

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

Jean Ross, as a Member and Secretary
Treasurer of United American Nurses
8630 Fenton Street, Suite 1100
Silver Spring, Maryland 20910
[Montgomery County]

Case No. 8:09-CV-3100

Sandra Falwell, as a Member and Director
of United American Nurses
8630 Fenton Street, Suite 1100
Silver Spring, Maryland 20910

**COMPLAINT FOR
DECLARATORY AND
EQUITABLE RELIEF**

Linda Hamilton, as a Member and Director
of United American Nurses
8630 Fenton Street, Suite 1100
Silver Spring, Maryland 20910

Carolyn Hietamaki, as a Member and
Director of United American Nurses
8630 Fenton Street, Suite 1100
Silver Spring, Maryland 20910

v.

Ann Converso, as President of United
American Nurses
8630 Fenton Street, Suite 1100
Silver Spring, Maryland 20910

Joan Craft, as Vice President of United
American Nurses
8630 Fenton Street, Suite 1100
Silver Spring, Maryland 20910

Kathleen Gettys, as a Director of United
American Nurses
8630 Fenton Street, Suite 1100
Silver Spring, Maryland 20910

Plaintiffs Sandra Falwell RN, Linda Hamilton RN, Carolyn Hietamaki RN,

and Jean Ross RN, each of them a member and elected officer of United American Nurses, AFL-CIO (UAN), allege for their Complaint against Defendants as follows:

Parties

1. Plaintiff Sandra Falwell is a Registered Nurse, an active member of UAN and currently serves as an elected Director and member of its Executive Council. She is also a long-standing member of the District of Columbia Nurses Association.

2. Plaintiff Linda Hamilton is a Registered Nurse, an active member of UAN and currently serves as an elected Director and member of the UAN's Executive Council. She is also a long-standing member of the Minnesota Nurses Association.

3. Plaintiff Carolyn Hietamaki is a Registered Nurse, an active member of UAN and currently serves as an elected Director and member of the UAN's Executive Council. She is also a long-standing member of the Michigan Nurses Association.

4. Plaintiff Jean Ross is a Registered Nurse, an active member of UAN and currently serves as the elected Secretary Treasurer and member of the UAN's Executive Council. She is also a long-standing member of the Minnesota Nurses Association.

5. Defendant Ann Converso currently serves as President of UAN and is a member of the UAN's Executive Council.

6. Defendant Joan Craft currently serves as Vice President of UAN and is a member of the UAN's Executive Council.

7. Defendant Kathleen Gettys currently serves as a Director and member of the UAN's Executive Council.

Background Facts

8. UAN represents registered nurses for the purpose of collective bargaining with employers. UAN is a labor organization within the meaning of Section 2(5) of the Labor Management Relations Act, 29 U.S.C. §152(5). It is headquartered at 8630 Fenton Street, Suite 1100, Silver Spring, Maryland.

9. UAN is made up of 13 affiliate organizations from states across the country.

10. UAN is governed by a Constitution. A true and correct copy of the UAN Constitution, as last amended March 2009, is attached as Exhibit A.

11. The UAN Constitution is a contract between labor organizations within the meaning of 29 U.S.C. §185(a).

12. UAN's National Labor Assembly (NLA) is its highest body. It consists of delegates elected by members of each of the UAN affiliates, and the seven members of UAN's Executive Council. Exh. A at Section VI.

13. UAN's Executive Council manages the regular business of UAN and acts on behalf of the membership between meetings of the NLA. The Council is made up of the three elected officers, President, Vice President and Secretary-

Treasurer, and four elected Directors. Exh. A at Section V. Plaintiffs and Defendants constitute the seven members of the current Executive Council.

14. For several years UAN has been in discussions with other unions, including the California Nurses Association/National Nurses Organizing Committee (CNA/NNOC) and the Massachusetts Nurses Association (MassNA), about the possibility of jointly affiliating.

