UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 22

ALARIS HEALTH AT HARBORVIEW,	**Case 22-CA-125023**
Respondent,	**22-CA-125882**
and	**22-CA-140591**
1199 SEIU UNITED HEALTHCARE WORKERS EAST,	
Charging party.	

MOTION TO DISQUALIFY BOARD MEMBER KENT Y. HIROZAWA AND CHIEF COUNSEL ELLEN DICHNER

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Attorneys for Respondent

Respondent Alaris Health at Harborview, by and through the undersigned attorney and pursuant to Section 102.47 of the Board's Rules and Regulations, hereby files the instant Motion to Disqualify in the above-captioned case. This case will be pending before the National Labor Relations Board (Board) on exceptions expected to be filed by Respondent Alaris Health at Harborview. Respondent hereby moves for disqualification of Board Member Kent Y. Hirozawa and Chief Counsel Ellen Dichner in the adjudication of the above-captioned matter for the following reasons:

1. Gladstein, Reif & Meginniss LLP is counsel for Charging Party 1199 SEIU United Healthcare Workers East in the above-captioned matter and members of the firm including partner William Massey represented Charging Party throughout negotiations for a new collective bargaining agreement.

2. William Massey and Patrick Walsh represented Charging Party at the NLRB proceeding in the above-captioned matter. Mr. Massey and Mr. Walsh questioned witnesses and the firm submitted a brief to the Administrative Law Judge.

Member Kent Y. Hirozawa

3. Board Member Kent Y. Hirozawa was nominated by President Obama on July 16, 2013, and confirmed by the Senate on July 30, 2013, for a term that expires on August 27, 2016. He served as chief counsel to Board Chairman Mark Gaston Pearce from April 2010 until he was sworn in as a Board member on August 5, 2013.

4. Prior to appointment to the Board, Mr. Hirozawa was a member of the law firm Gladstein, Reif & Meginniss LLP for nineteen years, during which time Gladstein, Reif & Meginniss LLP represented Charging Party for negotiations and in an Unfair Labor Practice proceeding before the Board.

5. On the home page of the Gladstein, Reif & Meginniss LLP website, http://www.grmny.com/ (last visited March 10, 2016), the law firm proudly announces Mr. Hirozawa's appointment. (*See* Exhibit A.)

Chief Counsel Ellen Dichner

6. In 2013, Ellen Dichner was selected to be Chief Counsel to Board Chairman Pearce. Prior to appointment to the Board, Ms. Dichner for a number of years was a member of the law firm Gladstein, Reif & Meginniss LLP.

7. As an attorney at Gladstein, Reif & Meginniss LLP, Ms. Dichner represented Charging Party 1199 SEIU United Healthcare Workers East during negotiations with Respondent for the most recent collective bargaining agreement between the parties that expired on March 31, 2014 and in Unfair Labor Practice proceedings previously litigated before the Board.

8. Ms. Dichner was initially involved in the negotiations which involved and prolonged the strike called by the Union. Ms. Dichner's involvement gave her the opportunity to formulate an opinion of Respondent which cannot be separated in this proceeding.

9. On the home page of the Gladstein, Reif & Meginniss LLP website, http://www.grmny.com/ (last visited March 10, 2016), the law firm proudly announces Ms. Dichner's appointment. (*See* Exhibit A.)

WHEREFORE, the aforementioned matters constitute grounds of personal bias and/or disqualification of Board Member Kent Y. Hirozawa in the instant case because Mr. Hirozawa was a member of the law firm Gladstein, Reif & Meginniss LLP, the law firm that currently represents Charging Party 1199 SEIU United Healthcare Workers East, and Gladstein, Reif & Meginniss LLP represented Charging party while Mr. Hirozawa was a member of the firm.

