

NLRB Requires Employer To Pay Union's Negotiation Expenses In Refusal To Bargain Case

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Earlier this week, the National Labor Relations Board (NLRB) ordered a hospital employer to pay the negotiating costs of the union representing its employees as a remedy for the hospital's unlawful refusal to bargain with the union. In *Fallbrook Hospital Corporation dba Fallbrook Hospital and California Nurses Association/National Nurses Organizing Committee (CNA/NNOC)*, *AFL-CIO*, the NLRB upheld the decision made by the Administrative Law Judge (ALJ) that the hospital had unlawfully refused to bargain with the union by, among other conduct, failing to provide any proposals or counter-proposal during the first eight bargaining sessions (until it received a full set of proposals from the union), repeatedly leaving bargaining sessions abruptly, and ultimately refusing to respond to the union's requests for future bargaining dates. The NLRB, however, went further than the ALJ and found that the conduct of the hospital "infected the core of the bargaining process to such an extent that its effects cannot be eliminated by the mere application of our traditional remedy of an affirmative bargaining order . . ." and required the hospital to "reimburse the Union's negotiation expenses . . . to make the [Union] whole for the resources that were wasted because of the [hospital's] unlawful conduct, and to restore the economic strength that is necessary to ensure a return to the status quo ante at the bargaining table." This decision is another example of the current NLRB's aggressive stance with regard to employer unfair labor practices. However, this decision may also be used offensively by employers under the right circumstances, such as when a union is refusing to bargain or committing other unfair labor practices surrounding collective bargaining.

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