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September 14, 2026

VIA ECF

Hon. Brian M. Cogan
U.S. District Court for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *UFCW Local 1500 Welfare Fund v. The New York & Presbyterian Hospital*, 2:25-cv-5023 (E.D.N.Y.); and
Cement and Concrete Workers DC Benefit Fund et al. v. The New York Presbyterian Hospital, No. 1:25-cv-5571 (E.D.N.Y.)
Letter Motion for Leave to Participate in Pre-Motion Conference

Dear Judge Cogan:

Counsel for Plaintiffs Cement and Concrete Workers DC Benefit Fund and Pointers, Cleaners, and Caulkers Local 1 Welfare Fund (collectively, “the Cement Workers Plaintiffs”) respectfully request leave to participate in any pre-motion conference or subsequent motions relating to Plaintiff UFCW Local 1500 Welfare Fund (“UFCW”) and Defendant The New York & Presbyterian Hospital’s (“NYP”) dispute over UFCW’s First Set of Requests for Production (“RFPs”).

Neither UFCW nor NYP informed the Cement Workers Plaintiffs of the dispute before filing their joint letter. The dispute implicates the Cement Workers Plaintiffs’ interests in obtaining fulsome and timely discovery in this case. Coordinating discovery among these consolidated actions, moreover, will minimize any burden on the Court and the parties going forward.

The Cement Workers Plaintiffs had attempted to work collaboratively with UFCW and its counsel on discovery, but UFCW rejected that effort. Specifically, when we learned that UFCW had served RFPs on NYP, we asked UFCW to share those RFPs. In doing so, we hoped to coordinate to ensure the plaintiffs were not working at cross-purposes or unilaterally committing all plaintiffs to particular

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positions. Disappointingly, UFCW refused—it did not share the RFPs and put off discussing the matter further until after leadership was determined. When we followed up, specifically asking about the scope of the requests, UFCW did not respond at all. Now that UFCW’s unilateral approach to discovery has produced the instant dispute, the Cement Workers Plaintiffs’ fears of inefficiency have been realized.

After UFCW rejected our efforts to coordinate discovery, the Cement Workers Plaintiffs issued their own RFP to NYP on August 18, 2026, to obtain materials produced to or provided by NYP in the lawsuit filed against it by the United States, *United States v. The New York & Presbyterian Hosp.*, No. 26-cv-2480 (S.D.N.Y.) (“DOJ Lawsuit”), and the related investigation. *See* Ex. 1 (Cement Workers’ RFPs). In addition to requesting all the materials the UFCW RFPs request, the Cement Workers Plaintiffs’ RFP also requests a key category of records relating to the DOJ Lawsuit that UFCW failed to include: non-party materials produced to NYP in the DOJ Lawsuit. The public record of the DOJ Lawsuit reflects that third-party payers have been subpoenaed and are producing materials to NYP that are relevant to this case, including materials relating to the challenged contract provisions and data relating to paid claims. *See* Letter Mot. to Compel Aetna, Inc. and Aetna Health Inc., ECF No. 34, *United States v. The New York & Presbyterian Hosp.* (outlining requests to Aetna for materials related to the challenged contract provisions and paid claims). This information goes directly to establishing the challenged conduct and its effects, including the damages that NYP’s anticompetitive conduct has caused. Based on counsel’s prior experience litigating hospital antitrust matters similar to this one, such third-party materials are essential to successfully litigating this case on behalf of the class. *See* Cement Workers’ Mot. to Appoint Interim Lead Counsel, ECF No. 45-1, at 7-9. That the Cement Workers Plaintiffs identified and pursued this critical category of discovery—which UFCW’s RFPs omit entirely—further demonstrates our ability to better protect the interests of the class.

In accepting service of the Cement Workers Plaintiffs’ RFP, NYP indicated it viewed the RFP as improper. Ex. 2 (D. Munkittrick Aug. 25, 2026 Email). NYP has not yet formally responded because the 30-day period to do so does not run until September 17, 2026. But, given NYP’s initial response, there is no reason to expect NYP will treat the Cement Workers Plaintiffs’ RFP any differently than UFCW’s.

