

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT CLARKE, an individual,

Appellant,

v.

SERVICE EMPLOYEES
INTERNATIONAL UNION, a nonprofit
cooperative corporation; and CLARK
COUNTY PUBLIC EMPLOYEES
ASSOCIATION, A/K/A SEIU 1107, a
non-profit cooperative corporation,

Respondents.

Supreme Court No. 80520

District Case No. A764942
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SERVICE EMPLOYEES
INTERNATIONAL UNION, an
unincorporated association; and NEVADA
SERVICE EMPLOYEES UNION A/K/A
CLARK COUNTY PUBLIC
EMPLOYEES ASSOCIATION, SEIU
1107, a non-profit cooperative corporation,

Appellants,

v.

DANA GENTRY, AN INDIVIDUAL; and
ROBERT CLARKE, an individual,

Respondents.

Supreme Court No. 81166
District Case No. A764942

**APPENDIX OF SERVICE EMPLOYEES INTERNATIONAL UNION AND
CLARK COUNTY PUBLIC EMPLOYEES ASSOCIATION A/K/A SEIU
LOCAL 1107, VOLUME 2**

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APPENDIX, VOLUME 2

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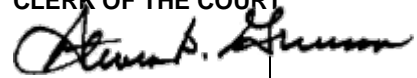
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DATED: October 7, 2020

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EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

DANA GENTRY, an individual; and
ROBERT CLARKE, an individual,

CASE NO.: A-17-764942-C

DEPT. No. XXVI

Plaintiffs,

vs.

**OPPOSITION TO AND
COUNTERMOTION FOR SUMMARY
JUDGMENT**

SERVICE EMPLOYEES
INTERNATIONAL UNION, a nonprofit
cooperative corporation; LUISA BLUE, in
her official capacity as Trustee of Local
1107; MARTIN MANTECA, in his
official capacity as Deputy Trustee of
Local 1107; MARY K. HENRY, in her
official capacity as Union President;
SHARON KISLING, individually;
CLARK COUNTY PUBLIC
EMPLOYEES ASSOCIATION UNION
aka SEIU 1107, a non-profit cooperative
corporation; DOES 1-20; and ROE
CORPORATIONS 1-20, inclusive,

Defendants.

LUISA BLUE (“Luisa”), MARTIN MANTECA (“Martin”), and NEVADA
SERVICE EMPLOYEES UNION (“Local 1107”), misnamed as “CLARK COUNTY
PUBLIC EMPLOYEES ASSOCIATION UNION aka SEIU 1107” (Luisa, Martin, and
Local 1107 are collectively referred to as “Local 1107 Defendants”), by and through the
law firm Christensen James & Martin, hereby oppose Plaintiffs’ Motion for Summary
Judgment and file a counter motion for summary judgment.

///

///

1 DATED this 15th day of October, 2018.

2 CHRISTENSEN JAMES & MARTIN

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12 MEMORANDUM OF POINTS AND AUTHORITIES

13 FACTS

14 Plaintiffs were hired by Local 1107's former President, Sherie Mancini. See Mot.
15 for Summ. J. Ex. 1 and 2.¹ Plaintiff Dana Gentry ("Gentry") was hired as
16 Communications Director on April 18, 2016. Id. Ex. 1. Just over one year later, her
17 employment was terminated on May 4, 2017. Id. Ex. 4. Plaintiff Robert Clark ("Clark")
18 was hired as Director of Finance and Human Resources on August 23, 2016. Id. Ex. 2,
19 *Note however that the alleged contract is unsigned.* Just over eight months later, his
20 employment was terminated on May 4, 2017. Id. Ex. 4.

21 Gentry, as Communications Director, "serve[d] as a key advisor to Local 1107
22 leadership in a variety of internal and external communications [and] develop[ed] short-
23 term and long-term campaign strategies and plans for increasing the size, strength,
24 activism and savvy of our union membership." See Declaration of Brian Shepherd, Ex.
25 A, Local 1107's Job Description for Communications Director. Some of her specific
26 organizational strategy and managerial responsibilities included the "[d]evelopment and
27

¹ While inadmissible as unauthenticated, the alleged contracts are also irrelevant to this litigation pursuant to the International's Constitution and the LMRDA. The Local 1107 Defendants do not dispute the admissibility of the termination letters contained in Ex. 4.

1 implementation of Local 1107 internal and external strategic communications plans,
2 including the areas of press, graphic design, mail and digital communications ... [and]
3 [d]evelopment of proactive earned media and digital campaigns that reinforce, protect
4 and expand awareness of the union's branding and mission." Id.

5 Clark, as Director of Finance and Human Resources, was "responsible for the
6 financial health of the Local and is directly responsible for financial management, general
7 office administration, personnel systems, technology, legal compliance, and reporting."
8 See Declaration of Brian Shepherd, Ex. B, Local 1107's Job Description for Director of
9 Finance and Human Resources.²

10 Plaintiffs allege the following in the Complaint: "On April 28, 2017, Defendant
11 SEIU President Mary Kay Henry placed Local 1107 under trusteeship and appointed
12 Defendants Luisa Blue and Martin Manteca as Trustee and Deputy Trustee,
13 respectively." Comp. at 4 ¶ 16. The Plaintiffs support the allegation by presenting the
14 Trusteeship Order to the Court as Exhibit 3 to their Motion for Summary Judgment. That
15 Trusteeship Order states, among other things, the following:

16 Pursuant to my authority under Article VIII, Sections 7(a) and 7(f), of
17 the SEIU Constitution and Bylaws, I have determined that an
18 emergency situation exists within SEIU Local 1107, CtW, CLC
19 (hereinafter "Local 1107," "Local Union" or "Local"), and that the
20 interests of Local 1107 and the membership require the immediate
21 appointment of a Trustee and Deputy Trustee to preserve the Local
22 Union's status as collective bargaining representative and the
23 performance of its representational duties and functions, restore
24 democratic procedures at the Local, protect the interests of the Local
25 and its members, and otherwise carry out the legitimate objects of the
26 International Union.

24 See Motion for Summ. J., Ex. 3.

26 ² Mr. Ken Ubani, who performed the search and has personal knowledge of the
27 documents was unenviable to execute a declaration. Plaintiff will provide a supplemental
declaration from Mr. Ubani as soon as possible.

1 Upon imposition of the trusteeship, Local 1107 became subject to the
2 International's Constitution. Id. That Constitution specifically allows for the removal of
3 officers and employees by an appointed trustee:

4 The Trustee shall be authorized and empowered to take full charge of
5 the affairs of the Local Union or affiliated body and its related benefit
6 funds, to remove any of its employees, agents and/or trustees of any
7 funds selected by the Local Union or affiliated body and appoint such
8 agents, employees or fund trustees during his or her trusteeship, and
9 to take such other action as in his or her judgment is necessary for the
10 preservation of the Local Union or affiliated body and for the
11 protection of the interests of the membership.

12 Id., See Also, Brian Shepherd Declaration, Ex. C, International Constitution, Art. 8,
13 Section 7(a).

14 The Trusteeship Order identifies Gentry's work as Communications Director as
15 a basis for imposition of the Trusteeship: "Local 1107's failure to communicate
16 adequately with the Local membership interferes with its collective bargaining
17 responsibilities. Members and stewards complained that difficulty getting the
18 information and assistance from the Local that they need to represent themselves and
19 their colleagues has impeded their ability to perform their representational duties
20 properly." Id.

21 The Trusteeship Order also identifies Clark's failure to manage Human Resources
22 as a basis for imposition of the Trusteeship:

23 [T]he communication breakdown in the Local impeded staff oversight,
24 leaving Local staff without clear direction on the work they are required to
25 perform, to whom they should report and from whom they will receive
26 feedback. This confusion impedes the proper and efficient functioning of
27 the Local and detracts the staff from expending resources and energy toward
serving the membership.

Id. Ex. 3 at 2. In fact, human resources was so disorganized that it was "undermining
democratic governance in the Local." Id.

1 In addition, Gentry executed a Cell Phone Agreement whereby she promised to
2 use Local 1107's cell phone for "Local 1107 business only." See Declaration of Brian
3 Shepherd, Ex. D. An analysis of Gentry's cell phone use indicates that she breached that
4 agreement by using the phone for personal use. See Decl. of Zachary D. Jones.

5 On May 4, 2018, Gentry and Clark's employment with Local 1107 was
6 terminated. To wit,

7 [T]he Trustees will fill management and other positions at the Local with
8 individuals they are confident can and will carry out the Local's new
9 program and policies. In the interim, the Trustees will largely be managing
10 the Local themselves with input from member leaders. For these reasons,
the Trustees have decided to terminate your employment with Local 1107,
effective immediately.

11 Comp. at 4 ¶20, Mot. for Summ. J. Ex. 4.

12 STANDARD

13 Summary judgment "shall be rendered forthwith if the pleadings ... together with
14 the affidavits, if any, show that there is no genuine issue as to any material fact and that
15 the moving party is entitled to a judgment as a matter of law." NRCP 56(c), *Wood v.*
16 *Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005).³ The substantive law
17 pertaining to each cause of action defines which facts are material. *Id.*, *See also Anderson*
18 *v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). The party seeking summary judgment
19 has the burden of showing there is no genuine issue of material fact. *See Adickes v. S. H.*
20 *Kress & Co.*, 398 U.S. 144, 157 (1970). Once the moving party meets its burden by
21 presenting evidence that would entitle the movant to a directed verdict, the burden shifts
22 to the other party to go beyond the pleadings and set forth specific facts demonstrating
23 there is a genuine issue of material fact for trial. *Anderson*, 477 U.S. at 249-51. A party
24 may show by affidavit that facts are unavailable to justify an opposition, and the court
25 may refuse the application or continue the matter to permit discovery. NRCP 56(f).

26
27 ³ The "slightest doubt" standard was rejected in *Wood*. Substantive law controls. *Id.*

ARGUMENT

1. Plaintiffs Motion fails to identify the claims for which summary judgment is sought.

The Local 1107 Defendants are unable to identify the claims upon which Plaintiffs seek summary judgment. Of the fifteen causes of action, the Motion generally speaks only to breach of contract claims, of which there are multiple. NRCP 56(d) acknowledges that partial summary judgment may be entered, which means that identifying those causes of action upon for which judgment is sought is critical to a motion. Without identification, claim elements, facts and arguments cannot be tailored to specifically identify the law and applicable facts claimed to be undisputed. Summary judgment cannot be entered for Plaintiffs due to Plaintiffs' claim identification failure.

2. Plaintiffs have not authenticated presented evidence.

Plaintiffs present evidence to the Court but fail to establish its admissibility. "Evidence introduced in support of or opposition to a motion for summary judgment must be admissible evidence." *Henry Products Inc. v. Tarmu*, 967 P.2d 444, 445, 114 Nev. 1017, 1019 (1998). However, if the evidence is established as admissible, it is clear as shown below that Plaintiffs could be discharged regardless of the alleged cause termination contract clauses.⁴ Because Plaintiffs have not established the admissibility of their claimed evidence, their summary judgment motion must be denied.

3. The Trustees were authorized to terminate the contracts pursuant to federal law.

The trustees were authorized by law to terminate the employment contracts, even for cause contracts. The Labor-Management Reporting and Disclosure Act ("LMRDA"), 29 U.S.C. § 401 et seq., governs the imposition of the trusteeship over Local 1107. The LMRDA states that the trusteeship is presumed valid for a period of eighteen months. 29 U.S.C. § 464(c). Courts make clear that trustees over labor organizations, such as Local

⁴ Local 1107 Defendants do not dispute that Plaintiffs were employed by Local 1107 in the capacities of Communications Director and Director of Finance and Human Resources. As such, the countermotion for summary judgment is applicable and may be granted as argued herein.

1 1107, are empowered to terminate employment contracts without regard to for cause
2 clauses. “Because the trustee is empowered by the International Constitution to remove
3 officers, Plaintiff could not have been wrongfully removed from office.” *Pape v. Local*
4 *390 of Intern. Broth. of Teamsters*, 315 F.Supp.2d 1297, 1318 (S.D. Fla., 2004); *citing*
5 *Dean v. General Teamsters Union, Local No. 406*, No. G87–286–CA7, 1989 WL 223013
6 (W.D.Mich. Sept. 18, 1989).

7 Like the union in *Pape*, the International’s Constitution allows a trustee to remove
8 any employee. As such, Local 1107 and the Trustees were entitled to terminate Gentry
9 and Clark’s alleged contracts, which terminations constitute a legal for cause reason.
10 Summary judgment in favor of the Local 1107 Defendants is proper.

11 The *Dean* case is particularly instructive because Mr. Dean argued that breach of
12 contract claims, like the ones asserted by Plaintiffs, are not subject to the reasoning
13 asserted in *Finnegan v. Leu*, 456 U.S. 431 (1982) wherein the United States Supreme
14 Court ruled that union officials have the right to remove subservient officers to ensure
15 democratic governance and to ensure the objectives of the new officers are met. The *Dean*
16 court noted for cause employment contracts are subject to an international’s constitution
17 “[t]o ensure that the trustee is not handicapped by the executive board in his efforts to
18 preserve and restore the Local Union to functional status...” *Dean* at *6.

19 As a matter of law, the Trustees over Local 1107 had every right to terminate the
20 Plaintiffs’ alleged contracts, for cause or not. The International’s Constitution, to which
21 the Plaintiffs’ contracts were subject, specifically allowed the Trustees “to remove any
22 of its [Local 1107’s] employees.” Federal case law conclusively condones the Trustees’
23 actions. Plaintiffs’ summary judgment motion must be denied and the Defendants’
24 summary judgment motion granted.

25 To be sure, the Plaintiffs represented a clear and persistent threat to the
26 reformation of Local 1107. They had in fact been appointed by the removed President,
27 Sherie Mancini, and were for all intents and purposes presumed loyal to her. As the *Dean*

1 court noted in rejecting the breach of for cause contract claims and tortious discharge
2 claims,

3 The Court's discussion in *Finnegan* pertaining to an elected officer's ability
4 to freely make political appointments is equally applicable to this case:
5 [T]he Act's overriding objective was to ensure that unions would be
6 democratically governed, ... **The obstruction of union democracy which**
7 **can occur by leaving an elected president with his hands tied by**
appointed business agents, whom he could not discharge, is no less
capable of occurring here.

8 *Dean at* *5 (emphasis added). Likewise, the Trustees had the right, if not the duty, to
9 remove Ms. Mancini's cronies in an effort to right the ship. To ensure true reform, the
10 Trustees were empowered by the Constitution to remove any employee. Without the
11 removal power, Mancini had the ability, through the Plaintiffs, to tie the hands of the
12 Trustees and thwart their union reformation objectives.

13 Indeed, this Court must protect against corruption. Las Vegas's storied history of
14 organized corruption cannot be overlooked. The legal ability to remove a corrupt leader
15 and her lieutenants is critical to a functioning democracy. A deposed union leader must
16 not be allowed to retain power by giving her cronies for-cause termination contracts.
17 Otherwise, the Court will be inviting a corrupt official to staff union positions with for-
18 cause termination contracts designed to financially damage the union or to maintain
19 control over the union should that official be removed through a trusteeship. This reality
20 is of special interest in this Case as Local 1107 represents thousands of public employees,
21 including employees at the McCarran International Airport, Clark County Public Works,
22 Las Vegas Convention and Visitors Authority, Southern Nevada Health District,
23 University Medical Center, and Regional Transpiration Commission. The policy is clear,
24 society, and Nevada in particular with its unionized workforce, has a compelling public
25 interest to protect against corruption. Summary judgment in favor of the Local 1107
26 Defendants is appropriate.

1 4. Case law makes certain that the LMRDA preempts Plaintiffs' claims.

2 Gentry was the Director of Communications. Clark was the Director of Finance
3 and Human Resources. Local 1107 is a nonprofit Nevada corporation.⁵ Under Nevada
4 law, “‘Management person’ means a director, officer, manager, managing member,
5 general partner or trustee of an entity.” NRS 75.160(10)(c). For further insight, a director
6 is “[o]ne who, or that which directs; as one who directs or regulates, guides or orders; a
7 manager or superintendent, or a chief administrative official.” Black’s Law Dictionary
8 460 (6th ed. 1990).

9 As “directors,” both Plaintiffs had obvious policy and managerial roles. The
10 LMRDA preempts state law causes of action for wrongful termination and related tort
11 claims when asserted against a union by a former managerial or policy-making employee.
12 *See Screen Extras Guild, Inc. v. Super. Ct.*, 51 Cal.3d 1017, 275 Cal.Rptr. 395, 800 P.2d
13 873 (Cal.1990). The Plaintiffs policy and managerial roles are confirmed by their job
14 descriptions. Gentry’s job description states that she served “as a key advisor to Local
15 1107 leadership in a variety of internal and external communications, develops short-
16 term and long-term campaign strategies and plans for increasing the size, strength,
17 activism and savvy of our union membership.” She was responsible for the
18 “[d]evelopment and implementation of Local 1107 internal and external strategic
19 communications plans, including the areas of press, graphic design, mail and digital
20 communications.” Clark’s job description states that he was responsible for “responsible
21 for the financial health of the Local and is directly responsible for financial management,
22 general office administration, personnel systems, technology, legal compliance, and
23 reporting.” The Plaintiffs were key players to former President Mancini’s administration.
24 Plaintiffs had no expectation of employment, even under the alleged for cause
25 termination employment contracts, because the LMRDA expressly allows for the

26
27 ⁵ This is a matter of public record with the Nevada Secretary of State.

1 removal of union officers and their managerial and policy making staff members.
2 Summary judgment in favor of the Local 1107 Defendants is required.

3 5. The Trustees had for cause reasons to remove the Plaintiffs.

4 The Trustees were tasked with carrying out the Trusteeship Order.⁶ That Order
5 makes clear that the governance of Local 1107 had significant issues with
6 communications (which was a Gentry responsibility) and finance and human resources
7 (which were Clark responsibilities). Why would the Trustees keep in place the directors
8 of departments that were part of problem? Keeping such directors in place would have
9 perpetuated the existing problems within Local 1107, thereby thwarting the policies and
10 objectives of the Trustees in returning the union to a functioning democratic organization.
11 This reason alone is sufficient for cause termination.

12 Although, Gentry and Clark were not the subject of the Trusteeship Order, their
13 duties and inability to assist Sherie Mancini with the effective governance of Local 1107
14 were clearly implicated. In meeting their responsibility of returning Local 1107 to
15 effective governance, the Trustees had little choice but to remove two of the people who
16 contributed to management's failure. Plaintiffs' motion fails and Local 1107's motion
17 must be granted, both factually and as a matter of law.

18 In addition, it is apparent that Gentry was violating the Cell Phone Agreement by
19 using the phone for personal use.

20 6. Plaintiffs cannot prove elements of tortious discharge and bad faith claims.

21 Plaintiffs' summary judgment lacks any elements or facts regarding the Third
22 through Fifteenth Causes of Action. The Court cannot enter summary judgment where
23 neither facts nor claim elements are presented by a moving party. See NRCP 56(c), "An
24 order granting summary judgment shall set forth the undisputed material facts and legal
25 determinations on which the court granted summary judgment." See *Wood v. Safeway*,

26
27 ⁶ The Local 1107 Defendants do not dispute that the Trusteeship Order is what it purports to be.

1 substantive law controls. As such, denial of Plaintiffs' summary judgment motion as to
2 those causes of action is proper.

3 However, the Court may enter summary judgment in favor of the Local 1107
4 Defendants on all causes of action. As shown above, each of the claims are defeated by
5 the express provisions of the International's Constitution and LMRDA preemption.

6 In addition, Plaintiffs' cited facts, when considered in light of Nevada case law,
7 show that no tortious breach or bad faith discharge occurred. Bad faith discharge requires
8 a contract and special relationship between the employer and employee. *D'Angelo v.*
9 *Gardner*, 819 P.2d 206, 211, 107 Nev. 704, 712 (1991). The *D'Angelo* court noted that *K*
10 *Mart Corp. v. Ponsock*, 103 Nev. 39, 51, 732 P.2d 1364, 1372 (1987) is "the exemplar
11 for that **narrow class of cases** in which" bad faith discharge may apply. "In *K Mart* we
12 made it clear that 'mere breach of an employment contract' does not of itself 'give rise
13 to tort damages' and that the kind of breach of duty that brings into play the bad faith tort
14 arises only when there are 'special relationships between the tort-victim and the tort-
15 feisor....'" *D'Angelo* at 215, 717. The *K Mart* facts included ten years of employment
16 combined with fraudulent misrepresentation of employment "until retirement." *Id.* The
17 *D'Angelo* court considered the *K Mart* standard and noted that the plaintiff had been
18 employed less than two years and there was no "deception and perfidy which was the
19 essence of the bad faith tort in *K Mart*." *Id.* 215, 718.

20 Gentry and Clark are like the plaintiff in *D'Angelo*, both worked less than two
21 years and neither was promised anything by the Local 1107 Defendants (or the
22 International for that matter). Neither Gentry or Clark even identify a fraudulent promise
23 upon which they claim to have relied. Nevertheless, reality compels the conclusion that
24 no promise occurred because none of the Defendants hired Gentry or Clark. They,
25 therefore, could not have made any employment promise knowing that they did not intend
26 to keep the promise—a necessary element of fraud. Summary judgment against Clark
27 and Gentry on the tortious contract breach claims is proper.

1 Tortious discharge is a public policy tort not applicable to this Case.

2 An employer commits a tortious discharge by terminating an employee for
3 reasons which violate public policy. 'Although this kind of public policy
4 tort cannot ordinarily be committed absent the employer-employee
5 relationship, the tort, the wrong itself, is not dependent upon or directly
6 related to a contract of continued employment such as that existing in the
7 present case.' *K Mart Corp. v. Ponsock*, 103 Nev. 39, 46, 732 P.2d 1364,
8 1369 (1987). Discharging an employee for seeking industrial insurance
benefits, for performing jury duty or for refusing to violate the law are
examples of tortious discharge. See, e.g., NRS 6.190; *Hansen v. Harrah's*,
100 Nev. 60, 675 P.2d 394 (1984).

9 *D'Angelo v. Gardner*, at 212, 712.

10 Gentry and Clark assert that they were terminated because the Trustees desired to
11 "fill management and other positions at the Local with individuals they are confident can
12 and will carry out the Local's new program and policies" associated with the trusteeship.
13 This fact proves that the employment terminations were not done because Plaintiffs
14 sought to properly exercise a legal right, such as industrial insurance. Rather, the
15 terminations occurred because of the Trustees' duties under the Trusteeship Order, which
16 is presumed valid by the LMRDA. Summary judgment for the Local 1107 Defendants
17 is proper.

18 While all of the foregoing apply to defeat the civil conspiracy claim (Seventh
19 Cause of Action), one fact trumpets its failure: the Trustees were operating pursuant to
20 the Trusteeship Order, which is presumed valid pursuant to the LMRDA. As such, the
21 Trustees' actions in terminating Local 1107's failed management employees was not
22 done for an unlawful objective, which is a necessary civil conspiracy element. *See*
23 *Consolidated Generator-Nevada, Inc. v. Cummins Engine Co., Inc.*, 971 P.2d 1251, 1256,
24 114 Nev. 1304, 1311 (1998). Indeed, even Plaintiffs assert that their termination was
25 done so as not to cause problems with the Trusteeship; "Manteca directed [those]
26 charged with maintaining the trusteeship to watch the [Local 1107] staff closely in order
27 to find an excuse to terminate any staff members connected to Cherie Mancini or

1 otherwise causing problems for him as Deputy Trustee.” Mot. for Summary J. at 11:14-
2 18. In other words, Trustee Manteca was following the law and removing those
3 individuals who may impede Local 1107 from becoming a functioning and
4 democratically governed union.

5 7. The Defendants are entitled to discovery at the very least.

6 Defendants are entitled to conduct discovery. NRCP 56(f) allows the Court to
7 deny or continue a summary judgment motion so that discovery may be conducted.
8 Defendants have already served discovery upon Plaintiffs, responses to which are
9 overdue. Plaintiffs are refusing to respond to Local 1107 Defendants’ discovery requests.
10 As explained in the Declaration of Evan L. James, discovery is focusing on Plaintiffs’
11 representation when getting their employment positions, the propriety of their conduct
12 during their employment tenure, and their relationship to former President Mancini. “The
13 ‘after acquired-evidence rule’ provides that an employee may not be reinstated or receive
14 front-pay for his severe wrongdoings after termination if that wrongdoing would have
15 led to his termination on legitimate grounds had the employer known about it.” *Sadeh v.*
16 *Venetian Casino Resort, LLC*, 2012 WL 3065442, at *4 (D. Nev., 2012). The Ninth
17 Circuit Court of Appeals has stated, “By granting the protective order [preventing
18 discovery of potential after acquired evidence], the district court improperly denied
19 defendant access to relevant information and thwarted the settlement purpose of
20 discovery.” *Rivera v. NIBCO, Inc.*, 384 F.3d 822, 827 (9th Cir. 2004). At a minimum,
21 the Local 1107 Defendants are entitled to conduct discovery.

22 CONCLUSION

23 The Plaintiffs’ employment was subject to the International’s Constitution and the
24 LMRDA, both of which allowed for employment termination without regard to cause.
25 The Plaintiffs’ scope of managerial responsibilities was identified as a percipient part of
26 the need for a trustee over Local 1107, and Plaintiffs violated existing agreements with
27 Local 1107. Plaintiffs have not, nor can they, show that any of the tort liability claims

1 satisfy Nevada legal requirements. At a minimum, discovery must be provided to the
2 Defendants so as to establish facts associated with their defenses.

3 Dated this 15th day of October, 2018.

4 CHRISTENSEN JAMES & MARTIN

5 By: /s/ Evan L. James

6 Evan L. James, Esq.

7 Nevada Bar No. 7760

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12 *Attorneys for Local 1107, Luisa Blue and*
13 *Martin Manteca, Local Counsel for SEIU*
14 *International*
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CERTIFICATE OF SERVICE

I am an employee of Christensen James & Martin and caused a true and correct copy of the foregoing document to be served in the following manner on the date it was filed with the Court:

✓ ELECTRONIC SERVICE: Pursuant to Rule 8.05 of the Rules of Practice for the Eighth Judicial District Court of the State of Nevada, the document was electronically served on all parties registered in the case through the E-Filing System.

Michael Macavoyamaya: mmcavoyamayalaw@gmail.com

Jonathan Cohen: jcohen@rsglabor.com

— UNITED STATES MAIL: By depositing a true and correct copy of the above-referenced document into the United States Mail with prepaid first-class postage, addressed as follows:

— FACSIMILE: By sending the above-referenced document via facsimile as follows:

— EMAIL: By sending the above-referenced document to the following:

CHRISTENSEN JAMES & MARTIN

By: /s/ Natalie Saville
Natalie Saville

1 **DECL**

2 **CHRISTENSEN JAMES & MARTIN**

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9 **Attorneys for Local 1107, Luisa Blue and Martin Manteca**

10 **Local Counsel for SEIU International**

11 **EIGHTH JUDICIAL DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 **DANA GENTRY, an individual; and**

14 **ROBERT CLARKE, an individual,**

15 **Plaintiffs,**

16 **vs.**

17 **CASE NO.: A-17-764942-C**

18 **DEPT. No. XXVI**

19 **SERVICE EMPLOYEES**

20 **INTERNATIONAL UNION, a nonprofit**

21 **cooperative corporation; LUISA BLUE, in**

22 **her official capacity as Trustee of Local**

23 **1107; MARTIN MANTECA, in his**

24 **official capacity as Deputy Trustee of**

25 **Local 1107; MARY K. HENRY, in her**

26 **official capacity as Union President;**

27 **SHARON KISLING, individually;**

CLARK COUNTY PUBLIC

EMPLOYEES ASSOCIATION UNION

aka SEIU 1107, a non-profit cooperative

corporation; DOBS 1-20; and ROE

CORPORATIONS 1-20, inclusive,

Defendants.

**DECLARATION OF BRIAN
SHEPHERD**

1 **I, Brian Shepherd, hereby declare as follows:**

2 **1. I am over the age of eighteen years, under no undue influence, and have personal**

3 **knowledge of the matters set forth herein.**

4 **2. I am presently serving as the ^{SS}Deputy Trustee of the NEVADA SERVICE**

5 **EMPLOYEES UNION ("Local 1107").**

6 **3. As Deputy Trustee, I am responsible for the day-to-day operation of Local 1107,**

7 **including oversight of its records.**


1 4. I instructed staff to review Local 1107 files to find job descriptions for Ms. Dana
2 Gentry and Mr. Robert Clark's positions while employed at Local 1107. True and
3 correct copies of the documents found are contained in Exhibits A and B.

4 5. As Deputy Trustee, I am familiar with the Constitution of the Service Employees
5 International Union. A true and correct copy of that Constitution is contained in Exhibit
6 C.

7 6. Exhibit D attached hereto contains a Cell Phone Agreement from Local 1107's
8 files purportedly signed by Dana Gentry.

9 I declare under penalty of perjury that the foregoing is true and correct.

10 Executed on October 12, 2018.

11 
12 Brian Shepherd
13 SHEPHERD
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EXHIBIT

A

Gentry Job Description

POSITION DESCRIPTION

The Director of Finance and Human Resources is responsible for the financial health of the Local and is directly responsible for financial management, general office administration, personnel systems, technology, legal compliance, and reporting.

This is a full-time position that offers a competitive salary and benefits package. The Director of Finance and Human Resources is a senior level position and reports directly to the president of the Local.

ESSENTIAL FUNCTIONS

Financial Management

- Maintain accurate records in Quickbooks, prepare monthly financial statements, monitor and improve systems for accounts payable and receivable, review invoices, prepare checks for payments;
- Process payroll through ADP, assure benefits are properly distributed and recorded;
- Maintain all vendor and financial files for the Local;
- Analyze and advise on revenue and expense trends and cash flow projections;
- Lead in annual budget planning and prepare month and year-to-date reports for the Finance Committee and Executive Board
- Establish, improve, and monitor internal controls;
- Review and analyze bank accounts and credit card statements, ensure proper documentation for all activity, reconcile monthly;
- Prepare deposits for the bank, establish and maintain bank relationships, assess the value of account structure to limit liability;
- Maintain PAC and COPE accounts for political funds of the Local, transfer political dues funds to International, ensure COPE funds are returned to the Local once quota has been met;
- Calculate and prepare Per Capita reports and payments to International and other relevant entities;
- Oversee period-end accounting procedures;
- Troubleshoot complex bookkeeping issues and technical problems in accounting software and data;
- Develop custom financial reports and other analysis tools;
- Prepare for and schedule the annual audit, coordinate with the auditor, assist in filing LM-2, DOL and other local and federal government reporting requirements.
- Perform periodic audits for Pension and Health and Welfare funds as directed by International;
- Manage cash and maintain all P&L and Balance Sheet accounts;
- Reconcile affiliate member dues to ensure proper income from employers;
- Oversee all tax and reporting obligations
- All other financial and accounting procedures and related matters.

Human Resources

- Serve as the primary Human Resource Manager for the Local;
- Maintain staff personnel records, including the tracking of employee time and attendance, maintain current and accurate records for employee benefits relating to the International Pension and Health and Welfare Funds;
- Assure adequate systems for certain personnel administration, such as legal reporting, time-tracking, specifically PTO, Lost Time, pensions and health benefits;
- All other matters pertaining to personnel administration.

Political Reporting

- Otherwise build, implement, and improve systems for complying with state and federal laws regarding campaign finance and lobbyists' activities.

Office Administration

- Maintain leases, contracts, equipment and office space for the organization.

