



Proskauer Rose LLP Eleven Times Square New York, NY 10036-8299

November 13, 2025

Via ECF

David A. Munkittrick
d +1.212.969.3226
f +1.212.969.2900
DMunkittrick@proskauer.com
www.proskauer.com

Hon. Anne Y. Shields, U.S.M.J.
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: *UFCW v. New York Presbyterian Hosp.*, 25-cv-05023 (E.D.N.Y.)
Cement Workers v. New York Presbyterian Hosp., 25-cv-05571 (E.D.N.Y.)
Letter Motion re Initial Case Scheduling

Dear Judge Shields:

Defendant New York Presbyterian (NYP) respectfully submits this letter to request: (i) entry of a scheduling order governing the initial pleadings and NYP's anticipated motion to dismiss; and (ii) the Court's assistance in addressing certain other case management issues.

The Parties have met and conferred but have been unable to reach agreement. Specifically, despite the parties working in good faith towards filing a joint letter presenting a schedule for consolidating the related *UFCW* and *Cement Workers* cases, and NYP's motion to dismiss that consolidated complaint, plaintiffs decided to withdraw from the process after this Court granted NYP's request for a seven-day extension for the purpose of finalizing the joint letter. *See* ECF 21, 24. Instead, as noted in NYP's Extension Request, plaintiffs maintained their demand that NYP file an intent letter regarding the current complaints, or otherwise request assignment of a District Judge, before they would agree to any further discussion of a joint submission. Because plaintiffs have not given us authorization to include their position in this letter and the deadline is fast approaching, NYP is only including its portion of the letter, along with its Proposed Order (Exhibit A), last Proposed Order NYP received from plaintiffs (Exhibit B), and related emails between NYP and plaintiffs (Exhibit C).

I. NEW YORK PRESBYTERIAN'S POSITION.¹

A. *The Court Should Enter a Simple Scheduling Order Governing NYP's Anticipated Motion to Dismiss.*

New York Presbyterian believes the Court should adopt a straightforward, clean scheduling Order that simply consolidates the two cases under the 25-cv-05023 docket number, sets a deadline

¹ Unless otherwise noted, all emphasis added, capitalizations conformed without brackets, and internal citations and quotation marks omitted.



Page 2

for filing an Amended Consolidated Complaint, and establishes a briefing schedule for NYP's anticipated motion to dismiss. Specifically, NYP proposes the following Schedule:

1. **21 Days After Consolidation:** Plaintiffs file an Amended Consolidated Complaint.
2. **14 Days After Consolidated Complaint:** NYP files a pre-motion conference letter relating to NYP's anticipated Motion to Dismiss.
3. **5 Business Days After Pre-Motion Letter:** Plaintiffs file a response to the pre-motion conference letter.
4. **30 Days After Ruling on Pre-Motion Letter:** Unless the Court rules otherwise in response to the pre-motion letter, NYP shall serve, but not file, its Motion to Dismiss of no more than 35 pages.
5. **30 Days After Motion to Dismiss:** Plaintiffs shall serve, but not file, any Opposition to NYP's Motion to Dismiss of no more than 35 pages, or an amended complaint.
6. **25 Days After Opposition:** If Plaintiffs oppose the Motion to Dismiss, NYP shall serve any Reply in support of its Motion to Dismiss of no more than 20 pages, and shall file all motion papers on the docket.

NYP understands plaintiffs to be in substantial agreement as to the timing and page limits for NYP's anticipated motion to dismiss. The parties differ, however, as to the precursor events for the filing of such motion, including various issues relating to consolidation, and appointment of class counsel. We address each issue in turn.

Consolidation. During the November 10, 2025 meet and confer, plaintiffs indicated that, unless their preferred scheduling order was entered allowing for appointment of interim class counsel, they would oppose consolidation, and refuse to file a Consolidated Complaint. NYP believes that the Court has the power to consolidate these actions under Rule 42, which provides that "if actions before the court involve common questions of law or fact, the court may ... consolidate the actions" or "issue any other orders to avoid any unnecessary costs or delay." Fed. R. Civ. P. 42(a). Nothing in this rule requires appointment of common class counsel prior to consolidation, nor does Rule 23 contain any special rules relating to consolidation. As such, the Court remains free to (i) consolidate the cases, (ii) require a Consolidated Complaint, and/or (iii) require coordinated omnibus briefing with per-side page limits. In any event, NYP proposes that it file a single consolidated or omnibus motion to dismiss on the schedule set forth above.



Page 3

Triggering the Motion to Dismiss on Assignment of Class Counsel. Plaintiffs seek to delay the filing of any Consolidated Complaint and Motion to Dismiss until they have been appointed interim class counsel. That is inappropriate, premature, and prejudicial.

NYP does not oppose plaintiffs filing a motion for appointment of interim class counsel at any time of their choosing, so long as NYP's right to object to such appointment (including on grounds of prematurity) is preserved. NYP, however, does not believe that it is appropriate to make all further dates in this case contingent on these plaintiffs' appointment as class counsel.

Cement Workers and UFCW each filed complaints in their own name and must be presumed to be prepared to litigate their claims, at least through the motion to dismiss, regardless of any future class-related proceedings under Rule 23. That is, the time to address Rule 23 issues, including appointment of class counsel, should occur after threshold motions under Rule 12 have been decided. *See Shiloah v. GEICO Indemnity Co.*, 2025 WL 2314761, *3 (W.D.N.Y. 2025) ("The Court finds that Plaintiff has not demonstrated that appointment of interim class counsel is necessary at this time."); *Beck v. Manhattan College*, No. 1:20-cv-03229-LLS, ECF 44 (S.D.N.Y. 2021) (denying motion to appoint interim class counsel, even after the filing of an Amended Complaint and ruling on the Motion to Dismiss, "as premature" noting that "no class has been certified") (attached as Ex. C). Here, the two complaints are already substantially identical, and counsel for both parties have already committed to filing a consolidated complaint. That obviates the need for immediate appointment of interim class counsel. *Sullivan v. Barclays*, 2013 WL 2933480, *1 (S.D.N.Y. 2013) ("When a putative class action consists of a single case brought by two law firms working in apparent harmony, the rationale behind the appointment of interim class counsel is diminished.").

As the Federal Rules Advisory Committee explains, appointment of interim class counsel under Rule 23(g) is only appropriate "if necessary to protect the interests of the putative class." *See* Fed. R. Civ. P. 23, 2003 Advisory Comm. Notes. The mere fact that two cases have been filed or that some work prior to the class certification decision must occur does not satisfy this standard. Because "ordinarily, [pre-certification] work is handled by the attorney who filed the action," appointment of interim class counsel is only needed where "there is rivalry" among potential class plaintiffs. *Id.* As courts have recognized, "it is not necessary to appoint interim class counsel to maintain the *status quo*." *In re re Nest Labs. Litig.*, 2014 WL 12878556, *2 (N.D. Cal. 2014).

Here, the lack of rivalry among the plaintiffs is the reason appointment of interim class counsel is neither necessary nor appropriate. Making a class counsel designation at this time unfairly stacks the decks in favor of these lawyers. As Judge Kaplan explained, allowing "plaintiffs' lawyers [to] negotiate among themselves to select lead counsel or a team of lead counsel, and the choice is presented as *a fait accompli* for the court summarily to endorse ... is not necessarily in the plaintiffs' best interests." *See In re Auction Houses Antitrust Litig.*, 197 F.R.D. 71, 75 (S.D.N.Y. 2000) (conducting review of class counsel appointment procedures). Indeed, the Manual for Complex Litigation counsels courts to wait "*a reasonable period after commencement of the action*" to allow "attorneys to file class counsel applications." *See* Manual Complex Lit. § 21.273 (4th ed.).



Page 4

Allowing time for other plaintiffs' lawyers to find their named plaintiffs and get their cases on file can only benefit the class, and *reduce* the fees that NYP might ultimately have to pay for. Nor are plaintiffs correct that NYP "has no horse in [this] race." Rule 23(g) expressly gives defendants standing to object to any fee-related provisions, precisely because they are the ultimate potential payor of any such fees, either through settlement or judgment. *See* Fed. R. Civ. P. 23(h).

Under Rule 23(g)(1), in deciding whether to appoint class counsel, the Court may "order potential class counsel ... to propose terms for attorneys' fees" and any resulting order of appointment may include "provisions about the award of [such] fees." Fed. R. Civ. P. 23(g)(1)(C), (D). As Courts have explained, this reflects the fact that the best time to ensure the benefits of vigorous competition for the role of class counsel is at the time of appointment. As the Seventh Circuit explained,

"The best time to determine [the attorney fee] rate is the beginning of the case, not the end (when hindsight alters the perception of the suit's riskiness, and sunk costs make it impossible for the lawyers to walk away if the fee is too low).... Many district judges have begun to follow the private model by setting fee schedules at the outset of class litigation."

In re Synthroid Mktg. Litig., 264 F.3d 712, 719 (7th Cir. 2001).

Plaintiffs argue that fee awards should wait until the end of the case. But just as deciding the issue now – before allowing time for contenders to appear – is too early, deferring the issue until the end of the case is too late. Once a settlement is reached, a defendant's incentive to object to any fee award evaporates, since they would not want to blow up the deal just because plaintiffs' counsel gets more than they might deserve.²

If the Court wants the benefits of the adversarial system, the time to set fee parameters is before settlement, not after. Deciding fee parameters and procedures either before or at the class certification stage will ensure that plaintiffs do not add lawyers unnecessarily. Indeed, this is already a concern. So far nothing of substance in this case has happened. Yet, plaintiffs already have **five law firms** and **14 lawyers** all seeking to earn fees from this case. The Court should put the breaks on now before this gets out of hand.

Even plaintiffs' cases support the need for pre-appointment competition. In *In re Optical Disk Drive Prods. Antitrust Litig.*, 959 F.3d 922 (9th Cir. 2020), the trial court directed the firms competing for class counsel to submit the competing bids on attorney's fees and costs, which was not at issue on appeal. *Id.* at 926 ("As firms jockeyed to represent the putative class of IPPs in the consolidated action, the district court ordered prospective class counsel to provide information on any subject pertinent to the appointment and to propose terms for attorney fees and costs in representing a prospective class. The court reasoned that it was appropriate to consider the matter

² Indeed, some plaintiffs go so far as to force defendants to waive any objection to a fee award. That is, plaintiffs' counsel uses their power to withhold settlements based on their self-interest. Defendants typically lack any power to prevent such conflicts of interest.



