and the tragic death of one of its own members who suffered a fatal heart attack during the invasion. The attack has been criticized by many labor leaders, most poignantly by leaders of SEIU's own African American Caucus who issued a statement on April 17 protesting the exploitation of hundreds of African American members who were recruited through deliberately deceptive means to bring their children on a bus caravan to the *Labor Notes* dinner, with no real information about the purpose of the trip or the intent of SEIU leadership to use them as unwitting soldiers in the war it has declared on CNA. A second letter from another group of SEIU leaders, also issued April 17, calls upon SEIU rank and file members to denounce the

1. SEIU Healthcare Steering Committee Resolution on the California Nurses Association

Adopted by the SEIU Healthcare Steering Committee
3-12-08

In light of the recent outrageous campaign by CNA to undermine the historic opportunity for nearly 8000 nurses and other hospital workers in Ohio to organize into SEIU through a free and fair vote at Catholic Healthcare Partners hospitals, CNA's efforts to disrupt the bargaining rights of SEIU nurses and hospital workers in Nevada, and other similar CNA actions aligned with the tactics of anti-union employers and the National Right to Work Committee, the SEIU Healthcare Steering Committee has unanimously approved a resolution to plan and execute a comprehensive national program to take all lawful action feasible in an campaign directed at CNA in order to protect the bargaining rights of SEIU nurses and other healthcare members and the organizing program of SEIU Healthcare which seeks to give nurses and other hospital workers an effective voice in the quality of their working conditions, patient care delivery and national healthcare reform. SEIU Healthcare shall dedicate the necessary financial and human resources in order to carry out this critical program.

Present and voting YES in favor of this resolution: Dennis Rivera, Chair; Mary Kay Henry, Gerry Hudson, EVPs; Alice Dale, Dave Regan, David Rolf, Diane Sosne, Eric Scherzer, George Gresham, Monica Russo, Sal Rosselli, Tom Debruin, Tyrone Freeman.
Voting NO: None
Abstentions: None
Absent: Annelle Grajeda and Leslie Frane

2. Nurse Alliance Resolution on California Nurses Association:

TO: SEIU Healthcare Steering Committee
Nurse Alliance of SEIU Healthcare Executive Committee
DATE: March 12, 2008
RE: Nurse Alliance Resolution

The Nurse Alliance of SEIU is outraged by C.N.A.'s hostile union busting campaign that has denied thousands of RNs and hospital workers a free and fair chance and the right to form a union in Ohio.

Over the past few years, thousands of other nurses around the country have experienced the C.N.A.'s unprincipled, and destructive tactics in California at Tenet and in cities such as St. Louis at St. Johns, in Chicago at Michael Reese, in Reno at CHW/St. Mary's, in San Antonio at

University Hospital and in Memphis at Tenet/St. Francis.

This week, C.N.A. sank to new lows through their aggressive anti-union campaign in Ohio. We all know that C.N.A. is an organization that has no rules, no boundaries and no desire to build the labor movement if it doesn't benefit their organization and their organization alone.

The attack by C.N.A. is not just about Ohio, it is an egregious attack on our Union and on non-union RNs and hospital workers.

We need to take on the C.N.A. with an aggressive, bold, comprehensive, strategic campaign. It is time that we move and move fast with the entire resources of our Union behind us to ensure that C.N.A. is stopped once and for all.

We must clear the path for all non-union RNs and healthcare workers to have a free and fair chance to form a union and therefore recommend that the Healthcare Steering Committee adopt the following recommendation:

1. Implement immediately the Nurse Alliance Leadership recommendation to formulate a comprehensive campaign to counter the forces preventing us from uniting RNs.

2. Dedicate resources to respond to C.N.A's attack on our Union, our Nurse Organization and our Hospital Growth strategy by developing a comprehensive campaign to stop C.N.A.'s union-busting activity.

There is no doubt in our minds that if our organization of 2 million members has the will we can and will succeed in removing the C.N.A. Only then can we fully pursue our goal of changing the lives of all RNs and healthcare workers in this country and improving our healthcare system.

Nurse Alliance Executive Committee voted yes: Diane Sosne, Chair; Cathy Glass, Dian Palmer

---

Kay Anderson
Executive Assistant to the Chair
SEIU Healthcare
kay.anderson@seiu.org
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c = 917 562 7741
f = 212 947 0835
NY Office:
330 West 42nd Street , Suite 900
NYC NY 10036

2

2

From: Mary Kay Henry
Sent: Friday, March 28, 2008 7:13 PM
To: Dennis Rivera; Gerry Hudson; George Gresham; Dave Regan; Monica Russo; Sal Rosselli; Thomas Debruin; David Rolf; Diane Sosne; Annelle Grajeda; Alice Dale; Leslie Frane (E-mail); Sharleen Stewart
Cc: Kay Anderson; Kirk Adams; Scott E. Courtney; Jamie Cohen; LaDawna Howard
Subject: Follow-up on calls about UHW-W participation in the national C.N.A. campaign

I have received several calls about UHW-W participation in the C.N.A. campaign. Sal emailed Jamie Cohen today to ask if anyone was going to talk with UHW. Since several locals have called to ask what UHW-W is doing, I wanted to outline what would be useful for UHW-W to do as part of the Division effort to get C.N.A. to stop their union-busting.
1) We need 10-12 staff assigned full-time beginning April 8th
2) We need trainings with all UHW-W worksite leaders and worksite meetings on the C.N.A. campaign to begin the week of 4/14.
3) We need twice weekly distribution of national leaflets at all UHW-W/C.N.A. worksites
4) UHW-W public condemnation of RoseAnn DeMoro leadership – the message and form to be worked on jointly with the Division Campaign team
5) a series of actions that we need to develop jointly with UHW-W to move the condemnation of C.N.A. conduct, UHW-W leaders will have lots of ideas about where/how to apply pressure for C.N.A. to do the right thing.
6) additional ideas can be generated through a joint call – many locals are volunteering sets of ideas and making plans in their states, we would welcome UHW-W contribution to implementing our national resolution.
7) Take down the UHW-W public websites attacking our Union so the C.N.A. cannot use them against our members and non-union workers by referring workers to the sites and supplying printed material in hospital breakrooms.
You can follow-up with Kirk Adams to implement this list.

EXHIBIT 2

4

HERE'S A QUESTION FOR Rose Ann DeMoro?

HOW CAN YOU TALK ABOUT REBUILDING LABOR'S POWER, WHEN YOU'RE BUSTING UNIONS AND TAKING AWAY THE RIGHTS OF THOUSANDS OF WORKERS?

California Nurses Association Executive Director **ROSE ANN DEMORO** has been stopping democratic union votes by healthcare workers across America.

OHIO: DeMoro's association stopped over 8,000 nurses and healthcare workers from voting to join a union at CHP Hospitals. Thousands of them were low-wage housekeeping and dietary staff that **DeMoro's** CNA would never allow in their union, so why would she block giving them a chance at joining a union that wants to help them?

NEVADA: DeMoro and CNA sent Californians in to raid hospitals during contract negotiations with another union and intimidated nurses in cafeterias and break rooms.

CALIFORNIA: DeMoro and CNA are raiding public hospital employees who belong to other unions rather than focusing their energy and resources organizing tens of thousands of RNs in California who are not in a union already.

MISSOURI: DeMoro and CNA filed charges to stop nurses from joining SEIU. Thanks to their expensive legal maneuvers nurses lost their union entirely.

ROSE ANN DEMORO: NO HELP FOR STRIKING NURSES.

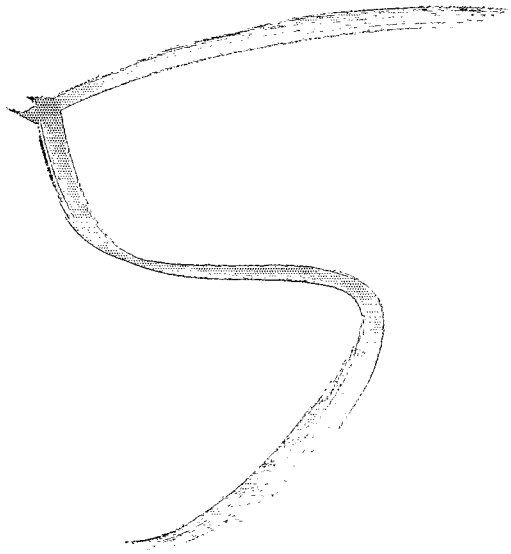
While **DeMoro** prevents nurses and thousands of other workers from voting to form a union in Ohio, her members were on strike in California with no help from her union.

Nurses and their families lost thousands of dollars in salary while they walked the picket line, but **DeMoro's** union has no strike fund and did nothing to help them financially.

ROSE ANN DEMORO: LABOR'S BEEN VERY, VERY GOOD TO HER.

Striking nurses suffer and workers around the country are shut out of unions she doesn't control, but **Rose Ann DeMoro** and her husband Robert rake in over $330,000 in salaries from the California Nurses Association and front groups CNA funds.

EXHIBIT 3



StreetInsider.com
if you're not inside...you're outside

Press Releases

SEIU Members Stand Up for the Future of the Labor Movement and the Interests of All Workers

April 12, 2008 10:15 PM EDT

DEARBORN, Mich., April 12 /PRNewswire-USNewswire/ -- Hundreds of Service Employees International Union (SEIU) members from across the country joined in protest tonight, renouncing recent actions by the California Nurses Association (CNA) to interfere in other unions' organizing efforts. SEIU members made their voices heard during the Labor Notes Conference in Dearborn, Michigan, where CNA Executive Director Rose Ann DeMoro was scheduled to speak but cancelled at the last minute, anticipating the scrutiny her actions were expected to receive. Below is a statement from SEIU Executive Vice President Mary Kay Henry:

"Tonight, SEIU members stood up for the future of the labor movement and called on the California Nurses Association to stop fighting with other unions and start helping us build a stronger labor movement to help all workers reclaim the American Dream.

"At a time when the economy is in a downward spiral, when income inequality and economic uncertainty are at record levels and when only 12.1 percent of the U.S. workforce has union representation, we simply can not abide by union-busting and member poaching between unions. Unions must stand united for the interests of working people.

"The more than 800 SEIU members who traveled to Dearborn from all parts of the country tonight would much rather be at home: holding their local state and national representatives accountable; going door to door to elect pro-worker candidates; and helping security officers, janitors, healthcare workers, and other service workers unite to attain a voice on the job. But CNA's recent actions threaten the future of the labor movement for all workers -- and we cannot remain silent.

"Open debate serves an important role as we work to strengthen our movement. The Labor Notes Conference is the right time and place to discuss our differences. Emergency room hallways and days before contentious union elections are not.

"Our ability as workers, progressives, and labor leaders to ensure that unions play a role in mending the economic woes of our nation depends on our ability to grow and our ability to work together. Tonight we call on CNA Executive Director Rose Ann DeMoro and the entire labor movement to take a deep breath, to realize what is at stake, and to put the interests of working people ahead of union differences."

SOURCE Service Employees International Union

EXHIBIT 4

David Smith Obituary

In memory... <http://www.seiuhealthcaremi.org/Default.aspx?p=in_memory >

David Smith was part of the 40,000 home care workers who joined SEIU in 2005.

He immediately took an interest in the Union and in the contract campaign we launched after the organizing drive ended. Initially however, David was unsure of how to get involved because he was illiterate and couldn't read the newsletters and other union information mailed to his house.

One of the first times we had the pleasure to meet him, he had come into our office. We had recently mailed out a survey to all of our home care members asking them to identify the issues that were most important to them (wages, healthcare, providing the best care for their clients).

David couldn't read the survey well enough to respond but wanted his voice to be heard none the less. So he brought the survey into the office with him and asked one of our organizers to read it to him so he could respond.

Soon after, David was one of the first students to enroll in the education and training center that we had just launched. He was determined to not only learn to read, but to earn his GED.

Around the same time, David became a Member Organizer working in the office part time. He helped greet visitors and made the office welcome for members who were coming in. Soon enough, we saw him in the office early for his shifts with the New York Times spread out in front of him.

No matter if it was a geometry home work or an essay project for class, David gave it his all. His progress as a student was amazing and inspirational.

David continued on as a Member Organizer and earned a reputation as a legend on the phones and the doors. It was amazing to watch him make turnout calls or talk to workers in their homes, galvanizing them to become involved in their union. That's how engaging he was, how passionate he was about his union and how powerful he was as a human being.

Before long, David had created a huge network of home care providers in Detroit. The member picnic he hosted at his house last summer was a truly remarkable event.

David never let anything get in his way of his advocacy for workers rights, his strong belief in improving our communities or his sense of humor that could brighten even the darkest days.

David passed away doing what he loved, being involved in our continued struggle for improving the lives of workers and their families, during a rally for to give healthcare workers the right organize in Ohio.

He has set the example for dedication, conviction and the indomitable spirit to leave this world a better place than we found it.

He will always truly be with us in heart, mind and spirit.

In the days ahead, we'll be discussing ways to honor his life and his dedication to his fellow workers. If you have thoughts on how we can honor him, please feel free to post it here.

In Solidarity Forever,

SEIU Healthcare Michigan

April 17, 2008

Marchel Smiley, President
SEIU National AFRAM Caucus
1673 Columbia Road NM #100
Washington, DC 20009

RE: SEIU Exploits African American Women and Children at Labor Notes Conference

Dear President Smiley:

In Dearborn, Michigan on Saturday, April 12, 2008, SEIU staffers invited African American SEIU members, mostly women and children to a "rally." However, it was not a rally. It was a dinner, featuring the executive director of the C.N.A. as a guest speaker.

These SEIU members and their children were led into the hotel where violence erupted at the initiation of SEIU staff. Why were these women and children put in harms way? Why weren't they told the truth about their presence at this conference? Why were there only African Americans and their children invited, with the exception of the SEIU staffers? Why would SEIU create an environment of hostility rather than encourage and participate in the debate over differences.

We do not condone actions of the CNA raiding of Unions; nor do we condone raiding from any organization! We certainly do not and will not condone using children in violent, ill advised protests for any cause.

As African Americans, we are offended by any organization that would expose children to violence! The actions exhibited by SEIU staff at the Labor Notes Conference sent a terrible message to the labor movement and the community at large. Violence in attacking freedom of speech must be strongly condemned. Any attempt to deny the right of free speech threatens the foundation of our movement and the future of all working people.

There was one fatality that evening, Mr. David Smith, an African American Homecare Worker and member of SEIU Healthcare Michigan collapsed and died-obituary attached.

We hold SEIU Leadership, executive vice president, Mary Kay Henry accountable! The SEIU press release quoted Mary Kay as saying, "Tonight, SEIU members stood up for the future of the labor movement and called on the California Nurses Association to stop fighting with other unions and start helping us build a stronger labor movement to help all workers reclaim the American Dream." Another SEIU leader, Thomas V. De Bruin, President, SEIU Healthcare Pennsylvania, is quoted in an email he sent on April 13, 2008 as saying, "An important victory for our Union and the labor movement." This is not responsible leadership! This was an abuse of power!

President Smiley, as national AFRAM President of SEIU, we request you to publicly denounce these deplorable actions from the leadership of SEIU at the Labor Notes Conference.

Sincerely,

Sonia Askew

Sonia Askew, Vice President
AFRAM Western Region

Angela P. Glasper

Angela Glasper, Treasurer
AFRAM Western Region

Jesse Smith

Jesse Smith, President
SEIU UHW AFRAM

Lover T. Joyce

Lover Joyce, Vice President
SEIU UHW Executive Board

EXHIBIT 5

Open Letter to SEIU Members and Leaders on the Violence at the Labor Notes Conference

by S.M.A.R.T.
Thursday Apr 17th, 2008 1:48 AM

As SEIU members who attended the Labor Notes conference held on April 11-13, 2008 in Dearborn, Michigan, we denounce the attempts by SEIU International to violently disrupt a fundraising banquet on Saturday, April 12 attended by nearly one thousand labor activists from around the world who gathered to discuss ways to rebuild labor's power.

Seven busloads of SEIU staff and members (mostly from SEIU Healthcare Michigan and SEIU District 1199 WV/OH/KY) stormed the hotel to disrupt the event, allegedly to protest the scheduled keynote speech by Rose Ann DeMoro, Executive Director of the California Nurses Association. The CNA and SEIU have been engaged in a years-long conflict over organizing jurisdiction. The dispute has resulted in CNA efforts to undermine union elections with SEIU, and accusations that SEIU has sent staff to intimidate and harass CNA leaders in their homes and workplaces.

The violent action taken by some in SEIU on this night only worsened this inter-union dispute, in which workers are the big losers. It succeeded only in alienating many of the labor leaders at the event who did not agree with the CNA's actions in Ohio and Nevada.

When conference participants (mostly rank-and-filers from unions around the country) tried to stop protesters from disrupting the dinner, the protesters (including some SEIU staff) pushed their way through the crowd by throwing punches and shoving people to the ground. One UAW retiree who had organized strike support for American Axle workers that day was taken to the hospital with a head injury, and others suffered minor injuries. One protester rushed the stage and attempted to speak to the crowd.

Some of us saw an SEIU member, who had collapsed on the ground, being moved onto a stretcher by police and EMTs. On Sunday, SEIU's Michigan health care local posted an obituary for home healthcare member-David Smith. It informed Smith's co-workers that "he passed away....during a rally to give healthcare workers the right to organize in Ohio." It is tragic that a member died at this shameful protest.

This protest action by some in SEIU was an embarrassment to the labor movement. Rose Ann DeMoro had earlier announced she would not attend, a fact well-known by SEIU staff in attendance, some of whom later assisted protesters in their violent attempt at disruption. The action was unsuccessful at disrupting the rest of the conference, and the protester who spoke could not be understood by anyone. Most attendees were left offended and confused, and denounced the violence some protesters used against other rank-and-file workers. In the International SEIU's Orwellian press release, International Executive Vice-President Mary Kay Henry states:

"Open debate serves an important role as we work to strengthen our movement. The Labor Notes Conference is the right time and place to discuss our differences."

But this action was clearly intended to harass and intimidate workers, not to promote discussion and debate about the future of our movement. In fact, several workshops at the conference encouraged debate and discussion of the very issues of concern within SEIU, including the escalating war between SEIU and CNA. Among the dozens of workshops held were:

Solidarity Under Attack
Running for Union Office
Contract Campaigns and Bargaining Tactics
Organizing Immigrant Workers; Organizing Right-to-Work States
Member-Driven Organizing
Neutrality Agreements and Organizing Deals
Innovative Organizing Strategies: Building Unions from the Bottom Up
Patients' Rights, Workers' Rights
Labor Media and New Technology
Democracy is Power

These topics and more were the subject of discussion and debate all weekend at the Labor Notes conference, with full participation by SEIU members and staff. Some SEIU members and staff were disruptive and rude in these discussions; and later participated in the violent attempt to disrupt the fundraising dinner, which honored striking American Axle workers in UAW, the New York Taxi Drivers' Alliance, United Workers Baltimore, and John Sferazo, an ironworker who helped search for survivors at the World Trade Center.

From our own conversations with SEIU protesters at the conference, we learned that many had no idea they were protesting an international labor activists' conference. Staff appeared to lead the action (sometimes wearing bandannas to hide their identity) with workers following in tow who may or may not have understood what and who they were protesting. The organizers of this action put their own members and other rank-and-file union workers in harms way for an action that was a humiliating failure without any message.

As SEIU members, we believe it was precisely open debate and discussion that were the target of this hostile attack. SEIU International does not want workers learning how to build real power in our shops and in our union. SEU International does not want an open debate about democracy or worker empowerment. The International wants us to know that we become targets when we talk about democracy, worker power, and the future of the labor movement. They will evidently embrace the crudest tactics, using violence to make their point.

SEIU International failed to disrupt the conference, and will fail to silence us as members.

We call on Mary Kay Henry and SEIU International to denounce the use of violence, and specifically denounce the violent actions taken against us and other rank-and-file union workers at the Labor Notes conference on April 12, 2008.

We further call on SEIU International and Executive Vice-President Mary Kay Henry to demonstrate that "open debate serves an important role as we work to strengthen our movement." An open debate has never been encouraged at an International level in SEIU to discuss these issues, which are critical to our future. If Mary Kay and our International leaders want to demonstrate their credibility, they will entertain exactly such a debate and discussion among our membership at the 2008 Convention.

We also call upon SEIU's rank and file members to denounce the SEIU International's use violence and to tell the International Officers of SEIU that we will not tolerate the use of our union dues to attack rank-and-file union members. We are proud to be members of SEIU and call upon our International leadership to put SEIU back on the right path as a growing, dynamic member-driven union.

Sincerely,

Brian Cruz
City College of San Francisco
SEIU 2008 International Convention Delegate
SEIU Local 1021

Joe Iosbaker
Chief Steward, University of Illinois – Chicago (UIC)
Executive Board Member
SEIU Local 73

Helen York-Jones
Chief Steward, CPMC Medical Center
SEIU 2008 International Convention Delegate
SEIU UHW-West Executive Board Vice-President
(Boycotted the fundraising banquet portion of the conference to protest CNA's actions in Ohio and Nevada)

Zev Kvitky
President and Executive Director, SEIU Local 2007
Higher Education Workers-CA
SEIU California State Council

Maya Morris
Steward, Saint Francis Memorial Hospital, CHW
SEIU 2008 International Convention Delegate
SEIU UHW-West Executive Board Vice-President
(Boycotted the fundraising banquet portion of the conference to protest CNA's actions in Ohio and Nevada)

Randy Evans
Steward, University of Illinois - Chicago (UIC) Medical Center
SEIU Local 73
http://www.reformseiu.org/

New York Sun

Nurses Accuse Members of SEIU of Assault During Mich. Parley

By E.B. SOLOMONT, Staff Reporter of the Sun | April 15, 2008

A national union of nurses has accused members of the Service Employees International Union of physically assaulting some of its members at a labor conference in Michigan this past weekend.

The California Nurses Association/National Nurses Organizing Committee, an 80,000-member group affiliated with the AFL-CIO, also charged SEIU members with stalking and harassing its members in recent weeks. On Saturday night, union officials said, about 800 SEIU members converged at a Dearborn, Mich., hotel and pushed their way into a conference organized by a labor magazine, Labor Notes.

"It's disgraceful," a spokesman for the union of nurses, Charles Idelson, said. "That is just unconscionable and inexcusable."

According to witnesses, several hundred SEIU members forced their way into the hotel, shoving conference attendees. Witnesses said a 68-year-old woman, Dianne Feeley, was thrown to the ground and was taken to a local hospital to be treated for a cut on her head.

"It was a scary situation," the editor of Labor Notes, Chris Kutalik, whose arm was bruised during the skirmish, said. "It just seems ironic. The whole point of the conference was to promote unity."

SEIU officials presented a different account, saying protesters were mostly women and children who gathered to demonstrate peacefully. Officials denied any physical assault on conference attendees.

The two sides disagree on the basis for the dispute. According to a spokeswoman for SEIU, Linda Tran, the California Nurses Association interfered with a labor vote in Ohio last month, ultimately preventing nurses from joining SEIU. She also said the union of nurses has a history of building its membership by "raiding" other unions.

Mr. Idelson said SEIU has wrongfully partnered with employers, making decisions that are not always in the best interest of its members.

EXHIBIT 6

SEIU International Backs Away From Debate, Attempts Disruption at 2008 Labor Notes Conference

— The Labor Notes Staff

SEIU protesters attempt to storm the banquet at the 2008 Labor Notes Conference. Photo: Jim West.

When you are trying to put the movement back into the labor movement, you're going to meet resistance. Labor Notes supporters are no strangers to heated debate—and the SEIU International is not the first union to protest at our conference. During the 1980s, for example, we saw opponents of the New Directions Movement inside the United Auto Workers put up picket lines outside our conference hotel and had BLAST—the Brotherhood of Loyal Americans and Strong Teamsters—try to intimidate Teamster reformers attending our events.

People are going to disagree and that is fine. There is no idea that can't be discussed at a Labor Notes conference. We welcome debate on any and all issues facing the labor movement, including the heated dispute between the California Nurses Association/National Nurses Organizing Committee (CNA/NNOC) and the leaders of the Service Employees International Union (SEIU) over the best way to build power for health care workers. But that debate must take place with respect and free from intimidation. Despite being welcomed to the conference earlier in the day—and given space to debate supporters of the CNA/NNOC about neutrality organizing agreements—SEIU staff and members shouted down speakers at workshops and panels throughout the event.

At our Saturday night banquet hundreds of SEIU protesters stormed into our conference and confronted our volunteers and supporters. In 29 years we have never had a group of protesters attack our conference or the brothers and sisters who attend it. Violence has no place within our labor movement, and we call on the national leadership of SEIU, including President Andy Stern, to repudiate it.

----- Original Message -----
From: Kristen Michaels
To: Nicola Dones
Sent: Sun Apr 13 07:10:28 2008
Subject: accounts of the night

Hi Nicola,

Here is what I got from the people I talked to.

From Dave Campell Teamster for Democratic Union and Roland Day ILN Local 333 who were standing next to one another…

They started banging on the external door which were locked. Roland said "It sounded like loud drum beats". People sort of looked and laughed and continued what they were doing. This went on for 10 minutes, which gave our protectors time to get ready. But then, a few supporters, who were actually registered at the conference, ran out open the door from the inside. At which point Dave said "gentlemen here they come". About 6 guys closed the door and backed up against it. SEIU rushed the door, but were not intelligent enough to realize the door swung forward. Which meant the more they pushed, the less chance they had of getting in. They started throwing punches and pushing and shoving. There were 3 men with bandanas on. Dave pulled down one of their bandanas. This didn't make the guy very happy so he threw a punch at Dave, which knocked his glasses off. Eventually they realized they weren't going to get in so they retreated back to the bus. But then, they came back for a second assault. Dave said the teamster security open the door just a crack after SEIUers left and people from the conference rushed out to help defend the area. When SEIU returned, these brave souls formed an arm link chain line around the lobby. SEIU couldn't event get to the internal door. They continued to use violence to get past the line of defenders. This is when the women was injured. She was pushed, from the back, by a purple people eater. They tried to go around the service entrance but it was blocked by hotel staff. They retreated for the final time when the cops showed up.

Joshua Freeze was on the inside holding the door shut. An SEIU staffer who was trying to get out, to let her cronies in, clobbered him and scratched him on hand, drawing blood. He said "You might disagree but you don't act that".

Here are their phone numbers Dan [redacted]

Roland [redacted]

Joshua Freeze [redacted]

Steve Kindred (katrina has the notes from him) [redacted]

It was great meeting you and working with you this weekend.

Take care,

Kris Michaels

From: Lisa Kermish [mailto:lkermish@yahoo.com]
Sent: Monday, April 14, 2008 4:25 PM
To: Lisa Morowitz
Subject: Re: Did u go to labor notes

Yes. And I witnessed the outrageous SEIU action. I was seated at a table at the back of the banquet room, close to the door that they tried to get through. There was alot of noise in the banquet room (840 people inside just getting seated and starting in on the delightful salad course). We became aware of drums beating (literally) outside the door and alot of yelling. Then people inside the room rushed to the door to hold it closed against the interlopers. I saw flashes of purple and gold and figured who was out there. (Cliff, of course, rushed to help hold the doors shut, figuring a 67 year old man with Parkinson's could probably really be helpful.) There was alot of yelling. Someone tried to take the mic at the podium and yell something. I don't knkow if that person was with CNA or SEIU because there was so much din I couldn't hear her. "We" held the doors. The police arrived, as well as hotel security.

Mike Parker from Labor Notes took the podium and encouraged calm, saying that Labor Notes was a place for respectful discourse and disagreement and that what had just occured was not respectful and would not be tolerated and that's why they were barred from entering.

I soon thereafter left the banquet in a failed search for Weight Watchers friendly food (couldn't ear the banquet food) and saw the woman who was injured being treated by Dearborn paramedics (I passed by and overheaard them telling her she would probably need stitches). I then went outside and happened by some of the SEIU intruders. I overheard them talking (they were clearly pumped up and thought that they had succeeded in whatever their goal was). I engaged them only briefly and gently because I was clearly not an expert on the Ohio issue. I did make it clear that I thought their tactics were unacceptable and ineffective and they left me, with one of them saying to another one "If those damn nurses think they can get away with messing with us..."

Quite an introduction to my first Labor Notes conference.

btw, Jelger was there, too, fyi.

Lisa Kermish
Vice President
UPTE CWA 9119 AFL-CIO
PO Box 4443
Berkeley, CA 94704

April 14, 2008

To Whom It May Concern,

The following details are describing the incident that occurred on April 12, 2008 at the Hyatt Regency Dearborn. This incident is listed as report #08-083 in our files.

On April 12, 2008 at approximately 7:27pm, six buses carrying an unknown amount of passengers arrived on Hyatt property and proceeded to the front of the hotel. The passengers unloaded and proceeded to the front of the Grand Foyer Entrance. The group appeared to belong to the SEIU (Service Employees International Union) due to their apparel and signage. At this time a #911 emergency call was placed to the Dearborn Police Dept. and the hotel requested assistance. At approximately 7:29pm the group approached the Grand Foyer doors and attempted to enter the building. The doors were locked so the group began to pound on the glass with their hands and feet. At approximately 7:31pm three unknown males approached the Grand Foyer doors from inside the building and opened the doors so that the group could enter the property. At approximately 7:32pm the Dearborn police officers arrived on property and proceeded to enter the Grand Foyer and begin to remove the alleged SEIU group. At approximately 7:41pm it was determined that the police had removed all unwanted alleged SEIU members from the Grand Foyer. At approximately 7:51pm all buses left Hyatt property.

If I can be of any further assistance regarding this matter please contact me by phone or email.

Sincerely,

Ken Mowery
Director of Security
Hyatt Regency Dearborn
600 Town Center Dr.
Dearborn, MI. 48126
(313) 982-6806

For Immediate Release
April 12, 2008
Contact Chris Kutalik 313-378-2588 or Mischa Gaus 773-627-3205

SERVICE EMPLOYEES UNION ATTACKS LABOR GATHERING CONFERENCE-GOERS ASSAULTED Dearborn, MI—The Service Employees International Union turned their dispute with the California Nurses Association violent by attacking a labor conference April 12, injuring several and sending an American Axle striker to the hospital.

A recently retired member of United Auto Workers Local 235, Dianne Feeley, suffered a head wound after being knocked to the ground by SEIU International staff and local members. Other conference-goers—members of the Teamsters, UAW, UNITE HERE, International Longshoremen's Association, and SEIU itself—were punched, kicked, shoved, and pushed to the floor.

Dearborn police responded and evicted the three bus loads of SEIU International staff and members of local and regional health care unions.

No arrests were made.

The assault took place at the Labor Notes conference, a biennial gathering of 1,100 union members and leaders who met to discuss strategies to rebuild the labor movement.

David Cohen, an international representative of the United Electrical Workers, asked protestors why they came. He said one responded, "they told us just to get on the bus."

The protestors included several members with young children, who had to be ushered away when SEIU tried to force their way into the conference banquet hall. Protesters were targeting Rose Ann DeMoro, executive director of the AFL-CIO-affiliated CNA. DeMoro was scheduled to speak but declined to appear after threats were made against her union's leadership.

Despite being welcomed to the conference earlier in the day—and given space to debate supporters of the CNA and the National Nurses Organizing Committee about neutrality organizing agreements—SEIU international and regional staff shouted down speakers at workshops and panels throughout the event.

"Labor Notes has always been a space for open debate, but when a union decides to engage in violence against their brothers and sisters, we draw a line," said Mark Brenner, director of Labor Notes. "Violence within the labor movement is unacceptable and we call on the national leadership of SEIU, including President Andy Stern, to repudiate it."

LABOR NOTES

Published on Labor Notes (http://labornotes.org)

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The Labor Notes Staff

SEIU protesters attempt to storm the banquet at the 2008 Labor Notes Conference. Photo: Jim West.

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Source URL:
http://labornotes.org/node/1604

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http://www.indymedia.org/en/2008/04/904376.shtml

SERVICE EMPLOYEES UNION (SEIU) ATTACKS LABOR GATHERING— CONFERENCE-GOERS ASSAULTED

Fran Johnston *13 Apr 2008 14:36 GMT*

SEIU turns violent at labor conference in Detroit.

April 12, 2008

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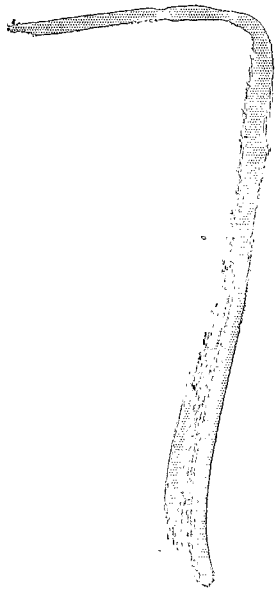
For more information, contact Chris Kutalik 313-378-2588 or Mischa Gaus 773-627-3205



From: Rose Ann DeMoro
Sent: Friday, April 18, 2008 1:59 PM
To: Pam Allen; Senior Staff
Subject: FW: Damage to Cars and other SEIU Staff Sighted

From: Gary Fritz
Sent: Friday, April 18, 2008 1:57 PM
To: Rose Ann DeMoro
Cc: Fernando Losada; Mike Griffing
Subject: Damage to Cars and other SEIU Staff Sighted

More sightings of SEIU Ohio Staff. Elvia was walking in the building and saw EJ Serrano (SEIU's organizing director, whom she worked with @AFSCME) and he was walking with a Nurse Alliance organizer from OH whom she had bumped heads at Michael Reese. She had never seen her here after Michael Reese so it seems that they continue to increase staff.

