



88 Pine Street, Suite 2810
New York, New York 10005



DICELLO LEVITT

485 Lexington Ave., Suite 10001
New York, New York 10017



Fairmark Partners, LLP

400 7th Street, NW, #304
Washington, DC 20004

February 13, 2026

Via ECF

Hon. Eric N. Vitaliano
United States District Court
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Letter Motion to Consolidate *UFCW Local 1500 Welfare Fund v. The New York & Presbyterian Hosp.*, No. 25-cv-5023-ENV-AYS (E.D.N.Y.) and *Cement and Concrete Workers DC Benefit Fund v. The New York & Presbyterian Hosp.*, No. 25-cv-5571-ENV-AYS (E.D.N.Y.)

Dear Judge Vitaliano:

We represent the Plaintiffs in the above-captioned matters and respectfully move the Court to consolidate the two cases for all purposes pursuant to Federal Rule of Civil Procedure 42(a)(2).

Plaintiffs agree that the cases should be consolidated, and Defendant does not oppose. *UFCW* ECF Nos. 23 at *2, 24 at *1-2, 30 at *1; *Cement Workers* ECF Nos. 18 at *2, 19 at *1-2, 25 at *1. The Plaintiffs' claims in both cases are based on the same allegations of anticompetitive conduct against the same defendant. Nevertheless, after Defendant New York Presbyterian moved to consolidate the two cases on November 13, 2025, and Plaintiffs responded, Judge Shields noted that, "on review of the docket in both cases this Court notes that the parties have not agreed to consolidation of the *Cement Workers* and *UFCW* cases for all purposes." Judge Shields also informed the parties at the January 12, 2026, initial conference that any motion to consolidate must be decided by the District Judge. Accordingly, to the extent the parties' previous filings did not make clear that the parties were seeking consolidation for all purposes, Plaintiffs move here for such relief. Both cases have been pending for more than four months, and formal consolidation is essential to moving them forward efficiently.

As soon as the matters are consolidated, Plaintiffs' counsel will, within 14 days, submit motions for appointment of interim lead class counsel. "[D]esignation of interim counsel clarifies responsibility for protecting the interests of the class during precertification activities, such as making and responding to motions, conducting any necessary discovery, moving for class certification, and negotiating settlement." *In re GEICO Customer Data Breach Litig.*, 2022 WL 22910573, at *2 (E.D.N.Y. Apr. 8, 2022) (quoting Manual For Complex Litigation (Fourth) § 21.11 (2004)). Within 30 days of the Court's appointment of interim lead class counsel, such counsel shall file a consolidated amended complaint. Defendant shall have 30 days thereafter to answer or move to dismiss the consolidated amended complaint. If Defendant files a motion to dismiss, Plaintiffs shall have 30 days from the date of filing to submit their opposition, and Defendant shall have 21 days thereafter to file a reply.

Respectfully submitted,

/s/ Gregory Asciolla

Gregory S. Asciolla
Geraldyn J. Trujillo
Theodore J. Salem-Mackall*
DICELLO LEVITT LLP
485 Lexington Avenue, Suite 1001
New York, New York 10017
(646) 933-1000
gasciolla@dicellolevitt.com
gtrujillo@dicellolevitt.com
tsalemmackall@dicellolevitt.com

*Not barred in New York. Only barred in
Washington, DC. Practicing under the
supervision of New York attorneys.*

/s/ Deborah A. Elman

Deborah A. Elman
David B. Rochelson
GARWIN GERSTEIN & FISHER LLP
88 Pine St, Suite 2810
New York, NY 10005
(212) 398-0055
delman@garwingerstein.com
drochelson@garwingerstein.com

*Counsel for Plaintiff UFCW Local 1500
Welfare Fund and the Putative Class*

/s/ Jamie Crooks

Jamie Crooks
Michael Lieberman
Amanda R. Vaughn
FAIRMARK PARTNERS, LLP
400 7th Street, NW, Suite 304
Washington, DC 20004
(619) 507-4182
jamie@fairmarklaw.com
michael@fairmarklaw.com
amanda@fairmarklaw.com

/s/ Frank R. Schirripa

Frank R. Schirripa
Scott Jacobsen
**HACH ROSE SCHIRRIPA
& CHEVERIE LLP**
112 Madison Avenue, 10th Floor
New York, NY 10016
(212) 213-8311
fschirripa@hrsclaw.com
sjacobsen@hrsclaw.com

*Counsel for Cement and Concrete Workers
DC Benefit Fund and the Putative Class*

CC: Counsel of Record (via ECF)