WHEREFORE, the aforementioned matters constitute grounds of personal bias and/or disqualification of Chief Counsel Ellen Dichner in the instant case because Chief Counsel Ellen Dichner was a member of the law firm Gladstein, Reif & Meginniss LLP, the law firm that currently represents Charging Party 1199 SEIU United Healthcare Workers East, was the legal representative of Charging Party 1199 SEIU United Healthcare Workers East in prior negotiations with Respondent Alaris Health at Harborview and has prior knowledge of the facts giving rise to the case now before the Board.

Accordingly, Respondent respectfully requests that its Motion to Disqualify be granted and that Board Member Kent Y. Hirozawa and Chief Counsel Ellen Dichner disqualify and recuse themselves from the adjudication of the case now before this Board.

Dated: March 11, 2016

Respectfully submitted,

JASINSKI, P.C.
Attorneys for Respondent,

BY:
David F. Jasinski, Esq.
Rebecca D. Winkelstein, Esq.

CERTIFICATE OF SERVICE

The undersigned, hereby certifies that she caused a true and accurate copy of the foregoing Motion to Disqualify to be served on March 11, 2016 via regular mail upon:

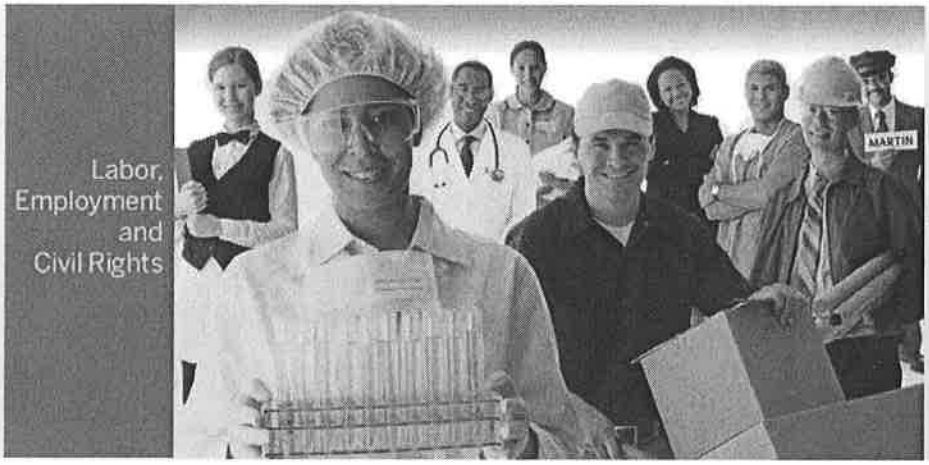
Michael Silverstein, Esq.
Saulo Santiago, Esq.
Eric Sposito, Esq.
National Labor Relations Board
Region 22
20 Washington Place
5th Floor
Newark, New Jersey 07102

William Massey, Esq.
Patrick Walsh, Esq.
Gladstein, Reif & Meginnis, LLP
817 Broadway, Floor 6
New York, NY 10003

Dated: March 11, 2016

REBECCA D. WINKELSTEIN

Exhibit A



Gladstein, Reif & Meginniss, LLP has specialized in labor, employment and civil rights law since it was founded in 1976. The firm is organized around the principal that workers and their organizations deserve top-quality legal representation just as much as corporations and large institutions that can pay top dollar for their lawyers.

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Gladstein, Reif & Meginniss ranks Tier 1 among Employment & Labor firms in the Metropolitan region. Rankings are based on reputational data as well as client profiles, the firm's commitment to pro bono service, the diversity of its legal staff and the significance of legal matters undertaken by the firm.

WE ARE PROUD TO ANNOUNCE:

Kent Y. Hirozawa, who was our partner for 19 years, has been appointed by President Obama and confirmed by the United States Senate as a Member of the National Labor Relations Board, and Ellen Dichner, who was our partner for 23 years, has been appointed as Chief Counsel to the Chairman of the National Labor Relations Board, Mark Gaston Pearce. Kent and Ellen came to our firm in 1986 after serving together as Board Agents at Region 2 of the National Labor Relations Board and became partners in 1990.

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