Page 5

of fees and costs at the outset.”). Similarly, in *In re Cap. One Tel. Consumer Prot. Act Litig.*, 80 F. Supp. 3d 781 (N.D. Ill. 2015), the Court listed over a dozen cases where a competitive approach was used. *Id.* at 800 (“Data from published opinions in securities and antitrust cases do exist where district courts utilized a competitive approach to negotiate a fee structure on behalf of the class at the outset. As far as the court can tell, there are at least fourteen class action cases—twelve securities actions and two antitrust actions—where district court judges have selected lead counsel and negotiated a fee structure using a competitive process.”).³

Here, plaintiffs’ counsel resist any form of competition in the selection of class counsel, but they do so only to maximize their respective returns. Plaintiffs protest that there was no “backroom deal” when Cement Workers dismissed their S.D.N.Y. complaint and re-filed it in this court to join *UFCW*. But then they say that *efficiency* trumps competition so that they need not submit competing proposals to handle the litigation on behalf of the class. The concept that collusion beats competition in the provision of legal fees is suspect. But even if it were not, it demonstrates affirmatively that there is and will be no competition among these plaintiffs’ lawyers. If there isn’t now, why not wait a few months to see if such competition will materialize? During the meet and confer, plaintiffs’ counsel conceded that they were aware of other plaintiffs’ lawyers considering filing their own suits. Plaintiffs’ rush to be appointed interim class counsel serves no purpose other than to discourage such competitive entry.⁴

Automatic Consolidation of Future Cases. In an effort to cement their position of control over these cases, plaintiffs also request that all “future related cases” be presumptively “automatically consolidated” into their case. While NYP believes that future cases likely will need to be consolidated or coordinated, it is premature to decide that issue now based on hypothetical future filings. If new cases are filed, those plaintiffs (and their counsel) should have the right to independently compete for the position of class counsel, rather than have their cases obliterated

³ Plaintiffs argue that they should not be subject to an “auction.” Whether the Court chooses an auction method or some other method is premature. There are many ways to ensure competitive bids without an “auction.” That is, each plaintiffs’ counsel could be required to “propose terms for attorney’s fees” pursuant to Rule 23(g)(1)(C), and then the Court could select among the best counsel, taking those proposals into account. This would not be an “auction” where the lowest bidder necessarily wins, but would ensure fairness. Plaintiffs’ argument that the Court is powerless to ensure competitive bidding until after a settlement is inconsistent with Rule 23(g)(1)(C), (D). Indeed, plaintiffs’ argument – that the Court must appoint them as interim class counsel **now** but cannot address the issue of fees until the “conclusion of the case” – has no support.

⁴ Plaintiffs misplace reliance on *Delre v. Perry*, 288 F.R.D. 241, 246 (E.D.N.Y. 2012). There, defendants “took no position” on the motion for appointment of interim counsel, other than on the issue of prematurity. In any event, *Delre* believed that appointment was necessary to avoid “redundant” work. But coordination among counsel for different parties is commonplace. For example, in most multi-defendant cases, the court ensures effective coordination by imposing per side limits on discovery, not by appointing common counsel for all parties on the same side of the v.



Page 6

through forced consolidation. *See Farley v. Eye Care Leaders, Holding, LLC*, No. 1:22-CV-468 *1 (M.D.N.C. 2022) (“To the extent the plaintiffs request automatic consolidation of any future related cases, the motion will be denied. If and when a lawsuit is filed that any party contends should be consolidated with these three cases, the issue will be evaluated then.”).

Plaintiffs do not address this point. Nor do they provide any reason why consolidation of hypothetical future cases is needed now, other than to conclusory assert that it would ensure “smooth management.” But a new case cannot be sent into the ether in the name of “smooth management.” And to the extent plaintiffs argue that the cases will maintain their separate existence post-consolidation, then there is no benefit to consolidation. So plaintiffs’ request for consolidation is clearly premised on a belief that new plaintiffs/counsel will not have any rights to direct the litigation unless they overturn a pre-existing order of consolidation and class appointment. This is exactly the prejudice this Court should not create by granting plaintiffs’ premature request.

II. POSITION OF PLAINTIFFS UFCW AND CCWDC

[Omitted]

Respectfully submitted,

/s/ *David A. Munkittrick*

David A. Munkittrick
Attorney for Defendant
The New York Presbyterian Hospital

cc: Counsel of Record

EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UFCW LOCAL 1500 WELFARE FUND, on
behalf of itself and all others similarly
situated,

Plaintiff,

v.

THE NEW YORK AND PRESBYTERIAN
HOSPITAL,

Defendant.

Case No. 2:25-cv-5023

Hon. Anne Y. Shields, USMJ

CEMENT AND CONCRETE WORKERS
DC BENEFIT FUND,

Plaintiff,

v.

THE NEW YORK AND PRESBYTERIAN
HOSPITAL,

Defendant.

Case No. 25-cv-5571

**[PROPOSED] ORDER GRANTING
DEFENDANT'S PROPOSED SCHEDULE**

Defendant the New York and Presbyterian Hospital (“NYP”), by and through its undersigned counsel, respectfully submits this proposed order regarding consolidation of the above-captioned actions and scheduling of deadlines relating to the filing of Plaintiffs’ consolidated complaint and Defendant’s anticipated motion to dismiss:

WHEREAS, the above-captioned cases involve common questions of law and fact;

WHEREAS, consolidation of the above-captioned cases will enable more efficient case management by the Court and avoid unnecessary costs and delays by avoiding duplicative discovery and motion practice in each case;

WHEREAS, Plaintiffs and Defendant the New York and Presbyterian Hospital (together, the “Parties”) agree that consolidation is appropriate;

WHEREAS, upon granting of consolidation, Plaintiffs intend to file a consolidated complaint;

WHEREAS, Defendant the New York and Presbyterian Hospital (“Defendant” or “NYP”) expects to file a motion to dismiss the consolidated complaint after it is filed;

WHEREAS, the Parties have met and conferred and agree that an enlargement of the otherwise applicable deadlines and page limits under the Federal Rules of Civil Procedure and the Local Civil Rules is appropriate in the context of this case; and

WHEREAS, this Proposed Order is being filed simultaneously in both of the above-captioned cases;

THEREFORE, it is so ordered that:

1. Pursuant to Federal Rule of Civil Procedure 42(a), the above-captioned cases are consolidated for all purposes under the civil action number: “2:25-cv-5023.”
2. All papers filed in this action shall be filed under Civil Case No. 2:25-cv-5023 and must bear the following case name: *UFCW Local 1500 Welfare Fund, et al. v. The New York and Presbyterian Hospital.*
3. The following briefing schedule is entered:
 - a. **21 Days After Consolidation:** Plaintiffs shall file an Amended Consolidated Complaint.
 - b. **14 Days After Consolidated Complaint:** NYP shall file a pre-motion conference letter relating to NYP’s anticipated Motion to Dismiss.

- c. **5 Business Days After Pre-Motion Letter:** Plaintiffs shall file any response to the pre-motion conference letter.
- d. **30 Days After Ruling on Pre-Motion Letter:** Unless the Court rules otherwise in response to the pre-motion letter, NYP shall serve, but not file, its Motion to Dismiss of no more than 35 pages.
- e. **30 Days After Motion to Dismiss:** Plaintiffs shall serve, but not file, any Opposition to NYP's Motion to Dismiss of no more than 35 pages, or an amended consolidated complaint.
- f. **25 Days After Opposition:** If Plaintiffs oppose the Motion to Dismiss, NYP shall serve any Reply in support of its Motion to Dismiss of no more than 20 pages, and shall file all motion papers on the docket.

4. Pursuant to Local Civil Rule 73.1, the Parties do not consent to have a magistrate judge conduct all proceedings in the case and order the entry of final judgment.

With respect to the matters addressed by this [Proposed] Scheduling Order, any conflicting deadlines under the Federal Rules of Civil Procedure, this Court's Local Rules, and this Court's Individual Practices, shall not apply. Pending further order of the Court, Defendant need not answer, move against, or respond to the currently operative complaints.

SO ORDERED

Dated: , 2025

Honorable Anne Y. Shields
United States Magistrate Judge

EXHIBIT B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UFCW LOCAL 1500 WELFARE FUND, on behalf of itself and all others similarly situated,

Plaintiff,

v.

THE NEW YORK AND PRESBYTERIAN HOSPITAL,

Defendant.

Case No. 2:25-cv-5023

Judge: Anne Y. Shields

CEMENT AND CONCRETE WORKERS DC BENEFIT FUND, on behalf of itself and all others similarly situated,

Plaintiff,

v.

THE NEW YORK AND PRESBYTERIAN HOSPITAL,

Defendant.

Case No. 1:25-cv-5571

Judge: Eric R. Komitee

[PROPOSED] SCHEDULING ORDER

Plaintiffs United Food and Commercial Workers Local 1500 Welfare Fund (“UFCW”) and Cement and Concrete Workers DC Benefit Fund (“CCWDC” and, together with UFCW, “Plaintiffs”), by and through their undersigned counsel of record, respectfully submit this proposed order regarding consolidation of the above-captioned actions and scheduling of deadlines relating to appointment of lead counsel, and the filing of Plaintiffs’ consolidated complaint and Defendant’s anticipated motion to dismiss:

WHEREAS, the above-captioned cases involve common questions of law and fact;

WHEREAS, consolidation of the above-captioned cases will enable more efficient case management by the Court and avoid unnecessary costs and delays by avoiding duplicative discovery and motion practice in each case;

WHEREAS, Plaintiffs and Defendant the New York and Presbyterian Hospital (together, the “Parties”) agree that consolidation is appropriate;

WHEREAS, upon granting of consolidation, Plaintiffs intend to file a consolidated complaint;

WHEREAS, Defendant the New York and Presbyterian Hospital (“Defendant” or “NYP”) expects to file a motion to dismiss the consolidated complaint after it is filed;

WHEREAS, the Parties have met and conferred and agree that an enlargement of the otherwise applicable deadlines and page limits under the Federal Rules of Civil Procedure and the Local Civil Rules is appropriate in the context of this case; and

WHEREAS, this Proposed Order is being filed simultaneously in both of the above-captioned cases;

THEREFORE, it is so ordered that:

1. Pursuant to Federal Rule of Civil Procedure 42(a), the above-captioned cases are consolidated for all purposes under the lower civil action number: “2:25-cv-5023.”

