

Testimony of Barbara Ivey
Employee of Kaiser Permanente Northwest
September 22, 2011

Mr. Chairman, ladies and gentlemen of the Committee, thank you for allowing me to speak before you today regarding this important issue.

My name is Barbara Ivey and I've been an employee of Kaiser Permanente for over 21 years, 19 of which I've been in the Membership Services Department.

Let me start off by saying that the bottom line, really, is that everything involved in this "card-check" scheme was handled in a sneaky manner. All employees should have had the opportunity to see all the vital information that was going to impact their jobs and incomes, and the opportunity to vote by secret-ballot.

I am not in favor of the union, but, if the majority of my coworkers truly wanted it, I would have accepted that decision. However, I know that through the card-check scheme used at Kaiser Permanente, everyone in our department did not have a vote.

I think the following facts back up my concerns:

On July 20, 2011, Kaiser Permanente sent an email stating that there would be a meeting in two days, July 22nd, from 4 -6 pm in the Portland office of Kaiser Permanente. Attending would be Scott Allan, Director of Labor and Employee Relations for Kaiser Permanente

Northwest, and Sarah Thompson, an internal organizer from the Service Employees International Union (SEIU).

For many of us, this email was the first indication of any effort to unionize our workplace. We thought this meeting was simply the first step in what we believed would be a lengthy process. We thought something as important as a union representation election would never be rushed.

During the July 22 meeting at the Portland office, the majority of my coworkers and I were still at work. We had to "call-in" from the outside clinics, i.e. Salem, Vancouver, and Long View, during our breaks and or after work.

We were not informed that SEIU was going to visit Kaiser Permanente employees at work and ask them to sign cards to indicate that they wanted SEIU to have monopoly bargaining power.

During the telephone conference, I asked a few questions regarding benefits and the SEIU's union work rules. I also asked if there was any option for a vote, if we did not feel that the "card count," also known as the card-check, method was a valid way to "vote" to join a union. I was advised during that call that there was the "DANA" ruling that protected my rights to request a secret ballot certification election.

To my surprise, just thirteen days later I received an email from Kaiser Permanente director, Belinda Green, announcing the outcome of the SEIU "vote count" held the day before. According to her email, 49 signed cards were

needed to give the SEIU union monopoly recognition and SEIU had received 50 signed cards.

In those thirteen days, I never received a card or request to sign a recognition card for SEIU. It appeared to me that the union had stacked the deck before the July 22nd meeting was even held.

When we were told that in only twelve days SEIU had become our monopoly bargaining agent, many of my coworkers and I were stunned and frustrated that we did not have a say in this card count and never had any "vote". I offered to contact the NLRB to inquire about signing a "DANA" petition to force a secret ballot election.

We never found out how the Bargaining Committee was selected. Somehow these folks' names just appeared on the ballot that was forwarded to us. The names were pre-selected. Why wasn't everyone in the office offered an opportunity to be on the ballot?

The whole process seemed to take place in such a small window of time, although we heard that there were organizing meetings going on in the evenings prior to SEIU coming into the office. Let me say again, we were stunned and frustrated that we had not been given a "vote," and that is why, with the help of The National Right To Work Legal Defense Foundation attorney Glenn Taubman, we began the process to petition for a secret ballot election.

With no expectations, a coworker and I approached fellow employees about signing a petition for a secret ballot election. We weren't sure if we would be able to

obtain the necessary signatures of 30% of our coworkers, but it was the only way to ensure that our voices were heard fairly.

Amazingly, we quickly obtained the signatures of 45% of our fellow employees and filed the Decertification Petition with the NLRB on August 8. It was exciting to see that so many of my co-workers wanted the opportunity to have a true vote!!

On August 26, we received confirmation from the NLRB that all parties had agreed to a mail-in secret-ballot vote that would occur on September 20th. The ballots were to be counted on October 4th.

Everything was set for a vote in which everyone could participate, one where everyone could vote their conscience knowing it was confidential.

On August 31st, I learned that the "DANA" rights had been overturned by the NLRB in a case called "Lamons Gasket." I was shocked and quite upset. I thought, "How could this be?" All we were asking for was a fair vote and a private vote, giving everyone a voice.

