

FEDERAL JUDGE: “BREAK BUDDY” REST BREAKS VIOLATE CONTRACT

A federal judge recently issued a ruling in MultiCare’s lawsuit attempting to invalidate arbitrator Douglas P. Hammond’s rest break decision. Management has had a lot to say about the judge’s ruling. **Unfortunately, much of what they’re telling you simply isn’t true.**

What Management is Telling You: Management is pretending that the judge gave them a ringing endorsement of the “break buddy” system. Management claims that the judge’s ruling means that “any unit at Tacoma General may legitimately use the ‘break buddy’ system as a mechanism, practice, or policy to provide nurses their breaks. Any nurse who was relieved for their break by their ‘break buddy’ did actually receive their break.” **In fact, that’s the opposite of what the judge ruled.**

The Settlement Agreement: When MultiCare and WSNA agreed in 2013 to settle the lawsuit concerning missed rest breaks, MultiCare promised to **“adopt mechanisms, practices or policies that assure each Represented Nurse is relieved of patient care duties for a 15-minute rest period every four hours of work. In no case shall the mechanism used result in a violation of the staffing plan established by the Nurse Staffing Committee.”** You can read the settlement agreement at <https://www.wsnacdn.org/assets/local-unit-assets/tacoma-general-hospital/Settlement-Agreement.pdf>.

The Arbitrator’s Decision: When MultiCare failed to live up to the promise it made in the settlement agreement, WSNA took the issue to final and binding arbitration. The arbitrator determined that MultiCare **“violated the terms of the Settlement Agreement by failing to adopt and provide mechanisms, practices or policies procedures that would give the opportunity and means for the represented nurses to take their rest breaks.”** The arbitrator concluded that the use of the break buddy system “as a means to provide for rest breaks violates the terms of the [settlement] Agreement, in both application and purpose.” The arbitrator emphasized that the **“responsibility for fulfilling the promise of rest breaks lies with the employer,”** not the nurses. The evidence showed that **“the buddy system is not working as expected and does not meet the [Settlement] Agreement requirements of adopting a system to relieve nurses for their rest breaks.”** The arbitrator explained the fundamental problem with the break buddy system:

Nursing requires knowledge, experience, dedication and concentration, tempered with compassion and patience, to successfully care for patients in need. The related stress, both physically and mentally, warrant occasional time away from their assigned task. **The nurse on break should be free from worry and concern, with the knowledge that the nurse’s colleague is providing the necessary attention to the assigned patients. If that nurse has her/his own patients, doubling the potential workload, even for 15 minutes, the time away from work is not really a break.**

As a remedy for the violation of the settlement agreement, the arbitrator directed MultiCare to discontinue using the break buddy system, and to staff, schedule and assign a nurse on each unit and shift to serve as a reserve or float nurse with the precise assignment of relieving other nurses for their breaks. You can read the arbitrator’s decision at <https://www.wsnacdn.org/assets/local-unit-assets/tacoma-general-hospital/Tacoma-General-Rest-Break-Arbitration-Decision.pdf>.

MultiCare's Lawsuit: Although MultiCare had agreed in the settlement agreement that any dispute about the settlement would be resolved by final and binding arbitration, MultiCare refused to comply with the arbitrator's decision and instead filed a lawsuit in federal court attempting to invalidate the arbitrator's decision completely.

Judge Benjamin Settle's Ruling: In the federal judge's recent ruling, he invalidated the specific portion of the arbitrator's decision concerning remedies, but upheld the rest of the arbitrator's decision, including his determination that **"MultiCare failed to implement an adequate system for rest breaks."** You can read the judge's ruling at <https://www.wsnacdn.org/assets/local-unit-assets/tacoma-general-hospital/Federal-Court-Order.pdf>.

What the Judge Actually Ruled: Here's what the judge actually ruled about the break buddy system:

MultiCare failed to implement an adequate system for rest breaks. The system at issue is referred to as the "buddy system" and essentially requires a separate on-duty nurse to cover the needs of the patients assigned to the nurse who is on break. Thus, the buddy nurse will assume the obligations of the breaking nurse. **The evidence shows that this system as implemented does not provide the required rest breaks as contemplated by the Settlement.**

The judge clearly ruled that the "break buddy" does not provide the required rest breaks that MultiCare promised when it signed the settlement agreement.

Noting that **"MultiCare refuses to discontinue use of a break system that violates the parties' contract,"** the judge suggested alternative remedies for MultiCare's ongoing violation of the settlement agreement:

For example, it would seem that an appropriate compensatory remedy could be **overtime compensation for each buddy break that was taken throughout the hospital because the Arbitrator found that the breaking nurse did not truly receive a break. MultiCare promised to adopt practices and procedures to assure a true break and, according to the Arbitrator, it willfully failed to uphold that promise by the continued use of the buddy system.... What MultiCare fails to recognize is that it appears the Arbitrator disagrees with MultiCare on what constitutes a missed break....**

The Bottom Line: Unfortunately, the judge's ruling means that the litigation over the rest break issue isn't over yet. But when management tells you that the judge's ruling means that "any unit at Tacoma General may legitimately use the 'break buddy' system... to provide nurses their breaks," or that a "nurse who was relieved for their break by their 'break buddy' did actually receive their break," they're not telling you the truth.