

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 21**

**CLINICAS DE SALUD DEL PUEBLO, INC.,  
D/B/A INNERCARE**

**Cases 21-CA-344340  
21-CA-344657  
21-CA-344978  
21-CA-344986  
21-CA-345332  
21-CA-345714  
21-CA-345822  
21-CA-346136  
21-CA-346184  
21-CA-347518  
21-CA-353720**

and

**SEIU UNITED HEALTHCARE WORKERS  
- WEST, CLC**

**CLINICAS DE SALUD DEL PUEBLO, INC.,  
D/B/A INNERCARE**

**Employer**

**Cases 21-RC-344126  
21-RC-344127**

and

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

**Petitioner**

**COUNSEL FOR THE GENERAL COUNSEL’S OPPOSITION TO CHARGING  
PARTY’S MOTION REQUESTING VIRTUAL TESTIMONY**

Pursuant to Section 102.24 of the National Labor Relations Board’s (Board) Rules and Regulations, Counsel for the General Counsel hereby opposes Charging Party Service Employees International Union, United Healthcare Workers-West’s (Charging Party) request that specific witnesses be permitted to testify remotely at hearing because: (1) despite the inflammatory and inaccurate information raised in the Charging Party’s motion, the Charging Party provides no argument or evidence that the witnesses in THIS case face any of the “threats” that Charging

Party raises, and therefore the purported threats witnesses face are too speculative to establish good cause allowing limited remote testimony particularly where assessing witness credibility is paramount to the success of the case; and (2) Charging Party failed to provide necessary “appropriate safeguards” to permit video testimony.

## **I. Procedural and factual background**

On January 6, 2026, the Acting Regional Director for Region 21 of the Board issued Order Consolidating Cases, Consolidated Complaint and Notice of Hearing (Consolidated Complaint) in Cases 21-CA-344340, 21-CA-344657, 21-CA-344978, 21-CA-344986, 21-CA-345332, 21-CA-345714, 21-CA-345822, 21-CA-346136, 21-CA-346184, 21-CA-347518, and 21-CA-353720. The January 6, 2026 order set the hearing for March 17, 2026 at a location to be determined in San Diego, California.

On January 29, 2026, the Acting Regional Director for Region 21 issued an Order Approving Withdrawal of Certain Objections, Report on Remaining Objections, Order Consolidating Cases, and Notice of Hearing, consolidating Cases 21-RC-344126 and 21-RC-344127 with the cases contained in the January 6, 2026 Consolidated Complaint. The January 29, 2026 order set the March 17, 2026 hearing location at the U.S. Bankruptcy Court, located at 325 West F Street, Department 4, San Diego, California.

On February 17, 2026, Charging Party filed its Motion Requesting Virtual Testimony (Motion), requesting that several unnamed witnesses be permitted to testify remotely at the March 17, 2026 hearing.<sup>1</sup>

On February 20, 2026, Administrative Law Judge Eleanor Laws issued Order to Show Cause, directing the parties to show cause as to why the Charging Party’s Motion should not be granted.

## **II. Arguments**

Traditionally, the Board favors in-person testimony at trial. *See Westside Painting, Inc.*, 328 NLRB 796, 797 (1999). However, Section 102.35(c) of the Board’s Rules and Regulations state that an Administrative Law Judge, “upon a showing of *good cause based on compelling circumstances*, and under appropriate safeguards,” may permit the taking of video testimony (emphasis added). Charging Party’s motion falls woefully short of this standard.

### **A. Charging Party’s Motion fails to provide specificity as to the threat witnesses face that would create good cause on compelling circumstances, required by Rule 102.35(c)(1), to permit limited video testimony.**

Section 102.35(c) of the Board’s Rules and Regulations does not define what “good cause based on compelling circumstances...” entails. Fortunately, Rule 43 of the Federal Rules of Civil Procedure contains nearly identical language as Section 102.35(c).<sup>2</sup> More so, an advisory opinion regarding Rule 43 provides, “The most persuasive showings of good cause and

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<sup>1</sup> Charging Party’s Motion is filled with a politicized, inflammatory, and unsupported characterization of events.

<sup>2</sup> The Federal Rules of Civil Procedure are not controlling on the Board, but, the Board has often referred to them for useful guidance. *See Brink’s Inc.*, 281 NLRB 468, 468 (1986).

compelling circumstances are likely to arise when a witness is unable to attend trial for unexpected reasons, such as accident or illness.” Advisory Committee Notes to Fed.R.Civ.P. 43(a) (1996 Amendment). Lastly, as outlined by Board’s Rule Section 102.35(c)(1), the Charging Party, in its application to obtain video testimony, of which is served on all parties, must provide the following information:

1. the witness’s name and address;
2. the location where the video testimony will be held;
3. the matter concerning which the witness is expected to testify;
4. the conditions in place to protect the integrity of the testimony;
5. the transmission safeguards; and
6. the electronic address from which the video testimony will be transmitted.