Two of our staff have had there cars damaged in the last few days. The second one happened sometime this morning. The first one had a light broke out and the gas cap was tampered with. The second one was dented in the front fender. This car had California plates.

When we checked out the report of the house call, we found that info was not correct. The person was contacted by phone.

Gary Fritz
Midwest Director
850 W. Jackson Suite 750
Chicago, IL 60607
Direct 312-941-4907
Fax 312-491-9614
Cell 773-315-2517

Support Single-Payer Universal Healthcare http://www.GuaranteedHealthcare.org

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EXHIBIT 7

CALIFORNIA NURSES ASSOCIATION
LEGAL DEPARTMENT
PAMELA ALLEN, Bar No. 139136
2000 Franklin Street, Suite 300
Oakland, California 94612
(510) 273-2200 - Phone
(510) 663-4822 - Fax

Attorneys for Plaintiffs
CALIFORNIA NURSES ASSOCIATION/
NATIONAL NURSES ORGANIZING COMMITTEE

6480049

FILED
ALAMEDA COUNTY
APR 21 2008
CLERK OF THE SUPERIOR COURT
By _____ Deputy

CALIFORNIA SUPERIOR COURT

FOR THE COUNTY OF ALAMEDA

CALIFORNIA NURSES ASSOCIATION/ NATIONAL NURSES ORGANIZING COMMITTEE, Plaintiffs, vs. ANDREW STERN and All Staff Members of SERVICE EMPLOYEES INTERNATIONAL UNION AND DOES 1 THROUGH 10, Defendants.	Case No.: RG08381780 DECLARATION OF JAN RODOLFO, RN, IN SUPPORT OF INJUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEES AND AGAINST DEFENDANTS' MOTION TO DISMISS TEMPORARY RESTRAINING ORDER (CCP § 527.8) Date: Time: Courtroom: Judge:

I, Jan Rodolfo, RN, hereby declare and state as follows:

1. I have been a licensed Registered Nurse since 1998, and have practiced in the State of California as an oncology certified nurse for approximately 8 years. Since September 2000, I have been employed at the Alta Bates Summit Medical Center located in Oakland, California. I also reside in Oakland, California.

2. I have been a member of the California Nurses Association/National Nurses

Organizing Committee (CNA/NNOC) since moving to California in 2000. I was elected as a member of the Board of Directors of CNA in September 2005 and was elected Secretary for a 2-year term, beginning in September 2007. My duties as Secretary of CNA/NNOC include keeping the minutes of proceedings of the CNA Board of Directors, serving as Chairperson of the Appointments and Scholarship Committees and, generally, fulfilling secretarial duties as designated by the CNA Board.

3. I registered to attend a conference sponsored by the organization that publishes *Labor Notes*, scheduled for April 11-13, 2008, in Dearborn, Michigan. I travelled to the conference with several other members of the CNA/NNOC Board of Directors, along with several CNA/NNOC staff persons. We were met there by a group of CNA/NNOC members from Ohio and Texas. In total, there were approximately 20 people representing CNA/NNOC at the conference. There were approximately 1100 registered attendees at the conference.

4. I arrived at the hotel where the conference was located on Friday, April 11, and planned to attend a full day of workshops, the banquet on Saturday and the half-day program scheduled for Sunday. When I woke up on Saturday morning, I learned that flyers had been placed under the doors of conference attendees staying at the hotel. The flyer was very uncomplimentary of Rose Ann DeMoro, the Executive Director of CNA/NNOC. Ms. DeMoro had been scheduled to serve as the keynote speaker at the banquet dinner on Saturday night, but made a decision on Friday, April 11 to cancel her appearance because it was rumored that representatives of the Service Employees International Union (SEIU) intended to protest her appearance. I heard a rumor that SEIU had reserved 140 rooms at a Marriott hotel, which is near the Hyatt hotel where the conference was scheduled to be held. Based on harassment that had occurred in California by SEIU organizers during the week prior to the conference, I anticipated a large presence of SEIU representatives and hoped for a robust debate on a difference of opinion the two organizations had about appropriate organizing strategies in the healthcare industry.

5. In the workshops I attended at the conference during the day on April 12, several very hostile, loud SEIU representatives interrupted with heckling about CNA and Rose Ann DeMoro whenever anyone from CNA/NNOC attempted to speak. The moderators of the

workshop panels attempted diligently to maintain decorum, with varying degrees of success. It was apparent, as anticipated, that SEIU was using the conference as a forum to disparage CNA/NNOC. Accordingly, 5 members of the CNA/NNOC staff were assigned the task of providing security for the officers and Board members in attendance, in the event hostility escalated. I was told to arrive at the dinner banquet early so that we could all sit together at tables near the front of the conference room near where one of the members of our Council of Presidents, Malinda Markowitz, would deliver the speech in place of Ms. DeMoro. We were also told to be near the front of the room because CNA/NNOC staff had toured the perimeter of the banquet room and determined that the safest exit route in the event of trouble was through a door at that end of the room and down a service hallway.

6. As instructed, our group assembled at two tables near the front of the conference room a little before the scheduled start time of the banquet. While we were waiting for dinner to begin, another member of the CNA Council of Presidents, Geri Jenkins, and I both needed to use the restroom and when we got up to leave, it was decided that we should be escorted by a CNA staff member. Accordingly, a staff person named Kevin Baker walked with us out to the lobby and waited outside the restroom door. When we came out of the restroom a few minutes later, Mr. Baker advised us that several buses had just pulled up in front of the hotel and that SEIU representatives were beginning to flood out of the buses. He instructed us to follow him immediately back to our assembled group and, just as I sat back down, another CNA staff member, Shawn Bartlett, instructed us all to "move." All of the banquet room doors were closed, but I could hear what sounded like a very large, angry crowd outside the doors and heard thunderous banging on the doors.

7. All of the CNA officers and Board members who were present followed the CNA staff members out through a door near the kitchen and down a service hall toward an emergency exit. One of the CNA staff persons was moving stacks of folding chairs and other furniture out of our way and then replacing it in the middle of the hall to block anyone who might come after us. I saw several members of the hotel kitchen and wait staff running down that hallway along with us and we all finally exited through an alarmed emergency exit out the back of the hotel. A

van was waiting there for us and as we climbed in, one of the hotel staff climbed in with us, seeking an escape. It was a very terrifying experience. When we drove around to the front of the hotel to leave the scene, I counted seven buses out in front of the hotel and saw that police cars were beginning to arrive. Only one of the CNA staff people came with us in the van, the others went back in to the hotel to round up the nurses from Ohio and Texas and take them to a safe place. The group I was with went to another hotel where we waited out the evening until we got a report that it was safe to go back to our rooms at the Hyatt.

8. I did not attend any part of the conference on Sunday, April13, as I was extremely shaken by the events of the night before and did not feel like it was safe to return. I took a flight out of Detroit Metropolitan Airport Sunday afternoon and while I was on a layover at the Salt Lake City, Utah, airport I received call on my cell phone from my domestic partner, Luisa Bissett, at approximately 7:00 PM Pacific Time, advising me that two representatives of SEIU had just been at the door to our home in Oakland. She said that she was in the shower when she heard the door bell ringing very persistently and worried that someone needed help. She got out of the shower, put on a robe on, and answered the door to find a man with a video camera focused on her and a woman asking, "Are you Jan Rodolfo?" My partner told me that she asked these people to leave and the woman persisted with her questioning and began yelling, "Shame on you. Shame on CNA." My partner closed the door and found her cell phone and called 911. She also found a digital camera and went back to the door while she was talking to a police dispatch operator so that she could provide a physical description of the individuals on our porch. As she was speaking to the dispatch operator, the man continued to videotape her and the woman continued to yell at her. Luisa took a few photographs through the screen door and kept the dispatch operator on the telephone until these people finally left, right before two police officers arrived.

9. The intruders at our home saw the police coming and ran into their car and drove away quickly. Luisa provided a report to one of the officers describing the harassment. She said that she felt very vulnerable because the people appeared very angry and were very persistent in defying her request that they leave our property. She estimated that they were at our house for

approximately twenty minutes before the police cars approached and that when they left, the man said, "We know where you live, we'll be back."

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 21, 2008 at Oakland, California.

JAN RODOLFO, RN

CALIFORNIA NURSES ASSOCIATION
LEGAL DEPARTMENT
PAMELA ALLEN, Bar No. 139136
2000 Franklin Street, Suite 300
Oakland, California 94612
(510) 273-2200 - Phone
(510) 663-4822 - Fax

Attorneys for Plaintiff
MARGIE KEENAN

6480053

FILED
ALAMEDA COUNTY
APR 21 2008
CLERK OF THE SUPERIOR COURT
By _____ Deputy

CALIFORNIA SUPERIOR COURT

FOR THE COUNTY OF ALAMEDA

MARGIE KEENAN, Plaintiff, vs. SERVICE EMPLOYEES INTERNATIONAL UNION AND DOES 1 THROUGH 10, Defendants.	Case No.: DECLARATION OF MARGIE KEENAN IN SUPPORT OF REQUEST FOR TEMPORARY RESTRAINING ORDER (CCP § 527.8) Date: Time: Courtroom: Judge:

I, Margie Keenan, hereby declare and state as follows:

1. I am a Registered Nurse, licensed in the State of California since 1973, and serve as a member of the Board of Directors of the California Nurses Association/National Nurses Organizing Committee (CNA/NNOC), a position I have held since May, 2001. I have been employed as a Registered Nurse at Long Beach Memorial Hospital for approximately thirty four and a half years. I reside in Long Beach and have lived at my current address (intentionally omitted for safety reasons) since July 2000.

2. CNA/NNOC is a nonprofit professional nursing association and labor

organization of more than 80,000 Registered Nurses. CNA/NNOC exists and operates for various purposes, including to promote standards of nursing practice and to represent Registered Nurses in relations with their employers concerning terms and conditions of employment and standards of professional practice and patient care. In or about early March, 2008, CNA/NNOC expressed opposition to an effort on the part of another labor organization, the Service Employees International Union (SEIU), to represent Registered Nurses and other healthcare workers employed by a hospital chain in Ohio known as Catholic Healthcare Partners. CNA/NNOC opposed that effort as anti-democratic and against the interests of the Registered Nurses employed by Catholic Healthcare Partners because it involved an election that was not requested by the employees, but, rather, by the employer pursuant to an agreement between the employer and SEIU. Traditionally, union elections are conducted after a petition filed on behalf of the employees supported by a verified showing of at least thirty percent support among the employees.

3. In response to CNA/NNOC opposing the planned SEIU elections in Ohio, the employer withdrew the election petitions and SEIU launched a campaign against CNA/NNOC, essentially "declaring war" in retaliation for CNA/NNOC's call for workplace democracy.

4. As part of its campaign against CNA/NNOC, SEIU sent a great number of its labor organizers to California within the past ten days. On information and belief, more than one hundred paid employees of SEIU have come to California for the express purpose of attempting to obtain signatures from CNA/NNOC members on petitions to decertify CNA/NNOC as their collective bargaining representative and/or to support a petition for deauthorization of membership dues payment and, generally, to create disaffection with CNA/NNOC among its membership. I am attaching hereto as Exhibit 1 several documents I have downloaded from the SEIU web site (www.seiu.org) and the link thereon to a website known as www.shameoncna.com.

5. Last week I received three mailers from SEIU as part of its anti-CNA/NNOC campaign, each of which was sent to my home address through the U.S. mail. Attached hereto as Exhibit 2 are true and correct copies of those mailers.

working and they asked whether they could find me on another unit. When the secretary said that I was not scheduled to work that day, they reportedly left the unit and met two other people in a hallway immediately outside of the unit. I discussed with the unit secretary the fact that it was odd that anyone could get into the hospital and up on to our unit without either an employee or visitor's badge and asked her to alert everyone on the unit to watch for unauthorized persons.

8. Shortly after the police left my house on the evening of April 10, I contacted CNA/NNOC staff persons to advise them of what happened. As I was giving them an account of events, they received a telephone call from another CNA/NNOC Board member, Debbie Cuaresma, who reported that a group of five people had come to her house in Bolden Park, similarly seeking to "talk to her about Ohio." I felt very unsettled and frightened by these events, so much so that I did not feel able to report to work on Saturday or Sunday, April 12 and 13, which were my next scheduled days of work. I called in sick both of those days and learned over the weekend of a number of events that have only increased my fear and concern for my personal safety.

9. I learned that on Saturday evening, April 12, hundreds of protestors from SEIU broke through security and stormed into a conference at a Hyatt Hotel in Dearborn, Michigan, at which the Executive Director of CNA/NNOC was scheduled to speak. The conference was sponsored by an organization known as "Labor Notes" and was scheduled to run from Friday, April 11 through Sunday, April 13. Our Executive Director was scheduled to give the keynote address on Saturday evening, but, ultimately, cancelled her appearance because of rumors that SEIU planned to disrupt the event. Some of the CNA/NNOC Board members attended the conference and were present on Saturday evening at the conference banquet when hundreds of people who were not registered for the conference began banging on doors to the banquet room, which had been locked based on rumors of a planned disruption. According to reports of those present, the banging stopped after approximately ten minutes and it was believed that the protestors retreated, but when security personnel opened the door to check, hundreds of people wearing SEIU logo shirts, carrying anti-CNA/NNOC picket signs stormed into the room and began fighting toward the front of the room where the speaker's podium was located. Security

6. At approximately 4:30 p.m. on Thursday, April 10, 2008, I was disturbed at home by loud knocking on my front door. I stood up from where I was sitting in a room at the back of my house and looked into the living room and saw four individuals standing on the patio in front of my house. There were three women and one man. Two of the women were peering in through the window and the man was holding a video camera. They began yelling loudly, demanding that I come and speak with them in a very aggressive, boisterous manner. I did not recognize any of the individuals. All of them appeared to be in their early thirties. The man was tall and all three of the women had a slight build. I became very scared, as they continued yelling and pounding on my door, so I dialed 911 and asked the operator to dispatch police as soon as possible. While I was waiting for the police to arrive, I climbed the stairs to the second floor of my house and went quietly to a balcony to wait for the police. After several minutes, they began to leave, then saw me on the balcony and began yelling again. They yelled words to the effect of, "Come down here! We want to talk to you about Ohio!" I went immediately back into the house and waited for the police to arrive. By the time the police came, the intruders were gone. I gave an account of these events to the City of Long Beach police officers who responded to my call, including a description of the individuals, the white hatchback style car they left in and as much of the license plate number of the car as I was able to obtain before they left. Attached as Exhibit 3 is a copy of a "Calls-For-Service" report I obtained from the Long Beach Police Department.

7. I was very frightened by the approach at my home on April 10 because it was extremely aggressive and hostile, and I live alone. Shortly after they left my house, I received a telephone call on my home phone and the caller asked for me by name. I recognized the voice as one of the intruders and immediately hung up the phone. I was very concerned that they had my home address and home telephone number, so I called the unit I work on at Long Beach Memorial Hospital to ask my coworkers to post a message by the telephone on my unit instructing everyone not give out any information about me. When I called, the unit secretary (name deliberately omitted for safety) told me that two women had come on to the unit that afternoon without visitor badges asking to speak with me. The secretary told them that I was not

personnel took CNA/NNOC Board members who were in attendance out of the banquet room and through a back hall to safety. The Dearborn police department responded and ordered the protestors to leave. It is reported that the protestors filled three buses and that, while they obeyed police orders to disperse, they left in a very loud, angry manner, shouting epithets and other disparaging remarks about CNA/NNOC. I am attaching hereto as Exhibit 4 a copy of a statement issued by Labor Notes on Sunday, April 13, condemning the invasion by SEIU agents. I am attaching hereto as Exhibit 5, collectively, reports of the invasion sent by two individuals who were in attendance at the conference and near the back of the room when the SEIU agents entered.

10. In addition to the incident at the conference on Saturday evening, I have learned that several other CNA/NNOC Board members were disturbed at their homes this weekend and again today in the same manner as the incident that occurred at my home last Thursday. The other Board members who have had similar disturbances at their homes live in Los Angeles, Alameda and Santa Clara Counties. I also learned that a video tape was made of persons who came to my home on Friday, April 11 when I was not home and knocked on my door in a calm manner, asking to speak to me. The video is posted on You-Tube at the following link: http://youtube.com/watch?v=nGw2QJTgw41. The two women captured in that video are not the people who came to my house on April 10, nor are they behaving even remotely in the manner of the very aggressive, hostile group of people who came to my home on April 10. While the video on You-Tube does not depict frieghtening conduct in and of itself, it makes me very uncomfortable and afraid for my safety to have a video with my name and information about where I live posted on the internet by an organization that has openly condemned me and the organization that I have been elected to serve. I genuinely am fearful for my physical safety as a result of the events described above.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 14, 2008 at Long Beach, California.

Margie Keenan RN

MARGIE KEENAN, RN

Service Employees International Union® CTW, CLC 1.8 Million members and growing

Campaign Unavailable

We're sorry, this alert is no longer available.

The short explanation of this alert was:

Over the past three years, more than 8,000 nurses and healthcare workers at Catholic Healthcare Partners—the largest hospital system in Ohio—worked with SEIU members and organizers to win an opportunity to form a union.

In February, they had a breakthrough when they won the opportunity to make the decision without interference or pressure of any kind.

But just days before they were set to vote to form a union, the California Nurses Association came to Ohio and disrupted the elections.

CNA accused SEIU of being "undemocratic" and claimed the ground rules the hospital workers had achieved were a "back-room" deal.

After CNA succeeded in derailing the elections, it actually told the Cincinnati Enquirer that stopping workers from voting to form a union was a "victory".

If you would like to view details on this alert, please visit here.

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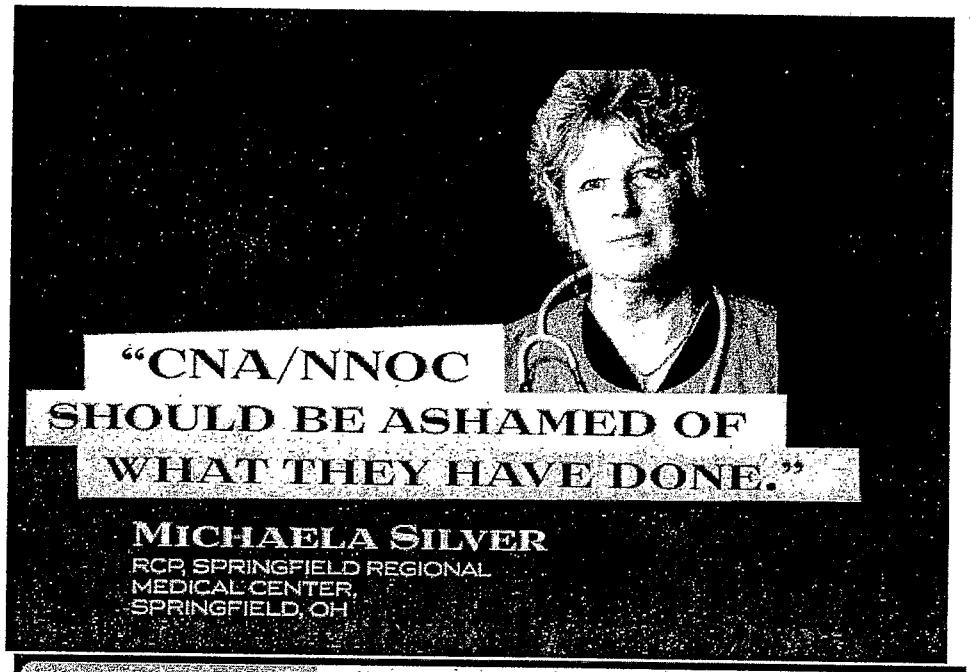
"CNA/NNOC don't show respect for hard-working people."

–LORI COMPTON
RCP, URBANA, OH

STAND UP!
click to sign SEIU's petition

PRIVACY POLICY



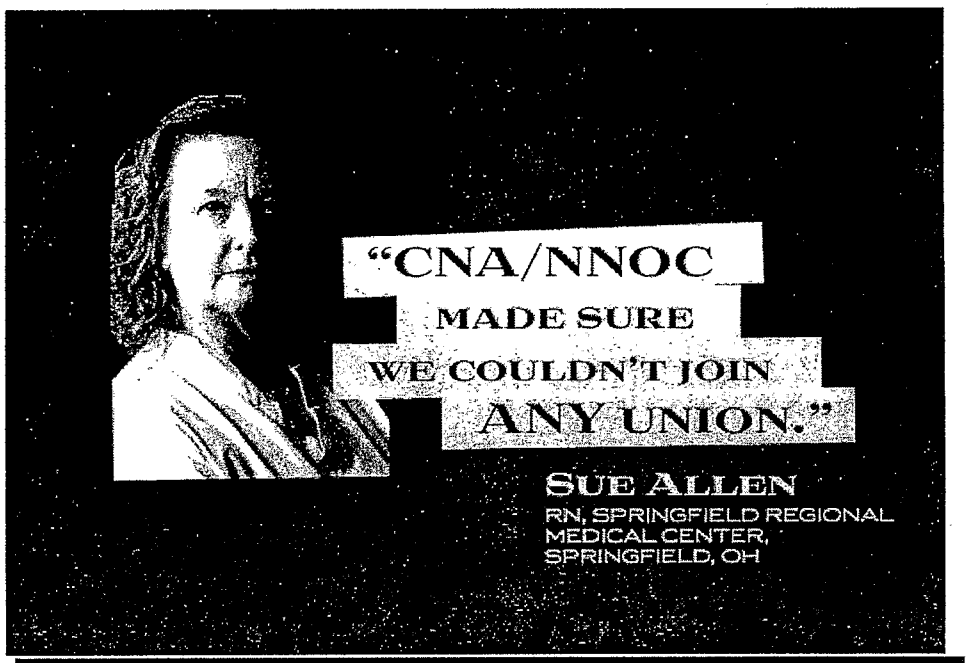
LATEST DEVELOPMENTS Nurse union sinks effort at peaceful vote

"CNA/NNOC's sole intention was to destroy what we have built"

-PEGGY VAUGHN
RN, CINCINNATI, OH

STAND UP!
click to sign SEIU's petition

PRIVACY POLICY



LATEST DEVELOPMENTS Nurse union sinks effort at peaceful vote

"They should be ashamed of what they have done."

-MICHAELA SILVER
RCR, SPRINGFIELD, OH

STAND UP!
click to sign SEIU's petition

PRIVACY POLICY

"CNA/NNOC'S SOLE INTENTION WAS TO DESTROY WHAT WE HAVE BUILT"

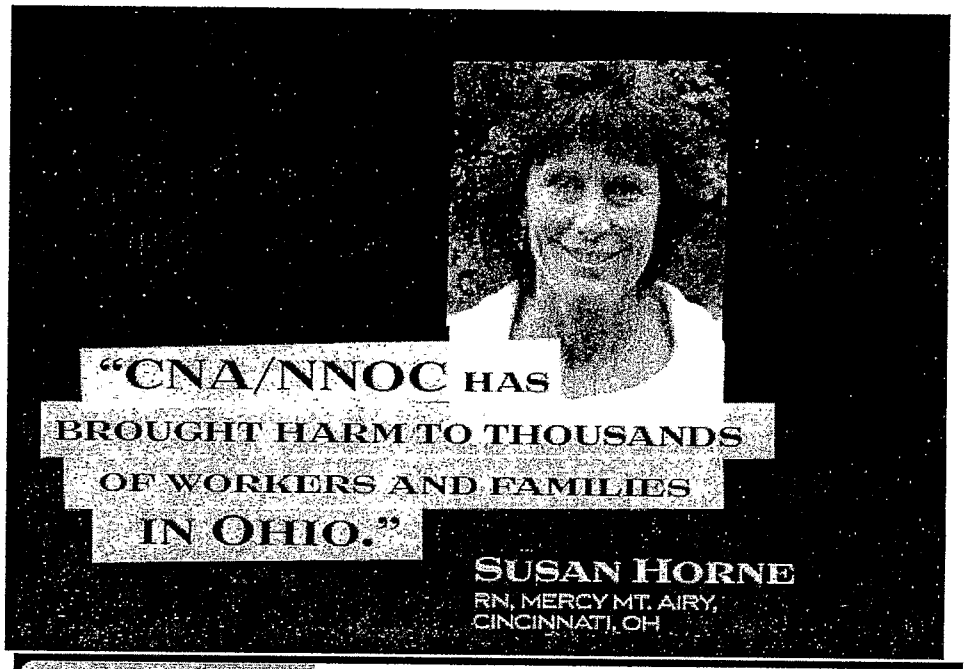
PEGGY VAUGHN
RN, MERCY WESTERN HILLS,
CINCINNATI, OH

LATEST DEVELOPMENTS | Nurse union sinks effort at peaceful vote

"CNA/NNOC has brought harm to thousands of workers and families in Ohio."

-SUSAN HORNE
RN, CINCINNATI, OH

STAND UP!
click to sign SEIU's petition



PRIVACY POLICY

LATEST DEVELOPMENTS Nurse union sinks effort at peaceful vote

"CNA/NNOC has brought harm to thousands of workers and families in Ohio."

-SUSAN HORNE
RN, CINCINNATI, OH

STAND UP!
click to sign SEIU's petition

HAD A BAD CNA EXPERIENCE?
click to e-mail or call us at
1.800.577.1635

PRIVACY POLICY

Over the past three years, more than 8,000 nurses and healthcare workers at Catholic Healthcare Partners - the largest hospital system in Ohio - worked with SEIU members and organizers to win an opportunity to form a union.

In February, they had a breakthrough when they won the opportunity to make the decision without interference or pressure of any kind.

But just days before they were set to vote to

SIGN PETITION AT SEIU'S WEBSITE

2

"Nurses like me worked for years to be able to join a union. But the California Nurses Association thought they knew better."

—SUE ALLEN
RN, SPRINGFIELD REGIONAL MEDICAL CENTER, SPRINGFIELD, OH

WWW.SHAMEONCNA.COM

SEIU Healthcare
United for Quality Care

SEIU Healthcare
1800 Massachusetts Avenue, NW
Washington DC 20036

MARGARET KEENAN
LONG BEACH CA 90803-3444

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FIRST-CLASS
U.S. POSTAGE
PAID
COMPLETE MAIL SRV

"Thanks to CNA/NNOC's union-busting, people like me still don't have a union standing up for our rights."

—CYNTHIA REYNOLDS

NURSE TECHNICIAN,
SPRINGFIELD REGIONAL
MEDICAL CENTER,
SPRINGFIELD, OH

LEARN MORE AT
WWW.SHAMEONCNA.COM

SEIU Healthcare
United for Quality Care

SEIU Healthcare
1800 Massachusetts Avenue, NW
Washington DC 20036

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**********ECRLOT**C039 P-6 P604
MARGARET M KEENAN
[redacted]
LONG BEACH CA 90803-3444

49034

SEIU Healthcare
United for Quality Care

SEIU Healthcare
1800 Massachusetts Avenue, NW
Washington DC 20036

**********ECRLOT**C039 P-5 P604
MARGARET M KEENAN
[redacted]
LONG BEACH CA 90803-3444

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CHIQ PAGE NO.0001 8098 A18F 04-14-2008 12:14
LONG BEACH POLICE DEPARTMENT
CALLS-FOR-SERVICE INQUIRY RESPONSE

INITIATE:	16:31:08 04-10-2008	CALL NUMBER:	081011725
ENTRY:	16:31:08	CURRENT STATUS:	CLOSED
DISPATCH:	16:34:26	PRIMARY UNIT:	2C9
ON SCENE:	16:57:56	JURISDICTION	P
CLOSE:	17:31:57	DISPOSITION:	ADV

LOCATION: 132 GLENDORA AV , CLB (E 1ST ST & DIVISION ST)
DAREA: 2
BEAT: 10 TYPE: UNWELC UNWELCOME GUEST
RD: 571 PRIORITY: 2
FIRE: 08C207 PRIOR HISTORY

CP: [redacted]
ADDRESS: [redacted]
PHONE: [redacted]

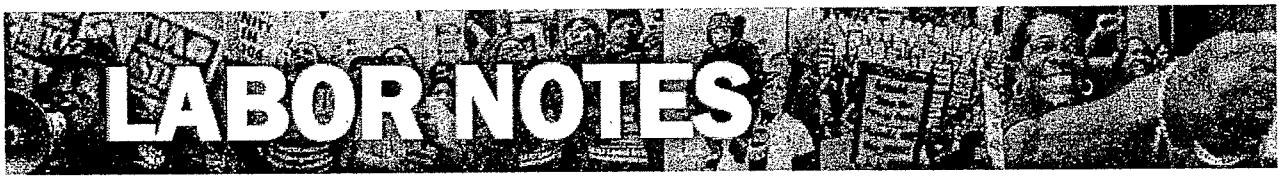
04-10-2008

16:34:12	PD20	ENTRY	TX:415 UNWELC...CP STS THAT THERE ARE 3 MALES AND 1 FE BANGING ON HER DOOR...CP SOUNDS A LITTLE 5150 AND STS THAT THE SUBJS CAME UP TO HER DOOR WITH A VIDEO CAMERA... VEH IS A WHI SEDAN TYP VEH THAT THEY PULLED UP IN...CP IS VERY NERVOUS AND SAYS THAT THEY ARE GOING TO GET IN HER HOUSE 911-NM [redacted] ORIGIN:RESD
16:34:12	PD20	MAP	PAGE:826B2
16:34:26	PD07	DISP-ENR	2C9
16:34:26	PD07	ID	2C9 <5838>BROWN,RODNEY J
16:52:31	T911	BACK-ENR	2C9 2C13
16:52:31	T911	ID	2C13 <6135>DENMION,ERIC D
16:55:51	PD18	SUPP	TX:STILL NEEDED,, CP ADV UNIT ER ,,WANTS CONT
16:56:04	PD07	VIEWED	
16:57:56	T818	ONSCENE	2C9
17:01:02	PD07	BACK-ONS	2C9 2C10
17:01:02	PD07	ID	2C10 <5872>OTTO,VINCENT C
17:01:34	T911	INSRVICE	2C13
17:03:29	T818	INSRVICE	2C9
17:31:57	T821	CLEAR	2C10 ADV
17:31:57	T821	CLOSE	

OPERATOR ASSIGNMENTS:	PD20	8172	DAILEY,DUANA
	PD07	7015	SANSENBACH,LAURA E
	T911	6135	DENMION,ERIC D
	PD18	7134	GRIGGS,LESLIE R
AS OF 04-10-2008-16:56:04	PD07	8333	GRAHAM,STEPHANIE A
	T818	5838	BROWN,RODNEY J
	T821	5872	OTTO,VINCENT C

**** REPORT COMPLETED ****

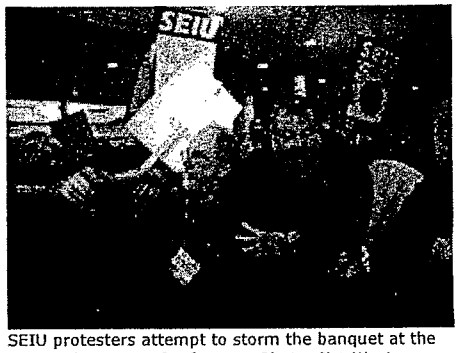
4



Published on Labor Notes (http://labornotes.org)

SEIU International Backs Away From Debate, Attempts Disruption at 2008 Labor Notes Conference

The Labor Notes Staff



SEIU protesters attempt to storm the banquet at the 2008 Labor Notes Conference. Photo: Jim West.

When you are trying to put the movement back into the labor movement, you're going to meet resistance. Labor Notes supporters are no strangers to heated debate—and the SEIU International is not the first union to protest at our conference. During the 1980s, for example, we saw opponents of the New Directions Movement inside the United Auto Workers put up picket lines outside our conference hotel and had BLAST—the Brotherhood of Loyal Americans and Strong Teamsters—try to intimidate Teamster reformers attending our events.

People are going to disagree and that is fine. There is no idea that can't be discussed at a Labor Notes conference. We welcome debate on any and all issues facing the labor movement, including the heated dispute between the California Nurses Association/National Nurses Organizing Committee (CNA/NNOC) and the leaders of the Service Employees International Union (SEIU) over the best way to build power for health care workers. But that debate must take place with respect and free from intimidation. Despite being welcomed to the conference earlier in the day—and given space to debate supporters of the CNA/NNOC about neutrality organizing agreements—SEIU staff and members shouted down speakers at workshops and panels throughout the event.

At our Saturday night banquet hundreds of SEIU protesters stormed into our conference and confronted our volunteers and supporters. In 29 years we have never had a group of protesters attack our conference or the brothers and sisters who attend it. Violence has no place within our labor movement, and we call on the national leadership of SEIU, including President Andy Stern, to repudiate it.

Source URL:
http://labornotes.org/node/1604

For Immediate Release
April 12, 2008
Contact Chris Kutalik 313-378-2588 or Mischa Gaus 773-627-3205

SERVICE EMPLOYEES UNION ATTACKS LABOR GATHERING CONFERENCE-GOERS ASSAULTED Dearborn, MI—The Service Employees International Union turned their dispute with the California Nurses Association violent by attacking a labor conference April 12, injuring several and sending an American Axle striker to the hospital.

A recently retired member of United Auto Workers Local 235, Dianne Feeley, suffered a head wound after being knocked to the ground by SEIU International staff and local members. Other conference-goers—members of the Teamsters, UAW, UNITE HERE, International Longshoremen's Association, and SEIU itself—were punched, kicked, shoved, and pushed to the floor.

