

Warring Factions in United American Nurses File Dueling Suits Over Creation of RN Union

Warring factions within the United American Nurses that either support or oppose a merger with two other unions have recently filed dueling lawsuits with two different federal district courts.

In a suit filed Nov. 23 in the U.S. District Court for the Northern District of Illinois, two of the top officers of the union and one of its state affiliates seek to enjoin the planned merger, which is scheduled to take place early next month (*Converso v. United American Nurses*, N.D. Ill., 9-cv-7336, 11/23/09).

The other lawsuit, filed Nov. 19 in the U.S. District Court for the District of Maryland by other UAN officers, seeks to compel the president and vice president of the union to abide by and comply with their constitutional obligations as UAN officers, including ordering them to attend meetings of the executive council and stop interfering with the voting activities of the union's governing body (*Ross v. Converso*, D. Md., 8:09-cv-3100, 11/19/09).

At issue is the planned merger of UAN with the California Nurses Association/National Nurses Organizing Committee and the Massachusetts Nurses Association to form a new 150,000 member "super union" of registered nurses. The founding convention of the new union, National Nurses United, is scheduled to take place Dec. 7-8 in Phoenix. Members of UAN's executive council are divided, with four members including Secretary-Treasurer Jean Ross in favor of the merger, and three members including President Ann Converso, Vice President Joan Craft, and Director Kathleen Gettys opposed.

In their complaint filed in Illinois, Converso, Craft, and the Illinois Nurses Association claim that the proposed merger will result in the dissolution of UAN in violation of specific provisions of UAN's constitution. The plaintiffs asked the court to declare that the union must comply with the provisions set forth in the constitution before dissolving the union.

Delegates Approve Merger on 40-22 Vote

The suit was filed the same day that the American Arbitration Association tallied the results of a secret mail ballot election in which delegates to the UAN's National Labor Assembly approved by a vote of 40-22 the consolidation and affiliation of UAN with National Nurses United.

According to the complaint, representatives of UAN, CNA, and MNA on July 29, 2009, reached an agreement of consolidation and affiliation among the three groups, subject to approval by the respective organizations. Several days later, UAN's seven-member executive council voted 5-2 to approve the draft of the agreement, which repeatedly was characterized by UAN staff, the general counsel, and several proponents as a mere "affiliation."

After studying the agreement, Converso, Craft, and Executive Council Member Kathleen Gettys decided that it was not an affiliation agreement, but rather a merger agreement that

would dissolve the UAN. They then attempted to ensure that the union complied with the provisions of the constitution that detail how to “dissolve” the UAN.

According to the complaint, despite the objection of the plaintiffs and a majority of UAN affiliates to the agreement being considered an affiliation, a majority of the executive council scheduled a special meeting of the National Labor Assembly for Nov. 2 to approve the agreement by a simple majority of delegates. Delegates from only four of 13 UAN state affiliates attended the NLA, preventing a quorum to be present.

At the opening of the meeting, both Converso and Craft said that the meeting lacked a quorum and declared it over. The pro-merger members of the executive council and pro-merger delegates, however, continued doing business, the complaint said.

Shortly thereafter Converso and Craft learned that the AAA had been hired to conduct a secret mail ballot election of the NLA delegates. Both of the officers said they were not aware of a decision in which UAN authorized the AAA to conduct the election nor of any executive council meeting that authorized the expenditure of funds for such an election.

The plaintiffs asserted that the vote did not comply with the provisions in the constitution that detail how to dissolve the UAN. The constitution calls for a 75 percent majority vote of the National Labor Assembly prior to a vote by the membership. “Dissolution shall only be approved by a 75 percent majority vote of the membership,” according to Article X of the constitution.

Another section of the constitution, Article I. D, provides that the executive council may enter into affiliation agreements subject to expeditious ratification by the National Labor Assembly. According to the plaintiffs, “the only use of the term affiliate or affiliation in the UAN Constitution arises in the context of subordinate labor organizations, such as State Affiliates joining into, i.e. becoming affiliated with, the parent UAN.”