15. On February 16-17, 2009, representatives of UAN, CNA/NNOC and MassNA met in Santa Barbara, California and agreed to move forward with joining forces to establish a national union representing almost 150,000 RNs.

16. At this meeting, representatives of the three unions established principles and goals for the new organization, including: 1) building a movement to defend and advance the interest of direct care nurses; 2) organizing unrepresented direct care RNs, with a majority of the national budget dedicated to organizing; 3) providing a national voice for the rights of nurses and safe RN practices, including nurse-to-patient staff ratios; 4) providing a vehicle for solidarity with other nurses and allied groups around the world; and 5) creating a national pension plan for unionized nurses.

17. On March 10, at an UAN NLA meeting, the NLA delegates voted to approve the formation of a national union with CNA/NNOC and MassNA and directed the Executive Council to pursue further negotiations with the other two unions.

18. On April 30, representatives of the three unions reached agreement on a provisional affiliation agreement establishing an interim governing structure for the new union, which would be called National Nurses United (NNU).

19. The Executive Council unanimously approved this provisional affiliation agreement on May 2. Defendant Converso signed the provisional agreement on behalf of UAN.

20. After further talks, the three unions agreed to a Consolidation and Affiliation Agreement (“the C&A Agreement”) in late July, a final agreement between the three organizations to form National Nurses United.

21. The C&A Agreement provides that each of the three unions must seek approval of the Agreement “from their respective organizations in accordance with the requirements of their respective constitutions and bylaws.” If the C&A Agreement was approved by all three unions, it would become effective at the conclusion of a Founding Convention for NNU to be held in Phoenix, Arizona in early December 2009.

22. The UAN Constitution empowers the Executive Council to enter into affiliation agreements “[s]ubject to expeditious ratification by the National Labor Assembly at its next regular or special meeting or by ballot.” Exh. A at Section I.D.

23. On July 31, the Executive Council approved the C&A Agreement and voted to submit the C&A Agreement for ratification by the NLA at a special meeting scheduled for November 1 and 2. Plaintiffs Ross, Falwell, Hamilton and

Hietamaki and Defendant Gettys voted in favor of this resolution. Defendants Converso and Craft voted against it.

24. On November 1, NLA delegates and the members of the Executive Council traveled to Orlando, Florida, to participate in the planned special NLA meeting to decide whether to ratify the C&A Agreement. UAN paid for the hotel rooms, meals and meeting space for delegates, and paid the airfare for Executive Council members, including Defendants, and UAN staff.

25. Leading up to this special NLA meeting, Plaintiff Ross, on behalf of herself and the three other Plaintiff Executive Council members, made several requests for a meeting of the Executive Council. Pursuant to the UAN Constitution, Defendant President Converso is obligated to call a special meeting of the Executive Council if four members of the Executive Council request such a meeting. Exh. A at Section V.C.2. Nonetheless, Defendant Converso refused to schedule a meeting.

26. Plaintiffs learned that Defendants and some NLA delegates were conspiring to deprive the NLA's special meeting of a quorum, despite the fact that the delegates and the Executive Council were traveling to Orlando solely for the purpose of voting on the C&A Agreement at this special meeting. Under the Constitution, a quorum for an NLA meeting ordinarily exists if in attendance are at least 50 percent of the total delegates, representing a majority of the 13 UAN affiliates, and three members of the Executive Council, one of whom must be the president or vice president. Exh. A at Section VI.G. Thus, if delegates from just a

few small affiliated unions decided to boycott the meeting, they could try to deprive it of a quorum.

27. Plaintiffs successfully preempted this plan, by proposing to allow the NLA delegates to ratify the affiliation agreement by mail ballot, the other means of ratifying an affiliation under the UAN Constitution. Exh. A at Section I.D. Just prior to the NLA special meeting, on November 1, the Executive Council met in Orlando. At this meeting, the Executive Council voted 4 to 3 to proceed with mail balloting of the delegates for ratification of the C&A Agreement if a vote was prevented at the next day's NLA special meeting. Plaintiffs voted for this motion; Defendants voted against it.

