



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

April 3, 2019

[REDACTED]
WEINBERG ROGER & ROSENFELD
1001 MARINA VILLAGE PKWY STE 200
ALAMEDA, CA 94501

Re: Bio-Medical Applications of California,
Inc. d/b/a Fresenius Medical Care North
America
Case 31-CA-202972

Dear [REDACTED]

We have carefully considered your appeal from the Regional Director's approval of a unilateral Settlement Agreement in the above-captioned matter. The appeal is denied substantially for the reasons set forth in the Regional Director's letter of February 13, 2019.

The Union's objection to the Settlement Agreement maintains that the Employer engaged in solicitations and distribution of literature itself in patient care areas, thus its rule against wearing or displaying union buttons in patient care areas may not receive the benefit of the presumption of validity. *St. John's Health Center*, 357 NLRB 2078 (2011). The Union's objection contends that the Settlement Agreement must remedy the Employer's promulgation of its unlawful rule in patient care areas.

Contrary to the Union's objection, the Complaint in this matter does not allege that the Employer could not prohibit employees from wearing buttons and other insignia in immediate patient care areas. Rather, the Region determined that the Employer's oral statement characterizing its solicitation and distribution rule was unlawful because it was selectively and disparately enforced and because the oral statement could lead employees to believe that they were prohibited from wearing union insignia anywhere in the facility. In view of the allegations set forth under paragraph 9 of the Complaint, the language in the partial Settlement Agreement fully remedies the allegations contained in paragraph 9 of the Complaint as to the specific conduct deemed meritorious. Consequently, it was determined that the Union's objection raised on appeal failed to warrant modification of the Settlement Agreement and the Regional Director's approval of the remedial actions encompassed in paragraph 9 of the unilateral Settlement Agreement was appropriate.

Accordingly, further proceedings herein were deemed unwarranted.

Sincerely,

Peter Barr Robb
General Counsel

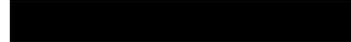


By: _____

Mark E. Arbesfeld, Director
Office of Appeals

cc: MORI RUBIN
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