We therefore make this request to participate in UFCW and NYP’s pending discovery dispute—from which we were deliberately excluded—to ensure the Cement Workers Plaintiffs’ interests are adequately protected, and to avoid burdening the Court with a successive closely related discovery motion. Respectfully, we also urge the Court to grant the Cement Workers Plaintiffs’ pending motion to appoint Fairmark, SG, and Farella as interim lead class counsel,

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to avoid further inefficiencies like those UFCW and NYP have created here, and to ensure that there is a unified lead counsel team working together to advance the best interests of all class members. *See* Cement Workers' Mot. to Appoint Interim Lead Counsel, ECF No. 45.

Respectfully submitted,

/s/ Mark Musico

Mark Musico

Jacob W. Buchdahl

Jeffrey Xia

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*Counsel for Cement and Concrete
Workers DC Benefit Fund, and the
Pointers, Cleaners & Caulkers Local
1 Welfare Fund*

EXHIBIT 1

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

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

Plaintiff,

Case No. CV 25-5023

v.

THE NEW YORK AND
PRESBYTERIAN HOSPITAL,

Defendant.

CEMENT AND CONCRETE WORKERS
DC BENEFIT FUND,
on its own behalf and on behalf of
others similarly situated,

Plaintiff,

Case No. CV 25-5571

v.

THE NEW YORK AND
PRESBYTERIAN HOSPITAL,

Defendant.

**CEMENT AND CONCRETE WORKERS & POINTERS, CLEANERS, AND
CAULKERS' FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO
DEFENDANT THE NEW YORK AND PRESBYTERIAN HOSPITAL**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and the Rules and Orders of this Court, Plaintiffs Cement and Concrete Workers DC Benefit Fund and the Pointers, Cleaners & Caulkers Local 1 Welfare Fund, by and through their counsel, hereby request that Defendant The New York and Presbyterian Hospital produce the documents described below within fourteen

days of service at the offices of Susman Godfrey LLP, One Manhattan West, 50th Floor, New York, NY 10001.

DEFINITIONS AND INSTRUCTIONS

1. The terms “all,” “any,” and “each” must each be construed as encompassing any and all.

2. The connectives “and” and “or” must be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

3. The use of the singular form of any word includes the plural and vice versa.

4. The term “communication” means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise).

5. The term “document” is defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” in Fed. R. Civ. P. 34(a)(1)(A). A draft or non-identical copy is a separate document within the meaning of this term.

6. The terms “plaintiff” and “defendant” as well as a party’s full or abbreviated name or a pronoun referring to a party mean the party and, where applicable, its officers, directors, employees, partners, corporate parent, subsidiaries, or affiliates.

7. The term “person” is defined as any natural person or any legal entity, including, without limit, any business or governmental entity or association.

8. The term “concerning” means relating to, referring to, describing, evidencing, or constituting.

9. Electronically stored information (ESI) must be produced in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

DOCUMENTS REQUESTED

REQUEST FOR PRODUCTION NO. 1:

All documents and communications produced by or to defendant in connection with the litigation captioned *United States v. New York and Presbyterian Hosp.*, No. 26-cv-02480 (S.D.N.Y.) and the investigation preceding it, including but not limited to: (a) all documents and communications produced by defendant to the United States Department of Justice (“DOJ”); (b) all documents and communications produced by the DOJ to defendant; (c) all subpoenas, civil investigative demands, or other formal requests for documents or information issued by the DOJ to defendant; and (d) all documents and communications produced by non-parties to defendant arising out of the DOJ’s investigation and action.