2. Case No. 1:25-cv-5571 is reassigned to Magistrate Judge Anne Y. Shields, pending assignment of a district judge to the consolidated matter.

3. All papers filed in this action shall be filed under Civil Case No. 2:25-cv-5023 and must bear the following case name: *In Re New York Presbyterian Hospital System Antitrust Litigation*.

4. All future related cases, if any, shall be automatically consolidated under Civil Case No. 2:25-cv-5023 and the caption *In Re New York Presbyterian Hospital System Antitrust Litigation*, unless objected to within 10 days.

5. On or before **30 days after the entry of this Order**, Plaintiffs shall either present a stipulation regarding, or file a motion for appointment of, interim lead class counsel.

6. On or before **21 days after the appointment of interim lead class counsel**, Plaintiffs shall file their consolidated complaint.

7. On or before **10 days after Plaintiffs file their consolidated complaint**, Defendant shall file a pre-motion conference letter.

8. On or before **5 business days after filing of Defendant's pre-motion conference letter**, Plaintiffs shall file a letter in response.

9. On or before **30 days after the Court holds a pre-motion conference or rules on Defendant's pre-motion conference letter**, Defendant shall serve, but not file, its motion to dismiss. The Memorandum of Law accompanying such motion shall not exceed 30 pages.

10. On or before **30 days after Defendant serves its motion to dismiss the consolidated complaint**, Plaintiffs shall serve, but not file, their opposition to Defendant's motion to dismiss or an amended consolidated complaint. Plaintiffs' opposition shall not exceed 30 pages.

11. On or before **20 days after Plaintiffs serve an opposition to Defendant's motion to dismiss the consolidated complaint**, Defendant shall serve its reply in support of its motion to dismiss, not to exceed 20 pages, and file all motion papers on the docket.

12. Pursuant to Local Civil Rule 73.1, the parties do not consent to have a magistrate judge conduct all proceedings in the case and order the entry of final judgment.

With respect to the matters addressed by this [Proposed] Scheduling Order, any conflicting deadlines under the Federal Rules of Civil Procedure, this Court's Local Rules, and this Court's Individual Practices, shall not apply. Pending further order of the Court, Defendant need not answer, move against, or respond to the currently operative complaints.

IT IS SO ORDERED.

Dated: _____, 2025

EXHIBIT C

From: [Munkittrick, David A.](#)
To: [Dave Rochelson](#); [Proctor, Portia S.](#); [Deborah Elman](#)
Cc: [Clare Pellegrini](#); [gasciola@dicellolevitt.com](#); [Alexander Barnett](#); [gtrujillo@dicellolevitt.com](#); [tsalemmackall@dicellolevitt.com](#); [Noah Cozad](#); [jamie@fairmarklaw.com](#); [amanda@fairmarklaw.com](#); [Yinka Onayemi](#); [sjacobsen@hrsclaw.com](#); [fschirripa@hrsclaw.com](#); [michael@fairmarklaw.com](#); [Kass, Colin R](#); [Kohli, Vinay](#); [Samuels, Reut N.](#)
Subject: RE: Cement Works / UFCW Local 1500 Welfare Fund v. NYP
Date: Thursday, November 13, 2025 9:30:14 AM

Dave,

As an initial matter, your refusal to no longer participate in the joint letter process is improper. The parties agreed to a seven-day extension for the purpose of filing a joint letter, and the Court granted NYP's request on that basis. See ECF 21 ("NYP respectfully requests a modest extension of seven-days to allow the parties to complete their negotiations and submit their proposals regarding consolidation and scheduling."); ECF 24 ("ORDER granting [21] Motion for Extension of Time to Answer")

More importantly, NYP is seeking relief from the Court. You may not agree with the relief we are seeking, but you cannot prevent us from seeking it.

Accordingly, we plan on filing our portion of the letter with the Court, and will note that we have gave you an opportunity to provide your response but it was not forthcoming.

We intend to ask for substantially the same relief we sought in our draft from last Friday, including consolidation and a motion to dismiss briefing scheduling that is not tied to appointment of interim class counsel. Since the Cement Workers has now been transferred to Central Islip, however, will be asking for consolidation into the Food Workers case, rather than the reverse.

Best,
David

David Munkittrick
Partner

[Proskauer](#)
Eleven Times Square

New York, NY 10036-8299
d 212.969.3226
f 212.969.2900

dmunkittrick@proskauer.com



greenspaces
Please consider the environment before printing this email.

From: Dave Rochelson <drochelson@garwingerstein.com>
Sent: Wednesday, November 12, 2025 8:00 PM
To: Proctor, Portia S. <PProctor@proskauer.com>; Deborah Elman <delman@garwingerstein.com>
Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>; gasciolla@dicelolevitt.com; Alexander Barnett <abarnett@dicelolevitt.com>; gtrujillo@dicelolevitt.com; tsalemmackall@dicelolevitt.com; Noah Cozad <ncozad@dicelolevitt.com>; jamie@fairmarklaw.com; Munkittrick, David A. <DMunkittrick@proskauer.com>; amanda@fairmarklaw.com; Yinka Onayemi <yinka@fairmarklaw.com>; sjacobsen@hrsclaw.com; fschirripa@hrsclaw.com; michael@fairmarklaw.com; Kass, Colin R <CKass@proskauer.com>; Kohli, Vinay <VKohli@proskauer.com>; Samuels, Reut N. <RSamuels@proskauer.com>
Subject: RE: Cement Works / UFCW Local 1500 Welfare Fund v. NYP

This email sent by drochelson@garwingerstein.com originated from outside the Firm.

Portia, this email is not responsive. As I mentioned in my email sent at 5:02pm ET, we do not believe it would be productive to raise the remaining issues currently contemplated by the joint letter until a District Judge is assigned. If Defendant is not planning to file a letter of intent—and your email seems to imply you are not—there are other ways to get a District Judge assigned; as noted, we would be willing to proceed with a simple joint letter asking the Court to assign a District Judge. But there won't be a joint letter on the other issues until there's a DJ.

Thanks.

David B. Rochelson
Partner
Garwin Gerstein & Fisher LLP
Mobile: 917 704 0860
88 Pine St, 28th Floor ■ New York, NY 10005

From: Proctor, Portia S. <PProctor@proskauer.com>

Sent: Wednesday, November 12, 2025 5:47 PM

To: Dave Rochelson <drochelson@garwingerstein.com>; Deborah Elman <delman@garwingerstein.com>

Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>; gasciolla@dicelolevitt.com; Alexander Barnett <abarnett@dicelolevitt.com>; Geralyn Trujillo <gtrujillo@dicelolevitt.com>; Theo Salem-Mackall <tsalemmackall@dicelolevitt.com>; Noah Cozad <ncozad@dicelolevitt.com>; Jamie Crooks <jamie@fairmarklaw.com>; Munkittrick, David A. <DMunkittrick@proskauer.com>; Amanda Vaughn <amanda@fairmarklaw.com>; Yinka Onayemi <yinka@fairmarklaw.com>; Scott Jacobsen <sjacobsen@hrsclaw.com>; Frank Schirripa <fschirripa@hrsclaw.com>; michael@fairmarklaw.com; Kass, Colin R <CKass@proskauer.com>; Kohli, Vinay <VKohli@proskauer.com>; Samuels, Reut N. <RSamuels@proskauer.com>

Subject: RE: Cement Works / UFCW Local 1500 Welfare Fund v. NYP

Dave,

As we requested, please send us your portion of the joint letter today, so we can finalize it tomorrow and get it on file on Friday. We believe that may moot the need for a letter of intent, but if it does not, we will file such letter when we believe it is necessary and appropriate.

Best,
Portia

Portia Proctor *

Associate

Proskauer

2029 Century Park East
Suite 2400
Los Angeles, CA 90067-3010
d 310.284.5675
f 310.557.2193
PProctor@proskauer.com

* Admitted to practice only in New York. All work supervised by a member of the California Bar.

greenspaces
Please consider the environment before printing this email.

From: Dave Rochelson <drochelson@garwingerstein.com>

Sent: Wednesday, November 12, 2025 2:02 PM

To: Proctor, Portia S. <PProctor@proskauer.com>; Deborah Elman <delman@garwingerstein.com>

Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>; gasciolla@dicelolevitt.com; Alexander Barnett <abarnett@dicelolevitt.com>; Geralyn Trujillo <gtrujillo@dicelolevitt.com>; Theo Salem-Mackall <tsalemmackall@dicelolevitt.com>; Noah Cozad <ncozad@dicelolevitt.com>; Jamie Crooks <jamie@fairmarklaw.com>; Munkittrick, David A. <DMunkittrick@proskauer.com>; Amanda Vaughn <amanda@fairmarklaw.com>; Yinka Onayemi <yinka@fairmarklaw.com>; Scott Jacobsen <sjacobsen@hrsclaw.com>; Frank Schirripa <fschirripa@hrsclaw.com>; michael@fairmarklaw.com; Kass, Colin R <CKass@proskauer.com>; Kohli, Vinay <VKohli@proskauer.com>; Samuels, Reut N.

<RSamuels@proskauer.com>

Subject: RE: Cement Works / UFCW Local 1500 Welfare Fund v. NYP

This email sent by drochelson@garwingerstein.com originated from outside the Firm.

Thanks Portia. When will Defendant be filing its letter of intent under Administrative Order 2023-23, which will trigger assignment of a District Judge? Now that both cases are in front of Judge Shields, we think it makes more sense to propose a schedule after we know who will be presiding; for instance, some judges require a pre-motion letter, some don't. Alternatively, we could jointly ask the Clerk to assign a District Judge.

We're available and happy to discuss.

Best,
Dave

David B. Rochelson
Partner
Garwin Gerstein & Fisher LLP
Mobile: 917 704 0860
88 Pine St, 28th Floor ■ New York, NY 10005

From: Proctor, Portia S. <PProctor@proskauer.com>
Sent: Wednesday, November 12, 2025 2:52 PM
To: Deborah Elman <delman@garwingerstein.com>
Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>; gasciolla@dicellevitt.com; Alexander Barnett <abarnett@dicellevitt.com>; Geralyn Trujillo <gtrujillo@dicellevitt.com>; Theo Salem-Mackall <tsalemmackall@dicellevitt.com>; Noah Cozad <ncozad@dicellevitt.com>; Jamie Crooks <jamie@fairmarklaw.com>; Munkittrick, David A. <DMunkittrick@proskauer.com>; Amanda Vaughn <amanda@fairmarklaw.com>; Yinka Onayemi <yinka@fairmarklaw.com>; Scott Jacobsen <sjacobsen@hrsclaw.com>; Frank Schirripa <fschirripa@hrsclaw.com>; michael@fairmarklaw.com; Dave Rochelson <drochelson@garwingerstein.com>; Kass, Colin R <CKass@proskauer.com>; Kohli, Vinay <VKohli@proskauer.com>; Samuels, Reut N. <RSamuels@proskauer.com>
Subject: RE: Cement Works / UFCW Local 1500 Welfare Fund v. NYP

Counsel,

Please let us know when we can expect to see a turn of the draft stipulation we circulated on Friday and your proposed scheduling order.