Dearborn police responded and evicted the three bus loads of SEIU International staff and members of local and regional health care unions.

No arrests were made.

The assault took place at the Labor Notes conference, a biennial gathering of 1,100 union members and leaders who met to discuss strategies to rebuild the labor movement.

David Cohen, an international representative of the United Electrical Workers, asked protestors why they came. He said one responded, "they told us just to get on the bus."

The protestors included several members with young children, who had to be ushered away when SEIU tried to force their way into the conference banquet hall. Protesters were targeting Rose Ann DeMoro, executive director of the AFL-CIO-affiliated CNA. DeMoro was scheduled to speak but declined to appear after threats were made against her union's leadership.

Despite being welcomed to the conference earlier in the day—and given space to debate supporters of the CNA and the National Nurses Organizing Committee about neutrality organizing agreements—SEIU international and regional staff shouted down speakers at workshops and panels throughout the event.

"Labor Notes has always been a space for open debate, but when a union decides to engage in violence against their brothers and sisters, we draw a line," said Mark Brenner, director of Labor Notes. "Violence within the labor movement is unacceptable and we call on the national leadership of SEIU, including President Andy Stern, to repudiate it."

----- Original Message -----
From: Kristen Michaels
To: Nicola Dones
Sent: Sun Apr 13 07:10:28 2008
Subject: accounts of the night

Hi Nicola,

Here is what I got from the people I talked to.

From Dave Campell Teamster for Democratic Union and Roland Day ILN Local 333 who were standing next to one another…

They started banging on the external door which were locked. Roland said "It sounded like loud drum beats". People sort of looked and laughed and continued what they were doing. This went on for 10 minutes, which gave our protectors time to get ready. But then, a few supporters, who were actually registered at the conference, ran out open the door from the inside. At which point Dave said "gentlemen here they come". About 6 guys closed the door and backed up against it. SEIU rushed the door, but were not intelligent enough to realize the door swung forward. Which meant the more they pushed, the less chance they had of getting in. They started throwing punches and pushing and shoving. There were 3 men with bandanas on. Dave pulled down one of their bandanas. This didn't make the guy very happy so he threw a punch at Dave, which knocked his glasses off. Eventually they realized they weren't going to get in so they retreated back to the bus. But then, they came back for a second assault. Dave said the teamster security open the door just a crack after SEIUers left and people from the conference rushed out to help defend the area. When SEIU returned, these brave souls formed an arm link chain line around the lobby. SEIU couldn't event get to the internal door. They continued to use violence to get past the line of defenders. This is when the women was injured. She was pushed, from the back, by a purple people eater. They tried to go around the service entrance but it was blocked by hotel staff. They retreated for the final time when the cops showed up.

Joshua Freeze was on the inside holding the door shut. An SEIU staffer who was trying to get out, to let her cronies in, clobbered him and scratched him on hand, drawing blood. He said "You might disagree but you don't act that".

Here are their phone numbers Dan 262-251-7486

Roland 443-831-5051

Joshua Freeze 512-423-9714

Steve Kindred (katrina has the notes from him) 917-679-0275

It was great meeting you and working with you this weekend.

Take care,

Kris Michaels

From: Lisa Kermish [mailto:lkermish@yahoo.com]
Sent: Monday, April 14, 2008 4:25 PM
To: Lisa Morowitz
Subject: Re: Did u go to labor notes

Yes. And I witnessed the outrageous SEIU action. I was seated at a table at the back of the banquet room, close to the door that they tried to get through. There was alot of noise in the banquet room (840 people inside just getting seated and starting in on the delightful salad course). We became aware of drums beating (literally) outside the door and alot of yelling. Then people inside the room rushed to the door to hold it closed against the interlopers. I saw flashes of purple and gold and figured who was out there. (Cliff, of course, rushed to help hold the doors shut, figuring a 67 year old man with Parkinson's could probably really be helpful.) There was alot of yelling. Someone tried to take the mic at the podium and yell something. I don't knkow if that person was with CNA or SEIU because there was so much din I couldn't hear her. "We" held the doors. The police arrived, as well as hotel security.

Mike Parker from Labor Notes took the podium and encouraged calm, saying that Labor Notes was a place for respectful discourse and disagreement and that what had just occured was not respectful and would not be tolerated and that's why they were barred from entering.

I soon thereafter left the banquet in a failed search for Weight Watchers friendly food (couldn't ear the banquet food) and saw the woman who was injured being treated by Dearborn paramedics (I passed by and overheaard them telling her she would probably need stitches). I then went outside and happened by some of the SEIU intruders. I overheard them talking (they were clearly pumped up and thought that they had succeeded in whatever their goal was). I engaged them only briefly and gently because I was clearly not an expert on the Ohio issue. I did make it clear that I thought their tactics were unacceptable and ineffective and they left me, with one of them saying to another one "If those damn nurses think they can get away with messing with us..."

Quite an introduction to my first Labor Notes conference.

btw, Jelger was there, too, fyi.

Lisa Kermish
Vice President
UPTE CWA 9119 AFL-CIO
PO Box 4443
Berkeley, CA 94704

6499996

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Attorneys for Plaintiffs
CALIFORNIA NURSES ASSOCIATION/
NATIONAL NURSES ORGANIZING COMMITTEE

FILED
ALAMEDA COUNTY
APR 22 2008
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Noted. 4/22

CALIFORNIA SUPERIOR COURT

FOR THE COUNTY OF ALAMEDA

CALIFORNIA NURSES ASSOCIATION/NATIONAL NURSES ORGANIZING COMMITTEE. Plaintiffs, vs. ANDREW STERN and All Staff Members of SERVICE EMPLOYEES INTERNATIONAL UNION AND DOES 1 THROUGH 10, Defendants.	Case No.: RG08381780 MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO DEFENDANT'S MOTION TO VACATE TEMPORARY RESTRAINING ORDER AND IN SUPPORT OF INJUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEES (CCP § 527.8) Date: Time: Courtroom: Dept. 102 Judge: Hon. Jon Rantzman

I. INTRODUCTION

The temporary restraining order issued by this Court on April 16 to protect plaintiff's employees, officers and directors from further harassment, stalking, violence and threats of violence by agents of the Service Employees International Union (SEIU) was properly granted under C.C.P. § 527.8. Defendant's motion to vacate that order on the theory that the conduct at issue may only be enjoined in accordance with the procedural requirements of Labor Code § 1138.1 applicable to a "labor dispute" must be denied.

Plaintiff petitioned the Court on behalf of its employees and directors based on a pattern of actual conduct that would lead any reasonable person to fear for their safety. While plaintiff has not been able to identify by name all of the individuals who have engaged in unlawful activity targeted at its employees and directors, it has provided more than adequate evidence supporting the need for a TRO ordering the highest officer of SEIU to stop the staff members of SEIU from stalking, harassing and threatening the employees and directors of the California Nurses Association/National Nurses Organizing Committee (CNA).

The fact that the individuals protected and restrained by the TRO are both employed by labor unions does not deprive the Court of jurisdiction to prohibit the conduct at issue under C.C.P. § 527.8. This case does not involve a "labor dispute" as that term is used in Labor Code § 1138.1, officers and employees of labor unions cannot be deprived of the protections of C.C.P. § 527.8 merely because of their status as labor union employees, and as it is defined in C.C.P. § 527.3. The special restrictions and procedural prerequisites imposed on California Courts under Labor Code § 1138.1 for enjoining unlawful activities arising out of a labor dispute do not apply in this case.

II. STATEMENT OF FACTS

The petition for the TRO issued in this case was based on an escalating series of events which, by Tuesday April 15, included numerous very alarming stalking incidents targeted at CNA Board members and employees at work, in their cars and at their homes over the course of the last six weeks, compounded by a completely terrifying, violent invasion by a mob of 800

SEIU agents targeted at CNA representatives attending a conference banquet on April 12. Those incidents, coupled with a growing body of widely distributed SEIU documents vilifying CNA and its executive director, personally, as part of a well-orchestrated and publicized campaign to "remove" CNA, were more than sufficient to strike fear in the mind of any reasonable person.

As announced in a memorandum dated March 13, 2008 from Dennis Rivera, Chair of the Council of SEIU Healthcare Leaders, the SEIU Healthcare Steering Committee passed a resolution on March 12, pledging to "plan and execute a comprehensive national program to take all lawful action feasible in an (sic) campaign directed at CNA . . . [and to] dedicate the necessary financial and human resources in order to carry out this critical program." The same memorandum announces an April 12 resolution passed by the Nurse Alliance of SEIU Healthcare Executive Committee "to take on CNA with an aggressive, bold, comprehensive, strategic campaign . . . to move fast with the entire resources of our Union behind us to ensure that CNA is stopped once and for all." (See Declaration of Michael Lighty ("Lighty Decl.) at ¶ 5 and Exh. 1.)

Prior to the passage of those resolutions, CNA organizers were stalked by SEIU agents while leafletting outside hospitals in Ohio. They were followed, run off the road and generally harassed in a very aggressive, frightening manner. (See Declaration of Michelle Mahon dated April 21, 2008.) Unlawful conduct of a similar nature has only increased since SEIU embarked on its campaign against CNA. Beginning in late March, 2008, CNA received frequent, abusive telephone calls from purported SEIU members to the main reception lines at its various offices, as well as to cell phones carried by CNA staff members. SEIU established a website (www.shameoncna.com) for the purpose of condemning CNA and began sending a series of glossy campaign mailers from its Washington, D.C. headquarters to the homes thousands of

licensed registered nurses in California, similarly criticizing CNA. The campaign escalated with SEIU deploying a reported 200 organizers to hospital facilities in Southern California at which CNA represents Registered Nurses for purposes of distributing anti-CNA literature and attempting to engage nurses in conversation for purposes of disparaging CNA. (Lighty Decl. at ¶¶ 6-7.)

As the hospital visits expanded to Northern California facilities, SEIU agents began appearing unannounced at the homes of members of the CNA Board of Directors, starting with a visit to Margie Keenan's home in Long Beach late on the afternoon of April 10. Ms. Keenan describes a very frightening visit to her home by four individuals on April 10, and how her fear increased after she learned that SEIU agents had come to the unit she works on at Long Beach Memorial Hospital and pressed a coworker for information concerning her whereabouts. She discovered that a second, attempted house visit was videotaped and posted for public viewing on You-Tube a few days after the initial visit, evidencing repeated harassment and causing her to feel vulnerable and exposed. A "call-for-service" report prepared by the Long Beach Police Department effectively memorializes the state of mind of Nurse Keenan as she spoke to a police dispatch operator while the SEIU agents were outside her home. (See Declaration of Margie Keenan, Exhibit 3.) Nurse Keenan missed two days of work following these events because she felt so "unsettled and frightened."

The visits to Nurse Kennan's house were followed by similar uninvited incidents at the homes of 12 other CNA Board members. Veronica Rocha describes SEIU agents waiting for her outside her boyfriend's house on April 12, and a terrifying car chase that followed while she was on the way to a memorial service in honor of her recently deceased uncle. The car chase was extremely anxiety provoking in its own right, but was made even worse by the fact that her

daughter was present with her at the time. Nurse Rocha describes nervousness, loss of sleep and fear of further incidents. (See Declaration of Veronica Rocha dated April 22.)

The Declarations of Martha Kuhl, Carol Koelle, Maureen Dugan, and Luisa Bissett describe similar unwelcomed, loud and frightening visits to their homes. The Declarations of Jan Rodolfo, Geraldine Jenkins and Malinda Markowitz describe the now infamous invasion of the conference at the Hyatt Hotel in Dearborn, Michigan, and the fact that SEIU agents came to each of their homes immediately following the conference they were forced to run from for fear of a physical attack. All of these witnesses describe continuing to feel anxious, hyper vigilant and fearful for their safety and the safety of those around them.

SEIU's attempt to characterize the conduct at issue in this case as protected free speech within the norm of the labor community is outrageous. The attack at the conference on April 12 resulted in several injuries and the tragic death of one of its own members who suffered a fatal heart attack during the invasion. CNA officers and staff members who were at the event remain shaken still. The violent invasion has been criticized by many, perhaps most poignantly by leaders of SEIU's own African American Caucus who condemned SEIU's actions in a letter dated April 17 protesting the exploitation of hundreds of African American members who were recruited to participate through deliberately deceptive means. A second letter from another group of SEIU leaders, also written on April 17, strongly denounces SEIU's display of violence directed at CNA personnel. (Letters attached as Exhibit 5 to the Lighty Decl.)

The stalking and harassment of individual CNA officers did not stop after the Dearborn event. CNA employees in Chicago have reported vandalism to their cars and believe that SEIU agents who have been seen lurking about are responsible. Out of concern for the physical safety of its officers and employees, CNA has taken several security precautions at significant expense.

The CNA headquarters building was examined by a security company and potential vulnerabilities on exterior doors and throughout the building were reinforced. 24-hour security guards have been hired for the first time in the 105-year history of the organization to protect the personnel and premises at CNA's largest offices and security cameras have been installed. (Lighty Decl. at ¶¶ 14-16.)

Virtually all CNA officers and staff members have expressed continuing anxiety about their personal safety. Out of genuine concern for the personal safety of its officers, directors, staff, and their families, CNA petitioned this Court for a temporary restraining order against SEIU and its President, Andy Stern, in an effort to stop future unlawful activity.

III. ARGUMENT

A. The Prerequisites For Issuing A Temporary Restraining Order Pursuant to Section 527.8 Have Been Met in This Case.

Code of Civil Procedure § 527.8, read in conjunction with Labor Code § 6400, establishes an express public policy requiring employers to provide a safe and secure workplace, including the requirement that an employer take reasonable steps to address credible threats of violence in the workplace. C.C.P. § 527.8 (a) provides that:

> Any employer, whose employee has suffered unlawful violence or a credible threat of violence from any individual, that can reasonably be construed to be carried out or to have been carried out at the workplace, may seek a temporary restraining order and an injunction on behalf of the employee and, at the discretion of the court, any number of other employees at the workplace, and, if appropriate, other employees at other workplaces of the employer.

The prohibited acts for which an employer is entitled to an injunction are defined in 527.8(b) as follows:

members are employed and, in addition, have engaged in actions clearly designed to annoy and frighten the elected officers and employees of CNA.

Defendant's characterization of its agents' conduct as nothing more than the exercise of constitutionally protected free speech is belied by the fact that the elected officers of SEIU at the highest level passed explicit resolutions in March 2008, pledging, among other things, "to take on the C.N.A. with an aggressive, bold, comprehensive, strategic campaign . . . [and to] move and move fast with the entire resources of our Union behind us to ensure that C.N.A. is stopped once and for all." That bold and strategic campaign included a terrifying invasion of a conference by a reported 800 agents of SEIU who targeted CNA personnel while engaged in menacing, violent activity.

The fact that no CNA officers or employees were physically harmed by the violence during that invasion (though others were) does not mean that the conduct did not seriously alarm and terrorize them. Indeed, that conduct greatly fueled the fear that the plaintiff's directors and employees were already feeling based on the systematic stalking of CNA directors at their homes, with the repeated admonishment by the stalkers that "We'll be back." The conduct at issue in this case directed at individual employees is precisely the unlawful activity C.C.P. § 527.8 is designed to curtail. Nowhere in the statute, or in any case law interpreting that statute or any other California statute providing injunctive relief against threats of violence, are employees and officers of labor unions exempted from personal protection against violence and threats of violence.

B. Labor Code Section 1138.1 Does Not Preempt the TRO Issued in this Case.

Sections 1138 – 1138.5 were added to the California Labor Code in 1999 to impose specific procedures which courts must follow prior to enjoining activity arising out of a labor dispute. It is obvious from a reading of § 1138.1 that the statute was designed to protect against preemptory petitions by employers worried about vandalism and loss of personal property. The prerequisites for granting an injunction under § 1138.1 require a showing, "[t]hat substantial and irreparable injury to complainant's **property** will follow," and that "the public officers charged

> (1) 'Unlawful violence' is any assault or battery, or stalking as prohibited in section 646.9 of the Penal Code, but shall not include lawful acts of self-defense or defense of others.
> (2) 'Credible threat of violence' is a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose.
> (3) 'Course of conduct' is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including following or stalking an employee to or from the place of work; entering the workplace; following an employee during hours of employment; making telephone calls to an employee; or sending correspondence to an employee by any means, including, but not limited to, the use of the public or private mails, interoffice mail, fax, or computer e-mail.

Penal Code § 646.9(a) provides that, "[a]ny person who willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family is guilty of the crime of stalking. . . ." Penal Code § 646.9(e) defines the term "harasses" as "engage[ing] in a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, torments, or terrorizes the person and serves no legitimate purpose." "Course of conduct" is defined in Penal Code § 646.9(f) as "two or more acts occurring over a period of time, however short, evidencing a continuity of purpose."

There is ample evidence before the Court of a course of conduct of stalking and harassment of CNA employees and Board members that goes far beyond annoyance. The defendants' conduct has seriously alarmed and tormented not only the many individuals who have submitted declarations in support of the TRO, but their families, colleagues and coworkers, as well. As admitted in several of the declarations in support of defendant's motion to vacate, agents and employees of SEIU have willfully and repeatedly followed and harassed CNA Board members at their homes over the course of the past twelve days. In addition to the very aggressive appearances they have made at the homes of CNA Board members, there is evidence that they have both telephoned and appeared in person at the hospitals at which certain Board

with the duty to protect complainant's **property** are unable or unwilling to furnish adequate protection." Labor Code § 1138.1(a)(2) and (5). The statute does not address protection of individuals from violence or threats of violence. It is simply not designed for that purpose. Unfortunately, there is very little published case law interpreting § 1138.1, but, on its face, that statute neither preempts the injunctive relief provisions of C.C.P. §§ 527.6 and 527.8 designed to protect against threats of physical harm, nor exempts individuals from those protections based on their employer's status as a labor organization.

Defendants' intent to immunize their violent, unlawful and reprehensible conduct by hiding behind the claim that their misconduct arises out of a "labor dispute" is unavailing. The statutory framework imposing procedural burdens and the need for a evidentiary hearing in advance of injunctive relief as provided for in Labor Code § 1138 does not apply to the individual, personal harms presently before this Court.

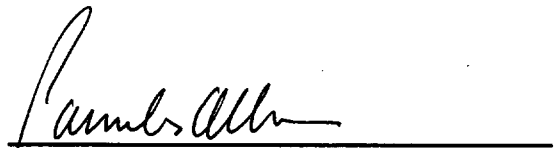
IV. CONCLUSION

For the foregoing reasons and based on the evidence set forth in the multiple declarations submitted by officers and employees of the plaintiff, the California Nurses Association hereby requests that the temporary restraining order issued April 16, 2008, remain in effect until the hearing on the Court's order to show cause set for May 1, 2008.

DATED: April 22, 2008

Respectfully submitted,

CALIFORNIA NURSES ASSOCIATION/
NATIONAL NURSES ORGANIZING
COMMITTEE LEGAL DEPARTMENT



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CALIFORNIA NURSES ASSOCIATION/NATIONAL NURSES ORGANIZING COMMITTEE. Plaintiffs, vs. ANDREW STERN and All Staff Members of SERVICE EMPLOYEES INTERNATIONAL UNION AND DOES 1 THROUGH 10, Defendants.	Case No.: RG08381780 DECLARATION OF MAUREEN DUGAN IN OPPOSITION TO DEFENDANTS' MOTION TO VACATE TEMPORARY RESTRAINING ORDER AND TO RESCIND ORDER TO SHOW CAUSE (CCP § 527.8) Date: Time: Courtroom: Judge:

I, Maureen Dugan, hereby declare and state as follows:

1. I am a Registered Nurse and have worked on various medical surgical units at the University of California Medical Center since 1989. I have been serving on the California Nurses Association/National Nurses Organizing Committee ("CNA/NNOC") Board of Directors since 2005.

2. On April 14, 2008, at around 10:30 a.m., a young man and a woman came to my house. They knocked fiercely on the door. I heard the woman say (as if to a camera), "it looks like she is not home. I can't wait all day." I heard the woman call the young guy Will. I have a local

police number programmed into my phone, and was about to call the police when the man and woman finally left. My heart was racing. I felt threatened, confronted and unsafe.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 22, 2008 at San Francisco, California.

Maureen Dugan RN

Maureen Dugan, RN

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CALIFORNIA NURSES ASSOCIATION/NATIONAL NURSES ORGANIZING COMMITTEE. Plaintiffs, vs. ANDREW STERN and All Staff Members of SERVICE EMPLOYEES INTERNATIONAL UNION AND DOES 1 THROUGH 10, Defendants.	Case No.: RG08381780 DECLARATION OF CAROL KOELLE IN OPPOSITION TO DEFENDANTS' MOTION TO VACATE TEMPORARY RESTRAINING ORDER AND TO RESCIND ORDER TO SHOW (CCP § 527.8) Date: Time: Courtroom: Judge:

I, Carol Koelle, hereby declare and state as follows:

1. I am a Registered Nurse, licensed in the State of California since 1994. I am employed on the Telemetry, Direct Observation Unit at St. Bernardine Medical Center in San Bernardino, California. I serve on the Board of Directors of CNA/NNOC. I reside in Apple Valley, California.

2. On April 12, 2008, at approximately 3:30 p.m., two females who appeared to be in their forties and a male who appeared to be in his twenties came to my

house. They rang the doorbell for almost twenty minutes without stopping until my son, Joe, answered the door. When Joe opened the door, the young man was aiming a video camera at him. The women said that they were RN's from Ohio and asked for me. When my son said that I was out of town, they became agitated, and said, "shame on your mom and CNA." Joe stayed calm and did not give them any information. When the visitors saw that they weren't getting anywhere, they left two hand written notes with my son, which he then faxed to CNA labor representative Tom Dunn. It really upset my son because he knew that SEIU had previously harassed me in Las Vegas.

3. On April 15, 2008, my husband, Al, noticed that a car appeared to be casing our house. He waited about five minutes and then left the house, got into my car and drove down the street. He immediately noticed a gold colored car that was parked on the side of the road pull out and follow him down the street. Al stopped at a gas station because the car was following him. The gold car pulled up next to Al. A very large, scruffy man (approximately 6' 4") got out of the gold car and went into the gas station for a minute. He came back out, after apparently not purchasing anything, and got back into his car and drove back down the street towards my house. My husband followed him. The man circled around the block a couple of times, driving past our house, but didn't stop or get out. My husband said that he was scared and upset because he knew that someone was following my car.

4. I have had been receiving strange phone calls at work since March 2008, when CNA got involved in the Ohio campaign. Every time, a male asks for

me but refuses to leave a message. Last week I got four different calls at work from strange men who will not identify themselves or leave a message.

5. These incidents have really scared me. My family is concerned about my safety. We are constantly prowling around, looking for intruders. My sons have been coming by to check on my house a couple times a day. I have been walking around looking over my shoulder for days. I am looking forward to going on vacation so I don't have to continue to look over my shoulder.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 22, 2008 at 0300 Am, California.

Carol Koelle RN

Carol Koelle, RN

My neighbor told me that on the afternoon of April 11th, she saw four people standing on my porch and trying to look through the window on the front door. There were three additional people crouched down on the sidewalk. There were two women and five men. My neighbor went outside and told them that I was away. They left two hateful notes on my porch before going away.

7. I feel like there is no place safe from the harassment. The SEIU representatives are even following me to work. Even though I have given a copy of the TRO to the security guard, SEIU representatives continue to sneak into the hospital where I work and leave hateful materials there.

8. These incidents have been very nerve wracking, especially because I am a woman who lives alone. After the incident I no longer feel comfortable to walk around my neighborhood at night with my dog. I put a curtain on the window of the front door and have been closing the shutters of my windows so nobody can see inside my home. I started to drive around the block before I park my car to make sure no one is at my house. I have paid extra attention to cars that are parked on my street and became uneasy when a car that I did not recognize was parked for several days. I feel frightened because I know there is a group of people who are stalking me with the express purpose of trying to intimidate me.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 22, 2008 at _____, California.

Geraldine Jenkins RN

Geraldine Jenkins, RN

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CALIFORNIA SUPERIOR COURT

FOR THE COUNTY OF ALAMEDA

CALIFORNIA NURSES ASSOCIATION/NATIONAL NURSES ORGANIZING COMMITTEE. Plaintiffs, vs. ANDREW STERN and All Staff Members of SERVICE EMPLOYEES INTERNATIONAL UNION AND DOES 1 THROUGH 10, Defendants.	Case No.: RG08381780 DECLARATION OF GERALDINE JENKINS IN OPPOSITION TO DEFENDANTS' MOTION TO VACATE TEMPORARY RESTRAINING ORDER AND TO RESCIND ORDER TO SHOW CAUSE (CCP § 527.8) Date: Time: Courtroom: Judge:

I, Geraldine Jenkins, hereby declare and state as follows:

1. I am a Registered Nurse and have worked for UC San Diego since 1977. I am one of four members elected to the Council of Presidents of the California Nurses Association/ National Nursing Organizing Committee ("CNA/NNOC").

2. I attended a conference sponsored by the organization that publishes *Labor Notes*, from April 11-13, 2008, in Dearborn, Michigan. I travelled to the conference with several other members of the CNA/NNOC Board of Directors and staff persons. In total, there were approximately 20 people representing CNA/NNOC at the conference. There were approximately

1100 registered attendees at the conference.

3. In the workshops I attended at the conference during the day on April 12, several very hostile, loud representatives of the Service Employees International Union ("SEIU") heckled and interrupted whenever anyone from CNA/NNOC attempted to speak. At one point, I was engaged in a private discussion and a woman from SEIU ran up to me, stood about a foot away and started to yell in a loud, belligerent tone. She refused to go away and kept demanding that I look her in the eyes. Even in a room full of people, I felt threatened by her aggressive manner.

4. On Saturday, April 12, the CNA/NNOC delegation planned to attend a dinner banquet. I was told to arrive early so that we could all sit together at tables near the front of the conference room near where one of the members of our Council of Presidents, Malinda Markowitz, would deliver a speech. Rose Ann DeMoro, the Executive Director of CNA/NNOC had originally been scheduled to serve as the keynote speaker at the banquet dinner on Saturday night, but she decided to cancel her appearance after hearing that SEIU intended to protest her appearance.

5. As we were waiting for the dinner to begin, I went to the restroom with Jan Rodolfo, who is the Secretary of CNA/NNOC. A CNA staff member, Kevin Baker, went with us and waited outside the restroom door. When we came out of the restroom a few minutes later, Mr. Baker warned that several buses had just pulled up in front of the hotel and that SEIU representatives were beginning to flood out of the buses. We followed him back into the banquet room and another CNA staff member, Shawn Bartlett, instructed us all to "move." All of the banquet room doors were closed, and I could hear a large group of people chanting and banging on the doors. We ran out of the banquet room and exited through an emergency exit at the back of the hotel. A van was waiting there for us and as we climbed in, one of the hotel staff climbed in with us, seeking an escape. The incident made me feel like we had just escaped physical assault.

6. I was haunted by the unsettling events at the conference and looked forward to going home. When I returned, I learned that SEIU representatives had also been at my house.

2. In or about early March 2008, CNA/NNOC expressed opposition to the Service Employees International Union (SEIU) effort to represent Registered Nurses employed by a hospital chain in Ohio known as Catholic Health Partners (CHP). CNA/NNOC opposed that effort as anti-democratic because it involved an election that was not requested by the employees, but, rather, by the employer pursuant to an agreement between the employer and SEIU. Traditionally, union elections are conducted after a petition is filed on behalf of employees supported by a verified showing of at least thirty percent support among the employees.

3. On or about March 7, 2008 through March 12, 2008, I was in Springfield, Ohio leafleting hospital workers to expose the election agreement between SEIU and CHP as rushed and unfair. I was subjected to planned, coordinated intimidation by SEIU organizers on a daily basis both at the hospitals while leafleting and at my hotel, the Courtyard Marriot. The hotel staff escorted me to and from my hotel room and car because of the harassment by SEIU.

4. On the first night I was in Springfield, on or about March 7th, I was standing in the lobby of my hotel preparing to go to leaflet at one of the hospitals where the employer had requested an election when I saw approximately ten SEIU staff organizers, mostly men, waiting outside. I was so scared that I hid in the bathroom until the other women I was going with came down to the lobby. As we walked to our car parked outside the hotel, the SEIU organizers surrounded me and the two other women, Annalisa Wirz and Kristen Michaels, yelling obscenities while standing within inches of us. That same day SEIU staff followed me and others by car as we drove around town and then followed us on foot into a Walgreen's drug store, continuing to engage in aggressive behavior and verbally assaulting us. We finally ran into a Meyer's grocery store and told the store's security guards that we were being followed. The security guards kept the SEIU organizers from following us inside.

5. While I was in Springfield, there was a severe blizzard. The sidewalks had not been shoveled so we had to walk in the streets. Every day as we walked to our cars SEIU staff members would swerve at us in their vehicles, forcing us to run into the snow to avoid being hit. I was very scared, as this could have resulted in serious injury or even death had one of us

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CALIFORNIA NURSES ASSOCIATION/ NATIONAL NURSES ORGANIZING COMMITTEE, Plaintiffs, vs. ANDREW STERN and All Staff Members of SERVICE EMPLOYEES INTERNATIONAL UNION AND DOES 1 THROUGH 10, Defendants.	Case No.: RG08381780 DECLARATION OF MICHELLE MAHON, RN, IN SUPPORT OF INJUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEES AND AGAINST DEFENDANTS' MOTION TO DISMISS TEMPORARY RESTRAINING ORDER (CCP § 527.8) Date: Time: Courtroom: Judge:

I, Michelle Mahon, RN, hereby declare and state as follows:

1. I am a Registered Nurse, licensed in the State of Ohio since 1997. I have been a volunteer organizer and at times a "lost time" employee of the California Nurses Association/National Nurses Organizing Committee (CNA/NNOC) in Ohio since June, 2007. I reside in Northern Ohio and have lived at my current address (intentionally omitted for safety reasons) since 2004.

slipped, or had their car skidded on the ice. Given the terrible road conditions, this was a very dangerous act on their part. On another occasion, a group of male SEIU staffers were all smoking cigars and blowing smoke in my face and in the faces of the other women with me.

6. The abuse continued after I returned home. On or about March 14th, the receptionist for one of my clients intercepted a call for me. The caller left a message saying something to the effect of, "tell her she's a union buster."

7. In response to CNA/NNOC's opposition to the planned SEIU elections in Ohio, the employer withdrew the election petitions and SEIU launched a campaign against CNA/NNOC, essentially "declaring war" in retaliation to CNA/NNOC's call for workplace democracy.

8. I attended a conference in Dearborn, Michigan hosted by the organization known as Labor Notes during the weekend of April 11-13 . On the evening of April 12, SEIU brought hundreds of people in buses to the hotel the conference was at and launched an aggressive raid during the banquet at which a CNA/NNOC officer was scheduled to give the keynote address. I was in the lobby of the hotel right outside the banquet room when they arrived. I witnessed throngs of people clad in SEIU logo clothing and carrying SEIU signs approach the hotel, assemble, then rush into the lobby yelling and screaming. Several of the people wore bandanas to hide their faces. They ran to the banquet room doors and began banging on them loudly with their fists and picket sticks, but, initially could not get in. It was clear that their intent was not peaceful. There was a mob of people, many of them carrying large sticks with anti-CNA slogans, yelling, screaming, and pounding violently against the doors demanding entry. Their rage and aggression was extremely frightening. I was terrified that someone would recognize me from Ohio and that the mob would turn on me.

9. I often speak publicly on behalf of CNA/NNOC and am afraid that SEIU staff members will show up at one of the events. For example, I will be attending two continuing education classes sponsored by CNA/NNOC in Ohio in May (dates and location intentionally omitted for safety reasons). I am extremely fearful and anxious that a mob of SEIU staff members will come there to terrorize me. I also worry that SEIU will discover my home address

and harm me or my children.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 21, 2008 at Cuyahoga County, Ohio.

Michelle Mahon

MICHELLE MAHON

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FILED
ALAMEDA COUNTY

APR 22 2008

CLERK OF THE SUPERIOR COURT
By _____ Deputy

CALIFORNIA SUPERIOR COURT

FOR THE COUNTY OF ALAMEDA

CALIFORNIA NURSES ASSOCIATION/ NATIONAL NURSES ORGANIZING COMMITTEE, Plaintiffs, vs. ANDREW STERN and All Staff Members of SERVICE EMPLOYEES INTERNATIONAL UNION AND DOES 1 THROUGH 10, Defendants.	Case No.: RG08381780 DECLARATION OF MICHELLE MAHON, RN, IN SUPPORT OF INJUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEES AND AGAINST DEFENDANTS' MOTION TO DISMISS TEMPORARY RESTRAINING ORDER (CCP § 527.8) Date: Time: Courtroom: Judge:

I, Michelle Mahon, RN, hereby declare and state as follows:

1. I am a Registered Nurse, licensed in the State of Ohio since 1997. I have been a volunteer organizer and at times a "lost time" employee of the California Nurses Association/National Nurses Organizing Committee (CNA/NNOC) in Ohio since June, 2007. I reside in Northern Ohio and have lived at my current address (intentionally omitted for safety reasons) since 2004.

and harm me or my children.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 21, 2008 at Cuyahoga County, Ohio.