REQUIRED KNOWLEDGE AND EXPERIENCE

- 5+ years progressive experience in bookkeeping or accounting (preferably in the labor movement);
- Competence with accounting software, specifically Quickbooks and familiarity with ADP
- Bachelors in Accounting and/or Certified Public Accountant (CPA)
- Excellent computer skills in Windows operating systems and in a broad range of office and communications applications. This should include a basic understanding of databases and an advanced facility with spreadsheets,
- Familiarity or experience with state and federal campaign-finance disclosure;
- A demonstrated ability to prioritize work and achieve success with minimal supervision;
- Excellent communication skills,
- Work with labor movement and all financials aspects of labor related accounting practices

Salary and Benefits

Salary depending on experience. Excellent full benefits package provided.

TO APPLY

Send cover letter and resume to Jenny Valdecantos at jvaldecantos@seiunv.org. No phone calls please.

Subject line: "Director of Finance and Human Resources"

EXHIBIT

B

Clark Job Description

SEIU Nevada Local 1107 Job Description

Position: Communications Director

Key Duties and Responsibilities:

The Communications Director serves as a key advisor to Local 1107 leadership in a variety of internal and external communications, develops short-term and long-term campaign strategies and plans for increasing the size, strength, activism and savvy of our union membership.

The Communications Director is responsible for:

- Development and implementation of Local 1107 internal and external strategic communications plans, including the areas of press, graphic design, mail and digital communications.
- Production of newsletters, website, social media content, press releases, public remarks and speeches, fliers, brochures, op-eds, talking points, letters to the editor and other materials. Also responsible for training and preparing members and leadership for press events and/or other public statements.
- Development of proactive earned media and digital campaigns that reinforce, protect and expand awareness of the union's branding and mission.

An ideal applicant will possess these qualifications:

- **Strategic Vision:** A successful record of implementing innovative internal and external communications strategies and initiatives that have contributed to significant advancement of an organization's purpose and goals.
- **Creativity:** A record of effectiveness utilizing novel and creative approaches that engage members, allies, and adversaries. Solid grasp of how to use emerging technology to connect across a wide demographic spectrum.
- **Organizing/Results Orientated:** Has shown results in building power and accomplishing goals through messaging, branding and related communications efforts aligned with the needs and aspirations of constituents and strategic allies.
- **Effective Communicator:** Strong interpersonal skills, evidenced in group and individual settings. A significant team contributor with political savvy. Exceptional writing and editing skills.
- **Self-awareness:** A mature sense of one's strengths; a willingness to accept feedback non-defensively and operate flexibly in a complex and sometimes ambiguous work environment.
- **Values Match:** Demonstrated commitment to principles of organizational equity and inclusion. A core belief in the importance of empowering people through active engagement and collective action at work and in the community. Comfortable with taking direction from elected member leaders.

Additional Knowledge/Experience:

- 3-7 years of experience in political campaigns and/or progressive advocacy communications, branding and media relations.
- Proven record of success directing rapid response and crisis communications efforts.
- Extensive on the record media experience.
- Familiarity with social media strategy and digital best practices.
- Project management experience, the ability to handle multiple projects simultaneously, and meet established deadlines.
- Experience in designing and implementing strategic communications plans for organizing and political campaigns, as well as collective bargaining.
- Excellent writing, editing and interpersonal communication skills.
- Familiarity with local and national media.
- Proficiency with both PC and Mac-based word-processing tools, web site software such as WordPress

and graphic design experience is a plus.

Education:

Minimum of a Bachelor's Degree from an accredited four-year college or university and a record of lifelong learning including recent professional development work. Relevant experience will be considered in lieu of education.

Degree in media, communications, marketing, writing, or related area a plus.

All interested applicants should send a resume, cover letter, and 2 writing samples to Chris Mueller at cmueller@seiunv.org. Subject line the e-mail "Communications Director Application." No phone calls please.

Salary commensurate with experience.

EXHIBIT

C

International's Constitution



SEIU 2016 CONSTITUTION AND BYLAWS

AS ADOPTED at the SEIU 2016 Convention



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CONSTITUTION AND BYLAWS

PREAMBLE

As almost every improvement in the condition of working people has been accomplished by the efforts of organized labor and as the welfare of wage, salary, and professional workers can best be protected and advanced by their united action in one International Union, we have organized the Service Employees International Union and have adopted the following Constitution:

SEIU MISSION STATEMENT

We are the Service Employees International Union, an organization of more than 2.1 million members united by the belief in the dignity and worth of workers and the services they provide and dedicated to improving the lives of workers and their families and creating a more just and humane society.

We are public workers, health care workers, building service workers, office workers, professional workers, and industrial and allied workers.

We seek a stronger union to build power for ourselves and to protect the people we serve.

As a leading advocacy organization for working people, it is our responsibility to pursue justice for all. We believe in and will fight for a just society where all workers are valued and people respected, where all families and communities thrive, and where we leave a better and more equal world for generations to come.

People of every race, ethnicity, religion, age, physical ability, gender, gender expression, and sexual orientation, we are the standard-bearers in the struggle for social and economic justice begun nearly a century ago by janitors who dared to dream beyond their daily hardships and to organize for economic security, dignity, and respect.

Our vision is of a union and a society:

Where all workers and their families live and work in dignity.

Where work is fulfilling and fairly rewarded.

Where workers have a meaningful voice in decisions that affect them and have the opportunity to develop their talents and skills.

Where the collective voice and power of workers is realized in democratic, equitable and progressive unions.

Where union solidarity stands firm against the forces of discrimination and hate, against structural racism, and against the unfair employment practices of exploitative employers.

Where working people can live in safe and healthy communities.

Where government plays an active role in improving the lives of working people.

To achieve this vision:

We must organize unorganized service workers, extending to them the gains of unionism, while securing control over our industries and labor markets.

We must build political power to ensure that workers' voices are heard at every level of government to create economic opportunity and foster social justice.

We must provide meaningful paths for member involvement and participation in strong, democratic unions.

We must develop highly trained, motivated and inclusive leaders at every level of the union who reflect the diversity of the membership and the communities where we organize.

We must bargain contracts that improve wages and working conditions, expand the role of workers in workplace decision-making, build a stronger union, and build stronger and healthier communities.

We must build coalitions and act in solidarity with other organizations who share our concern for social, environmental, racial, and economic justice.

We must engage in direct action that demonstrates our power and our determination to win.

We must hold corporations and capital accountable for the common good.

We must commit to dismantling structural racism which holds us back from achieving the unity and strength we need.

We must pave the way for immigrant justice.

We must always be open to change that enables us to adapt and be more effective in an ever changing world.

To accomplish these goals we must be unified—inspired by a set of beliefs and principles that transcends our social and occupational diversity and guides our work.

We believe we can accomplish little as separate individuals, but that together we have the power to create a just society.

We believe unions are the means by which working people build power—by which ordinary people accomplish extraordinary things.

We believe our strength comes from our unity, and that we must not be divided by forces of discrimination based on gender, race, ethnicity, religion, age, physical ability, sexual orientation, or immigration status.

We believe our power and effectiveness depend upon the active participation and commitment of our members, the development of inclusive SEIU leaders, and solidarity with each other and our allies.

We believe we have a special mission to bring economic and social justice to those most exploited in our community—especially to women

and workers of color—and to dismantle structural racism against Black Americans.

We believe our future cannot be separated from that of workers in other parts of the world who struggle for economic justice, a decent life for their families, peace, dignity and democracy.

We believe unions are necessary for a democratic society to prevail, and that unions must participate in the political life of our society.

We believe we have a moral responsibility to leave the world a more just, healthy and safe place for our children—and everyone’s children.

Article I
NAME

This organization shall be known as the Service Employees International Union, affiliated with Change to Win and the Canadian Labour Congress, and shall consist of an unlimited number of Local Unions chartered by it, and the membership thereof, and such affiliated bodies as may be established from time to time. In order to add the strength of this great union to the efforts of its members at every level of the Union, the name of every Local Union and affiliated body shall begin with “SEIU.”

Name and organization

Article II
OBJECTS AND PURPOSES

The objects and purposes of this International Union shall be to benefit its members and improve their conditions by every means, including but not limited to:

Goals of the union

A. By securing economic advantages, including better wages, hours and working conditions, through organization, collective bargaining, legislative and political action, and the utilization of other lawful means;

Economic advantages

B. By organizing and uniting in this International Union all working men and women eligible for membership herein;

Organizing

C. By engaging in all such civic, social, political, legal, economic, cultural, educational, charitable, and other activities, whether on local, national, or international levels, as will advance this International Union’s standing in the community and in the labor movement and further the interests of this organization and its membership, directly or indirectly;

Wide range of activities

D. By advancing and strengthening the rights of working men and women to bargain collectively, and introducing innovative ways to carry out this work;

Collective bargaining

E. By providing benefits and advantages to individual union members, officers, and employees through education, training, access to new technology, member resource centers, a 21st century communications system, pensions, and death and welfare benefits;

Benefits

*Cooperation
among Local
Unions*

F. By helping Local Unions to share experiences, pool resources, learn from each other's best practices, and be accountable to each other;

*Cooperation
with other
organizations*

G. By cooperating with and assisting, by moral, monetary or other means, other labor organizations, whether or not affiliated with this International Union, or any other groups or organizations, having objectives which are in any way related or similar to those of this International Union, or which are of a nature beneficial to this International Union or to its members, directly or indirectly;

*Safeguarding
the union*

H. By strengthening and safeguarding this International Union by every lawful means so that it may carry out its purposes, objects and obligations;

Financial goals

I. By utilizing, in every lawful way, including but not limited to every kind of use, expenditure and investment, the property and funds of this International Union, in order to achieve its purposes and objects and perform its obligations, and for such other purposes directly or indirectly furthering the interests of this International Union and its members;

Affiliations

J. By affiliating workers in independent organizations through agreements which recognize the long history, unique needs and traditions, and successes of such organizations, and making every effort possible to provide such organizations the same types of services which have benefited our existing members;

*Empowering
members*

K. By empowering SEIU members to lead and participate in all aspects of the Union's program to secure a better future for all, including organizing, bargaining, political work, direct action, and community partnerships.

*New forms of
organization*

L. By creating new forms of worker organization to build collective economic and political power for working people; and

*Movement
for justice*

M. By building a wider movement for justice.

Article III JURISDICTION AND MEMBERSHIP

Jurisdiction

Section 1. The International Union shall be composed of and have jurisdiction over its affiliated bodies and all Local Unions composed of working men and women who are employed or engaged in any phase of private, nonprofit or public employment, including without limitation employees of colleges, schools or universities, public employers (including cities, counties, states, provinces, territories, commonwealths, governmental districts, federal agencies, and multiple agencies or authorities and any subdivisions thereof), institutions or agencies, hospitals, nursing homes or other health facilities, and private and public utilities, department stores, industrial plants, law enforcement agencies, insurance companies and all employees thereof, including clericals, technicians, professionals, paraprofessionals and paramedicals, or those who are engaged in maintenance, sales, servicing, protection or operation of all types of institutions, buildings or structures, commercial,

mercantile or other establishments, edifices and grounds, and their environs, whether private, public or nonprofit, and all categories of employees therein and thereabout, including places of assembly, amusement, recreation, entertainment, and the presentation of sporting events.

The International President is empowered to construe the jurisdiction above defined to embrace all classifications of workers within any establishment anywhere in the world.

*Power to
construe
jurisdiction*

Section 2(a). The International Union shall have jurisdiction over the Local Unions and their members and over all affiliated bodies.

*Authority of
international
union*

(b). The term “affiliated bodies” shall include State and Provincial Councils, Joint Councils, Service Councils, area, regional, or industry Conferences and Divisions, organizing committees, and provisional locals, and such other bodies on the local, national or international level as the International Union shall from time to time establish, but shall not include Local Unions. The term “Local Union” shall not include any other affiliated body.

*“Affiliated
bodies” defined*

Section 3(a). Any person employed in any employment over which this International Union claims or exercises jurisdiction shall be eligible to be considered for membership in the International Union, a Local Union, organizing committee, provisional local, or other authorized body of this organization. A Local Union may adopt additional membership requirements in the Local Union’s Constitution and Bylaws. Jurisdiction may also be construed as including service within a Local Union or affiliated body of the International Union but each Local Union shall have the option to determine whether a person with such service may be eligible for membership in the Local Union. The International Executive Board may set eligibility requirements and other criteria (including rates of dues) for associate members, retired members (who do not have a Local Union retired member program), and other special categories of membership in the International or in affiliated bodies established in accordance with this Constitution.

*Eligibility for
membership*

(b). Self-employed individuals doing work within the jurisdiction of this International Union may be eligible for membership in Local Unions, subject to any additional requirements provided for in a Local Union’s Constitution and Bylaws. The International President shall have the right to make all necessary rules and regulations respecting self-employed workers, under the jurisdiction of this International Union.

*Self-employed
members*

(c). With the approval of the International Union, Local Unions may establish different categories of membership and rates of dues for persons represented and not represented by the Local Union for collective bargaining purposes including, but not limited to, life members, retired members, and associate members.

*Membership
categories
authorized*

(d). Any dispute respecting membership or eligibility for membership shall be decided by the International President, with the Local Union or the applicant having a right to appeal his or her decision to the

*Membership
disputes*

International Executive Board, in writing, within 10 days after notice of said decision is received.

*Discrimination
forbidden*

Section 4. No member shall discriminate or advocate discrimination against any other member on the basis of race, creed, color, religion, sex, gender expression, sexual orientation, national origin, citizenship status, marital status, ancestry, age, or disability.

Article IV

CONVENTION—REPRESENTATION THEREIN

*International
conventions*

Section 1. The Convention of this International Union shall meet every four years and shall convene at such time and place as the International Executive Board may determine upon the recommendation of the International President.

*Special
conventions*

Section 2. Special Conventions may be called upon order of the International Executive Board to convene at such time and place as the Board may determine, and any and all business, including appeals from suspensions and decisions of the International Executive Board, may come before such Special Convention unless specifically limited by the call. Notice of such call shall be given to each Local Union at least 60 days prior to the date of the Special Convention along with the number of delegates to which said Local Union is entitled. All other provisions of this Article shall control all Special Conventions.

*Eligibility of
delegates*

Section 3. The International Convention shall consist of duly elected delegates from their Local Unions, and none but delegates duly elected in accordance with all applicable statutes and the provisions of this Constitution and Bylaws shall be eligible to represent any Local Union at the International Convention or be entitled to vote except that all full-time International Officers shall by virtue of their office be delegates with a voice but no vote to any Convention which is held during their term of office. All officers of a Local Union elected in conformity with all applicable statutes shall by virtue of such election be considered to be eligible delegates to any International Convention which may take place during their term of office. If at the time of the receipt of the Convention Call it shall appear that such number of elected officers is less than the number of delegates to which the Local Union will be entitled at an International Convention, then arrangements may be made at the option of the Local Executive Board for nomination and secret ballot election, if required, of an additional number of eligible members as Convention delegates. Nominees for such position, if unopposed, shall be deemed elected without necessity for further procedures. The Local Union must designate in its Constitution and Bylaws the order in which the officers would be designated as delegates and alternates if less than all the officers are entitled to go to the Convention as delegates, provided that the chief executive officer of the Local Union shall, if otherwise eligible, be deemed entitled even in the event the Local Union fails to so designate. Any Local Union may by provision in its Local Constitution and Bylaws dispense with the foregoing provision that officers of the

*Additional
delegates*

Local Union be ex officio delegates to the International Convention and may provide for nomination and, if required, secret ballot election of such delegates. Further, subject to applicable statutes, the International Executive Board may establish representation rules for delegates from groups of associate members or other special categories of membership or locals, which shall be set forth in the notice of Convention Call for the International or Special Convention. In no event shall the basis of representation for such groups be greater in numbers than the formula set forth in Section 4 below. Any voting rights extended to such delegates must comply with applicable law.

Section 4. The basis of representation shall be one delegate for 500 members or less, and one additional delegate for every additional 500 members or major fraction thereof up to 5,000 members, and then one additional delegate for every additional 1,000 members or major fraction thereof. A determination to be represented by less than a full complement of delegates shall not affect the Local Union's eligible votes. The Executive Board of a Local Union shall determine the number of delegates which shall represent it at the Convention. For the purpose of voting, the computation of membership for a Local Union shall not include life members, retired members paying less than the full dues required for working members of their Local Union, associate members, or agency fee payers.

*Convention
representation
and voting
rights*

Exclusions

Section 5. In addition to the representation in Section 4, each Local Union with a retired members group of more than 500 members shall be entitled to one retired member delegate who shall serve with a voice and a vote at the Convention. Only retired members who have been members in good standing for 60 days prior to the Convention as either members, retired members, or life members of the Local Union shall serve as a retired member delegate. The retired member delegate shall be selected by the procedures provided for in the Local Union's Constitution and Bylaws for selecting such a retired member delegate or by the Local Union's Executive Board where no procedures are provided for in the Local Union's Constitution and Bylaws. The retired member delegate shall not be permitted to vote on dues or to nominate or vote for officers at the Convention.

*Retired
member
delegates*

Section 6. No delegate shall be permitted to represent more than one Local Union.

*No dual
representation*

Section 7(a). No Local Union that has not been chartered, affiliated, and in good standing for at least one month prior to the opening of the Convention shall be entitled to representation in the Convention, and each Local Union to be entitled to said representation must have paid into the International treasury at least one month's per capita tax prior to the opening of the Convention.

*One-month
requirement*

(b). For a Local Union to be entitled to representation at the Convention, all moneys (i) due the International Union, whether by per capita tax or otherwise, (ii) due to any affiliated bodies, whether by per

*Good standing
requirement*

capita tax or otherwise, as determined or waived by the International Executive Board and (iii) all moneys due for any pension or welfare funds provided for in this Constitution, must be paid at least 15 days prior to the opening of the Convention.

*Convention
call*

Section 8. The International Secretary-Treasurer shall issue a Call for the Convention and notify each Local Union at least 100 days prior to the date of the Convention of the number of delegates to which said Local Union is entitled, and shall furnish to the Local Union a certification of delegation form containing the names of registered delegates to the Local Union and spaces for the signatures of the President and Secretary of the Local Union.

Credentials

*Forwarding of
credentials*

Section 9. The certification of delegation form containing the names of delegates to the International Convention and bearing the signatures of the President and Secretary of the Local Union must be in the hands of the International Secretary-Treasurer at least 30 days prior to the opening of the Convention. A delegate who is eligible to attend the Convention shall not be disqualified because of the failure of a Local Union officer to forward the delegate's name on a certification of delegation form.

*Alternate
delegates*

Section 10. In addition to the delegates selected in the manner provided in Section 3 of this Article, a Local Union may provide for selection of such number of alternates as it may determine are reasonably required to serve if regularly elected delegates are unable to do so; such alternates shall be selected or elected in the manner provided in Section 3 of this Article. Each delegate or alternate must be a member of the Local Union employed in the jurisdiction of the Local Union. This requirement, however, shall not be construed to bar any member who is an officer or employee of the Local Union or of the International Union, or any affiliate thereof, or who is elected to public office or to a position with an organization with which this International Union is affiliated.

*Membership
requirement*

Exceptions

*Protests of
delegate
elections*

Section 11. Any member who wishes to protest the election of any delegate or the right of any Local Union officer to serve as a delegate pursuant to Article IV, Section 3, must file a written protest with the International Secretary-Treasurer within 15 days after such election or after the decision by a Local Union that no election is required pursuant to Article IV, Section 3. Any such protest shall be referred to the Credentials Committee, in care of the International Secretary-Treasurer. The Credentials Committee may waive the time limit for filing protests upon a showing that the protesting member did not know of the basis for his or her protest within sufficient time to file a timely protest and he or she filed a protest immediately upon discovery of the basis for his or her protest. The Credentials Committee shall consider all timely protests and shall include its decision on all protests in its report to the Convention. It may, in its discretion, hold a hearing on any protest upon reasonable notice to all affected parties.

*Computation
of voting
strength*

Section 12. The number of votes which each Local Union shall be entitled to vote in the Convention shall be determined by averaging the

12 most recent regular monthly per capita tax payments for members which are received by the International Union on or before December 31 of the year immediately preceding the calendar year in which the Convention is held. In the case of a newly chartered local without a twelve month payment period before December 31, the number of votes shall be determined by averaging regular monthly per capita tax payments for members received by the International Union, up to a maximum of twelve months. The computation of voting strength shall not include associate members, life members, or agency fee payers. Where there are two or more delegates in attendance from one Local Union, the vote shall be divided equally between them. In the case of a newly chartered Local Union created as a result of a reorganization of members under Article XIV, the International Executive Board shall determine the computation of voting strength for the affected Local Unions in order that the members are included in the voting strength of only one Local Union.

Section 13. The International President shall, before each Convention, appoint from the delegates-elect a committee of at least seven to act as a committee on credentials. The International President and International Secretary-Treasurer shall be members of said committee. All credentials shall be referred to this committee. This committee shall submit its report in writing to the Convention.

*Committee on
credentials*

Section 14. All Resolutions to be acted upon by the Convention proposed by a Local Union must be submitted in writing to the International Secretary-Treasurer at least 30 days prior to the Convention and unless so submitted may not be considered by the Convention except on unanimous consent of the delegates present. Resolutions may be presented to the Convention by the International Executive Board at any time during the Convention without requiring unanimous consent.

*Convention
resolutions*

Section 15. Delegates representing one-fourth of the votes entitled to be cast at the Convention shall constitute a quorum for the transaction of business.

*Convention
quorum*

Section 16. The rules and order of business governing the preceding Convention shall be enforced from the opening of any Convention of this International Union until new rules have been adopted by action of the Convention.

Interim rules

Article V ELECTION OF OFFICERS

Section 1. All nominations for International Officers shall be made in open Convention and elections shall be by roll call where there is more than one candidate for any office. The roll call shall be conducted by voice and/or open written ballot, as set forth in the Rules of the Convention. Officers shall be elected by plurality vote.

*Nomination
and election
of officers*

Section 2. No candidate (including a prospective candidate) for any International office or office in a Local Union or affiliated body or

*No nonmember
support*

supporter of a candidate may solicit or accept financial support or any other direct or indirect support of any kind from any nonmember of the International Union.

Protests

Section 3. Any member wishing to protest the election of any International Officer pertaining to candidate eligibility or the manner in which the election was conducted must lodge a protest in conformity with the requirements of the Rules of the Convention.

Other election protests

Section 4. Any member wishing to submit an election protest pertaining to any issue other than those governed by Section 11 of Article IV or Section 3 of this Article must file such protest within 15 days after the Convention. All such protests shall be filed with the International President. The International President shall endeavor to have a hearing held within 30 days of the filing of the protest, if the International President deems a hearing to be necessary, and shall attempt to render his or her decision within 30 days thereafter. Within 15 days after the final action of the International President, a petition for review may be filed with the International Executive Board. In the alternative, the International President may forward an election protest directly to the International Executive Board for decision.

Article VI OFFICERS

International Union officers

Section 1. The officers of this International Union shall consist of an International President, an International Secretary-Treasurer, seven full-time Executive Vice Presidents, 25 Vice Presidents (at least two of whom shall be members of Canadian Local Unions), and 40 Executive Board Members (at least two of whom shall be members of Canadian Local Unions and one of whom shall be a Retired Member). The International President, the International Secretary-Treasurer, and the seven Executive Vice Presidents shall be elected at large by all delegates assembled at the International Convention. Two Canadian Vice Presidents and two Canadian Executive Board Members shall be elected on the following basis: a Vice President and Board Member shall be nominated and elected from all of the provinces other than the Province of Quebec. A Vice President and Board Member shall be nominated and elected from the Province of Quebec only, provided, however, that the Vice President from Quebec and the Executive Board Member from Quebec may not be members of the same Local Union. These Canadian Vice Presidents and Executive Board Members shall be elected by the Canadian Council at its Convention composed of delegates elected in accordance with this Constitution and applicable law and which shall be held within 90 days prior to the International Convention at which the International Union officers are elected. All other Vice Presidents and Executive Board Members (including the Retired Member) shall be nominated and elected at large.

Retired member

Canadian officers

IEB term of office

Section 2. These officers shall constitute the International Executive Board, and their term of office shall begin immediately following their

election and they shall hold office for four years or until their successors are duly elected and qualify.

(a). Each Vice President and Executive Board Member shall be responsible for such duties as assigned by the International President.

Duties

(b). The International President may appoint an Executive Committee from among the members of the International Executive Board. The Executive Committee shall meet at the call of the International President. The Executive Committee shall be charged with advising the International President on how best to carry out the administrative duties of his or her office, and with making recommendations to the International Executive Board on policies and programs for the International Union. The Executive Committee also may be delegated specific functions and powers of the International Executive Board under the Board's authority in Article XI, Section 6(b). Minutes of all meetings of the Executive Committee shall be kept by the International Secretary-Treasurer, who shall render reports to the International Executive Board.

Executive Committee

Section 3. Each regular Convention of this International Union shall also elect a Board of Auditors consisting of eight members. The Board of Auditors shall examine and review the books and accounts of the International Secretary-Treasurer at least once during each twelve-month period, utilizing the assistance of Certified Public Accountants designated by the International President. Such review of the books and accounts of the International Secretary-Treasurer shall include the books respecting all properties and facilities under the custodianship of the International Secretary-Treasurer. A copy of such annual reports of the Board of Auditors shall be submitted to the International Executive Board. The Board of Auditors shall also give a written report to the International Convention. In the event of the unavailability or temporary disability of an Auditor, the remaining Auditors shall perform the duties set forth herein. The Auditors shall receive such per diem compensation and expense allowance as may be fixed by the International Executive Board.

Board of Auditors

Section 4. No person shall be eligible for office in this International Union who has not been a member in continuous good standing for at least two years immediately preceding his or her election in the International Union or Local Unions chartered by this International Union or in any labor organization which becomes affiliated with this International Union. This requirement may be reduced by the International Executive Board to no less than 60 days if necessary to expand eligibility for office to members of organizations newly associated with the International Union pursuant to Article XI, Section 6. In the case of the Retired Member position on the International Executive Board, only retired members who have been members in good standing for two years prior to the Convention as either members, retired members or life members of the Local Union shall be eligible to serve. No person who has been convicted of a felony as defined in Section 504 of the Landrum-Griffin Act (or an indictable offense in Canada) shall, in accordance

Qualifications for officers

with the provisions of applicable law, be eligible to hold office in this International Union.

Exclusions

Section 5. Associate members, life members, or those retired members paying less than the full dues required for working members of their Local Union shall not be eligible for nomination as an International Officer, except that such retired members may be eligible for the Retired Member position on the International Executive Board.

*Multiple
compensation
barred*

Section 6. No full-time officer of the International Union may receive compensation of any kind, except for benefits paid by a pension plan, from any Local Union or from any entity owned or controlled by a Local Union. Notwithstanding the foregoing, the International President is authorized to approve a temporary transition plan (not to exceed six months) for other new full-time officers transitioning from a Local Union to the International Union, provided that any such individual does not receive compensation from the International Union and a Local Union for the same time period.

*Retired
members
advisory
committee*

Section 7. The International President shall appoint a Retired Members Advisory Committee which shall consist of leaders of Local Union retired members groups and retired International Executive Board Members. It shall be chaired by a retired member appointed by the International President.

*Emeritus
status*

Section 8. The future grant of emeritus status to an International Officer shall be limited to an individual who has been elected as International President at no fewer than three international conventions. Such status shall entitle the individual to be an honorary guest at the SEIU International Convention and he/she may be appointed by the International President as a delegate or alternate delegate on the SEIU delegation to a national or international federation convention. Additional assignments may be made by the International President, upon mutual agreement.

Article VII FILLING VACANCIES

*Filling officer
vacancies*

President

*Secretary-
Treasurer*

In the event of a vacancy in the office of International President by reason of death, resignation or otherwise, it shall be the duty of the International Secretary-Treasurer, in addition to his or her other duties, to assume the duties of International President. The International Secretary-Treasurer shall serve in this capacity for a period of not longer than 30 days during which time the International Executive Board shall be convened for the purpose of filling the vacancy for the unexpired term by majority vote. In the event of a vacancy in the office of International Secretary-Treasurer by reason of death, resignation or otherwise, it shall be the duty of the International President, in addition to his or her other duties, to assume the duties of International Secretary-Treasurer. The International President shall serve in this capacity for a period of not longer than 60 days during which time the International Executive Board shall be convened for the purpose of filling the vacancy for the

unexpired term by majority vote. In the event of a vacancy among the Vice Presidents, or on the Board of Auditors, by reason of death, resignation or otherwise, the International Executive Board shall, within 90 days after such vacancy has occurred, fill the vacancy for the unexpired term by majority vote. In the event of a vacancy among the Executive Vice Presidents or International Executive Board Members, by reason of death, resignation or otherwise, the International Executive Board may in its discretion fill such vacancy for the unexpired term by a majority vote. In the event of a concurrent vacancy in both the office of the International President and the office of the International Secretary-Treasurer by reason of death, resignation or otherwise, the International Executive Board shall be convened in Washington, D.C., within 10 days upon the joint call of at least four International Vice Presidents for the purpose of filling the unexpired terms by majority vote. In the case of a vacancy in the office of International President, International Secretary-Treasurer or Executive Vice President, the vote of an Officer on the International Executive Board (except for the full-time Officers and the Retired Member) shall be proportionate to the numerical strength of his/her local, as determined by the Local's payment of per capita tax to the International Union, excluding associate members, life members, retired members paying less than the full dues required for working members of their Local Union, and agency fee payers. If more than one officer is from the same Local Union, the voting strength shall be divided equally among those officers for this purpose.

*Vice President,
Auditor*

*Executive Vice
President,
Executive Board
Members*

*Concurrent
vacancies*

*Voting
strength*

Article VIII

INTERNATIONAL PRESIDENT— DUTIES AND POWERS

Section 1(a). It shall be the duty of the International President to preside at the Convention of the International Union and at meetings of the International Executive Board, and conduct them in accordance with parliamentary rules and in conformity with this Constitution. The International President shall appoint all committees and boards and be a member ex officio of all committees and boards.

*Presiding
officer*

*Appointment
of committees,
boards*

(b). The International President shall have the deciding vote in case of a tie on any question.

Deciding vote

(c). The International President shall act to the best of his or her ability in furthering the purposes and objects of the organization and the interests of its members.

*General
responsibility*

(d). The International President shall have general supervision and direction over the affairs of the International Union. The International President shall be authorized to call and make arrangements for such meetings, seminars, and conferences as he or she may deem necessary; and shall direct all departments, functions and programs of the International Union.

*General
authority*

(e). The International President shall have general supervision and direction of the organizing efforts of this International Union.

*Organizing
authority*

The International President shall have power to appoint organizers, representatives, coordinators and organizing committees and to make such loans or grant such subsidies to Local Unions and affiliated bodies as he or she deems necessary.

*Authority
for collective
bargaining*

*Coordinated
bargaining
process*

(f). Consistent with the programs and policies adopted by the SEIU Convention delegates, the International President shall be empowered to negotiate and enter into national, regional, or areawide collective bargaining agreements, including company wide or multi employer agreements, and to coordinate activities toward this end in consultation with the Local Unions involved, and is authorized to require and direct coordinated bargaining among Local Unions. An industry division of the International Union also may recommend to the International President situations in which coordinated bargaining is warranted or where a comprehensive union wide strategy of employer relations is needed for key strategic global, national or regional employers. Accordingly, the industry divisions shall develop a process to identify such circumstances and in each case, the proposed structure for carrying out the decision-making (including membership authorization for strike action and membership voting on contract ratification), and the financing of the bargaining process itself. The division's recommendation shall address whether there is a need for the delegation of bargaining authority to the International Union or to a national or regional bargaining committee, appointed by the International President. The affected locals shall pay for the expenses of their participation after their input into the elements of such financing.

*Authority to
employ staff*

*Authority to
set salaries*

*Salary
entitlement
phase out*

(g). The International President shall be empowered to employ necessary staff and retain counsel, accountants and other professional personnel as he or she may require to assist in the duties of the office and to fix their compensation. He or she shall be empowered to fix the compensation of the International Executive Vice Presidents. With respect to the office of International Vice President and International Executive Board member, the International Executive Board has phased out salary entitlements and is authorized to adopt an alternative compensation policy that recognizes any financial hardship on locals by this change in policy, as well as additional responsibilities that may be assigned to particular individuals.

