

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 22**

CLARA MAASS MEDICAL CENTER

and

**Cases 22-CA-317355
22-CA-327662**

**1199 SEIU UNITED HEALTHCARE WORKERS
EAST**

**CLARA MAASS MEDICAL CENTER
and RWJ BARNABAS HEALTH, A SINGLE
EMPLOYER**

Case 22-CA-339228

and

**1199 SEIU UNITED HEALTHCARE WORKERS
EAST**

**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 Cases 22-CA-317355 and 22-CA-327662, which are based on charges filed by 1199 SEIU United Healthcare Workers East (the Union) against Clara Maass Medical Center (Respondent CMMC), and Case 22-CA-339228, which is based on a charge filed by the Union against Respondent CMMC and RWJ Barnabas Health (Respondent RWJ), a single employer (collectively Respondents CMMC/RWJ), 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 Rules and Regulations of the National

Labor Relations Board (the Board) and alleges that 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 Respondent(s) on the dates indicated by U.S. regular mail:

<i>Case No.</i>	<i>Amendment</i>	<i>Charging Party</i>	<i>Respondent</i>	<i>Date Filed</i>	<i>Date Served</i>
22-CA-317355		Union	Respondent	5/3/23	5/4/23
22-CA-317355	First Amended	Union	Respondent	5/26/23	5/26/23
22-CA-327662		Union	Respondent	10/6/23	10/12/23
22-CA-339228		Union	Respondents	4/1/24	4/3/24

2. (a) At all material times, Respondent CMMC has been a New Jersey corporation with its office and place of business located at One Clara Maass Drive, Belleville, New Jersey, herein called the Belleville facility, and has been engaged in the operation of an acute care hospital, providing health care and related services.

(b) At all material times, Respondent RWJ has been a domestic corporation with its office and place of business located at 94 Old Short Hills Road, Livingston, New Jersey, herein called the Livingston facility, and has been engaged in the governance and supervision of Respondent RWJ's subsidiaries, including Respondent CMMC, which operates an acute care hospital, providing health care and related services.

(c) At all material times, Respondent CMMC and Respondent RWJ have been affiliated business enterprises with common officers, ownership, directors, management, and supervision; have formulated and administered a common labor policy; have shared common

premises and facilities; have provided services for and made sales to each other; have interchanged personnel with each other; have interrelated operations where Respondent Clara Maass's webpage is on Respondent RWJ's web domain; and have held themselves out to the public as a single-integrated business enterprise.

(d) Based on its operations described above in subparagraphs (a) – (c), Respondent CMMC and Respondent RWJ constitute a single-integrated business enterprise and a single employer within the meaning of the Act.

3. (a) Annually, in conducting its operations, Respondent CMMC derived gross revenues in excess of \$250,000.

(b) Annually, in conducting its operations, Respondent CMMC purchased and received at its Belleville facility supplies valued in excess of \$5,000 directly from suppliers located outside the State of New Jersey.

(c) Annually, in conducting its operation, Respondent RWJ derived gross revenues in excess of \$250,000.

(d) Annually, in conducting its operations, Respondent RWJ purchased and received at its Livingston facility supplies valued in excess of \$5,000 directly from suppliers located outside the State of New Jersey.

4. (a) At all material times, Respondent CMMC has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act and has been a health care institution within the meaning of Section 2(14) of the Act.

(b) At all material times, Respondent RWJ has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act and has been a health care institution within the meaning of Section 2(14) of the Act.

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

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

Bianca Michel	Director/Nurse Manager of ICU
Crystal Branch	3 North Manager
Chinwendu Emenyeonu	Assistant Vice President Patient Care Services
Teresa DiElmo	Chief Nursing Officer
Alfred Torres	Chief Human Resources Officer

(b) At all material times, Maureen Harding has held the position of Respondent RWJ's Corporate Vice President, Nursing Operations and has been an agent of Respondent RWJ within the meaning of Section 2(13) of the Act.

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

All full-time, regular part-time and per diem Registered Nurses (RN) employed by the Employer at its 1 Clara Maass Drive, Belleville, New Jersey facility, excluding all office clerical employees, Nurse Practitioners, Senior RN Case Managers, RN Case Management Coordinators, RN Discharge Specialists, RN Coordinator Care employees, Infection Control RNs, RN Educators, Nurse Midwives, RN First Assistants, RN Coordinators (Infusion), guards and supervisors as defined in the Act, and all other employees.

(b) On August 18, 2022, the Board certified the Union as the exclusive collective bargaining representative of the Unit.

(c) At all times since August 18, 2022, the Union, by virtue of Section 9(a) of the Act, has been the exclusive collective-bargaining representative of the Unit.