Best,
Portia

Portia Proctor *

Associate

Proskauer

2029 Century Park East
Suite 2400
Los Angeles, CA 90067-3010
d 310.284.5675
f 310.557.2193
PProctor@proskauer.com

* Admitted to practice only in New York. All work supervised by a member of the California Bar.

greenspaces
Please consider the environment before printing this email.

From: Deborah Elman <delman@garwingerstein.com>

Sent: Tuesday, November 11, 2025 11:48 AM

To: Munkittrick, David A. <DMunkittrick@proskauer.com>; Dave Rochelson <drochelson@garwingerstein.com>; Proctor, Portia S. <PProctor@proskauer.com>
Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>; gasciolla@dicellevitt.com; Alexander Barnett <abarnett@dicellevitt.com>; Geralyn Trujillo <gtrujillo@dicellevitt.com>; Theo Salem-Mackall <tsalemmackall@dicellevitt.com>; Noah Cozad <ncozad@dicellevitt.com>; Jamie Crooks <jamie@fairmarklaw.com>; Amanda Vaughn <amanda@fairmarklaw.com>; Yinka Onayemi <yinka@fairmarklaw.com>; Scott Jacobsen <sjacobsen@hrsclaw.com>; Frank Schirripa <fschirripa@hrsclaw.com>; michael@fairmarklaw.com; Kass, Colin R <CKass@proskauer.com>; Kohli, Vinay <VKohli@proskauer.com>; Samuels, Reut N. <RSamuels@proskauer.com>

Subject: Re: Cement Works / UFCW Local 1500 Welfare Fund v. NYP

This email sent by delman@garwingerstein.com originated from outside the Firm.

David,

Plaintiffs agreed yesterday to grant NYP a 7-day extension of the time to file its motion to dismiss, which we believed when we spoke yesterday was due tomorrow. We realized in reviewing your draft stipulation that under EDNY's pilot program, NYP is obligated to file tomorrow "a letter no longer than one (1) page expressing [the] intent [*inter alia*,] to file a motion ... to dismiss for failure to state a claim or any relief under Rule 12(b)." Administrative Order No. 2023-23. Thus neither a pre-motion letter nor a motion to dismiss are due tomorrow. Apart from how that affects the timing of NYP's motion to dismiss, that letter of intent will resolve the outstanding issue of getting the *UFCW* case assigned to a district judge. Because we have been unable to reach agreement with you regarding how to consolidate the cases, and one of the reasons you give for your position is that the *UFCW* case is in front of a magistrate judge, we are unwilling to agree to a procedure that would further delay resolution of that issue. What we are willing to compromise on is extending your time to file a motion to dismiss, which we offered in my colleague's last email to extend by agreeing to a joint stipulation. But if you are suggesting we will not agree to jointly move to waive your obligation to note tomorrow NYP's intent to file a motion to dismiss, which will also lead to the appointment of an Article III judge, you are correct.

Regards,
Deborah

Deborah A. Elman | Garwin Gerstein & Fisher LLP | T: (646) 291-4718

From: Munkittrick, David A. <DMunkittrick@proskauer.com>
Date: Tuesday, November 11, 2025 at 1:50 PM
To: Dave Rochelson <drochelson@garwingerstein.com>, Proctor, Portia S. <PProctor@proskauer.com>, Deborah Elman <delman@garwingerstein.com>
Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>, gasciolla@dicellevitt.com <gasciolla@dicellevitt.com>, Alexander Barnett <abarnett@dicellevitt.com>, Geralyn Trujillo <gtrujillo@dicellevitt.com>, Theo Salem-Mackall <tsalemmackall@dicellevitt.com>, Noah Cozad <ncozad@dicellevitt.com>, Jamie Crooks <jamie@fairmarklaw.com>, Amanda Vaughn <amanda@fairmarklaw.com>, Yinka Onayemi <yinka@fairmarklaw.com>, Scott Jacobsen <sjacobsen@hrsclaw.com>, Frank Schirripa <fschirripa@hrsclaw.com>, michael@fairmarklaw.com <michael@fairmarklaw.com>, Kass, Colin R <CKass@proskauer.com>, Kohli, Vinay <VKohli@proskauer.com>, Samuels, Reut N. <RSamuels@proskauer.com>
Subject: RE: Cement Works / UFCW Local 1500 Welfare Fund v. NYP

Dave,

Plaintiffs affirmatively agreed to move the deadline to respond to the complaint while we worked out a stipulation or joint filing on consolidation and other matters. We understand your email and revisions to the stip to be walking back that agreement and refusing to agree to an extension of the deadline (whether under Administrative Order No. 2023-23 or otherwise). We will accordingly file a contested motion noting your opposition.

Best,

David Munkittrick

Partner

Proskauer

Eleven Times Square
New York, NY 10036-8299
d 212.969.3226
f 212.969.2900

dmunkittrick@proskauer.com



green spaces

Please consider the environment before printing this email.

From: Dave Rochelson <drochelson@garwingerstein.com>
Sent: Tuesday, November 11, 2025 11:22 AM
To: Munkittrick, David A. <DMunkittrick@proskauer.com>; Proctor, Portia S. <PProctor@proskauer.com>; Deborah Elman <delman@garwingerstein.com>
Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>; gasciolla@dicellevitt.com; Alexander Barnett <abarnett@dicellevitt.com>; Geralyn Trujillo <gtrujillo@dicellevitt.com>; Theo Salem-Mackall <tsalemmackall@dicellevitt.com>; Noah Cozad <ncozad@dicellevitt.com>; Jamie Crooks <jamie@fairmarklaw.com>; Amanda Vaughn <amanda@fairmarklaw.com>; Yinka Onayemi <yinka@fairmarklaw.com>; Scott Jacobsen <sjacobsen@hrsclaw.com>; Frank Schirripa <fschirripa@hrsclaw.com>; michael@fairmarklaw.com; Kass, Colin R <CKass@proskauer.com>; Kohli, Vinay <VKohli@proskauer.com>; Samuels, Reut N. <RSamuels@proskauer.com>
Subject: RE: Cement Works / UFCW Local 1500 Welfare Fund v. NYP

This email sent by drochelson@garwingerstein.com originated from outside the Firm.

David,

As you know, there is currently no consolidated complaint. Absent agreement by the parties and order of the Court, Defendant's motion to dismiss the *UFCW* complaint is due tomorrow. What Plaintiffs agreed to in principle (and still agree to) was Defendant's request for an additional 7 days to file their motion to dismiss. (It is important to note that our agreement to the proposed schedule in the letter was contingent on the other deadlines we proposed. Because Defendant refused to agree to the lead counsel deadlines, there is no agreement as to the motion deadlines, either.) Under Administrative Order 2023-23, it is not Defendant's pre-motion letter or motion that is due tomorrow; rather, it is a one-page letter indicating Defendant's intent to move to dismiss pursuant to Rule 12. Plaintiffs did not agree (and will not agree) to waive Defendant's obligation to abide by that rule. In light of the Administrative Order, we don't see the stipulation as necessary. But if Defendant wants to enter a stip, we would be willing to do so, subject to this clarification. Please find our proposed revisions attached.

Happy to discuss. Thanks.

David B. Rochelson
Partner
Garwin Gerstein & Fisher LLP
Mobile: 917 704 0860
88 Pine St, 28th Floor ■ New York, NY 10005

From: Munkittrick, David A. <DMunkittrick@proskauer.com>
Sent: Tuesday, November 11, 2025 10:30 AM
To: Dave Rochelson <drochelson@garwingerstein.com>; Proctor, Portia S. <PProctor@proskauer.com>; Deborah Elman <delman@garwingerstein.com>
Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>; gasciolla@dicellevitt.com; Alexander Barnett <abarnett@dicellevitt.com>; Geralyn Trujillo <gtrujillo@dicellevitt.com>; Theo Salem-Mackall <tsalemmackall@dicellevitt.com>; Noah Cozad <ncozad@dicellevitt.com>; Jamie Crooks <jamie@fairmarklaw.com>; Amanda Vaughn <amanda@fairmarklaw.com>; Yinka Onayemi <yinka@fairmarklaw.com>; Scott Jacobsen <sjacobsen@hrsclaw.com>; Frank Schirripa <fschirripa@hrsclaw.com>; michael@fairmarklaw.com; Kass, Colin R <CKass@proskauer.com>; Kohli, Vinay <VKohli@proskauer.com>; Samuels, Reut N. <RSamuels@proskauer.com>
Subject: RE: Cement Works / UFCW Local 1500 Welfare Fund v. NYP

Dave,

We do not agree. This is a request for extension of time, as to which Judge Shields notes, “the parties are expected to confer and grant each other the courtesy of agreeing to reasonable requests....” Our motion to dismiss will depend on the operative complaint, and the pre-motion letter will be driven by the deadline the court sets for that motion. This is reflected in the dates included in the joint letter the parties are preparing (and, as to that date, the plaintiffs’ have already agreed). Please let us know in the next two hours whether you will consent to the stipulation we sent last night, and to which you agreed to in principle on our meet and confer yesterday. If you choose not to, we will file it as a contested motion, and note your opposition.

Best,

David Munkittrick
Partner

Proskauer
Eleven Times Square
New York, NY 10036-8299
d 212.969.3226
f 212.969.2900

dmunkittrick@proskauer.com



greenspaces
Please consider the environment before printing this email.

