FORM NLRB-501
(3-21)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 03-CA-318831	Date Filed 5/26/2023

INSTRUCTIONS:
File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Rochester General Hospital		b. Tel. No. (585) 922-4000
		c. Cell No.
		f. Fax. No.
d. Address *(Street, city, state, and ZIP code)* 1425 Portland Avenue Rochester, NY 14621	e. Employer Representative (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) Rochester General Hospital	g. e-mail
		h. Number of workers employed @830
i. Type of Establishment *(factory, mine, wholesaler, etc.)* Hospital	j. Identify principal product or service Medical services	

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge *(set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)*
On or about (b) (6), (b) (7)(C) 2023, the Employer violated (b) (6), (b) (7)(C) right to union representation in an investigatory interview which may result in discipline and/or termination.

3. Full name of party filing charge *(if labor organization, give full name, including local name and number)*
Rochester Union of Nurses and Allied Professionals

4a. Address *(Street and number, city, state, and ZIP code)* 80 Broad Street New York, NY 10261	4b. Tel. No. (917) 734-5662
	4c. Cell No.
	4d. Fax No.
	4e. e-mail nhadzic@nenurses.org

5. Full name of national or international labor organization of which it is an affiliate or constituent unit *(to be filled in when charge is filed by a labor organization)*

6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief. *(signature of representative or person making charge)* — Jane Lauer Barker, Esq. *(Print/type name and title or office, if any)* Address: Pitta LLP, 120 Broadway, 28th Fl., New York, NY 10271 — Date: 5/25/23	Tel. No. (212) 652-3828
	Office, if any, Cell No.
	Fax No. (212) 652-3891
	e-mail jbarker@pittalaw.com

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 3
130 S Elmwood Ave Ste 630
Buffalo, NY 14202-2465

Agency Website: www.nlrb.gov
Telephone: (716)551-4931
Fax: (716)551-4972

Download
NLRB
Mobile App

May 26, 2023

(b) (6), (b) (7)(C) Rochester General Hospital
Rochester General Hospital
1425 Portland Ave
Rochester, NY 14621

Re: Rochester General Hospital
Case 03-CA-318831

Dear (b) (6), (b) (7)(C)

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner DONALD STARR whose telephone number is (518)419-6257. The mailing address is 11A Clinton Ave STE 342, ALBANY, NY 12207-2366. If this Board agent is not available, you may contact Supervisory Field Examiner NEALE K. SUTCLIFF whose telephone number is (314)449-7489.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlrb.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not

have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. To ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

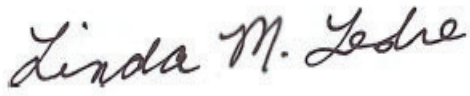
Controlled Unclassified Information (CUI): This National Labor Relations Board (NLRB) proceeding may contain Controlled Unclassified Information (CUI). Subsequent information in this proceeding may also constitute CUI. National Archives and Records Administration (NARA) regulations at 32 CFR Part 2002 apply to all executive branch agencies that designate or handle information that meets the standards for CUI.

* * *

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlrb.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



LINDA M. LESLIE
Regional Director

Enclosures:
1. Copy of Charge
2. Commerce Questionnaire

cc: Roy R. Galewski, Partner
Harris Beach PLLC
99 Garnsey Road
Pittsford, NY 14534-4565

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 3
130 S Elmwood Ave Ste 630
Buffalo, NY 14202-2465

Agency Website: www.nlrb.gov
Telephone: (716)551-4931
Fax: (716)551-4972

Download
NLRB
Mobile App

Rochester Union of Nurses and Allied Professionals
80 Broad Street, 5th Floor
New York, NY 10261

Re: Rochester General Hospital
Case 03-CA-318831

Dear Sir or Madam:

The charge that you filed in this case on May 26, 2023 has been docketed as case number 03-CA-318831. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner DONALD STARR whose telephone number is (518)419-6257. The mailing address is 11A Clinton Ave STE 342, ALBANY, NY 12207-2366. If this Board agent is not available, you may contact Supervisory Field Examiner NEALE K. SUTCLIFF whose telephone number is (314)449-7489.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody

or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlrb.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