Dated: August 18, 2026

Respectfully submitted,

/s/ Mark Musico

Mark Musico

Jacob W. Buchdahl

Jeffrey Xia

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*Counsel for Cement and Concrete Workers DC Benefit
Fund, and the Pointers, Cleaners & Caulkers Local 1
Welfare Fund*

CERTIFICATE OF SERVICE

I hereby certify that on August 18, 2026, this document was served on the following
counsel of record via email transmittal:

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David Alexander Munkittrick
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*Counsel to The New York and
Presbyterian Hospital*

/s/ Jeffrey Xia
Jeffrey Xia

EXHIBIT 2

Subject: RE: CCWDC v. NYP - Plaintiffs' First Set of RFPs
Date: Tuesday, August 25, 2026 at 11:13:38 AM Eastern Daylight Time
From: Munkittrick, David A.
To: Jeffrey Xia, Kass, Colin R, Samuels, Reut N.
CC: Mark Musico, Jacob W. Buchdahl, Steven Sklaver, Wheeler, Christopher x4979, Loeb, Alexis, Silva, Dylan M, jamie, michael, amanda, yinka, Frank Schirripa, gnelson@hrsrlaw.com, sjacobsen, William Dreher, Kylie Fisher, Ru, KaDee L.
Attachments: image001.png

EXTERNAL Email

Jeff,

We accept service by email, but please note we believe service of these RFPs is in violation of the Court's order at the status conference on January 12, 2026.

Best,

David Munkittrick
Partner

[Proskauer](#)
Eleven Times Square
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dmunkittrick@proskauer.com

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The 2026 Benchmark Litigation
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From: Jeffrey Xia <JXia@susmangodfrey.com>
Sent: Tuesday, August 25, 2026 10:15 AM
To: Kass, Colin R <CKass@proskauer.com>; Munkittrick, David A. <DMunkittrick@proskauer.com>; Samuels, Reut N. <RSamuels@proskauer.com>
Cc: Mark Musico <MMusico@susmangodfrey.com>; Jacob W. Buchdahl <jbuchdahl@susmangodfrey.com>; Steven Sklaver <ssklaver@SusmanGodfrey.com>; Wheeler,

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Subject: Re: CCWDC v. NYP - Plaintiffs' First Set of RFPs

This email sent by jxia@susmangodfrey.com originated from outside the Firm.

Counsel,

I write to follow up on my August 18 email serving Plaintiffs' First Request for Production of Documents in the above-captioned action. To date, we have received no response or confirmation that you accept service by email. Please respond by end of day tomorrow confirming acceptance of service. If we do not receive a response, we will promptly proceed with service by alternate means.

Best,
Jeffrey

Jeffrey Xia | Susman Godfrey LLP

One Manhattan West | New York, NY 10001

212.729.2080 (o) | 703.598.8078 (c)

From: Jeffrey Xia <JXia@susmangodfrey.com>

Date: Tuesday, August 18, 2026 at 1:17 PM

To: ckass@proskauer.com <ckass@proskauer.com>; dmunkittrick@proskauer.com <dmunkittrick@proskauer.com>; rsamuels@proskauer.com <rsamuels@proskauer.com>

Cc: Mark Musico <MMusico@susmangodfrey.com>; Jacob W. Buchdahl <jbuchdahl@susmangodfrey.com>; Steven Sklaver <ssklaver@SusmanGodfrey.com>; Wheeler, Christopher x4979 <cwheeler@fbm.com>; Loeb, Alexis <ALoeb@fbm.com>; Silva, Dylan M <DMSILVA@fbm.com>; jamie <jamie@fairmarklaw.com>; michael <michael@fairmarklaw.com>; amanda <amanda@fairmarklaw.com>; yinka <yinka@fairmarklaw.com>; Frank Schirripa <fschirripa@hrsclaw.com>; gnelson@hrsrlaw.com <gnelson@hrsrlaw.com>; sjacobsen <sjacobsen@hrsclaw.com>; William Dreher <wdreher@kellerrohrback.com>; Kylie Fisher <kfisher@kellerrohrback.com>

Subject: CCWDC v. NYP - Plaintiffs' First Set of RFPs

Counsel,

Attached is Plaintiffs' First Request for Production of Documents in the above-captioned action. Please confirm that you accept service by email so that we do not seek service by alternate means.

Best,
Jeffrey

Jeffrey Xia | Susman Godfrey LLP
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