

**UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
REGION 8**

OHIO NORTH EAST HEALTH SYSTEMS, INC., d/b/a ONE HEALTH OHIO	)	
	)	
	)	
and	)	
	)	CASE NO. 08-CA-230542
AMANDA DELAY, an Individual	)	
	)	
	)	
	)	
OHIO NORTH EAST HEALTH SYSTEMS, INC., d/b/a ONE HEALTH OHIO	)	
	)	
	)	
and	)	
	)	CASE NO. 08-CA-233980
PATRICIA SAFIROWSKI, an Individual	)	
	)	
	)	
	)	
OHIO NORTH EAST HEALTH SYSTEMS, INC., d/b/a ONE HEALTH OHIO	)	
	)	
	)	
and	)	
	)	CASE NO. 08-CA-235295
ECHO SEIDLER, an Individual	)	
	)	
	)	
	)	
OHIO NORTH EAST HEALTH SYSTEMS, INC., d/b/a ONE HEALTH OHIO	)	
	)	
	)	
and	)	
	)	CASE NO. 08-CA-236795
CHARLOTTE TRAENKLE, an Individual	)	
	)	

**REPLY IN SUPPORT OF PARTIAL MOTION TO DISMISS ORDER  
CONSOLIDATING CASES, CONSOLIDATED COMPLAINT AND NOTICE OF  
HEARING AS IT RELATES TO CHARGING PARTY PATRICIA SAFIROWSKI OF  
OHIO NORTH EAST HEALTH SYSTEMS, INC., d/b/a ONE HEALTH OHIO**

Respondent, Ohio North East Health Systems, Inc., d/b/a ONE Health Ohio (“ONE Health Ohio”), pursuant to Section 102.24 of the National Labor Relations Board’s Rules and Regulations, respectfully submits this Reply Brief in Support of its Motion to Dismiss (“Motion,” incorporated fully herein) the General Counsel’s Order Consolidating Cases, Consolidated Complaint And Notice of Hearing (“Complaint”), in the above-captioned matter, as it relates to Charging Party Patricia Safirowski (“Safirowski”), Case No. 08-CA-233980.

As explained briefly herein and in the Memorandum in Support of the Motion, the General Counsel’s Response in Opposition to the Motion (“Response”) is flawed and lacks merit. First, the General Counsel seeks to conflate Safirowski’s charge and the Complaint issued by the Regional Director in this case. The Response cites Section 102.12(d) of the Board’s Rules and Regulations, which concern sufficiency for a charge, not a complaint. The Response further states that the allegations in Safirowski’s Second Amended Charge mirror the allegations in Paragraph 10 of the Complaint, which mentions the other Charging Parties in this matter, but not Safirowski.

The General Counsel then claims that the allegations in Safirowski’s charge, mirrored in Paragraph 10 as allegations which relate to the other Charging Parties, should suffice for the purpose of notice of the allegations of the Complaint relating to Safirowski to ONE Health Ohio. Yet, the General Counsel does not cite any authority to support the proposition that a charge can give notice of allegations not included in a complaint, nor does the Response discuss the sufficiency of a complaint, or lack thereof.

Further, the General Counsel states that the allegations in Safirowski’s charge, omitted from the Complaint, gave ONE Health Ohio the opportunity to defend itself as to Safirowski. Again, the General Counsel does not cite any authority for the proposition that notice of

allegations in a charge, but omitting those allegations from a complaint as to the charging party, gives adequate opportunity for a respondent to defend itself.

In reality, a sufficient complaint is to give “a plain statement of the things claimed to constitute an unfair labor practice [so] **that the respondent may be put upon his defense.**” *American Newspaper Publishers Assn. v. NLRB*, 193 F.2d 782, 800 (7th Cir. 1951), *affd.* 345 U.S. 100 (1953), *quoting from NLRB v. Piqua Munising Wood Products Co.*, 109 F.2d 552, 557 (6th Cir. 1940)(emphasis added). Based on the language of the Complaint, ONE Health Ohio has no way of knowing what the exact allegations are relating to Safirowski. As the Board’s Rules and Regulations do not limit the Regional Director’s authority in bringing a complaint only to the allegations in a charge, it is currently impossible to discern the extent of the allegations relating to Safirowski. *See* NLRB Rules and Regulations §102.15.

Thus, contrary to the General Counsel’s ‘some notice is good enough’ argument, the Complaint’s allegations relating to Safirowski do not afford ONE Health Ohio the opportunity to discern the extent of the allegations relating to her charge and to defend itself. If the General Counsel intended Paragraph 10 to relate to Safirowski’s charge, it should have listed Safirowski’s name in that paragraph, among the other Charging Parties. The General Counsel attempts to now go back and argue that they are all the same allegations and it does not matter what charging party is listed as supporting those allegations. Contrary to the General Counsel’s view, it does matter what Charging Party relates to specific allegations for the purpose of ONE Health Ohio’s defense. Without this specificity, ONE Health Ohio cannot discern if the Charging Parties, or other witnesses, heard these statements, if there was anything else said, the context of the conversation, etc. From the language of the Complaint, it is entirely unclear if Safirowski

heard alleged statements or has information relating to the allegations. Absent sufficient notice of the allegations relating to Safirowski, the Complaint should be dismissed as to her charge.

For the reasons stated herein, in addition to those in the Motion, ONE Health Ohio respectfully requests dismissal of the Complaint as it relates to the allegations concerning Safirowski.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify that on this 23th day of December, 2019, a copy of the foregoing ***Partial Motion to Dismiss*** was filed electronically through the Agency's website and was sent to the following by regular U.S. mail and/or electronic mail in accordance with Section 102.5 of the Board's rules and regulations:

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