

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

**UNY LLC
d/b/a GENERAL SUPER PLATING**

and

Case 03-CA-152609

LOCAL 81319, IUE-CWA

**AMENDED MOTION TO TRANSFER PROCEEDINGS TO BOARD AND
FOR DEFAULT JUDGMENT AND ISSUANCE OF
BOARD'S DECISION AND ORDER**

PLEASE TAKE NOTICE that, pursuant to Sections 102.24 and 102.50 of the National Labor Relations Board's Rules and Regulations and Statements of Procedure, Series 8, as amended (Board's Rules and Regulations), the undersigned Counsel for the General Counsel hereby moves that the National Labor Relations Board (Board): (1) transfer this case and continue the proceedings before the Board; (2) deem the allegations set forth in the Complaint and Notice of Hearing (Complaint) issued in the above-captioned matter on August 12, 2015, as admitted to be true without the taking of evidence supporting the allegations in the Complaint; and (3) issue a Decision and Order granting Default Judgment and ordering UNY LLC, d/b/a General Super Plating (Respondent), to appropriately remedy the unfair labor practices found; and grant such other, further, and different relief as may be proper under the circumstances. In support of this amended motion, which supersedes the General Counsel's Motion for Default Judgment dated December 22, 2015, Counsel for the General Counsel shows and alleges that:

1. The original charge in Case 03-CA-152609 was filed by Local 81319, IUE-CWA (Union), on May 20, 2015, and a copy was served on Respondent by U.S. mail on the same date. Copies of the charge and affidavit of service are attached as Exhibit 1.

2. On August 12, 2015, a Complaint and Notice of Hearing issued in this proceeding and copies were served by certified mail on Respondent on the same date. Copies of the Complaint¹ and affidavit of service, with proof of certified mailing, are attached as Exhibit 2.

3. The Answer to the Complaint was due on August 26, 2015. Respondent failed to file an Answer.

4. By letter dated September 1, 2015, the undersigned Counsel for the General Counsel notified Respondent of its failure to file an Answer in this proceeding. The undersigned further advised that, unless Respondent filed a proper Answer by the close of business on September 15, 2015, the General Counsel of the NLRB would file a motion for default judgment with the Board. A copy of this letter is attached as Exhibit 3.²

5. Counsel for Respondent acknowledged receipt of this letter by email on September 2, 2015. A copy of this email is attached as Exhibit 4.

6. To date, Respondent has failed to file an Answer and has communicated to Counsel for the General Counsel that it does not intend to do so.

7. All unit employees of Respondent were permanently laid off on about March 20, 2015. Thus, as part of the remedy for Respondent's unfair labor practices, the General Counsel seeks an Order requiring that Respondent make whole employees in the Unit in the manner set forth in *Transmarine Navigation Corp.*, 170 NLRB 389 (1968).

8. Respondent failed to file an Answer to the Complaint in accordance with Sections 102.20, 102.21 and 102.56 of the Board's Rules and Regulations, although it has been given every opportunity to do so. The required time for such adequate filing has now expired.

¹ The original Motion for Default Judgment dated December 22, 2015, inadvertently failed to include the information request referenced in the Complaint as Exhibit A. The information request is attached to the Complaint that is included as Exhibit 2 herein.

² On September 18, 2015, the Acting Regional Director issued an order postponing hearing indefinitely as a related unfair labor practice charge was filed in Case 03-CA-160041. That case was withdrawn on December 16, 2015.

WHEREFORE, Counsel for the General Counsel respectfully requests that, in accordance with Sections 102.20 and 102.21 of the Board's Rules and Regulations, the Board deem all matters alleged in the Complaint to be admitted to be true, and be so found, and that forthwith, a Board Decision and Order be issued containing findings of fact, conclusions of law, and an appropriate remedial order for the violations alleged in the Complaint.

DATED at Buffalo, New York this 8th day of January, 2016.