If any union is so confident that a simple majority of workers wants to be represented by them, why would it insist on a "card count," instead of a secret-ballot election?

I have voted in every Presidential Election, and most of the other elections, since I was 18. Each time, I either had to be present at the polling station or mail in

my ballot for my vote to count. And, every time I was reassured by the knowledge that my vote was confidential.

In the United States we have been taught that if we vote, our voices will be heard, our identities will be protected, and most importantly that we can make a difference.

Why should the SEIU or any union be allowed to represent workers in any other way -- the "card-check" process undermines the privacy and voices of the very workers they seek to represent?

In the email I sent coworkers announcing the decertification petition had been approved, I stated that we were going to have the time and opportunity to review the Union contract and then vote whether we wanted to be represented by the SEIU Union or not. This was a chance to have EVERYONE'S VOICE HEARD, without any doubt that this was an election! Everyone would know what they were voting for!

In fact, following my announcement, Sara Thompson, an SEIU representative, sent two emails stating "I encourage everyone to vote and for every voter to be well-informed before making this decision". She went on, "just like in a presidential election, abstaining is no vote at all, either way." These statements clearly show that SEIU knows what a vote is supposed to be. So, I ask you this -- how could they ever consider "card-check" to be a fair vote?

It is not right to deny workers the opportunity to be fully informed, and the protections afforded by a secret-

ballot election on such important decisions. In revoking the "DANA" decision, the NLRB has taken away one of the last guarantees workers have of a fair and honest vote in workplace elections.

For me and my fellow employees however, snatching away those rights just as an election has been agreed to and a date had been set was cruel and unethical.

Let me close with some of my colleagues' complaints and concerns regarding the meetings and Card-Check process.

- A couple of employees were approached specifically with cards and told that they should sign the cards because the Union will provide better pay and benefits. One coworker said that she felt pressured, so she signed the card because she was led to believe that she was just requesting more information by signing.
- At least two other staff members said they were on vacation when the meetings and card-check count took place, and no one informed them of what was occurring.
- One person stated that she had no idea what was going on and was surprised to read the email that advised that we were now in a Union.
- Many did not receive a card and the ones who did either attended a meeting or were singled out, (or were specifically chosen by SEIU).
- A person who attended an "informational" meeting said the SEIU representative couldn't really answer any questions and had only a copy of the 2009 contract which she kept referring to even though there was already a 2010-2013 contract.
- Many of my colleagues were given the impression that signing was simply a request for more information. Several coworkers reported rude treatment when they asked to have their cards

retracted. One was told that "it didn't matter because they couldn't find her card anyway."

I thank you for your time and the opportunity to share my experience, and I look forward to answering any of your questions.

Attachments
Five (5) Pages

From: Belinda L Green/OR/KAIPERM
To: NW SYS MS ALL-IREG
Date: 08/04/2011 11:11 AM
Subject: Please read



Hi Everyone,

Several of you have asked about the outcome of the SEIU vote count yesterday.

With 96 staff, 50% + 1 vote (49 votes) were needed to join the SEIU bargaining unit. There were 50 votes in favor.

Very soon, you will see a posting in the call center from the National Labor Relations Board outlining the next steps in the process.

If you have any questions in the meantime, please direct them to Scott Allan, KPNW Director of Employee and Labor Relations. Scott can be reached at 49-4402.

Thank you for being here every day to take care of our members,
Belinda

Belinda L Green
Interim Vice President, Health Plan Service and Administration
Northwest Region

Kaiser Permanente
Health Plan Service and Administration

kp.org/thrive

NOTICE TO RECIPIENT: If you are not the intended recipient of this e-mail, you are prohibited from sharing, copying, or otherwise using or disclosing its contents. If you have received this e-mail in error, please notify the sender immediately by reply e-mail and permanently delete this e-mail and any attachments without reading, forwarding or saving them. Thank you.

INTERNET FORM NLRB-502 (2-08)

UNITED STATES GOVERNMENT NATIONAL LABOR RELATIONS BOARD PETITION

FORM EXEMPT UNDER 44 U.S.C.