28. At this same meeting, the Executive Council voted 4 to 3 to interpret Section I.D. of the UAN Constitution – which authorizes ratification of affiliation agreements at meetings of the NLA or by ballot – to apply to the C&A Agreement. Plaintiffs voted for this motion; Defendants voted against it.

29. The NLA meeting was held on November 2. Delegates from the Minnesota, Michigan, District of Columbia and Southern United Nurses affiliates – representing about 80 percent of UAN's members – were present at the meeting.

30. However, as suspected, delegates from smaller affiliates decided to boycott the meeting. On information and belief, at least some of these delegates were present in Orlando but chose not to attend the special meeting. Because there were not delegates present from a majority of the 13 UAN affiliates, an argument

was made that there was not a legal quorum.

31. On information and belief, Defendants conspired with delegates from UAN state affiliates to boycott the meeting in order to try to deprive the meeting of a quorum, despite UAN's expenditure of significant resources to host this special meeting.

32. At the special meeting, Defendant Converso announced that there was not a legal quorum present, refused to chair the meeting and left. Defendants Craft and Gettys also left the meeting.

33. The NLA meeting continued without Defendants and the missing delegates. The delegates present appointed Plaintiff Ross as "chair pro-tem" and pursuant to Robert's Rules of Order proceeded with an emergency meeting.

34. The assembled delegates unanimously endorsed the C&A Agreement to create National Nurses United. The delegates also unanimously supported a vote of "no confidence" in Defendant Converso, Defendant Craft and Defendant Gettys and demanded their resignations. While these votes may have been non-binding, the delegates expressed the position of delegates representing a great majority -- approximately 80 percent -- of UAN's membership.

35. Immediately following this special meeting on November 2, Plaintiffs made numerous attempts to contact Defendants to resume unfinished business of the Executive Council. Defendants refused to respond text messages, emails and telephone calls, and thus the Executive Council was unable to meet again in

Orlando, despite the fact that all members were physically present in Orlando.

36. Pursuant to the Executive Council's November 1 resolution to conduct a mail ballot regarding ratification of the C&A Agreement, and as is UAN's regular practice, UAN Executive Director Walter Frederickson contacted the American Arbitration Association (AAA) to conduct the vote.

37. On November 5, UAN, through the AAA, mailed all NLA delegates a ratification ballot to vote on whether or not to approve the consolidation and affiliation of UAN, CNA/NNOC and MassNA.

38. Ballots are scheduled to be counted in New York on Monday, November 23. The AAA is charged with counting the ballots and certifying the results.

39. Under the terms of the C&A Agreement, UAN Executive Director Frederickson is to report the results of the vote to the Executive Directors of the other two unions.

40. Defendant Converso canceled the regular meeting of the Executive Council that was scheduled to be held on November 9. Plaintiffs have requested that Defendant Converso convene a special meeting of the Council, but again, in derogation of her duties under the UAN Constitution, Exh A at Section V.C.2, Defendant Converso has refused to schedule a meeting.

41. Defendant Converso has contacted the AAA to try to disrupt the counting of the NLA's mail ballot vote, so far without success.

42. The Defendants' purpose in trying to frustrate meetings of the Executive Council is to try to prevent it from voting in ways that are contrary to the Defendants' own personal interests.

43. Likewise, Defendants' purpose in trying to frustrate meetings of the NLA is to try to prevent it from voting in ways that are contrary to Defendants' personal interests.

44. The Founding Convention of National Nurses United is scheduled to take place December 7 and 8 in Phoenix, Arizona. Upon the conclusion of the Founding Convention, the C&A Agreement will become effective. If UAN's NLA delegates ratify the C&A Agreement in their balloting, UAN will be affiliated with the new entity.

Jurisdiction and Venue

45. This Court has jurisdiction of this matter pursuant to Section 301 of the LMRA, 29 U.S.C. §185(a).

46. Venue lies within this judicial district pursuant to Section 301 of the LMRA, 29 U.S.C. §185(a).

First Cause of Action: For a Declaratory Judgment 29 U.S.C. §185 and 28 U.S.C. §2201

47. By refusing to participate in the UAN's governing bodies, Defendants hope to deny a quorum to those bodies and to shut down the organization.