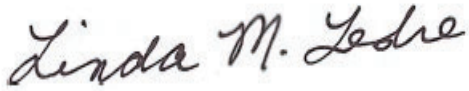
Controlled Unclassified Information (CUI): This National Labor Relations Board (NLRB) proceeding may contain Controlled Unclassified Information (CUI). Subsequent information in this proceeding may also constitute CUI. National Archives and Records Administration (NARA) regulations at 32 CFR Part 2002 apply to all executive branch agencies that designate or handle information that meets the standards for CUI.

* * *

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlrb.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



LINDA M. LESLIE
Regional Director

Enclosure

1. Important Information About NLRB Investigations for Immigrant Workers (English & Spanish)

cc: Jane Lauer Barker
120 Broadway 28th Floor
New York, NY 10271

Important Information About NLRB Investigations for Immigrant Workers

The National Labor Relations Act (NLRA) protects most private-sector employees, <u>regardless</u> of their immigration status. The NLRA gives employees the right to:

- Form, join, or assist a union to negotiate concerning wages and other working conditions.
- Discuss wages and other working conditions with coworkers, a union, a worker center, a government agency, the media, or the public.
- Take collective action with coworkers to try to improve wages and other working conditions.
- Choose not to take part in any of these actions.

Below is important information for you to know about our confidential investigation process:

- Because immigration status is not relevant as to whether there has been a violation of the NLRA:
  - We will **NOT** ask you about your immigration status.
  - You **DO NOT** need to share any information with us about your immigration status.
  - You **DO NOT** need to share information about the status of your current/former coworkers.
- We only enforce the NLRA and have **NO** involvement with the enforcement of immigration laws.
- We will **NOT** share any information about you with the Department of Homeland Security (DHS), including Immigration and Customs Enforcement (ICE), or any other immigration authorities, unless you request that we share your information to assist you with seeking immigration relief, as described in the last bulleted point of this document.
- If you have concerns about appearing at our offices for any reason, please speak with the Board Agent assigned to the case about other methods of participating in the investigation, including taking your affidavit outside of our office or by video.
- Our investigations are confidential, which means that we will **NOT** disclose your affidavit to an employer, unless you testify at a trial, or we seek a federal court injunction.
- If you are not comfortable communicating with us in English, we will make an interpreter available to provide assistance and information in your preferred language.
- If you are aware that an employer or union has engaged in any of the following conduct, please tell the Board Agent about it because it may violate the law:

  - Threatening to call DHS or ICE or making other similar threats because you or other employees have engaged in union activity or other collective action to improve working conditions.
  - Asking employees to provide new or updated immigration documents/papers or reverifying employees' work authorization without a valid, non-discriminatory reason, which could violate the NLRA or other laws.

- If, at the end of the investigation, we determine there is merit to the charge (the employer or union has violated the law) and we have to litigate the case before an Administrative Law Judge, we will make every effort to prevent the employer or union from asking you about your immigration status.

- If you have filed a charge or are a witness and you or your representative tells us that there is NLRA protected activity at a worksite and immigration relief is necessary to protect employees who are exercising those rights or participating in the NLRB process, the NLRB will consider seeking immigration relief for employees at that worksite including deferred action, parole, U or T visa status, or other relief as available and appropriate. The NLRB cannot provide immigration advice. If you need immigration counsel, a list of providers of free legal services is available here: https://www.justice.gov/eoir/list-pro-bono-legal-service-providers.

For more information on the NLRB, please visit our website, www.nlrb.gov.