*Authority on
questions of
law*

(h). The International President shall have authority to interpret this Constitution and Bylaws and decide on all points of law submitted to him or her by Local Unions or the membership thereof, or by affiliated bodies, subject to appeal to the International Executive Board, and the next Convention.

*Right to
petition
International
President*

*Right of
appeal*

Section 2. Any member or officer of a Local Union aggrieved by any action of his or her Local Union or affiliated body not covered by the provisions of Article XVII of this Constitution (including determinations of election protests) may petition the International President within 15 days after the act complained of, or may petition the International Executive Board, within 15 days after the action of the International

President thereon, to review the action of the Local Union or affiliated body. The President will endeavor to have a hearing held within 30 days of the petition or protest, if the President deems a hearing to be necessary, and shall attempt to render his or her decision within 30 days thereafter.

Section 3. The International President shall, by virtue of his or her office, represent the International Union at the conventions of labor organizations with which this International Union is affiliated and shall appoint all other delegates to such conventions.

*Representing
international
union at
conventions*

Section 4. The International President shall sign all charters and other official documents of this International Union; shall have the authority to direct an examination of the books and records of any Local Union or affiliated body; and shall draw vouchers on the International Secretary-Treasurer for such sums of money as his or her activities require, and the same shall be paid by the International Secretary-Treasurer.

*Charters,
audits, and
vouchers*

Section 5. The International President shall have power to appoint upon recommendation of the International Secretary-Treasurer such office assistants as may from time to time be required.

*Appointment
of assistants*

Section 6. All vouchers of the International Union shall be submitted to the International President for approval. The International President may at any time appoint a member of the Board of Auditors or such other representative or accountant as he or she may designate to examine into any matter affecting the finances of the International Union.

*Monitoring
finances*

*Investigation of
finances*

Section 7(a). Whenever the International President has reason to believe that, in order to protect the interests of the membership, it is necessary to appoint a Trustee for the purpose of correcting corruption or financial malpractice, assuring the performance of collective bargaining agreements or other duties of a bargaining representative, restoring democratic procedures, or otherwise carrying out the legitimate objects of this International Union, he or she may appoint such Trustee to take charge and control of the affairs of a Local Union or of an affiliated body and such appointment shall have the effect of removing the officers of the Local Union or affiliated body.

*Authority
to impose
trusteeships*

(b). The Trustee shall be authorized and empowered to take full charge of the affairs of the Local Union or affiliated body and its related benefit funds, to remove any of its employees, agents and/or trustees of any funds selected by the Local Union or affiliated body and appoint such agents, employees or fund trustees during his or her trusteeship, and to take such other action as in his or her judgment is necessary for the preservation of the Local Union or affiliated body and for the protection of the interests of the membership. The Trustee shall report on the affairs/transactions of the Local Union or affiliated body to the International President. The Trustee and all of the acts of the Trustee shall be subject to the supervision and direction of the International President.

*Powers and
duties of
trustee*

*Responsibility
to president*

*Moneys, books,
property*

(c). Upon the institution of the trusteeship, all moneys, books and property of the Local Union or affiliated body shall be turned over to the Trustee.

*Bonding
required of
trustee*

(d). The Trustee shall be bonded for the faithful discharge of his or her duties relating to the handling of funds or other property of the Local Union or affiliated body.

*Financial
responsibilities
of trustee*

(e). The Trustee shall take possession of all the funds, books, papers and other property of the Local Union or affiliated body. The Trustee shall pay all outstanding claims, properly proved, if funds are sufficient. When self-government is restored, the Trustee shall return all funds, books, papers and other property to the Local Union or affiliated body. If, however, the Local Union or affiliated body is dissolved by the revocation of its charter, then any balance remaining to the credit of the Local Union or affiliated body shall be forwarded to the International Secretary-Treasurer and shall become the property of the International Union.

*Procedure
for imposing
trusteeship*

*Appointment of
hearing officer*

(f). In order to ensure that no trusteeship is imposed without an adequate right to be heard or without other appropriate safeguards, prior to the imposition of a trusteeship the International President shall appoint a hearing officer or officers (who need not be a member or members of this organization), and shall issue a notice, which shall be distributed in a timely fashion, setting a time and place for a hearing, for the purpose of determining whether a Trustee should be appointed. Said hearing officer or officers shall issue a report and recommendations, orally, or in writing, to the International President, who shall thereupon make his or her determination; provided that where in the judgment of the International President an emergency situation exists within the Local Union or affiliated body, a Trustee may be appointed prior to a hearing; provided further that in an emergency situation, the International Executive Board shall appoint a hearing officer or officers (who need not be a member or members of the organization) who shall conduct such a hearing within 30 days after imposition of the trusteeship, and a decision by the International Executive Board shall be made within 60 days after the appointment of such Trustee. These time limits may be extended by the International President for good cause which decision shall be final and binding. Pending the International Executive Board's decision, the trusteeship shall remain in full force and effect.

*Emergency
trusteeship*

*President's
personal
representative*

(g). The International President may appoint a representative to meet with the officials of Local Unions or affiliated bodies and to attend any meetings of Local Unions or affiliated bodies where in the judgment of the International President there is a need to assist the Local Unions or affiliated bodies with respect to their internal needs. The International President may appoint a hearing officer to examine the internal needs of the Local Union or affiliated body, and to assist him/her in determining what remedial action(s), if any, should be implemented by the Local Union or affiliated body. At anytime, the International President also may designate his/her representative as a monitor with additional oversight responsibility to review compliance with the International

*Internal needs
hearing*

Monitor

President's recommendations and/or otherwise assist in addressing the internal needs of the Local Union or affiliated body. Among the internal needs to be considered is whether a Local Union or affiliated body has met applicable standards endorsed by the International Convention or satisfied such procedures, rules and/or regulations duly adopted by the International Executive Board to carry out the goals set by the International Convention.

Compliance with applicable standards

Section 8. The International President shall have power to call upon any and all officers for assistance and advice when the occasion demands or requires it.

President's authority to call for assistance

Section 9. The International President shall make a full report to each International Convention and at Executive Board meetings.

President's duty to report

Article IX DUTIES OF INTERNATIONAL SECRETARY-TREASURER

Section 1. The International Secretary-Treasurer shall keep a correct record of all the proceedings of the International Convention and of the International Executive Board.

Proceedings of convention, executive board

Section 2. The International Secretary-Treasurer shall receive and collect all moneys due to the International Union, which shall be deposited in such banks as may be designated by the International Executive Board.

Safeguarding the moneys

Section 3. The International Secretary-Treasurer shall conduct all official correspondence, receive all applications for charters, countersign and issue charters as may be granted, and have charge of the official seal.

Charters, official seal

Section 4. The International Secretary-Treasurer shall draw and sign or authorize the signing of all checks covering expenditures of the International Union, upon the co-signature or approval of the International President.

Expenditures

Section 5. The International Secretary-Treasurer shall maintain records of the membership of the International Union and shall report to the International President and the International Executive Board as required.

Membership records

Section 6. The International Secretary-Treasurer shall make a full report of all matters relating to his or her office to each International Convention.

Convention reports

Section 7. The International Secretary-Treasurer shall, at the end of his or her term of office, turn over to his or her successor in office all books, moneys, property and other belongings of the International Union.

Obligation to successor

Section 8. The books and records of the International Secretary-Treasurer shall be open for inspection by the officers of the International Union.

Obligation to open books

*Maintenance
of union
records*

Section 9. The International Secretary-Treasurer shall keep all records pertaining to income, disbursements, and financial transactions of any kind for a period of at least six years, or longer if required by applicable law.

Article X DUTIES OF THE EXECUTIVE VICE PRESIDENTS

*Supervision by
President*

Section 1. The International Executive Vice Presidents shall work under the supervision of the International President.

*Duties assigned
by President*

Section 2. The International Executive Vice Presidents shall perform such duties as are assigned to him or her by the International President.

Article XI DUTIES OF THE INTERNATIONAL EXECUTIVE BOARD

*Meeting
requirement*

Section 1. The International Executive Board shall hold sessions at least two times within each year. The meetings of the International Executive Board shall be upon the call of the International President at times and places which, in his or her judgment, best serve the needs of the International Union. Whenever a majority of the International Executive Board requests the International President to call a meeting thereof, it shall be mandatory upon him or her to do so. A meeting of the International Executive Board may be held by telephone or video conference at the discretion of the International President. All necessary expenses for such meetings shall be paid by the International Union. The International Executive Board shall have power to transact all business of the International Union between Conventions. A majority of the members of the International Executive Board shall constitute a quorum for the transaction of its business.

*Majority
may initiate
meeting*

Quorum

*Notification to
Local Unions*

Section 2. The International Secretary-Treasurer shall notify all Local Unions and affiliated bodies of the time and place of International Executive Board meetings. Any Local Union or affiliated body may present any grievance or matter which it deems to be for the welfare of the International Union or any of its Local Unions or affiliated bodies at any meeting of the International Executive Board.

*Right to
present
grievances*

*Right to
decide appeals*

Section 3. The International Executive Board shall act upon and decide all appeals presented to it by Local Unions or individual members or by affiliated bodies.

*Bonding
provisions*

Section 4. The International Executive Board shall provide for the bonding of officers and employees of the International Union in accordance with the requirements of applicable statutes or as the International Executive Board shall deem necessary.

*Polling by
International
President*

Section 5. When the International Executive Board is not in meeting and the International President deems it necessary for the International

Executive Board to act promptly, the International Secretary-Treasurer shall poll the International Executive Board and such action and vote may be taken by letter, telegram, teletype, facsimile, telephone or any other appropriate means of communication. Such action so taken on vote of the majority of the International Executive Board shall constitute official action of the International Executive Board.

Section 6. The International Executive Board shall, subject to action of an International Convention, be the final authority and the highest governing body of this International Union.

Executive Board is highest authority

The Board is hereby authorized and empowered to take any and all lawful action not inconsistent with this Constitution to safeguard and protect this International Union, the rights, duties and privileges of the officers and members of this International Union and its Local Unions or any of its affiliated bodies; to guide, manage, conduct, and direct the activities, affairs, and functions of this International Union and to, in every way, including but not limited to expenditure, investment, and management, utilize the property and funds of this International Union towards the fulfillment of the purposes and objects of this organization. In addition to the general and specific powers conferred upon the Board elsewhere in this Constitution, and in addition to any lawful powers appertaining thereto, the Board is specifically authorized to:

Duties and responsibilities

A. Establish, adopt, prescribe, and order such procedures, rules and regulations, consistent with this Constitution, as are required for the direction and management of the affairs of this International Union and its constituent subordinate bodies and to repeal or amend the same;

Establishment of rules and regulations

B. Delegate, consistent with this Constitution, to any of its officers or agents any of the functions and powers herein set forth, except the power to fill vacancies in office;

Delegation of powers

C. Establish and/or approve the payment of salaries, wages, expenses, allowances, and disbursements for its officers, agents, and employees; and adopt, maintain or amend any pension or health and welfare trust agreement or plan which it deems to be in the interest of the officers and employees of the International Union or its Local Unions or other affiliated bodies or employees represented by the International Union or any of its Local Unions or other affiliated bodies and the families of said officers and employees, provided that no accrued rights of a participant shall be impaired;

Salaries and trusts

D. Take such legal action as it deems necessary to protect the interests of this International Union, its officers, representatives, agents, employees, members, or constituent Local Unions or its affiliated bodies, including the initiation, prosecution, and defense of lawsuits and arbitrations, the settlement or compromising of any claim whether defended or prosecuted, and the payment of expenses and costs of all such proceedings and actions; or abstain from enforcing any claim;

Authority to take legal action

E. Invest or reinvest the funds of this International Union in such property, real or personal, tangible or intangible, as it shall consider

Investment of funds

desirable for the effectuation of the purposes and objects of this International Union and the interest of its members, or permit such funds to remain uninvested;

Acquisition of property

F. Lease, buy, and in every lawful manner acquire, on behalf of this International Union, all property, rights, and privileges, as it shall think desirable for the effectuation of the purposes and objects of this International Union and the interests of its members, at such prices, terms and conditions as this Board shall, in its discretion, determine;

Disposal of property

G. Sell, lease, rent, mortgage, pledge, exchange, or otherwise dispose of any property, real or personal, tangible or intangible, and any rights or privileges appertaining or belonging to or in the possession of this International Union or its membership, whenever in its discretion the Board considers that the purposes and objects of this International Union and the interests of its members will be thereby effectuated for such prices and upon such terms and conditions or for such consideration as the Board in its discretion determines;

Authority to borrow

H. Obtain loans from any banks, firms, corporations or institutions, upon such terms and conditions as the Board shall determine, and for the sums so borrowed, issue its promissory notes or other evidence of indebtedness;

Mortgages and trusts

I. Enter into, issue and create, effectuate and terminate such mortgages, deeds, trust agreements, and negotiable instruments, however secured, as the Board in its discretion believes will effectuate the objects and purposes of this International Union and the interests of its members;

Affiliations

J. Affiliate this International Union or otherwise enter into or discontinue a relationship with such organizations and bodies, local, national and international, as the Board believes will effectuate the objects and purposes of this International Union and the interests of its members;

Terms of affiliation

K. Affiliate to this International Union by merger, partnership, alliance, consolidation, charter or otherwise any existing labor organization or other organization as the Board may approve and in connection therewith may grant to such labor organization until the next International Convention such executive positions and/or representation on the International Executive Board in the form of additional Vice Presidents and Executive Board Members in excess of the total number provided in Article VI, Section 1. The terms and conditions of such relationships, including affiliations, partnerships, alliances, mergers, or consolidations may include waiver of other provisions of this Constitution for such periods of time as shall be set forth in the agreement;

Authority to waive constitutional provisions

Jurisdictional questions and agreement

L. Decide questions of jurisdiction relating to Local Unions and other bodies affiliated to the International Union, and conclude organizational and jurisdictional agreements with other labor organizations;

M. Make such loans, either direct or indirect, whether to individuals or organizations, as are lawful and not inconsistent with this Constitution, with such security and with such arrangement for repayment as the Board may deem appropriate, and as the Board considers will effectuate the purposes and objects of this International Union and the interests of its members;

Authority to lend

N. Establish, adopt, and order such procedures as it deems necessary for the International Union, Local Unions, and affiliated bodies pertaining to agency shop fees, fair share fees and similar fees, and repeal or amend the same; and

Agency and other fee procedures

O. In order to build strength for working women and men in the 21st century, the International Executive Board is authorized to enter into new types of arrangements including, but not limited to, partnerships, affiliations and/or alliances on a national or global scale, for expanding the Union's outreach to, and involvement with, organizations and people with common goals. Accordingly, the authority set forth in this Article should be broadly interpreted to carry out the intent and purpose of this mission as well as to take advantage of new opportunities available through advances in technology and the internet. In entering such arrangements, the International Executive Board may grant such waivers from the provisions of the Constitution until the next Convention as will advance this objective.

New arrangements to expand outreach

The International Executive Board shall be the final authority in fulfilling, interpreting and enforcing this Constitution, subject to review by an International Convention.

Constitutional authority

The opinion of any attorney, accountant, or other professional consultant or expert hired pursuant to this Constitution shall be full and complete authority and protection with respect to any action taken, suffered or omitted by this Board or any member thereof in good faith and in accordance with such opinion. The International Executive Board, or any member of it, shall not be liable to any person or organization, for any act, which is not willful misconduct or in bad faith, done by this Board or said member in effectuation of the purposes and objects of this Constitution and the interests of the members of this organization.

Protection from liability

Article XII

STRIKES AND LOCKOUTS

No Local Union or affiliated body shall strike without previous notification to the International President, or, where prior notice is not practicable, without notification as soon as possible after commencement of the strike, in which notice the Local Union or affiliated body has stated that it has complied with all applicable notice requirements. If the Local Union or the affiliated body fails to give such notice, the International President may withhold sanction for the strike called by the Local Union or affiliated body. Based on the recommendation of the industry divisions of the International Union, the International Executive Board may limit this strike notification to fewer situations.

Strike notification requirement

Article XIII REVENUE

*Per capita
taxes*

Section 1(a). The revenue of this International Union shall be derived from per capita tax, initiation fees, charter fees, assessments or from any other source that the International Executive Board may determine.

The per capita tax from Local Unions shall continue to be \$7.65 per member per month on all dues received by the Local Union.

*Special
membership
categories*

For a retired member, associate member, or organizing committee member paying less than the full dues required for working members of his or her Local Union, the per capita shall be \$1.00 per month.

The International Union shall not set aside any segregated funds from per capita tax payments received from Local Unions on behalf of retired, associate or organizing committee members.

*Authority to
adjust tax*

Upon the recommendation of the International President, the International Executive Board shall have the authority to adjust the per capita tax required from Local Unions (i) for nonworking members, including retired members and associate members; provided, however, that not withstanding the provisions of Article XV, Life Members granted such status pursuant to this Constitution on or before May 1, 2000, shall have no continuing dues obligations, but they shall nonetheless be eligible to enjoy all the benefits and privileges of retired members in the International Union, including continued participation in the International Union's Death Gratuity Program if otherwise eligible; and (ii) that are affiliated with another international union.

Political fund

(b). An amount of money which shall be determined annually by the International Executive Board shall be set aside from the per capita tax and shall be expended by the International Union directly or indirectly for political education and political action purposes, but solely in accordance with the provisions of applicable law.

*Strike and
defense fund*

(c). For 2012, the International Union shall continue to set aside out of the per capita tax, the sum of 40 cents per member per month on all monthly dues received by the Local Union as a Strike and Defense Fund to aid Local Unions engaged in authorized strikes, in defending against lockouts, and in defending the integrity and welfare of the Local Union, as defined under criteria established by the International Secretary-Treasurer, and shall credit each Local Union with the amount which such Local Union has paid into the Strike and Defense Fund. 25 cents of the 40 cents shall be used by the International Union to maintain current programs and support the implementation of the 2012 Convention program.

Beginning January 1, 2013, the International Union shall use from the per capita tax the sum of 40 cents per member per month on all monthly dues received by the Local Union in the Strike and Defense Fund for the purpose of maintaining a fund to support the International Union's program to elect and hold accountable national public officials for a pro-working family agenda.

Such moneys shall not be used from or set aside out of per capita tax payments received from Local Unions on behalf of retired, associate, or organizing committee members.

Prior to January 1, 2013, a local union may request approval from the International Secretary-Treasurer to substitute an alternative payment plan for the 25 cents. This plan may include the option for the International Union to retain funds that would otherwise be paid back to the local union under Article XV, Section 18.

For any amounts accumulated in the Fund prior to January 1, 2013, subject to the criteria established by the International Secretary-Treasurer, a Local Union may after no less than one year of contributions draw on the Strike and Defense Fund, or from such other funds of the International Union as shall be determined by the International Executive Board, to the extent of the total unexpended funds remaining to its credit, plus an additional sum equal to the amount set aside out of its required payments in the preceding 12 months. Once such an additional payment has been drawn by the Local Union, no further payment shall be made to the Local Union pursuant to this Section. The International Executive Board is authorized to direct that a Local Union's 2012 contributions to the Strike and Defense Fund be used to satisfy the Local Union's outstanding financial liability to the International Union or, pursuant to a decision of the International Executive Board after appropriate proceedings, to another affiliated body or Local Union if such liability is at least 90 days past due. In such circumstances, the Local Union will receive 15 days notice before such action is initiated.

*Withdrawals
from strike and
defense fund*

*Use of fund
to satisfy
outstanding
liabilities*

Questions concerning the application or interpretation of this subsection shall be resolved by decision of the International Secretary-Treasurer, subject to appeal to the International Executive Board.

*Application and
interpretation*

(d). In addition to the per capita tax set forth in Section 1(a), each Local Union, except those based in Canada, shall pay to the International Union a per capita tax to finance the Unity Fund. Through the Unity Fund, all local unions will pool resources in order to have the new strength to win improved pay, benefits and security for members in the 21st century. This additional per capita tax per member per month shall be \$5.00.

*Unity Fund
(except
Canada)*

Notwithstanding the above, this additional per capita tax for the Unity Fund shall not be paid on dues from any member who is paid gross wages of less than \$433 per month. The additional per capita tax for the Unity Fund shall also not be payable on dues from members who have not achieved a first collective bargaining agreement.

*Low-wage
worker*

(e). Based on the recommendation of the Canadian Council, the International Executive Board may require each Local Union based in Canada to pay to the International Union a per capita tax in addition to the per capita tax set forth in Section 1(a) to finance a Canadian Unity Fund. Through this Unity Fund, all Canadian local unions will pool resources in order to have the new strength to win improved pay, benefits and security for members in the 21st century. The amount of

*Canadian
Unity Fund*

the additional per capita tax shall be determined by the International Executive Board, based on the recommendation of the Canadian Council.

*"Member" and
"dues" defined*

(f). For the purposes of this section, the term "member" shall include agency fee payer and Rand Formula payer and comparable fee payers, and the term "dues" shall include agency service fees, Rand Formula fees and comparable fees.

*Payment of
dues*

Section 2. Dues of members are due and payable on or before the last day of the current month and in order for a member to be in good standing his or her dues must be paid on or before the last day of each month. All other financial obligations of the Local Union must likewise be paid on or before the last day of the month in which they fall due.

*Maintenance
of good
standing*

Section 3. For a Local Union to be considered in good standing, per capita tax and all other fees and payments must be paid by each Local Union to the International Union before the end of the month following the month in which the Local Union received dues or other payments on account of which per capita tax or fees are payable to the International Union. If the monthly per capita tax, or any part thereof, is not submitted by the end of the month following that in which it is due, the Local Union shall be deemed delinquent in its payment and shall be charged a late payment fee, at an interest rate to be determined periodically by the International Executive Board, on that portion of the per capita tax which has not been paid by the due date, except that the International President may waive this penalty charge for good cause shown. If a Local Union fails to make the payments herein required within 30 days of the date due, the International Secretary-Treasurer shall notify the Local Union that it is no longer in good standing and shall within 30 days thereafter refer the matter to the International President for such action as the International President shall deem appropriate, including without limitation, suspension of the Local Union, revocation of its charter, or the appointment of a Trustee as provided in Article VIII, Section 7 of this Constitution and Bylaws. The International President, and in the event of an appeal from his or her decision, the International Executive Board, may lift any suspension or stay revocation of the charter upon such terms and conditions as may be prescribed.

*Sanctions for
nonpayment*

*Priority of per
capita payment*

Section 4. No Local Union shall have any right to pay any bills before it pays its full obligation to the International Union each month.

*Reporting
requirements
of locals
(membership
lists)*

Section 5(a). The Local Union by its Secretary-Treasurer shall forward to the International Secretary-Treasurer the correct names and addresses (including email address and phone number, if available) of all its members, and other membership information as specified by the International Executive Board. Each month it shall submit all changes of addresses; the names and addresses of all members initiated or readmitted, of all other persons from whom revenue is derived, and of those suspended for nonpayment of dues or for any other cause; and a correct list of those who take transfer or withdrawal cards. In addition, the International Union must be notified of the names and addresses of

all officers elected to office within 15 days of such action. The proper ZIP code shall be included for each address. Each Local Union must provide the same membership list to the State Council with which it is affiliated. Based on the recommendation of the International Secretary-Treasurer, the International Executive Board may approve a modification to this section which limits the frequency and/or content of this requirement.

(b). Upon request, each local shall forward to the International Secretary-Treasurer, by April 1 of each year, information and supporting documentation showing the average gross wage rate of its membership for the previous calendar year. The Secretary-Treasurer may issue specific guidance on the nature of the supporting documentation required.

Average gross wage rate

Section 6(a). Local Union officers or the officers of any other affiliated body shall furnish to any person designated by the International President to examine its books and records, all of its books, records, accounts, receipts, vouchers and financial data whenever requested. All Local Unions and other affiliated bodies shall promptly forward to the International Secretary-Treasurer copies of all annual audit reports and copies of all financial reports setting forth a statement of assets and liabilities and a statement of receipts and disbursements which are required by law.

Examination of local books and records

Annual audit reports

(b). All records of a Local Union or other affiliated body pertaining to income, disbursements and financial transactions of any kind whatsoever must be kept for a period of at least six years or longer if required by applicable law.

Maintenance of local records

Section 7. When the charter of a Local Union or other affiliated body is revoked, the Local Union or other affiliated body and its officers shall return all books, documents, property and funds to the International Union.

Requirements on revocation of charter

Section 8. The revenue from per capita taxes paid by Canadian Local Unions shall be spent by International Union for activities that support Canadian Local Unions.

Canadian locals per capita

Article XIV ISSUANCE OF CHARTERS

Section 1. Twenty-five or more persons within the jurisdiction of this International Union may apply to the International Secretary-Treasurer for the issuance of a charter. In any event, the International President or the International Executive Board may issue a charter whenever it is deemed advisable. The application for a charter shall be accompanied by the required initiation fees and charter fee.

Application for charter

Section 2. The International Executive Board shall establish the policy and procedures governing the issuance of charters and shall determine all questions of jurisdiction between Local Unions. Local Unions in existence at the time of the formation of the International Union shall retain the jurisdiction which they held at that time. If there be any contested question in connection with the matters referred to in

Chartering procedures and jurisdiction

Contested questions

this Section, action of the International Executive Board shall be after a hearing upon reasonable notice before it or a hearing officer or officers (who need not be a member or members of this organization) designated by the International Executive Board.

*Consolidation
and merger*

Section 3. The International Executive Board may consolidate or merge existing Local Unions under such terms and conditions as the International Executive Board may determine when in the opinion of the International Executive Board the interests and welfare of the International Union and the membership thereof will be better served by such action.

*Merger
hearings*

Section 4. Such merger or consolidation of existing Local Unions shall be conditioned upon the consent of the Local Unions or shall be effectuated after a hearing upon reasonable notice before the International Executive Board or a hearing officer or officers (who need not be a member or members of this organization) designated by the International Executive Board.

*Provisional
organization*

Section 5. The International President may designate such coordinators and establish such organizing committees or provisional Local Unions for the purpose of organizing workers, and may establish other bodies for other purposes he or she deems appropriate, with or without requiring the payment of dues, initiation fees or per capita tax, as he or she may deem advisable, and the International President shall be authorized and empowered to name provisional officers for and to expend and control the finances of such organizing committees or provisional Local Unions or other bodies. The International President shall thereafter report such matters to the International Executive Board.

Article XV DUTIES OF LOCAL UNIONS

*Bonding of
locals*

Section 1. All Local Unions and affiliated bodies shall secure and maintain surety bonds in the amounts and the form required by applicable statutes. The International Secretary-Treasurer may direct an increase in the amount of any bond whenever he or she deems it necessary and advisable and may direct bonding by any Local Union not required by statute to secure a bond.

*Eligibility
requirements
for local officers*

Section 2. No person shall be eligible for nomination as an officer, member of the Executive Board, delegate, or any other office in a Local Union who has not been a member in continuous good standing in the Local Union for at least two years immediately preceding the nomination and has, during all of that time, paid the full dues required for working members of the Local Union within each month when due. Notwithstanding the above, a Local Union may adopt a local union bylaw that reduces this continuous good standing requirement from two years to no less than six months. No person who has been convicted of a felony as defined in Section 504 of the Landrum-Griffin Act (or indictable offense in Canada) shall in accordance with the provisions

of applicable law be eligible for nomination under the terms of this Section. If the Local Union has been chartered less than two years, the required period of continuous good standing shall be the entire time that the Local Union has been chartered. The International President may waive the foregoing requirements for good cause shown. Any Local Union may provide in its Constitution and Bylaws for further limitations upon eligibility for nomination, provided such provisions are approved by the International Union. Upon the request of a Local Union Executive Board, the International President may waive Local Union eligibility requirements for good cause shown. Associate members, life members, and those retired members paying less than the full dues required for working members of the Local Union shall not be eligible for nomination as an officer, member of the Executive Board, delegate, or any other office in the Local Union. Proxy voting shall not be permitted in any election for an officer, member of the Executive Board, delegate or any other office in the Local Union. Write-in candidates shall not be permitted in any election for an officer, member of the Executive Board, delegate or any other office in the Local Union, except if expressly approved by the International President upon request of the Local Union Executive Board.

*Waiver**Exclusions**Proxies,
write-ins
prohibited*

Section 3. The Constitution and Bylaws of all Local Unions and affiliated bodies and amendments thereto must be submitted to the International Union and be approved before they become valid; provided, however, that notwithstanding such approval, the Constitution and Bylaws of all Local Unions and affiliated bodies shall at all times be subordinate to the Constitution and Bylaws of the International Union as it may be amended from time to time. If a Local Union or an affiliated body shall not have secured the approval of a valid Constitution and Bylaws, the provisions contained in the Constitution and Bylaws of the International Union as it may be amended from time to time shall govern said Local Union and affiliated body insofar as applicable. Regardless of approval, if any conflict should arise between the Constitution and Bylaws of a Local Union and affiliated bodies or any amendments thereto, and the Constitution and Bylaws of the International Union as it may be amended from time to time, the provisions of the Constitution and Bylaws of the International Union shall govern.

*Approval
of local
constitutions**Priority of
International
Constitution*

Section 4. Each Local Union shall provide its members upon request with a copy of the Constitution and Bylaws of the International Union and the Local Union. Copies of the International Constitution and Bylaws will be provided by the International Union to the Local Unions at cost.

*Distribution of
Constitution*

Section 5. All Local Unions must provide for meetings of the membership on a general, division, chapter or work site basis at least once every two months, except during the months of July and August. The Executive Board of each Local Union shall in any case meet at least once a month. However, if approved by the Local Union membership, the requirements of this section may be modified in the Local Union's Constitution and Bylaws.

*Local meeting
requirements*

Minimum dues

Section 6(a). Effective January 1, 2016, for all members with annual earnings of \$16,000 or more, the minimum dues shall be equal to \$36.00 per month. Effective January 1, 2016, for all members with annual earnings between \$5,500 and \$16,000, the minimum dues shall be equal to \$31.00 per month.

Annual increase

Effective January 1, 2017, through January 1, 2020, the minimum monthly dues for all members with annual earnings of \$5,500 or above shall be increased by \$1.00 annually, effective January 1 of each year.

Special membership categories

Notwithstanding the above, by action of the Local Union the minimum dues may be reduced for retired members, organizing committee members, and associate members. The Local Union may establish minimum dues for members with annual earnings which are less than \$5,500.

Upon request, these requirements may be waived by the International President, as provided in subsection 6(d) below.

Maximum dues cap

(b). A Local Union's dues system shall not contain a maximum limitation on the dues amount per member otherwise applicable under the Local Union's dues formula. Upon request, this requirement may be waived by the International President, as provided in subsection 6(d) below provided that any maximum limitation permitted by the International President is indexed for inflation.

Dues increases

(c). Local Unions in which the Constitution and Bylaws provide for a dues system other than a flat rate system (e.g., a scale, hourly or percentage formula system) shall maintain the formula necessary to generate a dues minimum equal to the flat rates specified in this section.

Percentage dues system

Every Local Union shall strive to have a membership dues system based on a percentage of monthly gross earnings.

The percentage rate minimum required in converting to a percentage dues system shall be the rate that provides the Local Union with revenue equal to what it otherwise would have received under its prior dues system as of that date. The calculation of revenue otherwise receivable under the prior dues system shall be based on the Local Union's average monthly membership for the six month period ending one month prior to the date of conversion.

Application and interpretation

Questions concerning the application or interpretation of this subsection shall be resolved by decision of the International Secretary-Treasurer, subject to appeal to the Executive Board.

Dues waivers

(d). The International President, with ratification by the International Executive Board, may waive the requirements of this section for such period as he or she deems advisable upon a showing of good cause as set forth below so long as such waiver does not impair the ability of the Local Union to properly represent its members.

