

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5**

DISTRICT HOSPITAL PARTNERS, LP D/B/A
THE GEORGE WASHINGTON UNIVERSITY
HOSPITAL

and

DISTRICT OF COLUMBIA NURSES ASSOCIATION
A/W NATIONAL NURSES UNITED, AFL-CIO

Cases 05-CA-315471
05-CA-315697
05-CA-327277

**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 05-CA-315471, 05-CA-315697, and 05-CA-327277, which are based on charges filed by District of Columbia Nurses Association a/w National Nurses United, AFL-CIO (the Charging Party), against District Hospital Partners, LP dba George Washington University Hospital (GWUH), whose correct name is District Hospital Partners, LP d/b/a The George Washington University Hospital (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. (a) The charge in Case 05-CA-315471 was filed by the Charging Party on March 31, 2023, and a copy was served on Respondent by U.S. mail on April 5, 2023.

(b) The charge in Case 05-CA-315697 was filed by the Charging Party on April 4, 2023, and a copy was served on Respondent by U.S. mail on April 7, 2023.

(c) The charge in Case 05-CA-327277 was filed by the Charging Party on September 30, 2023, and a copy was served on Respondent by U.S. mail on October 5, 2023.

2. (a) At all material times, Respondent has been a limited partnership with an office and place of business in Washington, D.C. (Respondent's facility), and has been engaged in the operation of an acute care hospital.

(b) In conducting its operations during the 12-month period ending June 30, 2024, Respondent derived gross revenues in excess of \$250,000.

(c) During the period described above in paragraph 2(b), Respondent purchased and received at its Washington, D.C. facility goods valued in excess of \$5,000 directly from points outside the District of Columbia.

(d) During the period described above in paragraph 2(b), Respondent has conducted its business operations described above in paragraph 2(a) in Washington, D.C., and the Board asserts plenary jurisdiction over enterprises in Washington, D.C.

(e) 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, and has been a health care institution within the meaning of Section 2(14) of the Act.

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

4. 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 agents of Respondent within the meaning of Section 2(13) of the Act:

- (a) Miriam Al Sabae - Nursing Manager
- (b) Stephanie Boese - Trauma Services Director
- (c) Moreno Comiskey - Registered Nurse Educator
- (d) Kara Couch - Wound Care Nursing Director
- (e) Tiffany Coullahan - Director of Nursing
- (f) Hazel Darisse - Assistant Chief Nursing Officer
- (g) Ley Marsha - Pre-Admission Testing Department
Clinical Encarnacion Nurse Supervisor
- (h) Alexis Gray - Manager, Cardiac Intensive Care Unit
- (i) Therese Greey - Manager, Nursing Administration
- (j) Shannon Harkins - Manager, Intensive Care Unit
- (k) Florence Hunter - Director of Women's Nursing
- (l) Elzbieta Kmiecik - Director of Professional Development &
Education
- (m) Lindsey Replogle - Interim Manager of Women's Services
- (n) Kristin Spurr - Director of Surgical Services
- (o) Patricia Wiley - Surgical Services Nurse Manager

5. At all material times, Respondent's security guards, whose names are not presently known to undersigned, have been agents of Respondent within the meaning of Section 2(13) of the Act.

6. At all material times, Respondent has maintained the following Solicitation and Distribution Policy:

Solicitation is any form of requesting money, support, or participation for products, groups, organizations or causes which are unrelated to our Facility. These may include asking others for petition signatures, selling products or religious proselytism. Distribution means disseminating literature or material for commercial or political purposes. We have strict policies regarding solicitation and distribution in order to prevent unnecessary disruption of Facility business. We do not allow solicitation and distribution by non-employees in our workplace. As an employee you may not solicit or promote support for any cause or organization during your working time or during the working time of the employee to whom such activity is directed. You also may not distribute or circulate any written or printed material in work areas at any time or during your working time or during the working time of the employee to whom such activity is directed. Working areas include all areas where work is being performed but excludes areas like employee break rooms, lounges, the cafeteria, and parking areas.

“Working time” includes all time for which an employee is engaged in or should be engaged in performing services for GW Hospital. It does not include break periods, meal periods or periods in which an employee is not performing and is not scheduled to be performing services or work for GW Hospital. GW Hospital will only permit fund-raising (e.g., United Way, etc.) or other related event(s) that are sponsored by GW Hospital and are for the benefit of the community, patient groups served, or some other Facility purpose. Such activity requires the prior approval of the VP of Human Resources.