DO NOT WRITE IN THIS SPACE

Case No. 36-RD-1754 Date Filed 8-17-11

INSTRUCTIONS: Submit an original of this Petition to the NLRB Regional Office in the Region in which the employer concerned is located.

The Petitioner alleges that the following circumstances exist and requests that the NLRB proceed under its proper authority pursuant to Section 9 of the NLRA.

- 1. PURPOSE OF THIS PETITION (If box RC, RM, or RD is checked and a charge under Section 8(b)(7) of the Act has been filed involving the Employer named herein, the statement following the description of the type of petition shall not be deemed made.) (Check One)
[] RC-CERTIFICATION OF REPRESENTATIVE - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees.
[] RM-REPRESENTATION (EMPLOYER PETITION) - One or more individuals or labor organizations have presented a claim to Petitioner to be recognized as the representative of employees of Petitioner.
[X] RD-DECERTIFICATION (REMOVAL OF REPRESENTATIVE) - A substantial number of employees assert that the certified or currently recognized bargaining representative is no longer their representative.
[] UD-WITHDRAWAL OF UNION SHOP AUTHORITY (REMOVAL OF OBLIGATION TO PAY DUES) - Thirty percent (30%) or more of employees in a bargaining unit covered by an agreement between their employer and a labor organization desire that such authority be rescinded.
[] UC-UNIT CLARIFICATION- A labor organization is currently recognized by Employer, but Petitioner seeks clarification of placement of certain employees: (Check one) [] in unit not previously certified. [] in unit previously certified in Case No.
[] AC-AMENDMENT OF CERTIFICATION- Petitioner seeks amendment of certification issued in Case No. Attach statement describing the specific amendment sought.

2. Name of Employer Kaiser Permanente Northwest Employer Representative to contact [redacted] Tel. No. [redacted]

3. Address(es) of Establishment(s) Involved (Street and number, city, State, ZIP code) [redacted] Fax No. [redacted]

4a. Type of Establishment (Factory, mine, wholesaler, etc.) Healthcare/ Medical Insurance 4b. Identify principal product or service Customer Service Cell No. e-Mail

5. Unit Involved (In UC petition, describe present bargaining unit and attach description of proposed clarification.) Included Membership Services Department Excluded 6a. Number of Employees in Unit: Present 88 Proposed (By UC/AC) 6b. Is this petition supported by 30% or more of the employees in the unit? [X] Yes [] No *Not applicable in RM, UC, and AC

(If you have checked box RC in 1 above, check and complete EITHER item 7a or 7b, whichever is applicable)

7a. [] Request for recognition as Bargaining Representative was made on (Date) and Employer declined recognition on or about (Date) (If no reply received, so state). 7b. [] Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.

8. Name of Recognized or Certified Bargaining Agent (If none, so state.) SEIU Local 49 Affiliation Address [redacted] Tel. No. [redacted] Date of Recognition or Certification 8/3/2011 Cell No. [redacted] Fax No. [redacted] e-Mail [redacted]

9. Expiration Date of Current Contract, if any (Month, Day, Year) 10. If you have checked box UD in 1 above, show here the date of execution of agreement granting union shop (Month, Day and Year)

11a. Is there now a strike or picketing at the Employer's establishment(s) involved? Yes [] No [X] 11b. If so, approximately how many employees are participating?

11c. The Employer has been picketed by or on behalf of (insert Name) organization, of (insert Address) Since (Month, Day, Year)

12. Organizations or individuals other than Petitioner (and other than those named in items 8 and 11c), which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in unit described in item 5 above, (if none, so state)

Table with 4 columns: Name, Address, Tel. No., Fax No. and 4 rows for additional contact information.

13. Full name of party filing petition (If labor organization, give full name, including local name and number) Barbara Ivey

14a. Address (street and number, city, state, and ZIP code) [redacted] 14b. Tel. No. EXT [redacted] 14c. Fax No. [redacted] 14d. Cell No. [redacted] 14e. e-Mail [redacted]

15. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (to be filled in when petition is filed by a labor organization)

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

Name (Print) Barbara Ivey Signature [redacted] Title (if any) An individual

Address (street and number, city, state, and ZIP code) [redacted] Tel. No. [redacted] Fax No. [redacted] Cell No. [redacted] e-Mail [redacted]

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.