Respectfully submitted,

/s/ Alicia E. Pender
ALICIA E. PENDER
Counsel for the General Counsel
National Labor Relations Board, Region 3
Niagara Center Building
130 South Elmwood Avenue, Suite 630
Buffalo, New York 14202
Tel: 716.551.4958
Email: apender@nlrb.gov

EXHIBIT 1

INTERNET
FORM NLRB-501
(2-08)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case

Date Filed

03-CA-152609

05/20/15

INSTRUCTIONS:

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

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer
GENERAL SUPER PLATING

b. Tel. No. 315 446 2264

c. Cell No.

i. Fax No. 315 446 4419

d. Address (Street, city, state, and ZIP code)

e. Employer Representative

g. e-Mail

5762 Celi Dr.
East Syracuse, NY 13057

Kevin Birkmayer

h. Number of workers employed
0

i. Type of Establishment (factory, mine, wholesaler, etc.)
Factory

j. Identify principal product or service
Plating

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 5 of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

On or about May 11, 2015 Kevin Birkmayer refused to provide information to the Union that would allow the Union to investigate and process grievances. In addition the employer failed to bargain with the Union regarding the impact of the closing announcement.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

Local 81319 IUE-CWA

4a. Address (Street and number, city, state, and ZIP code)

821 Elk St. Suite B
Buffalo, NY 14210

4b. Tel. No. 716 824 2042

4c. Cell No. 716 864 7377

4d. Fax No. 716 824 2159

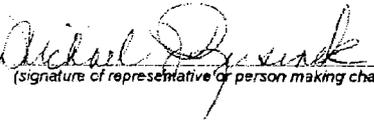
4e. e-Mail
Mrusinek@iue-cwa.org

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) Local 81319 IUE-CWA

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

Tel. No. same as above

By 
(signature of representative or person making charge)

Michael J. Rusinek, Staff Rep.
(Print/type name and title or office, if any)

Office, if any, Cell No.

Fax No.

e-Mail

Address Same as 41

May 20, 2015
(date)

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

PRIVACY ACT STATEMENT

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

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

GENERAL SUPER PLATING

Charged Party

and

LOCAL 81319 IUE-CWA

Charging Party

Case 03-CA-152609

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on , I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Kevin Birkmayer
GENERAL SUPER PLATING
General Super Plate
5762 Celi Dr
East Syracuse, NY 13057-2990

5/20/15

Date

Andrea Seyfried, Designated Agent of
NLRB

Name

/s/Andrea Seyfried

Signature

EXHIBIT 2

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

**UNY LLC
d/b/a GENERAL SUPER PLATING**

and

Case 03-CA-152609

LOCAL 81319, IUE-CWA

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by Local 81319, IUE-CWA (Union). It is issued pursuant to Section 10(b) of the National Labor Relations Act, 29 U.S.C. § 151 et seq. (the Act), and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that UNY LLC d/b/a General Super Plating, (Respondent) has violated the Act as described below:

I

The charge in Case 03-CA-152609 was filed by the Union on May 20, 2015, and a copy was served on Respondent by U.S. mail on the same day.

II

(a) At all material times, Respondent, a corporation, with an office and place of business in Syracuse, New York, herein called Respondent's Syracuse, New York facility, has been engaged in industrial electroplating.

(b) In conducting its business operations during the past calendar year, Respondent purchased and received at its Syracuse, New York facility, goods valued in excess of \$50,000 directly from points outside the State of New York.

III

At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

IV

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

V

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

Kevin Birkmayer	-	General Manager
Jeffery Sands	-	Vice President
Cindy Sommers	-	Human Resources Director

VI

(a) The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All employees of Respondent described in Article 1 and Appendix A, of the current collective-bargaining agreement in effect between Respondent and the Union.

(b) At all material times, Respondent has recognized the Union as the exclusive collective-bargaining representative of the Unit. This recognition is embodied in the current collective-bargaining agreement, which is effective from July 25, 2014

through July 28, 2016, as it was automatically extended for an additional year by its terms.

(c) At all material times, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

VII

(a) About March 20, 2015, Respondent closed its business and ceased all operations.

(b) About March 23, 2015, the Union requested that Respondent bargain over the effects on unit employees of its decision to close its business.

(c) The subjects set forth above in paragraph VII (b) relate to the wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective bargaining.

(d) Respondent engaged in the conduct described above in paragraph VII (a) without affording the Union an opportunity to bargain with Respondent with respect to the effects of this conduct.

VIII

(a) About March 26, 2015, the Union requested in writing that Respondent provide it with the financial information set forth on page 2 of Exhibit A.

(b) The information requested by the Union, as described in paragraph VIII (a), is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the Unit.

(c) Since about March 26, 2015, Respondent, has failed and refused to furnish the Union with the information requested by it as described above in paragraph VIII (a).

