

LOS ANGELES COUNTY  
EMPLOYEE RELATIONS COMMISSION

In the Matter of	)	
LOS ANGELES COUNTY EMPLOYEES UNION, LOCAL 434, SEIU, AFL-CIO	)	
Charging Party	)	
v.	)	UFC 7.9
WARREN SAYERS, PERSONNEL DIRECTOR, RANCHO LOS AMIGOS HOSPITAL	)	
Respondent	)	
<hr/>		

DECISION AND ORDER

The charge in this case was that the Personnel Director of Rancho Los Amigos Hospital committed an unfair employee relations practice by unilaterally changing conditions of employment following industrial injury leave; more particularly by directing the distribution of pay checks and home visits by a Return-to-Work Coordinator, and by providing for absence without pay until there was medical certification of continuing disability.

The matter was duly referred to Hearing Officer George E. Marshall, Jr., who held hearings attended by both parties on March 24, September 7 and December 5, 1978, received testimony and ex-

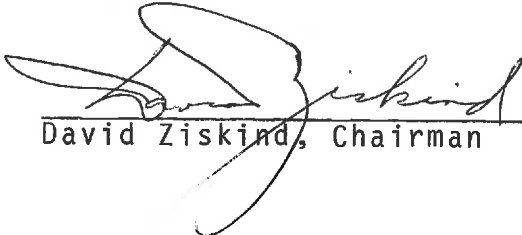
hibits and post hearing briefs, and on the basis of the record, filed his Report and Recommendations dated April 18, 1979. Exceptions thereto were filed by the Charging Party and their contents have been considered.

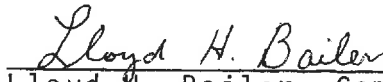
The Commission adopts the findings and recommendations of the Hearing Officer as set forth in his report. Commissioner William Levin did not participate in this decision because of illness.

Order

The charges in Case Number UFC 7.9 are hereby dismissed.

Dated: June 22, 1979

  
\_\_\_\_\_  
David Ziskind, Chairman

  
\_\_\_\_\_  
Lloyd H. Bailer, Commissioner

va

1 MICHAEL POSNER, a member of  
2 GEFNER & SATZMAN  
3 A Professional Corporation  
4 3055 Wilshire Boulevard, Suite 900  
5 Los Angeles, California 90010  
6 Telephone No. (213)487-1520

7 Attorneys for Petitioners

8  
9 LOS ANGELES COUNTY EMPLOYEE RELATIONS COMMISSION

10  
11 In the Matter of:

12 COUNTY EMPLOYEES UNION, LOCAL 434,  
13 SEIU, AFL-CIO,

14 Charging Party,

15 vs.

16 WARREN SAYERS, PERSONNEL DIRECTOR,  
17 RANCHO LOS AMIGOS HOSPITAL,

18 Respondent.

CASE NO. UFC 7.9

EXCEPTIONS TO HEARING  
OFFICER'S REPORT AND  
RECOMMENDATIONS

19  
20  
21 I

22 EXCEPTIONS

23 Charging party hereby files Exceptions to the Hearing  
24 Officer's Report and Recommendations in the above matter.

25 Charging party excepts to the first full paragraph  
26 on page 13:

27 "Although there is evidence that  
28 employees felt they were harassed  
by supervisor (Mr. Caudillo), and

RECEIVED  
EMPLOYEE RELATIONS COMM.  
COUNTY OF LOS ANGELES  
MAY 15 4 26 PM '79

1 by Ms. Wayne, according to the  
2 Union's business agent, and  
3 encouraged to discuss their  
4 claims with Ms. Wayne rather than  
5 the Union, there is no evidence  
6 that their rights were interfered  
7 with or restrained under the  
8 ordinance. Accordingly, there  
9 have been no unfair practices  
10 committed by the County, and, in  
11 particular, Rancho Los Amigos  
12 Hospital, within the meaning of  
13 Section 12(a)(1) of the ordinance."

14 Charging party excepts to the last paragraph commen-  
15 cing on page 14 through the first two paragraphs on page  
16 15:

17 "As to definition (c), there is a  
18 clinical truck driver occupation  
19 identified in the record but no  
20 evidence that all persons in said  
21 occupation are affected by the  
22 changes. The charging party  
23 argues and has presented testimony  
24 that all of the employees at  
25 Rancho Los Amigos are potentially  
26 affected because they could all  
27 suffer an industrial accident.  
28 However, in the absence of

1 testimony that all members of an  
2 identifiable occupational group  
3 were affected by the change, a  
4 finding that a 'significantly  
5 large number' of employees had  
6 been affected is not possible.  
7

8 Although there is testimony that  
9 all of the employees at Rancho  
10 Los Amigos are a 'readily identifi-  
11 able group', it is apparent that  
12 the parties in agreeing to the  
13 'significantly large number'  
14 language did not intend that all  
15 employees as a 'readily identifi-  
16 able group' would satisfy the  
17 criteria which would trigger the  
18 obligation to negotiate changes.  
19 The criteria is quite specific  
20 and requires rather precise  
21 evidence to compliance therewith  
22 rather than generalities which  
23 are evident in the case above.  
24 The changes relate only to those  
25 employees returning to work from  
26 an industrial injury or illness,  
27 and not to all employees returning  
28 to work from illness or injury

1                   which might otherwise satisfy the  
2                   criteria."