7. Since at least September 30, 2022, Respondent, by maintaining a video camera surveillance system throughout Respondent’s facility:

(a) engaged in surveillance of employees engaged in union or other protected concerted activities;

(b) created an impression among its employees that their union or other protected concerted activities were under surveillance by Respondent; and

(c) interfered with and/or prevented employees from engaging in union or other protected concerted activities.

8. Respondent, by the individuals named below, about the dates and in the locations opposite their names, enforced the policy described above in paragraph 6 selectively and disparately by confiscating and prohibiting the posting of pro-union literature on breakroom

bulletin boards, whiteboards, doors, walls, and other nonwork locations while permitting the posting of nonunion and nonwork-related postings of a similar character:

Agent	Date	Location
(a) Florence Hunter	March 9, 2023	Breakroom at Respondent's facility
(b) Ley Marsha Encarnacion	March 23, 2023	Office at Respondent's facility
(c) Florence Hunter	April 6, 2023	Breakroom at Respondent's facility
(d) Kristin Spurr	April 6, 2023	Office at Respondent's facility

9. About February 10, 2023, Respondent, by Stephanie Boese, Moreno Comiskey, and Tiffany Coullahan, in a conference room at Respondent's facility, by convening employees on paid time and requiring them to listen to Respondent's speech urging them to reject union representation, and without providing assurances that their attendance was voluntary, threatened its employees with discipline, discharge, and/or other unspecified reprisals.

10. About February 21, 2023, Respondent, by Hazel Darisse, Florence Hunter, and Lindsey Replogle, in a conference room at Respondent's facility:

(a) by convening employees on paid time and requiring them to listen to Respondent's speech urging them to reject representation by the Charging Party, and without providing assurances that their attendance was voluntary, threatened its employees with discipline, discharge, and/or other unspecified reprisals.

(b) threatened to cease periodic wage increases for employees if they selected the Charging Party as their bargaining representative; and

(c) threatened employees with stricter enforcement of Respondent's attendance policies if they selected the Charging Party as their bargaining representative.

11. About February 22, 2023, Respondent, by Miriam Al Sabae, during a telephone call, directed employees to identify, surveil, and/or question employees engaged in union activities at a grocery store near Respondent's facility.

12. About March 1, 2023, Respondent, by Respondent's security guards, outside Respondent's facility, denied its off-duty employees access to outside nonworking areas.

13. About March 10, 2023, Respondent, by Florence Hunter, in an office at Respondent's facility:

(a) by convening employees on paid time and requiring them to listen to Respondent's speech urging them to reject representation by the Charging Party, and without providing assurances that their attendance was voluntary, threatened its employees with discipline, discharge, and/or other unspecified reprisals;

(b) by telling employees that Respondent's security cameras will catch employees engaged in protected activities, created an impression among its employees that their union activities were under surveillance by Respondent; and

(c) threatened employees with stricter enforcement of Respondent's policies because of their union activities.

14. About late March 2023, and early April 2023, Respondent, in breakrooms throughout Respondent's facility, replaced bulletin boards used by employees to post union literature with glass-enclosed locked bulletin boards.

15. About April 6, 2023, Respondent, by Kristin Spurr and Ley Marsha Encarnacion, in an office at Respondent's facility:

(a) by convening employees on paid time and requiring them to listen to Respondent's speech urging them to reject representation by the Charging Party, and without providing assurances that their attendance was voluntary, threatened its employees with discipline, discharge, and/or other unspecified reprisals;

(b) interrogated its employees about their union membership, activities, and sympathies;

(c) by soliciting employee complaints and grievances, promised its employees increased benefits and improved terms and conditions of employment if they refrained from union activity; and

(d) prohibited employees from posting pro-union literature on public property.

16. About April 21, 2023, Respondent, by Alexis Gray, Therese Greey, Shannon Harkins, Elzbieta Kmiecik, and Patricia Wiley, in the lobby at Respondent's facility, by observing and/or taking notes on employee engagement at a pro-union tabling event for an extended period, engaged in surveillance of employees engaged in union activities.

17. About April 21, 2023, Respondent, by Kara Couch, on the public sidewalk outside Respondent's facility, by taking pictures of employees writing pro-union messages on the sidewalk, engaged in surveillance of employees engaged in union activities.

18. About May 14, 2023, Respondent, by Elzbieta Kmiecik, on the public sidewalk outside Respondent's facility, removed pro-union literature from public utility poles.