In arguing that the agreement is a merger that will result in the dissolution of UAN, rather than just an affiliation, the plaintiffs said that the merger calls for only the California Nurses Association and the Massachusetts Nurses Association to retain their separate identities. “Nothing in the Merger Agreement in any way bespeaks of the UAN being affiliated into the NNU, as is true for CNA or MNA. The only UAN ‘affiliations’ into the new NNU will be the individual UAN affiliates, but not the UAN itself,” the complaint said.

Article VI of the proposed constitution of the new union would require all existing UAN affiliates to become affiliates of NNU, according to the complaint. “Therefore the UAN disappears and/or loses its independent existence because its affiliates will leave UAN and become affiliates solely with the NNU. As set forth elsewhere in the Merger Agreement, the Affiliates now have a financial obligation and other responsibilities to the new national union but no longer to the UAN,” the complaint said.

Under Article X of the merger agreement, UAN affiliates now will pay dues to the new NNU, rather than to the UAN. Also, all “preexisting financial obligations owed to the UAN by any UAN affiliate will become obligations to the new NNU. For example, the UAN’s mobilization fund, which is in excess of \$2.3 million, would be transferred to the new NNU,” the complaint said.

Other Faction Filed Complaint

Meanwhile, the complaint filed in Maryland by Ross and the other officers alleged different facts regarding what occurred leading up to the mail ballot vote.

Those officers alleged that Converso, Craft, and some delegates conspired to deprive the NLA meeting of a quorum, despite the fact that the delegates and the executive council traveled to Orlando solely for the purpose of voting on the agreement. Since a quorum requires at least 50 percent of the total delegates from a majority of the 13 affiliates to be present, delegates from just a few small affiliates decided to boycott the meeting so they could deprive it of a quorum, the complaint alleged.

Knowing that a quorum might not be present, immediately before the start of the NLA, the executive council approved on a 4-3 vote to proceed with the mail ballot if a vote was prevented. According to the complaint, the council also voted 4-3 to interpret Section 1. D. of the constitution—which authorizes ratification of affiliation agreements at NLA meetings or by ballot—to apply to the merger agreement.

When Converso and Craft declined to chair the meeting due to a lack of a quorum, Ross was appointed “chair pro-tem” and she proceeded to conduct an emergency meeting, during which the delegates unanimously endorsed the agreement to create the NNU. While the vote may have been nonbinding, the delegates represented a majority—about 80 percent—of UAN's membership, the complaint said.

Following the NLA meeting, Ross and the other officers tried numerous times to contact Converso and Craft to resume the unfinished business of the executive council, but the defendants refused to respond to text messages, e-mails, and telephone calls and the executive council did not meet, the complaint said. In addition, Converso cancelled a scheduled Nov. 9 meeting of the executive council and has refused to convene a special meeting in “derogation of her duties under the UAN constitution,” the complaint alleged.

The plaintiffs also charged that Converso attempted to disrupt the counting of the NLA mail ballot vote by contacting the AAA. The purpose of the defendants trying to frustrate the meeting of the executive council, the complaint said, was to “try to prevent it from voting in ways that are contrary to the defendants' own personal interests.”

The complaint seeks a judgment from the court that Converso and Craft's refusal to call meetings sought by a majority of the executive council and their refusal to attend meetings “cannot prevent the executive council from meeting, making binding decisions, and otherwise performing its obligations under the UAN Constitution.” The complaint also asks the court to declare the rights of the UAN's governing bodies to function despite the intentional acts of the defendants to boycott participation in those bodies in an effort to deny a quorum.”

By Michelle Amber

Copies of the complaints may be accessed at <http://op.bna.com/dlrcases.nsf/r?Open=mamr-7y4ufv>, and <http://op.bna.com/dlrcases.nsf/r?Open=mamr-7y4ue9>