

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 31**

**SPANISH BROADCASTING SYSTEM  
OF CALIFORNIA, INC.**

**and**

**SCREEN ACTORS GUILD-AMERICAN  
FEDERATION OF TELEVISION AND  
RADIO ARTISTS (SAG-AFTRA)**

**Cases 31-CA-222738  
31-CA-225083  
31-CA-230620  
31-CA-237074**

**ORDER CONSOLIDATING CASES, CONSOLIDATED  
COMPLAINT AND NOTICE OF HEARING**

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board) and to avoid unnecessary costs or delay, IT IS ORDERED THAT Case 31-CA-222738, Case 31-CA-225083, Case 31-CA-230620, and Case 31-CA-237074, which are based on charges filed by Screen Actors Guild-American Federation of Television and Radio Artists (Union) against Spanish Broadcasting System of California, Inc. (Respondent) are consolidated.

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq. and Section 102.15 of the Board's Rules and Regulations, and alleges Respondent has violated the Act as described below.

1. The charges in the above cases were filed by the Union, as set forth in the following table, and served upon the Respondent on the dates indicated by U.S. Mail:

<b>Case No.</b>	<b>Amendment</b>	<b>Date Filed</b>	<b>Date Served</b>
31-CA-222738	N/A	June 21, 2018	June 26, 2018
31-CA-222738	First Amended	October 31, 2018	November 5, 2018
31-CA-225083	N/A	August 2, 2018	August 6, 2018

31-CA-225083	First Amended	September 4, 2018	September 6, 2018
31-CA-225083	Second Amended	October 31, 2018	November 5, 2018
31-CA-230620	N/A	November 1, 2018	November 7, 2018
31-CA-230620	First Amended	November 15, 2018	November 16, 2018
31-CA-237074	N/A	February 27, 2019	March 5, 2019
31-CA-237074	First Amended	May 29, 2019	May 31, 2019

2. (a) At all material times, Respondent has been a corporation with an office and place of business in Los Angeles, California (Respondent’s facility), and has been engaged in the business of radio broadcasting.

(b) In conducting its operations annually, Respondent derived gross revenues in excess of \$100,000.

(c) In conducting its operations during the period of time described above in paragraph 2(b), Respondent provided services valued in excess of \$5,000 to customers located outside the State of California.

3. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

4. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

5. (a) At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and/or agents of Respondent within the meaning of Section 2(13) of the Act:

<b>Name</b>	<b>Position/Title</b>
Juan Carlos Hidalgo	Vice President of Programming, Los Angeles
Herbella Torres	Human Resources Business Manager
Ana Ordonez	Programming Coordinator
Allesandra Alarcon	Vice President and Director of Engagement

(b) Since about June 2018, Respondent’s Attorney/Chief Negotiator has been an agent of Respondent within the meaning of Section 2(13) of the Act.

(c) From about January 2018 through June 2018, Respondent’s Attorney/Chief Negotiator was an agent of Respondent within the meaning of Section 2(13) of the Act.

(d) From about September 2016 through about January 2018, Respondent’s Labor Consultant and Respondent’s In-House Counsel were agents of Respondent within the meaning of Section 2(13) of the Act.

6. About August 22, 2018, Respondent, by Juan Carlos Hidalgo, in Hidalgo’s office at Respondent’s facility, issued directives to employees not to engage in Union activity.

7. About November 7, 2018, Respondent, by Ana Ordonez, at an employee’s cubicle, threatened employees with reprisals for engaging in Union and protected, concerted activity.

8. Respondent, by the individuals named below, about the dates and at the locations opposite their names, blamed the Union for the lack of wage increases to undermine support for the Union:

<b>Supervisor and/or Agent</b>	<b>Date</b>	<b>Location</b>
(a) Juan Carlos Hidalgo	About June or July 2018	In Hidalgo’s office at Respondent’s facility
(b) Allesandra Alarcon	About September 7, 2018	In Alarcon’s office at Respondent’s facility

9. (a) The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

**INCLUDED:** All hosts, announcers, DJs, mixers, and other employees who regularly perform on-air services, for stations KLAX-FM and/or KXOL-FM, at or out of the Employer's facility located at 5055 W. Wilshire Blvd., Ste. 740, Los Angeles, CA 90036.

**EXCLUDED:** All other employees, managers, guards and supervisors as defined in the Act, as amended.

(b) On August 10, 2016, the Board certified the Union as the exclusive collective-bargaining representative of the Unit.

(c) At all times since August 10, 2016, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

10. About January 25, 2017, Respondent bypassed the Union and dealt directly with its employees in the Unit by bargaining a personal service contract with an employee.

11. About early March 2018, Respondent, by Herbella Torres at Respondent's facility and via e-mail, bypassed the Union and dealt directly with its employees in the Unit by soliciting employee signatures on a meal period waiver form.