From: Dave Rochelson <drochelson@garwingerstein.com>
Sent: Tuesday, November 11, 2025 9:58 AM
To: Proctor, Portia S. <PProctor@proskauer.com>; Deborah Elman <delman@garwingerstein.com>
Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>; gasciolla@dicelolevitt.com; Alexander Barnett <abarnett@dicelolevitt.com>; Geralyn Trujillo <gtrujillo@dicelolevitt.com>; Theo Salem-Mackall <tsalemmackall@dicelolevitt.com>; Noah Cozad <ncozad@dicelolevitt.com>; Jamie Crooks <jamie@fairmarklaw.com>; Amanda Vaughn <amanda@fairmarklaw.com>; Yinka Onayemi <yinka@fairmarklaw.com>; Scott Jacobsen <sjacobsen@hrsclaw.com>; Frank Schirripa <fschirripa@hrsclaw.com>; michael@fairmarklaw.com; Munkittrick, David A. <DMunkittrick@proskauer.com>; Kass, Colin R <CKass@proskauer.com>; Kohli, Vinay <VKohli@proskauer.com>; Samuels, Reut N. <RSamuels@proskauer.com>
Subject: RE: Cement Works / UFCW Local 1500 Welfare Fund v. NYP

This email sent by drochelson@garwingerstein.com originated from outside the Firm.

Thanks Portia. In reviewing the pilot program procedures as we were considering your draft, it appears there is no need for the stip. Under EDNY Administrative Order No. 2023-23 ¶ 4, Defendant must file by tomorrow a one-page letter indicating its intent to move to dismiss the UFCW matter under Rule 12(b); because that will have the same effect as the stipulation (giving you an additional 7 days to respond), we see no reason for it.

Thanks.

David B. Rochelson
Partner
Garwin Gerstein & Fisher LLP
Mobile: 917 704 0860
88 Pine St, 28th Floor • New York, NY 10005

From: Proctor, Portia S. <PProctor@proskauer.com>
Sent: Monday, November 10, 2025 6:15 PM
To: Deborah Elman <delman@garwingerstein.com>
Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>; gasciolla@dicelolevitt.com; Alexander

Barnett <abarnett@dicellosevitt.com>; Geralyn Trujillo <gtrujillo@dicellosevitt.com>; Theo Salem-Mackall <tsalemmackall@dicellosevitt.com>; Noah Cozad <ncozad@dicellosevitt.com>; Jamie Crooks <jamie@fairmarklaw.com>; Amanda Vaughn <amanda@fairmarklaw.com>; Yinka Onayemi <yinka@fairmarklaw.com>; Scott Jacobsen <sjacobsen@hrsclaw.com>; Frank Schirripa <fschirripa@hrsclaw.com>; michael@fairmarklaw.com; Munkittrick, David A. <DMunkittrick@proskauer.com>; Dave Rochelson <drochelson@garwingerstein.com>; Kass, Colin R <CKass@proskauer.com>; Kohli, Vinay <VKohli@proskauer.com>; Samuels, Reut N. <RSamuels@proskauer.com>

Subject: RE: Cement Works / UFCW Local 1500 Welfare Fund v. NYP

Deborah,

As discussed, please find attached a draft joint stipulation and proposed order with the 7-day extension of time. If you are signed off, we will get this on file today.

Best,
Portia

Portia Proctor *

Associate

Proskauer

2029 Century Park East
Suite 2400
Los Angeles, CA 90067-3010
d 310.284.5675
f 310.557.2193
PProctor@proskauer.com

* Admitted to practice only in New York. All work supervised by a member of the California Bar.

greenspaces
Please consider the environment before printing this email.

From: Deborah Elman <delman@garwingerstein.com>
Sent: Monday, November 10, 2025 9:33 AM
To: Proctor, Portia S. <PProctor@proskauer.com>
Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>; gasciolla@dicellosevitt.com; Alexander Barnett <abarnett@dicellosevitt.com>; Geralyn Trujillo <gtrujillo@dicellosevitt.com>; Theo Salem-Mackall <tsalemmackall@dicellosevitt.com>; Noah Cozad <ncozad@dicellosevitt.com>; Jamie Crooks <jamie@fairmarklaw.com>; Amanda Vaughn <amanda@fairmarklaw.com>; Yinka Onayemi <yinka@fairmarklaw.com>; Scott Jacobsen <sjacobsen@hrsclaw.com>; Frank Schirripa <fschirripa@hrsclaw.com>; michael@fairmarklaw.com; Munkittrick, David A. <DMunkittrick@proskauer.com>; Dave Rochelson <drochelson@garwingerstein.com>; Kass, Colin R <CKass@proskauer.com>; Kohli, Vinay <VKohli@proskauer.com>; Samuels, Reut N. <RSamuels@proskauer.com>
Subject: Re: Cement Works / UFCW Local 1500 Welfare Fund v. NYP



This email sent by elman@garwingerstein.com originated from outside the Firm.

Thank you, Portia. We are available at 4 pm.

Deborah A. Elman | Garwin Gerstein & Fisher LLP | T: (646) 291-4718

From: Proctor, Portia S. <PProctor@proskauer.com>

Date: Monday, November 10, 2025 at 12:15 PM

To: Deborah Elman <elman@garwingerstein.com>

Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>, gasciolla@dicelolevitt.com <gasciolla@dicelolevitt.com>, Alexander Barnett <abarnett@dicelolevitt.com>, Geralyn Trujillo <gtrujillo@dicelolevitt.com>, Theo Salem-Mackall <tsalemmackall@dicelolevitt.com>, Noah Cozad <ncozad@dicelolevitt.com>, Jamie Crooks <jamie@fairmarklaw.com>, Amanda Vaughn <amanda@fairmarklaw.com>, Yinka Onayemi <yinka@fairmarklaw.com>, Scott Jacobsen <sjacobsen@hrsclaw.com>, Frank Schirripa <fschirripa@hrsclaw.com>, michael@fairmarklaw.com <michael@fairmarklaw.com>, Munkittrick, David A. <DMunkittrick@proskauer.com>, Dave Rochelson <drochelson@garwingerstein.com>, Kass, Colin R <CKass@proskauer.com>, Kohli, Vinay <VKohli@proskauer.com>, Samuels, Reut N. <RSamuels@proskauer.com>

Subject: RE: Cement Works / UFCW Local 1500 Welfare Fund v. NYP

Deborah,

We are available to discuss at 2pm ET or 4pm ET today. Please let us know if that works, and I will circulate a calendar invite.

Best,
Portia

Portia Proctor *

Associate

[Proskauer](mailto:PProctor@proskauer.com)
2029 Century Park East
Suite 2400
Los Angeles, CA 90067-3010
d 310.284.5675
f 310.557.2193
PProctor@proskauer.com

* Admitted to practice only in New York. All work supervised by a member of the California Bar.

greenspaces
Please consider the environment before printing this email.

From: Deborah Elman <elman@garwingerstein.com>

Sent: Monday, November 10, 2025 8:20 AM

To: Proctor, Portia S. <PProctor@proskauer.com>

Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>; gasciolla@dicellevitt.com; Alexander Barnett <abarnett@dicellevitt.com>; Geralyn Trujillo <gtrujillo@dicellevitt.com>; Theo Salem-Mackall <tsalemmackall@dicellevitt.com>; Noah Cozad <ncozad@dicellevitt.com>; Jamie Crooks <jamie@fairmarklaw.com>; Amanda Vaughn <amanda@fairmarklaw.com>; Yinka Onayemi <yinka@fairmarklaw.com>; Scott Jacobsen <sjacobsen@hrsclaw.com>; Frank Schirripa <fschirripa@hrsclaw.com>; michael@fairmarklaw.com; Munkittrick, David A. <DMunkittrick@proskauer.com>; Dave Rochelson <drochelson@garwingerstein.com>; Kass, Colin R <CKass@proskauer.com>; Kohli, Vinay <VKohli@proskauer.com>; Samuels, Reut N. <RSamuels@proskauer.com>

Subject: Re: Cement Works / UFCW Local 1500 Welfare Fund v. NYP

This email sent by delman@garwingerstein.com originated from outside the Firm.

Counsel:

Please advise when you are available for a call. We do not believe a further exchange of drafts would be fruitful in light of your fundamental misunderstanding of Plaintiffs' position. Plaintiffs agree to consolidate the cases and to file a consolidated complaint only after filing a stipulation as to or, in the alternative, appointment of, interim class counsel.

Regards,
Deborah

Deborah A. Elman | Garwin Gerstein & Fisher LLP | T: (646) 291-4718

From: Proctor, Portia S. <PProctor@proskauer.com>

Date: Friday, November 7, 2025 at 10:40 PM

To: Deborah Elman <delman@garwingerstein.com>

Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>, gasciolla@dicellevitt.com <gtrujillo@dicellevitt.com>, Alexander Barnett <abarnett@dicellevitt.com>, Geralyn Trujillo <gtrujillo@dicellevitt.com>, Theo Salem-Mackall <tsalemmackall@dicellevitt.com>, Noah Cozad <ncozad@dicellevitt.com>, Jamie Crooks <jamie@fairmarklaw.com>, Amanda Vaughn <amanda@fairmarklaw.com>, Yinka Onayemi <yinka@fairmarklaw.com>, Scott Jacobsen <sjacobsen@hrsclaw.com>, Frank Schirripa <fschirripa@hrsclaw.com>, michael@fairmarklaw.com <michael@fairmarklaw.com>, Munkittrick, David A. <DMunkittrick@proskauer.com>, Dave Rochelson <drochelson@garwingerstein.com>, Kass, Colin R <CKass@proskauer.com>, Kohli, Vinay <VKohli@proskauer.com>, Samuels, Reut N. <RSamuels@proskauer.com>

Subject: RE: Cement Works / UFCW Local 1500 Welfare Fund v. NYP

Counsel,

Please see attached a draft of the joint letter with some edits to our section, and our proposed order. Please let us know if you have any further edits.

Best,
Portia

Portia Proctor *

Associate

Proskauer

2029 Century Park East
Suite 2400
Los Angeles, CA 90067-3010
d 310.284.5675
f 310.557.2193

PProctor@proskauer.com

* Admitted to practice only in New York. All work supervised by a member of the California Bar.

greenspaces

Please consider the environment before printing this email.