Michelle Mahon

MICHELLE MAHON

2. In or about early March 2008, CNA/NNOC expressed opposition to the Service Employees International Union (SEIU) effort to represent Registered Nurses employed by a hospital chain in Ohio known as Catholic Health Partners (CHP). CNA/NNOC opposed that effort as anti-democratic because it involved an election that was not requested by the employees, but, rather, by the employer pursuant to an agreement between the employer and SEIU. Traditionally, union elections are conducted after a petition is filed on behalf of employees supported by a verified showing of at least thirty percent support among the employees.

3. On or about March 7, 2008 through March 12, 2008, I was in Springfield, Ohio leafleting hospital workers to expose the election agreement between SEIU and CHP as rushed and unfair. I was subjected to planned, coordinated intimidation by SEIU organizers on a daily basis both at the hospitals while leafleting and at my hotel, the Courtyard Marriot. The hotel staff escorted me to and from my hotel room and car because of the harassment by SEIU.

4. On the first night I was in Springfield, on or about March 7th, I was standing in the lobby of my hotel preparing to go to leaflet at one of the hospitals where the employer had requested an election when I saw approximately ten SEIU staff organizers, mostly men, waiting outside. I was so scared that I hid in the bathroom until the other women I was going with came down to the lobby. As we walked to our car parked outside the hotel, the SEIU organizers surrounded me and the two other women, Annalisa Wirz and Kristen Michaels, yelling obscenities while standing within inches of us. That same day SEIU staff followed me and others by car as we drove around town and then followed us on foot into a Walgreen's drug store, continuing to engage in aggressive behavior and verbally assaulting us. We finally ran into a Meyer's grocery store and told the store's security guards that we were being followed. The security guards kept the SEIU organizers from following us inside.

5. While I was in Springfield, there was a severe blizzard. The sidewalks had not been shoveled so we had to walk in the streets. Every day as we walked to our cars SEIU staff members would swerve at us in their vehicles, forcing us to run into the snow to avoid being hit. I was very scared, as this could have resulted in serious injury or even death had one of us

slipped, or had their car skidded on the ice. Given the terrible road conditions, this was a very dangerous act on their part. On another occasion, a group of male SEIU staffers were all smoking cigars and blowing smoke in my face and in the faces of the other women with me.

6. The abuse continued after I returned home. On or about March 14th, the receptionist for one of my clients intercepted a call for me. The caller left a message saying something to the effect of, "tell her she's a union buster."

7. In response to CNA/NNOC's opposition to the planned SEIU elections in Ohio, the employer withdrew the election petitions and SEIU launched a campaign against CNA/NNOC, essentially "declaring war" in retaliation to CNA/NNOC's call for workplace democracy.

8. I attended a conference in Dearborn, Michigan hosted by the organization known as Labor Notes during the weekend of April 11-13 . On the evening of April 12, SEIU brought hundreds of people in buses to the hotel the conference was at and launched an aggressive raid during the banquet at which a CNA/NNOC officer was scheduled to give the keynote address. I was in the lobby of the hotel right outside the banquet room when they arrived. I witnessed throngs of people clad in SEIU logo clothing and carrying SEIU signs approach the hotel, assemble, then rush into the lobby yelling and screaming. Several of the people wore bandanas to hide their faces. They ran to the banquet room doors and began banging on them loudly with their fists and picket sticks, but, initially could not get in. It was clear that their intent was not peaceful. There was a mob of people, many of them carrying large sticks with anti-CNA slogans, yelling, screaming, and pounding violently against the doors demanding entry. Their rage and aggression was extremely frightening. I was terrified that someone would recognize me from Ohio and that the mob would turn on me.

9. I often speak publicly on behalf of CNA/NNOC and am afraid that SEIU staff members will show up at one of the events. For example, I will be attending two continuing education classes sponsored by CNA/NNOC in Ohio in May (dates and location intentionally omitted for safety reasons). I am extremely fearful and anxious that a mob of SEIU staff members will come there to terrorize me. I also worry that SEIU will discover my home address

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ALAMEDA COUNTY
APR 22 2008
CLERK OF THE SUPERIOR COURT
By _____ Deputy

CALIFORNIA SUPERIOR COURT

FOR THE COUNTY OF ALAMEDA

CALIFORNIA NURSES ASSOCIATION/NATIONAL NURSES ORGANIZING COMMITTEE. Plaintiffs, vs. ANDREW STERN and All Staff Members of SERVICE EMPLOYEES INTERNATIONAL UNION AND DOES 1 THROUGH 10, Defendants.	Case No.: RG08381780 DECLARATION OF MARTHA KUHL IN OPPOSITION TO DEFENDANTS' MOTION TO VACATE TEMPORARY RESTRAINING ORDER AND TO RESCIND ORDER TO SHOW CAUSE (CCP § 527.8) Date: Time: Courtroom: Judge:

I, Martha Kuhl, hereby declare and state as follows:

1. I am a Registered Nurse, licensed in the State of California since 1982. I am employed on the Hematology/Oncology/BMT unit at Children's Hospital in Oakland, California and have been a member of California Nurses Association/ National Nurses Organizing Committee ("CNA/NNOC") since 1982. I have held various elected offices in CNA, including Treasurer and Vice President, since 1993. I am currently serving as Treasurer of CNA/NNOC.

2. At approximately 6:00 p.m. on April 13, 2008 I was at my home in Oakland, California and heard a loud knocking on my front door. The loud, insistent nature of the

knocking alarmed me. I looked out the window in my front door, from behind a curtain, and saw two people standing on my porch. A young man was pointing a video camera towards the front door. A woman accompanied him. She was talking loudly, like she wanted me to hear through the door and so that the neighbors would also hear. She loudly called my name and demanded that I come to the door. She asked how I could be associated with CNA. She said that they had come all the way from Ohio to talk to me. They stayed on my porch for approximately ten minutes, talking loudly and derogatorily the whole time.

3. I am not easily intimidated but after the visit I was apprehensive about going outside. My partner went outside to look around and make sure that nobody was lurking before I ventured out again. In the days since the visit, I have been hyper vigilant. I have been more suspicious of strangers, have screened my calls and hesitated before answering the door. I am worried that more SEIU representatives will come to my house to harass me.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 22, 2008 at Oakland, California.

Martha Kuhl

Martha Kuhl, RN

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APR 2 2 2008
CLERK OF THE SUPERIOR COURT
By _____ Deputy

CALIFORNIA SUPERIOR COURT

FOR THE COUNTY OF ALAMEDA

CALIFORNIA NURSES ASSOCIATION/ NATIONAL NURSES ORGANIZING COMMITTEE, Plaintiffs, vs. ANDREW STERN and All Staff Members of SERVICE EMPLOYEES INTERNATIONAL UNION AND DOES 1 THROUGH 10, Defendants.	Case No.: RG08381780 DECLARATION OF MALINDA MARKOWTIZ, RN, IN SUPPORT OF INJUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEES AND AGAINST DEFENDANTS' MOTION TO DISMISS TEMPORARY RESTRAINING ORDER (CCP § 527.8) Date: Time: Courtroom: Judge:

I, Malinda Markowitz, RN, hereby declare and state as follows:

1. I am a Registered Nurse, licensed in the State of California since 1980. I am employed on Medical/Surgical unit at Good Samaritan Hospital in San Jose, California and have been a member of the California Nurses Association since 1980. I was elected as a member of the CNA Board of Directors in or about 1997, then served two terms as the CNA Secretary beginning in 2003. In September, 2007, I was installed as one of the four members elected to the

conference room. It sounded like a huge crowd of people, banging drums and yelling in a very hostile, intense manner. One of the CNA/NNOC staff persons directed us to "move" and we followed another staff person out of the banquet room, down a service hallway and out an emergency exit. Several hotel staff persons ran out with us. A van was waiting for us when we got outside the hotel and we drove away to another location where we stayed for several hours until it was safe to go back to the conference hotel and go to bed.

7. I did not give a speech at the *Labor Notes* conference because it was reported that just after we left chaos ensued when hundreds of angry people pushed and shoved their way into the banquet room carrying signs disparaging CNA and its Executive Director. I heard that many people were pushed down, or punched and that one woman suffered a serious laceration on the side of her head when she was shoved into a hard object. I also heard that one of the SEIU protestors suffered a heart attack and died during the course of the chaos.

8. I returned home to San Jose on Sunday, April 13, and reported for work Monday morning. I spoke with my daughter during the day on Monday and agreed to meet her at my house after work. I arrived home at approximately 4:15 PM. As I approached my house, I saw a car parked in front of my house. A man with a video camera and a woman were getting out of the car. I knew from speaking with my colleagues in CNA that several CNA/NNOC Board members had been approached in a hostile manner by SEIU representatives, always accompanied by a man with a video camera. Rather than stop, I drove past the house and called the "Onstar" navigation operator from my car and asked her to call the police. The "Onstar" operator asked several questions, including questions about the physical description of the people at my house and I continued to talk to her as I turned around and went back to make sure my daughter was okay. When I returned to my house, my daughter was standing in the driveway. I parked in front of my house and walked up the driveway. The people with the video camera turned in my direction and blocked the path to my door. I said words to the effect of "You are trespassing. I don't want you on my property. I want you to leave." They did not leave. When I could see that my daughter was not physically hurt, I went back to my car to continue seeking assistance through the Onstar operator. When I got into my car they came toward me yelling,

Council of Presidents of CNA/NNOC.

2. I was scheduled to attend the *Labor Notes* conference in Dearborn, Michigan, over the weekend of April – 13, 2008. On April 11, after I had arrived in Dearborn, the Assistant to the Executive Director of CNA/NNOC contacted me to ask whether I was willing to serve as the keynote speaker at the conference, in lieu of the Executive Director. The Executive Director's Assistant explained that due to increasing incidents of harassment by the Service Employees International Union (SEIU), and rumors that SEIU intended to disrupt the conference and target our Executive Director in particular, the Executive Director had decided to cancel her appearance. I agreed to appear in her place and make the keynote address at the conference banquet scheduled for the evening of Saturday, April 12.

3. I attended several workshops at the conference and served on a panel discussing healthcare issues. Throughout the day, whenever I or anyone else who was at the conference from CNA/NNOC spoke, a few people who followed us around would heckle and yell disparaging remarks about our Executive Director, calling her a "union buster," and yelling that she should be fired.

4. As the day wore on, I began to feel anxious because it had been rumored that representatives of SEIU planned to attempt to disrupt the keynote address. Earlier in the day, the conference organizers had announced that Ms. DeMoro cancelled her appearance, but there was still a lot of tension and hostility towards me and others from CNA/NNOC coming from the SEIU representatives.

5. Because we were concerned about being a target of a hostile group, five CNA/NNOC staff persons were assigned the task of protecting the officers, directors and CNA/NNOC members who were in attendance at the conference. They worked out a plan that we should all stay together at the dinner and sit near the podium at the front of the banquet room where I would be speaking. They told us that if there was trouble, they were going to take us out a service entrance and to follow their direction.

6. There were approximately 900 people scheduled to attend the dinner. Just as everyone was settling down to eat, I heard loud noises coming from the hotel lobby outside the

"Coward. Get out of your car. We want to talk." I did not get out and they eventually left, while screaming, "Shame on you." Attached as Exhibit 1 are photographs I took of the SEIU agents while they were in my driveway on April 14th.

9. Approximately a half hour later a police officer called and took a report from me over the phone. I was told by a police dispatcher that I live in a "yellow zone," and there were no officers immediately available. The officer who did eventually call and take the report was named Aaron Offnber. His badge number with the San Jose Police Department is 3809. He told me that the report number was 08-1050844.

10. My daughter told me that she was very upset and felt threatened and scared when she drove up to the house and saw the man and woman on our porch. She walked past them and tried to enter the house but couldn't because the deadbolt was engaged. She said that she felt trapped because she couldn't get into the house and they continued to tape her even after she asked them to leave several times. She felt safer in the driveway so she was walking back there when I arrived. I was also very upset about the visit to my home, especially because of the events that had occurred two nights earlier in Michigan when I was forced to evacuate the hotel at which I was scheduled to speak.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 21, 2008 at Oakland, California.

Malinda Markowitz RN

MALINDA MARKOWITZ, RN

Exhibit 1

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ALAMEDA COUNTY

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By C. Rodrigues
Deputy

CALIFORNIA SUPERIOR COURT

FOR THE COUNTY OF ALAMEDA

CALIFORNIA NURSES ASSOCIATION/NATIONAL NURSES ORGANIZING COMMITTEE. Plaintiffs, vs. ANDREW STERN and All Staff Members of SERVICE EMPLOYEES INTERNATIONAL UNION AND DOES 1 THROUGH 10, Defendants.	Case No.: RG08381780 DECLARATION OF LUISA BISSETT IN OPPOSITION TO DEFENDANTS' MOTION TO VACATE TEMPORARY RESTRAINING ORDER AND TO RESCIND ORDER TO SHOW (CCP § 527.8) Date: Time: Courtroom: Judge:

I, Luisa Bissett, hereby declare and state as follows:

1. I have been a licensed Registered Nurse since 1999. I am employed on the oncology unit at Alta Bates Summit in Oakland, California and have been a member of California Nurses Association/ National Nurses Organizing Committee ("CNA/NNOC") since 1999. I reside in Oakland, California with my domestic partner Jan Rodolfo, who is the Secretary of CNA/NNOC.

2. On Sunday, April 13, 2008, I was in the shower when I heard the door bell ringing very persistently. I became so concerned that there was an emergency that I got out of

the shower, put a robe on and rushed to the door. There was a man with a video camera on my porch. A woman who was also standing on my porch started to ask, "Are you Jan Rodolfo?" I asked them to leave and they started to loudly yell, "Shame on you. Shame on CNA." I closed the screen door and called 911 on my cell phone. I went back to the door while I was talking to a police dispatch operator so that I could provide a physical description of the individuals on the porch. As I talked to the dispatch operator, the man continued to videotape me and the woman continued to yell at me. They were being so aggressive that I was scared that they would try to open the door and enter the house. My digital camera was on a desk near the door, so I took a few photographs through the screen door and kept talking to the dispatch operator on the telephone until the police arrived, about twenty minutes later.

3. As soon as two police cars pulled up, the man and woman ran to their car, yelling, "We know where you live, we'll be back." They drove away quickly. I gave a report to the officers and told them that I felt threatened.

4. I am not easily intimidated but I felt very vulnerable during this incident. Not only was I summoned from the shower and then confronted while wearing nothing but a robe, but the man and woman were loud, angry and refused to leave, even though I kept asking them to leave and it was obvious that I was talking to the police dispatcher. Since the incident, I feel apprehensive and fearful that they will come to our house again. When I come home from work, I carefully look around to make sure nobody is lurking near the house. We've been screening our calls and have been receiving an unusual number of hang-ups and calls from numbers that have the caller ID blocked. I am especially frightened for Jan and worry about her safety because of her high profile position at CNA.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 22, 2008 at Oakland, California.

Luisa Bissett RN

Luisa Bissett, RN

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ALAMEDA COUNTY
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CALIFORNIA SUPERIOR COURT

FOR THE COUNTY OF ALAMEDA

CALIFORNIA NURSES ASSOCIATION/NATIONAL NURSES ORGANIZING COMMITTEE. Plaintiffs, vs. ANDREW STERN and All Staff Members of SERVICE EMPLOYEES INTERNATIONAL UNION AND DOES 1 THROUGH 10, Defendants.	Case No.: RG08381780 PROOF OF SERVICE

The undersigned hereby declares under penalty of perjury that I am a citizen of the United States, over the age of eighteen years, not a party to the within action and that my business address is 2000 Franklin Street, Suite 300, Oakland, California 94612.

On the date below, I served true copies of the following documents:

MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO DEFENDANT'S MOTION TO VACATE TEMPORARY RESTRAINING ORDER AND IN SUPPORT OF INJUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEES

DECLARATION OF MALINDA MARKOWITZ, RN, IN SUPPORT OF INJUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEES AND AGAINST DEFENDANT'S MOTION TO DISMISS TEMPORARY RESTRAINING ORDER

DECLARATION OF MARTHA KUHL IN SUPPORT OF INJUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEES AND AGAINST DEFENDANT'S MOTION TO DISMISS TEMPORARY RESTRAINING ORDER

DECLARATION OF GERALDINE JENKINS IN SUPPORT OF INJUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEES AND AGAINST DEFENDANT'S MOTION TO DISMISS TEMPORARY RESTRAINING ORDER

DECLARATION OF CAROL KOELLE IN SUPPORT OF INJUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEES AND AGAINST DEFENDANT'S MOTION TO DISMISS TEMPORARY RESTRAINING ORDER

DECLARATION OF MICHELLE MAHON, RN, IN SUPPORT OF INJUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEES AND AGAINST DEFENDANT'S MOTION TO DISMISS TEMPORARY RESTRAINING ORDER

DECLARATION OF LUISA BISSETT IN SUPPORT OF INJUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEES AND AGAINST DEFENDANT'S MOTION TO DISMISS TEMPORARY RESTRAINING ORDER

DECLARATION OF VERONICA ROCHA IN SUPPORT OF INJUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEES AND AGAINST DEFENDANT'S MOTION TO DISMISS TEMPORARY RESTRAINING ORDER

DECLARATION OF MAUREEN DUGAN IN SUPPORT OF INJUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEES AND AGAINST DEFENDANT'S MOTION TO DISMISS TEMPORARY RESTRAINING ORDER

via arranging for Hand Delivery addressed as follows:

The Honorable Jon Rantzman
Alameda Superior Court
Department 102
661 Washington Street
Oakland, CA 94607

and via electronic mail and U.S. Mail addressed as follows:

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Scott A. Kronland SKronland@altber.com
Linda Lye LLye@altber.com
Peter E. Leckman PLeckman@altber.com
Katherine Pollak
Altshuler Berzon LLP
177 Post Street, Suite 300
San Francisco, CA 94108

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on April 22, 2008 at Oakland, California.

Rob Craven

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NATIONAL NURSES ORGANIZING COMMITTEE

FILED
ALAMEDA COUNTY

APR 2 2 2008

CLERK OF THE SUPERIOR COURT
By _____ Deputy

CALIFORNIA SUPERIOR COURT

FOR THE COUNTY OF ALAMEDA

CALIFORNIA NURSES ASSOCIATION/NATIONAL NURSES ORGANIZING COMMITTEE. Plaintiffs, vs. ANDREW STERN and All Staff Members of SERVICE EMPLOYEES INTERNATIONAL UNION AND DOES 1 THROUGH 10, Defendants.	Case No.: RG08381780 DECLARATION OF VERONICA ROCHA IN OPPOSITION TO DEFENDANTS' MOTION TO VACATE TEMPORARY RESTRAINING ORDER AND TO RESCIND ORDER TO SHOW CAUSE (CCP § 527.8) Date: Time: Courtroom: Judge:

I, Veronica Rocha, hereby declare and state as follows:

1. I am a Registered Nurse, licensed in the State of California since 1998. I am employed at San Gabriel Valley Medical Center as the Wound Care Nurse in San Gabriel, California. I have been a member of California Nurses Association/ National Nurses Organizing Committee ("CNA/NNOC") since 2001. I am currently serving on the Board of Directors of CNA/NNOC.

5. That night, I couldn't sleep. I kept thinking about what had happened and was worried that they would come back. I was especially frightened because I just moved out of Ernesto's house and am afraid that they will show up at my new house. I'm worried that if they do come, they might resort to physical violence. Nobody deserves to be stalked in this manner.

6. I visited the Temple City Sherriff's station to file an incident report. The sheriffs refused to issue a report because the people had not physically assaulted me.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 22, 2008 at San Gabriel, California.

Veronica Rocha, RN

2. On April 12, 2008, my daughter Breanna and I drove to the house of Ernesto Prieto, my significant other. We intended to pick Ernesto up and then planned to attend my uncle's memorial service. When we arrived, Ernesto was waiting outside his house, in front of the gate. As I pulled up, I saw a Caucasian man approach Ernesto and ask him if I lived there. I had already warned Ernesto about a possible visit so he did not answer in the affirmative. The man went back to his car, where two women were waiting. A woman in the back seat was holding a video camera. I realized who the people were and asked Breanna to take a picture of them. Then they realized who I was. Ernesto got into my car. The man walked over to my car and asked if I was on CNA's Board of Directors. I drove away.

3. The man jumped into his car, where the women were waiting, and began to chase us. I became frightened and started to speed. My hands were shaking and I was afraid that I would crash the car. Ernesto saw that I was really upset and demanded that I slow down. I pulled over on a residential street, hoping that they would pass and leave us alone. Instead, they pulled their car up next to mine and started to speak at us in a loud, hostile tone. One of the women identified herself as a nurse who had traveled a long way to talk to me. I now know that the woman was Michaela Silver. She said she was upset about what had happened in Ohio and that I should be ashamed of what "I" did. The other woman in the car appeared to be Sue Allen. I recognized her from the YouTube video. I attempted to drive away but they continued to follow us. Finally they pulled over to the right and held up traffic in a busy intersection to yell at us from the car. They continued to aim the video camera at us throughout the interaction.

4. I felt threatened and personally violated when they showed up at our home uninvited. But when they continued to follow us after I had made it clear that I did not want to interact with them, I became panicked. It was terrifying to be chased by a car full of people who were yelling and aiming a video camera at us. My seventeen year old daughter was in the car and she was frightened and didn't understand what was happening. I was worried about her safety, too.

6489412

STEPHEN P. BERZON (#46540)
SCOTT A. KRONLAND (#171693)
LINDA LYE (#215584)
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Service Employees International Union
and Andrew L. Stern

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ALAMEDA COUNTY
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CLERK OF THE SUPERIOR COURT
By Tasha Perry
Deputy

SUPERIOR COURT OF CALIFORNIA

COUNTY OF ALAMEDA

CALIFORNIA NURSES ASSOCIATION/ NATIONAL ORGANIZING COMMITTEE, Plaintiffs, vs. ANDREW STERN and SERVICE EMPLOYEES INTERNATIONAL UNION, Defendants	Case No. RG08381780 **EX PARTE APPLICATION TO:** **1) VACATE UNLAWFUL TEMPORARY RESTRAINING ORDER ISSUED WITHOUT NOTICE;** **2) RESCIND ORDER TO SHOW CAUSE PENDING HEARING ON ANTI-SLAPP MOTION** **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT** Date: APRIL 21 2008 Time: 11 AM Dept: 31 Case Filed: 4/15/08 Unlimited Civil Case

EX PARTE APPLICATION

Defendants Service Employees International Union ("SEIU") and Andrew L. Stern hereby apply for an order that vacates the temporary restraining order ("TRO") issued on April 15, 2008 and that rescinds the order to show cause that commands Mr. Stern to attend a hearing on May 1, 2008.

SEIU is a 1.9-million member labor union headquartered in Washington, D.C. Mr. Stern is the President of SEIU and one of the most prominent labor leaders in the country. A rival union, the California Nurses Association ("CNA"), abused the special procedures for workplace violence injunctions to obtain a TRO without any notice to the opposing party. That TRO is now being used by CNA to smear SEIU and Mr. Stern in the national media during a major labor dispute and to chill the First Amendment rights of SEIU's members and supporters throughout the country. The TRO must be vacated immediately for four independently sufficient reasons:

First, our Legislature provided in Labor Code §1138.1 that "[n]o court of this state shall have authority to issue a temporary . . . injunction in any case involving or growing out of a labor dispute" unless extraordinary procedural protections are employed. The Legislature did this because of the "historical track record of abuses of injunctive relief in labor disputes." *Waremart Foods v. United Food & Commercial Workers Union*, 87 Cal.App.4th 145, 159 (2001).

The statutorily required protections include live witness testimony to support the injunction; on-the-record factual findings to support the injunction – including a factual finding that the police are unable to deal with the alleged situation; the posting of a mandatory bond to protect the defendant before the temporary injunction can be issued; and strict limits on the permissible scope and duration of injunctions. Labor Code §§1138.1-1138.4. A "labor dispute" is specifically defined by statute to include a dispute between rival unions. Labor Code §1138.4; C.C.P. §527.3(b)(4)(i).

The Court issued the TRO in a case growing out of a labor dispute without following the required procedures. This is what the Legislature provided — in the clearest possible terms – that "[n]o court of this state shall have authority" to do. Accordingly, the TRO must be vacated.

Second, to the extent the vague TRO is intended to control the actions of SEIU, a 1.9 million-member organization, the special C.C.P. §527.8 procedure for expedited workplace

Support of Ex Parte Application, the accompanying [Proposed] Order Vacating Temporary Restraining Order and Rescinding Order to Show Cause, and the complete files and records of this action.

The contact information for opposing counsel is:

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Dated: April 20, 2008

Respectfully submitted,

ALTSHULER BERZON LLP

by:_____
Scott A. Kronland

Attorneys for Defendants Andrew L. Stern and Service Employees International Union

In addition to vacating the TRO, the Court should rescind the order that requires Mr. Stern to appear on May 1, 2008 and show cause why a three-year workplace violence injunction should not be issued against him. No evidence was presented that Mr. Stern himself engaged in any conduct covered by C.C.P. §527.8. The declaration supporting the order to show cause contains only one sentence that alleges Mr. Stern himself did *anything,* and that sentence states that it is based on a "rumor[]."

A "rumor" is an insufficient basis for ordering the president of a major organization to cancel his busy schedule and travel to California to defend against an injunction. No prominent official would be safe from such legal harassment. Moreover, and as stated above, our Legislature adopted a special statute to preclude efforts to use the courts to harass union leaders during labor disputes, providing that union officials "*shall not be held responsible . . . in any court of this state*" for the alleged conduct of others during labor disputes absent "clear proof of *actual* participation in, or *actual* authorization of those acts." Labor Code §1138 (emphasis added). CNA presented no prima facie evidence to meet this standard.

At the least, the issuance of any orders directing Mr. Stern to appear in court in California should await a ruling on Mr. Stern's anti-SLAPP motion, which is being filed concurrently with the submission of this application. The anti-SLAPP statute, C.C.P. §425.16 protects defendants from lawsuits predicated on free speech by requiring the plaintiff to present *competent evidence* to show a probability of prevailing on the merits before plaintiff's action may go forward. The anti-SLAPP statute is fully applicable to workplace violence petitions. *Animal Defense League,* 135 Cal.App.4th at 615-16. The anti-SLAPP motion will lead to the dismissal of this action, so it should be heard first. Dismissal of the action would end the misuse of this Court's processes to smear SEIU and Mr. Stern in the media and to chill constitutionally protected activity by SEIU and its supporters.

* * *

This Ex Parte Application is based on the attached Memorandum of Points and Authorities, the accompanying Declarations in Support of Ex Parte Application, the Declaration of Notice to Opposing Counsel of Ex Parte Application, the accompanying Request for Judicial Notice in

violence injunctions may *never* be used to grant injunctive relief against an organization. *City of Los Angeles v. Animal Defense League*, 135 Cal.App.4th 606, 622 (2006).

Third, to the extent the TRO is directed to Mr. Stern personally, our Legislature adopted a special statute to protect union officials (like Mr. Stern) from harassing litigation (like this case) by providing that "no officer . . . of any . . . organization . . . participating or interested in a labor dispute, shall be held responsible . . . in any court of this state" for the "acts of individual officers, members or agents, except upon clear proof of *actual* participation in, or *actual* authorization of those acts." Labor Code §1138 (emphasis added). No evidence was presented that Mr. Stern personally was involved in or authorized any activity covered by C.C.P. §527.8.

Finally, the temporary restraining order is a blatant violation of the First Amendment, and it is chilling constitutionally protected activity every minute that it remains in effect. The supposedly "threatening" actions that occurred in California consisted of two health care professionals from Ohio, a 54-year old registered nurse and a 61-year old respiratory therapist, trying to speak with CNA board members while an SEIU videographer recorded their efforts.

As shown by the detailed declarations and the videotape we have submitted, this activity is peaceful, non-threatening activity at the core of the First Amendment, analogous to the activities of 60 Minutes or film director Michael Moore. The encounters are embarrassing to CNA precisely because they show its board members avoiding two very nice health care professionals who are unhappy with CNA's union-busting conduct in Ohio.

Nurses who support SEIU have a First Amendment right to contact CNA board members in person in California to explain to them – nurse-to-nurse – why CNA's interference with SEIU's organizing efforts in Ohio is hurting nurses and their families. Just like political campaigners, nurses who support SEIU have a First Amendment right to send letters, make telephone calls, and knock on doors. The vague TRO is chilling free speech about an important issue so as to advantage one side in a public controversy. For this reason as well, it must be vacated immediately. "The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

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MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF EX PARTE APPLICATION TO: 1) VACATE TEMPORARY RESTRAINING ORDER ISSUED WITHOUT NOTICE and 2) RESCIND ORDER TO SHOW CAUSE

STATEMENT OF FACTS

A. The Labor Dispute

Defendant Service Employees International Union ("SEIU") is one of the largest labor organizations in the world, with 1.9 million members and affiliated local unions throughout the United States and Canada. Declaration of Alexandra Young ("Young Decl.") ¶2. SEIU represents about 84,000 registered nurses in 24 states and about one million U.S. health care workers. *Id.* ¶4. SEIU seeks to unite all health care workers to raise the standards for patient care and improve health care workers' wages, benefits, and qualify of life.

Defendant Andrew Stern is the elected president of SEIU. *Id.* ¶3. Mr. Stern lives in the District of Columbia, where SEIU's national headquarters is located. *Id.* He is one of the most prominent labor leaders in the world.

Plaintiff California Nurses Association ("CNA") is a union that has been involved in a labor dispute with SEIU. *Id.* ¶5. Although CNA represents virtually no nurses outside California, CNA believes that unless nurses join CNA they should have no union at all; CNA has objected to SEIU's successes in organizing nurses and other hospital workers throughout the country. *Id.*

CNA recently interfered with SEIU's organizing efforts in Ohio. For more than three years, nurses and other health care workers at Catholic Healthcare Partners hospitals in Ohio had been working with SEIU's assistance to form a union. *Id.* ¶6; Declaration of Michaela Silver ("Silver Decl.") ¶¶2-3; Declaration of Sue Allen ("Allen Decl.") ¶¶2-3. The employer had agreed to a fair election procedure for these workers to vote on whether to be represented by SEIU. *Id.* About 8,000 workers were to take part in this election, scheduled for March 2008. *Id.* Right before the election, CNA – which had never made any effort to help these workers – sent representatives from California to Ohio to disrupt the election and prevent the workers from forming a union. *Id.* CNA's disruptive actions forced the cancellation of the election, so the workers were left without a union. *Id.* This labor dispute became a very public controversy, drawing the attention of the national media. Request for Judicial Notice ("RJN"), Exh. A.

B. The Free Speech in California

A nurse and a respiratory therapist who work in Springfield, Ohio were so upset by CNA's actions that they came to California to speak personally, worker-to-worker, with CNA's board members. Silver Decl. ¶4; Allen Decl. ¶4. These two women are Registered Nurse Sue Allen, age 54, and Respiratory Therapist Michaela Silver, age 61. Allen Decl. ¶1; Silver Decl. ¶1.

Mrs. Allen and Mrs. Silver arrived in California on April 9, 2008 and met up with Alexandra Young, an SEIU Organizing Coordinator in charge of coordinating their visit, and William Layng, an organizer from an SEIU local union in Portland, Oregon, who was asked to videotape Mrs. Allen's and Mrs. Silver's efforts. Allen Decl. ¶4; Silver Decl. ¶4; Declaration of William Layng ("Layng Decl.") ¶4.

Mrs. Allen and Mrs. Silver wanted to have a peaceful discussion with individual CNA leaders about why CNA had sent representatives to Ohio to interfere with their election. Allen Decl., ¶4; Silver Decl., ¶4. They wanted CNA board members to understand who the Ohio health care workers really are and that the Ohio workers wanted union representation so that they could try to obtain health care after retirement, better pensions, and better staffing to help patients. Silver Decl. ¶4. Mrs. Allen and Mrs. Silver were experienced in making house visits for a cause. Mrs. Allen's had done similar canvassing to support Dale Henry, a candidate for state representative in Ohio. Allen Decl. ¶ 13. Mrs. Silver has gone door to door as a volunteer for the Leukemia Fund and other charitable organizations. Silver Decl. ¶ 13.

The accompanying declarations and videotape make clear that, while CNA board members may not like the idea of Mrs. Silver and Mrs. Allen showing up unannounced with a videographer to speak with them, the activities did not involve violence or threats of violence. Indeed, the videotape clips, one of which was posted on the internet, are embarrassing for CNA precisely because Mrs. Silver and Mrs. Allen are such obviously non-threatening health care professionals who wish to speak with CNA board members about what happened in Ohio.