Here, there is an insufficient showing of good cause permitting witnesses to testify remotely. As a preliminary note, the Charging Party is withholding: (1) the witness’ names and addresses; (2) the location(s) where the video testimony will be held; and (3) the matter(s) concerning which the witnesses are expected to testify, maintaining that the information will be furnished in-camera to the Administrative Law Judge only. Section 102.35(c)(1) requires the application for video testimony to contain the foregoing information and be served on all parties. Currently, the application is missing such information; hence, it’s defective.

Charging Party’s underlying argument is that testimony by videoconference will help its witnesses avoid detection by immigration authorities, while admitting that its Motion “is not predicated based on the legal status of any of the witnesses in this matter.” This alone should result in the denial of the Charging Party’s Motion. Moreover, the Charging Party’s Motion makes unspecified, vague claims of threats witnesses face that dissuade them from appearing in these matters. The Motion is based on claims that Immigration and Customs Enforcement has been “raiding courthouses across the country, targeting Latinx individuals.” Thus, assertions of generalized fear serve as the basis for the Charging Party’s Motion to allow witnesses to testify remotely. However, these general concerns are not particularized, specific, or unique to any of the witnesses in THIS case.

The purported evidence in the Motion consists solely of a series of contentious news articles. Even taken at face value, these articles fail to support Charging Party’s overwrought claims about the risk to their witnesses. Only one article even addresses the possibility of arrest at a courthouse, and that article discusses targeted arrests of individuals attending criminal proceedings, not NLRB hearings. *See Taylor Galgano & Maria Agular Prieto, ICE & Other Agents Conduct at Least 12 Recent Arrests at Courthouses*, Cable News Network, May 6, 2025 (noting that the individuals arrested had “a wide range of charges against them, ranging from misdemeanors to violent felonies”). The remaining articles have nothing to do with the specific circumstances of this hearing or the witnesses. No facts have been presented in relation to the Charging Party’s Motion which would lead to the ability to assess whether a specific witness would in fact be unable to attend the trial. Because it is impossible to assess whether any particular witness is facing a situation that would prevent their appearance at the trial, good cause based on compelling circumstances has not been demonstrated and may not even exist. As such, the Motion should be denied.

**B. Charging Party’s Motion fails to satisfy Rule 102.35(c)(2)’s safeguard requirement allowing party representatives to be physically present during a witness’ examination, the exchange of exhibits prior to examination, and providing assistance in case of technical difficulties.**

Section 102.35(c)(2) outlines what requirements constitute appropriate safeguards. Specifically,

“Appropriate safeguards must ensure that the Administrative Law Judge has the ability to assess the witness’s credibility and that the parties have a meaningful opportunity to examine and cross-examine the witness, and must include at a minimum measures that ensure that representatives of the parties have the opportunity to be present at the remote location, the judge, participants, and the reporter are able to hear the testimony and observe the witness, the camera view is adjustable to provide a close-up view of counsel and the witness and a panoramic view of the room, exhibits used in the witness’s examination are exchanged in advance of the examination, and video technology assistance is available to assist with technical difficulties that arise during the examination. The Administrative Law Judge may also impose additional safeguards.” *Id.*

The safeguards outlined in the Board’s Rule in Section 102.35(c)(2) do not indicate discretion. Instead, Section 102.35(c)(2) sets out a threshold requirement in addition to whatever requirements an Administrative Law Judge may order.

In its Motion, the Union explicitly states that it is withholding the witness’ names and addresses, the location where the video testimony will be held, and the matter(s) concerning which the witnesses are expected to testify. Thus, the Motion does not furnish the information necessary to satisfy the safeguards under Section 102.35(c)(2).

In addition, the Charging Party’s Motion fails to fully address the remaining safeguards required to testify virtually. First, representatives of the parties must have the opportunity to be present at the remote location. Such offers have not been made, nor is it even clear where the witnesses will testify. Second, exhibits used in the witness’s examination must be exchanged in advance of the examination. Because it’s currently unknown which witnesses will testify remotely, the ability to prepare and exchange potential exhibits related to that witness is denied. Lastly, video technology assistance must be available to assist with technical difficulties that arise during the examination. Charging Party has not provided any assurances regarding what support would be available in the event a witness experiences technical difficulties.

Accordingly, because Charging Party has failed to provide the required safeguards specifically outlined in Section 102.35(c)(2), the Motion should be denied.

### **III. Conclusion**

For the reasons stated above, Counsel for the General Counsel respectfully opposes Charging Party's Motion.

Dated: March 2, 2026

Respectfully submitted,

/s/ Stephen W. Simmons

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## STATEMENT OF SERVICE

I hereby certify that a copy of **COUNSEL FOR THE GENERAL COUNSEL'S OPPOSITION TO CHARGING PARTY'S MOTION REQUESTING VIRTUAL TESTIMONY** has been submitted by e-filing to the Division of Judges of the National Labor Relations Board on March 2, 2026.

The following parties were served with a copy of said document by e-mail, on March 2, 2026.

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Respectfully submitted,

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Aide Carretero, Secretary to the Regional Director  
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