

## SUMMARY OF FEDERAL COURT DECISION IN BYRNES V. NYSNA

**On February 2, 2012**, Judge Richard Sullivan of the United States District Court for the Southern District of New York issued a decision in *Byrnes v. NYSNA* in which he found that that **there was no basis for him to order a rerun of the 2011 officer and director election**. In addition, as set forth below, Judge Sullivan ruled in favor of NYSNA and its newly-installed Board of Directors on each and every issue raised in the application before him.

Judge Sullivan's decision arises out of a lawsuit that Jenmarie L. Byrnes and Donna Florkiewicz, filed against NYSNA and individual Board members on December 2, 2011. Plaintiffs Byrnes and Florkiewicz sued NYSNA for immediate injunctive relief as follows:

1. To compel NYSNA to conduct a rerun election;
2. To compel NYSNA to refrain from taking actions that undermined its relationship with ANA;
3. To compel NYSNA to pay dues to the National Federation of Nurses;
4. To compel NYSNA to refrain from taking actions that limited the powers of the NYSNA president;;
5. To compel NYSNA to rescind the termination of certain senior staff; and
6. To compel NYSNA to refrain from utilizing its communications staff as the Board saw fit.

Judge Sullivan conducted a hearing on December 16, 2012. Today, he issued a decision denying each and every request made by plaintiffs as follows:

### 1) The Denial of the Request for a Rerun Election

Judge Sullivan found that there was no lawful basis for ordering the rerun election that had been called for by the Elections Committee and then summarily affirmed by the Election Appeals Committee. He also concluded that the Election Committee's rerun decision was inconsistent with NYSNA's bylaws.

### 2) The ANA

First, Judge Sullivan rejected plaintiffs' claims concerning the ANA, finding that there was nothing in NYSNA's bylaws requiring NYSNA to remain in ANA "in perpetuity," and there was no evidence that NYSNA was seeking to undermine its relationship with ANA.

### 3) The NFN

Judge Sullivan found that there was nothing in NYSNA's bylaws requiring it to maintain its affiliation with NFN.

### 4) Authority of NYSNA President

Judge Sullivan summarily rejected plaintiffs' argument that the new Board of Directors had done anything to undermine NYSNA's president. The Judge noted that it was perfectly appropriate and consistent with NYSNA's Bylaws and Board policy to advise Kennedy that she did not have the

authority to act independently from the entire Board did state that she was speaking on her own behalf and not on behalf of the Board of Directors.

5) Termination of Staff

Judge Sullivan also rejected the application to rescind the terminations of senior staff. Judge Sullivan noted that even plaintiffs' attorneys acknowledged that there was nothing in the bylaws that would restrict personnel decisions, including the terminations at issue.

6) Alleged Promotion of Winning Candidates for Rerun Election

Finally, Judge Sullivan found that because he had denied the request for a rerun election, he did not need to consider the claim that NYSNA's communication staff was promoting the winning candidates for such rerun.