3                   Charging party objects to the first full paragraph  
4 on page 16:

5                   "In conclusion, it is determined  
6                   that the parties are required to  
7                   negotiate changes in sick leave  
8                   policies and procedures inconsis-  
9                   tent with past practice, but they  
10                  have agreed to waive the obliga-  
11                  tion to negotiate unless the  
12                  criteria established in the Full  
13                  Understanding, Modifications, and  
14                  Waiver provisions of the MOU are  
15                  met. The Hearing Officer, for  
16                  the reasons discussed, finds that  
17                  such criteria have not been met."

18                  In addition thereto, charging party excepts to the  
19 recommended Final Order of the Hearing Officer as such appears  
20 on page 16:

21                  "Charge UFC 7.9 should be herewith  
22                  dismissed with the parties being  
23                  instructed to meet and consult  
24                  relative to the impact of the  
25                  proposed changes on employees in  
26                  the unit at Rancho Los Amigos  
27                  Hospital in accordance with  
28                  Section 6 of the ERO."

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

II

ARGUMENT

The Hearing Officer, in the discussion and conclusions portion of his recommended decision, recognized that "it is unfortunate that the County has an employee, as Return to Work Coordinator, a person who appears to lack sensitivity and compassion for the rights of workers who have suffered industrial injuries and apparently resents their being represented by counsel of their choice in prosecuting claims against the County of Los Angeles. Notwithstanding the unexplained bias of Gloria Wayne toward the law firm of Geffner & Satzman, which she has openly expressed to members and representatives of Union Local 434, it is incumbent upon the Union to establish that her conduct did, in fact, constitute intimidation, harassment, interference with the exercise of rights granted to employees under

1 the Employee Relations Ordinance  
2 (ERO) of the County of Los  
3 Angeles."

4 However, after the Hearing Officer found as a fact  
5 the bias of Gloria Wayne toward the law firm of Geffner &  
6 Satzman, to which she openly expressed to members of Local 434  
7 and its representatives, the Hearing Officer noted that it was  
8 incumbent upon the Union to establish that such conduct did, in  
9 fact, constitute intimidation, harassment, etc.

10 However, in the following page of his report, although  
11 he found evidence to establish that the employees were harassed  
12 by Ms. Wayne, he nonetheless erroneously concluded that such  
13 did not constitute an unfair labor practice within the meaning  
14 of Section 12(a)(1) of the ordinance.

15 The remaining portion of the Hearing Officer's  
16 recommended decision to which Exceptions are filed focus on the  
17 Hearing Officer's analysis of the term "significantly large  
18 number" as such is defined in the full understanding, modifica-  
19 tion, and waiver provisions of the Memorandum of Understanding.

20 The Hearing Officer recognized, that said paragraph  
21 (c) of the definition referred to all employees in a readily  
22 identifiable occupation, with examples given such as stenogra-  
23 phers or truck drivers. However, to rule that all employees  
24 within a readily identifiable occupation such as stenographer,  
25 truck driver, cook, nursing attendant, or any other classifica-  
26 tion of employees, is greater than all of the employees at  
27 Rancho Los Amigos Hospital, is to do injustice to the concept  
28 that the whole is equal to the sum of its parts. If each of



1 the classification of employees as such is used as an example  
2 in providing a definition for the term "significantly large  
3 number" would satisfy that definition, then clearly all  
4 of the employees at Rancho Los Amigos Hospital that are affected  
5 as a class because they could all suffer an industrial accident,  
6 would meet the criteria of a "significantly large number"  
7 within the meaning of that term as negotiated by the parties in  
8 their Memorandum of Understanding to thereby extricate such  
9 from the Full Understanding, Modifications, and Waiver clause  
10 of the Memorandum of Understanding.

11 Thus, the conclusion reached by the Hearing Officer,  
12 inasmuch as such is based upon an erroneous finding of an  
13 application of the waiver provisions of the MOU, should be set  
14 aside by the Commission, and a finding be made that Respondents  
15 have violated Sections 4, 12(a)(1), 12(a)(3) of the ordinance,  
16 and Respondents should be ordered to cease and desist from  
17 intimidating, harassing and coercing employees with respect to  
18 the exercise of their rights guaranteed by the ordinance and be  
19 further ordered to restore the policies and procedures that  
20 were followed by Respondents prior to the changes in their  
21 attendance policies that were instituted without first bargain-  
22 ing in good faith with Local 434.

23 Respectfully submitted,

24 GEFNER & SATZMAN  
25 A Professional Corporation

26  
27 BY   
28 MICHAEL POSNER

CERTIFICATE OF SERVICE

I certify that a true copy of the within  
EXCEPTIONS TO HEARING OFFICER'S REPORT AND RECOMMENDATIONS  
has been served this date by mail upon the following parties  
at the following addresses:

Orville Placial, Employee Relations Administrator  
County of Los Angeles  
Office of the Dir. of Personnel  
222 No. Grand Avenue  
Los Angeles, California 90012

DATED: This 15th ~~day~~ of May, 1979, at Los  
Angeles, California.

  
\_\_\_\_\_  
Blanca E. Ormaza