

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

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

And

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

Case	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

RESPONDENT’S RESPONSE TO ORDER TO SHOW CAUSE

On February 17, 2026, Service Employees International Union, United Healthcare Workers-West (“UHW” or “Charging Party”) filed its Motion Requesting Virtual Testimony (the “Motion”). Charging Party notified the Administrative Law Judge, Respondent, and Counsel for the General Counsel of its intent to file the Motion during a pre-hearing conference on February 13, 2026. Administrative Law Judge Eleanor Laws specifically directed Charging Party to the appropriate Rule and warned that she would reject any application for video testimony that failed to adhere to its requirements. Nonetheless, Charging Party’s Motion falls short of the explicit requirements of National Labor Relations Board (“NLRB” or the “Board”) Rule § 102.35(c), 29 CFR § 102.35(c), which requires a “showing of good cause based on compelling circumstances” and only with “appropriate safeguards.” The Motion withholds the witness information required by Board Rule 102.35(c)(1), and its proposed “safeguards” do not meet the Rule’s requirements.

Charging Party’s withholding of information and failure to adhere to the requirements of Board Rule 102.35(c)(1) are ostensibly because Respondent Clinicas de Salud del Pueblo d/b/a Innercare

(“Innecare” or “Respondent”) “will call ICE to prevent testimony and obstruct justice.” That accusation is not only wholly unsubstantiated but also antithetical to Respondent’s mission and the identities of its stakeholders, leaders, employees, and the communities it serves. For the reasons set forth below, Innecare respectfully requests that the Administrative Law Judge reject Charging Party’s Motion and require all witnesses to appear in-person.

I. LEGAL STANDARD

Board Rule § 102.35(c) permits contemporaneous video testimony only “upon a showing of good cause based on compelling circumstances, and under appropriate safeguards.” 29 CFR § 102.35(c). Applications to obtain witness testimony in this manner must “set forth the compelling circumstances for such testimony,” as well as:

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

29 CFR § 102.35(c)(1). Video testimony is typically reserved for instances in which “a witness is unable to attend the trial for unexpected reasons, such as accident or illness, but remains able to testify from a different place.” NLRB, *Bench Book: An NLRB Trial Manual* § 12-400 (May 2025) (citing Fed. R. Civ. P. 43 Advisory Committee’s Note to 1996 Amendment). Requests for testimony by videoconference “cannot be justified merely by showing that it is inconvenient for the witness to attend the trial.” *Id.*

Safeguards must enable the Administrative Law Judge to adequately assess witness credibility and allow all parties to “have a meaningful opportunity to examine and cross-examine the witness.”

29 CFR § 102.35(c)(2). At a minimum, those safeguards must include:

...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.

Id. These safeguards are essential to the Administrative Law Judge’s ability to fairly rule on credibility issues. In addition, these safeguards are necessary to preserve the integrity of the hearing and to ensure all due process requirements are satisfied.

II. ARGUMENT

A. The Motion Fails to Show Good Cause or Compelling Circumstances.

Charging Party’s Motion makes generalized assertions about immigration enforcement but provides no individualized evidence – and indeed no evidence whatsoever – that any witness faces a legitimate risk tied to appearing at the Bankruptcy Courthouse located at 325 F. St., San Diego, CA 92101. Charging Party concedes that its “motion is not predicated based on the legal status of any of the witnesses in this matter.” Innercare confirms that none of its current or former employees are undocumented. All employees are United States citizens, lawful residents, hold appropriate visas, or otherwise hold valid work permits to work lawfully in the United States. Accordingly, the risk of immigration enforcement is low if not entirely absent, and any immigration enforcement against Innercare’s current and former employees would be improper and unlawful. The Bankruptcy Courthouse is located in a region of California with a large Hispanic/Latinx population, and there is no indication that Immigration Customs and Enforcement (“ICE”) is monitoring this location. Charging Party’s allegations consequently fall short of the standard promulgated by Board Rule 102.35(c)(1).

The Motion also improperly asks the Administrative Law Judge to infer good cause or compelling circumstances based on Charging Party’s allegations of animus. As an initial matter, Innercare denies allegations that it engaged in any of the conduct alleged in the Complaint. For example, Innercare did not terminate employees due to their union or protected concerted activities, and many union-supporting employees remain employed by Innercare. Charging Party concedes this point by noting that some of its witnesses are current employees. Moreover, there is simply no evidence that Innercare would call ICE, as Innercare’s sole purpose is to serve the Latinx community, and that mission is reflected at all levels of the organization. Any call to ICE, under Charging Party’s

theory that ICE will detain citizens and lawful residents, would also jeopardize Inncare's witnesses, all of whom are willing to appear in-person.