19. About June 8, 2023, Respondent, by Florence Hunter, in an office at Respondent's facility, by convening employees on paid time and requiring them to listen to Respondent's speech urging them to reject representation by the Charging Party, and without providing assurances that their attendance was voluntary, threatened its employees with discipline, discharge, and/or other unspecified reprisals.

20. About June 10, 2023, Respondent, by Elzbieta Kmiecik, in a hallway at Respondent's facility:

(a) by convening employees on paid time and requiring them to listen to Respondent's speech urging them to reject representation by the Charging Party, and without

providing assurances that their attendance was voluntary, threatened its employees with discipline, discharge, and/or other unspecified reprisals; and

(b) threatened employees with loss of benefits if they selected the Charging Party as their bargaining representative.

21. About June 10, 2023, Respondent, by Elzbieta Kmiecik, in an office at Respondent's facility, by convening employees on paid time and requiring them to listen to Respondent's speech urging them to reject representation by the Charging Party, and without providing assurances that their attendance was voluntary, threatened its employees with discipline, discharge, and/or other unspecified reprisals.

22. Since about March 2023, Respondent, by installing and maintaining cameras in and around employee breakrooms at Respondent's facility:

(a) engaged in surveillance of employees engaged in union activities; or

(b) in the alternative to paragraph 22(a), created an impression among its employees that their union activities were under surveillance by Respondent.

23. (a) About March 15, 2023, Respondent suspended Angelo Estrellas.

(b) Respondent engaged in the conduct described above in paragraph 23(a) because Angelo Estrellas joined and assisted the Charging Party and engaged in concerted activities, and to discourage employees from engaging in these activities.

24. (a) About March 22, 2023, Respondent discharged its employee Angelo Estrellas.

(b) Respondent engaged in the conduct described above in paragraph 24(a) because Angelo Estrellas joined and assisted the Charging Party and engaged in concerted activities, and to discourage employees from engaging in these activities.

25. By the conduct described above in paragraphs 6 through 22, 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.

26. By the conduct described above in paragraphs 23 and 24, Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

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

REMEDY

As part of the remedy for the unfair labor practices alleged above in paragraphs 7 through 24, the General Counsel seeks an Order requiring Respondent to: (1) e-mail a copy of the Notice to Employees to all current and former employees who were employed by Respondent at any time since February 1, 2023; and (2) electronically post the Notice to Employees if Respondent customarily uses electronic means such as an electronic bulletin board, website, or intranet to communicate with those employees.

As part of the remedy for the unfair labor practices alleged above in paragraph 7, the General Counsel seeks an Order requiring Respondent to remove or disable the video surveillance system at Respondent's facility, or for any video surveillance cameras that are narrowly tailored to address legitimate business needs, provide employees a written explanation of the technological capabilities of the video surveillance system, Respondent's reason(s) for monitoring and managing employees' activities via video surveillance, how Respondent uses the information obtained, and assuring employees that information obtained will not be used to interfere with, surveil, or prevent employees from engaging in union and other protected concerted activities.

As part of the remedy for the unfair labor practices alleged above in paragraphs 23 and 24, the General Counsel seeks an Order requiring Respondent to: (1) draft and send a letter to Angelo Estrellas by electronic mail and U.S. mail apologizing to him for his discharge and any hardship or distress it caused, and requiring Respondent to provide a copy of this letter to the Regional Director within 14 days of distribution; (2) draft and send a letter to Angelo Estrellas by electronic mail and U.S. mail outlining Respondent's discharge of Angelo Estrellas that he may send to any credit reporting agency that may have reported any delinquent or collections activities, and requiring Respondent to provide a copy of this letter to the Regional Director within 14 days of distribution; and (3) in the event Angelo Estrellas declines reinstatement to his former job, make Angelo Estrellas whole including, but not limited to, payment of front pay for a reasonable period following any decision by Angelo Estrellas to decline a valid offer of reinstatement.

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 consolidated complaint. The answer must be **received by this office on or before August 8, 2024.** Respondent also must serve a copy of the answer on each of the other parties.

The 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. 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 consolidated 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 consolidated complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on October 21, 2024, at 10:00 a.m., at the Board Hearing Room, Suite 6001, 1015 Half Street SE, Washington, D.C., 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 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 Baltimore, Maryland this 25th day of July 2024.

(SEAL)



Sean R. Marshall, Regional Director
National Labor Relations Board, Region 5
Edward A. Garmatz U.S. Courthouse
101 West Lombard Street, Suite 700
Baltimore, Maryland 21201

Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Cases 05-CA-315471
05-CA-315697
05-CA-327277

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.

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.