IX

By the conduct described above in paragraph VII(d) and VIII(c), Respondent has been failing and refusing to bargain collectively with the exclusive collective-bargaining representative of its employees, in violation of Section 8(a)(1) and (5) of the Act.

X

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

WHEREFORE, as part of the remedy for the unfair labor practices alleged above in paragraph VII, the General Counsel seeks an Order requiring that Respondent make whole employees in the Unit in the manner set forth in *Transmarine Navigation Corp.*, 170 NLRB 389 (1968).

WHEREFORE, as part of the remedy for the unfair labor practices alleged above in paragraph VII, the General Counsel seeks an Order, requiring that Respondent:

Preserve and, within 14 days of a request, provide at the office designated by the Board or its agents, a copy of all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order. If requested, the originals of such records shall be provided to the Board or its agents in the same manner.

WHEREFORE, as an additional remedy for the unfair labor practices alleged above in paragraphs VII and VIII, the General Counsel seeks an Order requiring that Respondent duplicate and mail, at its own expense, a copy of the notice to all employees employed by the Respondent at any time since March 20, 2015.

The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before August 26, 2015, or postmarked on or before August 25, 2015.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules

require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on October 26, 2015 at 1:00 p.m., at the Hearing Room at the Niagara Center Building, 130 South Elmwood Avenue, Suite 630, Buffalo, New York, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

DATED at Buffalo, New York, this 12th day of August 2015.

/S/RHONDA P. LEY

RHONDA P. LEY,
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 03
130 S ELMWOOD AVE
STE 630
BUFFALO, NY 14202-2387

Attachments

EXHIBIT A



Michael Rusinek <mrusinek@cwa-union.org>

Information request

1 message

Michael Rusinek <mrusinek@cwa-union.org>

Thu, Mar 26, 2015 at 8:06 AM

To: Cindy Sommers <csommers@4gsp.com>

Cc: Tom Brewer <thefirsttwo@gmail.com>, "Clark, Mark" <myclarky@aol.com>, Cindy Brenno <cbrenno@hotmail.com>, Joe Giffi <Jgiffi@cwa-union.org>

Cindy: Please send me a listing of who got paid vacation and how much they were paid and how much they still be owed, as well as those who may not have gotten paid any vacation as yet and what they are owed.

Same with Paid Personal time.

In addition I have attached a request for financial information regarding the Company.

The Union needs this information to prepare for requested effects bargaining.

Mike



Financial information request.doc

31K

Exhibit A



Please provide the following information requested below:

1. Audited financial statements for each of the past three years. These should include the balance sheet, income statement, statement of cash flows and all accompanying notes including detailed explanations for any extraordinary, unusual or non-recurring items.
2. Detailed income statement, balance sheet and statement of cash flows for each of the past three fiscal years.
3. The most recent available fiscal year-to-date financials and comparative financials for the same period in the previous year. These should include the income statement, balance sheet and statement of cash flows.
4. Summary of wage and fringe benefit costs for bargaining unit employees for each of the past two years and present year-to-date.
5. Available contact information for an individual(s) that can answer any relevant questions that may arise regarding the content of the materials provided above.

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 3**

UNY LLC D/B/A GENERAL SUPER PLATING

and

Case 03-CA-152609

LOCAL 81319 IUE-CWA

AFFIDAVIT OF SERVICE OF: Complaint and Notice of Hearing (with forms NLRB-4338 and NLRB-4668 attached)

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on August 12, 2015, I served the above-entitled document(s) by **certified or regular mail**, as noted below, upon the following persons, addressed to them at the following addresses:

Kevin Birkmayer
GENERAL SUPER PLATING
General Super Plate
5762 Celi Dr
East Syracuse, NY 13057-2990

**CERTIFIED MAIL
7011-3500-0000-8314-4562
RETURN RECEIPT REQUESTED**

Terry Kirwan , ESQ.
Kirwan law Firm PC
500 Plum St Ste 101
Syracuse, NY 13204-1475

REGULAR MAIL

Michael J. Rusinek, Staff Rep.
Local 81319 IUE-CWA
821 Elk St Suite B
Buffalo, NY 14210-1711