Alternative dues structure

A full waiver will be granted to any Local Union which has established, in accordance with its Constitution and Bylaws, an

alternative dues structure and/or dues increases which satisfy the goals of this Section.

Full or partial waivers of any of the requirements of this section may be granted taking into consideration the resources of the Local Union, the Local Union's dues rate, whether the Local Union has recently implemented a dues increase, the percentage of workers represented by the Local Union covered by a union security clause and the wage rate of the Local Union's members. A waiver also may be granted to Local Unions in right to work states that are engaged in active and strategic organizing efforts in accordance with approved industry division plans.

Waiver considerations

(e). Nothing in this Section shall apply to Local Unions based in Canada.

Canada

Section 7(a). The minimum dues of all members of any Canadian Local Union shall be \$10.00 per month except that by action of a Local Union they may be reduced to not less than \$2.50 per month for retired members and organizing committee members and \$2.00 per month for associate members.

Canadian local unions

For Canadian Local Unions employing a percentage dues system, the minimum dues of all members of any Local Union shall be 1 percent of gross monthly salary per month or \$10.00 per month, whichever is greater, except that by action of a Local Union they may be reduced for retired members, organizing committee members and associate members.

Minimum dues

The International President, with the approval of the International Executive Board, may waive these requirements for such period as he or she deems advisable as long as such waiver does not, in his or her judgment, impair the ability of the Local Union to properly represent its members.

Waiver

(b). All dues in Canadian Local Unions may be increased by an amount to be set by the International Executive Board based on the recommendation of the Canadian Council.

Minimum dues

Section 8. In order to be considered in good standing and to be eligible to participate in all of the gratuities and benefits of the Local Union and the International Union, members must pay on time the full dues and other payments prescribed by the Constitution of the Local Union.

Dues payments, good standing

Section 9. When a member is laid-off from employment or is absent from work due to employer lockout or union-authorized strike for more than 20 days in any calendar month, such member may be entitled, if so provided in the Local Union's Constitution and Bylaws, to credit for membership dues for the period of unemployment but not to exceed six months in any calendar year.

Dues credits

Section 10. Each member shall be entitled to receive a proper receipt or acknowledgement for any payment of dues.

Dues receipts

*Withdrawal
cards*

Section 11. Any Local Union may order that withdrawal cards be taken out by members working outside the trade or jurisdiction of the Local Union.

*Notification
of collective
bargaining
agreements*

Section 12. The International Union shall be notified in writing when any collective bargaining negotiations or memoranda of understanding have been concluded and be advised of the number of employees covered and the expiration date of the contract. For the purpose of maintaining a file, and for informational uses, copies of collective bargaining agreements and contracts entered into by a Local Union shall, after signing, be sent to the Research Department of the International Union. Such notification to or filing with the International Union shall not operate to impose any liability on the International Union or its officers or to make them parties to any such collective agreement or memorandum of understanding.

*No notification
liability*

*Permission
to conduct
fundraising*

Section 13. No Local Union or affiliated body or any subdivision thereof, or member or group of members, including Councils, Conferences, leagues, clubs or any association composed of members of this International Union, or subdivision thereof, shall in any manner, directly or indirectly, use, exploit, or trade upon the name of this International Union, or Local Union or affiliated body or any similar name or designation, nor in the name of this International Union or Local Union, or affiliated body, levy or collect any tax, dues, or other moneys, nor in the name of this International Union or Local Union, or affiliated body, conduct any affair or other activity for the purpose of raising funds, including programs or soliciting advertisements in any publication, either directly or indirectly, without first obtaining written permission from the International President.

*International's
authority to
audit*

All of the aforesaid matters covered by this Section, including without limitation funds, solicitations, gifts, and donations collected in the name of this International Union, or Local Union, or affiliated body, shall at all times be subject to audit by this International Union, and all books, records and documents pertaining to matters covered by this Section shall be available for inspection, copying and audit by this International Union.

*Authority to
prescribe rules*

The International President shall have authority to formulate such rules and regulations as he or she deems necessary and proper to carry out the purpose of this Section.

*Special
committees*

Section 14. The Executive Board of each Local Union shall appoint such committees as it deems necessary to carry out the organizing, political action, social and economic justice and retiree programs and policies of this International Union. Where a committee(s) is not appointed for a specific purpose, the Local Union Executive Board shall serve in that capacity.

PACs

Section 15. No Local Union shall establish its own registered federal political committee or any political candidates fund for contributions in connection with federal elections, provided, however, that the International President may in his or her discretion waive this provision

or establish such conditions as the International President may deem necessary.

Section 16(a). Every Local Union shall continue to implement an annual local union organizing budget equivalent to 20 percent of the local's budget (after payment of all per capita tax obligations), to be spent consistent with the principles and plan of the applicable industry division of the International Union. Each industry division shall submit its principles and plan for approval by the International Executive Board on an annual basis.

*New Strength
Unity
standard*

(b). Every Local Union shall establish a separate account or accounting for the money that comprises its annual organizing budget.

*Separate
accounting*

(c). In the event that the applicable industry division of the International Union believes that a Local Union has failed, without good cause, to implement this 20 percent organizing budget commitment or to spend the Local Union's organizing budget consistent with the union wide strategic unity plan and/or division plan, it may refer the matter to the International Secretary-Treasurer for a review of the Local Union's organizing account and expenditures. If view reveals that the Local Union is not implementing its organizing budget as obligated under this provision, the Secretary-Treasurer may direct that only certain planned expenditures may continue to be made by the Local Union from its organizing account until the division and Local Union mutually agree upon a broader resolution of the matter pursuant to an expedited procedure established by the International Secretary-Treasurer.

*Review of
organizing
account*

(d). If no agreement is reached, the applicable division may refer the matter to the International President who may designate the matter for hearing before a hearing officer appointed by the International Executive Board. Based on the hearing officer's report, the International Executive Board may order the Local Union to pay all or a portion of the organizing account and the local union's next annual organizing budget to an organizing campaign(s) identified in the national plan for that particular division.

Hearing

Section 17. Industry Divisions of the International Union may establish additional Local Union performance and accountability standards to ensure that local unions implement the democratically and lawfully established policies of the Industry Divisions, subject to their approval by the International Executive Board.

*Performance
standards*

Section 18(a). Every U.S. Local Union shall contribute an annual amount equivalent to at least \$6.00 per member per year, or as determined annually by the International Executive Board, to support the overall SEIU political education and action program. This annual SEIU C.O.P.E. fund-raising obligation may be satisfied by voluntary member contributions to SEIU C.O.P.E. or a designated organization approved by the International President or a combination thereof. All contributions to SEIU C.O.P.E. collected by local unions shall be sent to SEIU C.O.P.E. Any contributions in excess of \$6.00 per member per year or such other amount as determined by the International Executive Board shall be

C.O.P.E.

returned to the local union for its political program. If a Local Union fails to meet its annual SEIU C.O.P.E. fund-raising obligation, it shall contribute an amount in local union funds equal to the deficiency plus 50 percent, or such other amount determined by the International Executive Board, to support the overall SEIU political education and action program.

*Enrollment
goal*

(b). A goal of every Local Union shall be to enroll and maintain at least 20 percent of its members as voluntary participants in an employer check-off or regular deduction program assigned to SEIU C.O.P.E. or to an organization approved by the International President.

Article XVI MEMBERS' INTERESTS AND TRANSFERS

*Members'
interests
safeguarded*

Section 1. No member of this International Union shall injure the interests of another member by undermining such member in connection with wages or financial status or by any other act, direct or indirect, which would wrongfully jeopardize a member's office or standing.

*Transfers from
local union to
local union*

Section 2. Any member may transfer from one Local Union to another within this International Union, subject to the approval of the Local Union into which such member seeks admission, provided there shall be no interruption of continuous payment of monthly dues if continuous good standing is to be maintained or upon presentation of a current withdrawal card.

Article XVII TRIALS AND APPEALS

Preamble

PREAMBLE. In order to ensure members' protection from the filing of frivolous charges, the following procedures shall apply:

*Possible
charges*

Section 1. Local Unions, their officers or members, and officers of any affiliated body, and officers of the International Union, as the case may be, may be charged with:

(Whenever used in this Article, the term "Local Union" shall include any affiliated body or Local Union chartered by this International Union.)

- (1) Violation of any specific provision of this Constitution or of the Constitution and Bylaws of the Local Union;
- (2) Violation of an oath of office;
- (3) Gross disloyalty or conduct unbecoming a member;
- (4) If an officer, gross inefficiency which might hinder and impair the interests of the International Union or the Local Union;
- (5) Financial malpractice;
- (6) Engaging in corrupt or unethical practices or racketeering;
- (7) Advocating or engaging in dual unionism, including but not

limited to aiding a rival labor organization, or secession in violation of Article XXV;

(8) Violation of democratically and lawfully established rules, regulations, policies or practices of the International Union or of the Local Union, including democratically and lawfully established rules, regulations, policies and practices of the International Union's Industry Divisions, subject to their approval by the International Executive Board.

(9) The wrongful taking or retaining of any money, books, papers or any other property belonging to the International Union or Local Union; or the wrongful destruction, mutilation or erasure of any books, records, bills, receipts, vouchers, or other property of the International Union or the Local Union;

(10) Working as a strikebreaker or violating wage or work standards established by the International Union or a Local Union; and

(11) The bringing of false charges against a member or officer without good faith or with malicious intent.

Charges must be specific and in writing.

Section 2(a). Charges against any member or officer of a Local Union shall be filed in duplicate with the Secretary of the Local Union, who shall serve a copy thereof on the accused either personally or by registered or certified mail, directed to the last known address of the accused, at least 10 days before the hearing upon the charges. The charges must specify the events or acts which the charging party believes constitute a basis for charges and must state which subsection(s) of Section 1 of this Article the charging party believes has been violated. If the charges are not specific, the trial body may dismiss the charges either before or at the hearing, but the charging party shall have the right to refile more detailed charges which comply with this Section. No charges may be filed more than six months after the charging party learned, or could have reasonably learned, of the act or acts which are the bases of the charges.

Filing charges

Specificity requirement

Six month deadline

(b). The Executive Board of the Local Union shall act as or appoint the trial body, unless the Constitution and Bylaws of the Local Union provide for another trial procedure. The accused may appear in person and with witnesses to answer the charges against him or her and shall be afforded a full and fair hearing. The accused may select a member of his or her Local Union, or an attorney if the Constitution and Bylaws of the Local Union so permit, to represent the accused in the presentation of a defense.

Trial procedure

(c). If the charges, or any portion thereof, are sustained, then the trial body shall render judgment and impose disciplinary action as provided for in this Constitution. If the charges are not sustained, the same shall be dismissed and the accused restored to full rights of membership or office in the Local Union.

Judgment and discipline

(d). If the Constitution and Bylaws of the Local Union so provides, the decision of the trial body shall be reported to the next regular

Reporting trial results

membership meeting of the Local Union for such action as is provided for in the Constitution and Bylaws of the Local Union.

Suspension

(e). If the International President believes that charges filed against an officer of a Local Union involve a situation which may seriously jeopardize the interests of the Local Union or the International Union, the International President may suspend such officer from office in the Local Union until a decision has been reached.

Basis for original jurisdiction

(f). The International President may assume original jurisdiction:

i. If the Local Union, the Local Union Executive Board, a Local Union officer or a Local Union member, or members, believe that the charges filed against a member or officer of a Local Union involve a situation which may seriously jeopardize the interests of the Local Union or the International Union or that the hearing procedure of the Local Union will not completely protect the interests of a member, officer or Local Union and such party requests that the International President assume original jurisdiction.

Procedures for original jurisdiction

ii. If the International President as a result of an investigation believes that the charges filed against a member or officer involve a situation which may seriously jeopardize the interests of the Local Union or the International Union.

Upon the International President assuming original jurisdiction, the International President may remove the proceedings from the trial body of the Local Union and, upon at least 10 days notice, hold a hearing on the charges either personally or before a hearing officer or officers (who need not be a member or members of this organization) designated by the International President. The International President shall make the decision upon the record taken at the hearing and the report of the hearing officer or officers.

Notice of charges

Section 3. Charges against a Local Union or an officer of the International Union shall be filed in duplicate with the International Secretary-Treasurer, who shall serve a copy thereof upon the accused either personally or by registered or certified mail, directed to the last known address of the accused, at least 10 days before the hearing upon the charges. The International Executive Board may hold a hearing on the charges either itself or before a hearing officer or officers designated by it or it may determine to dismiss the charges without the need for a hearing to be conducted. If the hearing is conducted by a hearing officer or officers, the International Executive Board shall make its decision upon the record taken at the hearing and the report of the hearing officer or officers.

Executive Board hearings

Conduct of hearings or trials

Section 4. In all hearings or trials provided for herein, if the member filing charges is a member of the trial body, he or she may appear and be heard in support of the charges, but shall be ineligible to participate in the consideration of or the decision on such charges. If the accused is unable or unwilling to be present at any hearing provided for herein, a defense may be presented in writing. In default of appearance or defense,

the trial body shall proceed with the hearing regardless of the absence of the accused.

Section 5. The trial body, after requisite due process has been afforded, may impose such penalty as it deems appropriate and as the case requires.

Possibility of sanctions

Section 6. An appeal to the International Executive Board may be taken by either the accused or the member filing the charges from any decision of a Local Union with respect to such charges, provided such decision is a final decision under the terms of the Constitution and Bylaws of the Local Union; or from a decision of the International President. Any such appeal shall be filed in writing with the International Secretary-Treasurer, by registered or certified mail, within 15 days after the decision. No specific form or formality shall be required, except that such appeal shall clearly set forth the decision being appealed and the grounds for the appeal. During the pendency of any appeal, the decision appealed from shall remain in full force, unless it is stayed by the International Executive Board. The International Executive Board may decide the appeal on the record made by the trial body or may in its discretion, upon at least 10 days notice, hear argument or hold a rehearing either itself or before a hearing officer or officers designated by it. The International Executive Board may affirm, reverse or modify the decision appealed from.

Hearings or trial appeals

Manner of filing appeals

Determination of appeals

Section 7. Appeals from any decision of the International Executive Board with respect to charges may be taken to the next Convention. Any such appeal shall be filed in the same manner and within the same time as appeals to the International Executive Board. During the pendency of such appeal, the decision appealed from shall remain in full force. The appellant shall have the right to appear before an appeals committee of the Convention and, if the appellant is a Local Union or a member appealing an expulsion from membership, shall have the right to appear before the Convention itself under such conditions and for the period of time fixed by the Convention. An individual appellant, other than one appealing an expulsion from membership, shall have the right to appear before the Convention itself only with the consent of the Convention. The action of the Convention on all appeals shall be final and binding.

Appeals to Convention

Section 8. Subject to the provisions of applicable statutes, every Local Union or member or officer thereof or officer of the International Union against whom charges have been preferred and disciplinary action taken as a result thereof or who claims to be aggrieved as a result of adverse rulings or decisions rendered, agrees, as a condition of membership or affiliation and the continuation of membership or affiliation, to exhaust all remedies provided for in the Constitution and Bylaws of the International Union and the Local Union and further agrees not to file or prosecute any action in any court, tribunal or other agency until those remedies have been exhausted.

Obligation to exhaust remedies

Section 9. The SEIU Member Bill of Rights and Responsibilities in the Union shall be enforced exclusively through the procedures provided

Member Bill of Rights and Responsibilities

in this Article and any decision rendered pursuant to the procedures provided for herein, including any appeals, shall be final and binding on all parties and not subject to judicial review.

Article XVIII

AFFILIATIONS WITH INTERMEDIATE BODIES

*Obligation to
affiliate*

Section 1. Local Unions shall affiliate with local, regional, national or international bodies, where such exist, under rules to be established by the International Executive Board. The International President may in his or her discretion waive this requirement for individual Locals for good cause.

*Establishment
of intermediate
bodies*

Section 2. The International Executive Board shall from time to time establish intermediate bodies including, but not limited to, State and Provincial Councils, and Canadian Regional Conferences as well as other bodies, when in its judgment such bodies are necessary to further the aims of the International Union and the interests of Local Unions. The International Executive Board shall establish the jurisdiction of such bodies, and shall issue rules prescribing the activities and financing of such bodies. For administrative purposes of collection and distribution, the International Executive Board may require Local Unions to forward to the International Union per capita tax payments or other financial obligations owed by the Local Union to affiliated bodies or entities. Upon receipt, the International Union shall forward such payments to the applicable affiliated body or entity.

*Local affiliation
and per capita
requirements*

Section 3. All Local Unions determined by the International Union to be within the jurisdiction of any intermediate body shall affiliate with such bodies and comply with their bylaws, including provisions in such bylaws requiring the payment of per capita taxes to the intermediate body, together with interest on late payment if so authorized by the intermediate body. The International Executive Board may in its discretion modify these requirements. Any proposal to set or change an intermediate body's per capita tax obligation or assessment shall be submitted to the International President for his/ her approval prior to its submission for approval by the intermediate body. In the case of State Councils, a Local Union shall affiliate with each State Council having jurisdiction over the primary worksite(s) of its members, and shall pay each such State Council per capita tax on those members whose primary work site is within that State Council's jurisdiction.

*Conformance
to International
Constitution*

Section 4. The bylaws of such intermediate bodies shall not conflict with the Constitution and Bylaws of the International Union. Such bylaws shall provide that the number of votes a Local has in such bodies shall be proportionate to its numerical strength as determined by the payment of per capita tax, excluding associate members, life members and agency fee payers, to the intermediate body. This requirement may be waived by the International President, subject to his/her approval of an alternative voting procedure. Such bylaws and any amendments must be submitted to and approved by the International President before

becoming valid. Notwithstanding such approval, each intermediate body shall resubmit its bylaws to the International President for consideration and approval within 120 days following the conclusion of each regular International Convention.

Section 5. The bylaws of the Regional Conferences and Joint and State Councils shall provide that all officers of a Local Union elected in conformity with all applicable statutes shall by virtue of such election be considered to be eligible delegates to any Convention of such body which may take place during their term of office. If under the rules of the particular intermediate body a Local Union is entitled to additional delegates at said Convention, then arrangements may be made at the option of the Local Union Executive Board for nomination and secret ballot election, if required, of an additional number of Convention delegates. The Local Union must designate in its own bylaws the order in which the officers would be designated as delegates if fewer than all the officers are entitled to go to the Convention as delegates, provided that the chief executive officer of the Local Union shall, if otherwise eligible, be deemed entitled even in the event the Local Union fails to so designate. Any Local Union may by provision in its Local Constitution and Bylaws dispense with the foregoing provision that officers of the Local Union be ex officio delegates to the Convention of such intermediate bodies and may provide for nomination and, if required, secret ballot election of such delegates.

*Eligibility of
local officers as
delegates*

*Additional
delegates*

Section 6. No officer of an intermediate body may receive compensation of any kind from the intermediate body, except for a minimal stipend or expenses as appropriate. This limitation shall not apply to intermediate bodies in Canada.

*Restrictions on
compensation*

Article XIX

PAYMENTS IN CONNECTION WITH DEATHS OF MEMBERS

For members of any Local Union who were in good standing in connection with this Article XIX on September 1, 1984, the Service Employees International Union Death Gratuity Program, as amended effective September 1, 1984, shall be maintained in effect for those members who meet the eligibility and participation requirements set forth in such amended Program. When the International Executive Board in its discretion determines that it is necessary or advisable to abolish, curtail or limit any payments provided for in the Program or to amend or modify any provisions governing such payments, it shall have authority to do so. The International Union shall notify each Local Union 60 days before the effective date of any changes in the provisions of the Program.

*Death
gratuities*

Article XX

PENSION FUND FOR OFFICERS AND EMPLOYEES OF LOCAL UNIONS AND AFFILIATED BODIES

*Maintenance of
pension fund*

Section 1. The Pension Fund known as the “SEIU Affiliates’ Officers and Employees Pension Fund,” heretofore established pursuant to mandate of this Constitution and existing by virtue of a Trust Agreement entered into between the International Executive Board and the Trustees shall continue to be maintained in accordance with the terms of said Trust Agreement. The SEIU Affiliates’ Officers and Employees Pension Fund shall be divided into two distinct sections, the United States Section and the Canadian Section.

*Pension
sponsor*

Section 2. The International Union shall be the “Plan Sponsor” as that term is defined in the Employee Retirement Income Security Act of 1974.

*Executive
Board authority
Pension
trustees*

Section 3. The International Executive Board shall have the power to:

(a). Designate the number and appoint all of the individual Trustees of the Pension Fund; and to remove any such Trustee and to fill any vacancy as may exist from time to time; provided, however, that at least two Trustees shall be officers or employees of Local Unions and at least two Trustees shall be members of the International Executive Board; and provided further that there shall be no less than the number of Canadian Trustees required by Canadian law.

*Agreements,
amendments*

(b). On behalf of the International Union, enter into agreements with the Trustees to amend the Trust Agreement in such manner as it may deem necessary or desirable.

Waiver

(c). Upon recommendation of the Trustees of the Pension Fund, waive participation in, or payments in whole or in part to, the Pension Fund by any Local Union, or affiliated body, upon a finding that contributions are not advisable or are not necessary or required, and upon such terms as the International Executive Board may require, including directing that participating Local Unions remit the amount waived directly to the International for such purposes as the Board deems appropriate and

*Waivers upon
merger or
affiliation*

(d). Waive, in whole or in part, or increase the payments required by Section 8 of this Article XX, upon the merger or affiliation of any labor organization or Local Union with the International Union or any of its Local Unions, upon a finding that such action is necessary or required.

*Pension
fiduciaries*

Section 4. The Trustees of the Pension Fund shall be the “Named Fiduciaries” as that term is defined in the Employee Retirement Income Security Act of 1974.

*Pension
participation
requirements*

Section 5. The Trustees shall be and the same are hereby empowered to adopt a Pension Plan or Plans and Rules and Regulations for the administration thereof which they deem appropriate, provided, however, that such Plan or Plans and Rules and Regulations shall, to the extent permitted by applicable law, provide that:

(a). Only officers, full-time permanent employees who have gross compensation at an annual rate of \$4,000 and part-time and temporary employees who work more than six months in any 12-month period and who have gross annual compensation of \$4,000 or more in that period shall be eligible for coverage. Gross compensation shall include only the regular salary paid by a Local Union, or affiliated body, or if accepted for participation by the Trustees, any organization related to a Local Union or affiliated body which furthers the purposes of or benefits the membership of such Local Union or affiliated body. Gross compensation shall be defined so as to preclude the award of credits for what the Trustees may consider special or unusual compensation (as, for example, payment for attending meetings or participating in picket duty), including but not limited to part or all of any compensation as may be received from a second or additional employer. In the event that applicable law requires employee participation and/or the granting of pension credits for employment which would otherwise be precluded by the foregoing, then, in such event, the Trustees shall endeavor to limit such participation and granting of service credit in accordance with the foregoing to the extent permitted by law.

The Trustees shall be empowered to adjust the \$4,000 and/or the six-month contribution requirements, should the Trustees determine that said change(s) would be actuarially sound.

*Adjusting
contribution
requirements*

(b). Employees of related organizations may be eligible for participation in the Pension Fund subject to such Rules and Regulations as the Board of Trustees may adopt.

*Employees of
related
organizations*

Section 6. The Board of Trustees shall have the following powers, in addition to those which may be granted to them by the Trust Agreement:

*Authority of
pension
trustees*

(a). To employ the services of any actuary, legal counsel and other professional advisers as they deem necessary to assist them with the formulation of the Pension Plan or Plans, the determination and monitoring of the contribution rate to support the Plan on a sound actuarial basis and maintenance of the Pension Fund, and to pay for such services from the Pension Fund.

*Employees of
advisers*

(b). To require the Secretary-Treasurer of any Local Union or affiliated body to furnish to them such records as they may deem necessary for the proper administration of the Pension Fund.

*Access to
records*

(c). To make all necessary amendments to the Pension Plan or Plans as may be required to render the Pension Trust Fund qualified and tax exempt under applicable provisions of the Internal Revenue Code and the Income Tax Act (Canada) or which may be deemed by them to be necessary to conform the Pension Plan or Plans and Trust Fund to all other applicable laws.

*Employment
pension plan(s)*

(d). To provide exceptions from coverage in the case of officers or employees who are entitled to be covered under an employee pension benefit plan maintained by a public employer or public utility, under

*Exceptions
from coverage*

such uniform and nondiscriminatory rules as the Board of Trustees may establish, for the purpose of preventing duplication of pension coverage or benefits for such persons, if such exceptions do not conflict with applicable law or adversely affect the tax exempt status of the Pension Plan or Trust.

*Increasing
payments*

(e). To increase or decrease the payments required by Section 8 of Article XX as permitted by law.

*General
authority*

(f). To take all such steps as they deem necessary to effectuate the purposes of this Article XX and to protect the rights and interests of the participants of the Pension Fund.

*Safeguarding
of assets*

Section 7. The Trustees shall keep all assets of the Pension Fund separate and distinct from all other revenue and income received by the International Union; shall transfer said Pension Fund assets to Corporate Trustee(s) or Corporate Custodian(s) which they may appoint; may remove any such Corporate Trustee(s) or Corporate Custodian(s) and appoint a successor; and may pay the fees of such Corporate Trustee(s) or Corporate Custodian(s) from the Pension Fund.

*Pension
contributions*

Section 8(a). Subject to any changes and amendments made by the International Executive Board or the Trustees pursuant to their authority set forth herein, each Local Union and affiliated body within the United States shall pay to the Pension Fund an amount equal to 14 percent of the gross monthly compensation of each eligible officer and employee, and each Local Union and affiliated body within Canada shall pay to the Pension Fund an amount equal to 14 percent of the gross monthly compensation of each eligible officer and employee.

*Time of
contribution to
pension fund*

(b). The contribution provided for above shall be paid to the Pension Fund before the end of the month following the month in which the eligible officer or employee receives any compensation on which a pension contribution is payable. Contributions shall commence from the first date of employment of the eligible officer or employee.

*Sanctions for
nonpayment*

(c). If a Local Union or affiliated body required to contribute to the Pension Fund fails to make payments required herein, the provision of Article XIII, Section 3 of this Constitution and Bylaws shall be applicable.

*Limitation of
liability*

Section 9. The International Union shall indemnify all Trustees, the Fund Coordinator and Fund office employees from and against any liability which they may incur while acting in their official capacities, except for liability resulting from their gross negligence, willful misconduct, fraud or criminal act, including the cost of all legal expenses incurred in connection with the defense against any such charge.

Article XXI LOCAL ENFORCEMENT OF INTERNATIONAL CONSTITUTION

Any Local Union or affiliated body willfully neglecting to enforce the provisions of this Constitution and Bylaws shall be subject to suspension or revocation of its charter or such other sanctions as may be determined by the International President.

*Obligation
to enforce
Constitution*

Article XXII NONLIABILITY OF INTERNATIONAL UNION

Except as is otherwise specifically provided in this Constitution, no Local Union, or affiliated body, nor any officer, employee, organizer or representative of a Local Union or affiliated body or of this International Union shall be authorized to make contracts or incur liabilities for or in the name of the International Union unless authorized in writing by the International President and the International Secretary-Treasurer, or the International Executive Board.

*Lack of
authorization
to obligate
International*

Article XXIII LITIGATION

A. Subject to applicable law, no member, Local Union or affiliated body shall bring any action against the International Union or any other Local Union or affiliated body or any officers thereof, with respect to any matter arising out of the affairs of the International Union or its Local Unions or affiliated bodies unless he or she has exhausted all procedures available under this Constitution and the laws promulgated thereunder. Any member, or Local Union or affiliated body, filing suit in violation of this provision may, in addition to other penalties, be ordered to reimburse the organization or officers sued for the costs and attorneys' fees expended, or a portion thereof.

*Obligation
to exhaust
procedural
remedies*

B. The International Union is authorized upon affirmative vote of the International Executive Board to pay all expenses for investigation services, employment of counsel and other necessary expenditures in any cause, matter, case or cases where an International Union officer, representative, employee, agent or one alleged to have acted on behalf of the International Union is charged with any violation or violations of any law or is sued in any civil actions with respect to any matter arising out of his or her official duties on behalf of the International Union, except if such officer, representative, employee or agent is charged with a breach of trust to the International Union, or any affiliate or member thereof, in which event he or she may be indemnified only if the action is terminated favorably to him or her.

*Authority to
defend*

C. Neither the International Union nor any of its officers shall be responsible or liable for the wrongful or unlawful acts of any Local Union or affiliated body or officers, members, or agents thereof, except where

*Limitation of
liability*

the International Union or its officers have actually participated in or actually authorized such acts, or have ratified such acts after actual knowledge thereof.

*Service of
process*

D. Only the elected officers of the International Union are authorized to be its agents for service of process. General organizers, staff members and employees of the International Union and the officers and employees of subordinate bodies are not authorized to be agents of the International Union for service of process under any circumstances.

Article XXIV AMENDMENTS

*Amendment
procedure*

This Constitution and Bylaws may be amended by action of any regular Convention of the International Union or Special Convention called for that purpose. Amendments may be proposed at such Convention in the same manner as is provided herein for the submission of Convention resolutions. A majority of the Convention votes cast on such amendment shall be necessary for adoption. Except as otherwise provided, all amendments shall be effective immediately upon adoption by the Convention.

Article XXV DISSOLUTION

*Dissolution
procedure*

Section 1. This International Union cannot dissolve while there are seven dissenting Locals. No Local Union, provisional local or organizing committee can dissolve, secede or disaffiliate while there are seven dissenting members; no other affiliated bodies can dissolve, secede or disaffiliate while there are two dissenting Local Unions. The International Union shall be notified by registered or certified mail of any meeting, scheduled by a Local Union or affiliated body for the purpose of taking a vote on disaffiliation from the International Union at least 60 days prior to the date of such scheduled meeting, and a representative of the International Union shall be afforded an opportunity to speak at such meeting. The International President shall direct whether the membership vote shall be conducted by secret ballot at a membership meeting and/or by mail referendum, and, if appropriate, a separate method by which dissenting Local Unions or members may assert their dissent. The vote shall be counted by an independent neutral party. In the event of secession, dissolution or disaffiliation, all properties, funds and assets, both real and personal, of such Local Union or affiliated body shall become the property of the International Union. Under no circumstances shall any Local Union or affiliated body distribute its funds, assets or properties individually among its membership.

*Membership
vote and dissent*

*Reversion of
property, funds*

*No officer
support*

Section 2. Except as may be expressly permitted under an affiliation agreement or approved by the International Union, no officer of a local union or affiliated body shall support or assist any efforts to dissolve, secede or disaffiliate from the International Union. Except for these two limited circumstances, the International President or International

Executive Board may take any and all action provided under this Constitution to safeguard the members' and union's interests in the event of an attempt at a Local Union or affiliated body to dissolve, secede or disaffiliate, including but not limited to action under Article VIII, Section 7.

Article XXVI SAVINGS PROVISION

If any provision of this Constitution shall be modified or declared invalid or inoperative by any competent authority of the executive, judicial or administrative branch of a state, provincial or federal government, including, but not limited to, any provision concerning dues or per capita tax, the Executive Board shall have the authority to suspend the operation of such provision during the period of its invalidity or modification and to substitute in its place and stead a provision which will meet the objections to its validity and which will be in accord with the intent and purposes of the invalid or modified provision. In the case of a challenge to a dues or per capita tax provision, this authority shall also apply in the event the Executive Board determines that such actions are necessary at an earlier stage of judicial or administrative proceedings in order to ensure the effective implementation of the intent of the Constitutional provision at issue. If any Article or Section of this Constitution should be modified or held invalid by operation of law or by any tribunal of competent jurisdiction, the remainder of this Constitution or the application of such Article or Section to persons or circumstances, other than those as to which it has been held invalid or modified, shall not be affected thereby.