From: Kass, Colin R <CKass@proskauer.com>

Sent: Friday, November 7, 2025 5:54 AM

To: Deborah Elman <delman@garwingerstein.com>; Proctor, Portia S. <PProctor@proskauer.com>

Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>; gasciolla@dicellevitt.com; Alexander Barnett <abarnett@dicellevitt.com>; Geralyn Trujillo <gtrujillo@dicellevitt.com>; Theo Salem-Mackall <tsalemmackall@dicellevitt.com>; Noah Cozad <ncozad@dicellevitt.com>; Jamie Crooks <jamie@fairmarklaw.com>; Amanda Vaughn <amanda@fairmarklaw.com>; Yinka Onayemi <yinka@fairmarklaw.com>; Scott Jacobsen <sjacobsen@hrsclaw.com>; Frank Schirripa <fschirripa@hrsclaw.com>; michael@fairmarklaw.com; Munkittrick, David A. <DMunkittrick@proskauer.com>; Dave Rochelson <drochelson@garwingerstein.com>; Kohli, Vinay <VKohli@proskauer.com>; Samuels, Reut N. <RSamuels@proskauer.com>

Subject: RE: Cement Works / UFCW Local 1500 Welfare Fund v. NYP

Deborah,

We are confused by your drafts, which appear to contain an inconsistency between the joint letter and your proposed schedule. In your revised draft joint letter, you say the parties are in agreement that plaintiffs would file a Consolidated Complaint “21 days after consolidation;” but your proposed order says you would file it “21 days after the appointment of interim lead class counsel.”

If you intended the former, then I think we can substantially narrow the areas of dispute. In particular, we would not object to your filing a motion for appointment of interim lead counsel (at a time of your choosing, and with the understanding that we reserve the right to object to any such appointment including on grounds of prematurity) so long as the filing of the Consolidated

Complaint and associated MTD briefing is not tied to the filing or resolution of any such class counsel motion. If, however, you intend to tie everything to the filing or resolution of a class counsel motion, then we would need to address that issue now.

Please let us know your position.

From: Deborah Elman <delman@garwingerstein.com>
Sent: Thursday, November 6, 2025 3:54 PM
To: Proctor, Portia S. <PProctor@proskauer.com>
Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>; gasciolla@dicellevitt.com; Alexander Barnett <abarnett@dicellevitt.com>; Geralyn Trujillo <gtrujillo@dicellevitt.com>; Theo Salem-Mackall <tsalemmackall@dicellevitt.com>; Noah Cozad <ncozad@dicellevitt.com>; Jamie Crooks <jamie@fairmarklaw.com>; Amanda Vaughn <amanda@fairmarklaw.com>; Yinka Onayemi <yinka@fairmarklaw.com>; Scott Jacobsen <sjacobsen@hrsclaw.com>; Frank Schirripa <fschirripa@hrsclaw.com>; michael@fairmarklaw.com; Munkittrick, David A. <DMunkittrick@proskauer.com>; Dave Rochelson <drochelson@garwingerstein.com>; Kohli, Vinay <VKohli@proskauer.com>; Kass, Colin R <CKass@proskauer.com>; Samuels, Reut N. <RSamuels@proskauer.com>
Subject: Re: Cement Works / UFCW Local 1500 Welfare Fund v. NYP

This email sent by delman@garwingerstein.com originated from outside the Firm.

Counsel,

Please find Plaintiffs' insertions and revisions to Defendant's initial draft of the joint scheduling letter in clean and redline, as well Plaintiffs' proposed order to be attached as Exhibit B.

If we have your signoff, Plaintiffs will get the materials on file. If we do not have your signoff, please provide times tomorrow that you are available to discuss so we can move this forward.

Regards,
Deborah

Deborah A. Elman | Garwin Gerstein & Fisher LLP | T: (646) 291-4718

From: Proctor, Portia S. <PProctor@proskauer.com>
Date: Tuesday, November 4, 2025 at 2:27 PM
To: Deborah Elman <delman@garwingerstein.com>
Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>, gasciolla@dicellevitt.com <gasciolla@dicellevitt.com>, Alexander Barnett <abarnett@dicellevitt.com>, Geralyn Trujillo <gtrujillo@dicellevitt.com>, Theo Salem-Mackall <tsalemmackall@dicellevitt.com>, Noah Cozad

<ncozad@dicelolevitt.com>, Jamie Crooks <jamie@fairmarklaw.com>, Amanda Vaughn <amanda@fairmarklaw.com>, Yinka Onayemi <yinka@fairmarklaw.com>, Scott Jacobsen <sjacobsen@hrsclaw.com>, Frank Schirripa <fschirripa@hrsclaw.com>, michael@fairmarklaw.com <michael@fairmarklaw.com>, Munkittrick, David A. <DMunkittrick@proskauer.com>, Dave Rochelson <drochelson@garwingerstein.com>, Kohli, Vinay <VKohli@proskauer.com>, Kass, Colin R <CKass@proskauer.com>, Samuels, Reut N. <RSamuels@proskauer.com>

Subject: RE: Cement Works / UFCW Local 1500 Welfare Fund v. NYP Counsel,

Please find attached the draft joint letter, for your review.

Best,
Portia

Portia Proctor *

Associate

Proskauer

2029 Century Park East
Suite 2400
Los Angeles, CA 90067-3010
d 310.284.5675
f 310.557.2193

PProctor@proskauer.com

* Admitted to practice only in New York. All work supervised by a member of the California Bar.

greenspaces
Please consider the environment before printing this email.

From: Proctor, Portia S.
Sent: Friday, October 31, 2025 10:59 AM
To: 'Deborah Elman' <delman@garwingerstein.com>
Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>; gasciolla@dicelolevitt.com; Alexander Barnett <abarnett@dicelolevitt.com>; Geralyn Trujillo <gtrujillo@dicelolevitt.com>; Theo Salem-Mackall <tsalemmackall@dicelolevitt.com>; Noah Cozad <ncozad@dicelolevitt.com>; Jamie Crooks <jamie@fairmarklaw.com>; Amanda Vaughn <amanda@fairmarklaw.com>; Yinka Onayemi <yinka@fairmarklaw.com>; Scott Jacobsen <sjacobsen@hrsclaw.com>; Frank Schirripa <fschirripa@hrsclaw.com>; michael@fairmarklaw.com; Munkittrick, David A. <DMunkittrick@proskauer.com>; Dave Rochelson <drochelson@garwingerstein.com>; Kohli, Vinay <VKohli@proskauer.com>; Kass, Colin R <CKass@proskauer.com>
Subject: RE: Cement Works / UFCW Local 1500 Welfare Fund v. NYP

Deborah,

That plan works. We will send you a draft early next week.

Best,
Portia

Portia Proctor *

Associate

Proskauer

2029 Century Park East
Suite 2400
Los Angeles, CA 90067-3010
d 310.284.5675
f 310.557.2193

PProctor@proskauer.com

* Admitted to practice only in New York. All work supervised by a member of the California Bar.

greenspaces
Please consider the environment before printing this email.

From: Deborah Elman <delman@garwingerstein.com>
Sent: Friday, October 31, 2025 10:12 AM
To: Kass, Colin R <CKass@proskauer.com>; Proctor, Portia S. <PProctor@proskauer.com>
Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>; gasciolla@dicellevitt.com; Alexander Barnett <abarnett@dicellevitt.com>; Geralyn Trujillo <gtrujillo@dicellevitt.com>; Theo Salem-Mackall <tsalemmackall@dicellevitt.com>; Noah Cozad <ncozad@dicellevitt.com>; Jamie Crooks <jamie@fairmarklaw.com>; Amanda Vaughn <amanda@fairmarklaw.com>; Yinka Onayemi <yinka@fairmarklaw.com>; Scott Jacobsen <sjacobsen@hrsclaw.com>; Frank Schirripa <fschirripa@hrsclaw.com>; michael@fairmarklaw.com; Munkittrick, David A. <DMunkittrick@proskauer.com>; Dave Rochelson <drochelson@garwingerstein.com>; Proctor, Portia S. <PProctor@proskauer.com>; Kohli, Vinay <VKohli@proskauer.com>
Subject: Re: Cement Works / UFCW Local 1500 Welfare Fund v. NYP

This email sent by delman@garwingerstein.com originated from outside the Firm.

Colin and team,

Our side has had an opportunity to confer and we do not agree to accept the changes you made to our original draft stipulation. Therefore, we do not see the need for another call this afternoon and you can cancel the previously circulated invitation.

You indicated that you think the way to present the differences is in a joint cover letter to both courts to accompany a stipulation as to the items about which we agree. Would you please circulate a draft of the letter you suggest?

Regards,
Deborah

Deborah A. Elman | Garwin Gerstein & Fisher LLP | T: (646) 291-4718

From: Kass, Colin R <CKass@proskauer.com>

Date: Wednesday, October 29, 2025 at 3:47 PM

To: Deborah Elman <delman@garwingerstein.com>, Proctor, Portia S. <PProctor@proskauer.com>
Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>, gasciolla@dicellevitt.com <gasciolla@dicellevitt.com>, Alexander Barnett <abarnett@dicellevitt.com>, Geralyn Trujillo <gtrujillo@dicellevitt.com>, Theo Salem-Mackall <tsalemmackall@dicellevitt.com>, Noah Cozad <ncozad@dicellevitt.com>, Jamie Crooks <jamie@fairmarklaw.com>, Amanda Vaughn <amanda@fairmarklaw.com>, Yinka Onayemi <yinka@fairmarklaw.com>, Scott Jacobsen <sjacobsen@hrsclaw.com>, Frank Schirripa <fschirripa@hrsclaw.com>, michael@fairmarklaw.com <michael@fairmarklaw.com>, Munkittrick, David A. <DMunkittrick@proskauer.com>, Dave Rochelson <drochelson@garwingerstein.com>, Proctor, Portia S. <PProctor@proskauer.com>, Kohli, Vinay <VKohli@proskauer.com>
Subject: RE: Cement Works / UFCW Local 1500 Welfare Fund v. NYP
Deborah,

4-5 on Friday works for us. Thanks.

From: Deborah Elman <delman@garwingerstein.com>
Sent: Wednesday, October 29, 2025 3:41 PM
To: Proctor, Portia S. <PProctor@proskauer.com>
Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>; gasciolla@dicellevitt.com; Alexander Barnett <abarnett@dicellevitt.com>; Geralyn Trujillo <gtrujillo@dicellevitt.com>; Theo Salem-Mackall <tsalemmackall@dicellevitt.com>; Noah Cozad <ncozad@dicellevitt.com>; Jamie Crooks <jamie@fairmarklaw.com>; Amanda Vaughn <amanda@fairmarklaw.com>; Yinka Onayemi <yinka@fairmarklaw.com>; Scott Jacobsen <sjacobsen@hrsclaw.com>; Frank Schirripa <fschirripa@hrsclaw.com>; michael@fairmarklaw.com; Kass, Colin R <CKass@proskauer.com>; Munkittrick, David A. <DMunkittrick@proskauer.com>; Dave Rochelson <drochelson@garwingerstein.com>
Subject: Re: Cement Works / UFCW Local 1500 Welfare Fund v. NYP

This email sent by delman@garwingerstein.com originated from outside the Firm.