**CERTIFIED MAIL
7011-3500-0000-8314-4579
RETURN RECEIPT REQUESTED**

Casey Whitten-Amadon
Local 81319 IUE-CWA
2701 Dryden Rd.
Dayton, OH 45439

REGULAR MAIL

August 12, 2015

JULIO GONZALEZ, Designated Agent of
NLRB

Date

Name

Signature

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 03-CA-152609

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements **will not be granted** unless good and sufficient grounds are shown **and** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in **detail**;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

Kevin Birkmayer
GENERAL SUPER PLATING
General Super Plate
5762 Celi Dr
East Syracuse, NY 13057-2990

Terry Kirwan , ESQ.
Kirwan law Firm PC
500 Plum St Ste 101
Syracuse, NY 13204-1475

Michael J. Rusinek, Staff Rep.
Local 81319 IUE-CWA
821 Elk St Suite B
Buffalo, NY 14210-1711

Casey Whitten-Amadon
Local 81319 IUE-CWA
2701 Dryden Rd.
Dayton, OH 45439

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlr.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in

evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<input checked="" type="checkbox"/> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. <input checked="" type="checkbox"/> Print your name and address on the reverse of the card to you.	A. Signature <input checked="" type="checkbox"/> <i>[Signature]</i>	<input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee
Kevin Birkmayer, GENERAL SUPER PLATING General Super Plate 5762 Celi Dr East Syracuse, NY 13057-2990	B. Received by (Printed Name)	C. Date of Delivery <u>8/26</u>
Case # <u>03-04-152608</u>	Sent from item 1? <input type="checkbox"/> Yes Address below: <input type="checkbox"/> No	
Date <u>2/27</u> Agent <u>LC SS 13</u>	3. Service Type <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express™ <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery	
2. Article Number (Transfer from service label)	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
7011 3500 0000 8314 4562		
PS Form 3811, July 2013 Domestic Return Receipt		

UNITED STATES POSTAL SERVICE


 7011 3500 0000 8314 4562

First-Class Mail®
 Postage & Fees Paid
 USPS
 Permit No. G-10

• Sender: Please print your name, address, and ZIP+4® in this box®

BUFFALO, NY
 AUG 31 AM 10:54
 REGION 3
 ALRB

National Labor Relations Board
Region 3
Niagara Center Building Suite 630
130 South Elmwood Avenue
Buffalo, New York 14202-2465

EXHIBIT 3



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

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

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

Agent's Direct Dial: (716)551-4958

September 1, 2015

Jeffrey L. Hirsch
Hirsch Roberts Weinstein LLP
24 Federal Street, 12th Floor
Boston, MA 02110

Re: UNY LLC d/b/a General Super Plating
Case 03-CA-152609

Dear Mr. Hirsch:

The Region issued a Complaint and Notice of Hearing in this case on August 12, 2015. As stated in the Complaint, the Answer to the Complaint was due on or before August 26, 2015. To date, the Region has not received an Answer to the Complaint and Notice of Hearing. I am writing to inform you that if an Answer is not received by this office by Tuesday, September 15, 2015, the Region will seek a default judgment with the National Labor Relations Board. Please contact me at your earliest opportunity to discuss this matter.

Very truly yours,

A handwritten signature in black ink that reads "Alicia E. Pender". The signature is fluid and cursive, with a long horizontal line extending to the right.

Alicia E. Pender
Field Attorney

EXHIBIT 4

Pender, Alicia E.

From: Hirsch, Jeffrey L. <jhirsch@hrwlawyers.com>
Sent: Wednesday, September 02, 2015 12:33 PM
To: Pender, Alicia E.
Subject: RE: UNY LLC -- Matter

Sensitivity: Personal

Flag Status: Completed

Alicia,

I received both the fax and email thank you.

Jeff

Jeffrey L. Hirsch
HIRSCH ROBERTS WEINSTEIN LLP
24 Federal Street, 12th Floor
Boston, MA 02110
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From: Pender, Alicia E. [mailto:Alicia.Pender@nlrb.gov]
Sent: Tuesday, September 01, 2015 2:57 PM
To: Hirsch, Jeffrey L.
Subject: RE: UNY LLC -- Matter

Jeff,

As discussed earlier, I am attaching a letter notifying you that the Region has not received an Answer to the Complaint and Notice of Hearing in Case 03-CA-152609. As the letter states, if no answer is received by Tuesday, September 15, 2015, the Region will seek default judgment with the National Labor Relations Board. I have also faxed this letter to you. Please don't hesitate to contact me if you have any questions.

Best,
Alicia

Alicia E. Pender