

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

**LIBERTY RETIREMENT COMMUNITY  
OF LIMA, INC., LIBERTY HEALTH  
CARE CORP., LIBERTY RETIREMENT  
PROPERTIES OF LIMA, INC.,  
AND LIBERTY NURSING PROPERTIES  
OF WOODLAND MANOR, LTD.,  
A SINGLE EMPLOYER; AND**

**Cases 08-CA-198572  
08-CA-201287**

**PLUS MANAGEMENT SERVICES,  
INC., D/B/A BATON ROUGE MEDICAL  
AND REHAB CENTER OF LIMA,**

**JOINT EMPLOYERS,**

**and**

**AMERICAN FEDERATION OF STATE,  
COUNTY, AND MUNICIPAL EMPLOYEES,  
AFL-CIO, OHIO COUNCIL 8**

**CHARGING PARTY'S OPPOSITION TO PLUS MANAGEMENT SERVICES, INC.'s  
MOTION FOR SUMMARY JUDGMENT**

Pursuant to 29 U.S.C. § 102.24, Charging Party Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO hereby submits its Opposition to the Motion for Summary Judgment filed by Plus Management Services, Inc., d/b/a Baton Rouge Medical and Rehab Center of Lima (Plus).

A motion for summary judgment may be denied “where the motion itself fails to establish the absence of a genuine issue, or where the opposing party’s pleadings, opposition and/or response indicate on their face that a genuine issue may exist.” 29 U.S.C. § 102.24(b).

Plus has filed a motion for summary judgment contending that it is entitled to judgment as a matter of law with respect to its status as a joint employer with Liberty Retirement Community

Center of Lima, Inc., Liberty Health Care Corp., Liberty Retirement Properties of Lima, Inc., and Liberty Nursing Properties of Woodland Manor Ltd. (Liberty). However, Plus' motion relies on a standard of law that is not currently in effect. (Plus Motion for Summary Judgment at p. 4.)

The Consolidated Complaint in this case alleges that Plus and Liberty are joint employers (Consolidated Complaint at ¶ 5(C)). The Consolidated Complaint includes allegations that Liberty has been the agent of Plus with respect to the operation of the work facility (Consolidated Complaint at ¶ 5(A)(1)), which allegation has been denied by both Respondents Plus and Liberty (Plus Answer at ¶¶ 6; Liberty Answer at ¶ 5(A)(1)); that Liberty has possessed and exercised control over Plus' labor relations policy (Consolidated Complaint at ¶ 5(B)), which allegations have been denied by both Respondents (Plus Answer at ¶ 6; Liberty Answer at ¶ 5(B)); and that Plus and Liberty have shared common supervisors and/or agents (see Consolidated Complaint at ¶¶ 12(B), 12(D)), which allegations have also been denied by Respondents (Plus Answer at ¶ 13; Liberty Answer at ¶¶ 12(B), 12(D)).

Any determination with respect to Plus' status in these proceedings will be predicated upon the Board's consideration of facts regarding the authority reserved to and exercised by Plus' agents and/or supervisors to control the terms and conditions employment of employees at issue in this case during the relevant period of time. These are materials facts over which the parties have a dispute.

Accordingly, Charging Party respectfully opposes Plus' motion for summary judgment on the bases that Plus' motion fails to establish the absence of a genuine issue, and, on their face, the pleadings indicate that a genuine issue exists with respect to Plus' status as a joint employer in this case.

Respectfully submitted,

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**Proof of Service**

The undersigned hereby certifies that exact copies of the foregoing Opposition to Plus' Motion for Summary Judgment have been served on the following via electronic mail this 16<sup>th</sup> day of August, 2018:

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