B. Charging Party's Application for Video Testimony is Procedurally Deficient Under Board Rule 102.35(c).

Charging Party's Motion also fails to include the details and safeguards required by Board Rule 102.35(c). First, the Motion withholds witness names, addresses, locations, and transmission details. 29 CFR § 102.35(c)(1). Charging Party instead proposes in camera disclosure, contrary to the requirements of the Board's Rules and contrary to the Administrative Law Judge's direction that any application for video testimony should adhere to Board Rule 102.35(c). Failure to provide these details prejudices Inncare because it prevents meaningful analysis of potential credibility concerns. This case turns on credibility, and the Board attaches great weight to an Administrative Law Judge's credibility determinations. The ability to make those credibility determinations is hindered when a witness is not in the same room as the Administrative Law Judge. Inncare's witnesses plan to appear in-person, creating an imbalance in how credibility questions will be observed and assessed should Charging Party's Motion be granted.

Second, the Motion fails to provide the safeguards articulated in Board Rule 102.35(c)(2). Specifically, the motion fails to guarantee that all "parties have a meaningful opportunity to examine and cross examine the witnesses," including "at a minimum measures that ensure that representatives of the parties have the opportunity to be present at the remote location." *Id.* There are also no assurances that "exhibits used in the witness's examination [will be] exchanged in advance of the examination." *Id.* Charging Party asserts that its proposed videoconferencing "safeguards" are non-prejudicial because witnesses will provide a "360-degree" camera view of the room and because counsel can cross examine those same witnesses via Zoom. Charging Party's request limits the parties' ability to ensure witness are not being coached, and a view of the room does little to assuage these concerns. For example, it is impossible to know what the witness might have visible on their computer screens.

The safeguards enumerated in Board Rule 102.35(c)(2) are not optional, nor are they merely a suggestion. They are the bare minimum to ensure a fair hearing.

C. The Allegation that Innercare “Will Call ICE” is Inflammatory and Prejudicial.

Charging Party’s Motion contains an incendiary allegation that Innercare “will call ICE to prevent testimony and obstruct justice.” This assertion is made without any evidentiary basis whatsoever and should be rejected outright. Charging Party, in making its bad faith argument, points to its witnesses’ Hispanic and/or Latinx heritage. Innercare’s very identity as an organization is deeply rooted in its connections to these communities. For example, Innercare’s legal name – Clinicas de Salud Del Pueblo, Inc. – is in Spanish to represent its cultural identity and strong ties to the Hispanic/Latinx communities it serves. Charging Party either ignores this fact or filed its Motion in a misguided attempt to harm Innercare’s reputation.

Innercare is a non-profit and federally funded migrant health center that operates 10 health clinics, four dental clinics, and three Women, Infant, and Children (“WIC”) Nutrition Education Centers, as well as six WIC voucher distribution centers across Imperial and Riverside Counties. The organization’s mission is to provide healthcare access to all, with an emphasis on reducing barriers and meeting healthcare needs of vulnerable populations, including migrants and those experiencing homelessness. Innercare’s patients are primarily members of the Latinx community, as evidenced by the fact that Innercare guarantees the availability of bilingual and bi-cultural care at all of its clinics. The communities served by Innercare are central to its identity, but its connections to the Latinx community extend beyond the populations who seek care within its clinics.

The majority of Innercare’s Board of Directors and executive leadership are members of the Hispanic/Latinx community. Alleging that such individuals would weaponize immigration enforcement against their own community is not only illogical but deeply offensive and contrary to Innercare’s mission to improve the health and well-being of the communities it serves. Further, “call[ing] ICE” places Innercare’s own witnesses at risk to the extent any exists. ICE does not see a distinction between manager and employee, so it is illogical to conclude that Innercare’s witnesses of

color would be shielded from any alleged risk should ICE be called to the premises. Simply put, there is no sound basis for assuming Respondent would behave in the manner described by Charging Party.

III. CONCLUSION

For the reasons set forth above, Respondent respectfully requests that the Administrative Law Judge deny Charging Party's Motion. Should video testimony be permitted, Respondent requests that the Administrative Law Judge require strict compliance with Board Rule 102.35(c), including all appropriate safeguards.

Respectfully,

Submitted: March 2, 2026

/s/ Mark S. Filipini

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CERTIFICATE OF SERVICE

I certify that a copy of Respondent's Response to Order to Show Cause was served on March 2, 2026, by electronic service to the following parties:

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DATED this 2nd day of March 2026

/s/ Mark S. Filipini

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