Información Importante Acerca de las Investigaciones de la NLRB para los Trabajadores Inmigrantes

La Ley Nacional de Relaciones del Trabajo (NLRA por sus siglas en inglés) protege a la mayoría de los empleados del sector privado, <u>independientemente</u> de su estatus migratorio. La NLRA les da a los empleados el derecho a:

- Formar, afiliarse o ayudar a una unión para negociar sobre los salarios y otras condiciones de trabajo.
- Discutir los salarios y otras condiciones de trabajo con los compañeros de trabajo, una unión, un centro de trabajadores, una agencia gubernamental, los medios de comunicación o el público.
- Tomar acciones colectivas con los compañeros de trabajo para tratar de mejorar los salarios y otras condiciones de trabajo.
- Optar por no participar en ninguna de estas acciones.

A continuación, le presentamos información importante que debe conocer acerca de nuestro proceso de investigación confidencial:

- Porque el estatus migratorio no es pertinente si ha habido una violación de la NLRA:
  - Nosotros **NO** le preguntaremos sobre su estatus migratorio.
  - Usted **NO NECESITA** compartir ninguna información con nosotros acerca de su estatus migratorio.
  - Usted **NO NECESITA** compartir ninguna información sobre el estatus [migratorio] de sus actuales/antiguos compañeros de trabajo.
- Sólo hacemos cumplir la NLRA y **NO** estamos involucrados en el cumplimiento de las leyes de inmigración.
- **NO** compartimos ninguna información sobre usted con el Departamento de Seguridad Nacional (DHS por sus siglas en inglés), incluyendo el Servicio de Inmigración y Control de Aduanas (ICE por sus siglas en inglés) o cualquier otra autoridad de inmigración, a menos que usted solicite que compartamos su información para ayudarle a buscar alivio migratorio, como se describe en el último punto de este documento.
- Si tiene preocupaciones acerca de presentarse en nuestras oficinas por cualquier razón, por favor hable con el agente de la Junta asignado al caso sobre otras maneras de participar en la investigación, incluyendo tomar su declaración jurada fuera de nuestra oficina o por video.
- Nuestras investigaciones son confidenciales, lo que significa que **NO** divulgaremos su declaración jurada a un empleador, a menos que usted testifique en un juicio, o que busquemos un mandato judicial federal.
- Si no está cómodo/a comunicándose con nosotros en inglés, tendremos un intérprete disponible para proporcionarle asistencia e información en su idioma predilecto.

- Si usted sabe que un empleador o unión ha incurrido en alguna de las siguientes conductas, por favor infórmele al agente de la Junta ya que puede violar la ley:
    - Amenazar con llamar al DHS o al ICE o hacer otras amenazas similares porque usted u otros empleados han participado en actividades sindicales u otras acciones colectivas para mejorar las condiciones de trabajo.
    - Pedir a los empleados que proporcionen documentos/papeles de inmigración nuevos o actualizados o volver a verificar la autorización de trabajo de los empleados sin una razón válida y no discriminatoria, que podría violar la NLRA u otras leyes.
- Si, al final de la investigación, determinamos que el cargo tiene mérito (el empleador o la unión han violado la ley) y tenemos que litigar el caso frente a un Juez de Ley Administrativa, haremos todo lo posible para evitar que el empleador o la unión le pregunten sobre su estatus migratorio.
- Si usted ha presentado un cargo o es un testigo y usted o su representante nos dice que se hay una actividad protegida por la NLRA en un lugar de trabajo y que es necesario un alivio migratorio para proteger a los empleados que están ejerciendo esos derechos o participando en el proceso de la Junta Nacional de Relaciones del Trabajo (NLRB por sus siglas en ingles), la NLRB considerará la posibilidad de buscar un alivio migratorio para los empleados en ese lugar de trabajo, incluyendo la acción diferida, la libertad condicional, visas U o T u otro alivio en la medida en que esté disponible y sea apropiado. La NLRB no puede proporcionar asesoramiento de inmigración. Si necesita asesoramiento de inmigración, una lista de proveedores de servicios legales sin costo se encuentra disponible aquí (en inglés): https://www.justice.gov/eoir/list-pro-bono-legal-service-providers.

Para más información acerca de la NLRB, por favor visite nuestra página web, www.nlrb.gov.