1 2 3 4 5 6 7	BENJAMIN B. WAGNER United States Attorney GLEN F. DORGAN Assistant United States Attorney United States Courthouse 2500 Tulare Street, Suite 4401 Fresno, California 93721 (559) 497-4080 (telephone) (559) 497-4099 (facsimile) Attorneys for Plaintiff SETH D. HARRIS, Actin	ng Secretary of Labor, U.S. Dept. of Labor
8	IN THE UNITED STATES DISTRICT COURT	
9	EASTERN DISTRICT OF CALIFORNIA	
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11	SETH D. HARRIS, Acting Secretary of Labor,	CASE NO. 1:11-cv-00529 AWI-GSA
12	United States Department of Labor,	PLAINTIFF'S STATUS REPORT;
13	Plaintiff,	ORDER
14	v.	
15	NATIONAL EMERGENCY MEDICAL SERVICES ASSOCIATION,	
16	Defendant.	
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20	Status Report	
21	1. On July 11, 2012, Plaintiff Seth D. Harris, Acting Secretary of Labor, United States	
22	Department of Labor ("the Secretary") ¹ and Defendant National Emergency Medical Services Association	
23	("NEMSA") filed a Stipulation of Settlement in the above matter ("NEMSA I") and a related Stipulation	
24	of Settlement in Case No. 1:11-cv-01929 ("NEMSA II").	
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27	Pursuant to FRCP 25(d), Plaintiff substitutes the Acting Secretary of Labor, Seth D. Harris, who has	
28	been designated to fill the position held by Hilda L. Solis, who recently resigned from the position of Secretary.	

Status Report; Order

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- 2. The Stipulation for Settlement in this case, NEMSA I, called for Defendant to hold an election for the office of President in November 2012, supervised by Plaintiff. The Stipulation for Settlement in NEMSA II called for Defendant to contemporaneously hold an election for the office of Vice President, Treasurer, Valley Regional Director, Bay Area Regional Director 1, Bay Area Regional Director 2, Eastern States Regional Director, and Southern California Regional Director.
- 3. By order dated August 1, 2012, entered in NEMSA I, the Court confirmed the settlement and retained jurisdiction until the election is completed and judgment is entered.
- 4. On November 9, 2012, based on the parties' request and a showing of good cause, the Court entered separate orders in NEMSA I and NEMSA II that continued the deadline for completion of the election of officers through January 31, 2013, and directed Plaintiff to file a status report or a certification of the election and a proposed judgment by February 28, 2013.
- 5. Prior to the January 31, 2013 deadline, the parties completed the supervised election of officers. However, the Department of Labor is not yet able to certify that the election was conducted in accordance with Title IV of the Labor-Management Reporting and Disclosure Act of 1959. Plaintiff respectfully submits that good cause exists for continuing the deadline for filing a status report or a certification of the election and a proposed judgment from February 28, 2013, to and including April 26, 2013, based on the following good cause:
- 5.A. The recent election was successfully completed for the positions of President, Treasurer, Northern California Regional Director, and Eastern State Regional Director. These positions were filled by acclamation as only one eligible member was nominated for each of these positions by the December 20, 2012 deadline for submitting nominations.
- 5.B. Because no nominations for Vice President were received by the December 20, 2012, deadline for submitting nominations, that officer position remains vacant.
- 5.C. There were two candidates for the position of Southern California Regional Director.
- 5.D. On January 7, 2013, ballots for the Southern California Regional Director position were mailed to 1,203 members in that NEMSA region.

5.E. On January 28, 2013, the Election Supervisor oversaw the tally of ballots for Southern California Regional Director.

- 5.F. Although no written protests concerning the Southern California Regional Director election were filed with the Election Supervisor, the Department became aware that not all members received their ballots in sufficient time to vote. On February 6, 2013, three members contacted the Election Supervisor and informed her that they received their ballot packages in the mail on February 5, 2013. The Election Supervisor investigated the complaint and determined that the delay in delivery of mail ballot packages was not limited to these three members and may have resulted from the failure to use first-class postage to mail the ballot packages.
- 5.G. To ensure that all NEMSA members eligible to vote for Southern California Regional Director are provided an opportunity to vote, the Department will re-run the election of Southern California Regional Director. Specifically, the Department will (i) mail new ballots by first-class mail to all NEMSA members who work in the region covered by the Southern California Regional Director; and (ii) tally the ballots on or before April 5, 2013. This schedule will then permit Plaintiff to submit a status report or a certification of election of all officers on or before April 26, 2013.
- 6. Based on the foregoing, Plaintiff respectfully requests that the Court (i) continue the deadline for completion of the election of Southern California Regional Director through and including April 5, 2013; (ii) continue the deadline for certification of the election of all officers through and including April 26, 2013. Counsel for Plaintiff has notified counsel for NEMSA that Plaintiff is seeking the aforementioned relief and has not yet, as of filing this Status Report, been advised of NEMSA's position. Plaintiff will notify the Court immediately in the event NEMSA objects.

DATED: February 28, 2013

Respectfully submitted,

BENJAMIN B. WAGNER United States Attorney

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ORDER Based on Plaintiff's Status Report, demonstrating good cause, IT IS HEREBY ORDERED as follows: 1. The deadline for completing the supervised election for the office of Southern California Regional Director is continued through and including April 5, 2013; Plaintiff is directed to file a status report or a certification of the election and a proposed 2. judgment by April 26, 2013. The Court shall retain jurisdiction until the above process is completed and judgment is 3. entered. IT IS SO ORDERED. Dated: March 1, 2013 SENIOR DISTRICT JUDGE