Their first visit, on April 9, 2008, was to the house of CNA board member Margie Keenan in Long Beach, California. Allen Decl. ¶¶6-8; Silver Decl. ¶¶6-8; Layng Decl. ¶¶ 5-7. At about 3 p.m., Mrs. Allen and Mrs. Silver approached Ms. Keenan's house and knocked on the door. *Id.*

B. The Free Speech in California

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Their first visit, on April 9, 2008, was to the house of CNA board member Margie Keenan in Long Beach, California. Allen Decl. ¶¶6-8; Silver Decl. ¶¶6-8; Layng Decl. ¶¶ 5-7. At about 3 p.m., Mrs. Allen and Mrs. Silver approached Ms. Keenan's house and knocked on the door. *Id.*

There was no gate and the door was approximately 10 feet from the sidewalk. *Id.* When no one answered the door after a few minutes, they left. *Id.* They then drove to the hospital where Ms. Keenan works. Mrs. Allen and Mrs. Silver asked at the unit nurses' station if Ms. Keenan was available and, when they were told that she was not working that day, they left. *Id.* Later that day, at about 5 p.m., the group returned to Ms. Keenan's home. *Id.* Ms. Keenan did not answer the door, but Mrs. Silver and Mrs. Allen noticed her looking at them through a window. *Id.* They explained that they were from Ohio and wanted to talk to Ms. Keenan about CNA's actions. *Id.* After no more than five minutes, when Ms. Keenan did not answer the door, they left. *Id.*

Mr. Layng videotaped Mrs. Allen's and Mrs. Silver's attempts to talk to Ms. Keenan. *See* Layng Decl., Ex. 1 (video tape footage). A video clip taken by Mr. Layng of Mrs. Silver's and Mrs. Allen's attempts to speak with Ms. Keenan can also be seen on the popular web site You Tube at www.youtube.com/watch?v=nGw2QJTgw4I. At no point during the visits to Ms. Keenan's house or workplace did anyone engage in any acts of violence or threaten to do so. Allen Decl., ¶¶6-8; Silver Decl., ¶¶6-8; Layng Decl., ¶¶5-7; Young Decl., ¶8. Again, the visits are an embarrassment to CNA board members precisely because Mrs. Allen and Mrs. Silver are the actual, non-threatening health care professionals from Ohio that CNA's union-busting tactics have hurt.

Mrs. Silver and Ms. Allen then sought to talk to Debbie Cuaresma, another CNA board member. Allen Decl., ¶8; Silver Decl., ¶8; Layng Decl., ¶¶ 8-9. They arrived at Ms. Cuaresma's house during daylight at approximately 6 p.m. Layng Decl., ¶9. Mrs. Silver and Mrs. Allen spoke briefly to Ms. Cuaresma's daughter, who appeared to be between 18 and 20 years old. Allen Decl. ¶8; Silver Decl. ¶8; Layng Decl. ¶9. Mrs. Silver and Mrs. Allen explained that they wanted to talk to Ms. Cuaresma about CNA's activities and Ms. Cuaresma's daughter told Mrs. Silver and Mrs. Allen that she would pass the message on to her mother. *Id.* The conversation took no more than two or three minutes. *Id.* Ms. Cuaresma's daughter did not appear frightened or scared in any way. *Id.* No one engaged in violence or threatened violence or stalked or harassed anyone. Allen Decl. ¶8; Silver Decl. ¶8; Layng Decl. ¶9; Young Decl. ¶8.

Mrs. Allen and Mrs. Silver made similar, non-violent attempts to speak personally with other CNA board members in California from Thursday, April 10, 2008 through Saturday, April 12,

The special C.C.P. §527.8 procedure for a workplace violence injunction can *never* be used to obtain relief against an organization, only an individual defendant. *City of Los Angeles v. Animal Defense League*, 135 Cal.App.4th 606, 622 (2006). Further, relief against an individual defendant requires "clear and convincing evidence that *the defendant* engaged in unlawful violence or made a credible threat of violence" that would be carried out in the plaintiff employer's workplace. C.C.P. §527.8(f)(emphasis added).

Here, not only was there no violence or threats of violence in California, much less at CNA's offices in California, but Mr. Stern did not even personally participate in or direct Mrs. Silver's or Mrs. Allen's visits to CNA board members in California. Young Decl. ¶ 7. Neither Ms. Young, Mr. Layng, Mrs. Silver, nor Mrs. Allen received any instructions from Mr. Stern about the visits. Allen Decl. ¶14; Silver Decl. ¶14; Layng Decl. ¶14; Young Decl. ¶11. At no time did Mr. Stern (or anyone else at SEIU) direct these individuals to engage in violence, threats of violence, stalking, trespassing or any other illegal behavior against any officers, directors, or employees of CNA – nor did these individuals engage in any such behavior. *Id.*

CNA's form Petition alleges that Mr. Stern "stalked" and "made a credible threat of violence" against CNA employees in California. RJN, Exh. B (CNA's Petition), ¶6. The Petition alleges that an immediate restraining order against Mr. Stern should be issued because Mr. Stern "will continue stalking and threats." *Id.* ¶7. But the only activities in California discussed in CNA's supporting declaration are wildly inaccurate accounts of the visits by Mrs. Allen and Mrs. Silver, none of which are even claimed to have involved violence or threats of violence, or to have occurred at CNA's own offices, or to have involved Mr. Stern. RJN, Exh. B (Decl. of Bonnie Castillo), ¶¶6-8.

The only sentence in CNA's supporting declaration that even contains an allegation about Mr. Stern's own conduct states: "*It is rumored that* SEIU agents have been assigned by Mr. Stern and other SEIU officers to 'invade' CNA/NNOC offices in California tomorrow. . . ." *Id.*, ¶5.[1]

---

[1] CNA's declaration also includes an account of a scuffle between SEIU supporters and CNA supporters at an event *in Michigan*. No evidence was offered that Mr. Stern had any involvement whatsoever in that scuffle, or that it involved violence or threats of violence to

(continued...)

CNA did not give notice to SEIU or Mr. Stern that it was seeking a temporary restraining order, which could have been accomplished in minutes by telephoning SEIU's Legal Department. Declaration of Nicole Berner ("Berner Decl."), ¶2. Instead, CNA certified that it "would suffer immediate and irreparable harm before the adverse party could be heard in opposition." RJN, Exh. C. The Court then signed a TRO that, among other things, bars Mr. Stern from "assaulting, battering, and stalking" people or possessing firearms, as well as from communicating by U.S. mail, e-mail, telephone, facsimile, or in person with "Bonnie Castillo and all Officers/Staff CNA/NNOC," or from being with 100 yards of their homes and offices. RJN, Exh. D (TRO), ¶5(b). The TRO lasts until May 1, 2008, at which time Mr. Stern is ordered to appear in Court in California to show cause why a three-year workplace violence injunction should not be issued against him. *Id.* ¶2.

D. The Harm to SEIU and Mr. Stern

CNA swore that it was such an "emergency" that Mr. Stern be enjoined that there was no time to notify SEIU's Legal Department so his lawyers could object. But when the TRO was actually signed, CNA did not even bother to notify SEIU's Legal Department so Mr. Stern's lawyers would know that the TRO existed and what it prohibited. Berner Decl., ¶2.

Instead of notifying SEIU about the TRO, CNA immediately issued *a press release* to the national media, entitled: "Court Orders Service Union and its President Andy Stern: Stop Stalking and Harassing Registered Nurse Leaders and Staff of California Nurses Assn/NNOC." RJN, Exh. E. The press release stated that the Court had ordered "Andy Stern and SEIU to cease and desist the stalking of, use of violence against, and harassment of [CNA] officers, directors, and staff" and falsely accused SEIU and Mr. Stern of having been engaged in such conduct. *Id.*

As a result, before SEIU could even obtain the court papers, the national media was reporting that a court had entered a restraining order against SEIU and telling the world that a judge had found that SEIU and Mr. Stern had been engaging in violence or making violent threats and

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[1] (...continued)
employees in CNA's office in California, or that it had any connection with the peaceful free speech activities in California.

were therefore being required to "stop" illegal activities that never occurred. *See, e.g.,* RJN, Exs. F, G (New York Times and Los Angeles Times articles). Meanwhile, although CNA had alleged its offices would be "invade[d]" on April 15 absent a TRO (RJN, Exh. B (Castillo Decl. ¶5)), the TRO was not even issued until April 16 and SEIU's Legal Department had to send a messenger to the Court on April 17 to obtain a copy after learning about it in the media. Berner Decl. ¶3.

Because it is unclear who the TRO covers and what the TRO prohibits, the existence of this TRO has had and continues to have a chilling effect on peaceful free speech by all SEIU members and supporters. *See, e.g.,* Declaration of Ingela Dahlgren ("Dahlgren Decl.") ¶¶2-3 (Registered Nurse who delayed her plans to come to Northern California to peacefully speak with CNA board members because of the TRO); Berner Decl. ¶4 (because of uncertainty about the coverage of the TRO, SEIU cancelled a scheduled mailing to CNA members) .

ARGUMENT

I. The Court Should Vacate the Temporary Restraining Order Issued Against Mr. Stern Without Notice.

There are four separate, independently sufficient reasons why the TRO issued on April 15, 2008 must be vacated immediately: 1) the TRO violates Labor Code §§1138.1-1138.4, which withdraw the authority of the courts to issue temporary restraining orders during labor disputes unless special statutory criteria are met and special procedures are followed; 2) to the extent the TRO is intended to cover SEIU, the workplace violence injunction procedures in C.C.P. §527.8 cannot be used to enjoin an organization, 3) to the extent the TRO is intended to cover Mr. Stern personally, there was no evidence presented that he personally participated in or authorized any conduct falling within §527.8, and 4) the restraining order is a blatant violation of the First Amendment. We address each reason why the TRO must be vacated.

A. The TRO violates California's Little Norris-LaGuardia Act, Labor Code §§1138-1138.4

Because of past abuses of temporary restraining orders to obtain tactical advantages during labor disputes, the California Legislature in 1999 adopted Labor Code §§1138 -1138.4, this State's Little Norris-LaGuardia Act, to explicitly and unequivocally withdraw the authority of the courts to

2008. Layng Decl., ¶4; *see also* Layng Decl., Ex. 1 (videotape footage). Mrs. Silver continued her efforts through Monday, April 14, 2008. *Id.* At approximately three homes, Mrs. Allen and/or Mrs. Silver left hand-written letters for the CNA board members. Silver Decl. ¶11; Young Decl. ¶11; Layng Decl. ¶12. These letters expressed their interest in talking to the board member and explained why they had traveled from Ohio; they contained no threats of violence. Silver Decl. ¶11. For example, at the home of CNA board member John Gregory Miller, Mrs. Silver hand wrote the following letter:

> Dear Greg,
>
> Stopped by to hopefully have a chat with you as you are on the CNA board. I've come all the way from Ohio just to get some answers about why the CNA would travel to our town and our hospitals to destroy the opportunity we had finally after three and one-half years of planning and struggling to get to the point of voting fairly and having a union. We had chosen SEIU and we were all so excited to finally get representation, not just the RNs, but all employees. Your union busters took it all away. For what?? Just seeking answers Greg. Hoping you could offer some. Shame on CNA.
>
> Sincerely,
>
> Michaela Silver, RCP, CRT

Silver Decl., ¶11; Layng Decl., ¶12.

The visits by Mrs. Allen and Mrs. Silver have been the only attempts thus far by SEIU supporters from Ohio to personally visit CNA board members in California. Layng Decl. ¶4. But there are other nurses in Ohio who want to communicate with CNA board members. Young Decl. ¶11. They want to be able to send letters and e-mails and make calls to these board members expressing concern about CNA's actions in Ohio. *Id.* They want to be able to speak with CNA board members, nurse-to-nurse, about what has occurred in Ohio. *Id.*

C. The Restraining Order Without Notice

On April 15, 2008, CNA filed a "Petition for Injunction Prohibiting Violence or Threats of Violence Against Employee" in the Alameda County Superior Court. The Petition lists the defendants as "Andrew Stern and all agents of SEIU." RJN, Exh. B. The restraining order that was issued lists the defendants as "Andrew Stern and Service Employees International Union." RJN, Exh. D. A declaration attached to the Petition lists the defendants as "ANDREW STERN and All Staff Members of SERVICE EMPLOYEES INTERNATIONAL UNION." *See* RJN. Exh. B.

issue such orders unless special criteria are met and extraordinary procedures are followed. *See Waremart Foods v. United Food & Commercial Workers Union*, 87 Cal.App.4th 145 (2001) (vacating injunction that violated Little Norris-LaGuardia Act); *United Food & Commercial Workers Union v. Superior Court*, 83 Cal.App.4th 566 (2000) (same).

The Legislature provided – in the clearest possible language – that "[n]o court of this state shall have authority to issue a temporary or permanent injunction in any case involving or growing out of a labor dispute," Labor Code §1138.1(a) (emphasis supplied), unless *all* of the following requirements, among others, are satisfied:

- The injunction must be based on the testimony of witnesses in open court. Lab. Code §1138.1(a).
- The court must make and file in the record specific *findings of fact* to support the injunction, including "[t]hat unlawful acts have been threatened and will be committed unless restrained or have been committed and will be continued unless restrained"; "[t]hat substantial and irreparable injury to complainant's property will follow"; "[t]hat as to each item of relief granted greater injury will be inflicted upon complainant by the denial of relief than will be inflicted upon defendants by the granting of relief"; "[t]hat complainant has no adequate remedy at law"; and "that the public officers charged with the duty to protect complainant's property are unable or unwilling to furnish adequate protection." Lab. Code §§1138.1(a), 1138.3.
- No restraining order may be broader than the acts expressly complained of and expressly included in the findings of fact made and filed by the court. Lab. Code §1138.3.
- "No injunction or temporary restraining order shall be issued on account of any threat or unlawful act excepting against the person, persons, association, or organization making the threat or committing the unlawful act or [who] actually authorized those acts." Lab. Code §1138.1(a)(1).
- No temporary injunction issued without notice may last longer than 5 days. Lab. Code §1138.1(b).
- "No temporary restraining order or temporary injunction shall be issued" unless the complainant "first files an undertaking," backed by a surety, sufficient to compensate the defendants "for any loss, expense, or damage caused by the improvident or erroneous issuance of the order or injunction, including all reasonable costs, together with a reasonable attorney's fee, and expense of defense against the order or against the granting of any injunctive relief sought in the same proceeding and subsequently denied by the court." Lab. Code §1138.1(b), (c).

It is absolutely clear that a dispute between two rival labor unions that seek to organize nurses is a "labor dispute" within the meaning of the Little Norris-LaGuardia Act. Labor Code

§1138.4 adopts the definition of "labor dispute" in Code of Civil Procedure §527.3. Under that broad definition, a "labor dispute" includes any dispute that "involves persons who are engaged in the same industry, trade, craft, or occupation; or have direct or indirect interests therein" including any disputes "(c) between one or more employees or associations of employees and one or more employees or associations of employees." C.C.P. §527.3(b)(4)(i). CNA's petition and accompanying declaration establish, on their face, that this case "involv[es] or grow[s] out of a labor dispute," Lab. Code §1138.1(a), and therefore is covered by the Little Norris-LaGuardia Act.[2]

Because the TRO did not comply with the Little Norris-LaGuardia Act, the Court had no authority to issue it and the Court should vacate it immediately.

It cannot be emphasized strongly enough that our Legislature used very clear and direct language in the Little Norris-LaGuardia Act ("[n]o court of this state shall have authority") so as to "remedy the abusive use of the injunction in labor disputes." *Waremart*, 87 Cal.App.4th at 159. The California Legislature modeled the statute on federal law (*i.e.* the Norris LaGuardia Act, 29 U.S.C. §101 et seq.) that resulted from a "historical track record of abuses of injunctive relief in labor disputes." *Id.* In that Act, Congress recognized that the "preservation of order and the protection of property in labor disputes is in the first instance a police problem, belonging to the executive rather than the judicial side of the government, and its whole intent and purpose was to remove the courts from that field." *Id.* at 159. Moreover, Congress had to adopt the strong medicine of the Norris-LaGuardia Act (mirrored in our California law) because trial court judges had refused to follow an earlier law intended to stop them from issuing injunctions against unions and union officials during labor disputes. *See Burlington N. R.R. Co. v. Bhd. of Maintenance Way Employees*, 481 U.S. 429, 437-39 (1987) (recounting the history of judicial disobedience of the earlier law).

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[2] *Cf. Green v. Obergfell*, 121 F.2d 46, 50 (D.C. Cir. 1941) (holding that it "would be difficult to imagine a case which more clearly involves a labor dispute within the meaning of the Norris-LaGuardia Act" than a dispute between two rival unions as to which has the right to organize drivers of brewery wagons and trucks).

D. The TRO violates the First Amendment.

Finally, the temporary restraining order also must be vacated because it is a blatant violation of the First Amendment (and several other state and federal constitutional provisions).

"[T]he dissemination of information concerning the facts of a labor dispute" is part of the "area of free discussion that is guaranteed by the Constitution." *Thomas v. Collins*, 323 U.S. 516, 532 (1945); *Thornhill v. Alabama*, 310 U.S. 88, 102 (1940).

Nurses who support SEIU have a First Amendment right to approach people in person and seek to peacefully discuss a labor dispute with them, including by approaching them at home or at work. The Supreme Court has repeatedly struck down restrictions on door-to-door canvassing and pamphleteering as classic violations of the First Amendment. *Watchtower Bible and Tract Society of New York, Inc. v. Village of Stratton,* 536 U.S. 150, 160 & n.10 (2002); *Hynes v. Mayor and Council of Oradell*, 425 U.S. 610 (1976); *Martin v. City of Struthers,* 319 U.S. 141 (1943); *Murdock v. Pennsylvania,* 319 U.S. 105 (1943); *Jamison v. Texas,* 318 U.S. 413 (1943); *Cantwell v. Connecticut,* 310 U.S. 296 (1940); *Schneider v. State (Town of Irvington),* 308 U.S. 147 (1939); *Lovell v. City of Griffin,* 303 U.S. 444 (1938).

The right to free speech is not limited by the reaction of the listener. The speaker does not lose her right to expression because the listener or target of the expression might be offended or embarrassed. "Speech does not lose its protected character . . . simply because it may embarrass others . . . ." *N. A. A. C. P. v. Claiborne Hardware Co.*, 458 U.S. 886, 910 (1982). The Supreme Court has consistently "'refus[ed] to [punish speech] because the speech in question may have an adverse emotional impact on the audience." *Boos v. Barry*, 485 U.S. 312, 322 (1988). Nor may peaceful speech be limited simply because the listener claims to be "intimidated"; the Supreme Court has struck down injunctions against anti-abortion protesters peacefully confronting young patients in front of clinics – a much more sensitive situation than this one. As the Supreme Court stated in *Madsen v. Women's Health Center, Inc.*, 512 U.S. 753 (1994):

> it is difficult, indeed, to justify a prohibition on *all* uninvited approaches of persons seeking the services of the clinic, regardless of how peaceful the contact may be, without burdening more speech than necessary to prevent intimidation and to ensure access to the clinic. Absent evidence that the protesters' speech is independently proscribable (*i.e.*, "fighting words" or threats), or is so infused with violence as to be

B. The workplace violence procedures in C.C.P. §527.8 may not be used to obtain an injunction against an organization.

To the extent the TRO is intended to run against SEIU (as CNA proclaimed in its press release), it must be vacated because the special workplace violence procedures in C.C.P. §527.8 may not be used to obtain injunctive relief against an organization. *City of Los Angeles v. Los Angeles Police Protective League* (2006) 135 Cal.App.4th 606, 622.

C. No evidence was presented that Mr. Stern personally participated or authorized any C.C.P. §527.8 conduct.

To the extent the TRO is intended to run against Mr. Stern personally, it must be vacated because no evidence was presented that Mr. Stern personally participated in or personally authorized any conduct within the scope of the workplace violence statute. A workplace violence injunction may be issued only upon "clear and convincing evidence that *the defendant* engaged in unlawful violence or made a credible threat of violence" C.C.P. §527.8(f) (emphasis added), that might be carried out at the plaintiff's workplace in California.

The California Legislature also adopted a special statute to protect union officials from being personally harassed with litigation during labor disputes. It provides in pertinent part: "No officer . . . of any association or organization . . ., participating or interested in a labor dispute, shall be held responsible or liable in any court of this state for the unlawful acts of individual officers, members, or agents, except upon *clear proof of actual participation in, or actual authorization of those acts*." Labor Code §1138 (emphasis added).

CNA did not present evidence that Mr. Stern himself did anything covered by §527.8. The only allegation that plaintiff offered to connect Mr. Stern with a threat of violence in the workplace in California is the following statement in the Declaration of Bonnie Castillo: "*It is rumored* that SEIU agents have been assigned by SEIU President Andy Stern and SEIU officers to 'invade' CNA/NNOC offices in California . . . ." Castillo Decl. ¶5 (emphasis supplied). A rumor is the opposite of evidence. It is also clear that CNA uses vague hyperbole like the word "invade" to describe peaceful, constitutionally protected free speech, like knocking on someone's door. There is simply no evidence to support a TRO against Mr. Stern.

indistinguishable from a threat of physical harm, this provision cannot stand. *Id.* at 773-74 (internal citations omitted).

Moreover, the " right to free speech in the future cannot be forfeited because of dissociated acts of past violence. Nor may a state enjoin peaceful picketing merely because it may provoke violence in others." *Milk Wagon Drivers Union of Chicago, Local 753 v. Meadowmoor Dairies*, 312 U.S. 287, 296 (1941).

In this case, the TRO prohibits Mr. Stern from using the "public or private mails, interoffice mail, fax, or computer e-mail" to communicate with "Bonnie Castillo and all officers/staff CNA/NNOC" as well as from approaching within 100 yards of them. TRO, ¶¶6(d); 7. Mr. Stern has a First Amendment right to peacefully communicate with these people if he wishes to do so. To the extent that the TRO is intended to control the actions of all SEIU members, supporters, and employees, it is an even more egregious violation of the First Amendment. A peaceful mailing already was cancelled because of concerns about the scope of the TRO. Berner Decl. ¶4. The TRO also directs Mr. Stern to "instruct his agents and employees not to enter . . . the private property of any CNA/NNOC officers, directors and employees." TRO, ¶6(g). To the extent this means Mr. Stern is supposed to instruct SEIU employees, members and supporters not to ring doorbells or knock on doors, it is a violation of his and their First Amendment rights. Some nurses' First Amendment activities have already been chilled by fears the TRO could be applied against them. *See* Dahlgren Decl. ¶3.

Moreover, the workplace violence injunction statute itself states explicitly that it "does not permit a court to issue a temporary restraining order or injunction prohibiting speech or other activities that are constitutionally protected, or otherwise protected by [C.C.P.] Section 527.3 [which protects peaceful labor activities] or any other provision of law." C.C.P. §527.8. Yet this TRO prohibits peaceful activities that *are* constitutionally protected and also *are* covered by C.C.P. §527.3's protections for peaceful labor activities. *See, e.g.,* C.C.P. 527.3 (b)(1) (prohibiting courts from enjoining anyone from "[g]iving publicity to, and obtaining or communicating information regarding the existence of, or the facts involved in, any labor dispute, whether by advertising, speaking, patrolling any public street or any place where any person or persons may lawfully

be, or by any other method not involving fraud, violence or breach of the peace.").

The TRO is also unconstitutionally vague, in violation of the First Amendment, because "men of common intelligence must necessarily guess at its meaning and differ as to its application." *Connally v. General Const. Co.* 269 U.S. 385, 391 (1926), cited in *Hynes v. Mayor and Council of Borough of Oradell*, 425 U.S. 610, 620 (1976). It is not clear who is enjoined, who is protected, and what precisely the injunction prohibits.

The TRO appears to be directed only to Mr. Stern personally but it also contains confusing language that suggests it may be intended to control the activities of SEIU. Mr. Stern is required by the TRO, for example, to "instruct *his* agents and employees" not to take certain actions (TRO, ¶6(g)), but Mr. Stern is an officer of SEIU, not the owner of a company. SEIU's employees are not Mr. Stern's personal employees, and SEIU's agents are not Mr. Stern's personal agents. The TRO, the Petition, and the declaration in support of the Petition also list the defendants as including: "Service Employees International Union" (the TRO); "all agents of SEIU" (the Petition); and "all staff members of Service Employees International Union" (the Castillo Declaration).

It is also unclear who is protected by the TRO. The caption lists "Bonnie Castillo And All Officers/Staff CNA/NNOC," while text of the TRO lists the gender and date of birth of one protected individual, and paragraph 6(g) purports to protect all officers, directors, or employees of CNA/NNOC. If Mr. Stern's name is on a mass mailing that reaches one of these unidentified people, does that mean he is guilty of contempt?

It also is unclear what the TRO prohibits because it makes little sense as applied to Mr. Stern, a resident of the District of Columbia. The TRO states that it "shall not be construed as a denial of respondent's right to picket in accordance with applicable federal and state law" (TRO, ¶10) , a limitation that may have been well-intentioned but just adds to the confusion. Picketing is just a small subset of free speech, and it has nothing to do with the activities in this case. Other free speech activities include letters, leaflets, telephone calls, personal visits, and the like.

Finally, the TRO also violates the First Amendment because it burdens "more speech than necessary to serve a significant government interest." *Madsen v. Women's Health Center, Inc.*, 512 U.S. 753, 765 (1994) (establishing test for invalidating injunctions regulating protected expression).

"Precision of regulation" is required when injunctions sanction constitutionally protected activity, *Claiborne Hardware,* 458 U.S. at 916, and regulations "attempting to restrict or burden the exercise of First Amendment rights must be narrowly drawn," *Broadrick v. Oklahoma*, 413 U.S. 601, 611 (1973). The TRO at issue is *not* "precis[e]" or "narrowly drawn." There is no "significant government interest" shown by the papers in support of the TRO, and the TRO prohibits purely peaceful activity, including mail, telephone calls, e-mail, faxes, and personal communications.

The Court should vacate the TRO immediately, because "[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

II. The Court Should Rescind the Order to Show Cause that Requires Mr. Stern to Appear in Court on May 1, 2008.

In addition to obtaining a TRO against Mr. Stern without any notice to him, CNA also obtained an order requiring Mr. Stern to appear in Court on May 1, 2008 to show cause why a three-year workplace violence injunction should not be entered against him. That order to show cause should be rescinded.

Mr. Stern is the president of a major organization who lives and works in the District of Columbia. A workplace violence injunction may be issued under C.C.P. §527.8(f) only upon "clear and convincing evidence that *the defendant* engaged in unlawful violence or made a credible threat of violence" (emphasis supplied) that might be carried out at the plaintiff's workplace in California. Plaintiff has not presented prima facie evidence that Mr. Stern himself did anything covered by §527.8. As previously stated, the only allegation that plaintiff offered to connect Mr. Stern with a threat of violence in the workplace is the following statement in the Declaration of Bonnie Castillo: "*It is rumored* that SEIU agents have been assigned by SEIU President Andy Stern and SEIU officers to 'invade' CNA/NNOC offices in California . . . ." Castillo Decl. ¶5 (emphasis supplied). A statement about a "rumor" is not sufficient evidence to justify an order to show cause directed to Mr. Stern. If it were, any prominent individual in the country could be ordered to appear personally at a workplace violence hearing in California based on an alleged "rumor." Defendants have also have presented declarations that establish that Mr. Stern himself did not provide any instructions at

Dated: April 20, 2008

Respectfully submitted,

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by:_____
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all regarding the (entirely peaceful and constitutionally protected) visits by a nurse and a respiratory therapist to CNA board members in California, which did not even occur at CNA's workplace.

The California Legislature also adopted a special statute to protect union officials like Mr. Stern from being harassed with litigation during labor disputes. It provides in pertinent part: "No officer . . . of any association or organization . . ., participating or interested in a labor dispute, shall be held responsible or liable in any court of this state for the unlawful acts of individual officers, members, or agents, except upon *clear proof of actual participation in, or actual authorization of those acts*." Labor Code §1138 (emphasis supplied). Plaintiff did not present prima facie evidence to meet this standard.

The issuance of any orders to show cause to Mr. Stern should await a decision on his anti-SLAPP motion, which will be filed at the same time as this application and calendared for the earliest available date. California's anti-SLAPP statute, C.C.P. §425.16, provides a means of promptly screening out meritless lawsuits filed in response to free speech about a public issue. It requires the plaintiff to present *competent evidence* to show a probability of prevailing on the merits before the lawsuit is allowed to go forward. The anti-SLAPP statute correctly recognizes that the burden and expense of litigation is itself a harm to freedom of speech. C.C.P. §425.16(a).

The anti-SLAPP statute applies fully to workplace violence petitions filed under C.C.P. §527.8. *Animal Defense League*, 135 Cal.App.4th at 620 (holding that a special motion to strike a workplace violence petition should be sustained). The anti-SLAPP motion will lead to the prompt dismissal of this action, thereby preventing it from being further used to smear SEIU and Mr. Stern in the media and to chill freedom of speech. Other proceedings on the Petition should await a ruling on that dispositive motion.

CONCLUSION

The Court should vacate the temporary restraining order issued without notice on April 15, 2008 and rescind the order to show cause that requires Mr. Stern to appear in Court on May 1, 2008.

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SUPERIOR COURT OF CALIFORNIA

COUNTY OF ALAMEDA

CALIFORNIA NURSES ASSOCIATION/ NATIONAL ORGANIZING COMMITTEE, Plaintiffs, vs. ANDREW STERN and SERVICE EMPLOYEES INTERNATIONAL UNION, Defendants.	Case No. RG08381780 **[PROPOSED] ORDER GRANTING *EX PARTE* APPLICATION TO VACATE TEMPORARY RESTRAINING ORDER AND RESCIND ORDER TO SHOW CAUSE** Date: APRIL 21 2008 Time: 11 PM Dept: 31

Good cause shown, the Temporary Restraining Order issued on April 15, 2008 in Department 102 IS HEREBY VACATED and the Order to Show Cause setting a hearing for May 1, 2008 IS HEREBY RESCINDED.

Dated: _____

_____
SUPERIOR COURT JUDGE

RECEIVED
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By
ALAMEDA COUNTY SUPERIOR COURT

the motion is granted, Defendants will seek recovery of their attorneys fees and costs pursuant to C.C.P. §425.16(c).

This special motion to strike will be based on this Notice; the accompanying Memorandum of Points and Authorities, the accompanying Declarations in Support of Special Motion to Strike, the accompanying Request for Judicial Notice in Support of Special Motion to Strike, the complete files and records in this matter, and such other and further matters as this Court may consider at the hearing.

Dated: April 20, 2008

Respectfully submitted,

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FILED
ALAMEDA COUNTY
APR 21 2008
CLERK OF THE SUPERIOR COURT
By Jacka Dennis
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SUPERIOR COURT OF CALIFORNIA

COUNTY OF ALAMEDA

CALIFORNIA NURSES ASSOCIATION/ NATIONAL ORGANIZING COMMITTEE, Plaintiffs, vs. ANDREW STERN and SERVICE EMPLOYEES INTERNATIONAL UNION, Defendants.	Case No. RG08381780 **DEFENDANTS' NOTICE OF MOTION AND SPECIAL MOTION TO STRIKE THE PLAINTIFF'S PETITION UNDER THE ANTI-SLAPP STATUTE (C.C.P. §425.16)** Date: June 4 2008 Time: 9 AM Dept: 31 The Hon. Frank Roesch R- 821515

PLEASE TAKE NOTICE that on June 4, 2008, at 9 AM or as soon thereafter as this matter may be heard, in Department 31 of this Court, Defendants Service Employees International Union ("SEIU") and Andrew L. Stern, and each of them, will and hereby do move to strike the Plaintiff's Petition of Employer for Injunction, filed on April 15, 2008.

This special motion to strike will be made pursuant to C.C.P. §425.16 on the grounds that (1) the Petition arises from activities in furtherance of the right of free speech under the United States Constitution and California Constitution in connection with a public issue, and (2) Plaintiff cannot demonstrate a probability that Plaintiff will prevail on its Petition against Defendants. After

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FILED
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APR 21 2008
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SUPERIOR COURT OF CALIFORNIA

COUNTY OF ALAMEDA

CALIFORNIA NURSES ASSOCIATION/ NATIONAL ORGANIZING COMMITTEE, Plaintiffs, vs. ANDREW STERN and SERVICE EMPLOYEES INTERNATIONAL UNION, Defendants.	Case No. RG08381780 **DEFENDANTS' MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF SPECIAL MOTION TO STRIKE THE PLAINTIFF'S PETITION UNDER THE ANTI-SLAPP STATUTE (C.C.P. §425.16)** Date: June 4 2008 Time: 9AM Dept: 31 R- 821515

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Defendant Andrew Stern is the elected president of SEIU. *Id.* ¶3. Mr. Stern lives in the District of Columbia, where SEIU's national headquarters is located. *Id.* He is one of the most prominent labor leaders in the world.

Plaintiff California Nurses Association ("CNA") is a union that has been involved in a labor dispute with SEIU. *Id.* ¶5. Although CNA represents virtually no nurses outside California, CNA believes that unless nurses join CNA they should have no union at all; CNA has objected to SEIU's successes in organizing nurses and other hospital workers throughout the country. *Id.*

CNA recently interfered with SEIU's organizing efforts in Ohio. For more than three years, nurses and other health care workers at Catholic Healthcare Partners hospitals in Ohio had been working with SEIU's assistance to form a union. *Id.* ¶6; Declaration of Michaela Silver ("Silver Decl.") ¶¶2-3; Declaration of Sue Allen ("Allen Decl.") ¶¶2-3. The employer had agreed to a fair election procedure for these workers to vote on whether to be represented by SEIU. *Id.* About 8,000 workers were to take part in this election, scheduled for March 2008. *Id.* Right before the election, CNA – which had never made any effort to help these workers – sent representatives from California to Ohio to disrupt the election and prevent the workers from forming a union. *Id.* CNA's disruptive actions forced the cancellation of the election, so the workers were left without a union. *Id.* This labor dispute became a very public controversy, drawing the attention of the national media. Request for Judicial Notice ("RJN"), Exh. A.

B. The Free Speech in California

A nurse and a respiratory therapist who work in Springfield, Ohio were so upset by CNA's actions that they came to California to speak personally, worker-to-worker, with CNA's board members. Silver Decl. ¶4; Allen Decl. ¶4. These two women are Registered Nurse Sue Allen, age 54, and Respiratory Therapist Michaela Silver, age 61. Allen Decl. ¶1; Silver Decl. ¶1.

