

SUPREME COURT OF THE STATE OF NEW YORK
 COUNTY OF NEW YORK: PART 32

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In the Matter of the Application of	:	Index No. 401425/11
THE CITY OF NEW YORK; NEW YORK CITY	:	
HUMAN RESOURCES ADMINISTRATION;	:	
JAMES HANLEY, as the Commissioner of the New York	:	
City Office of Labor Relations; and, THE NEW YORK	:	
CITY OFFICE OF LABOR RELATIONS,	:	
	:	
Petitioners,	:	
	:	
- against -	:	
	:	
NEW YORK STATE NURSES ASSOCIATION;	:	
KAREN A. BALLARD, as the President of the New York	:	
State Nurses Association; THE BOARD OF COLLECTIVE:	:	
BARGAINING OF THE CITY OF NEW YORK; and,	:	
MARLENE GOLD, as Chair of the Board of Collective	:	
Bargaining,	:	
	:	
Respondents,	:	
	:	
For a Judgment Pursuant to CPLR Article 78.	:	

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CAROL E. HUFF, J.:

In this Article 78 proceeding, petitioners seek to annul the determination of respondent Board of Collective Bargaining of the City of New York (“BCB”), dated April 28, 2011 (the Determination). In the Determination, BCB partially granted an improper practice petition, requiring petitioners City of New York and New York City Human Resources Administration (together, the “City”) to provide certain discovery in connection with an employee disciplinary proceeding involving two Union members.

In its Decision dated May 3, 2012 (incorporated by reference herein), this Court denied

the motions to dismiss of respondents BCB and the New York State Nurses Association and Winifred Kennedy, as successor to Karen A. Ballard, the former NYSNA president. The Court found that the holding of the Third Department in Pfau v Public Empl. Relations Bd., 69 AD3d 1080, 1082 (3rd Dept 2010), that "there is no general right to disclosure in a disciplinary proceeding," is controlling.

For the reasons stated in the Decision, petitioners have demonstrated that the Determination was "affected by an error of law . . . or was arbitrary and capricious or an abuse of discretion." CPLR 7803(3).

Accordingly, it is

ADJUDGED that the petition is granted and the Determination (NYSNA, 4 OCB2d 20 [BCB 2011]) is hereby annulled.

Dated: **FEB 11 2013**


CAROL E. HUFF
J.S.C.