*Savings
provision*

APPENDIX A: SEIU MEMBER BILL OF RIGHTS AND RESPONSIBILITIES IN THE UNION

Rights

The right to have opinions heard and respected, to be informed of union activity, to be educated in union values and union skills.

The right to choose the leaders of the union in a fair and democratic manner.

The right to a full accounting of union dues and the proper stewardship over union resources.

The right to participate in the union's bargaining efforts and to approve union contracts.

The right to have members' concerns resolved in a fair and expeditious manner.

The responsibility to help build a strong and more effective labor movement, to support the organizing of unorganized workers, to help build a political voice for working people, and to stand up for one's co-workers and all workers.

Responsibilities

The responsibility to be informed about the internal governance of the union and to participate in the conduct of the union's affairs.

The responsibility to contribute to the support of the union.

The responsibility to treat all workers and members fairly.

The responsibility to offer constructive criticism of the union.

APPENDIX B: SEIU MEMBER BILL OF RIGHTS AND RESPONSIBILITIES ON THE JOB

Rights

The right to have work that is worthwhile to society, personally satisfying to the worker, and which provides a decent standard of living, a healthy and safe workplace, and the maximum possible employment security.

The right to have a meaningful and protected voice in the design and execution of one's work and in the longterm planning by one's employer as well as the training necessary to take part in such planning.

The right to fair and equitable treatment on the job.

The right to share fairly in the gains of the employer.

The right to participate fully in the work of the union on the scope, content and structure of one's job.

Responsibilities

The responsibility to participate in the union's efforts to establish and uphold collective principles and values for effective workplace participation.

The responsibility to recognize and respect the interests of all union members when making decisions about union goals.

The responsibility to be informed about the industry in which one works and about the forces that will affect the condition of workers in the industry.

The responsibility to participate fully in the union's efforts to expand the voice of workers on the job.

The responsibility to give fully and fairly of one's talents and efforts on the job and to recognize the legitimate goals of one's employer.

APPENDIX C: SEIU CODE OF ETHICS AND CONFLICT OF INTEREST POLICY

Approved by the SEIU International Executive Board, June 13, 2009

Approved by the SEIU International Executive Board as revised, January 21, 2016

PART A: PREAMBLE

Preamble

The Service Employees International Union (SEIU) believes in the dignity and worth of all workers. We have dedicated ourselves to improving the lives of workers and their families and to creating a more just and humane society. We are committed to pursuing justice for all, and in particular to bringing economic and social justice to those most exploited in our community. To achieve our mission, we must develop highly trained and motivated leaders at every level of the Union who reflect the membership in all of its diversity.

Union members place tremendous trust in their leaders. SEIU elected officers and managers owe not just fiduciary obligations to union members; given the moral purpose of our mission, SEIU leaders owe members the highest level of ethical behavior in the exercise of all leadership decisions and financial dealings on members' behalf. Members have a right to proper stewardship over union funds and transparency in the expenditure of union dues. Misuse and inappropriate use of resources or leadership authority undermine the confidence members have in the Union and weaken it. Corruption in all forms will not be tolerated in SEIU. This Code of Ethics and Conflict of Interest Policy (the "Code" or "SEIU Code") strengthens the Union's ethics rules of conduct, organizational practices and enforcement standards and thus enhances the Union's ability to accomplish its important mission.

Duty to members

We recognize that no code of ethics can prevent some individuals from violating ethical standards of behavior. We also know that the SEIU Code is not sufficient in itself to sustain an ethical culture throughout the Union. To accomplish the goals for which this Code has been created, we must establish systems of accountability for all elected leaders and staff. These systems must include appropriate checks and balances and internal operating procedures that minimize the opportunity for misuse or abuse, as well as the perception of either, in spending union funds and exercising decision-making authority. The systems also must include adequate provision for training on understanding and implementing this Code. More broadly, we emphasize the importance of the range of standards, practices, and values described in "A Strong Ethical Culture," Section A of the SEIU Policies on Ethics and Standards that were enacted with the Code in 2009.

Accountability

In particular, SEIU is committed to providing meaningful paths for member involvement and participation in our Union. The SEIU Member Bill of Rights and Responsibilities in the Union is a significant source of SEIU members' rights and obligations. Its exclusive enforcement

Member protections, responsibilities

through the procedures set forth in Article XVII of the SEIU Constitution and Bylaws reflects a commitment to the democratic principles that have always governed SEIU. Article XVII's numerous protections against arbitrary or unlawful discipline of members also form an essential ingredient of the democratic life of the Union. Similarly, the requirement that Affiliates provide for regular meetings of the membership, set forth in Article XV, Section 5 of the Constitution, is another important element in the democratic functioning of SEIU. Finally, the provisions against discrimination and harassment on the basis of race, creed, color, religion, sex, gender expression, sexual orientation, national origin, citizenship status, marital status, ancestry, age and disability contained in Article III, Section 4 of the SEIU Constitution and in the Constitutions and Bylaws of Affiliates, the SEIU Anti-Discrimination and Anti-Harassment Policy and Procedure, and similar policies of Affiliates forbid conduct in violation of SEIU's historic belief that our strength comes from our unity and diversity and that we must not be divided by forces of discrimination.

*Other sources
of authority*

Individuals subject to this Code are expected to comply with State and Federal laws, the Constitution and Bylaws of SEIU and Affiliates, and the anti-discrimination and anti-harassment policies of SEIU and Affiliates as part and parcel of our commitment to sustaining an ethical culture and the highest standards of conduct throughout the Union. Violations of these laws and policies are ethical breaches; however, these violations should be addressed through avenues provided by the applicable laws and policies and not through the Code unless they also allege violations of this Code. In particular, the sole enforcement mechanism for matters covered by the SEIU or Affiliate Constitutions and Bylaws is that which is set forth in those documents, unless violations of this Code are also alleged. Finally, grievances that arise under collective bargaining agreements are excluded from enforcement under this Code unless they also allege violations of this Code.

The scope and standards of this Code are set forth in the following Sections.

*Applicability,
International
Union*

Section 1. Applicability to International Union. The SEIU Code is henceforth applicable in its entirety to all officers, executive board members and employees of SEIU. These individuals are referred to herein as "covered individuals." SEIU shall append or attach the Code in its entirety to its Constitution and Bylaws in its next and all future publications.

*Applicability,
Affiliates*

Section 2. Applicability to SEIU Affiliates. By enactment of the SEIU International Executive Board, the SEIU Code is applicable in its entirety to all officers, executive board members and employees of all affiliated bodies and local unions chartered by SEIU ("Affiliates" herein). These individuals are referred to herein as "covered individuals."

- (a) Each Affiliate shall ensure that the Code extends to all employees as soon as practicable but in no event later than the end of 2020.
- (b) Each Affiliate shall append or attach the Code in its entirety to its Constitution and Bylaws at its next and all future publications.
- (c) Wherever reference herein is made to SEIU or an SEIU program, department or position, the corresponding reference is to the particular Affiliate or its equivalent program, department or position.
- (d) Each Affiliate is responsible for enforcing the Code and educating its covered individuals on the Code in a manner consistent with the Code's terms, subject to assistance and oversight from SEIU.
- (e) The Code is not intended to restrain any Affiliate from adopting higher standards and best practices, subject to the approval of the SEIU Ethics Ombudsperson.

PART B: GENERAL OBLIGATIONS

Section 3. Obligations of Covered Individuals.

*Covered
individuals,
obligations*

*Duties regarding
Code*

- (a) Commitment to the Code. SEIU and each Affiliate shall provide a copy of the Code to each covered individual. It is the duty and obligation of covered individuals to acknowledge annually that they have received a copy of this Code, that they have reviewed and understand it, and that they agree to comply with it.
- (b) Duty of disclosure. Covered individuals shall disclose to the SEIU Ethics Ombudsperson or the Affiliate Ethics Liaison, described in Part F of this Code, any conflict of interest or appearance of a conflict, which arises when their paramount duty to the interest of members is potentially compromised by a competing interest, including but not limited to an interest, relationship or transaction referenced in this Code. Actual, perceived and potential conflicts should be disclosed at the time that covered individuals become aware of them.
- (c) Disqualification from service to SEIU or Affiliate. No person shall serve as an officer or managerial employee of SEIU or any Affiliate who has been convicted of any felony involving the infliction of grievous bodily injury, or the abuse or misuse of such person's position or employment in a labor organization to seek or obtain illegal gain at the expense of the members, except for the limited exceptions set forth in applicable federal law.

*Duty of
Disclosure*

Disqualification

PART C: BUSINESS AND FINANCIAL ACTIVITIES

*Protection of
member funds*

Section 4. General Duty to Protect Members' Funds; Members' Right to Examine Records.

Fiduciary duty

- (a) The assets and funds of a labor organization are held in trust for the benefit of the membership. Members are entitled to assurance that those assets and funds are expended for proper and appropriate purposes. The Union shall conduct its proprietary functions, including all contracts for purchase or sale or for the provision of significant services, in a manner consistent with this Code. All officers, executive board members and employees of SEIU and SEIU Affiliates, whether elected or appointed, have a trust and high fiduciary duty to honestly and faithfully serve the best interests of the membership.

*Examination
of records*

- (b) Consistent with Section 201 of the Labor-Management Reporting and Disclosure Act, SEIU shall permit a member for just cause to examine any books, records and accounts necessary to verify SEIU's annual financial report under that section to the U.S. Department of Labor.
- (c) Affiliates comprised solely of members employed by government bodies shall permit a member to examine its financial report submitted to a state agency and, consistent with state law and for just cause, to examine any books, records and accounts necessary to verify the Affiliate's financial report.

*Prohibited
interests and
transactions*

Section 5. Prohibited Financial Interests and Transactions. Covered individuals shall not, to the best of their knowledge, have a substantial ownership or financial interest that conflicts with their fiduciary duty.

Definition

- (a) For purposes of these rules, a "substantial ownership or financial interest" is one which either contributes significantly to the individual's financial well-being or which enables the individual to significantly affect or influence the course of the business entity's decision-making.
- (b) A "substantial ownership or financial interest" does not include stock in a purchase plan, profit-sharing plan, employee stock ownership plan (ESOP) or blind trust. Nor does it prohibit covered individuals from owning, through a mutual fund or other similar investment vehicle, the publicly traded shares of any employer with which SEIU or an Affiliate engages in collective bargaining or does business or which SEIU or an Affiliate seeks to organize, provided that all transactions affecting such interests are consistent with rates and terms established by the open market.
- (c) It is not permissible for any covered individual to:

- (1) Knowingly have a substantial ownership or financial interest in any entity that engages in collective bargaining with SEIU or any of its Affiliates;

Employers

- (2) Make or attempt to influence or participate in any way in a decision concerning the relations of SEIU or an Affiliate with a vendor, firm or other entity or individual in which the covered individual or his or her relative, spouse or business partner has a substantial ownership or financial interest; or *Vendors*
- (3) Engage in any self-dealing transactions with SEIU or any of its Affiliates, such as buying property from or selling property to SEIU, without the informed approval of the International Secretary-Treasurer (or Affiliate Secretary-Treasurer, as applicable), obtained after full disclosure, including an independent appraisal of the fair market value of the property to be bought or sold. *Self-dealing*
- (d) To ensure compliance with this Section, covered individuals are required to disclose any interests, transactions or interests covered by this Section in accordance with Section 3(b) of this Code. *Disclosure*

Section 6. Payments and Gifts from Employers, Vendors and Members.

Payments and gifts

- (a) Covered individuals shall not knowingly accept any payments, benefits or gifts of more than minimal financial value under the circumstances presented from any employer that engages or seeks to engage in collective bargaining with SEIU or an Affiliate, or from any business or professional firm that does business or seeks to do business with SEIU or an Affiliate. *Prohibition*
- (1) This Section does not extend to payments and benefits that are provided to covered individuals by prohibited employers as compensation for their primary and regular employment. *Regular employment*
- (2) This Section does not extend to work and services that covered individuals perform for prohibited employers or businesses on a part-time basis, through an arm's length transaction and for normal and customary pay for such work or services. *Payment for services*
- (3) This Section does not extend to participation in events hosted by public officials involving discussion of public policy matters. *Public policy events*
- (4) With respect to perishable items that are more than minimal but that are impracticable to return, such as food, it shall be considered compliance with this Section to discard such an item or place it in a common area for members and office staff to enjoy. If the gift is discarded or enjoyed communally, it is recommended that the giver should be advised of this disposition to dispel the appearance of any conflict of interest on the part of any covered individual and to discourage recurrence. *Perishable items*

Gifts from members

- (b) Covered individuals shall not knowingly accept personal payments or gifts from any member, absent a personal relationship independent of the relationship between the Union and the member, other than a gift of minimal financial value. This provision does not apply to contributions to campaigns for union office made in accordance with the SEIU Constitution and Bylaws.

Conversion prohibited

Section 7. Conversion of Union Funds and Property. Covered individuals shall not use, convert or divert any funds or other property belonging to SEIU to such individual's personal benefit or advantage.

Third parties

Section 8. Applicability to Third Parties. The principles of this Code apply to those investments and activities of third parties that amount to a subterfuge to conceal the financial interests of SEIU officers or employees or to circumvent the standards of this Code.

Loans

Section 9. Certain Loans Prohibited. SEIU shall not make loans to any officer or employee, or to any of their family members, that at any time exceed \$2,000 in total indebtedness on the part of such officer, employee or family member.

PART D: BENEFIT FUNDS AND RELATED ORGANIZATIONS

Section 10. Obligations of Covered Individuals.

Benefit funds

(a) Benefit Funds.

(1) For purposes of this Section:

Definitions

- a. A "benefit fund or plan" means a retirement, health or welfare benefit fund or plan sponsored by SEIU or an Affiliate, or in which SEIU or an Affiliate participates.
- b. The definition of "substantial ownership or financial interest" provided in Section 5 applies.

Fund fiduciaries, prohibitions

(2) Covered individuals who serve in a fiduciary position with respect to or exercise responsibilities or influence in the administration of a benefit fund or plan shall not:

Interests and personal ties

- a. Have any substantial financial interest in, or any compromising personal ties to, any investment manager, insurance carrier, broker, consultant or other firm or individual doing business or seeking to do business with the fund or plan;

Payment

- b. Accept any personal payment from any business or professional firm that does business or seeks to do business with the fund or plan, other than contractual payment for work performed; or

Compensation

- c. Receive compensation of any kind for service as an employee representative or labor-designated trustee for a fund or plan, except for reimbursement of reasonable expenses properly and actually incurred and provided

uniformly to such representatives or trustees, with the proviso that it is not a violation of this provision for an officer or managerial employee who is not a full-time employee of SEIU or an Affiliate to be a lawfully paid employee of a fund or plan if such employment is consistent with applicable legal restrictions and fully disclosed through appropriate reports.

Exclusion, less than full-time

- (3) To ensure compliance with this Section, all covered individuals shall disclose any interests, transactions or relationships covered by this Section in accordance with Section 3(b) of this Code.

Disclosure

- (4) No person shall serve in a fiduciary capacity or exercise responsibilities in the administration of a benefit fund or plan who has been convicted of any felony involving the infliction of grievous bodily injury or the abuse or misuse of such person's position or employment in an employee benefit plan to seek or obtain an illegal gain at the expense of the beneficiaries of the employee benefit fund or plan, except for the limited exceptions set forth in applicable federal law.

Disqualification

(b) Related Organizations.

*Related organizations
Definition*

- (1) For purposes of this Section, an organization "related to" SEIU or an Affiliate means an organization
- in which 25 percent or more of the members of the governing board are officers or employees of SEIU or an Affiliate, or
 - for which 50 percent or more of its funding is provided by SEIU or an Affiliate.

- (2) Covered individuals who serve in a fiduciary position with respect to or exercise responsibilities or influence in the administration of an organization related to SEIU shall comply with the provisions and shall hold themselves to the standards of the SEIU Code while they are acting for or on behalf of the related organization.

*Applicability
of Ethics Code*

PART E: FAMILY AND PERSONAL RELATIONSHIPS

*Personal
Relationships
Purpose of rules*

Section 11. Purpose of Rules Governing Family and Personal Relationships. SEIU does not prohibit the employment of qualified relatives of current officers or employees, or of individuals with whom an officer or employee has a romantic or intimate personal relationship. SEIU also does not prohibit the retention of qualified vendors that employ relatives of current SEIU officers or employees or individuals with whom an officer or employee has a personal relationship.

However, SEIU recognizes that the existence of such relationships can lead to problems, including favoritism or the appearance of favoritism toward relatives or those who are involved in a personal relationship.

Giving these individuals special treatment – or creating the impression that they receive special treatment – is inconsistent with our principles of stewardship and accountability and with our duty to responsibly conduct the business of SEIU. The provisions of this part are designed to ensure that family or personal relationships do not influence professional interactions between the employees involved and other officers, employees and third parties.

Definitions

Section 12. Definitions. For purposes of this part:

- (a) “Relative” means parent, spouse, spousal equivalent, daughter, son, grandparent, grandchild, brother, sister, aunt, uncle, niece, nephew, first or second cousin, corresponding in-law, “step” relation, foster parent, foster child, and any member of the employee’s household. Domestic partner relatives are covered to the same extent as spousal relatives.
- (b) “Personal relationship” means an ongoing romantic or intimate personal relationship that can include, but is not limited to, dating, living together or being a partner or significant other. This definition applies regardless of gender, gender identification, or sexual orientation of the individuals in the relationship. This restriction does not extend to friends, acquaintances or former colleagues who are not otherwise encompassed in the scope of “personal relationships.”

Prohibited conduct

Section 13. Prohibited Conduct. The following general principles will apply:

Application process

- (a) Applications for employment by relatives and those who have a personal relationship with a covered individual will be evaluated on the same qualification standards used to assess other applicants. Transmission to the appropriate hiring authority of applications on behalf of individuals who have a family or personal relationship shall not in itself constitute an attempt to influence hiring decisions. Further input into the application process, however, may be deemed improper.

Hiring decisions

- (b) Covered individuals will not make hiring decisions about their relatives or persons with whom they have a personal relationship, or attempt to influence hiring decisions made by others.

Supervisory relationship prohibited

- (c) Supervisory employees shall not directly supervise a relative or a person with whom they have a personal relationship. In the absence of a direct reporting or supervisor-to-subordinate relationship, relatives or employees who have a family or personal relationship generally are permitted to work in the same department, provided that there are no particular operational difficulties.

Involvement in work-related decisions

- (d) Covered individuals shall not make work-related decisions, or participate in or provide input into work-related decisions made by others, involving relatives or employees with whom

they have a personal relationship, even if they do not directly supervise that individual. Prohibited decisions include, but are not limited to, decisions about hiring, wages, hours, benefits, assignments, evaluations, training, discipline, promotions, and transfers.

- (e) To ensure compliance with this Section, all covered individuals must disclose to the Ethics Ombudsperson or the Affiliate Ethics Liaison, as appropriate, any relationships covered by this Section in accordance with Section 3(b) of this Code.

Disclosure

PART F: ENFORCEMENT

Enforcement

Section 14. Ethics Officer. The office of the Ethics Officer is established to provide independent assistance to SEIU in the implementation and enforcement of the Code. The Ethics Officer shall be an individual of unimpeachable integrity and reputation, preferably with experience in ethics, law enforcement and the workings of the labor movement. The Ethics Officer shall provide his or her services under contract and shall not be an employee of the International Union or any of its Affiliates. The Ethics Officer shall be appointed by the International President and confirmed by the International Executive Board. The International President, the International Secretary-Treasurer, and the SEIU International Executive Board may refer matters concerning the Code to the Ethics Officer for review and/or advice, consistent with Sections 22 and 23.

Ethics Officer

*Review and
advice*

Section 15. Ethics Ombudsperson. The office of SEIU Ethics Ombudsperson is established to oversee implementation and enforcement of the Code and ongoing efforts to strengthen the ethical culture throughout the Union. The Ethics Ombudsperson is responsible for providing assistance to the International Union and Affiliates on questions and concerns relating to the Code and ethical culture; directing the training of SEIU and Affiliate officers and staff concerning the Code and ethical culture; responding to ethics concerns and complaints consistent with Sections 17-23; receiving and resolving disclosures of conflicts of interest; assisting the Ethics Officer; and providing other support as necessary to the overall SEIU ethics program. The Ethics Ombudsperson, in consultation with the Ethics Officer, shall issue a report to the SEIU International Executive Board annually, summarizing compliance, training, enforcement, culture building and related activities, and making recommendations for modifications to the ethics program that he or she believes would enhance the program's effectiveness. The Ethics Ombudsperson may also conduct periodic reviews for the purposes of monitoring compliance with this Code and determining whether partnerships, joint ventures, and arrangements with management organizations conform to this Code, are properly recorded, reflect reasonable investment or payment for goods and services, further SEIU's tax-exempt purposes, and do not result in inurement, impermissible private benefit, or excess benefit transactions. The Ethics Ombudsperson shall be employed in the SEIU Legal Department.

*Ethics
Ombudsperson*

Annual report

Periodic reviews

Ethics Liaison

Section 16. Affiliate Ethics Liaison. Each Affiliate shall appoint an Ethics Liaison who will be available for ethics advice or guidance, will serve as an Affiliate's key contact with the International's Ethics Ombudsperson, will assist in enforcement of the Code, will oversee the delivery of ethics-related training, will assist the Affiliate in strengthening its ethical culture, and will serve as an ethical leader in the Affiliate.

Eligibility

- (a) Presidents, chief executive officers, secretary-treasurers, chief financial officers, chiefs of staff, and the equivalent of any of the foregoing are not eligible to serve as Ethics Liaisons.

Rotation

- (b) Affiliates are encouraged to consider rotating the Ethics Liaison position periodically, barring operational difficulties, to develop ethical leadership broadly in the Affiliate. Affiliates shall advise the SEIU Ethics Ombudsperson as soon as practicable of the appointment of Ethics Liaisons and of any vacancy that occurs in the position.

Training

- (c) Ethics Liaisons will regularly receive training from the International Union specific to the role. Affiliates should make every effort to ensure the participation of their Ethics Liaisons.

*Complaints***Section 17. Complaints.***Process for submission*

- (a) Any covered individual or member may file a written complaint concerning alleged violations of the Code. Oral concerns and complaints shall be reduced to writing for further processing as a complaint. Complaints should be signed or contain the name of the complainant(s), and shall be kept confidential pursuant to Section 24. Complaints alleging violation of the Code shall not be enforced under SEIU or Affiliate constitutions and bylaws unless they also allege violations of the constitutions and bylaws.

*Enforcement under Constitution**Contact information*

- (b) The International Union shall post contact information for submission of ethics complaints on the SEIU website and shall provide that information on request.
- (c) Each Affiliate shall provide its staff and membership with contact information for its Ethics Liaison.

*Handling of complaints, International***Section 18. Complaints Handled by the International Union.**

Complaints alleging violation of the Code that are submitted to the International Union or the Ethics Officer shall be referred initially to the SEIU Ethics Ombudsperson. The Ethics Ombudsperson shall review ethics complaints submitted to the International Union and shall respond to them in his or her discretion, including but not limited to providing advice or guidance, resolving them informally, directing them to resources outside the ethics office, and referring them to the Ethics Officer or Affiliate for further processing. The individual submitting the complaint shall be notified of the status of the complaint as appropriate in the discretion of the Ethics Ombudsperson but in all events upon its conclusion.

Section 19. Complaints Handled by Affiliate; Notice to Ethics

Ombudsperson. Ethics complaints that are raised with or referred to an Affiliate shall be investigated by the affected Affiliate and, where appropriate, may form the basis of employee discipline or formal internal union charges to be processed before a trial body in accordance with the requirements set forth in the Affiliate's constitution and bylaws and/or the SEIU Constitution and Bylaws. The Ethics Ombudsperson may advise an Affiliate concerning matters related to the investigation and processing of complaints and charges alleging violation of the Code. Where a complaint involves an Affiliate's president, chief executive officer, chief of staff, secretary-treasurer, chief financial officer, or the equivalent, the Affiliate shall notify the Ethics Ombudsperson as soon as practicable. The Ethics Ombudsperson may consult with the Ethics Officer concerning any question referred by an Affiliate.

*Handling of
complaints,
Affiliate*

*Notice to
Ombudsperson*

Section 20. Failure to Cooperate; Bad Faith Complaints.

Unreasonable failure by a covered individual to fully cooperate with a proceeding or investigation involving an ethics complaint or alleged violation of this Code shall constitute an independent violation of this Code. SEIU reserves the right, subject to notice, investigation and due process, to discipline persons who make bad faith, knowingly false, harassing or malicious complaints, reports or inquiries.

*Failure to
cooperate*

Bad faith

Section 21. Original Jurisdiction.

- (a) Requests for Original Jurisdiction. If an Affiliate or an Affiliate executive board member, officer, or member believes that formal internal union charges against a covered individual that also allege violations of this Code involve a situation which may seriously jeopardize the interests of the Affiliate or the International Union, or that the hearing procedure of the Affiliate will not completely protect the interests of the Affiliate, an officer or member, that individual may request that the International President assume original jurisdiction under Article XVII, Section 2(f) of the SEIU Constitution and Bylaws.
- (b) Assumption of Original Jurisdiction by International President. In accordance with Article XVII, Section 2(f) of the SEIU Constitution and Bylaws, the International President may in his or her discretion assume original jurisdiction of formal internal union charges also alleging violation of this Code if as a result of an investigation he or she believes that the charges filed against a covered individual involve a situation which may seriously jeopardize the interests of the Affiliate or the International Union. In his or her discretion, the International President may refer the matter to the Ethics Officer for a recommendation concerning the possible assumption of original jurisdiction.

*Original
Jurisdiction
Request by
affiliate*

*Assumption of
jurisdiction*

*Referral to
Ethics Officer*

Section 22. Referral of Formal Charges to Ethics Officer. If formal internal union charges filed with the International Union under Article XVII, Section 3 of the SEIU Constitution and Bylaws also allege violation of the Code by an officer or executive board member of the International Union or an Affiliate, such charges may be referred to the Ethics Officer for review and recommendations.

*Review by
Ethics Officer*

Section 23. Review of Claims by Ethics Officer.

(a) If after review of the allegations of violations of the Code in a complaint or formal charge, the Ethics Officer finds that the allegations have merit and/or warrant further investigation, he shall recommend a response or course of action for the International Union to respond to the complaint or charges, including but not limited to the following:

- (1) Further investigation by SEIU personnel and/or outside investigator(s);
- (2) Filing of formal charges under Article XVII of the SEIU Constitution and Bylaws;
- (3) Assumption of original jurisdiction by International President pursuant to Article XVII, Section 2(f) of the SEIU Constitution and Bylaws;
- (4) Appointment of an outside hearing officer to conduct a trial under Article XVII, Section 3 of the SEIU Constitution and Bylaws;
- (5) Discipline of covered employees;
- (6) Sanction of covered officers or members accused in formal proceedings, and
- (7) Other action deemed appropriate in the discretion of the Ethics Officer.

*Possible
recommendations*

No merit

(b) If the Ethics Officer concludes, after review of allegations of violations of the Code, that the allegations are without merit or that further investigation is not necessary, he or she shall advise the International Union of his or her findings.

Whistleblowers

PART G: PROTECTION OF WHISTLEBLOWERS

Confidentiality

Section 24. Confidentiality. SEIU will make all reasonable efforts to keep confidential the identity of any person(s) raising an ethics concern, inquiry, report or complaint under the Code unless disclosure is authorized by the complainant or is required for SEIU to carry out its fiduciary or legal duties. SEIU will also treat communications concerning ethics complaints or concerns with as much confidentiality and discretion as possible, provided that it remains able to conduct a complete and fair investigation, carry out its fiduciary and legal duties, and review its operations as necessary.

Section 25. No Retaliation. SEIU encourages all officers and

employees to bring ethics concerns and complaints that the Code has been violated to the attention of the Union, as set forth more fully in Part F above.

*Retaliation
prohibited*

- (a)** SEIU expressly prohibits retaliation against covered individuals and members for:
 - (1)** Making good faith complaints, reports or inquiries pursuant to this Code;
 - (2)** Opposing any practice prohibited by the Code;
 - (3)** Providing evidence, testimony or information relative to, or otherwise cooperating with, any investigation or enforcement process of the Code; and
 - (4)** Otherwise participating in the enforcement process set forth in PART F above.
- (b)** In particular, SEIU will not tolerate any form of retaliation against Affiliate Ethics Liaisons for performing their responsibilities.
- (c)** Any act of alleged retaliation should be reported to the SEIU Ethics Ombudsperson or the Affiliate Ethics Liaison immediately and will be responded to promptly.

*Against
Ethics
Liaisons*

Reporting

APPENDIX D: MANUAL OF COMMON PROCEDURE

INITIATION RITUAL

PRESIDENT: “It is my duty to inform you that the Service Employees International Union requires perfect freedom of inclination in every candidate for membership. An obligation of fidelity is required; but let me assure you that in this obligation there is nothing contrary to your civil or religious duties. With this understanding are you willing to take an obligation?”

(Answer.)

PRESIDENT: “You will now, each of you, raise your right hand and recite the following obligation:

MEMBERSHIP OBLIGATION:

“I, (name) _____, pledge upon my honor that I will faithfully observe the Constitution and Bylaws of this Union and of the Service Employees International Union.

“I agree to educate myself and other members in the history of the labor movement and to defend to the best of my ability the principles of trade unionism, and I will not knowingly wrong a member or see a member wronged if it is in my power to prevent it.

“As an SEIU member, I will take responsibility for helping to achieve

the Union's vision for a just society where all workers are valued and people respected, where all families and communities thrive, and where we leave a better and more equal world for generations to come."

PRESIDENT: "You are now members of the Service Employees International Union."

OFFICERS' INSTALLATION OBLIGATION

"I, (name) _____, accept my responsibility as an elected officer of the Service Employees International Union and I pledge that I will faithfully observe SEIU's Constitution and Bylaws. I will work tirelessly to unite working people to achieve our members' vision for a just society. I have carefully read and signed the Officers' Installation Obligation, and I hereby commit to abide by it."

Officers' Installation Obligation:

I accept my responsibility as an elected officer of the Service Employees International Union and I pledge that I will faithfully observe the Constitution and Bylaws of the Service Employees International Union.

I pledge that I will provide ethical, responsible leadership, representing our members and organizing new workers to build power to win for all.

I pledge to make the growing gap between the rich and everyone else the problem of our time, to inspire and support workers everywhere who are ready to take collective action to lift wages and create family-sustaining jobs, to elect political leaders on the side of the 99%, and to hold them accountable when they support policies that benefit the 1%.

I agree to defend the principles of trade unionism.

I will not knowingly wrong a member or see a member wronged if it is in my power to prevent it.

I pledge to exercise leadership based on the SEIU standards of:

- Shared unity of purpose;
- Openness to questions and willingness to learn;
- Acting with the courage of our convictions;
- Working together with accountability; and
- Commitment to inclusion.

I believe in and will fight for the SEIU vision of a just society where all workers are valued and people respected, where all families and communities thrive, and where we leave a better and more equal world for generations to come.

I will work to dismantle structural anti-Black racism as part of my

leadership commitments, which is necessary for building a fair and just economy for our members, their families and communities and for all working people. We can only achieve economic justice for working people when we achieve racial equality and justice for all.

I commit to the highest level of ethical behavior in exercising leadership decisions on our members' behalf.

I hereby certify that I have read and signed the Officers' Installation Obligation and I hereby commit to abide by it.

Signature of Officer: _____

DEBATE

The following rules shall be used to govern debate unless the Local Union has adopted its own rules or regulations:

Rule 1. The regular order of business may be suspended by a vote of the meeting at any time to dispose of urgent business.

Rule 2. All motions (if required by the chair) or resignations must be submitted in writing.

Rule 3. Any conversation, by whispering or otherwise, or any other activity which is calculated to disturb or may have the effect of disturbing a member while speaking or disturb the conduct of the meeting or hinder the transaction of business shall be deemed a violation of order.