United States Government
NATIONAL LABOR RELATIONS BOARD
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Agency WEB site: www.nlr.gov

September 1, 2011

Ms. Barbara Ivey

Re: Kaiser Permanente Northwest
36-RD-1754

Dear Ms. Ivey:

The above-captioned case, petitioning for an investigation and determination of representative under Section 9(c) of the National Labor Relations Act, has been carefully investigated and considered.

As a result of the investigation, I find that further proceedings are unwarranted. The investigation disclosed that:

The instant decertification petition was filed on August 17, 2011, subsequent to the Employer's August 3, 2011 voluntary recognition of SEIU Local 49 as the exclusive collective bargaining representative of a unit of membership services representatives. The voluntary recognition was based upon an arbitrator's examination of signed authorization cards, which demonstrated that the Union has majority status. The decertification election was scheduled to be conducted by mail ballots, with the ballot count on October 4, 2011.

On August 26, 2011, the National Labor Relations Board issued its decision in *Lamons Gasket Co.*, 357 NLRB No. 72, overruling its decision in *Dana Corp.*, 351 NLRB 434 (2007). In the *Lamons Gasket* decision, the Board returned to the rule that an employer's voluntary recognition of a union, based on a showing of the union's majority status, bars an election petition for a reasonable period of time. This rule is retroactively applicable to all pending cases, except those in which an election was held and the ballots have been opened and counted. As the election in the instant case has not been held, the Board's decision in *Lamons Gasket* is controlling and further processing of the petition is barred.

Therefore, I am dismissing the instant petition.

Right to Request Review: Pursuant to the provisions of Section 102.67 of the National Labor Relations Board's Rules and Regulations, Series 8, as amended, you may obtain review of this action by filing a request with the Executive Secretary,

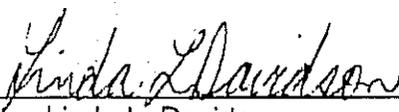
National Labor Relations Board, 1099 14th Street, N.W., Washington, DC 20570-0001. This request for review must contain a complete statement setting forth the facts and reasons on which it is based.

Procedures for Filing a Request for Review: Pursuant to the Board's Rules and Regulations, Sections 102.111 – 102.114, concerning the Service and Filing of Papers, the request for review must be received by the Executive Secretary of the Board in Washington, DC by close of business on **September 15, 2011**, at 5:00 p.m. Eastern Time, unless filed electronically. **Consistent with the Agency's E-Government initiative, parties are encouraged to file a request for review electronically.** If the request for review is filed electronically, it will be considered timely if the transmission of the entire document through the Agency's website **is accomplished by no later than 11:59 p.m. Eastern Time** on the due date. Please be advised that Section 102.114 of the Board's Rules and Regulations precludes acceptance of a request for review by facsimile transmission. Upon good cause shown, the Board may grant special permission for a longer period within which to file.¹ A copy of the request for review must be served on each of the other parties to the proceeding, as well as on the undersigned, in accordance with the requirements of the Board's Rules and Regulations.

Filing a request for review electronically may be accomplished by using the E-filing system on the Agency's website at www.nlr.gov. *Once the website is accessed, click on **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions.* The responsibility for the receipt of the request for review rests exclusively with the sender. A failure to timely file the request for review will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off line or unavailable for some other reason, absent a determination of technical failure of the site, with notice of such posted on the website.

Very truly yours,

Richard L. Ahearn
Regional Director

By 
Linda L. Davidson
Officer in Charge

¹ A request for extension of time, which may also be filed electronically, should be submitted to the Executive Secretary in Washington, and a copy of such request for extension of time should be submitted to the Regional Director and to each of the other parties to this proceeding. A request for an extension of time must include a statement that a copy has been served on the Regional Director and on each of the other parties to this proceeding in the same manner or a faster manner as that utilized in filing the request with the Board.

cc:

