

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 31**

**BIO-MEDICAL APPLICATIONS OF CALIFORNIA, INC.  
D/B/A FRESENIUS MEDICAL CARE NORTH AMERICA**

**and**

**Case 31-CA-202972**

**SERVICE EMPLOYEES INTERNATIONAL UNION,  
UNITED HEALTHCARE WORKERS-WEST**

**RENAL ADVANTAGE INC. D/B/A FRESENIUS  
MEDICAL CARE NORTH AMERICA**

**and**

**Case 31-CA-215325**

**SERVICE EMPLOYEES INTERNATIONAL UNION,  
UNITED HEALTHCARE WORKERS-WEST**

**RESPONDENTS' MOTION TO RESCHEDULE THE HEARING**

NOW COMES BIO-MEDICAL APPLICATIONS OF CALIFORNIA, INC. D/B/A FRESENIUS MEDICAL CARE NORTH AMERICA (RESPONDENT BIO-MEDICAL) AND RENAL ADVANTAGE INC. D/B/A FRESENIUS MEDICAL CARE NORTH AMERICA (RESPONDENT RENAL ADVANTAGE) (collectively "Respondents"), by their attorneys, pursuant to Section 102.16 of the National Labor Relations Board's Rules and Regulations, as amended, and moves that the Regional Director reschedule the hearing in the above-captioned matter for proper cause shown. In support of their request, Respondents state as follows:

1. The hearing is currently set for Wednesday, November 14, 2018. However, Respondents' witness is not available on the scheduled date because she will be out of state on a preplanned vacation to attend a family reunion that was scheduled several months ago. In addition, counsel for Respondents has a previously scheduled arbitration hearing set for November 15, 2018, in an

unrelated matter for a different client. (See attached Declaration of Maria Anastas [hereinafter “Anastas Decl.”], ¶¶ 1-2.)

2. On October 11, 2018, counsel for the Respondents called the Board attorney who is representing the NLRB in this case, Ms. Michelle Scannell, to ascertain Counsel for the General Counsel’s position with regard to rescheduling the hearing date. Ms. Scannell advised Respondents only needed to learn the Union’s position with regard to rescheduling, and that Respondents and the Union should try to find several mutually agreeable potential dates in December or January to propose, if the parties agreed to submit a joint request. Ms. Scannell further advised that in proposing new dates for the hearing, it was necessary to propose only dates that fall on a Tuesday due to the NLRB’s trial scheduling practices. (Anastas Decl., ¶ 3.)

3. On October 12, 2018, counsel for the Respondents contacted Union counsel to ascertain the Union’s position with regard to rescheduling the hearing date for Tuesday, January 8, 2019 or Tuesday, January 15, 2019. On October 15, Union counsel responded, “The Union would prefer to resolve this dispute more quickly, so do not want to postpone until January.” (Anastas Decl., Exhibit A.)

4. The Union did not indicate that either of Respondents’ proposed dates in January 2019 would not work for the Union, nor did the Union propose any other dates that could work for the Union. (Anastas Decl., ¶ 5.)

5. Respondents respectfully request that the Regional Director postpone the hearing in this matter. Proper cause exists to grant Respondents’ request. Respondents’ witness is unavailable on the scheduled hearing date and Respondents’ counsel has a previously scheduled arbitration hearing set for the day after the scheduled hearing date. Under the circumstances, it would unduly prejudice Respondents if the hearing were to proceed on

November 14, 2018, when the Respondents' witness will be out of town, and when Respondents' counsel is committed to appearing in another matter the day after the hearing, such that Respondents would be denied her representation on the second day of trial if the hearing in this matter is not completed within one day. In contrast, the Union has not indicated it could not attend a hearing on January 8 or 15, 2019, or that any of its witnesses or legal counsel would be unavailable on those dates. The Union has only expressed a desire to "resolve this dispute more quickly." However, the Union cannot show any reason why this case must be heard at the expense of Respondents' due process rights to a fair hearing on dates when its witness and legal counsel can be present. The Consolidated Complaint alleges only violations of Section 8(a)(1) of the Act. There is no representation petition pending. Accordingly, Respondents respectfully request the Regional Director exercise her authority to reschedule the hearing date to January 8 or January 15, 2019, for proper cause shown.

**Dated:** October 18, 2018.

Respectfully submitted,

BIO-MEDICAL APPLICATIONS OF  
CALIFORNIA, INC. D/B/A FRESENIUS  
MEDICAL CARE NORTH AMERICA

RENAL ADVANTAGE INC. D/B/A  
FRESENIUS MEDICAL CARE NORTH  
AMERICA

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