Rule 4. Sectarian discussion shall not be permitted in the meetings.

Rule 5. A motion to be entertained by the presiding officer must be seconded, and the mover as well as seconder must rise and be recognized by the chair.

Rule 6. Any member having made a motion can withdraw it with consent of the seconder, but a motion once debated cannot be withdrawn except by a majority vote.

Rule 7. A motion to amend an amendment shall be in order, but no motion to amend an amendment to an amendment shall be permitted.

Rule 8. A motion shall not be subject to debate until it has been stated by the chair.

Rule 9. A member wishing to speak shall rise and respectfully address the chair, and if recognized by the chair, he or she shall be entitled to proceed.

Rule 10. If two or more members rise to speak, the chair shall decide which is entitled to the floor.

Rule 11. Any member speaking shall be confined to the question under debate and avoid all personal, indecorous or sarcastic language.

Rule 12. Attending meetings under the influence of liquor or any

controlled substance not lawfully prescribed is basis for removal.

Rule 13. No member shall interrupt another while speaking, except to a point of order, and the member shall definitely state the point, and the chair shall decide the same without debate.

Rule 14. Any member who is called to order while speaking shall be seated until the point of order is decided, after which, if decided in order, such member may proceed.

Rule 15. Any member who feels personally aggrieved by a decision of the chair may appeal such decision to the body.

Rule 16. When an appeal is made from the decision of the chair, the Vice President shall act as chairperson; the appeal shall be stated by the chair to the meeting in these words: "Shall the decision of the chair be sustained as the decision of this Union?" The member will then have the right to state the grounds of appeal and the chair will give reasons for its decision; thereupon the members will proceed to vote on the appeal without further debate, and it shall require a majority vote to overrule the chair.

Rule 17. No member shall speak more than once on the same subject until all who wish to speak have spoken, nor more than twice without unanimous consent, nor more than five minutes at any one time without consent of a two-thirds vote of all members present.

Rule 18. The presiding officer shall not speak on any subject unless such officer retires from the chair, except on a point of order or to make an official report or give such advice and counsel as the interests of the organization warrant. In case of a tie the presiding officer shall have the deciding vote.

Rule 19. When a question is before the meeting, no motion shall be in order except:

1. To adjourn;
2. To lay the question on the table;
3. For the previous question;
4. To postpone to a given time;
5. To refer or commit;
6. To amend.

These motions shall have precedence in the above order. The first three of these motions are not debatable.

Rule 20. If a question has been amended, the question on the amendment shall be put first; if more than one amendment has been offered, the question shall be put as follows:

1. Amendment to the amendment.
2. Amendment.
3. Original proposition.

Rule 21. When a question is postponed indefinitely, it shall not come up again except by a two-thirds vote.

Rule 22. A motion to adjourn shall always be in order, except:

1. When a member has the floor;
2. When members are voting.

Rule 23. Before putting a question to vote, the presiding officer shall ask, "Are you ready for the question?" Then it shall be open for debate. If no member rises to speak or the debate is concluded, the presiding officer shall then put the question in this form: "All in favor of this motion say `aye'"; and after the affirmative vote is expressed, "Those of the contrary opinion, say `no'." After the vote is taken, the presiding officer shall announce the result in this manner: "It is carried [or lost] and so ordered."

Rule 24. Before the presiding officer declares the vote on a question, any member may ask for a division of the house. The chair is required to comply with this request. A standing vote shall thereupon be taken.

Rule 25. When a question has been decided it can be reconsidered only by two-thirds vote of those present.

Rule 26. A motion to reconsider must be made and seconded by two members who voted with the majority.

Rule 27. A member ordered to be seated three times by the chair without complying shall be debarred from participating in any further business at that session.

Rule 28. All questions, unless otherwise provided, shall be decided by a majority vote.

Rule 29. The presiding officer of the meeting shall enforce these rules and regulations and may direct that members be removed from the meeting for violation of these rules.

ORDER OF BUSINESS

1. Opening.
2. Roll call of officers.
3. Reading of minutes of the previous meeting.
4. Applications for membership.
5. Initiation of new members.
6. Communications and bills.
7. Reports of officers, executive board and committees.
8. Unfinished business.
9. New business.
10. Good and welfare.
11. Adjournment.

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MARY KAY HENRY

International President

LUISA BLUE

International Executive Vice President

LESLIE FRANE

International Executive Vice President

GERRY HUDSON

International Secretary-Treasurer

HEATHER CONROY

International Executive Vice President

VALARIE LONG

International Executive Vice President

NEAL BISNO

International Executive Vice President

SCOTT COURTNEY

International Executive Vice President

ROCIO SÁENZ

International Executive Vice President

EXHIBIT

D

Cell Phone Agreement



Cell Phone Agreement

I have been issued an Apple iPhone 6 Plus cell phone.

I agree to use this phone for SEIU Local 1107 business only, and I will notify my supervisor and the Financial Office Manager if the device is damaged, lost, or stolen. I will be responsible for the deductible charge of \$199 for the replacement of the phone.

A handwritten signature in black ink that reads "Dana Gentry". The signature is written in a cursive style.

Dana Gentry
SEIU Local 1107

A handwritten date in black ink that reads "July 11, 2016". The date is written in a cursive style.

Date

SERVICE EMPLOYEES
INTERNATIONAL UNION
LOCAL 1107, CTW, CLC

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9 Attorneys for Local 1107, Luisa Blue and Martin Manteca

10 Local Counsel for SEIU International

11 EIGHTH JUDICIAL DISTRICT COURT

12 CLARK COUNTY, NEVADA

13 DANA GENTRY, an individual; and
14 ROBERT CLARKE, an individual,

15 Plaintiffs,

16 vs.

17 SERVICE EMPLOYEES
18 INTERNATIONAL UNION, a nonprofit
19 cooperative corporation; LUISA BLUE, in
20 her official capacity as Trustee of Local
21 1107; MARTIN MANTECA, in his
22 official capacity as Deputy Trustee of
23 Local 1107; MARY K. HENRY, in her
24 official capacity as Union President;
25 SHARON KISLING, individually;
26 CLARK COUNTY PUBLIC
27 EMPLOYEES ASSOCIATION UNION
aka SEIU 1107, a non-profit cooperative
corporation; DOES 1-20; and ROE
CORPORATIONS 1-20, inclusive,

Defendants.

CASE NO.: A-17-764942-C

DEPT. No. XXVI

DECLARATION OF EVAN L.
JAMES

I, Evan L. James, hereby declare as follows:

1. I am over the age of eighteen years, under no undue influence, and have personal knowledge of the matters set forth herein.
2. I am attorney of record in this matter.
3. I served discovery requests upon the Plaintiffs on August 17, 2018; August 29, 2019; and August 30, 2018. Plaintiffs did not respond. A meet and confer to discuss Plaintiffs' failure to timely respond to the discovery requests was held on September 27, 2018. At the conference, Plaintiffs' counsel promised to respond to the discovery requests

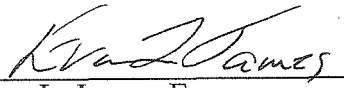
1 by October 5, 2017. Plaintiffs are now refusing to respond to the discovery requests. A
2 motion to compel will be forthcoming.

3 4. Discovery is focusing on Plaintiffs' representation when getting their employment
4 positions, the propriety of their conduct during their employment tenure, and their
5 relationship to former President Mancini.

6 5. Plaintiffs refusal to cooperate in discovery has made it impossible for any defendant
7 to obtain information necessary to assist in the defense of Plaintiffs' Summary Judgment
8 Motion.

9 I declare under penalty of perjury that the foregoing is true and correct.

10 Executed on October 12th, 2018.

11 
12 Evan L. James, Esq.
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1 **DECL**
2 **CHRISTENSEN JAMES & MARTIN**
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10 *Local Counsel for SEIU International*

11 **EIGHTH JUDICIAL DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 DANA GENTRY, an individual; and
14 ROBERT CLARKE, an individual,

15 Plaintiffs,

16 vs.

17 SERVICE EMPLOYEES
18 INTERNATIONAL UNION, a nonprofit
19 cooperative corporation; LUISA BLUE, in
20 her official capacity as Trustee of Local
21 1107; MARTIN MANTECA, in his
22 official capacity as Deputy Trustee of
23 Local 1107; MARY K. HENRY, in her
24 official capacity as Union President;
25 SHARON KISLING, individually;
26 CLARK COUNTY PUBLIC
27 EMPLOYEES ASSOCIATION UNION
aka SEIU 1107, a non-profit cooperative
corporation; DOES 1-20; and ROE
CORPORATIONS 1-20, inclusive,

Defendants.

CASE NO.: A-17-764942-C

DEPT. No. XXVI

**DECLARATION OF ZACHARY D.
JONES**

I, Zachary D. Jones, hereby declare as follows:


1. I am over the age of eighteen years, under no undue influence, and have personal knowledge of the matters set forth herein.
2. I am presently serving as a Law Clerk for Christensen James & Martin.
3. I have personally reviewed the cell phone records for the cell phone used by Dana Gentry while employed at the Nevada Service Employees Union ("Local 1107"). I called the numbers on the cell phone records.
4. I found that many of the calls appeared to be business related calls.

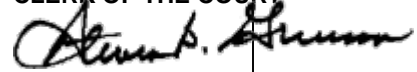
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5. I also found that many of the calls appeared to be personal calls.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 12th, 2018.


Zachary D. Jones



RMPSJ
MICHAEL J. MCAVOYAMAYA, ESQ.
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EIGHTH JUDICIAL DISTRICT COURT

DISTRICT OF NEVADA

* * * *

DANA GENTRY, an individual; and
ROBERT CLARKE, an individual,

Plaintiffs,

vs.

SERVICE EMPLOYEES INTERNATIONAL
UNION, a nonprofit cooperative corporation; *et*
al.

Defendants.

CASE NO.: A-17-764942-C

DEPT. NO.: 26

PLAINTIFFS' REPLY IN SUPPORT
OF MOTION FOR PARTIAL
SUMMARY JUDGMENT ON
LIABILITY AND OPPOSITION TO
DEFENDANTS' COUNTER-
MOTION FOR SUMMARY
JUDGMENT

COME NOW, Plaintiffs DANA GENTRY and ROBERT CLARKE, by and through their attorney of record MICHAEL J. MCAVOYAMAYA, ESQ., hereby file this Reply in Support of Motion for Partial Summary Judgment and Opposition to Defendants' Counter-Motion for Summary Judgment on Bad Faith and Tortuous Discharge.

DATED this 1st day November, 2016.

MICHAEL J. MCAVOYAMAYA
/s/ Michael J. Mcavoyamaya
MICHAEL J. MCAVOYAMAYA, ESQ.
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Attorney for Plaintiffs

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION.

Plaintiffs filed their Motion for Partial Summary Judgment because this case is about as simple a breach of for cause contract case as you can get, and Plaintiffs knew that Defendants would attempt to make this case something it was not, to wit: a matter involving federal labor law. Defendants' did precisely what Plaintiffs expected, and argued that this case should be dismissed based on inapplicable federal law. Defendants also seek to impute fault on Gentry and Clarke for the imposition of the trusteeship over Local 1107, which was not the basis for Defendants imposition of the trusteeship, and is currently being litigated in the federal court for violation of federal labor law. Finally, Defendants attempt to argue Defendants should at least be entitled to discovery in support of their after acquired evidence defense. None of these arguments have merit.

II. ARGUMENT

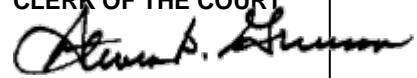
A. Standard of Review for Summary Judgment.

A moving party is entitled to summary judgment when there are no genuine issues of material fact. Fed. R. Civ. P. 56(a). When a motion for summary judgment is properly made and supported, an opposing party must set out facts showing a genuine issue for trial. FRCP 56(c)(1)(A)-(B). A fact is material if it might affect the outcome of the suit, and a dispute is genuine if the evidence is such that it could lead a reasonable jury to return a verdict for either party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247, 106 S. Ct. 2505 (1986). The substantive law defines which facts are fundamental. *Id.* at 248. The party opposing summary judgment has the burden to come forward with specific facts showing there is a genuine issue for trial. *Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 586, 106 S. Ct. 1348 (1986) (quoting FRCP 56(e)). There must be something more than some "metaphysical doubt" as to the

1 by and from the SEG membership by secret ballot” and had “[p]ower to hire and discharge paid
2 business representatives is vested solely with the Board.” *Id.* at 1021. Local 1107 has no business
3 agent, and under the Local 1107 Constitution, is the officer that possesses all the authority of a
4 “business agent” described in *Screen Extras Guild*, was the Local 1107 President, Cherie Mancini,
5 and the officers of Local 1107’s Executive Board. *See* Local 1107 Constitution, attached as
6 **Exhibit “2,”** at SEIU931-39, 964-66.

8 Gentry and Clarke were rank-and-file lower level management employees that answered
9 to Cherie Mancini. Their independent employment contracts are not governed by the SEIU or
10 Local 1107 Constitutions. This is because the Local 1107 Constitution vests authority to “[h]ire
11 and fire” union staff with the Local 1107 President. *Id.* at SEIU964. Neither the Local 1107, nor
12 the SEIU International Constitution bar a local union from entering into an independent, for cause
13 employment contract with union staff, and Local 1107’s own attorney, Michael Urban, Esq., wrote
14 a legal opinion that the Local 1107 President has the exclusive “authority to hire or fire staff
15 [which] may be limited by an applicable collective bargaining agreement, or by other applicable
16 laws, regulations, rules, or Executive Board policies.” *See* Urban Opinion RE: Presidential
17 Authority, attached as **Exhibit “3,”** at SEIU2025-26 (emphasis added). Even the trusteeship order
18 expressly states that Mancini ha a “constitutional authority to hire and fire Local staff.” *See*
19 Trusteeship Order, attached as Exhibit 3 to MPSJ, at 3.

22 Clearly, Local 1107 can enter into a CBA with local union staff, which would clearly be
23 applicable, even if a trusteeship is imposed. In fact, there currently is a CBA between Local 1107
24 and NSEUSU, which is comprised on non-managerial Local 1107 staff employees. *See* NSEUSU
25 CBA, attached as **Exhibit “4,”** at 1-35. According to Defendants self-serving analysis of the
26 LMRDA, which regulates the union-member relationship, the NSEUSU contract, like Plaintiffs
27
28



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Attorney for Plaintiffs

EIGHTH JUDICIAL DISTRICT COURT

DISTRICT OF NEVADA

* * * *

DANA GENTRY, an individual; and
ROBERT CLARKE, an individual,

Plaintiffs,

CASE NO.: A-17-764942-C

DEPT. NO.: 26

vs.

SERVICE EMPLOYEES INTERNATIONAL
UNION, a nonprofit cooperative corporation;
LUISA BLUE, in her official capacity as Trustee
of Local 1107; MARTIN MANTECA, in his
official capacity as Deputy Trustee of Local
1107; MARY K. HENRY, in her official
capacity as Union President; SHARON
KISLING, individually; CLARK COUNTY
PUBLIC EMPLOYEES ASSOCIATION dba
NEVADA SERVICE EMPLOYEES UNION
aka SEIU 1107, a non-profit cooperative
corporation; DOES 1-20; and ROE
CORPORATIONS 1-20, inclusive,

FIRST AMENDED COMPLAINT

(JURY TRIAL DEMANDED)

Defendants.

COME NOW, Plaintiffs DANA GENTRY and ROBERT CLARKE, by and through
their attorney of record MICHAEL J. MCAVOYAMAYA, ESQ., and hereby complain and
allege as follows:

I. PARTIES

1. Plaintiff Dana Gentry is and was at all times relevant herein a resident of Clark
County, Nevada.

2. Plaintiff Robert Clarke is and was at all times relevant herein a resident of
Clark County, Nevada.

1 3. Defendant Service Employees International Union (hereinafter referred to as
2 “SEIU”) is and was at all times relevant herein a nonprofit corporation with headquarters in
3 Washington D.C. with sufficient contacts with Local 1107 in Clark County, Nevada to confer
4 personal jurisdiction.

5 4. Defendant Luisa Blue (hereinafter the “Trustee”), at all times relevant herein
6 was present in Clark County, Nevada to confer personal jurisdiction.

7 5. Defendant Martin Manteca (hereinafter the “Deputy Trustee”) at all times
8 relevant herein was present in Clark County, Nevada to confer personal jurisdiction.

9 6. Defendant Mary Kay Henry (hereinafter “President Henry”) on information
10 and belief is a resident of Washington D.C., and at all times relevant herein had sufficient
11 contact with Local 1107 in Clark County, Nevada to confer personal jurisdiction.

12 7. Defendant Clark County Public Employees Association, dba Nevada Service
13 Employees Union aka SEIU 1107 (hereinafter “Local 1107”), is and was at all times relevant
14 herein a domestic non-profit cooperative corporation, having its main and principal office in
15 Clark County, Nevada.

16 8. Sharon Kisling, at all times relevant herein was present in Clark County,
17 Nevada to confer personal jurisdiction.

18 9. The true names of DOES 1 through 20, their citizenship and capacities,
19 whether individual, corporate, associate, partnership or otherwise, are unknown to Plaintiffs
20 who therefore sue these Defendants by such fictitious names. Plaintiffs are informed and
21 believe, and therefore allege, that each of the Defendants, designated as DOES 1 through 20,
22 are or may be legally responsible for the events referred to in this action, and caused damages
23 to the Plaintiffs, as herein alleged, and Plaintiffs will ask leave of this Court to amend the
24 Complaint to insert the true names and capacities of such Defendants, when the same have
25 been ascertained, and to join them in this action, together with the proper charges and
26 allegations.
27
28

1 10. That the true names and capacities of Defendants named herein as DOE
2 AGENCIES 1 through 20 and ROE CORPORATIONS 1 through 20, inclusive, are unknown
3 to the Plaintiffs, who therefore sue said Defendants by such fictitious names. Plaintiffs are
4 informed and believe and thereon allege that each of the Defendants designated herein as a
5 DOE AGENCIES and/or ROE CORPORATION Defendant is responsible for the events and
6 happenings referred to and proximately caused damages to the Plaintiffs as alleged herein.
7 Plaintiffs will ask leave of the Court to amend the Complaint to insert the true names and
8 capacities of DOE AGENCIES 1 through 20 and ROE CORPORATIONS 1 through 20,
9 inclusive, when the same have been ascertained, and to join such Defendants in this action.
10

11 **II. JURISDICTION AND VENUE**

12 11. This Court has personal jurisdiction over the Defendants and claims as set forth
13 herein pursuant to NRS 14.065, that such jurisdiction is not inconsistent with the Nevada
14 Constitution or the United States Constitution.

15 12. Venue is proper in this Court pursuant NRS 13.010 *et seq.* because, among
16 other reasons, Local 1107 operates its principal place of business in Clark County, Nevada.
17 Furthermore, this action arises out of the Contract between the Plaintiffs, Local 1107 and
18 SEIU, which was entered into and performed in Clark County, Nevada.

19 **III. ALLEGATIONS COMMON TO ALL CLAIMS**

20 13. On April 18, 2016, Local 1107 entered into a contract of employment with
21 Plaintiff Dana Gentry (hereinafter the “Gentry Contract”). The Gentry Contract was executed
22 by then Local 1107 President Cherie Mancini and Plaintiff Dana Gentry. The position held by
23 Plaintiff Gentry was Communications Director.

24 14. On August 23, 2016, Local 1107 extended an offer of employment to Plaintiff
25 Robert Clarke. Plaintiff Robert Clarke accepted the offer of employment with Local 1107 on
26 or about September 6, 2016 (hereinafter the “Clarke Contract”). The Clarke Contract was
27
28

1 executed by then Local 1107 President Cherie Mancini and Plaintiff Robert Clarke. The
2 position held by Plaintiff Clarke was Director of Finance and Human Resources.

3 15. Both the Gentry Contract and the Clarke Contract contain the same termination
4 clause, which states: "Termination of this employment agreement may be initiated by the
5 SEIU Nevada President *for cause* and is appealable to the local's Executive Board, which
6 shall conduct a full and fair hearing before reaching a final determination regarding your
7 employment status."

9 16. On April 28, 2017, Defendant SEIU President Mary Kay Henry placed Local
10 1107 under trusteeship and appointed Defendants Luisa Blue and Martin Manteca as
11 Trustee and Deputy Trustee, respectively.

12 17. On April 28, 2017, the managing staff of Local 1107 were told to stay home.

13 18. On May 4, 2017, Defendant Deputy Trustee Martin Manteca delivered a letter
14 to Plaintiff Robert Clarke informing Clarke that his employment with Local 1107 was
15 terminated effective immediately.

16 19. On May 4, 2017, Defendant Deputy Trustee Martin Manteca delivered a letter
17 to Plaintiff Dana Gentry informing Gentry that her employment with Local 1107 was
18 terminated effective immediately.

20 20. Both the letter to Clarke and the letter to Gentry contained the same language
21 regarding their termination: "the Trustees will fill management and other positions at the
22 Local with individuals they are confident can and will carry out the Local's new program and
23 policies. In the interim, the Trustees will largely be managing the Local themselves with input
24 from member leaders. For these reasons, the Trustees have decided to terminate your
25 employment with Local 1107, effective immediately."

27 21. Plaintiff Robert Clarke could not appeal the termination decision to Local
28 1107's Executive Board because the Board had been disbanded by SEIU, and Deputy Trustee

1 Manteca and Trustee Luisa Blue have exclusive control over Local 1107 since the Trusteeship
2 was imposed.

3 22. Plaintiff Dana Gentry could not appeal the termination decision to Local
4 1107's Executive Board because the Board had been disbanded by SEIU, and Deputy Trustee
5 Manteca and Trustee Luisa Blue have exclusive control over Local 1107 since the Trusteeship
6 was imposed.
7

8 **FIRST CAUSE OF ACTION**
9 **Breach of Contract – Dana Gentry**

10 23. Plaintiffs restate and reallege all preceding and subsequent allegations as
11 though fully set forth herein.

12 24. That Local 1107 entered into a valid and binding Employment Contract with
13 Dana Gentry.

14 25. That said Employment Contract contained a clause specifying that termination
15 of Plaintiff's employment could only be initiated for cause.

16 26. That Deputy Trustee Manteca and Trustee Blue are the interim managers of
17 Local 1107 while it is under Trusteeship, and the Executive Board is disbanded, leaving
18 Plaintiff no avenue to appeal the termination decision.
19

20 27. That Deputy Trustee Manteca and Trustee Blue as the managers of Local 1107
21 breached the Employment Contract by terminating Plaintiff Dana Gentry without cause.

22 28. That Plaintiff Dana Gentry has sustained damages in the result of said breach
23 in an amount in excess of \$15,000.00, and the costs and expenses associated in filing this
24 action, including Plaintiff's reasonable attorneys' fees and costs.
25

26 **SECOND CAUSE OF ACTION**
27 **Breach of Contract – Robert Clarke**

28 29. Plaintiffs restate and reallege all preceding and subsequent allegations as
though fully set forth herein.

1 30. That Local 1107 entered into a valid and binding Employment Contract with
2 Robert Clarke.

3 31. That said Employment Contract contained a clause specifying that termination
4 of Plaintiff's employment could only be initiated for cause.

5 32. That Deputy Trustee Manteca and Trustee Blue are the interim managers of
6 Local 1107 while it is under Trusteeship, and the Executive Board is disbanded, leaving
7 Plaintiff no avenue to appeal the termination decision.

8 33. That Deputy Trustee Manteca and Trustee Blue as the managers of Local 1107
9 breached the Employment Contract by terminating Plaintiff Robert Clarke without cause.

10 34. That Plaintiff Robert Clarke has sustained damages in the result of said breach
11 in an amount in excess of \$15,000.00, and the costs and expenses associated in filing this
12 action, including Plaintiff's reasonable attorneys' fees and costs.
13
14

15 **THIRD CAUSE OF ACTION**
16 **Breach of Implied Covenant of Good Faith and Fair Dealing – Contractual Breach**
 Dana Gentry

17 35. Plaintiffs restate and reallege all preceding and subsequent allegations as
18 though fully set forth herein.

19 36. Plaintiff Gentry entered into a valid and binding Employment Contract with
20 Local 1107.

21 37. That Defendant Local 1107, their parent union SEIU, and the Deputy Trustee
22 Manteca and Trustee Blue owed a duty of good faith to Plaintiff Gentry to perform under the
23 employment agreement, which could only be terminated for cause.

24 38. That Defendants breached their duty of good faith by terminating the
25 Employment Contract between Local 1107 and Plaintiff Gentry in order to fill Gentry's
26 position with individuals the Trustees would choose, which was unfaithful to the purpose of
27 the Gentry Contract that specified employment could only be terminated for cause.
28

39. That Plaintiff Gentry had the justified expectation that her employment could only be terminated for cause.

40. That Defendants' breach denied Plaintiff Gentry her justified expectation that she could only be terminated for cause.

41. That Plaintiff Dana Gentry has sustained damages as a result of said breach in an amount in excess of \$15,000.00, and the costs and expenses associated in filing this action, including Plaintiff's reasonable attorneys' fees and costs.

FOURTH CAUSE OF ACTION
Breach of Implied Covenant of Good Faith and Fair Dealing – Contractual Breach
Robert Clarke

42. Plaintiffs restate and reallege all preceding and subsequent allegations as though fully set forth herein.

43. Plaintiff Clarke entered into a valid and binding Employment Contract with Local 1107.

44. That Defendant Local 1107, their parent union SEIU, and the Deputy Trustee Manteca and Trustee Blue owed a duty of good faith to Plaintiff Clarke to perform under the employment agreement, which could only be terminated for cause.

45. That Defendants breached their duty of good faith by terminating the Employment Contract between Local 1107 and Plaintiff Clarke in order to fill Clarke's position with individuals the Trustees would choose, which was unfaithful to the purpose of the Clarke Contract that specified employment could only be terminated for cause.

46. That Plaintiff Clarke had the justified expectation that his employment could only be terminated for cause.

47. That Defendants' breach denied Plaintiff Clarke his justified expectation that he could only be terminated for cause.

48. That Plaintiff Robert Clarke has sustained damages as a the result of said breach in an amount in excess of \$15,000.00, and the costs and expenses associated in filing this action, including Plaintiff's reasonable attorneys' fees and costs.

FIFTH CAUSE OF ACTION
Breach of Covenant of Good Faith and Fair Dealing – Tortious Breach
Dana Gentry

49. Plaintiffs restate and reallege all preceding and subsequent allegations as though fully set forth herein.

50. That Plaintiff Gentry entered into an employment contract with Local 1107.

51. That Defendant Local 1107, their affiliate parent union SEIU, and the Deputy Trustee Manteca and Trustee Blue owed a duty of good faith to Plaintiff Gentry to perform under the employment agreement, which could only be terminated for cause.

52. That a special element of reliance or fiduciary duty existed between Plaintiff Gentry and Defendants Local 1107, SEIU, SEIU President Henry, Deputy Trustee Manteca and Trustee Blue where Defendants were in a superior or entrusted position as Plaintiff's employer.

53. That Defendants collectively breached that duty by terminating the employment agreement between Local 1107 and Plaintiff Gentry in order to fill Gentry's position with individuals the Trustees would choose, which was unfaithful to the "for cause" purpose of the Gentry Contract and amounts to engaging in misconduct under the Gentry Contract.

54. That Plaintiff Dana Gentry has sustained damages in the result of said breach in an amount in excess of \$15,000.00, and the costs and expenses associated in filing this action, including Plaintiff's reasonable attorneys' fees and costs.

//

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SIXTH CAUSE OF ACTION
Breach of Covenant of Good Faith and Fair Dealing – Tortious Breach
Robert Clarke

55. Plaintiffs restate and reallege all preceding and subsequent allegations as though fully set forth herein.

56. That Plaintiff Clarke entered into an employment contract with Local 1107.

57. That Defendant Local 1107, their parent union SEIU, and the Deputy Trustee Manteca and Trustee Blue owed a duty of good faith to Plaintiff Clarke to perform under the employment agreement, which could only be terminated for cause.

58. That a special element of reliance or fiduciary duty existed between Plaintiff Clarke and Defendants Local 1107, SEIU, SEIU President Henry, Deputy Trustee Manteca and Trustee Blue where Defendants were in a superior or entrusted position as Plaintiff's employer.

59. That Defendants collectively breached that duty by terminating the employment agreement between Local 1107 and Plaintiff Clarke in order to fill Clarke's position with individuals the Trustees would choose, which was unfaithful to the "for cause" purpose of the Clarke Contract and amounts to engaging in misconduct under the Clarke Contract.

60. That Plaintiff Robert Clarke has sustained damages in the result of said breach in an amount in excess of \$15,000.00, and the costs and expenses associated in filing this action, including Plaintiff's reasonable attorneys' fees and costs.

SEVENTH CAUSE OF ACTION
Intentional Interference with Contractual Relations – All Plaintiffs against
Defendants SEIU, Henry, Blue and Manteca

61. Plaintiffs restate and reallege all preceding and subsequent allegations as though fully set forth herein.

62. That there exist two valid contracts between Plaintiff Gentry and Local 1107 and Plaintiff Clarke and Local 1107 containing the for cause termination provision.

63. That Defendant Manteca, Defendant Blue, and Defendant Henry are third parties who took control of Local 1107 and knew of the existence of these contracts.

64. That Defendants Manteca, Blue and Henry committed intentional acts in the form of terminating the for cause contracts between Plaintiffs Clarke and Gentry and Local 1107.

65. That terminating the Plaintiffs' for cause contracts caused an actual disruption of Plaintiffs' valid employment contracts with Local 1107.

66. That Plaintiff Robert Clarke has sustained damages in the result of said breach in an amount in excess of \$15,000.00, and the costs and expenses associated in filing this action, including Plaintiff's reasonable attorneys' fees and costs.

67. That Plaintiff Dana Gentry has sustained damages in the result of said breach in an amount in excess of \$15,000.00, and the costs and expenses associated in filing this action, including Plaintiff's reasonable attorneys' fees and costs.

EIGHTH CAUSE OF ACTION
Wrongful Termination – Breach of Continued Employment Contract
Dana Gentry

68. Plaintiffs restate and reallege all preceding and subsequent allegations as though fully set forth herein.

69. That Defendant Local 1107 and Plaintiff Gentry entered into an employment contract on April 18, 2016.

70. That Defendant Local 1107 expressly agreed with Plaintiff that employment was to be for an indefinite term and could be terminated only for cause.

71. That Defendant Local 1107 and Defendants Manteca and Blue breached the Employment Contract by terminating Plaintiff Gentry without cause.

1 72. That Plaintiff Dana Gentry has sustained damages in the result of said breach
2 in an amount in excess of \$15,000.00, and the costs and expenses associated in filing this
3 action, including Plaintiff's reasonable attorneys' fees and costs.

4 **NINTH CAUSE OF ACTION**
5 **Wrongful Termination – Breach of Continued Employment Contract**
6 **Robert Clarke**

7 73. Plaintiffs restate and reallege all preceding and subsequent allegations as
8 though fully set forth herein.

9 74. That Defendant Local 1107 and Plaintiff Clarke entered into an employment
10 contract on September 6, 2016.

11 75. That Defendant Local 1107 expressly agreed with Plaintiff that employment
12 was to be for an indefinite term and could be terminated only for cause.

13 76. That Defendant Local 1107 and Defendants Manteca and Blue breached the
14 Employment Contract by terminating Plaintiff without cause.

15 77. That Plaintiff Robert Clarke has sustained damages in the result of said breach
16 in an amount in excess of \$15,000.00, and the costs and expenses associated in filing this
17 action, including Plaintiff's reasonable attorneys' fees and costs.

18 **TENTH CAUSE OF ACTION**
19 **Wrongful Termination – Bad Faith Discharge**
20 **Dana Gentry**

21 78. Plaintiffs restate and reallege all preceding and subsequent allegations as
22 though fully set forth herein.