12. (a) About November 2016 and November 2017, Respondent unilaterally failed to give scheduled wage increases to an employee.

(b) Between about October 14, 2018 and about November 11, 2018, Respondent unilaterally transferred bargaining unit work outside of the Unit.

(c) About November 6, 2018, Respondent unilaterally changed its health insurance providers from Aetna to Cigna.

(d) About January 2019, Respondent unilaterally changed its eligibility criteria for healthcare, dental, vision life, accident and disability insurance.

(e) About February 2019, Respondent unilaterally changed employees' schedules by requiring them to work weekends.

(f) The subjects set forth above in paragraphs 12(a) through 12(e) relate to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purpose of collective bargaining.

(g) Respondent engaged in the conduct described above in paragraphs 12(a) through 12(b) and 12(d) through 12(e) without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to this conduct and/or without first bargaining with the Union to an overall good faith impasse for an initial collective-bargaining agreement.

(h) Respondent engaged in the conduct described above in paragraph 12(c) without affording the Union a meaningful opportunity to bargain with Respondent with respect to this conduct.

13. (a) Since about September 2016, the Union and Respondent have not reached an initial collective bargaining agreement and have not agreed upon an interim grievance procedure.

(b) About January 30, 2019, Respondent issued a 2-week unpaid suspension to its employee Abraham Chavez.

(c) Respondent exercised discretion in imposing the suspension described above in paragraph 13(b).

(d) The subject set forth in paragraph 13(b) relates to wages, hours, and other terms and conditions of employment of the Unit and is a mandatory subject for the purpose of collective bargaining.

(e) Respondent engaged in the conduct described above in paragraph 13(b), which has an immediate impact on employees' tenure, status, and/or earnings, without affording the Union a meaningful opportunity to bargain with respect to Respondent's exercise of discretion in taking that disciplinary action.

14. (a) The Union has requested that Respondent furnish the Union with the following information about the dates and in the manner set forth in the chart below:

	<b>Date of Initial Request</b>	<b>Manner of Request</b>	<b>Information Requested</b>
(i)	May 14, 2018	Oral	<ul style="list-style-type: none"> <li>• Agreements with outside vendors with regard to endorsements (verbal or written)</li> <li>• Any line items that were supposed to go to talent</li> <li>• Endorsement rates for the bargaining unit</li> <li>• How the contracts were structured</li> </ul>
(ii)	June 18, 2018	Written	<ul style="list-style-type: none"> <li>• Information pertaining to endorsements, including invoices</li> </ul>
(iii)	September 25, 2018	Oral	<ul style="list-style-type: none"> <li>• The entire media buys that are associated with contracts containing endorsements</li> </ul>
(iv)	October 31, 2018	Written	<ul style="list-style-type: none"> <li>• Confirmation of the Employer's current practice regarding personal appearance fees.</li> <li>• The contract between Gallagher (SBS's insurance broker) and SBS.</li> </ul>
(v)	November 5, 2018	Written	<ul style="list-style-type: none"> <li>• Documents describing the life and/or disability coverage bargaining unit employees were receiving (at time of request).</li> <li>• Costs to SBS of life and/or disability coverage.</li> </ul>
(vi)	November 7, 2018	Oral	<ul style="list-style-type: none"> <li>• The rates for an employee + spouse and any other covered groups that they had not already received information for</li> </ul>

(b) The information requested by the Union, as described above in paragraph 14(a), is necessary for, and relevant to, the Union’s performance of its duties as the exclusive collective-bargaining representative of the Unit.

(c) Respondent has failed and refused to furnish the Union with the information requested by it, as described above in paragraph 14(a), since about the dates set forth in the Date of Initial Request column for each of the corresponding rows in the chart.

15. (a) The Union has requested that Respondent furnish the Union with the following information about the dates and in the manner set forth in the chart below:

	<b>Date of Initial Request</b>	<b>Manner of Request</b>	<b>Information Requested</b>	<b>Date Provided</b>
(i)	February 28, 2018 and reiterated on March 20, 2018	Oral and written, respectively	<ul style="list-style-type: none"> <li>• Copies of documents SBS relied upon to support its contention that from Nov. 2016 – Nov. 2017 LA’s radio stations experienced a seven million dollar revenue drop.</li> <li>• Copies of documents relied upon to support its contention that from Nov. 2016 – Nov. 2017 LA’s radio stations had the worst ratings (“substandard”) for the Hispanic demographic as compared to SBS stations located anywhere else, including, SFO, Chicago, NY, Miami and Puerto Rico.</li> </ul>	July 31, 2018
(ii)	July 30, 2018	Oral	<ul style="list-style-type: none"> <li>• Classification rates for each of the job classifications, including but not limited to Producer, that are included in the bargaining unit.</li> </ul>	November 2, 2018
(iii)	October 31, 2018	Written	<ul style="list-style-type: none"> <li>• What the “Advantage” network is for the dental plan</li> </ul>	January 14, 2019
(iv)	November 12, 2018	Written	<ul style="list-style-type: none"> <li>• Documents describing the current AFLAC coverage for life, disability, and accident insurance</li> </ul>	January 15, 2019

(b) The information requested by the Union, as described above in paragraph 15(a), is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the Unit.