Counsel,

Are you available between 9-12 or 4-5 Friday to continue yesterday's discussion?

Regards,
Deborah

Deborah A. Elman | Garwin Gerstein & Fisher LLP | T: (646) 291-4718

From: Proctor, Portia S. <PProctor@proskauer.com>

Date: Monday, October 27, 2025 at 12:25 PM

To: Deborah Elman <delman@garwingerstein.com>

Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>, gasciolla@dicelolevitt.com <gasciolla@dicelolevitt.com>, Alexander Barnett <abarnett@dicelolevitt.com>, Geralyn Trujillo <gtrujillo@dicelolevitt.com>, Theo Salem-Mackall <tsalemmackall@dicelolevitt.com>, Noah Cozad <ncozad@dicelolevitt.com>, Jamie Crooks <jamie@fairmarklaw.com>, Amanda Vaughn <amanda@fairmarklaw.com>, Yinka Onayemi <yinka@fairmarklaw.com>, Scott Jacobsen <sjacobsen@hrsclaw.com>, Frank Schirripa <fschirripa@hrsclaw.com>, michael@fairmarklaw.com <michael@fairmarklaw.com>, Kass, Colin R <CKass@proskauer.com>, Munkittrick, David A. <DMunkittrick@proskauer.com>, Dave Rochelson <drochelson@garwingerstein.com>

Subject: RE: Cement Works / UFCW Local 1500 Welfare Fund v. NYP

Deborah,

We are not available at 4pm today but could meet tomorrow between 3pm-5pm. Please let us know if that works for your team.

Best,

Portia

Portia Proctor *

Associate

Proskauer

2029 Century Park East
Suite 2400
Los Angeles, CA 90067-3010
d 310.284.5675
f 310.557.2193
PProctor@proskauer.com

* Admitted to practice only in New York. All work supervised by a member of the California Bar.

greenspaces

Please consider the environment before printing this email.

From: Deborah Elman <delman@garwingerstein.com>

Sent: Monday, October 27, 2025 9:07 AM

To: Proctor, Portia S. <PProctor@proskauer.com>

Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>; gasciolla@dicelolevitt.com; Alexander Barnett <abarnett@dicelolevitt.com>; Geralyn Trujillo <gtrujillo@dicelolevitt.com>; Theo Salem-Mackall <tsalemmackall@dicelolevitt.com>; Noah Cozad <ncozad@dicelolevitt.com>; Jamie Crooks <jamie@fairmarklaw.com>; Amanda Vaughn <amanda@fairmarklaw.com>; Yinka Onayemi <yinka@fairmarklaw.com>; Scott Jacobsen <sjacobsen@hrsclaw.com>; Frank Schirripa <fschirripa@hrsclaw.com>; michael@fairmarklaw.com; Kass, Colin R <CKass@proskauer.com>; Munkittrick, David A. <DMunkittrick@proskauer.com>; Dave Rochelson

<drochelson@garwingerstein.com>

Subject: Re: Cement Works / UFCW Local 1500 Welfare Fund v. NYP

This email sent by delman@garwingerstein.com originated from outside the Firm.

Portia,

We are not available at 2 but we are available at 4 pm. Will that work for your team?

Thanks,
Deborah

Deborah A. Elman | Garwin Gerstein & Fisher LLP | T: (646) 291-4718

From: Proctor, Portia S. <PProctor@proskauer.com>

Date: Monday, October 27, 2025 at 11:15 AM

To: Deborah Elman <delman@garwingerstein.com>

Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>,
gasciolla@dicellosevitt.com <gasciolla@dicellosevitt.com>, Alexander Barnett
<abarnett@dicellosevitt.com>, Geralyn Trujillo <gtrujillo@dicellosevitt.com>, Theo
Salem-Mackall <tsalemmackall@dicellosevitt.com>, Noah Cozad
<ncozad@dicellosevitt.com>, Jamie Crooks <jamie@fairmarklaw.com>, Amanda
Vaughn <amanda@fairmarklaw.com>, Yinka Onayemi <yinka@fairmarklaw.com>, Scott
Jacobsen <sjacobsen@hrsclaw.com>, Frank Schirripa <fschirripa@hrsclaw.com>,
michael@fairmarklaw.com <michael@fairmarklaw.com>, Kass, Colin R
<CKass@proskauer.com>, Munkittrick, David A. <DMunkittrick@proskauer.com>, Dave
Rochelson <drochelson@garwingerstein.com>

Subject: RE: Cement Works / UFCW Local 1500 Welfare Fund v. NYP

Deborah,

We are available at 2pm ET to discuss. Please let us know if that works for you, and I will circulate a calendar invite.

Best,
Portia

Portia Proctor *

Associate

Proskauer

2029 Century Park East
Suite 2400
Los Angeles, CA 90067-3010
d 310.284.5675
f 310.557.2193
PProctor@proskauer.com

* Admitted to practice only in New York. All work supervised by a member of the California Bar.

green spaces
Please consider the environment before printing this email.

From: Deborah Elman <delman@garwingerstein.com>
Sent: Friday, October 24, 2025 12:57 PM
To: Munkittrick, David A. <DMunkittrick@proskauer.com>
Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>; gasciolla@dicellevitt.com; Alexander Barnett <abarnett@dicellevitt.com>; Geralyn Trujillo <gtrujillo@dicellevitt.com>; Theo Salem-Mackall <tsalemmackall@dicellevitt.com>; Noah Cozad <ncozad@dicellevitt.com>; Jamie Crooks <jamie@fairmarklaw.com>; Amanda Vaughn <amanda@fairmarklaw.com>; Yinka Onayemi <yinka@fairmarklaw.com>; Scott Jacobsen <sjacobsen@hrsclaw.com>; Frank Schirripa <fschirripa@hrsclaw.com>; michael@fairmarklaw.com; Kass, Colin R <CKass@proskauer.com>; Proctor, Portia S. <PProctor@proskauer.com>; Dave Rochelson <drochelson@garwingerstein.com>
Subject: Re: Cement Works / UFCW Local 1500 Welfare Fund v. NYP

This email sent by delman@garwingerstein.com originated from outside the Firm.

Counsel,

Please advise when you are available on Monday to discuss the draft stip.

Kind regards,
Deborah

Deborah A. Elman | Garwin Gerstein & Fisher LLP | T: (646) 291-4718

From: Deborah Elman <delman@garwingerstein.com>
Date: Wednesday, October 22, 2025 at 7:10 PM
To: Munkittrick, David A. <DMunkittrick@proskauer.com>
Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>, gasciolla@dicellevitt.com <gasciolla@dicellevitt.com>, Alexander Barnett <abarnett@dicellevitt.com>, Geralyn Trujillo <gtrujillo@dicellevitt.com>, Theo Salem-Mackall <tsalemmackall@dicellevitt.com>, Noah Cozad <ncozad@dicellevitt.com>, Jamie Crooks <jamie@fairmarklaw.com>, Amanda Vaughn <amanda@fairmarklaw.com>, Yinka Onayemi <yinka@fairmarklaw.com>, Scott Jacobsen <sjacobsen@hrsclaw.com>, Frank Schirripa <fschirripa@hrsclaw.com>, michael@fairmarklaw.com <michael@fairmarklaw.com>, Kass, Colin R <CKass@proskauer.com>, Proctor, Portia S. <PProctor@proskauer.com>, Dave Rochelson <drochelson@garwingerstein.com>
Subject: Re: Cement Works / UFCW Local 1500 Welfare Fund v. NYP

David,

Attached in clean and redline are our further edits. The redline is against the version you sent with all changes accepted. Rather than exchanging further drafts via email, why don't we get on a call to discuss?

Kind regards,
Deborah

Deborah A. Elman | Garwin Gerstein & Fisher LLP | T: (646) 291-4718

From: Munkittrick, David A. <DMunkittrick@proskauer.com>

Date: Tuesday, October 21, 2025 at 12:21 PM

To: Deborah Elman <delman@garwingerstein.com>

Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>, gasciolla@dicelolevitt.com <gasciolla@dicelolevitt.com>, Alexander Barnett <abarnett@dicelolevitt.com>, Geraldyn Trujillo <gtrujillo@dicelolevitt.com>, Theo Salem-Mackall <tsalemmackall@dicelolevitt.com>, Noah Cozad <ncozad@dicelolevitt.com>, Jamie Crooks <jamie@fairmarklaw.com>, Amanda Vaughn <amanda@fairmarklaw.com>, Yinka Onayemi <yinka@fairmarklaw.com>, Scott Jacobsen <sjacobsen@hrsclaw.com>, Frank Schirripa <fschirripa@hrsclaw.com>, michael@fairmarklaw.com <michael@fairmarklaw.com>, Kass, Colin R <CKass@proskauer.com>, Proctor, Portia S. <PProctor@proskauer.com>, Dave Rochelson <drochelson@garwingerstein.com>

Subject: RE: Cement Works / UFCW Local 1500 Welfare Fund v. NYP

Deborah,

Please see attached our proposed edits. Happy to discuss.

David Munkittrick

Partner

Proskauer

Eleven Times Square
New York, NY 10036-8299
d 212.969.3226
f 212.969.2900

dmunkittrick@proskauer.com



greenspaces
Please consider the environment before printing this email.

From: Deborah Elman <delman@garwingerstein.com>
Sent: Tuesday, October 21, 2025 12:01 PM
To: Munkittrick, David A. <DMunkittrick@proskauer.com>
Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>; gasciolla@dicelolevitt.com; Alexander Barnett <abarnett@dicelolevitt.com>; Geralyn Trujillo <gtrujillo@dicelolevitt.com>; Theo Salem-Mackall <tsalemmackall@dicelolevitt.com>; Noah Cozad <ncozad@dicelolevitt.com>; Jamie Crooks <jamie@fairmarklaw.com>; Amanda Vaughn <amanda@fairmarklaw.com>; Yinka Onayemi <yinka@fairmarklaw.com>; Scott Jacobsen <sjacobsen@hrsclaw.com>; Frank Schirripa <fschirripa@hrsclaw.com>; michael@fairmarklaw.com; Kass, Colin R <CKass@proskauer.com>; Proctor, Portia S. <PProctor@proskauer.com>; Dave Rochelson <drochelson@garwingerstein.com>
Subject: Re: Cement Works / UFCW Local 1500 Welfare Fund v. NYP

This email sent by delman@garwingerstein.com originated from outside the Firm.

