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**STARLA ROLLINS V. SEIU-UHW**

Starla Rollins worked for the Community Hospital of San Bernardino (“Hospital”) for over twenty years. In 2002, Rollins became a member of the Hospital's union, Defendant SEIU–UHW (“Union”). Rollins was active in the Union, serving as a member of the bargaining team and as a union steward.

In 2007, Rollins was working as a “Ward Clerk” for the Hospital when she was offered a promotion to become the Maternal Child Health (“MCH”) Billing Coordinator. Rollins was worried that, if she switched jobs and accepted the position, she would lose the seniority she had accrued. Rollins therefore had a union representative negotiate a side agreement (the “Seniority Agreement”) with the Hospital. The 2007 Seniority Agreement provided that, in the event that the MCH Billing Coordinator position was eliminated pursuant to a reduction in force (“RIF”), Rollins would be permitted to “bump” back to her old position as a Ward Clerk. The Seniority Agreement was memorialized in emails between the Hospital's Director of Human Resources, Elizabeth Sanchez, and Union Representative Jill King.

In 2008, the Hospital and Union agreed to a new Collective Bargaining Agreement (“CBA”). Negotiations for the 2008 CBA were already underway when Sanchez, acting for the hospital, and King, acting for Rollins, entered into the Seniority Agreement. Article 3 of the 2008 CBA provided: “No employee shall suffer any reduction in wages, benefits or other terms and conditions of employment, economic or otherwise, as a result of coverage under this Agreement.” The CBA provided, further, agreed to a new provision that stated “[u]pon mutual agreement, the Union and the Employer may agree to an alternative arrangement regarding reduction in force.”

In 2012, the Hospital implemented a reduction in force. The Hospital and the Union entered into a “Memorandum of Understanding” (“MOU”) in order to implement this reduction. The 2012 MOU stated that several positions, including the MCH Billing Coordinator position, were being eliminated pursuant to the RIF. The MOU provided several rights to affected employees, including severance, training opportunities, and an opportunity to bid for other open positions at the Hospital. Importantly for purposes of this case, the MOU neither provided nor prohibited “bumping”, nor did it eliminate the “Ward Clerk” position to which Rollins was allowed to “bump” back pursuant to the Seniority Agreement.

In October 2012, Rollins was informed that she was being laid off under the RIF. Rollins raised with the Union her 2007 Seniority Agreement and right to “bump” back to her old Ward Clerk position. Union Representative Susan Lucio responded “that the email was not an enforceable agreement and that the Union could not rely on the email to challenge the reduction in force.” Rollins was then terminated without being allowed to “bump” back to her old position. A subsequent class action grievance objecting to the RIF, submitted on behalf of Rollins and several other employees, was rejected by the Union.

Rollins sued both the Hospital and the Union under the National Labor Relations Act. Rollins alleged that the Hospital's failure to allow her to "bump" back to her prior Ward Clerk position violated the 2007 Seniority Agreement and the 2008 CBA. She also contended that the Union breached its duty of fair representation by failing to pursue her grievance on this issue. Rollins subsequently settled her suit against the Hospital.

Ms. Rollins is asserting that the Union has violated her duty of fair representation. The National Labor Relations Board explains the duty of fair representation as follows: "You have a right to be represented by your union fairly, in good faith, and without discrimination. Your union has the duty to represent all employees - whether members of the union or not-fairly, in good faith, and without discrimination. This duty applies to virtually every action that a union may take in dealing with an employer as your representative, including collective bargaining, handling grievances, and operating exclusive hiring halls. For example, a union which represents you cannot refuse to process a grievance because you have criticized union officials or because you are not a member of the union. But the duty does not ordinarily apply to rights a worker can enforce independently - such as filing a workers' compensation claim - or to internal union affairs - such as the union's right to discipline members for violating its own rules." The duty of fair representation is reflected in NLRA Section 8(b)(1).

### **Issues for Discussion and Analysis**

1. Starla Rollins has sued the Union to enforce her rights to "bump back." Where did she file a lawsuit and, if she was not happy with the result, to where could she appeal?
2. Explain the Union's obligation to pursue Mr. Rollins' right to "bump back" and why Ms. Rollins should be able to "bump back" to her Ward Clerk position.
3. Explain why the Union is not required to pursue Ms. Rollins' claim to "bump back" and why she is not eligible to return to her prior position.
4. What do you think the result should be in this case: (a) regarding the Union's obligation to pursue Ms. Rollins' claim and (b) Ms. Rollins' right to "bump back."



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