23 79. That Defendant SEIU 1107 and Plaintiff Gentry entered into an employment
24 contract on April 18, 2016.

25 80. That Plaintiff established contractual rights of continued employment and
26 developed a relationship of trust, reliance and dependency with Defendant Local 1107 by
27 performing her employment duties for Local 1107 through April 2017.
28

1 81. That Defendant Local 1107 and Defendants Manteca, Blue and Henry, acting
2 in bad faith, breached the employment contract by discharging Plaintiff Gentry without cause.

3 82. That Plaintiff Dana Gentry has sustained damages in the result of said breach
4 in an amount in excess of \$15,000.00, and the costs and expenses associated in filing this
5 action, including Plaintiff's reasonable attorneys' fees and costs.
6

7 **ELEVENTH CAUSE OF ACTION**
8 **Wrongful Termination – Bad Faith Discharge**
9 **Robert Clarke**

10 83. Plaintiffs restate and reallege all preceding and subsequent allegations as
11 though fully set forth herein.

12 84. That Defendant Local 1107 and Plaintiff Clarke entered into an employment
13 contract on September 6, 2016.

14 85. That Plaintiff established contractual rights of continued employment and
15 developed a relationship of trust, reliance and dependency with Defendant Local 1107 by
16 performing his employment duties for Local 1107 through April 2017.

17 86. That Defendant Local 1107 and Defendants Manteca, Blue and Henry, acting
18 in bad faith, breached the employment contract by discharging Plaintiff Clarke without cause.

19 87. That Plaintiff Robert Clarke has sustained damages in the result of said breach
20 in an amount in excess of \$15,000.00, and the costs and expenses associated in filing this
21 action, including Plaintiff's reasonable attorneys' fees and costs.
22

23 **TWELFTH CAUSE OF ACTION**
24 **Tortious Discharge - Dana Gentry**

25 88. Plaintiffs restate and reallege all preceding and subsequent allegations as
26 though fully set forth herein.

27 89. That Defendant Local 1107, at the direction of and through the actions of
28 Defendants SEIU, Manteca, Blue and Henry improperly dismissed Plaintiff Gentry in order to

1 fill Plaintiff's position with individuals who would carry out SEIU's new program and
2 policies at Local 1107, which violates public policy upholding "for cause termination"
3 provisions in employment contracts.

4 90. That as a result, Plaintiff has sustained damages in an amount in excess of
5 \$15,000.00, and the costs and expenses associated in filing this action, including Plaintiffs'
6 reasonable attorneys' fees and costs.
7

8 **THIRTEENTH CAUSE OF ACTION**
9 **Tortious Discharge - Robert Clarke**

10 91. Plaintiffs restate and reallege all preceding and subsequent allegations as
11 though fully set forth herein.

12 92. That Defendant Local 1107, at the direction of and through the actions of
13 Defendants SEIU, Manteca, Blue and Henry improperly dismissed Plaintiff Clarke in order to
14 fill Plaintiff's position with individuals who would carry out SEIU's new program and
15 policies at Local 1107, which violates public policy upholding "for cause termination"
16 provisions in employment contracts.
17

18 93. That as a result, Plaintiff has sustained damages in an amount in excess of
19 \$15,000.00, and the costs and expenses associated in filing this action, including Plaintiffs'
20 reasonable attorneys' fees and costs.

21 **FOURTEENTH CAUSE OF ACTION**
22 **Negligence**

23 94. Plaintiffs restate and reallege all preceding and subsequent allegations as
24 though fully set forth herein.

25 95. That Defendant Local 1107 owed a duty of care to Plaintiffs as Plaintiffs'
26 employer to ensure that Plaintiffs would only be terminated for cause.
27
28

1 96. That Defendants Manteca and Blue owed a duty of care to Plaintiffs as the
2 acting managers of Local 1107, which employed Plaintiffs, to ensure that Plaintiffs would
3 only be terminated for cause.

4 97. That Defendants Local 1107, Manteca and Blue breached that duty by
5 terminating Plaintiffs without cause.

6 98. That Defendants Manteca and Blue further breached the duty of care by failing
7 to inspect the Plaintiffs' contracts for employment before terminating Plaintiffs.

8 99. That Defendants' breach of the duty of care caused Plaintiffs to be terminated
9 without cause, in violation of their employment contracts.

10 100. That as a result of said breach, Plaintiffs have sustained damages in an amount
11 in excess of \$15,000.00, and the costs and expenses associated in filing this action, including
12 Plaintiffs' reasonable attorneys' fees and costs.

13
14
15 **FIFTEENTH CAUSE OF ACTION**
16 **Defamation – Dana Gentry Against Sharon Kisling and SEIU Local 1107**

17 101. Plaintiffs restate and reallege all preceding and subsequent allegations as
18 though fully set forth herein.

19 102. That Defendant Sharon Kisling made a false a defamatory statement alleging
20 that Plaintiff Dana Gentry was drinking during performance of her employment and using the
21 union's credit card for personal expenses without authorization.

22 103. That an unprivileged publication of this statement was made to third persons
23 when Defendant Kisling sent a memo containing the unfounded allegations to the Local 1107
24 Executive Board.

25 104. That the statement included an allegation that Plaintiff Gentry committed a
26 crime, to wit: Plaintiff was stealing money from her employer for personal use constituting
27 defamation per se.
28

1 105. That the statement also included an allegation that affected Plaintiff Gentry's
2 business reputation, to wit: that Plaintiff Gentry was drinking alcohol while working for Local
3 1107 constituting defamation per se.

4 106. That Plaintiff Gentry requested that Kisling retract the defamatory statement
5 and she refused.

6 107. That Plaintiff Gentry subsequently request that the Local 1107 Executive
7 Board conduct an investigation and direct Ms. Kisling, the Vice President of Local 1107, to
8 retract the knowingly false defamatory statement.

9 108. That Plaintiff Gentry informed numerous officials from SEIU International,
10 Local 1107's parent organization, of the defamatory statements made against her by Local
11 1107's Vice President, Sharon Kisling.

12 109. That Defendants knew the statements were false.

13 110. That Defendants were at least negligent in making, and refusing to retract the
14 statements because Defendants knew that the statement was false and were published without
15 regard to the damages it caused Plaintiff Gentry in her employment with the Local Union.

16 111. That Plaintiff Gentry was subsequently terminated by Defendants without
17 Defendants retracting the defamatory statements.

18 112. That Plaintiff Gentry has sustained actual or presumed damages as a result of
19 the statement because it damaged her reputation as an employee.

20 113. That Plaintiff Gentry has sustained damages in an amount in excess of
21 \$15,000.00, and the costs and expenses associated in filing this action, including Plaintiffs'
22 reasonable attorneys' fees and costs.

23 **IV. PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiffs pray for Judgment in their favor as follows:

- 25 1. Damages in excess of \$15,000.00 for each Plaintiff;

1 2. Compensatory and consequential damages resulting from the injuries caused to
2 Plaintiffs by the breach of the employment contracts with Local 1107;

3 3. The reasonable attorney's fees and costs to bring this suit and post-judgment
4 interest;

5 4. Punitive damages for Defendants intentional and malicious conduct and as
6 allowed by law;

7 5. Such other and further relief as this court deems proper.

8 Dated this 25th day of March, 2019.

9 /s/ Michael J. Mcavaoyamaya

10 _____
MICHAEL J. MCAVOYAMAYA, ESQ.

11 Nevada Bar No.: 14082

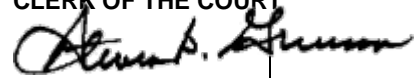
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13 Las Vegas, Nevada 89121

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Email: elj@cjmlv.com,
Attorneys for Local 1107, Luisa Blue and Martin Manteca
Local Counsel for SEIU International

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

DANA GENTRY, an individual; and
ROBERT CLARKE, an individual,

CASE NO.: A-17-764942-C

DEPT. No. 26

Plaintiffs,

vs.

**ANSWER TO AMENDED
COMPLAINT**

SERVICE EMPLOYEES
INTERNATIONAL UNION, a nonprofit
cooperative corporation; LUISA BLUE, in
her official capacity as Trustee of Local
1107; MARTIN MANTECA, in his
official capacity as Deputy Trustee of
Local 1107; MARY K. HENRY, in her
official capacity as Union President;
SHARON KISLING, individually;
CLARK COUNTY PUBLIC
EMPLOYEES ASSOCIATION UNION
aka SEIU 1107, a non-profit cooperative
corporation; DOES 1-20; and ROE
CORPORATIONS 1-20, inclusive,

Defendants.

NEVADA SERVICE EMPLOYEES UNION ("Local 1107"), misnamed as
"CLARK COUNTY PUBLIC EMPLOYEES ASSOCIATION UNION aka SEIU 1107"
hereby answers Plaintiff Dana Gentry's Amended Complaint as follows:

1. Local 1107 admits the allegations of Paragraphs 7, 16, 17, 18, 19.
2. Local 1107 admits the allegation of Paragraph 20 relating to the language of the employment termination letters to the extent that the allegation accurately reflects the language contained in the letters. The remaining allegations of Paragraph 20 are denied.
3. Defendants deny the allegations of Paragraphs 3-4, 11-15, 21-113,

1 4. Defendants lack sufficient knowledge and information to form a belief and
2 therefore deny the allegations of Paragraphs 1, 2, 5, 6, 8, 9, and 10.

3 5. Any allegation not specifically admitted or denied is hereby generally denied.

4 **AFFIRMATIVE DEFENSES**

5 1. Plaintiffs fail to state a claim upon which relief can be granted.

6 2. Denials set forth above are herein incorporated as affirmative defenses.

7 3. Plaintiffs' claims are preempted by federal law, including but not limited to the
8 Labor Management Reporting and Disclosure Act and the National Labor Relations Act,
9 by which the Plaintiffs could be removed as employees and / or Defendants' speech is
10 protected.

11 4. Plaintiffs lack standing to assert claims, including but not limited to claims relating
12 to fiduciary duties.

13 5. Defendants did not publish the alleged statement to a third-party.

14 6. The conduct alleged was done within the course of employment for which
15 privileges apply.

16 7. The alleged statements were true.

17 8. The alleged statements were authorized and / or required as the alleged declarant
18 was an employee of a labor organization.

19 9. The alleged statements were retracted.

20 10. The alleged statements are subject to absolute privilege, being made as part of a
21 judicial or quasi-judicial proceeding.

22 11. The alleged statements are subject to an absolute privilege, being made between
23 union / corporate officers and / or authorized personnel as part of an internal union /
24 corporate communication concerning the business of the company.

25 12. The alleged statements are subject to an absolute privilege, being made by a union
26 officer to a qualified person as part of a legal and / or fiduciary duty.

27

- 1 13. The alleged statements are subject to a qualified privilege, being made between
- 2 authorized union / corporate personnel in good faith and upon a common interest.
- 3 14. Plaintiff was a limited-purpose public figure and / or public figure for which free
- 4 speech rights apply and to which defamatory damages to not apply as the matter involved
- 5 a public concern.
- 6 15. Plaintiff cannot establish that the alleged statements were made with malice.
- 7 16. Plaintiff self-published the alleged statements.
- 8 17. The alleged statements were a matter of opinion.
- 9 18. Plaintiff suffered no harm from the alleged statements.
- 10 19. Applicable statutes of limitations bar Plaintiffs' causes of action.
- 11 20. Plaintiffs' claims are barred by failure to exhaust remedies.
- 12 21. Plaintiffs' claims are barred by the doctrine of unclean hands.
- 13 22. Defendants acted properly for the purpose of protecting Local 1107's interests,
- 14 including but not limited to correcting corruption, financial misfeasance,
- 15 mismanagement, failing union solidarity, failing morale and for the purposes of
- 16 protecting union certification and collective bargaining agreement negotiations and
- 17 performance.
- 18 23. Plaintiffs have failed to plead causes of action with required specificity.
- 19 24. Plaintiffs' claims are reduced, modified and/or barred by the doctrine of waiver.
- 20 25. Plaintiffs' claims are reduced, modified and/or barred by the doctrine of estoppel.
- 21 26. Plaintiffs' claims are reduced, modified and/or barred by the doctrine of laches.
- 22 27. Defendants fully performed contract obligations.
- 23 28. The alleged contracts, or portions thereof, are too indefinite to be enforced.
- 24 29. Plaintiffs fraudulently induced Local 1107 to hire them by misrepresenting their
- 25 education and work history and by failing to disclose prior bad acts that would have
- 26 disqualified them from employment.
- 27 30. The alleged contracts expired.

1 31. Any damages suffered in connection with Plaintiffs' claims are limited by the
2 economic loss doctrine.

3 32. Plaintiffs are not entitled to relief due to the failure of a condition precedent.

4 33. Defendants had or acquired for-cause reasons for terminating the alleged contracts.

5 34. Plaintiffs' claims are barred, in whole or in part, by the doctrines of mistake, excuse
6 and/or nonperformance.

7 35. Plaintiffs failed to mitigate damages.

8 36. Plaintiffs suffered no damages.

9 37. Punitive damage recovery is limited by statute.

10 38. Plaintiffs' claims are barred, in whole or in part, by the doctrine of novation.

11 39. Plaintiffs' claims resulted from the actions of a third party over which the
12 Defendants had no control.

13 40. The liability, if any, of Defendants must be reduced by the percentage of fault of
14 others, including Plaintiff.

15 41. The liability, if any, of Defendants is several and not joint and based upon their own
16 acts and not the acts of others.

17 42. Defendants actions were lawful.

18 43. Pursuant to NRCP 11, all possible affirmative defenses may not have been alleged
19 herein, insofar as sufficient facts were not available after reasonable inquiry upon filing
20 of this Answer, therefore, the answering Defendants reserve the right to amend their
21 Answer to add affirmative defenses should the necessity arise.

22 NOW, WHEREFORE, the Local 1107 prays as follows:

23 1. That Plaintiffs take nothing by way of the Complaint,

24 2. For an award of attorneys fees and costs incurred in this suit herein, and
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3. For other and such further relief as the Court deems just and proper.
DATED this 4th day of April, 2019.

CHRISTENSEN JAMES & MARTIN

By: /s/ Evan L. James
Evan L. James, Esq.
Nevada Bar No. 7760
7440 W. Sahara Avenue
Las Vegas, NV 89117
Tel.: (702) 255-1718
Fax: (702) 255-0871
*Attorneys for Local 1107, Luisa Blue
and Martin Manteca*

CERTIFICATE OF SERVICE

I am an employee of Christensen James & Martin and caused a true and correct copy of the foregoing document to be served in the following manner on the date it was filed with the Court:

✓ ELECTRONIC SERVICE: Pursuant to Rule 8.05 of the Rules of Practice for the Eighth Judicial District Court of the State of Nevada, the document was electronically served on all parties registered in the case through the E-Filing System.

Michael Macavoyamaya: mmcavoyamayalaw@gmail.com

Jonathan Cohen: jcohen@rsglabor.com

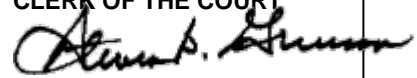
— UNITED STATES MAIL: By depositing a true and correct copy of the above-referenced document into the United States Mail with prepaid first-class postage, addressed as follows:

— FACSIMILE: By sending the above-referenced document via facsimile as follows:

— EMAIL: By sending the above-referenced document to the following:

CHRISTENSEN JAMES & MARTIN

By: /s/ Natalie Saville
Natalie Saville



ANS
ROTHNER, SEGALL & GREENSTONE

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Attorneys for Service Employees International Union
and Mary Kay Henry

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DANA GENTRY, an individual; and
ROBERT CLARKE, an individual,

Plaintiffs,

vs.

SERVICE EMPLOYEES INTERNATIONAL
UNION, a nonprofit cooperative corporation;
LUISA BLUE, in her official capacity as
Trustee of Local 1107; MARTIN MANTECA,
in his official capacity as Deputy Trustee of
Local 1107; MARY K. HENRY, in her official
capacity as Union President; SHARON
KISLING, individually; CLARK COUNTY
PUBLIC EMPLOYEES ASSOCIATION
UNION aka SEIU 1107, a non-profit
cooperative corporation; DOES 1-20; and ROE
CORPORATIONS 1-20, inclusive,

Defendants.

Case No.: A-17-764942-C

DEPT. XXVI

**DEFENDANTS SERVICE
EMPLOYEES INTERNATIONAL
UNION'S AND MARY KAY HENRY'S
ANSWER TO FIRST AMENDED
COMPLAINT**

Service Employees International Union ("SEIU") and Mary Kay Henry ("Henry")
(collectively, "Defendants") hereby answer Plaintiffs' first amended complaint as follows:

1. Defendants admit the allegations in paragraphs 7, 16 and 17.
2. Answering paragraph 3, Defendants admit that SEIU has headquarters in Washington D.C., but otherwise deny the allegations.
3. Answering paragraph 6, Defendants admit that Henry is a resident of Washington D.C., but otherwise deny the allegations.
4. Answering paragraph 21, Defendants admit that the Service Employees International Union, Local 1107 Executive Board was suspended following the April 28, 2017 trusteeship, but otherwise deny allegations.
5. Answering paragraph 22, Defendants admit that the Service Employees International Union, Local 1107 Executive Board was suspended following the April 28, 2017 trusteeship, but otherwise deny allegations.
6. Defendants deny the allegations in paragraphs 11-12, and 23-113.
7. Defendants have insufficient knowledge or information to admit or deny the allegations in paragraphs 1-2, 4-5, 8-10, 13-15, 18-20, and therefore deny the allegations.
8. Defendants generally deny any allegation that is not specifically admitted or denied.

AFFIRMATIVE DEFENSES

1. Plaintiffs fail to state a claim upon which relief can be granted.
2. Defendants' denials, as set forth above, are herein incorporated as affirmative defenses.
3. Plaintiffs' claims are preempted by federal law, including the Labor Management Reporting and Disclosure Act, 29 U.S.C. § 401, *et seq.*
4. Plaintiffs lack standing to assert claims for breach of fiduciary duty.
5. Defendants are not liable for alleged breach of employment contracts to which they were not parties.
6. Defendants are not liable for alleged tortious conduct related to breach of employment contracts to which they were not parties.
7. The conduct alleged was done within the course and scope of employment for which privileges apply.
8. The alleged defamatory statements were true.

- 1 9. The alleged defamatory statements were statements of opinion.
- 2 10. The alleged defamatory statements were subject to absolute and/or qualified privilege.
- 3 11. Defendants did not publish the alleged defamatory statements to a third party.
- 4 12. Plaintiffs cannot establish that the alleged statements were knowingly false and/or made
- 5 with reckless disregard for their truth or falsity.
- 6 13. The alleged defamatory statements were not made with malice.
- 7 14. Plaintiffs' claims are barred by applicable statutes of limitations.
- 8 15. Plaintiffs' claims are barred by the doctrine of unclean hands.
- 9 16. Plaintiffs have failed to plead causes of action with required specificity.
- 10 17. Plaintiffs' claims are reduced, modified and/or barred by the doctrine of waiver.
- 11 18. Plaintiffs' claims are reduced, modified and/or barred by the doctrine of estoppel.
- 12 19. Plaintiffs' claims are reduced, modified and/or barred by the doctrine of laches.
- 13 20. Plaintiffs' claims are reduced, modified and/or barred by the doctrine of after-acquired
- 14 evidence.
- 15 21. Defendants fully performed any alleged contract obligations.
- 16 22. The alleged contracts, or portions thereof, are too indefinite to be enforced.
- 17 23. The alleged contracts expired.
- 18 24. Plaintiffs' claims are limited by the economic loss doctrine.
- 19 25. Plaintiffs are not entitled to relief due to the failure of a condition precedent.
- 20 26. Defendants had cause to terminate the alleged contracts.
- 21 27. Plaintiffs' claims are barred, in whole or in part, by the doctrines of mistake, excuse
- 22 and/or nonperformance.
- 23 28. Plaintiffs failed to mitigate damages.
- 24 29. Plaintiffs suffered no damages.
- 25 30. Punitive damages are limited by statute.
- 26 31. Plaintiffs' claims are barred, in whole or in part, by the doctrine of novation.
- 27 32. Plaintiffs' claims resulted from the actions of a third party over which the Defendants had
- 28 no control.

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33. The liability, if any, of Defendants must be reduced by the percentage of fault of others, including Plaintiffs.
34. The liability, if any, of Defendants is several and not joint and based upon their own acts and not the acts of others.
35. Defendants’ actions were lawful.
36. Pursuant to NRCP 11, all possible affirmative defenses may not have been alleged herein, insofar as sufficient facts were not available after reasonable inquiry upon filing of this Answer. Therefore, the answering Defendants reserve the right to amend their Answer to add affirmative defenses should the necessity arise.

DATED: April 11, 2019

ROTHNER, SEGALL & GREENSTONE
CHRISTENSEN JAMES & MARTIN

By Evan L. James
EVAN L. JAMES
JONATHAN COHEN
Attorneys for Service Employees International
Union and Mary Kay Henry

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CERTIFICATE OF SERVICE

I am an employee of Christensen James & Martin and caused a true and correct copy of the foregoing document to be served in the following manner on the date it was filed with the Court:

✓ ELECTRONIC SERVICE: Pursuant to Rule 8.05 of the Rules of Practice for the Eighth Judicial District Court of the State of Nevada, the document was electronically served on all parties registered in the case through the E-Filing System.

Michael Macavoyamaya: mmcavoyamayalaw@gmail.com

Jonathan Cohen: jcohen@rsglabor.com

— UNITED STATES MAIL: By depositing a true and correct copy of the above-referenced document into the United States Mail with prepaid first-class postage, addressed as follows:

— FACSIMILE: By sending the above-referenced document via facsimile as follows:

— EMAIL: By sending the above-referenced document to the following:

CHRISTENSEN JAMES & MARTIN

By: /s/ Natalie Saville
Natalie Saville

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Email: elj@cjmlv.com,

Attorneys for Local 1107, Luisa Blue and Martin Manteca

Local Counsel for SEIU International

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DANA GENTRY, an individual; and
ROBERT CLARKE, an individual,

Plaintiffs,

vs.

CASE NO.: A-17-764942-C

DEPT. No. XXVI

OFFER OF JUDGMENT

SERVICE EMPLOYEES

INTERNATIONAL UNION, a nonprofit
cooperative corporation; LUISA BLUE, in
her official capacity as Trustee of Local
1107; MARTIN MANTECA, in his
official capacity as Deputy Trustee of
Local 1107; MARY K. HENRY, in her
official capacity as Union President;
SHARON KISLING, individually;
CLARK COUNTY PUBLIC
EMPLOYEES ASSOCIATION UNION
aka SEIU 1107, a non-profit cooperative
corporation; DOES 1-20; and ROE
CORPORATIONS 1-20, inclusive,

Defendants.

Pursuant to NRCP 68, Defendants Nevada Service Employees Union, misnamed
as Clark Count Public Employees Association Union aka SEIU Local 1107, and Service
Employees International Union, jointly, hereby offer to allow judgment to be taken
against them to resolve all claims against all of the Defendants and apportioned between
Plaintiffs as follows: in favor of Plaintiff Dana Gentry for Thirty Thousand and 00/100
Dollars (\$30,000.00), including all accrued interest, costs, attorney's fees, and any other
sums that could be claimed by Plaintiff Dana Gentry against Defendants in the above-
captioned action; and in favor of Plaintiff Robert Clarke for Thirty Thousand and 00/100

1 Dollars (\$30,000.00), including all accrued interest, costs, attorney's fees, and any other
2 sums that could be claimed by Plaintiff Robert Clark against Defendants in the above-
3 captioned action. This apportioned offer of judgment is conditioned upon the acceptance
4 by all Plaintiffs against the offerors pursuant to NRCP 68(b).

5 This is not an admission of liability but is an offer of compromise submitted for
6 the purposes of NRCP 68.

7 NOTICE TO CLERK OF THE COURT: If accepted by Plaintiff, this Offer of
8 Judgment shall expressly be designated as a compromise settlement pursuant to NRCP
9 68(d). Defendant shall pay the amount of this Offer of Judgment in a reasonable time and
10 therefore requests that any entry thereof by the Clerk be recorded as a dismissal of the
11 claim instead of an entry of judgment.

12 DATED this 16th day of July 2019.

13 CHRISTENSEN JAMES & MARTIN

14 By: /s/ Evan L. James

15 Evan L. James, Esq. (7760)

16 Attorneys for Local 1107, Luisa Blue
17 and Martin Manteca
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CERTIFICATE OF SERVICE

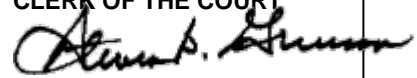
I am an employee of Christensen James & Martin and caused a true and correct copy of the foregoing document to be served on July 16, 2019 upon the following:

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By: /s/ Natalie Saville
Natalie Saville



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Attorneys for Service Employees International Union
and Mary Kay Henry

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DANA GENTRY, an individual; and
ROBERT CLARKE, an individual,

Plaintiffs,

vs.

SERVICE EMPLOYEES INTERNATIONAL
UNION, et al.,

Defendants.

Case No.: A-17-764942-C

DEPT. XXVI

**DEFENDANTS SERVICE
EMPLOYEES INTERNATIONAL
UNION'S AND MARY KAY HENRY'S
NOTICE OF MOTION AND MOTION
FOR SUMMARY JUDGMENT;
MEMORANDUM OF POINTS AND
AUTHORITIES**

HEARING DATE REQUESTED

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that defendants Service Employees International Union and
Mary Kay Henry hereby move for summary judgment on all claims in this action.

This motion is based on the following memorandum of points and authorities, the

1 declarations of Martin Manteca, Deirdre Fitzpatrick, Luisa Blue, and Jonathan Cohen, the
2 pleadings and papers filed in this action, and upon such other matters that may be presented to
3 the Court in connection with this motion.

4 DATED: October 24, 2019

ROTHNER, SEGALL & GREENSTONE

CHRISTENSEN JAMES & MARTIN

7 By _____
JONATHAN COHEN
8 Attorneys for Service Employees International
Union and Mary Kay Henry
9

10 MEMORANDUM OF POINTS AND AUTHORITIES

11 Introduction

12 Defendants Service Employees International Union (“SEIU”) and SEIU President Mary
13 Kay Henry move for summary judgment on all claims against them in the first amended
14 complaint. As discussed below, there is no genuine issue of any material fact. SEIU and Henry
15 are therefore entitled to summary judgment in their favor.

16 Defendant SEIU is an international labor union headquartered in Washington, D.C.
17 Defendant Henry is its President. Defendant Nevada Service Employees Union, Local 1107
18 (“Local 1107”), is a labor union headquartered in Las Vegas and a chartered affiliate of SEIU.

19 Citing evidence of widespread disarray at Local 1107, including a breakdown in internal
20 union governance and democratic procedures, leadership conflicts and in-fighting, and a failure
21 to communicate effectively with union membership, in April 2017 SEIU President Henry placed
22 Local 1107 into trusteeship, removed all of its officers, and appointed defendants Luisa Blue and
23 Martin Manteca as Trustees of Local 1107. The SEIU Constitution authorized the Trustees “to
24 take full charge of the affairs” of Local 1107, including the authority “to remove any of its
25 employees [or] agents.”

26 Plaintiffs Dana Gentry and Robert Clarke are former directors of Local 1107. Shortly
27 after the trusteeship, Blue and Manteca determined that it would not be in the best interests of
28 Local 1107 to manage the union’s affairs with its former management team. Thus, in May 2017,

1 the Trustees terminated Gentry and Clarke. In the present lawsuit, Gentry and Clarke allege
2 contract and wrongful termination claims against SEIU and Henry.

3 For several reasons, SEIU and Henry are entitled to summary judgment. First, Gentry and
4 Clarke admit that their employment contracts were between them and Local 1107, not SEIU or
5 Henry. Indeed, Gentry and Clarke did not work for either SEIU or Henry. Thus, plaintiffs'
6 contract and wrongful termination claims against SEIU and Henry fail.

7 Second, plaintiffs' claims are preempted by the federal Labor Management Reporting and
8 Disclosure Act ("LMRDA"), 29 U.S.C. § 401, *et seq.* A key purpose of the LMRDA is to protect
9 the ability of union leaders to carry out the will of the union's membership, including selecting
10 management-level staff who will loyally carry out the union's programs and policies. Numerous
11 courts have concluded that contract and wrongful termination claims by former management-
12 level staff of unions conflict with that legislative goal, and are therefore preempted. Such
13 preemption applies here and requires summary judgment in favor of SEIU and Henry. In fact,
14 undisputed evidence demonstrates that both Gentry and Clarke were opposed to the Trustees and
15 the trusteeship, and therefore incapable of loyally serving the new administration.

16 For these reasons and those that follow, SEIU and Henry respectfully request summary
17 judgment in their favor on all claims against them in the first amended complaint.

18 **Statement of Facts**

19 **I. The Parties.**

20 Defendant SEIU is an international labor union headquartered in Washington, D.C.
21 Declaration of Deirdre Fitzpatrick ("Fitzpatrick Decl."), ¶ 3. It is a not-for-profit membership
22 association representing about 2 million workers. *Id.* Its current constitution and bylaws have
23 been in effect since 2016. *Id.* Defendant Mary Kay Henry is its President. *Id.*

24 Defendant Nevada Service Employees Union, Local 1107 ("Local 1107"), is a labor
25 union headquartered in Las Vegas, Nevada. Fitzpatrick Decl., ¶ 5. It represents public and
26 private sector workers in Nevada. *Id.* Local 1107 is affiliated with SEIU, and has its own charter.
27 *Id.* Except for the period of time described below, Local 1107 is governed by its own constitution
28 and bylaws and has its own officers who are elected by its members. *Id.*

1 Plaintiff Dana Gentry is Local 1107's former Director of Communications. *See*
2 Declaration of Jonathan Cohen ("Cohen Decl."), Ex. A. (Gentry Depo., 24:2-23; Gentry Depo.
3 Ex. 1).¹ Plaintiff Robert Clarke is Local 1107's former Director of Finance and Human
4 Resources. Cohen Decl., Ex. C (Clarke Depo., 14:5-16; Clarke Depo Ex. 25).²

5 **II. Local 1107 Hires Gentry and Clarke.**

6 **A. Local 1107 Hires Gentry as Its Communications Director.**

7 On April 6, 2016, Gentry applied for a position as Communications Director with Local
8 1107 by contacting the Local 1107's then-human resources representative. Gentry Depo., 84:6-
9 15; Gentry Depo. Ex. 4. On April 18, 2016, Local 1107 hired Gentry. Gentry Depo. Ex. 1. Then-
10 Local 1107 President Cherie Mancini and Gentry entered into an employment contract
11 specifying the terms of Gentry's employment with Local 1107. *See id.*

12 Gentry negotiated her employment contract only with Local 1107. Gentry Depo., 142:10.
13 Then-Local 1107 President Mancini, who executed the employment contract on behalf of Local
14 1107, never informed Gentry that she was executing the contract on behalf of another entity
15 other than Local 1107. Gentry Depo., 141:3-16.

16 As Communications Director, Gentry was a "key advisor to Local 1107 leadership in a
17 variety of internal and external communications," and was responsible for "develop[ing] short-
18 term and long-term campaign strategies and plans for increasing the size, strength, activism and
19 savvy" of the union's membership; "development and implementation of Local 1107 internal and
20 external strategic communications plans, including the areas of press, graphic design, mail and
21 digital communications;" "production of newsletters, website, social media content, press
22 releases, public remarks and speeches, fliers, brochures, op-eds, talking points, [and] letters to
23

24 ¹ Excerpts from the certified transcript of the deposition of plaintiff Dana Gentry are attached as
25 Exhibit A to the Declaration of Jonathan Cohen. All further references to the Gentry deposition
26 transcript are included in Exhibit A to the Cohen Declaration. Exhibits to the Gentry deposition
27 are attached as Exhibits B to the Cohen Declaration.