Mrs. Allen and Mrs. Silver arrived in California on April 9, 2008 and met up with Alexandra Young, an SEIU Organizing Coordinator in charge of coordinating their visit, and William Layng, an organizer from an SEIU local union in Portland, Oregon, who was asked to videotape Mrs. Allen's and Mrs. Silver's efforts. Allen Decl. ¶4; Silver Decl. ¶4; Declaration of William Layng ("Layng Decl.") ¶4.

Mrs. Allen and Mrs. Silver wanted to have a peaceful discussion with individual CNA leaders about why CNA had sent representatives to Ohio to interfere with their election. Allen Decl., ¶4; Silver Decl., ¶4. Mrs. Allen and Mrs. Silver were experienced in making house visits for a cause. Mrs. Allen's had done similar canvassing to support Dale Henry, a candidate for state representative in Ohio. Allen Decl. ¶13. Mrs. Silver has gone door to door as a volunteer for the Leukemia Fund and other charitable organizations. Silver Decl. ¶13.

The accompanying declarations and videotape make clear that, while CNA board members may not like the idea of Mrs. Silver and Mrs. Allen showing up unannounced with a videographer to speak with them, the activities did not involve violence or threats of violence. Indeed, the videotape clips, one of which was posted on the internet, are embarrassing for CNA precisely because Mrs. Silver and Mrs. Allen are such obviously non-threatening health care professionals who wish to speak with CNA board members about what happened in Ohio. *See* Layng Decl., Ex. 1 (videotape footage).

Their first visit, on April 9, 2008, was to the house of CNA board member Margie Keenan in Long Beach, California. Allen Decl. ¶¶6-8; Silver Decl. ¶¶6-8; Layng Decl.¶¶ 5-7. At about 3 p.m., Mrs. Allen and Mrs. Silver approached Ms. Keenan's house and knocked on the door. *Id.* When no one answered the door after a few minutes, they left. *Id.* They then drove to the hospital where Ms. Keenan works. Mrs. Allen and Mrs. Silver asked at the unit nurses' station if Ms. Keenan was available and, when they were told that she was not working that day, they left. *Id.* Later that day, at about 5 p.m., the group returned to Ms. Keenan's home. *Id.* Ms. Keenan did not answer the door, but Mrs. Silver and Mrs. Allen noticed her looking at them through a window. *Id.* They explained that they were from Ohio and wanted to talk to Ms. Keenan about CNA's actions. *Id.* After no more than five minutes, when Ms. Keenan did not answer the door, they left. *Id.*

Mr. Layng videotaped Mrs. Allen's and Mrs. Silver's attempts to talk to Ms. Keenan. *See* Layng Decl., Ex. 1 (videotape footage). A video clip taken by Mr. Layng of Mrs. Silver's and Mrs. Allen's attempts to speak with Ms. Keenan can also be seen on the popular web site You Tube at www.youtube.com/watch?v=nGw2QJTgw4I. At no point during the visits to Ms. Keenan's house or workplace did anyone engage in any acts of violence or threaten to do so. Allen Decl., ¶¶6-8;

INTRODUCTION

This special motion to strike is filed by Defendants Andrew J. Stern and Service Employees International Union ("SEIU"). It arises from the abuse of the legal system by a rival labor organization, the California Nurses Association ("CNA"), to smear SEIU and Mr. Stern in the national media and to chill free speech by SEIU members and supporters.

Plaintiff CNA filed a frivolous workplace violence petition in this Court and falsely certified that there was a need for the Court to issue an immediate temporary restraining order without giving the defendants any notice. Then, having obtained a commissioner's signature stamp on a restraining order, CNA promptly issued a press release to the national media proclaiming that Mr. Stern and SEIU had been ordered by a court to "stop" violence and threats of violence that never occurred. By the time SEIU even received a copy of the restraining order, the damage was being done.

Defendants are filing a separate ex parte application to vacate the temporary restraining order. This special motion to strike is filed to obtain dismissal of the petition and recovery of attorneys' fees.

A workplace violence petition is subject to a special motion to strike. *City of Los Angeles v. Animal Defense League* (2006) 135 Cal.App.4th 606, 617. We demonstrate that CNA's petition arises from the exercise of free speech in connection with a public issue. We also demonstrate that CNA cannot show a probability of prevailing on its claims. Accordingly, the special motion to strike should be granted.

BACKGROUND

A. The Labor Dispute

Defendant Service Employees International Union ("SEIU") is one of the largest labor organizations in the world, with 1.9 million members and affiliated local unions throughout the United States and Canada. Declaration of Alexandra Young ("Young Decl.") ¶2. SEIU represents about 84,000 registered nurses in 24 states and about one million U.S. health care workers. *Id.* ¶4. SEIU seeks to unite all health care workers to raise the standards for patient care and improve health care workers' wages, benefits, and qualify of life. *Id.*

Silver Decl., ¶¶6-8; Layng Decl., ¶¶ 5-7; Young Decl., ¶8.

Mrs. Silver and Ms. Allen then sought to talk to Debbie Cuaresma, another CNA board member. Allen Decl., ¶8; Silver Decl., ¶8; Layng Decl., ¶¶ 8-9. They arrived at Ms. Cuaresma's house during daylight at approximately 6 p.m. Layng Decl., ¶9. Mrs. Silver and Mrs. Allen spoke briefly to Ms. Cuaresma's daughter, who appeared to be between 18 and 20 years old. Allen Decl. ¶8; Silver Decl. ¶8; Layng Decl. ¶9. Mrs. Silver and Mrs. Allen explained that they wanted to talk to Ms. Cuaresma about CNA's activities and Ms. Cuaresma's daughter told Mrs. Silver and Mrs. Allen that she would pass the message on to her mother. *Id.* The conversation took no more than two or three minutes. *Id.* Ms. Cuaresma's daughter did not appear frightened or scared in any way. *Id.* No one engaged in violence or threatened violence or stalked or harassed anyone. Allen Decl. ¶8; Silver Decl. ¶8; Layng Decl. ¶9; Young Decl. ¶8.

Mrs. Allen and Mrs. Silver made similar, non-violent attempts to speak personally with other CNA board members in California from Thursday, April 10, 2008 through Saturday, April 12, 2008. Layng Decl., ¶4. Mrs. Silver continued her efforts through Monday, April 14, 2008. *Id.* At approximately three homes, Mrs. Allen and/or Mrs. Silver left hand-written letters for the CNA board members. Silver Decl. ¶11; Young Decl. ¶11; Layng Decl. ¶12. These letters expressed their interest in talking to the board member and explained why they had traveled from Ohio; they contained no threats of violence. Silver Decl. ¶11. For example, at the home of CNA board member John Gregory Miller, Mrs. Silver hand wrote the following letter:

> Dear Greg,
>
> Stopped by to hopefully have a chat with you as you are on the CNA board. I've come all the way from Ohio just to get some answers about why the CNA would travel to our town and our hospitals to destroy the opportunity we had finally after three and one-half years of planning and struggling to get to the point of voting fairly and having a union. We had chosen SEIU and we were all so excited to finally get representation, not just the RNs, but all employees. Your union busters took it all away. For what?? Just seeking answers Greg. Hoping you could offer some. Shame on CNA.
>
> Sincerely,
> Michaela Silver, RCP, CRT

Silver Decl., ¶11; Layng Decl., ¶12.

C. The Restraining Order Without Notice

On April 15, 2008, CNA filed a "Petition for Injunction Prohibiting Violence or Threats of Violence Against Employee" in the Alameda County Superior Court. The Petition lists the defendants as "Andrew Stern and all agents of SEIU." RJN, Exh. B. The restraining order that was issued lists the defendants as "Andrew Stern and Service Employees International Union." RJN, Exh. D. A declaration attached to the Petition lists the defendants as "ANDREW STERN and All Staff Members of SERVICE EMPLOYEES INTERNATIONAL UNION." *See* RJN. Exh. B.

The special C.C.P. §527.8 procedure for a workplace violence injunction can *never* be used to obtain relief against an organization. *City of Los Angeles v. Animal Defense League* (2006) 135 Cal.App.4th 606, 622. Further, relief against an individual defendant requires "clear and convincing evidence that *the defendant* engaged in unlawful violence or made a credible threat of violence" that would be carried out in the plaintiff employer's workplace. C.C.P. §527.8(f)(emphasis added).

Here, not only was there no violence or threats of violence in California, much less at CNA's offices in California, but Mr. Stern did not even personally participate in or direct Mrs. Silver's or Mrs. Allen's visits to CNA board members in California. Young Decl. ¶7. Neither Ms. Young, Mr. Layng, Mrs. Silver, nor Mrs. Allen received any instructions from Mr. Stern about the visits. Allen Decl. ¶14; Silver Decl. ¶14; Layng Decl. ¶14; Young Decl. ¶11. The only sentence in the declaration that supported CNA's Petition that contains an allegation about Mr. Stern's own conduct states: "*It is rumored that* SEIU agents have been assigned by Mr. Stern and other SEIU officers to 'invade' CNA/NNOC offices in California. . . ." RJN, Exh. B (Decl. of Bonnie Castillo), ¶¶6-8.[1]

CNA did not give notice to SEIU or Mr. Stern that it was seeking a temporary restraining order. Declaration of Nicole Berner ("Berner Decl."), ¶2. Instead, CNA certified that it "would suffer immediate and irreparable harm before the adverse party could be heard in opposition." RJN,

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[1] CNA's declaration also includes an account of a scuffle between SEIU supporters and CNA supporters at an event *in Michigan*. No evidence was offered that Mr. Stern had any involvement whatsoever in that scuffle, or that it involved violence or threats of violence to employees in CNA's office in California, or that it had any connection with the peaceful free speech activities in California.

Exh. C.

Because of past abuses of temporary restraining orders to obtain tactical advantages during labor disputes, the California Legislature in 1999 adopted Labor Code §§1138 -1138.4, this State's Little Norris-LaGuardia Act, to explicitly and unequivocally withdraw the *authority* of the courts to issue such orders unless special criteria are met and extraordinary procedures are followed. *See Waremart Foods v. United Food & Commercial Workers Union* (2001) 87 Cal.App.4th 145. The Legislature provided that "[n]o court of this state shall have authority to issue a temporary or permanent injunction in any case involving or growing out of a labor dispute," Labor Code §1138.1(a) (emphasis supplied), unless *all* of the procedural protections are followed, including a live hearing, an injunction bond, and written findings of fact. Labor Code §§1138.1-1138.4.[2]

But the Court issued the requested TRO anyway, barring Mr. Stern from "assaulting, battering, and stalking" people or possessing firearms, as well as from communicating by U.S. mail, e-mail, telephone, facsimile, or in person with "Bonnie Castillo and all Officers/Staff CNA/NNOC," or from being with 100 yards of their homes and offices. RJN, Exh. D (TRO), ¶5(b).

D. The Harm to SEIU and Mr. Stern

CNA swore that it was such an "emergency" that Mr. Stern be enjoined that there was no time to notify SEIU's Legal Department so his lawyers could object. But when the TRO was actually signed, CNA did not even bother to notify SEIU's Legal Department so Mr. Stern's lawyers would know that the TRO existed and what it prohibited. Berner Decl., ¶2.

Instead of notifying SEIU about the TRO, CNA immediately issued *a press release* to the national media, entitled: "Court Orders Service Union and its President Andy Stern: Stop Stalking and Harassing Registered Nurse Leaders and Staff of California Nurses Assn/NNOC." RJN,

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[2] A dispute between two rival labor unions that seek to organize nurses is a "labor dispute" within the meaning of the Little Norris-LaGuardia Act. Labor Code §1138.4 adopts the definition of "labor dispute" in Code of Civil Procedure §527.3. Under that broad definition, a "labor dispute" includes any dispute that "involves persons who are engaged in the same industry, trade, craft, or occupation; or have direct or indirect interests therein" including any disputes "(c) between one or more employees or associations of employees and one or more employees or associations of employees." C.C.P. §527.3(b)(4)(i).

Wilcox v. Superior Ct. (1994) 27 Cal.App.4th 809, 823 (emphasis supplied); *see also Evans v. Unkow* (1995) 38 Cal.App.4th 1490, 1496. Plaintiff's evidentiary showing must be made by competent, admissible evidence; averments on information and belief are insufficient. *Church of Scientology v. Wollersheim* (1996) 42 Cal.App.4th 628, 654; *Macias v. Hartwell* (1997) 55 Cal.App.4th 669, 675. If plaintiff cannot meet the burden of establishing the legal and evidentiary sufficiency of its claims, "the motion to strike must be granted." *Wilcox*, 27 Cal.App.4th at 823.

I. The Anti-SLAPP Statute Applies Because Plaintiff's Petition Arises from Free Speech in Connection with a Public Issue.

The anti-SLAPP statute applies to claims that arise from "conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest." C.C.P. §425.16(e)(4).

The term "public interest" in the anti-SLAPP statute is "broadly construed to include not only governmental matters, but also private conduct that impacts a broad segment of society." *Damon v. Ocean Hills Journalism Club* (2000) 85 Cal.App.4th 468, 479. A union election that affects large numbers of people, for example, is an issue of public interest for purposes of the anti-SLAPP statute. *See, e.g., Macias v. Hartwell* (1997) 55 Cal.App.4th 669, 673-74 (holding that a union election presented an issue of public interest under anti-SLAPP statute). CNA's interference with SEIU's efforts to organize nurses and other hospital workers affects 8,000 workers in Ohio and hundreds of thousands of additional health care workers around the country, and it has caused a public controversy that has garnered the attention of the national media. *See, e.g.* Request for Judicial Notice ("RJN"), Exh. A (New York Times article). Both organizations operate websites and issue press releases about the dispute. *See, e.g.*, www.shameonCNA.org (last visited Apr. 20, 2008). The dispute easily qualifies as a matter of public interest.

CNA's California workplace violence petition arises from SEIU's free speech about CNA's conduct in Ohio and, specifically, the visits of two Ohio nurses to California to speak personally with CNA board members about that conduct. *See* RJN, Exh. B (CNA's Petition), Castillo Decl. ¶¶5-8. "[T]he dissemination of information concerning the facts of a labor dispute" is part of the "area of free discussion that is guaranteed by the Constitution." *Thomas v. Collins* (1945) 323 U.S.

516, 532; *Thornhill v. Alabama* (1940) 310 U.S. 88, 102.

The First Amendment protects efforts to speak with people in person about an issue, and restrictions on peaceful door-to-door canvassing and pamphleteering have been struck down as classic First Amendment violations. *Watchtower Bible and Tract Society of New York, Inc. v. Village of Stratton* (2002) 536 U.S. 150, 160 & n.10. Likewise, to the extent CNA's Petition arises from fears that SEIU supporters would seek in the future to visit CNA's offices to discuss what happened in Ohio, that would be classic free speech also. "Speech does not lose its protected character . . . simply because it may embarrass others." *N.A.A.C.P. v. Claiborne Hardware Co.* (1982) 458 U.S. 886, 910. Moreover, peaceful speech does not lose its protections simply because the listener may not want to hear it. *See, e.g., Madsen v. Women's Health Center, Inc.* (1994) 512 U.S. 753, 773-74 ("Absent evidence that the protesters' speech is independently proscribable (*i.e.,* 'fighting words' or threats), or is so infused with violence as to be indistinguishable from a threat of physical harm, this provision cannot stand.")(internal citations omitted).

Nor can a plaintiff evade the anti-SLAPP statute by claiming that the free speech was accompanied by threats or violence and was therefore unprotected. The court analyzing an anti-SLAPP motion must "presume the validity of the claimed constitutional right in the first step of the anti-SLAPP analysis" and place the burden on the plaintiff to show a probability of success on its claims, "[o]therwise, the second step would become superfluous in almost every case, resulting in an improper shifting of the burdens." *Chavez v. Mendoza* (2001) 94 Cal.App.4th 1083, 1089-90; *see also Animal Defense League*, 135 Cal.App.3d at 621 (rejecting plaintiff's argument that workplace violence provisions were not subject to anti-SLAPP statute because they "challenge only . . . threats and other illegal activities").

II. The Special Motion to Strike Must be Granted Because Plaintiffs Cannot Establish a Probability of Prevailing on the Merits.

Because the Plaintiff's Petition is subject to the anti-SLAPP statute, the burden now shifts to Plaintiff to establish a probability of prevailing. Plaintiff will be unable to do so.

A. Plaintiff has no probability of prevailing against Defendant SEIU on its workplace violence petition because, among other things, "restraining orders under section 527.8 may be

Exh. E. The press release stated that the Court had ordered "Andy Stern and SEIU to cease and desist the stalking of, use of violence against, and harassment of [CNA] officers, directors, and staff" and falsely accused SEIU and Mr. Stern of having been engaged in such conduct. *Id.*

As a result, before SEIU could even obtain the court papers, the national media was reporting that a court had entered a restraining order against SEIU and telling the world that a judge had found that SEIU and Mr. Stern had been engaging in violence or making violent threats and were therefore being required to "stop" illegal activities that never occurred. *See, e.g.,* RJN, Exs. F, G (New York Times and Los Angeles Times articles). The TRO also chilled peaceful free speech by SEIU members and supporters. *See, e.g.,* Declaration of Ingela Dahlgren ("Dahlgren Decl.") ¶¶2-3 (Registered Nurse who delayed her plans to come to Northern California to peacefully speak with CNA board members because of the TRO); Berner Decl. ¶4 (because of uncertainty about the coverage of the TRO, SEIU cancelled a scheduled mailing to CNA members) .

Defendants are filing a separate application to vacate the temporary restraining order. They are filing this anti-SLAPP motion to obtain dismissal of the petition.

ARGUMENT

The anti-SLAPP statute provides for the filing of a "special motion to strike" any cause of action filed against a person that arises from "any act of that person in furtherance of the person's right of petition or free speech under the United States or California Constitution in connection with a public issue." C.C.P. §425.16(b). "Section 527.8 workplace violence petitions are subject to special motions to strike under Section 425.16." *City of Los Angeles v. Animal Defense League* (2006) 135 Cal.App.4th 606, 617.

Analysis of an anti-SLAPP motion proceeds in two steps. Defendant has the initial burden of showing the challenged causes of action arise from acts in furtherance of the right of petition or free speech, and that, accordingly, C.C.P. §425.16 applies. Once defendant has done so, either through the pleadings or declarations (*see* C.C.P. §425.16(b)(2)), the burden shifts to plaintiff to establish "that there is a probability that the plaintiff will prevail on the claim." C.C.P. §425.16(b)(1). To meet that burden, plaintiff must "demonstrate the complaint is legally sufficient *and* supported by a sufficient prima facie showing of facts to sustain a favorable judgment . . . ."

The declarations we have submitted also show that the visits by Mrs. Allen and Mrs. Silver to CNA board members in California did not involve violence, did not involve the threat of violence, did not involve plaintiff CNA's own office, and did not involve Mr. Stern.

CONCLUSION

For the foregoing reasons, the special motion to strike Plaintiff CNA's petition should be granted.

Dated: April 20, 2008

Respectfully submitted,

ALTSHULER BERZON LLP

by:_____
Scott A. Kronland

Attorneys for Defendants Andrew L. Stern and Service Employees International Union

directed only to natural persons." *Animal Defense League*, 135 Cal.App.4th at 622 (sustaining a special motion to strike a workplace violence petition against an organization for the same reason).

B. Plaintiff has no probability of prevailing against Defendant Stern on its workplace violence petition because, among other things, Mr. Stern himself did not engage in any conduct covered by C.C.P. §527.8. To prevail on a workplace violence petition, a plaintiff must prove by "clear and convincing evidence that *the defendant* engaged in unlawful violence or made a credible threat of violence." C.C.P. §527.8(f). Moreover the defendant's unlawful violence or threat of violence must relate to the plaintiff employer's workplace. *See Animal Defense League*, 135 Cal.App.4th at 625-26 (sustaining special motion to strike workplace violence claim against individual where conduct related to employee's home, not workplace).

California's Little Norris-LaGuardia Act also includes a heightened vicarious liability standard to protect union officials (like Mr. Stern) from being personally harassed with abusive litigation (like this case) during labor disputes. It provides in pertinent part: "No officer . . . of any association or organization . . ., participating or interested in a labor dispute, shall be held responsible or liable in any court of this state for the unlawful acts of individual officers, members, or agents, except upon *clear proof of actual participation in, or actual authorization of those acts*." Labor Code §1138 (emphasis added). As stated above, a dispute between rival labor organizations concerning the unionization of nurses is a "labor dispute" within the applicable statutory definition. *See* p. 6, n.2, *supra*. Plaintiff also would have to satisfy all the other prerequisites of the Little Norris-LaGuardia Act to prevail in obtaining injunctive relief against Mr. Stern. *See* Labor Code §§1138.1-1138.4.

The only allegation that Plaintiff offered with its Petition to connect Mr. Stern with a threat of violence in the workplace in California is the following statement in the Declaration of Bonnie Castillo (RJN, Exh. B): "*It is rumored* that SEIU agents have been assigned by SEIU President Andy Stern and SEIU officers to 'invade' CNA/NNOC offices in California . . . ." Castillo Decl. ¶5 (emphasis supplied). A rumor is the opposite of "clear and convincing evidence" (C.C.P. §527.8(f)) or "clear proof" (Labor Code §1138). CNA also uses hyperbole like the word "invade" to describe peaceful, constitutionally protected free speech, like knocking on someone's door.

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Service Employees International Union
and Andrew L. Stern

FILED
ALAMEDA COUNTY
APR 21 2008
CLERK OF THE SUPERIOR COURT
By Tasha Perrish
Deputy

SUPERIOR COURT OF CALIFORNIA

COUNTY OF ALAMEDA

CALIFORNIA NURSES ASSOCIATION/ NATIONAL ORGANIZING COMMITTEE, Plaintiffs, vs. ANDREW STERN and SERVICE EMPLOYEES INTERNATIONAL UNION, Defendants.	Case No. RG08381780 **DECLARATIONS IN SUPPORT OF DEFENDANTS' SPECIAL MOTION TO STRIKE THE PLAINTIFF'S PETITION UNDER THE ANTI-SLAPP STATUTE** Date: June 4 2008 Time: 9 AM Dept: 31 The Hon. Frank Roesch R- 821515

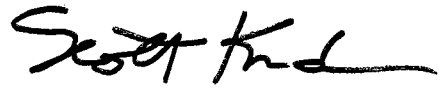
The following declarations are submitted in support of Defendants' Special Motion to Strike the Plaintiff's Petition Under the Anti-SLAPP Statute.

1. Declaration of Sue Allen;
2. Declaration of Engela Dahlgren;
3. Declaration of William Layng;
4. Declaration of Michaela Silver;
5. Declaration of Alexandra L. Young;
6. Declaration of Nicole G. Berner.

Dated: April 20, 2008

Respectfully submitted,

ALTSHULER BERZON LLP



by:_____
Scott A. Kronland

Attorneys for Defendants Andrew L. Stern and Service Employees International Union

Michaela Silver, a Respiratory Therapist who works in Springfield, Ohio, and William Layng, an organizer for SEIU. At some of the visits, we were also accompanied by Aly Young, an organizing coordinator for SEIU. Ms. Silver continued her efforts until approximately April 14, 2008. Other than the visits Mrs. Silver and I made, I am not aware of any other attempts by SEIU supporters to personally visit CNA board members in California.

6. On Thursday, April 10, 2008, in the early afternoon, Mrs. Silver, Ms. Young, Mr. Layng and I drove to Margie Keenan's house in Long Beach, California. Mrs. Silver and I approached Ms. Keenan's house and knocked on the door. There was no gate and the door was approximately 10 to 15 feet from the sidewalk. No one answered the door, and we left her house. We were at Ms. Keenan's house for no longer than a few minutes. We did not engage in any acts of violence or threaten to do so. We did not stalk or harass anyone.

7. We then drove to the hospital where Ms. Keenan works. Mrs. Silver and I asked at the unit nurses' station if Ms. Keenan was available to talk to us. We were told that she was not working that day, and we left the hospital. We did not engage in any acts of violence or threaten to do so at the hospital. We did not stalk or harass anyone.

8. We then returned to Ms. Keenan's home to attempt to talk to her. Mrs. Silver, Ms. Young, and I knocked on the door. Ms. Keenan did not answer, but we noticed her looking at us through a window with no curtains. Mrs. Silver and I explained that we were from Ohio and we wanted to talk to her about what happened in Ohio. We talked to her for no more than a few minutes. We did not engage in acts of violence or threaten to do so. We did not stalk or harass anyone. We by no means intended to physically harm or threaten Ms. Keenan, nor of course did we actually do so. We were not aggressive or hostile. Our only intention was to talk peacefully with Ms. Keenan about CNA's activities in Ohio. When Ms. Keenan did not respond to our requests to talk about what had happened in Ohio, we returned to the car and drove away.

9. On April 10, we also drove to the house of another CNA Board Member, Debbie Cuaresma, in Baldwin Park, California. We arrived at Ms. Cuaresma's house during the late afternoon, when it was still light outside. Mrs. Silver and I spoke with a young woman whom I believed to be Ms. Cuaresma's daughter. She was approximately 20 years old. We asked if Ms.

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DECLARATION OF SUE ALLEN

I, Sue Allen, do hereby declare as follows:

1. I am employed by Springfield Regional Medical Center in Springfield, Ohio. I work as a Registered Nurse ("RN"). I am 54 years old, and I am approximately five feet 4 inches tall. This declarations is based on my personal knowledge.

2. My colleagues and I have been working for over ten years to obtain union representation. For the past three years, we have been talking with the Service Employees International Union ("SEIU") about prospects for SEIU representing nurses and other employees at Springfield Regional Medical Center and eight other hospitals in the area. After more than three years of work, we had a vote scheduled for March 12, 2008. This would have given nurses and other staff at the hospitals the opportunity to vote on whether they wanted to certify SEIU as their representative for collective bargaining purposes.

3. On or about Friday, March 7, 2008, representatives of the California Nurses Association ("CNA") came to Ohio and began urging nurses and other staff at the hospitals to vote "no" in the election. They assembled outside the hospitals and came inside some hospitals. In at least one hospital, they created an obstruction between the parking lot and the hospital entrance. They were antagonistic and yelled at nurses and other staff who were on their way to work. They intimidated many hospital staff members. Because of the confusion and anger generated by CNA's interference, the scheduled vote was cancelled, and we still do not have union representation.

4. On Wednesday, April 9, 2008, I traveled to California to attempt to talk with the several CNA board members. I wanted to have peaceful conversations with CNA's leaders and explain why we were happy with SEIU. I wanted to ask CNA to please stop what it was doing in Ohio. I hoped to explain our situation in Ohio and describe how much we needed a union. I thought we might even be able to talk about how to work together to pursue fair practices in our workplaces.

5. From April 10, 2008 to approximately April 12, 2008, I attempted to contact CNA board members to talk to them about what CNA had done in Ohio. I was accompanied by

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11. Over the next few days, I accompanied Mrs. Silver and Mrs. Allen in a number of similar attempts to talk to other CNA board members. During none of these attempts were our actions hostile or intimidating. No one in our party engaged in any acts of violence or threatened to do so. Our intention was not to harm or threaten to harm any of these individuals. Our intention was simply to talk to them about CNA activities in Ohio.

12. At approximately three homes, Mrs. Silver and Mrs. Allen left hand-written letters for the CNA board members. These letters simply expressed Mrs. Silver's and Mrs. Allen's interest in talking to the board member and explained why they had traveled from Ohio to talk to them. These letters did not contain any threats of violence or any other threatening language. For example, at the home of CNA board member, John Gregory Miller, Mrs. Silver hand wrote the following letter:

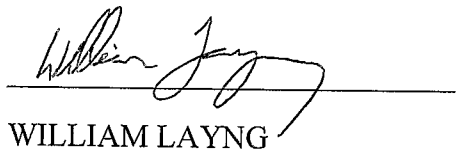
> Dear Greg,
>
> Stopped by to hopefully have a chat with you as you are on the CNA board. I've come all the way from Ohio just to get some answers about why the CNA would travel to our town and our hospitals to destroy the opportunity we had finally after three and one-half years of planning and struggling to get to the point of voting fairly and having a union. We had chosen SEIU and we were all so excited to finally get representation, not just the RNs, but all employees. Your union busters took it all away. For what?? Just seeking answers Greg. Hoping you could offer some. Shame on CNA.
>
> Sincerely,
>
> Michaela Silver, RCP, CRT

13. I personally videotaped Mrs. Allen's and Mrs. Silver's attempts to talk with the CNA board members. Accompanying this declaration as Exhibit 1 is a true and correct copy of videotape recordings I personally made of Mrs. Allen's and Mrs. Silver's attempts to talk with CNA board members. The videotapes accurately depict these attempts.

14. I did not receive any instructions from Andrew Stern, the President of SEIU, about my activities. At no time was I instructed by Mr. Stern or anyone else at SEIU to engage

in violence, threats of violence, stalking, trespassing or any other illegal behavior against any officers, directors, or employees of CNA, nor did I engage in such behavior.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 18, 2008 in San Francisco, California.



WILLIAM LAYNG

DECLARATION OF MICHAELA SILVER

I, Michaela Silver, do hereby declare as follows:

1. I am employed by Community Hospital, a part of the Mercy System, in Springfield, Ohio. I work as a Respiratory Therapist. I am 61 years old, and I am approximately 5 feet 4 inches tall. This declaration is based on my personal knowledge.

2. My colleagues and I have been working for approximately three and a half years to obtain union representation for nurses and other staff in the hospitals in our community. During this time, we communicated extensively with the Service Employees International Union ("SEIU"). We were scheduled to have an election on March 12, 2008, which would have given nurses and other staff at the nine hospitals in our area the opportunity to vote on whether they wanted to certify SEIU as their representative for collective bargaining purposes.

3. The week before we were to vote, representatives of the California Nurses Association ("CNA") came to our hospitals in Ohio. They assembled inside and outside the hospitals and urged nurses and other staff to vote "no" in the election. Their aggressive interference poisoned the atmosphere at the hospitals, and because of the confusion and anger they generated, the scheduled election was cancelled. And after three and a half years of work, we still do not have union representation.

4. On Wednesday, April 9, 2008, I traveled to California to attempt to talk with the several CNA board members. I wanted to have peaceful conversations with CNA's leaders to learn why they had sent representatives to Ohio to interfere with our election. There were thousands of nurses and hospital staff who wanted an explanation. I also wanted to explain what had happened in Ohio and provide a face for the nurses and hospital staff who had been affected. I hoped CNA would understand that we were seeking representation so we could obtain the possibility of health care after retirement, better pensions, and better staffing so we could better serve patients. I was hoping to have a real discussion and exchange with CNA.

5. From April 10, 2008 to approximately April 14, 2008, I attempted to contact CNA board members to talk to them about what CNA had done in Ohio. From April 10 through April 12, I was accompanied by Sue Allen, a registered nurse who works in Springfield,

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Ohio, and William Layng, an organizer for SEIU. At some of the visits, we were also accompanied by Aly Young, an organizing coordinator for SEIU. I continued my efforts through April 14, 2008. Other than the visits I made, I am not aware of any other attempts by SEIU supporters to personally visit CNA board members in California.

6. On Thursday, April 10, 2008, Mrs. Allen, Ms. Young, Mr. Layng and I drove to Margie Keenan's house in Long Beach, California. Mrs. Allen and I approached Ms. Keenan's house and knocked on the door. There was no gate and the door was approximately 10 feet from the sidewalk. No one answered the door, and we left her house. We were at Ms. Keenan's house for no longer than a few minutes. We did not engage in any acts of violence or threaten to do so. We did not stalk or harass anyone.

7. We then drove to the hospital where Ms. Keenan works. Mrs. Allen and I asked at the unit nurses' station if Ms. Keenan was available to talk to us. We were told that she was not working that day, and we left the hospital. We did not engage in any acts of violence or threaten to do so at the hospital. We did not stalk or harass anyone.

8. We then returned to Ms. Keenan's home to attempt to talk to her. Mrs. Allen, Ms. Young, and I knocked on the door. Ms. Keenan did not answer, but we noticed her looking at us through a window with no curtains. Mrs. Allen and I explained that we were from Ohio and we wanted to talk to her about what happened in Ohio. We talked to her for no more than a few minutes. We did not engage in acts of violence or threaten to do so. We did not stalk or harass anyone. We by no means intended to physically harm or threaten Ms. Keenan, nor of course did we actually do so. We were not aggressive or hostile. Our only intention was to talk peacefully with Ms. Keenan about CNA's activities in Ohio. When Ms. Keenan did not respond to our requests to talk about what had happened in Ohio, we returned to the car and drove away.

9. On April 10, we also drove to the house of another CNA Board Member, Debbie Cuaresma, in Baldwin Park, California. Mrs. Allen and I spoke with a young woman I believed to be Ms. Cuaresma's daughter. She was approximately 18 years old. We asked if Ms. Cuaresma was home, and said that we were from Ohio and wanted to talk about CNA's activities. We spoke to her for a few minutes, and then returned to our car and drove away. We

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13. In the past, I have engaged in activities similar to my activities in California – that is, knocking on doors in an attempt to talk to the inhabitants. For example, as a volunteer for the Leukemia Fund and other charitable organizations I have knocked on doors and asked for charitable donations. I did not intend to threaten, harass, or stalk anyone when I did this; I intended only to seek support for a good cause.