(c) Respondent unreasonably delayed in furnishing the Union with the information requested by it, as described above in paragraph 15(a), since about the dates set forth in the Date of Initial Request column to about the dates set forth in the Date Provided column.

16. (a) At various times from about September 13, 2016 through the present, Respondent and the Union met for the purposes of negotiating an initial collective-bargaining agreement with respect to wages, hours, and other terms and conditions of employment.

(b) During the period described above in paragraph 16(a), Respondent bargained with no intention of reaching agreement (surface bargaining); maintained unreasonable bargaining demands and bargaining stances; insisted upon proposals that were predictably unacceptable to the Union; engaged in dilatory tactics; refused to provide and/or delayed in providing information necessary to bargaining; made unilateral changes to mandatory subjects of bargaining, including those described above in paragraphs 12 through 13; engaged in direct dealing with Unit employees; and denigrated the Union in the eyes of unit employees.

(c) By its overall conduct, including the conduct described above in paragraph 16(b), as well as in paragraphs 6, 7, 8, 10, 11, 12, 13, 14, and 15, and their subparagraphs, Respondent has failed and refused to bargain in good faith with the Union as the exclusive collective-bargaining representative of the Unit.

17. By the conduct described above in paragraphs 6 through 8, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.



18. By the conduct described above in paragraphs 10 through 16, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees within the meaning of Section 8(d) of the Act in violation of Section 8(a)(1) and (5) of the Act.

19. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

WHEREFORE, as part of the remedy for the unfair labor practices alleged above in paragraphs 6 through 16, the General Counsel seeks an Order requiring Respondent to:

(i) At a meeting or meetings scheduled to ensure the widest possible attendance, Respondent's representative Juan Carlos Hidalgo, read the notice to the employees in English and Spanish, on worktime in the presence of a Board agent. Alternatively, the General Counsel seeks an order requiring that Respondent promptly have a Board agent read the notice to employees in English and Spanish during worktime in the presence of Respondent's supervisors and agents identified above in paragraph 5.

(ii) Posts Notices in Spanish in addition to English. The posting of the Notice in Spanish and English is necessary since approximately 10 percent of the workforce have limited English proficiency and are Spanish speakers.

(iii) Email Notices in Spanish in addition to English to all Unit employees who work at Respondent's facility.

(iv) Bargain in good faith with the Union, on request, for the period required by *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962), as the recognized bargaining representative in the appropriate unit.

(v) Make affected Unit employees whole for any loss of earnings and other benefits suffered as a result of the unilateral assignment of bargaining unit work to employees outside of the Unit.

(vi) Make Abraham Chavez whole for any loss of earnings and other benefits from his suspension between January 31, 2019 and February 13, 2019, less any net interim earnings, plus interest compounded daily.

(vii) Make Alex Perez whole for any loss of benefits and/or out-of-pocket medical expenses suffered as a result of Respondent's unilateral change to the eligibility criteria for healthcare, dental, vision, life, accident and disability insurance.

(viii) The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

#### **ANSWER REQUIREMENT**

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before July 29, 2019, or postmarked on or before July 28, 2019**. Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to [www.nlr.gov](http://www.nlr.gov), click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time)

on the due date for filing, a failure to timely file the answer 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. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

### **NOTICE OF HEARING**

PLEASE TAKE NOTICE THAT on **October 08, 2019, 9:00 a.m.** at **11500 West Olympic Blvd., Suite 600, Los Angeles, California 90064**, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be

followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: July 15, 2019

A handwritten signature in black ink that reads "Mori Rubin". The signature is written in a cursive style with a large initial "M".

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MORI RUBIN, REGIONAL DIRECTOR  
NATIONAL LABOR RELATIONS BOARD  
REGION 31  
11500 WEST OLYMPIC BLVD, SUITE 600  
LOS ANGELES, CA 90064-1753

Attachments

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
NOTICE

Cases 31-CA-222738, et al.

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements **will not be granted** unless good and sufficient grounds are shown **and** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in *detail*;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

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## Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: [www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules\\_and\\_regs\\_part\\_102.pdf](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf).

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at [www.nlr.gov](http://www.nlr.gov), click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

**Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement.** The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

### I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

### II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing.

If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

### III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.