Counsel,

Please advise when we can expect your comments.

Thanks,
Deborah

Deborah A. Elman | Garwin Gerstein & Fisher LLP | (646) 291-4718

On Oct 17, 2025, at 6:55 PM, Deborah Elman <delman@garwingerstein.com> wrote:

Counsel,

Please find attached a draft stipulation that incorporates the items we discussed. Let us know if you have any comments or whether we can file with the Court.

Kind regards,
Deborah

Deborah A. Elman | Garwin Gerstein & Fisher LLP | T: (646) 291-4718

From: Munkittrick, David A. <DMunkittrick@proskauer.com>
Date: Friday, October 10, 2025 at 12:01 PM
To: Deborah Elman <delman@garwingerstein.com>
Cc: Clare Pellegrini <cpellegrini@garwingerstein.com>, gasciolla@dicelolevitt.com <gasciolla@dicelolevitt.com>, Alexander Barnett <abarnett@dicelolevitt.com>, Geralyn Trujillo

<gtrujillo@dicelolevitt.com>, Theo Salem-Mackall
<tsalemmackall@dicelolevitt.com>, Noah Cozad
<ncozad@dicelolevitt.com>, Jamie Crooks <jamie@fairmarklaw.com>,
Amanda Vaughn <amanda@fairmarklaw.com>, Yinka Onayemi
<yinka@fairmarklaw.com>, Scott Jacobsen <sjacobsen@hrsclaw.com>,
Frank Schirripa <fschirripa@hrsclaw.com>,
michael@fairmarklaw.com <michael@fairmarklaw.com>, Kass, Colin R
<CKass@proskauer.com>, Proctor, Portia S. <PProctor@proskauer.com>
Subject: Re: Cement Works / UFCW Local 1500 Welfare Fund v. NYP
Thanks. Those times unfortunately don't work on Monday. Could we look at
Tuesday? We could do 11:30-1 or 2-5.

On Oct 10, 2025, at 10:18 AM, Deborah Elman

<delman@garwingerstein.com> wrote:

This email sent by delman@garwingerstein.com originated from outside the Firm.

David,

Thank you for reaching out. We are available Monday at 1 or 1:30 ET.
If either of those times work, please send a calendar invite. If it does
not, please suggest some other times.

Kind regards,
Deborah

Deborah Elman
Garwin Gerstein & Fisher LLP
Phone: (212) 398-0055
88 Pine St, 28th Floor ■ New York, NY 10005

PRIVILEGED ATTORNEY/CLIENT, ATTORNEY WORK PRODUCT. This material
is intended only for the individual or entity to which it is addressed. It may
contain privileged, confidential information which is exempt from
disclosure under applicable laws. If you are not the intended recipient,
please note that you are strictly prohibited from disseminating this
material (other than to the intended recipient) or copying this material. If
you receive this communication in error, please contact the sender
immediately.

From: Munkittrick, David A. <DMunkittrick@proskauer.com>

Date: Thursday, October 9, 2025 at 3:00 PM

To: Clare Pellegrini <cpellegrini@garwingerstein.com>,
gasciolla@dicelolevitt.com <gasciolla@dicelolevitt.com>,
Alexander Barnett <abarnett@dicelolevitt.com>, Deborah
Elman <elman@garwingerstein.com>, Geralyn Trujillo
<gtrujillo@dicelolevitt.com>, Theo Salem-Mackall
<tsalemmackall@dicelolevitt.com>, Noah Cozad
<ncozad@dicelolevitt.com>, Jamie Crooks
<jamie@fairmarklaw.com>, Amanda Vaughn
<amanda@fairmarklaw.com>, Yinka Onayemi
<yinka@fairmarklaw.com>, Scott Jacobsen
<sjacobsen@hrsclaw.com>, Frank Schirripa
<fschirripa@hrsclaw.com>,
michael@fairmarklaw.com <michael@fairmarklaw.com>

Cc: Kass, Colin R <CKass@proskauer.com>, Proctor, Portia S.
<PProctor@proskauer.com>

Subject: Cement Works / UFCW Local 1500 Welfare Fund v. NYP
Counsel,

Including counsel for Cement Works and UFCW; apologies if I missed anyone. We saw the *Cement Works* complaint was refiled in EDNY last week, and wanted to touch base regarding coordination between the cases.

It probably makes sense to have a call. Can you let us know if there are good times to discuss Monday or Tuesday next week?

Best,
David

David Munkittrick
Partner

Proskauer
Eleven Times Square
New York, NY 10036-8299
d 212.969.3226
f 212.969.2900

dmunkittrick@proskauer.com



greenspaces
Please consider the environment before printing this email.

This message and its attachments are sent from a law firm and may contain information that is confidential and protected by privilege from disclosure.

If you are not the intended recipient, you are prohibited from printing, copying, forwarding or saving them.

Please delete the message and attachments without printing, copying, forwarding or saving them, and notify the sender immediately.

PRIVILEGED ATTORNEY/CLIENT, ATTORNEY WORK PRODUCT.

This material is intended only for the individual or entity to which it is addressed. It may contain privileged, confidential information which is exempt from disclosure under applicable laws. If you are not the intended recipient, please note that you are strictly prohibited from disseminating this material (other than to the intended recipient) or copying this material. If you receive this communication in error, please contact the sender immediately.

<2025-10-17 Draft NYP Consol Sched. Stip..docx>

PRIVILEGED ATTORNEY/CLIENT, ATTORNEY WORK PRODUCT. This material is intended only for the individual or entity to which it is addressed. It may contain privileged, confidential information which is exempt from disclosure under applicable laws. If you

are not the intended recipient, please note that you are strictly prohibited from disseminating this material (other than to the intended recipient) or copying this material. If you receive this communication in error, please contact the sender immediately.

PRIVILEGED ATTORNEY/CLIENT, ATTORNEY WORK PRODUCT. This material is intended only for the individual or entity to which it is addressed. It may contain privileged, confidential information which is exempt from disclosure under applicable laws. If you are not the intended recipient, please note that you are strictly prohibited from disseminating this material (other than to the intended recipient) or copying this material. If you receive this communication in error, please contact the sender immediately.

PRIVILEGED ATTORNEY/CLIENT, ATTORNEY WORK PRODUCT. This material is intended only for the individual or entity to which it is addressed. It may contain privileged, confidential information which is exempt from disclosure under applicable laws. If you are not the intended recipient, please note that you are strictly prohibited from disseminating this material (other than to the intended recipient) or copying this material. If you receive this communication in error, please contact the sender immediately.

PRIVILEGED ATTORNEY/CLIENT, ATTORNEY WORK PRODUCT. This material is intended only for the individual or entity to which it is addressed. It may contain privileged, confidential information which is exempt from disclosure under applicable laws. If you are not the intended recipient, please note that you are strictly prohibited from disseminating this material (other than to the intended recipient) or copying this material. If you receive this communication in error, please contact the sender immediately.

PRIVILEGED ATTORNEY/CLIENT, ATTORNEY WORK PRODUCT. This material is intended only for the individual or entity to which it is addressed. It may contain privileged, confidential information which is exempt from disclosure under applicable laws. If you are not the intended recipient, please note that you are strictly prohibited from disseminating this material (other than to the intended recipient) or copying this material. If you receive this communication in error, please contact the sender immediately.

PRIVILEGED ATTORNEY/CLIENT, ATTORNEY WORK PRODUCT. This material is intended only for the individual or entity to which it is addressed. It may contain privileged, confidential information which is exempt from disclosure under applicable laws. If you are not the intended recipient, please note that you are strictly prohibited from disseminating this material (other than to the intended recipient) or copying this material. If you receive this communication in error, please contact the sender immediately.

PRIVILEGED ATTORNEY/CLIENT, ATTORNEY WORK PRODUCT. This material is intended only for the individual or entity to which it is addressed. It may contain privileged, confidential information which is exempt from disclosure under applicable laws. If you are not the intended recipient, please note that you are strictly prohibited from disseminating this material (other than to the intended recipient) or copying this material. If you receive this communication in error, please contact the sender immediately.

PRIVILEGED ATTORNEY/CLIENT, ATTORNEY WORK PRODUCT. This material is intended only for the individual or entity to which it is addressed. It may contain privileged, confidential information which is exempt from disclosure under applicable laws. If you are not the intended recipient, please note that you are strictly prohibited from disseminating this material (other than to the intended recipient) or copying this material. If you receive this communication in error, please contact the sender immediately.

PRIVILEGED ATTORNEY/CLIENT, ATTORNEY WORK PRODUCT. This material is intended only for the individual or entity to which it is addressed. It may contain privileged, confidential information which is exempt from disclosure under applicable laws. If you are not the intended recipient, please note that you are strictly prohibited from disseminating this material (other than to the intended recipient) or copying this material. If you receive this communication in error, please contact the sender immediately.

PRIVILEGED ATTORNEY/CLIENT, ATTORNEY WORK PRODUCT. This material is intended only for the individual or entity to which it is addressed. It may contain privileged, confidential information which is exempt from disclosure under applicable laws. If you are not the intended recipient, please note that you are strictly prohibited from disseminating this material (other than to the intended recipient) or copying this material. If you receive this communication in error, please contact the sender immediately.

PRIVILEGED ATTORNEY/CLIENT, ATTORNEY WORK PRODUCT. This material is intended only for the individual or entity to which it is addressed. It may contain privileged, confidential information which is exempt from disclosure under applicable laws. If you are not the intended recipient, please note that you are strictly prohibited from disseminating this material (other than to the intended recipient) or copying this material. If you receive this communication in error, please contact the sender immediately.

PRIVILEGED ATTORNEY/CLIENT, ATTORNEY WORK PRODUCT. This material is intended only for the individual or entity to which it is addressed. It may contain privileged, confidential information which is exempt from disclosure under applicable laws. If you are not the intended recipient, please note that you are strictly prohibited from

disseminating this material (other than to the intended recipient) or copying this material. If you receive this communication in error, please contact the sender immediately.

PRIVILEGED ATTORNEY/CLIENT, ATTORNEY WORK PRODUCT. This material is intended only for the individual or entity to which it is addressed. It may contain privileged, confidential information which is exempt from disclosure under applicable laws. If you are not the intended recipient, please note that you are strictly prohibited from disseminating this material (other than to the intended recipient) or copying this material. If you receive this communication in error, please contact the sender immediately.