8. (a) On April 26, 2023, Respondent CMMC's employees – Glenda Eng, Tanya Howard, John Galiger, Olivia Fernandez-Brown, Lia Devers, and Francesca Lopes - engaged in concerted activities with each other for the purposes of mutual aid and protection, by delivering to Bianca Michel petitions signed by employees of Respondent CMMC, protesting its suspension of Glenda Eng and its failure to provide Eng with a peer review.

(b) On May 2, 2023, Respondent CMMC placed the employees, named in subparagraph (a), on administrative leave.

(c) On May 11, 2023, Respondent CMMC issued written warnings to employees named in subparagraph (a).

(d) On May 15, 2023, Respondent CMMC discharged Glenda Eng.

(e) Respondent CMMC engaged in the conduct described above in subparagraphs (b), (c) and (d) because the employees engaged in conduct described in subparagraph (a), and to discourage employees from engaging in these or other concerted activities.

9. (a) On May 2, 2023, Respondent CMMC's employees, Bianca Soto and Malisa Vibulbhan, were placed on administrative leave.

(b) Respondent CMMC engaged in the conduct described above in subparagraph (a) because Respondent CMMC mistakenly believed that Soto and Vibulbhan engaged in the protected concerted activity of delivering the petition to Bianca Michel.

10. (a) On or about October 3, 2023, Respondent CMMC, by Crystal Branch, at its Belleville facility, directed its employees to remove union insignia and prohibited the wearing of this insignia while permitting employees to wear other insignia.

(b) On or about October 4, 2023, Respondent CMMC, by Chinwendu Emenyeonu, at its Belleville facility directed its employees to remove union insignia and prohibited the wearing of this insignia while permitting employees to wear other insignia.

(c) On or about October 5, 2023, Respondent CMMC, by Alfred Torres, issued a letter prohibiting its employees from wearing union insignia while permitting employees to wear other insignia.

11. (a) At various times from about October 13, 2022, through about October 15, 2024, Respondents CMMC/RWJ 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 subparagraph (a), Respondents CMMC/RWJ engaged in surface bargaining with no intention of reaching agreement by insisting upon proposals that are predictably unacceptable to the Union, including but not limited to Respondents' retention of unilateral control over PTO, subcontracting all unit work, and refusing to incorporate a staffing article into the contract as well as the away from the table conduct alleged in paragraph 10.

(c) By its overall conduct, including the conduct described above in subparagraph (b) paragraph 14, Respondents CMMC/RWJ have failed and refused to bargain in good faith with the Union as the exclusive collective-bargaining representative of the Unit.

12. By the conduct described above in paragraphs 8, 9 and 10, Respondent CMMC 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.

13. By the conduct described above in paragraphs 8 and 9, Respondent CMMC has been discriminating in regard to the tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization and activities in support of a labor organization, in violation of Section 8(a)(1) and (3) of the Act.

14. By the conduct described above in paragraph 11, Respondents CMMC/RWJ have been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees, in violation of Section 8(a)(1) and (5) of the Act.

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

16. The unfair labor practices of Respondents CMMC/RWJ 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, General Counsel seeks an Order requiring Respondent(s) to:

Hold a meeting(s) during working hours, scheduled to ensure the widest possible attendance of employees, at which the Notice to Employees and Explanation of Rights will be read to employees by a responsible management official of Respondent in the presence of a Board agent.

Send a letter of apology on Respondent CMMC's letterhead and signed by a responsible management official of Respondent CMMC to the employees named in above-paragraphs 8 and 9, by U.S. mail with a courtesy copy sent to the Regional Director;

Further, General Counsel seeks an Order requiring Respondent CMMC and Respondents CMMC/RWJ to cease and desist from engaging in the unfair labor practices alleged above and seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondents are notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, they must file answers to the complaint. The answer must be **received by this office on or before November 22, 2024.** Respondents should serve a copy of the answer on each of the other parties.

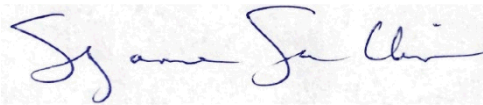
An answer must be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. 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 the 4th day of February 2025, 9:30 a.m., at the Veteran's Administration Building located at 20 Washington Place, 5th Floor, Newark, New Jersey, 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, Respondents and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this consolidated 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 at Newark, New Jersey
November 8, 2024



Suzanne Sullivan, Regional Director, Region 22
National Labor Relations Board
20 Washington Place, 5th Floor
Newark, NJ 07102-3127

Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Cases 22-CA-317355, 22-CA-327662, 22-CA-339228

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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First Class Mail

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.

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, 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.