14. I did not receive any instructions or direction from Andrew Stern, the President of SEIU, about my activities in California. At no time was I instructed by Mr. Stern or anyone else at SEIU to engage in violence, threats of violence, stalking, harassment, trespassing or any other illegal behavior against any officers, directors, or employees of CNA, nor did I engage in such behavior.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct. Executed on April 21, 2008 in Springfield Ohio.

Michaela Silver

MICHAELA SILVER

APR-20-2008 09:48 From:TCH 3 SOUTH 19373289008 To:4153628064 P.5/5

did not engage in acts of violence or threaten to do so. We did not stalk or harass anyone. We by no means intended to physically harm or threaten Ms. Cuaresma or her daughter, nor of course did we actually do so. We were not aggressive or hostile. Our only intention was to talk peacefully with Ms. Cuaresma about CNA's activities in Ohio.

10. Over the next few days, Mrs. Allen, Mr. Layng and I made a number of similar attempts to talk to other CNA board members. During none of these attempts were our actions hostile or intimidating. No one in our party engaged in any acts of violence or threatened to do so. Our intention was not to harm or threaten to harm any of these individuals. Our intention was simply to talk to them about CNA activities in Ohio.

11. At approximately three homes, Mrs. Allen and/or I left hand-written letters for the CNA board members. These letters simply expressed our interest in talking to the board member and explained why we had traveled from Ohio to talk to them. These letters did not contain any threats of violence or any other threatening language. For example, at the home of CNA board member, John Gregory Miller, I hand wrote the following letter:

> Dear Greg,
>
> Stopped by to hopefully have a chat with you as you are on the CNA board. I've come all the way from Ohio just to get some answers about why the CNA would travel to our town and our hospitals to destroy the opportunity we had finally after three and one-half years of planning and struggling to get to the point of voting fairly and having a union. We had chosen SEIU and we were all so excited to finally get representation, not just the RNs, but all employees. Your union busters took it all away. For what?? Just seeking answers Greg. Hoping you could offer some. Shame on CNA.
>
> Sincerely,
>
> Michaela Silver, RCP, CRT

12. I know of many other nurses who want to write to, call, and visit CNA board members to discuss CNA's activities in Ohio, but who will not do so because of the possibility that such actions are prohibited by the temporary restraining order.

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DECLARATION OF ALEXANDRA L. YOUNG

Alexandra L. Young does hereby declare:

1. I am an Organizing Coordinator for the Service Employees International Union ("SEIU"). I have worked for SEIU for 10 years and I presently reside in the San Francisco Bay Area. This declaration is based on my personal knowledge.

2. SEIU is one of the largest labor organizations in the world, with 1.9 million members in North America. SEIU is organized into three divisions, health care, property services, and public employees, and has affiliated local unions throughout North America.

3. Andrew L. Stern is the President of SEIU, the highest elected official of the 1.9-million member organization. Mr. Stern lives and works in the District of Columbia, where SEIU is headquartered.

4. SEIU represents 84,000 registered nurses in 24 states, and about 1 million health care workers in the United States. SEIU's mission is to unite registered nurses and other health care workers to raise standards for their patients and profession at work and in their communities.

5. SEIU has been involved in a labor dispute with the California Nurses Association ("CNA") because CNA's position is that CNA should be the only labor organization that represents nurses in the United States. CNA has objected to SEIU's many organizing successes throughout the country even though CNA represents virtually no nurses outside California. CNA's position is that nurses should have no union unless they join CNA.

6. For three-and-a-half years, nurses and other health care workers employed at Catholic Healthcare Partners (CHP) hospitals in Ohio had been working with SEIU's assistance to form a union. They had agreed with CHP upon a procedure for a fair election for the workers to vote on whether to be represented by SEIU. About 8,000 workers would take part in this election, which was scheduled for March 2008. Right before the election, CNA – which had never made any effort to help these workers – sent representatives from California to Ohio to disrupt the election and prevent the workers from forming a union. The election had to be cancelled due to CNA's disruptive behavior at the worksite and the chaotic environment that

CNA created.

7. During the week of April 7, 2008, a nurse and a respiratory therapist from Ohio came to California to contact CNA board members personally and to ask them if they were aware of CNA's decision to destroy nurses' organizing efforts in Ohio and to make them aware of the impact it was having on the lives of workers and their families. The two women were Sue Allen, a Registered Nurse who works in Springfield, Ohio, and Michaela Silver, a Respiratory Therapist who works in Springfield, Ohio. Both Mrs. Allen and Mrs. Silver are middle-aged women who do not have a threatening appearance. I was responsible for coordinating their visit. I also arranged for Will Layng to accompany us and videotape the visit in the hopes that the CNA board members would personally explain themselves to Mrs. Allen's and Mrs. Silver's co-workers in Ohio.

8. The purpose of our activities were simply to communicate with CNA's board members worker-to-worker and union leader-to-union leader. I participated in home visits in LA and San Diego. At each visit, we approached the board member's home peacefully. During none of these attempts were our actions hostile or intimidating. No one in our party engaged in any acts of violence or threatened to do so. Our intention was not to harm or threaten to harm any of these individuals. Our intention was simply to talk to them about CNA activities in Ohio.

9. House visits are a standard practice used during organizing drives and political campaigns. They are no more intrusive than an individual canvassing on behalf of a political candidate. Throughout my time at SEIU, I have participated in hundreds of house visits. They are one of the best ways to talk to a worker about a specific issue. They can facilitate a meaningful dialogue outside of the pressures and distractions of the work environment.

10. There are nurses in Ohio and throughout the country who want to communicate with CNA board members. They want to be able to send letters and emails and make calls to these board members, expressing their outrage and concern over CNA's actions in Ohio. These nurses also want to be able to talk to these board members in person. For example, during the weeks of April 14, 2008 and April 21, 2008, nurses were planning on

peacefully sharing information with other nurses at various facilities where CNA board members might be present. Those lawful activities are being chilled because of the court's restraining order against Mr. Stern. It is vital that nurses from Ohio be able to exercise their First Amendment rights and explain to CNA board members what really happened in Ohio.

11. As stated above, I was the person responsible for coordinating the visit of Mrs. Allen and Mrs. Silver to California, which was entirely peaceful and non-threatening. I did not receive any instructions from SEIU President Andrew Stern about the house visits described above. Mr. Stern did not instruct me or anyone else to engage in violence, threats of violence, stalking, trespassing or any other illegal behavior against any officers, directors, or employees of CNA. Mr. Stern did not instruct me or anyone else to "invade" CNA's offices. Mr. Stern did not "dispatch" me or any other organizers or agents of SEIU for the purpose of stalking, intimidating, or threatening any officers, directors, or employees of CNA.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 18, 2008 at San Francisco, California.

ALEXANDRA L. YOUNG

DECLARATION OF NICOLE G. BERNER

Nicole G. Berner declares as follows:

1. I am Associate General Counsel of the Service Employees International Union ("SEIU").

2. The California Nurses Association ("CNA") did not provide any notice to SEIU's Legal Department that this action had been filed or that CNA was seeking a temporary restraining order. Nor did CNA contact the Legal Department to inform us that a temporary restraining order had been issued or provide us with a copy. SEIU learned of a temporary restraining order through media reports that referenced a CNA press release and stated that a temporary restraining order had been entered against SEIU.

3. I obtained a copy of the temporary restraining order by contacting the Alameda Superior Court on April 17, 2008 and sending a messenger to the courthouse.

4. Because of the issuance of the temporary restraining order and the uncertainty about to whom it applied and what it required, SEIU cancelled a planned mailing of letters to CNA members.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct. Executed on April 20, 2008.

NICOLE G. BERNER

6489380

STEPHEN P. BERZON (#46540)
SCOTT A. KRONLAND (#171693)
LINDA LYE (#215584)
PETER E. LECKMAN (#235721)
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Attorneys for Defendants
Service Employees International Union
and Andrew L. Stern

FILED
ALAMEDA COUNTY
APR 21 2008
CLERK OF THE SUPERIOR COURT
By Sasha Perez
Deputy

SUPERIOR COURT OF CALIFORNIA

COUNTY OF ALAMEDA

CALIFORNIA NURSES ASSOCIATION/ NATIONAL ORGANIZING COMMITTEE, Plaintiffs, vs. ANDREW STERN and SERVICE EMPLOYEES INTERNATIONAL UNION, Defendants.	Case No. RG08381780 **PROOF OF SERVICE**

PROOF OF SERVICE

Code of Civil Procedure §1013

CASE: *California Nurses Association/National Organizing Committee v. Andrew Stern and Service Employees International Union*

CASE NO: Alameda County Superior Court, Case No. RG08381780

I am employed in the City and County of San Francisco, California. I am over the age of eighteen years and not a party to the within action; my business address is 177 Post Street, Suite 300, San Francisco, California 94108. On April 21, 2008, I served the following document(s):

DEFENDANTS' NOTICE OF MOTION AND SPECIAL MOTION TO STRIKE THE PLAINTIFF'S PETITION UNDER THE ANTI-SLAPP STATUTE (C.C.P. §425.16)

DEFENDANTS' MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF SPECIAL MOTION TO STRIKE THE PLAINTIFF'S PETITION UNDER THE ANTI-SLAPP STATUTE (C.C.P. §425.16)

DECLARATIONS IN SUPPORT OF DEFENDANTS' SPECIAL MOTION TO STRIKE THE PLAINTIFF'S PETITION UNDER THE ANTI-SLAPP STATUTE

[PROPOSED] ORDER GRANTING DEFENDANTS' SPECIAL MOTION TO STRIKE

DEFENDANTS' REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF DEFENDANTS' SPECIAL MOTION TO STRIKE THE PLAINTIFF'S PETITION UNDER THE ANTI-SLAPP STATUTE; DECLARATION OF SCOTT A. KRONLAND

on the parties, through their attorneys of record, by placing true copies thereof in sealed envelopes addressed as shown below for service as designated below:

By Messenger Service: I am readily familiar with the practice of Altshuler Berzon LLP for messenger delivery, and I caused each such envelope to be delivered to a courier employed by **LIGHTNING MESSENGER SERVICE**, with whom we have a direct billing account, who personally delivered each such envelope to the office of the addressee on the date last written below.

ADDRESSEE	PARTY
Pamela Allen, Esq. California Nurses Association/National Organizing Committee 2000 Franklin Street, #300 Oakland, CA 94612 510/273-3271 510/663-4822 (fax) Pallen@calnurses.org	Plaintiffs

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this April 21, 2008, at OAKLAND, California.

Scott A. Kronland

6489396

STEPHEN P. BERZON (#46540)
SCOTT A. KRONLAND (#171693)
LINDA LYE (#215584)
PETER E. LECKMAN (#235721)
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skronland@altshulerberzon.com
llye@altshulerberzon.com
pleckman@altshulerberzon.com

Attorneys for Defendants
Service Employees International Union
and Andrew L. Stern

SUPERIOR COURT OF CALIFORNIA

COUNTY OF ALAMEDA

CALIFORNIA NURSES ASSOCIATION/ NATIONAL ORGANIZING COMMITTEE, Plaintiffs, vs. ANDREW STERN and SERVICE EMPLOYEES INTERNATIONAL UNION, Defendants.	Case No. RG08381780 **[PROPOSED] ORDER GRANTING DEFENDANTS' SPECIAL MOTION TO STRIKE** Date: June 4 2008 Time: 9 AM Dept: 31 The Hon. Frank Roesch R-821515

The Defendants' Special Motion to Strike the Plaintiff's Petition of Employer for Injunction came on for hearing in Department 31. After considering the evidence and the legal arguments, the Court finds that the Plaintiff's Petition arises from conduct in furtherance of the right of free speech in connection with a public issue and that Plaintiff has not demonstrated a probability of prevailing on its Petition against Defendants Service Employees International Union ("SEIU") and Andrew Stern. Accordingly, the Defendants' special motion to strike the Petition pursuant to C.C.P. 425.16 IS HEREBY GRANTED.

Dated: _____

_____
SUPERIOR COURT JUDGE

RECEIVED
APR 21 2008
By Dasha Penny
ALAMEDA COUNTY SUPERIOR COURT

STEPHEN P. BERZON (#46540)
SCOTT A. KRONLAND (#171693)
LINDA LYE (#215584)
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Attorneys for Defendants
Service Employees International Union
and Andrew L. Stern

6489400

FILED
ALAMEDA COUNTY
APR 21 2008
CLERK OF THE SUPERIOR COURT
By Sasha Perrin
Deputy

SUPERIOR COURT OF CALIFORNIA

COUNTY OF ALAMEDA

CALIFORNIA NURSES ASSOCIATION/ NATIONAL ORGANIZING COMMITTEE, Plaintiffs, vs. ANDREW STERN and SERVICE EMPLOYEES INTERNATIONAL UNION, Defendants.	Case No. RG08381780 **DEFENDANTS' REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF DEFENDANTS' SPECIAL MOTION TO STRIKE THE PLAINTIFF'S PETITION UNDER THE ANTI-SLAPP STATUTE; DECLARATION OF SCOTT A. KRONLAND** Date: JUNE 4 2008 Time: 9 AM Dept: 31 The Hon. Frank Roesch R- 821515

Defendants Service Employees International Union ("SEIU") and Andrew L. Stern request pursuant to Evidence Code §§451-54, that the Court take judicial notice of the documents attached as Exhibits A-G. Evidence Code §§452(d) and (h) provide that the Court may take judicial notice of any "[r]ecords of any court of this state," and "[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy." Pursuant to Evidence Code §453, the Court "shall take judicial notice of any matter specified in Section 452 if a party requests it." The attached documents are authenticated by an accompanying declaration and are appropriate for judicial notice as discussed

below:

Exhibit A.

Exhibit A is a true and correct copy of an article published March 12, 2008 in the New York Times titled "Rival Unions Battle in Ohio Over Workers at Hospitals."

This document is judicially noticeable. "Without assuming the truth of the assertions contained in the news articles, the fact that news articles discussing topics . . . were published is not reasonably subject to dispute." *Seelig v. Infinity Broadcasting Corp.* (2002) 97 Cal.App.4th 798, 808 n.5.

Exhibit B.

Exhibit B is a true and correct copy of the Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee (Workplace Violence) and Application for Temporary Restraining Order and accompanying exhibits that was filed in the Alameda Superior Court in this action (*CNA v. Stern,* Case No. RG08381780) on April 15, 2008.

This document is judicially noticeable. *See* Evidence Code §452(d) (the Court may take judicial notice of any "[r]ecords of any court of this state.").

Exhibit C.

Exhibit C is a true and correct copy of the Declaration re: Notice Upon Ex Parte Application for Orders that was filed in the Alameda Superior Court in this action (*CNA v. Stern,* Case No. RG08381780) on April 15, 2008.

This document is judicially noticeable. *See* Evidence Code §452(d) (the Court may take judicial notice of any "[r]ecords of any court of this state.").

Exhibit D.

Exhibit D is a true and correct copy of the Order to Show Cause and Temporary Restraining Order (CLETS) entered in this action in *California Nurses Association/National Nurses Organizing Committee v. Andrew Stern and Service Employees International Union*, Alameda County Superior Court Case No. RG08381780 (April 16, 2008).

This document is judicially noticeable. *See* Evidence Code §452(d) (the Court may take judicial notice of any "[r]ecords of any court of this state.").

Exhibit E.

Exhibit E is a true and correct copy of a Press Release issued by the California Nurses Association on April 16, 2008, titled "Court Orders Service Union and its President Andy Stern: Stop Stalking and Harassing Registered Nurse Leaders and Staff of California Nurses Assn/NNOC."[1]

This document is judicially noticeable. *See, e.g., Ampex Corp. v. Cargle* (2005) 128 Ca.App.4th 1569, 1573 n.2 (taking judicial notice of organization's press releases).

Exhibit F.

Exhibit F is a true and correct copy of an article published on April 17, 2008 in the Los Angeles Times titled "California nurses union gets restraining order against SEIU."

This document is judicially noticeable. "Without assuming the truth of the assertions contained in the news articles, the fact that news articles discussing topics . . . were published is not reasonably subject to dispute." *Seelig v. Infinity Broadcasting Corp.* (2002) 97 Cal.App.4th 798, 808 n.5.

Exhibit G.

Exhibit G is a true and correct copy of an article published on April 18, 2008 in the New York Times titled "Nurse Union Wins Order to Restrain Rival Union."

This document is judicially noticeable. "Without assuming the truth of the assertions contained in the news articles, the fact that news articles discussing topics . . . were published is not reasonably subject to dispute." *Seelig v. Infinity Broadcasting Corp.* (2002) 97 Cal.App.4th 798, 808 n.5.

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[1] Available at www.calnurses.org/media-center/press-releases/2008/April/court-orders-service-union-and-its-president-andy-stern-stop-stalking-and-harassing-registered-nurse-leaders-and-staff-of-california-nurses-assn-nnoc.html (Last visited Apr. 20, 2008).

Because all of these materials are judicially noticeable, such notice should be granted.

Dated: April 20, 2008

Respectfully submitted,

ALTSHULER BERZON LLP

by: _____
Scott A. Kronland

Attorneys for Defendants Andrew L. Stern and Service Employees International Union

DECLARATION OF SCOTT A. KRONLAND

Scott A. Kronland hereby declares:

1. I am a member of the California Bar and one of the attorneys of record for defendants in this action. I make this declaration in support of defendants' request for judicial notice.

2. Following my declaration are true and correct copies of the following documents:

Exhibit A.

Exhibit A is a true and correct copy of an article published March 12, 2008 in the New York Times titled "Rival Unions Battle in Ohio Over Workers at Hospitals."

Exhibit B.

Exhibit B is a true and correct copy of the Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee (Workplace Violence) and Application for Temporary Restraining Order and accompanying exhibits that was filed in the Alameda Superior Court in this action (*CNA v. Stern,* Case No. RG08381780) on April 15, 2008.

Exhibit C.

Exhibit C is a true and correct copy of the Declaration re: Notice Upon Ex Parte Application for Orders that was filed in the Alameda Superior Court in this action (*CNA v. Stern,* Case No. RG08381780) on April 15, 2008.

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Exhibit E.

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Assn/NNOC."[2]

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Exhibit G.

Exhibit G is a true and correct copy of an article published on April 18, 2008 in the New York Times titled "Nurse Union Wins Order to Restrain Rival Union."

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed in San Francisco on April 20, 2008.

Scott A. Kronland

[2] Available at www.calnurses.org/media-center/press-releases/2008/April/court-orders-service-union-and-its-president-andy-stern-stop-stalking-and-harassing-registered-nurse-leaders-and-staff-of-california-nurses-assn-nnoc.html (Last visited Apr. 20, 2008).

[illegible]

6380794

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address):	FOR COURT USE ONLY
Pamela Allen, SBN 139136 California Nurses Association 2000 Franklin Street, Suite 300 Oakland, CA 94612 TELEPHONE NO.: (510)273-2271 FAX NO. (Optional): (510)663-4822 E-MAIL ADDRESS (Optional): pallen@calnurses.org ATTORNEY FOR (Name): California Nurses Assn/Nat'l Nurses Organizing Comm.	FILED ALAMEDA COUNTY APR 15 2008 Exec. Off./Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda STREET ADDRESS: 661 Washington Street, Dept. 102 MAILING ADDRESS: 1225 Fallon Street CITY AND ZIP CODE: Oakland, CA 94607 BRANCH NAME:	
PLAINTIFF: California Nurses Assn/Nat'l Nurses Organizing Comm. DEFENDANT: Andrew Stern and all agents of SEIU EMPLOYEE: Bonnie Castillo, AND all officers/staff CNA/NNOC	
PETITION OF EMPLOYER FOR INJUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEE (Workplace Violence) AND ☑ APPLICATION FOR TEMPORARY RESTRAINING ORDER	CASE NUMBER: RG08381780

Read the Instructions for Petitions to Prohibit Workplace Violence *(form WV-150) before completing this form. NOTE: Plaintiff* ***must*** *be an employer with standing to bring this action under Code of Civil Procedure section 527.8.*

1. **Plaintiff** *(name):* California Nurses Assn/Nat'l Nurses Organizing is a ☑ corporation ☐ sole proprietorship ☐ other *(specify):* and is filing this suit on behalf of the employee identified in item 2.
2. **Employee** *(name):* Bonnie Castillo, Jill Furillo and all staff and Board Margie Keenan

   Sex: ☐ M ☑ F Date of birth: May 10, 1960

   (Use a separate petition for each employee you are seeking to protect. Identify related actions in item 5.)
3. **Defendant** *(name):*

   Sex: ☑ M ☐ F Ht.: 5'10" Wt.: 170 Hair color: Gry Eye color: Bwn Race: Caucasi Age: 60 Date of birth: unknown

   a. Resides at *(address, if known):* unknown

   b. Works at *(address, if known):*

   c. ☐ Is ☑ Is not a current employee of plaintiff *(explain if defendant is still an employee):*
   The defendant is president of a labor organization that has declared itself a "rival" of plaintiff.
4. This suit is filed in this county because
   a. ☐ defendant resides in this county.
   b. ☑ defendant has caused physical or emotional injury to plaintiff's employee in this county.
   c. ☑ other *(specify):* It is rumored that defendant has instructed his staff to "invade" plaintiff's offices on April 15, 2008.
5. **Related Actions**
   a. ☐ Plaintiff has asked, or is asking, for restraining orders against the defendant in *(specify):* County, case no. *(specify):*

   b. ☐ Employee has asked, or is asking, for restraining orders against defendant in *(specify):* County, case no. *(specify):*

   c. ☐ Other related actions *(describe):*

(This is not a Court Order.)

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March 12, 2008

Rival Unions Battle in Ohio Over Workers at Hospitals

By STEVEN GREENHOUSE

The Service Employees International Union was brimming with confidence about unionizing 8,300 workers at nine Ohio hospitals through elections that were scheduled for this Wednesday and Friday. But then organizers from a rival union, the California Nurses Association, swept into town, buttonholing workers and maneuvering their way into hospital wards, to press the workers to vote not to join the S.E.I.U.

Thrown off balance, the service employees union on Tuesday suddenly asked to postpone the vote by workers at the nine hospitals, all part of the Catholic Healthcare Partners system.

Andy Stern, the service employees' president, said the nurses association's efforts were "nothing more than a flimsy cover for out-and-out union busting that we normally see from employers, not organizations that claim to care about workers."

The California Nurses Association, an unusually militant union that is seeking to expand nationwide, said it dispatched organizers to Ohio because in its view the unionization efforts were part of a sweetheart deal.

Having seen many employers mount fierce campaigns against unionization, the service employees had reached an unusual deal with Catholic Healthcare Partners, to increase its chances of winning a unionization election. Catholic Healthcare and the union promised to campaign civilly and not mount angry all-out efforts against each other.

Rose Ann DeMoro, executive director of the nurses association, condemned this agreement. She called it "a rigged scam" in which the service employees union would bargain only half-heartedly if it won the vote.

"This was a top-down deal between an employer and a hand-picked union," Ms. DeMoro said. "There was a gag order on everyone, and as a result this was a banana republic election."

She said the decision to delay the election was "a significant victory for employee rights."

No new election date was set.

Service employee officials said the agreement sought to maximize the union's chances of winning a fair election in an era when unions are struggling to reverse decades of decline.

Dave Regan, president of a service employees' local representing 35,000 health care workers in Ohio, West Virginia and Kentucky, called the nurses union's efforts immoral and despicable.

"Their conduct is indistinguishable from that of the most vicious anti-union employers," Mr. Regan said. "It violates every principle of unionism. Real people are worse off today as a result of their behavior."

He ridiculed the notion that the service employees were a hand-picked union. He said it took three years of

negotiations, letter writing and protests by hundreds of workers to press Catholic Healthcare into agreeing to the election agreement. Those efforts came after the A.F.L.-C.I.O., the service employees and other unions urged several Roman Catholic bishops to press many Catholic hospitals to stop being so hostile toward unionization.

Responding to Ms. DeMoro's assertion that the union had entered a sweetheart deal in which it would bargain halfheartedly, Mr. Regan noted that after unionizing 550 nurses at a Catholic Healthcare hospital in Lorain, Ohio, the service employees staged two contentious strikes in an effort to obtain a contract.

Orest Holubec, spokesman for Catholic Healthcare, said the system's hospital in Lima had obtained a restraining order to bar the California nurses from entering restricted patient-care areas and aggressive leafletting outside hospitals.

"They were doing exactly the kind of things we were trying to avoid," Mr. Holubec said. "They poisoned the well to the degree that we didn't have the conditions that we tried to establish for a pressure-free environment."

The service employees union and the California Nurses Association both represent tens of thousands of nurses and have fought for years, with the nurses association arguing in Ohio and elsewhere that skilled workers like nurses should belong to nurses' unions and not to unions of diverse workers like the service employees.

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PLAINTIFF (Name): California Nurses Assn/Nat'l Nurses Organizing Com	CASE NUMBER:
DEFENDANT (Name): Andrew Stern and all agents of SEIU	

15. [ ] **COSTS**
Defendant should be ordered to pay costs as follows *(specify)*:

16. Plaintiff requests additional relief as may be proper.

17. [✓] **NO FEE FOR FILING**
Plaintiff is not required to pay a fee for filing this petition because the petition alleges that the defendant has inflicted or threatened violence against an employee of the plaintiff, or stalked the employee, or acted or spoke in any other manner that has placed the employee in reasonable fear of violence, and seeks protective or restraining orders or injunctions restraining stalking or future violence or threats of violence in an action brought under Code of Civil Procedure § 527.8.

18. Plaintiff understands that if the court issues an *Order to Show Cause* (form WV-120), a hearing will be held on the date shown in item 2 of the *Order to Show Cause*. At that hearing, plaintiff will be prepared to present evidence supporting the petition.

19. Number of pages attached: 21

Pamela Allen
(TYPE OR PRINT NAME OF ATTORNEY)

(SIGNATURE OF ATTORNEY)

I declare under penalty of perjury under the laws of the State of California that I am aware of the facts stated,
a. [✓] on the basis of my own personal knowledge.
b. [✓] on the basis that I have been informed and believe that the facts stated are true. *(NOTE: If this petition is made solely on the basis of plaintiff's information and belief, plaintiff must attach declarations by one or more persons who have personal knowledge of the facts stated.)*

Date: April 14, 2008

Bonnie Castillo, RN
(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF)

Title of person signing:

(This is not a Court Order.)

PLAINTIFF (Name): California Nurses Assn/Nat'l Nurses Organizing Com	CASE NUMBER:
DEFENDANT (Name): Andrew Stern and all agents of SEIU	

6. Defendant has ☐ assaulted ☐ battered ☑ stalked ☑ made a credible threat of violence against the employee by knowing or willing statements or a course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family.
   a. One or more of these acts can reasonably be construed to be carried out or to have been carried out at the employee's workplace at *(address)*: See accompanying declaration of Bonnie Castillo.

   b. Describe what happened *(including the dates, who did what to whom, and any injuries)*:
   See accompanying Declaration of Bonnie Castillo, RN.

   ☐ Continued on Attachment 6b.

7. ☑ Employee will suffer great and irreparable harm before this petition can be heard in court unless the court makes those orders requested below effective now and until the hearing. *(Specify the harm and why it will occur before the hearing)*:
   Employee and her coworkers and officers and agents of plaintiff are extremely fearful that the defendant will continue stalking and threats.

   ☐ Continued on Attachment 7.

8. Defendant's conduct has been directed against employee and is knowing and willful, is not constitutionally protected, and does not constitute lawful acts of self-defense or defense of others.

PLAINTIFF REQUESTS THE COURT TO MAKE THE ORDERS INDICATED BY THE CHECK MARKS IN THE BOXES BELOW.

9. ☑ **PERSONAL CONDUCT ORDERS** ☑ **To be ordered now and effective until the hearing**
   a. **Defendant shall not engage in unlawful violence or make threats of violence against the employee and the following members of employee's family or household who reside with the employee:**
   (1) *(Name)*:
   Sex: ☐ M ☐ F Date of birth: _____
   (2) *(Name)*:
   Sex: ☐ M ☐ F Date of birth: _____
   (3) *(Name)*:
   Sex: ☐ M ☐ F Date of birth: _____ ☐ Continued on Attachment 9a.

   b. **Specifically, defendant**
   (1) ☑ shall not assault, batter, or stalk the employee and other protected persons.
   (2) ☑ shall not follow or stalk the employee and other protected persons to or from the place of work.
   (3) ☑ shall not follow the employee and other protected persons during hours of employment.
   (4) ☑ shall not telephone or send correspondence to the employee and other protected persons by any means including, but not limited to, the use of the public or private mails, interoffice mail, fax, or computer e-mail.
   (5) ☑ shall not enter the workplace of the employee and other protected persons.
   (6) ☑ other *(specify)*:
   The defendant and his agents shall not attempt to enter any CNA/NNOC offices or enter the private property of any CNA/NNOC officers, members or employees.

(This is not a Court Order.)

PLAINTIFF (Name): California Nurses Assn/Nat'l Nurses Organizing Com	CASE NUMBER:
DEFENDANT (Name): Andrew Stern and all agents of SEIU	

10. [✓] **STAY-AWAY ORDERS** [✓] **To be ordered now and effective until the hearing**

a. **Defendant** shall stay at least *(specify):* 200 yards away from the following places and persons *(the addresses of the places are optional and may be kept confidential):*

(1) Employee [✓] and other protected person identified in item 9a.

(2) [✓] Employee's residence *(address optional):*

(3) [✓] Employee's place of work *(address optional):*

(4) [ ] Employee's children's school or place of child care *(address optional):*

(5) [✓] Employee's vehicle *(specify):*
2001 Nissan Maxima, dark grey

(6) [ ] Other *(specify):*

b. Will granting of any of the stay-away orders in item 10a deprive defendant of access to his or her residence or place of employment?
[ ] Yes [✓] No *(If yes, explain):*

11. **FIREARMS PROHIBITION AND RELINQUISHMENT ORDER**

Plaintiff requests an order under section 527.9 of the Code of Civil Procedure that the restrained person is prohibited from owning, possessing, purchasing, or receiving, or attempting to purchase or receive a firearm, and must relinquish any firearm that he or she owns or possesses.

12. [ ] **OTHER ORDERS** *(specify other orders you request to help carry out the orders previously requested):*

13. **DELIVERY TO LAW ENFORCEMENT**

Plaintiff requests that copies of orders be given to the following law enforcement agencies:

Law enforcement agency	Address
Oakland Police Department	
Alameda County Sheriff's Dept.	

14. [✓] **TIME FOR SERVICE**

Plaintiff requests that time for service of the *Order to Show Cause and Temporary Restraining Order* (form WV-120) and accompanying papers be no less than *(check one):* [✓] 5 days [ ] *(specify number):* days before the date set for the hearing. *(If you need an order shortening the time to fewer than 5 days, explain the reasons):*

(This is not a Court Order.)

officers, Board members and staff of CNA/NNOC out of genuine concern for the physical safety of our officers and employees and against agents of the Service Employees International Union (SEIU), including its President, Andy Stern, who has dispatched more that 100 organizers and other agents employed by SEIU to California for the express purpose of stalking, intimidating and threatening CNA/NNOC Board members and staff.

2. CNA/NNOC is a nonprofit professional nursing association and labor organization of more than 80,000 Registered Nurses. CNA/NNOC exists and operates for various purposes, including to promote standards of nursing practice and to represent Registered Nurses in relations with their employers concerning terms and conditions of employment and standards of professional practice and patient care. In or about early March, 2008, CNA/NNOC expressed opposition to an effort on the part of SEIU to represent Registered Nurses and other healthcare workers employed by a hospital chain in Ohio known as Catholic Healthcare Partners. CNA/NNOC staff attempted to educate the CHP Registered Nurses on what was about to occur and let them know they had choices. CNA/NNOC opposed SEIU efforts as anti-democratic and against the interests of the Registered Nurses employed by Catholic Healthcare Partners because it involved an election that was not requested by the employees, but, rather, by the employer pursuant to an agreement between the employer and SEIU. Traditionally, union elections are conducted after a petition filed on behalf of the employees supported by a verified showing of at least thirty percent support among the employees.

3. In response to CNA/NNOC opposing the planned SEIU elections in Ohio, the employer withdrew the election petitions and SEIU launched a campaign against CNA/NNOC, essentially "declaring war" in retaliation for CNA/NNOC's call for workplace democracy. I am attaching hereto as Exhibit 1 several documents I have downloaded from the SEIU web site (www.seiu.org) and the link thereon to a website known as www.shameoncna.com, in which SEIU expresses its extreme displeasure with CNA/NNOC for opposing the employer-sponsored SEIU election.

4. On Saturday, April 12, 2008, I attended a conference hosted by an organization known as Labor Notes at a Hyatt Hotel in Dearborn Michigan. Early that day SEIU agents

distributed a leaflet disparaging Rose Ann DeMoro, the Executive Director of CNA/NNOC, a copy of which is attached hereto as Exhibit 2. Throughout the day CNA/NNOC members and Board members were heckled and harassed by SEIU agents, despite Labor Notes staff requests to SEIU to cease and desist from the disruptive behavior. That evening, during the dinner banquet at which Ms. DeMoro was scheduled to speak, hundreds people wearing SEIU logo shirts broke through security personnel and forcibly and violently entered a the banquet room in a very loud, menacing fashion for the obvious purpose of disrupting the conference. They were yelling and carrying picket signs with SUIE/logos disparaging CNA/NNOC. I, along with other CNA/NNOC staff members and officers were immediately led out by security personnel as the SEIU agents were fighting their way toward the front of the room where the speaker's podium was located. Various written accounts of the invasion are attached, collectively, as Exhibit 3, including a press release from SEIU crowing about the fact that 800 of its agents disrupted the event, a press release by the sponsors of the conference and a report from Hyatt Hotel security. The conduct that occurred at the Dearborn Hyatt on Saturday evening was unlike anything I had ever witnessed before and has left me seriously in fear of my physical safety and concerned about the physical safety of all officers, directors and staff of CNA/NNOC.