48. Defendants' actions are motivated by an effort to prevent the democratic bodies of the UAN from properly functioning because, if those bodies do

function, Defendants fear the democratic majority will vote in a way they do not like.

49. Plaintiffs seek a declaratory judgment that Defendants, by their simple refusal to call meetings in response to a request from a majority of the Executive Council and by their refusal to attend meetings, cannot prevent the Executive Council from meeting, making binding decisions and otherwise performing its obligations under the UAN Constitution.

50. Plaintiffs ask the Court to declare the rights of the UAN's governing bodies to function despite the intentional acts of Defendants to boycott participation in those bodies in an effort to deny a quorum.

51. Plaintiffs, and the organization and members they represent, are without an adequate remedy at law and may suffer continued injury without such a declaration.

**Second Cause of Action: Breach of Officer Obligations under the UAN
Constitution by Interference with UAN's Executive Council
29 U.S.C. §185**

52. The UAN Constitution makes the Executive Council the governing body of the UAN between meetings of the NLA. In order to function properly, the attendance of the President or Vice President is required because the absence of both deprives the Executive Council of a quorum.

53. The Constitution makes the President, Vice President and Directors members of the Executive Council and obliges them to participate in its

proceedings.

54. The UAN Constitution requires all elected officers to act in conformity with the Constitution and to act in the best interests of the organization.

55. By willfully failing to attend meetings of the Executive Council, Defendants are preventing the Executive Council from functioning properly, to the detriment of UAN and its members.

56. By so acting, Defendants have acted and are acting in breach of obligations imposed on them by the UAN Constitution.

57. Plaintiffs, and the organization and members they represent, are without any adequate remedy at law and will suffer irreparable injury because the Defendants are refusing to comply with their obligations under the UAN Constitution.

**Third Cause of Action: Breach of Officer Obligations under the UAN
Constitution by Interfering with UAN's National Labor Assembly
29 U.S.C. §185**

58. The UAN Constitution makes the NLA the governing body of UAN.

59. A special meeting of the NLA was properly called and scheduled to be held for November 2, 2009 in Orlando, Florida.

60. Knowing that the meeting was going to occur, and knowing that UAN was expending considerable resources to plan and host this event, the Defendants nevertheless acted to frustrate that meeting by willfully participating in organizing an effort to deny a quorum for the special meeting.

61. A balloting of the NLA was properly called for and is currently underway. Defendants have acted to try to prevent the NLA from voting by means of interfering with the current mail ballot, thereby interfering with its duties.

62. By their actions, Defendants have acted and are acting in breach of obligations imposed on them by the UAN Constitution.

63. Plaintiffs believe the Defendants will act similarly in the future to try to frustrate the governance and operation of UAN, all to the detriment of UAN's members.

64. Plaintiffs, and the organization and members they represent, are without any adequate remedy at law and will suffer irreparable injury because the Defendants are refusing to comply with their obligations under the UAN Constitution.

Request for Relief

WHEREFORE, the Plaintiffs respectfully pray that this Court:

a. Issue an injunction ordering Defendants to abide by and comply with their Constitutional obligations as UAN officers, including ordering them to attend regular and special meetings of the Executive Council, to cease and desist interfering with the voting activities of the National Labor Assembly, and to cease and desist acting to waste the resources of UAN as happened as a result of the Defendants' actions vis-à-vis the Orlando meeting;

- b. Issue an order stating and declaring the rights of the UAN's governing bodies and Defendants' obligations as UAN officers;
- c. Issue an order requiring the Defendants to reimburse the costs and attorneys' fees incurred in bringing this action;
- d. Order any and all other relief that the Court deems just and appropriate under the circumstances.

November 19, 2009

Respectfully submitted,

s/ Arlus J. Stephens
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