5. It is rumored that SEIU agents have been assigned by SEIU President Andy Stern and SEIU officers to "invade" CNA/NNOC offices in California tomorrow, including the headquarters office in Oakland where approximately 100 CNA/NNOC staff are employed, the Glendale office where approximately 38 staff are employed, and Sacramento, where approximately 16 staff are employed. I am submitting this request on behalf of all officers, Board members and employees of CNA/NNOC out of genuine fear for the physical safety of myself and all CNA/NNOC staff members and officers.

6. In addition to the events of Saturday, beginning last Thursday evening, April 10, 2008, and continuing to date, groups of SEIU agents have appeared unannounced at the residences of eight CNA/NNOC Board members located in various Counties in California, including Alameda County, banging on their doors and loudly demanded in an intimidating fashion that they come outside "to talk." The first such visit occurred at the home of

CNA/NNOC Board Member Margie Keenan who resides in the City of Long Beach. She will provide a supporting affidavit in support of an injunction, but was not available to do so today in support of this TRO request. She reported that early in the evening hours of Thursday, April 10, 2008, she was disturbed at home by loud knocking on her front door. She stood up from where she was sitting in a room at the back of her house and looked out of her front window and saw four individuals standing on the patio in front of her house. There were three women and one man. Two of the women were peering in through the window and the man was holding a video camera. They began yelling loudly, demanding that she come and speak with them in a very aggressive, boisterous manner. She did not recognize any of the individuals. All of them appeared to be in their early thirties. The man was tall and all three of the women had a slight build. They continued yelling and pounding on her door so she dialed 911 and asked the operator to dispatch police as soon as possible. While she was waiting for the police to arrive, she climbed the stairs to the second floor of her house and went quietly to a balcony to observe the intruders. After several minutes, they began to leave, then saw her on the balcony and came back toward her house and began yelling again. They yelled words to the effect of, "Come down here! We want to talk to you about Ohio!" She went immediately back into the house and waited for the police to arrive. By the time the police came, the intruders were gone. She gave an account of these events to the City of Long Beach police officers who responded to her call, including a description of the individuals, the white hatchback style car they left in and as much of the license plate number of the car as she was able to obtain before they left.

7. Ms. Keenan reports being very fearful as a result of the intrusion at her home on April 10, which she describes as extremely aggressive and hostile. She reports that shortly after the intruders left her property, she received a telephone call on her home phone and the caller, whose voice she recognized as one of the persons who had been yelling outside her home, asked for her by name. ~~, then said "We want to talk to you about Ohio."~~ She is very concerned that these people have her home address and home telephone number, so she called the unit she works on at Long Beach Memorial Hospital to ask her coworkers to post a message by the telephone on the unit instructing everyone not give out any information about her whereabouts.

CALIFORNIA NURSES ASSOCIATION
LEGAL DEPARTMENT
PAMELA ALLEN, Bar No. 139136
2000 Franklin Street, Suite 300
Oakland, California 94612
(510) 273-2200 - Phone
(510) 663-4822 - Fax

Attorneys for Plaintiffs
CALIFORNIA NURSES ASSOCIATION/
NATIONAL NURSES ORGANIZING COMMITTEE

CALIFORNIA SUPERIOR COURT

FOR THE COUNTY OF ALAMEDA

CALIFORNIA NURSES ASSOCIATION/NATIONAL NURSES ORGANIZING COMMITTEE. Plaintiffs, vs. ANDREW STERN and All Staff Members of SERVICE EMPLOYEES INTERNATIONAL UNION AND DOES 1 THROUGH 10, Defendants.	Case No.: DECLARATION OF BONNIE CASTILLO IN SUPPORT OF REQUEST FOR TEMPORARY RESTRAINING ORDER (CCP § 527.8) Date: Time: Courtroom: Judge:

I, Bonnie Castillo, hereby declare and state as follows:

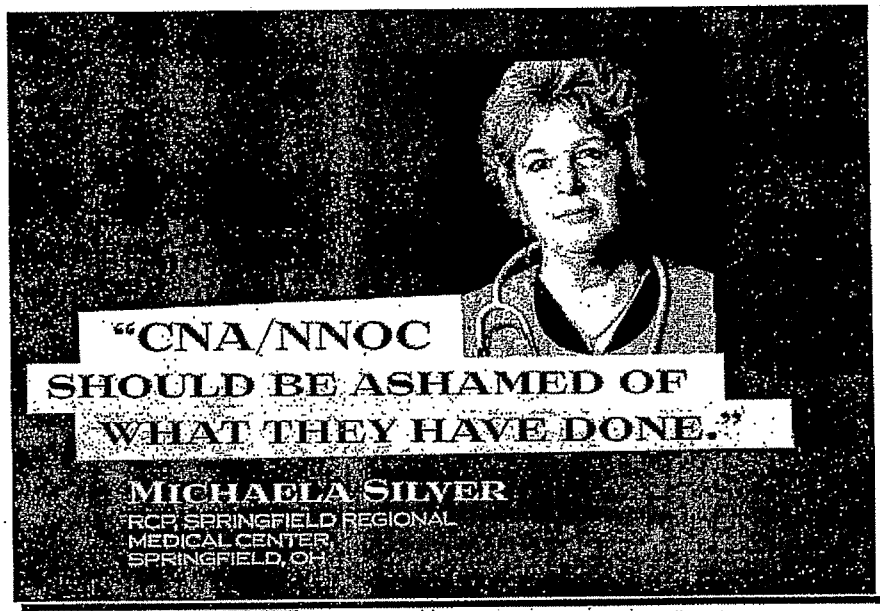
1. I am a Registered Nurse, licensed in the State of California since 1984, and have been employed as a member of the collective bargaining staff of the California Nurses Association/National Nurses Organizing Committee (CNA/NNOC) since 1998. My current job title with CNA/NNOC is Acute Care Division Director. I work out of the CNA/NNOC headquarters building located at 2000 Franklin Street in Oakland, California, but also travel regularly to CNA/NNOC offices located in Sacramento and Glendale, California. I am submitting this request in support of a temporary restraining order to protect myself and all

"CNA/NNOC don't show respect for hard-working people."

–LORI COMPTON
RCP, URBANA, OH

STAND UP!
click to sign SEIU's petition

PRIVACY POLICY

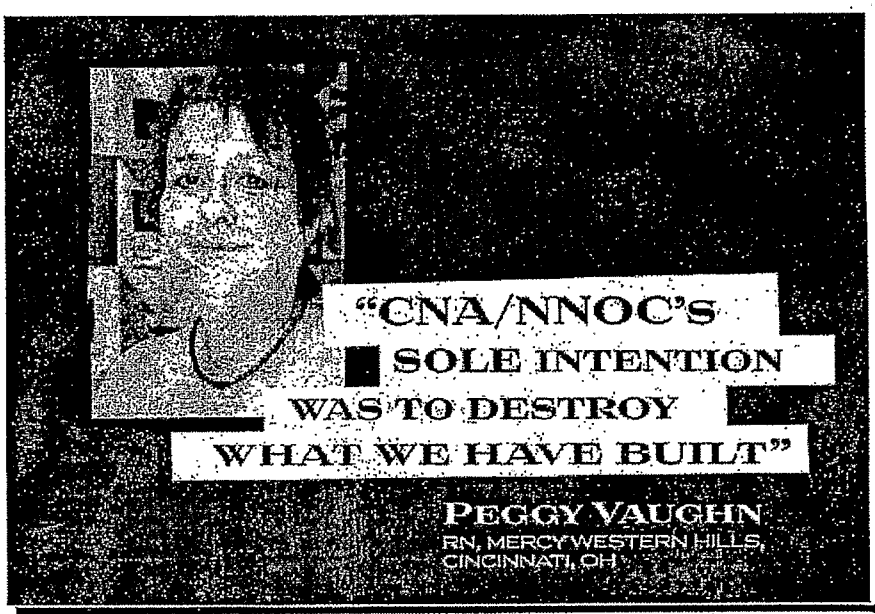


LATEST DEVELOPMENTS Nurse union sinks effort at peaceful vote

"They should be ashamed of what they have done."

-MICHAELA SILVER
BCR SPRINGFIELD, OH

STAND UP!
click to sign SEIU's petition



PRIVACY POLICY

LATEST DEVELOPMENTS: Nurse union sinks effort at peaceful vote

When she called, the unit secretary (name deliberately omitted for safety) told her that two women had come on to the unit without visitor badges earlier that day asking to speak with her. The secretary told them that Nurse Keenan was not working and they asked whether they could find her on another unit. When the secretary said that she was not scheduled to work that day, it is reported that they left the unit and met two other people waiting in a hallway immediately outside of the unit.

8. Shortly after the incident at Margie Keenan's house, another CNA/NNOC Board member, Debbie Cuaresma, reported that a group of five people had come to her house in Bolden Park (Los Angeles County), similarly seeking in a loud, hostile manner to "talk to her about Ohio." She reported feeling very frightened by these events and immediately ran into her house and called the local law enforcement agency. Since Thursday, six more CNA/NNOC Board Members have reported similarly hostile, intimidating events at their homes, including Martha Kuhl, CNA/NNOC Treasurer, and Jan Rodolfo, CNA/NNOC Secretary, both of whom reside in Alameda County, in the City of Oakland. Both Nurse Kuhl and Nurse Rodolfo report that a group of at least three loud hostile people approached their homes last night, Sunday, April 13, 2008, banged on the door and demanded that they come out. Neither of them opened the door to these invaders, having heard of the earlier incidents in Southern California, but both described very intimidating behavior.

9. On information and belief, I anticipate attacks on the California offices of CNA/NNOC beginning tomorrow morning. I make this request for a restraining order against Andy Stern and all agents of SEIU in an effort to protect CNA/NNOC officers, directors and staff from further incidents of violence and stalking.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 14, 2008 at Oakland, California.

BONNIE CASTILLO staff are employed
RN

Campaign Unavailable

We're sorry, this alert is no longer available.

The short explanation of this alert was:

Over the past three years, more than 8,000 nurses and healthcare workers at Catholic Healthcare Partners—the largest hospital system in Ohio—worked with SEIU members and organizers to win an opportunity to form a union.

In February, they had a breakthrough when they won the opportunity to make the decision without interference or pressure of any kind.

But just days before they were set to vote to form a union, the California Nurses Association came to Ohio and disrupted the elections.

CNA accused SEIU of being "undemocratic" and claimed the ground rules the hospital workers had achieved were a "back-room" deal.

After CNA succeeded in derailing the elections, it actually told the Cincinnati Enquirer that stopping workers from voting to form a union was a "victory".

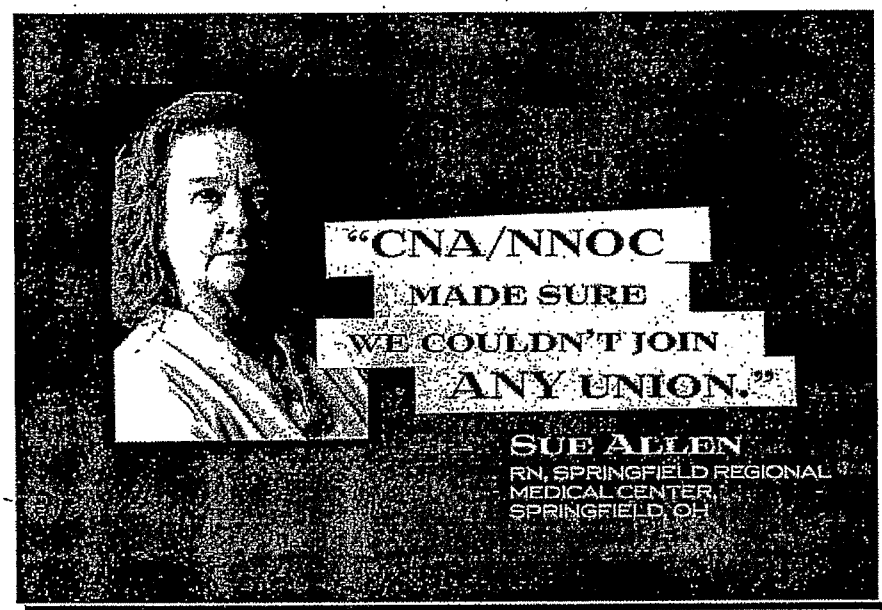
If you would like to view details on this alert, please visit here.

© 2005 SEIU - Service Employees International Union®, CLC

"CNA/NNOC's sole intention was to destroy what we have built"

-PEGGY VAUGHN
RN, CINCINNATI, OH

STAND UP!
click to sign SEIU's petition



PRIVACY POLICY

LATEST DEVELOPMENTS Nurse union sinks effort at peaceful vote

"CNA/NNOC has brought harm to thousands of workers and families in Ohio."

-SUSAN HORNE
RN, CINCINNATI, OH

STAND UP!
click to sign SEIU's petition

HAD A BAD CNA EXPERIENCE?
click to e-mail or call us at 1.800.577.1635

Over the past three years, more than 8,000 nurses and healthcare workers at Catholic Healthcare Partners - the largest hospital system in Ohio - worked with SEIU members and organizers to win an opportunity to form a union.

In February, they had a breakthrough when they won the opportunity to make the decision without interference or pressure of any kind.

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PRIVACY POLICY

SIGN PETITION AT SEIU's WEBSITE

"CNA/NNOC has brought harm to thousands of workers and families in Ohio."
-SUSAN HORNE
RN, CINCINNATI, OH

STAND UP!
click to sign SEIU's petition

PRIVACY POLICY

LATEST DEVELOPMENTS Nurse union sinks effort at peaceful vote

HERE'S A QUESTION FOR Rose Ann DeMoro?

HOW CAN YOU TALK ABOUT REBUILDING LABOR'S POWER, WHEN YOU'RE BUSTING UNIONS AND TAKING AWAY THE RIGHTS OF THOUSANDS OF WORKERS?

California Nurses Association Executive Director **ROSE ANN DEMORO** has been stopping democratic union votes by healthcare workers across America.

OHIO: DeMoro's association stopped over 8,000 nurses and healthcare workers from voting to join a union at CHP Hospitals. Thousands of them were low-wage housekeeping and dietary staff that **DeMoro's** CNA would never allow in their union, so why would she block giving them a chance at joining a union that wants to help them?

NEVADA: DeMoro and CNA sent Californians in to raid hospitals during contract negotiations with another union and intimidated nurses in cafeterias and break rooms.

CALIFORNIA: DeMoro and CNA are raiding public hospital employees who belong to other unions rather than focusing their energy and resources organizing tens of thousands of RNs in California who are not in a union already.

MISSOURI: DeMoro and CNA filed charges to stop nurses from joining SEIU. Thanks to their expensive legal maneuvers nurses lost their union entirely.

ROSE ANN DEMORO: NO HELP FOR STRIKING NURSES.

While **DeMoro** prevents nurses and thousands of other workers from voting to form a union in Ohio, her members were on strike in California with no help from her union.

Nurses and their families lost thousands of dollars in salary while they walked the picket line, but **DeMoro's** union has no strike fund and did nothing to help them financially.

ROSE ANN DEMORO: LABOR'S BEEN VERY, VERY GOOD TO HER.

Striking nurses suffer and workers around the country are shut out of unions she doesn't control, but **Rose Ann DeMoro** and her husband Robert rake in over $330,000 in salaries from the California Nurses Association and front groups CNA funds.

UNION BUSTING. INTIMIDATION. HYPOCRISY. BIG EXECUTIVE SALARIES. IT DOESN'T SOUND LIKE THE WAY TO REBUILD LABOR.

But it's the real Rose Ann DeMoro story.

SERVICE EMPLOYEES UNION (SEIU) ATTACKS LABOR GATHERING— CONFERENCE-GOERS ASSAULTED

Fran Johnston 13 Apr 2008 14:36 GMT

SEIU turns violent at labor conference in Detroit.

April 12, 2008

SERVICE EMPLOYEES UNION ATTACKS LABOR GATHERING— CONFERENCE-GOERS ASSAULTED

Dearborn, MI—The Service Employees International Union turned their dispute with the California Nurses Association violent by attacking a labor conference April 12, injuring several and sending an American Axle striker to the hospital.

A recently retired member of United Auto Workers Local 235, Dianne Feeley, suffered a head wound after being knocked to the ground by SEIU International staff and local members. Other conference-goers—members of the Teamsters, UAW, UNITE HERE, International Longshoremen's Association, and SEIU itself—were punched, kicked, shoved, and pushed to the floor. Dearborn police responded and evicted the three bus loads of SEIU International staff and members of local and regional health care unions. No arrests were made.

The assault took place at the Labor Notes conference, a biennial gathering of 1,100 union members and leaders who met to discuss strategies to rebuild the labor movement.

David Cohen, an international representative of the United Electrical Workers, asked protesters why they came. He said one responded, "they told us just to get on the bus." The protesters included several members with young children, who had to be ushered away when SEIU tried to force their way into the conference banquet hall. Protesters were targeting Rose Ann DeMoro, executive director of the AFL-CIO-affiliated CNA. DeMoro was scheduled to speak but declined to appear after threats were made against her union's leadership.

Despite being welcomed to the conference earlier in the day—and given space to debate supporters of the CNA and the National Nurses Organizing Committee about neutrality organizing agreements—SEIU international and regional staff shouted down speakers at workshops and panels throughout the event.

"Labor Notes has always been a space for open debate, but when a union decides to engage in violence against their brothers and sisters, we draw a line," said Mark Brenner, director of Labor Notes. "Violence within the labor movement is unacceptable and we call on the national leadership of SEIU, including President Andy Stern, to repudiate it."

For more information, contact Chris Kutalik 313-378-2588 or Mischa Gaus 773-627-3205

StreetInsider.com
if you're not inside...you're outside

Press Releases

SEIU Members Stand Up for the Future of the Labor Movement and the Interests of All Workers

April 12, 2008 10:15 PM EDT

DEARBORN, Mich., April 12 /PRNewswire-USNewswire/ -- Hundreds of Service Employees International Union (SEIU) members from across the country joined in protest tonight, renouncing recent actions by the California Nurses Association (CNA) to interfere in other unions' organizing efforts. SEIU members made their voices heard during the Labor Notes Conference in Dearborn, Michigan, where CNA Executive Director Rose Ann DeMoro was scheduled to speak but cancelled at the last minute, anticipating the scrutiny her actions were expected to receive. Below is a statement from SEIU Executive Vice President Mary Kay Henry:

"Tonight, SEIU members stood up for the future of the labor movement and called on the California Nurses Association to stop fighting with other unions and start helping us build a stronger labor movement to help all workers reclaim the American Dream.

"At a time when the economy is in a downward spiral, when income inequality and economic uncertainty are at record levels and when only 12.1 percent of the U.S. workforce has union representation, we simply can not abide by union-busting and member poaching between unions. Unions must stand united for the interests of working people.

"The more than 800 SEIU members who traveled to Dearborn from all parts of the country tonight would much rather be at home: holding their local state and national representatives accountable; going door to door to elect pro-worker candidates; and helping security officers, janitors, healthcare workers, and other service workers unite to attain a voice on the job. But CNA's recent actions threaten the future of the labor movement for all workers -- and we cannot remain silent.

"Open debate serves an important role as we work to strengthen our movement. The Labor Notes Conference is the right time and place to discuss our differences. Emergency room hallways and days before contentious union elections are not.

"Our ability as workers, progressives, and labor leaders to ensure that unions play a role in mending the economic woes of our nation depends on our ability to grow and our ability to work together. Tonight we call on CNA Executive Director Rose Ann DeMoro and the entire labor movement to take a deep breath, to realize what is at stake, and to put the interests of working people ahead of union differences."

SOURCE Service Employees International Union

Dearborn, MI—The Service Employees International Union turned their dispute with the California Nurses Association violent by attacking a labor conference April 12, injuring several and sending an American Axle striker to the hospital.

A recently retired member of United Auto Workers Local 235, Dianne Feeley, suffered a head wound after being knocked to the ground by SEIU International staff and local members. Other conference-goers—members of the Teamsters, UAW, UNITE HERE, International Longshoremen's Association, and SEIU itself—were punched, kicked, shoved, and pushed to the floor. Dearborn police responded and evicted the three bus loads of SEIU International staff and members of local and regional health care unions. No arrests were made.

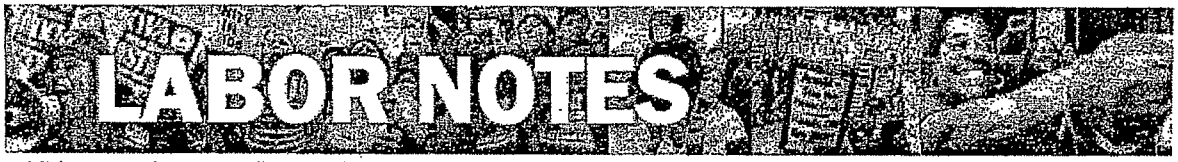
The assault took place at the Labor Notes conference, a biennial gathering of 1,100 union members and leaders who met to discuss strategies to rebuild the labor movement.

David Cohen, an international representative of the United Electrical Workers, asked protesters why they came. He said one responded, "they told us just to get on the bus." The protesters included several members with young children, who had to be ushered away when SEIU tried to force their way into the conference banquet hall. Protesters were targeting Rose Ann DeMoro, executive director of the AFL-CIO-affiliated CNA. DeMoro was scheduled to speak but declined to appear after threats were made against her union's leadership.

Despite being welcomed to the conference earlier in the day—and given space to debate supporters of the CNA and the National Nurses Organizing Committee about neutrality organizing agreements—SEIU international and regional staff shouted down speakers at workshops and panels throughout the event.

"Labor Notes has always been a space for open debate, but when a union decides to engage in violence against their brothers and sisters, we draw a line," said Mark Brenner, director of Labor Notes. "Violence within the labor movement is unacceptable and we call on the national leadership of SEIU, including President Andy Stern, to repudiate it."

http://www.indymedia.org/en/2008/04/904376.shtml



Published on Labor Notes (http://labornotes.org)

SEIU International Backs Away From Debate, Attempts Disruption at 2008 Labor Notes Conference

The Labor Notes Staff

SEIU protesters attempt to storm the banquet at the 2008 Labor Notes Conference. Photo: Jim West.

When you are trying to put the movement back into the labor movement, you're going to meet resistance. Labor Notes supporters are no strangers to heated debate—and the SEIU International is not the first union to protest at our conference. During the 1980s, for example, we saw opponents of the New Directions Movement inside the United Auto Workers put up picket lines outside our conference hotel and had BLAST—the Brotherhood of Loyal Americans and Strong Teamsters—try to intimidate Teamster reformers attending our events.

People are going to disagree and that is fine. There is no idea that can't be discussed at a Labor Notes conference. We welcome debate on any and all issues facing the labor movement, including the heated dispute between the California Nurses Association/National Nurses Organizing Committee (CNA/NNOC) and the leaders of the Service Employees International Union (SEIU) over the best way to build power for health care workers. But that debate must take place with respect and free from intimidation. Despite being welcomed to the conference earlier in the day—and given space to debate supporters of the CNA/NNOC about neutrality organizing agreements—SEIU staff and members shouted down speakers at workshops and panels throughout the event.

At our Saturday night banquet hundreds of SEIU protesters stormed into our conference and confronted our volunteers and supporters. In 29 years we have never had a group of protesters attack our conference or the brothers and sisters who attend it. Violence has no place within our labor movement, and we call on the national leadership of SEIU, including President Andy Stern, to repudiate it.

Source URL:
http://labornotes.org/node/1604

For Immediate Release
April 12, 2008
Contact Chris Kutalik 313-378-2588 or Mischa Gaus 773-627-3205

SERVICE EMPLOYEES UNION ATTACKS LABOR GATHERING CONFERENCE-GOERS ASSAULTED Dearborn, MI—The Service Employees International Union turned their dispute with the California Nurses Association violent by attacking a labor conference April 12, injuring several and sending an American Axle striker to the hospital.

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No arrests were made.

The assault took place at the Labor Notes conference, a biennial gathering of 1,100 union members and leaders who met to discuss strategies to rebuild the labor movement.

David Cohen, an international representative of the United Electrical Workers, asked protestors why they came. He said one responded, "they told us just to get on the bus."

The protestors included several members with young children, who had to be ushered away when SEIU tried to force their way into the conference banquet hall. Protesters were targeting Rose Ann DeMoro, executive director of the AFL-CIO-affiliated CNA. DeMoro was scheduled to speak but declined to appear after threats were made against her union's leadership.

Despite being welcomed to the conference earlier in the day—and given space to debate supporters of the CNA and the National Nurses Organizing Committee about neutrality organizing agreements—SEIU international and regional staff shouted down speakers at workshops and panels throughout the event.

"Labor Notes has always been a space for open debate, but when a union decides to engage in violence against their brothers and sisters, we draw a line," said Mark Brenner, director of Labor Notes. "Violence within the labor movement is unacceptable and we call on the national leadership of SEIU, including President Andy Stern, to repudiate it."

April 14, 2008

To Whom It May Concern,

The following details are describing the incident that occurred on April 12, 2008 at the Hyatt Regency Dearborn. This incident is listed as report #08-083 in our files.

On April 12, 2008 at approximately 7:27pm, six buses carrying an unknown amount of passengers arrived on Hyatt property and proceeded to the front of the hotel. The passengers unloaded and proceeded to the front of the Grand Foyer Entrance. The group appeared to belong to the SEIU (Service Employees International Union) due to their apparel and signage. At this time a #911 emergency call was placed to the Dearborn Police Dept. and the hotel requested assistance. At approximately 7:29pm the group approached the Grand Foyer doors and attempted to enter the building. The doors were locked so the group began to pound on the glass with their hands and feet. At approximately 7:31pm three unknown males approached the Grand Foyer doors from inside the building and opened the doors so that the group could enter the property. At approximately 7:32pm the Dearborn police officers arrived on property and proceeded to enter the Grand Foyer and begin to remove the alleged SEIU group. At approximately 7:41pm it was determined that the police had removed all unwanted alleged SEIU members from the Grand Foyer. At approximately 7:51pm all buses left Hyatt property.

If I can be of any further assistance regarding this matter please contact me by phone or email.

Sincerely,

Ken Mowery
Director of Security
Hyatt Regency Dearborn
600 Town Center Dr.
Dearborn, MI. 48126
(313) 982-6806

----- Original Message -----
From: Kristen Michaels
To: Nicola Dones
Sent: Sun Apr 13 07:10:28 2008
Subject: accounts of the night

Hi Nicola,

Here is what I got from the people I talked to.

From Dave Campell Teamster for Democratic Union and Roland Day ILN Local 333 who were standing next to one another…

They started banging on the external door which were locked. Roland said "It sounded like loud drum beats". People sort of looked and laughed and continued what they were doing. This went on for 10 minutes, which gave our protectors time to get ready. But then, a few supporters, who were actually registered at the conference, ran out open the door from the inside. At which point Dave said "gentlemen here they come". About 6 guys closed the door and backed up against it. SEIU rushed the door, but were not intelligent enough to realize the door swung forward. Which meant the more they pushed, the less chance they had of getting in. They started throwing punches and pushing and shoving. There were 3 men with bandanas on. Dave pulled down one of their bandanas. This didn't make the guy very happy so he threw a punch at Dave, which knocked his glasses off. Eventually they realized they weren't going to get in so they retreated back to the bus. But then, they came back for a second assault. Dave said the teamster security open the door just a crack after SEIUers left and people from the conference rushed out to help defend the area. When SEIU returned, these brave souls formed an arm link chain line around the lobby. SEIU couldn't event get to the internal door. They continued to use violence to get past the line of defenders. This is when the women was injured. She was pushed, from the back, by a purple people eater. They tried to go around the service entrance but it was blocked by hotel staff. They retreated for the final time when the cops showed up.

Joshua Freeze was on the inside holding the door shut. An SEIU staffer who was trying to get out, to let her cronies in, clobbered him and scratched him on hand, drawing blood. He said "You might disagree but you don't act that".

Here are their phone numbers Dan [redacted]

Roland [redacted]

Joshua Freeze [redacted]

Steve Kindred (katrina has the notes from him) [redacted]

It was great meeting you and working with you this weekend.

Take care,

Kris Michaels

From: Lisa Kermish [mailto:lkermish@yahoo.com]
Sent: Monday, April 14, 2008 4:25 PM
To: Lisa Morowitz
Subject: Re: Did u go to labor notes

Yes. And I witnessed the outrageous SEIU action. I was seated at a table at the back of the banquet room, close to the door that they tried to get through. There was alot of noise in the banquet room (840 people inside just getting seated and starting in on the delightful salad course). We became aware of drums beating (literally) outside the door and alot of yelling. Then people inside the room rushed to the door to hold it closed against the interlopers. I saw flashes of purple and gold and figured who was out there. (Cliff, of course, rushed to help hold the doors shut, figuring a 67 year old man with Parkinson's could probably really be helpful.) There was alot of yelling. Someone tried to take the mic at the podium and yell something. I don't knkow if that person was with CNA or SEIU because there was so much din I couldn't hear her. "We" held the doors. The police arrived, as well as hotel security.

Mike Parker from Labor Notes took the podium and encouraged calm, saying that Labor Notes was a place for respectful discourse and disagreement and that what had just occured was not respectful and would not be tolerated and that's why they were barred from entering.

I soon thereafter left the banquet in a failed search for Weight Watchers friendly food (couldn't ear the banquet food) and saw the woman who was injured being treated by Dearborn paramedics (I passed by and overheaard them telling her she would probably need stitches). I then went outside and happened by some of the SEIU intruders. I overheard them talking (they were clearly pumped up and thought that they had succeeded in whatever their goal was). I engaged them only briefly and gently because I was clearly not an expert on the Ohio issue. I did make it clear that I thought their tactics were unacceptable and ineffective and they left me, with one of them saying to another one "If those damn nurses think they can get away with messing with us..."

Quite an introduction to my first Labor Notes conference.

btw, Jelger was there, too, fyi.

Lisa Kermish
Vice President
UPTE CWA 9119 AFL-CIO
PO Box 4443
Berkeley, CA 94704

SEIU International Backs Away From Debate, Attempts Disruption at 2008 Labor Notes Conference

— The Labor Notes Staff

SEIU protesters attempt to storm the banquet at the 2008 Labor Notes Conference. Photo: Jim West.

When you are trying to put the movement back into the labor movement, you're going to meet resistance. Labor Notes supporters are no strangers to heated debate—and the SEIU International is not the first union to protest at our conference. During the 1980s, for example, we saw opponents of the New Directions Movement inside the United Auto Workers put up picket lines outside our conference hotel and had BLAST—the Brotherhood of Loyal Americans and Strong Teamsters—try to intimidate Teamster reformers attending our events.

People are going to disagree and that is fine. There is no idea that can't be discussed at a Labor Notes conference. We welcome debate on any and all issues facing the labor movement, including the heated dispute between the California Nurses Association/National Nurses Organizing Committee (CNA/NNOC) and the leaders of the Service Employees International Union (SEIU) over the best way to build power for health care workers. But that debate must take place with respect and free from intimidation. Despite being welcomed to the conference earlier in the day—and given space to debate supporters of the CNA/NNOC about neutrality organizing agreements—SEIU staff and members shouted down speakers at workshops and panels throughout the event.

At our Saturday night banquet hundreds of SEIU protesters stormed into our conference and confronted our volunteers and supporters. In 29 years we have never had a group of protesters attack our conference or the brothers and sisters who attend it. Violence has no place within our labor movement, and we call on the national leadership of SEIU, including President Andy Stern, to repudiate it.

New York Sun

Nurses Accuse Members of SEIU of Assault During Mich. Parley

By E.B. SOLOMONT, Staff Reporter of the Sun | April 15, 2008

A national union of nurses has accused members of the Service Employees International Union of physically assaulting some of its members at a labor conference in Michigan this past weekend.

The California Nurses Association/National Nurses Organizing Committee, an 80,000-member group affiliated with the AFL-CIO, also charged SEIU members with stalking and harassing its members in recent weeks. On Saturday night, union officials said, about 800 SEIU members converged at a Dearborn, Mich., hotel and pushed their way into a conference organized by a labor magazine, Labor Notes.

"It's disgraceful," a spokesman for the union of nurses, Charles Idelson, said. "That is just unconscionable and inexcusable."

According to witnesses, several hundred SEIU members forced their way into the hotel, shoving conference attendees. Witnesses said a 68-year-old woman, Dianne Feeley, was thrown to the ground and was taken to a local hospital to be treated for a cut on her head.

"It was a scary situation," the editor of Labor Notes, Chris Kutalik, whose arm was bruised during the skirmish, said. "It just seems ironic. The whole point of the conference was to promote unity."

SEIU officials presented a different account, saying protesters were mostly women and children who gathered to demonstrate peacefully. Officials denied any physical assault on conference attendees.

The two sides disagree on the basis for the dispute. According to a spokeswoman for SEIU, Linda Tran, the California Nurses Association interfered with a labor vote in Ohio last month, ultimately preventing nurses from joining SEIU. She also said the union of nurses has a history of building its membership by "raiding" other unions.

Mr. Idelson said SEIU has wrongfully partnered with employers, making decisions that are not always in the best interest of its members.