28 ² Excerpts from the certified transcript of the deposition of plaintiff Robert Clarke are attached
as Exhibit C to the Cohen Declaration. All further references to the Clarke deposition transcript
are included in Exhibit C to the Cohen Declaration. Exhibits to the Clarke deposition are
attached as Exhibit D to the Cohen Declaration.

1 the editor;” “training and preparing members and leadership for press events and/or other public
2 statements;” and “development of proactive earned media and digital campaigns that reinforce,
3 protect and expand awareness of the union’s branding and mission.” Gentry Depo. Ex. 13;
4 Gentry Depo. 157:5-158:5.

5 Gentry was the primary individual at Local 1107 responsible for developing and
6 implementing the union’s internal and external communications strategy. Gentry Depo., 162:11-
7 13. Gentry agreed this responsibility entailed developing the most effective message to achieve
8 the union’s short-term and long-term campaign goals. Gentry Depo., 161:20-24. In furtherance
9 of that effort, Gentry was responsible for advising the union’s elected leadership about her
10 strategic communications plans. Gentry Depo., 158:10-11; 162:22-163:6; 164:20-25. That
11 included, at times, writing speeches or public talking points for Local 1107’s president and its
12 other elected leaders. 165:9-166:4.

13 Gentry also acted as Local 1107’s public spokesperson. For example, she was regularly
14 quoted on behalf of Local 1107 in newspaper articles. See Gentry Depo. Ex. 7; Gentry Depo.
15 111:23-113:16. She participated in radio interviews on behalf of the union. Gentry Depo. 28:12.
16 She developed and coordinated media strategy with community allies. Gentry Depo. 190:12-19;
17 192:18-193:3. She cultivated relationships with journalists in order to further the union’s ability
18 to obtain positive press coverage. Gentry Depo. 170:16-24; 171:8-15; 172:7-12; 188:25-189:5.
19 She was also responsible for developing the union’s communications calendar, which was
20 intended as a strategic timeline for disseminating the union’s message to have a maximum
21 campaign impact. See Gentry Depo., 186:20-187:11.

22 Gentry even advised the union regarding its legislative strategy. Gentry Depo. 189:15-
23 190:8. Based on her former experience as a producer on a political talk show, Gentry was able to
24 advise the union’s leadership about which elected leaders would be the most sympathetic to the
25 union’s legislative agenda. *Id.*

26 Gentry reported directly to then-Local 1107 President Mancini, who was Gentry’s direct
27 supervisor. Gentry Depo. 30:24-25; 154:4; Gentry Depo. Ex. 14 at 28. Gentry also attended a
28 weekly manager’s meeting with then-Local 1107 President Mancini other Local 1107 managers,

1 including the Director of Organizing and co-plaintiff Robert Clarke, then-Director of Finance
2 and Human Resources. Gentry Depo. 176:7-177:5.

3 **B. Local 1107 Hires Clarke as Its Director of Finance and Human Resources.**

4 In July 2016, plaintiff Clarke applied for a position as Director of Finance and Human
5 Resources at Local 1107 by sending his resume to then-Local 1107 President Mancini. Clarke
6 Depo. 10:10-22; Clarke Depo. Ex. 23. On August 23, 2016, Local 1107 hired Clarke. Clarke
7 Depo. 14:5-16; Clarke Depo. Ex. 25. Then-Local 1107 President Mancini and Clarke entered
8 into an employment contract specifying the terms of Clarke's employment with Local 1107. *See*
9 Clarke Depo. Ex. 25.

10 Like Gentry, Clarke negotiated his employment contract only with Local 1107. Clarke
11 Depo., 15:3, 16:1, 21:5. Like Gentry, then-Local 1107 President Mancini, who executed the
12 employment contract on behalf of Local 1107, never informed Clarke that she was executing the
13 contract on behalf of another entity other than Local 1107. Clarke Depo., 21:14-18.

14 As Director of Finance and Human Resources, Clarke was responsible "for the financial
15 health of [Local 1107] and [was] directly responsible for financial management, general office
16 administration, personnel systems, technology, legal compliance, and reporting." Clarke Depo.
17 Ex. 26; Clarke Depo. 35:25-36:12. Among other things, Clarke's financial management duties
18 included to "prepare monthly financial statements, monitor and improve systems for accounts
19 payable and receivable, review invoices, prepare checks for payment;" "process payroll . . . [and]
20 assure benefits are properly distributed and recorded;" "maintain all vendor and financial files"
21 for Local 1107; "analyze and advise on revenue and expense trends and cash flow projections;"
22 "lead in annual budget planning and prepare month and year-to-date reports for the [Local 1107]
23 Finance Committee and Executive Board;" "prepare deposits for the bank;" "maintain [political
24 action committee accounts];" "prepare for and schedule the annual audit, coordinate with the
25 auditor, [and] assist in filing . . . local and federal government reporting requirements;" and
26 "oversee all tax and reporting obligations." *Id.* Clarke had access to all of Local 1107's financial
27 records. Clarke Depo. 36:19.

28 Clarke was also the "primary Human Resource Manager" for Local 1107. Clarke Depo.

1 Ex. 26. His human resources duties included to “maintain staff personnel records, including the
2 tracking of employee time and attendance; maintain current and accurate records for employee
3 benefits;” “assure adequate systems for certain personnel administration, such as legal
4 reporting;” and “all other matters pertaining to personnel administration.” *Id.*

5 Clarke’s duties also included to “build, implement, and improve systems for complying
6 with state and federal laws regarding campaign finance and lobbyists’ activities;” and to
7 “maintain leases, contracts, equipment and office space” for the union. *Id.*

8 Like Gentry, Clarke reported directly to then-Local 1107 President Mancini, who was his
9 direct supervisor. Clarke Depo. 28:4-8. Clarke also attended a weekly manager’s meeting with
10 then-Local 1107 President Mancini other Local 1107 managers, including the Director of
11 Organizing and Gentry, then-Director of Communications. Clarke Depo. 58:15-22. As the head
12 of his department, Clarke supervised various staff, from an accountant to administrative
13 assistants. Clarke Depo. 19:16; 30:4-31:19.

14 **III. SEIU Places Local 1107 Under Trusteeship.**

15 Pursuant to her authority under the SEIU Constitution, in October 2016, SEIU President
16 Henry assumed jurisdiction over various internal disciplinary charges filed by members and
17 officers of Local 1107. Fitzpatrick Decl., ¶ 8. Following a hearing on those charges, on April 26,
18 2017, a hearing officer issued a report to SEIU President Henry recommending discipline against
19 then-Local 1107 President Mancini and then-Local 1107 Executive Vice President Sharon
20 Kisling. *Id.*; *id.* Ex. C. SEIU President Henry adopted the report and removed Mancini and
21 Kisling from Local 1107 office later that same day. *Id.*, ¶ 8.

22 That same day, a hearing officer also recommended that SEIU President Henry consider
23 placing Local 1107 under emergency trusteeship. *Id.*, ¶ 9; *id.* Ex. D. Later that same day, Local
24 1107’s executive board voted in favor of a trusteeship by SEIU. *Id.*, ¶ 10. Article VIII, Section
25 7(a) of the SEIU Constitution authorizes SEIU’s president to place a local union into trusteeship:

26 Whenever the International President has reason to believe that, in order to protect the
27 interests of the membership, it is necessary to appoint a Trustee for the purpose of
28 correcting corruption or financial malpractice, assuring the performance of collective
bargaining agreements or other duties of a bargaining representative, restoring
democratic procedures, or otherwise carrying out the legitimate objects of this

1 International Union, he or she may appoint such Trustee to take charge and control of the
2 affairs of a Local Union or of an affiliated body and such appointment shall have the
effect of removing the officers of the Local Union or affiliated body.

3 Fitzpatrick Decl., Ex. A (Art. VII, § 7(a)). On April 28, 2017, SEIU President Henry issued an
4 order placing Local 1107 into trusteeship. Fitzpatrick Decl., ¶ 10. Pursuant to the trusteeship
5 order, President Henry suspended Local 1107's Constitution and Bylaws, and removed the
6 union's officers, Executive Board members, and representatives. *Id.*; *id.*, Ex. E. President
7 Henry's order cited as a basis for the trusteeship, among other things, "an on-going and serious
8 breakdown in internal union governance and democratic procedures;" "[l]eadership conflicts and
9 in-fighting in Local 1107;" "failure to communicate adequately with Local membership;" and a
10 "communication breakdown in the Local [which] impeded staff oversight" Fitzpatrick
11 Decl., Ex. E.

12 Notably, Gentry acknowledged that such factionalism had impeded her ability to function
13 effectively as Communications Director. See Gentry Depo. 40:18-41:20. For example, Gentry
14 testified that, while Mancini was still Local 1107 President, union members opposed to
15 Mancini's leadership had "shunned" Gentry and stopped promoting Gentry's social media
16 postings on behalf of the union. Gentry Depo. 41:4-8. Gentry further testified that most of the
17 staff had taken Mancini's side in the factional dispute. Gentry Depo. 181:10-182:8.

18 SEIU President Henry appointed defendant Luisa Blue as a Trustee of Local 1107, and
19 defendant Martin Manteca as Deputy Trustee of Local 1107. Fitzpatrick Decl., ¶ 10. Under
20 Article VIII, Section 7(b) of the SEIU Constitution, Local 1107 Trustees Blue and Manteca were
21 authorized to assume control over the affairs of Local 1107, including the removal of employees
22 or agents of the union. In relevant part, Section 7(b) provides that:

23 The Trustee shall be authorized and empowered to take full charge of the affairs of the
24 Local Union or affiliated body and its related benefit funds, *to remove any of its*
25 *employees, agents and/or trustees* of any funds selected by the Local Union or affiliated
26 body and appoint such agents, employees or fund trustees during his or her trusteeship,
and to take such other action as in his or her judgment is necessary for the preservation of
the Local Union or affiliated body and for the protection of the interests of the
membership.

27 Fitzpatrick Decl., Ex. E (Art. VIII, § 7(b)) (emphasis added).
28

1 **IV. Clarke and Gentry Were Hostile to the Trustees and the Trusteeship.**

2 Within days of the imposition of the trusteeship, Local 1107 staff, including both Clarke
3 and Gentry, met with Deputy Trustee Manteca to discuss their job duties. Clarke Depo. 61:13;
4 Gentry Depo. 221:20.

5 As Clarke described it, during the meeting Manteca asked him to “swear loyalty to the
6 trustees.” Clarke Depo. 63:25-64:6. During discovery, however, it became clear that both Clarke
7 and Gentry were hostile to the Trustees and the trusteeship. At his deposition, Clarke testified
8 that he immediately questioned the legitimacy of the trusteeship, did not want to work for a
9 union that was illegitimately placed into trusteeship, and was “critical” of the trusteeship. Clarke
10 Depo., 65:10-67:25; 70:21-24. Clarke further testified that, as soon as he learned of the identity
11 of Deputy Trustee Manteca, Clarke concluded that Manteca had a reputation for being a “tyrant”
12 and “bully.” Clarke Depo. 71:4-9. Clarke formed a “negative” impression of Manteca
13 immediately upon meeting him, and maintained that same opinion of Manteca through the time
14 he was terminated. Clarke Depo. 72:12-73:23. Clarke testified as follows:

15 Q. Given your impression of Martin Manteca at that time, did you really
16 want to work under him?

17 A. I wouldn’t want to work with -- like what we discussed, that, I mean, I wouldn’t
18 want to work under somebody who seems to be like a tyrant or a bully, so --

19 Q. Right. And you never changed your opinion about him between the time you met
20 him and the time you were terminated, right?

21 A. No.

22 Clarke Depo., 83:9-19.

23 In fact, in his private text messages, Clarke exhibited open hostility to the trusteeship,
24 including the decision of the former Local 1107 officers who voted in favor of the trusteeship.
25 For example, Clarke described the vote of Local 1107’s Executive Board’s in favor of a
26 trusteeship as a “self inflicted” injury, and stated that, referring to Local 1107’s former officers,
27 “[y]ou would have to be a fucking idiot to vote to trustee.” Clarke Depo. Ex. 30 at 176, 177;
28 Clarke Depo. 88:5-22; 95:13-96:19. As would be expected given his disdain for the former Local
1107 officers who voted in favor of a trusteeship by SEIU, Clarke testified that “I didn’t think

1 that they were really – you know, from what I could tell at that time, I didn’t believe there were
2 any grounds for the trusteeship.” Clarke Depo., 96:22-25.

3 In addition, in a text to then-Local 1107 Director of Organizing Peter Nguyen, Clarke
4 celebrated Nguyen’s anticipated lawsuit against SEIU and Local 1107, stating, “Peter Inc. –
5 doing what Wall Street does, but with a personal touch. Taking money from stupid assholes.”
6 Clarke Depo. Ex. 30 at 182; Clarke Depo. 100:14-102:13. The “stupid assholes” Clarke referred
7 to were SEIU and Local 1107. Clarke Depo. 101:25-102:13.

8 Worse still, knowing that his hostile text messages would place his job in jeopardy,
9 Clarke urged his Local 1107 colleagues, including Gentry, to delete their messages before the
10 Trustees could find them. The following text message exchange occurred between Clarke and
11 Nguyen on April 30, 2017:

12 Clarke: Be careful – Dana [Gentry] is using union phone to text – I spoke with her
13 so don’t text her about it.

14 Clarke: She transferred her personal phone to the union phone.

15 ...

16 Clarke: If they get ahold of Dana [Gentry’s] texts then probably all of us on the
17 texts are OUT.

18 Nguyen: Tell her to delete them!

19 Nguyen: She probably needs to do a clean reset.

20 Clarke: I told her – she doesn’t seem to quite understand...thinks that she hasn’t
21 said anything bad.

22 Clarke Depo. Ex. 31 at 199-200; Clarke Depo. 116:11-117:7. Indeed, Clarke acknowledged in
23 his deposition that he told Gentry to delete her text messages so that the Trustees could not find
24 them. Clarke Depo. 120:7-20.

25 In yet another text thread from Clarke’s phone, Nguyen confirms with the others that they
26 were using their personal devices; Clarke testified that he understood this was to ensure that the
27 messages would not be discovered by the Trustees. Clarke Depo. Ex. 32 at 201; Clarke Depo.
28 122:4-13. That same text thread included former Local 1107 President Mancini, who had been

1 removed from office days earlier pursuant to internal disciplinary charges filed by her fellow
2 union officers. *See* Clarke Depo. 121:25; Clark Depo. Ex. 32 at 201.

3 Finally, putting to rest any doubt that Clarke and Gentry opposed the Trustees and the
4 trusteeship, on May 15, 2017, less than two weeks after they were terminated, Clarke, Gentry,
5 and others, including former Local 1107 President Mancini, prepared a nationwide press release
6 condemning the Trustees and the trusteeship. *See* Gentry Depo. Ex. 18; Clarke Depo. 142:22-23;
7 145:21-146:5; Gentry Depo. 230:23-231:14; 233:2-10; 236:21; 237:4; 242:4-11; 245:1-3;
8 246:19-23. The press release, for which Gentry agreed to be the press contact, accused SEIU of,
9 among other things, “an illegitimate take-over” of Local 1107 which placed members in “great
10 peril,” and accused Local 1107 Trustees of communicating with members in an “incomplete and
11 misleading” manner, “ignoring” the union’s legislative priorities, cancelling “[t]raining sessions,
12 [and] bargaining sessions,” and “halt[ing] member representation.” Gentry Depo. Ex. 18.

13 **V. The Trustees Terminate Clarke and Gentry.**

14 Shortly after the imposition of the trusteeship, Blue and Manteca determined that it would
15 not be in the best interests of Local 1107 to continue employing Gentry and Clarke. Declaration
16 of Luisa Blue (“Blue Decl.”), ¶ 5; Declaration of Martin Manteca (“Manteca Decl.”), ¶ 5. In light
17 of the widespread disarray described in the emergency trusteeship order, Blue and Manteca
18 believed that it was necessary to manage the affairs of the union themselves and not with the
19 union’s former management team, at least until they could fill management positions with
20 individuals whom they could be confident would carry out the union’s programs and policies. *Id.*

21 Thus, on May 4, 2017, Deputy Trustee Manteca met individually with Clarke and Gentry.
22 Gentry Depo. 223:12-25; 225:12; Clarke Depo. 124:13-125:10. At the meetings, Manteca
23 presented each of them with identical letters informing them as follows:

24 As you know, Local 1107 has been placed under trusteeship by [SEIU]. The Trustees of
25 Local 1107 have been charged with the restoration of democratic procedures of Local
26 1107. In connection with formulating a program and implementing policies that will
27 achieve this goal, going forward the Trustees will fill management and other positions at
28 the Local with individuals they are confident can and will carry out the Local’s new
programs and policies. In the interim, the Trustees will largely be managing the Local
themselves with input from member leaders. [¶] For these reasons, the Trustees have
decided to terminate your employment with Local 1107, effective immediately.

1 Gentry Depo. Ex. 17; Clarke Depo. Ex. 33. Manteca reiterated this same message during the
2 termination meetings with Gentry and Clarke. Gentry Depo. 225:12-24; Clarke Depo. 126:16-24.

3 **Argument**

4 **I. Standard of Review.**

5 “The court shall grant summary judgment if the movant shows that there is no genuine
6 dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Nev. R.
7 Civ. P. 56(a). “The substantive law controls which factual disputes are material and will preclude
8 summary judgment; other factual disputes are irrelevant.” *Wood v. Safeway, Inc.*, 121 Nev. 724,
9 731 (2005). On review of a motion for summary judgment, the evidence and all reasonable
10 inferences drawn from it must be viewed in a light most favorable to the nonmoving party. *See*
11 *Allstate Inc. Co. v. Fackett*, 125 Nev. 132, 137 (2009). Even so, “the opposing party is not
12 entitled to build a case on the gossamer threads of whimsy, speculation and conjecture.” *Collins*
13 *v. Union Fed. Savings & Loan*, 99 Nev. 284, 302 (1983).

14 **II. Summary Judgment in Favor of SEIU and Henry Should Be Granted on Plaintiffs’** 15 **Third, Fourth, Fifth, Sixth Causes of Action for Breach of the Covenant of Good** 16 **Faith and Fair Dealing.**

17 Plaintiffs were not parties to a contract with SEIU or Henry, and Plaintiffs were not
18 employed by SEIU or Henry. For those undisputed reasons, summary judgment in favor of SEIU
19 and Henry on plaintiffs’ claims for breach of the covenant of good faith and fair dealing – the
20 third, fourth, fifth and sixth causes of action – is proper.

21 **A. There Is No Contractual Breach of the Covenant of Good Faith and Fair** 22 **Dealing, Since Plaintiffs Did Not Have Contracts with SEIU or Henry.**

23 There is no cause of action for breach of the implied covenant of good faith and fair
24 dealing against parties that are not bound to the underlying contract, such as SEIU and Henry.

25 “As a general rule, none is liable upon a contract except those who are parties to it.”
26 *Clark County v. Bonanza No. 1*, 96 Nev. 643, 648-49 (1980). That same principle applies to an
27 action for breach of the implied covenant and good faith and fair dealing, which, like an action
28 for breach of contract, is based on the existence of a contract between the parties. Thus, “[w]here

1 the terms of a contract are literally complied with *but one party to the contract* deliberately
2 countervenes the intention and spirit of the contract, that party can incur liability for breach of
3 the implied covenant of good faith and fair dealing.” *Hilton Hotels Corp. v. Butch Lewis Prods.,*
4 *Inc.*, 107 Nev. 226, 232, 808 P.2d 919, 922-23 (1991) (emphasis added); *see also id.* at 923
5 (“When one party performs a contract in a manner that is unfaithful to the purpose of the contract
6 and the justified expectations of the other party are thus denied, damages may be awarded
7 against the party who does not act in good faith.”).

8 Plaintiffs’ third and fourth claims for “Breach of Implied Covenant of Good Faith and
9 Fair Dealing – Contractual Breach” are expressly based on employment contracts between them
10 and Local 1107, *not SEIU or Henry*.³ *See* First Amended Complaint, ¶ 36 (“Plaintiff Gentry
11 entered into a valid and binding Employment Contract *with Local 1107*.”) (emphasis added); ¶
12 43 (“Plaintiff Clarke entered into a valid and binding Employment Contract *with Local 1107*”)
13 (emphasis added). Indeed, the only parties identified in Plaintiffs’ employment contracts are
14 plaintiffs and Local 1107. The only individuals who signed the employment contracts are then-
15 Local 1107 President Mancini and Plaintiffs. Last, Plaintiffs admitted in their depositions that
16 Mancini never informed them that she was entering into the contracts on behalf of another entity,
17 such as SEIU.

18 The decision in *Burnick v. Office and Professional Employees International Union*, Case
19 No. 14-C-1173, 2015 WL 1898310 (E.D. Wis. April 27, 2015), is instructive. There, the plaintiff,
20 a former employee of a local union, alleged that the local union had promised to provide her with
21 lifetime insurance benefits. *Id.* at *1. Thereafter, the international union placed the local union

22
23 ³ It appears from the First Amended Complaint that the first and second causes of action for
24 breach of contract, and eighth and ninth causes of action for “wrongful termination – breach of
25 continued employment contract” are pled only against Local 1107, Blue and Manteca, but not
26 SEIU or Henry. *See* First Amended Complaint, ¶¶ 24-27; 30-33; 69-71; 74-76. But even if such
27 claims were pled against SEIU and Henry, they would unquestionably fail because Plaintiffs had
28 no employment contract with SEIU or Henry. *See Clark County v. Bonanza No. 1*, 96 Nev. at
648-49. Likewise, the fourteenth cause of action for negligence is not pled against SEIU or
Henry. Indeed, it pleads only that Local 1107 owed plaintiffs a duty of care as their employer,
but does not plead the existence of any such duty by SEIU or Henry. *See* First Amended
Complaint, ¶¶ 95-99.

1 into trusteeship and appointed a trustee to manage the affairs of the local. *Id.* The plaintiff then
2 sued both the local union and international union alleging that both unions breached the
3 agreement to provide her with insurance benefits. *Id.* at *2. In dismissing the international union,
4 the court emphasized that, like here, the obligation arose prior to the trusteeship, and there was
5 no evidence the local union signed the agreement with the plaintiff on behalf of the international
6 union. *See id.* at *3. Additionally, the court rejected the conclusion that because the international
7 union had placed the local into trusteeship, it had implicitly assumed the obligations of the local
8 union. *See id.* at *3-4.

9 *Burnick* directly supports summary judgment in favor of SEIU and Henry. As in *Burnick*,
10 neither SEIU nor Henry are parties to plaintiffs' employment contracts. There is no evidence that
11 Local 1107 entered into the contracts on behalf of SEIU or Henry, or that SEIU or Henry
12 assumed the contracts. Put simply, because Plaintiffs have failed to show any employment
13 contract between them and SEIU or Henry, summary judgment for SEIU and Henry must be
14 granted on Plaintiffs' third and fourth causes of action for contractual breach of the implied
15 covenant of good faith and fair dealing. *See Bulbman, Inc. v. Nevada Bell*, 108 Nev. 105, 111
16 (1992) ("Where an essential element of a claim for relief is absent, the facts, disputed or
17 otherwise, as to other elements are rendered immaterial and summary judgment is proper.").

18 **B. There Is No Tortious Breach of the Covenant of Good Faith and Fair Dealing, Since**
19 **Plaintiffs Were Not Employed by, and Were Not Parties to Employment Contracts**
20 **With, SEIU or Henry.**

21 Neither SEIU nor Henry is liable for tortious breach of the covenant of good faith and fair
22 dealing since they did not have employment contracts with plaintiffs and did not employ them.

23 "[T]he covenant of good faith and fair dealing implied in an employment contract for
24 indefinite future employment could, under certain limited circumstances, be the basis for tort
25 liability in a manner comparable to the tort liability incurred by insurance companies when they
26 deal in bad faith with their policyholders." *D'Angelo v. Gardner*, 107 Nev. 704, 717 (1991).
27 Where the "employer-employee relationship becomes analogous to or approximates the kind of
28 'special reliance,' trust and dependency that is present in insurance cases . . . betrayal of this kind

1 of relationship may go well beyond the bounds of ordinary liability for breach of contract and
2 may result in the offending party's being held tortuously liable for such perfidy." *Id.* (internal
3 quotations and citations omitted). However, the Nevada Supreme Court has "made it clear that
4 mere breach of an employment contract does not of itself give rise to tort damages and that the
5 kind of breach of duty that brings into play the bad faith tort arises only when there are special
6 relationships between the tort-victim and the tort-feasor" *Id.* (internal quotations and
7 citation omitted).

8 For example, in *D'Angelo* there was no such special relationship, and therefore no breach
9 of the covenant, where, "[a]lthough Jones had been designated as a 'permanent employee' at the
10 time of his dismissal, he had worked less than two years." *Id.* The Court in *D'Angelo* contrasted
11 Jones' employment, where there was no special relationship, with that of the plaintiff in *K Mart*
12 *Corp. v. Ponsock*, 103 Nev. 39 (1987), who had "been a faithful employee for almost ten years
13 with every expectation of continuing his employment for an indefinite period of time and at least
14 until he became eligible for a retirement position," and whose "contract of continued
15 employment was not only terminated arbitrarily but by artifice and fraud." *Id.*

16 Similarly, in *Clements v. Airport Auth. of Washoe Cty.*, 69 F.3d 321 (9th Cir. 1995), the
17 Ninth Circuit, applying Nevada law, affirmed summary judgment in favor of defendants on the
18 plaintiff's claim for breach of the covenant where the plaintiff "pointed to no facts which give
19 rise to the inference that such a special relationship existed," and observed that "[s]omething
20 beyond the ordinary civil service relationship must be present." *Id.* at 336.

21 Plaintiffs' fifth and sixth claims for "Breach of Covenant of Good Faith and Fair Dealing
22 – Tortious Breach" fail for several reasons. First, Plaintiffs' claims are expressly based on
23 employment contracts between them and Local 1107, *not SEIU or Henry*. See First Amended
24 Complaint, ¶ 50 ("That Plaintiff Gentry entered into an employment contract *with Local 1107*.")
25 (emphasis added); ¶ 56 ("That Plaintiff Clarke entered into an employment contract *with Local*
26 *1107*." (emphasis added). Absent an employment contract between Plaintiffs and SEIU or
27 Henry, Plaintiffs fail to establish an essential element of their claims for tortious breach of the
28 implied covenant of good faith and fair dealing.

1 Second, Plaintiffs have failed to show an employment relationship with SEIU or Henry,
2 let alone that they had the sort of “special relationship” necessary for this cause of action. In fact,
3 they did not even have a lengthy employment *with Local 1107*. See *Clements*, 69 F.3d at 336
4 (noting that “[t]he Nevada court looks for facts such as promise of employment ‘until
5 retirement,’ [or a] lengthy duration of employment”). Gentry only worked for Local 1107 from
6 April 18, 2016, to May 4, 2017, barely over a year; Clarke only worked for Local 1107 from
7 August 23, 2016, to May 4, 2017, less than nine months.

8 Last, Local 1107’s terminations of Plaintiffs were not characterized by “deception,”
9 “perfidy,” or “betrayal.” See *Clements*, 69 F.3d at 336 (noting that Nevada courts “look for facts
10 such as . . . termination characterized by ‘deception,’ ‘perfidy,’ and ‘betrayal’”). To the contrary,
11 Deputy Trustee Manteca met with each employee and informed them that, as was the Trustees’
12 right under the SEIU Constitution and federal law, *see infra*, the Trustees intended to manage the
13 union themselves until they could fill their positions with individuals the Trustees were confident
14 would carry out Local 1107’s policies and programs. This was precisely the same basis that was
15 explained in Plaintiffs’ termination letters. In short, Plaintiffs cannot demonstrate the requisite
16 deception or perfidy necessary to establish this cause of action.

17 Thus, like the employees in *D’Angelo* and *Clements*, Plaintiffs cannot establish essential
18 elements of their claims for tortious breach of the covenant of good faith and fair dealing.
19 Summary judgment on these claims should therefore be granted in favor of SEIU and Henry.

20 **III. Summary Judgment in Favor of SEIU and Henry Should Be Granted on Plaintiffs’**
21 **Tenth and Eleventh Causes of Action for Wrongful Termination – Bad Faith**
22 **Discharge.**

23 Plaintiffs’ tenth and eleventh causes of action for “Wrongful Termination – Bad Faith
24 Discharge” are the same as those described above, and should be dismissed for the same reasons
25 as those described above. The Court in *Martin v. Sears, Roebuck and Co.*, 111 Nev. 923 (1995),
26 described the tort of bad faith discharge in terms identical to those described above:

27 “Bad faith discharge finds its genesis in Section 205 of the Restatement (Second) of
28 Contracts, which states that: “Every contract imposes upon each party a duty of good
faith and fair dealing in its performance and its enforcement.” For this cause of action to

1 apply, specific elements must exist. First, there must be an enforceable contract.
2 Second, there must be a special relationship between the tortfeasor and the tort victim,
3 such as the relationship that exists between an insured and an insurer, that is, a
4 relationship of trust and special reliance. [*K Mart Corp. v. Ponsock*, 103 Nev. 39, 49
5 (1987)]. Third, the employer's conduct must go "well beyond the bounds of ordinary
6 liability for breach of contract." *Id.* at 48, 732 P.2d at 1370. However, the mere breach
of an employment contract by a large and powerful employer, or any employer, does not
in and of itself give rise to tort damages. *Id.* The reason tort damages are appropriate for
bad faith discharge is that ordinary contract damages do not adequately compensate, nor
do they make the victim whole."

7 *Martin*, 111 Nev. at 928-29; *see also Beales v. Hillhaven*, 108 Nev. 96, 100 (1992) ("We have
8 previously restricted the bad faith discharge tort to those 'rare and exceptional cases that the duty
9 is of such a nature as to give rise to tort liability'" (quoting *Ponsock*, 103 Nev. at 49); *W. States*
10 *Mineral Corp. v. Jones*, 107 Nev. 704, 711 (1991) (observing that a claim for breach of the
11 covenant of good faith and fair dealing is "sometimes called a 'bad faith discharge tort'").

12 Plaintiffs cannot establish the necessary elements of these claims. First, there is no
13 enforceable contract between Plaintiffs and SEIU or Henry, an essential element of Plaintiffs'
14 claims. *See Martin*, 111 Nev. at 928-29. Just as with their other claims, Plaintiffs' tenth and
15 eleventh causes of action for wrongful termination expressly rely on employment contracts
16 between them and Local 1107, *not SEIU*. *See First Amended Complaint*, ¶ 79 ("That Defendant
17 *SEIU 1107 and Plaintiff Gentry* entered into an employment contract on April 18, 2016.")
18 (emphasis added); ¶ 84 ("That Defendant *Local 1107 and Plaintiff Clarke* entered into an
19 employment contract on September 6, 2016.") (emphasis added).

20 Second, there was no employment relationship between Plaintiffs and SEIU or Henry, let
21 alone a special relationship akin to that between an insurer and insured, another essential and yet
22 unsubstantiated element of Plaintiffs' claims. *See Martin*, 111 Nev. at 928-29. Thus, summary
23 judgement in favor of SEIU and Henry must be granted on Plaintiffs' tenth and eleventh claims.

24 **IV. Summary Judgment in Favor of SEIU and Henry Should Be Granted on Plaintiffs'**
25 **Twelfth and Thirteenth Causes of Action for Tortious Discharge.**

26 To prevail on a cause of action for tortious discharge, "the employee must be able to
27 establish that the dismissal was based upon the employee's refusing to engage in conduct that
28

1 was violative of public policy or upon the employee's engaging in conduct which public policy
2 favors (such as, say, performing jury duty or applying for industrial insurance benefits)."
3 *Bigelow v. Bullard*, 111 Nev. 1178, 1181 (1995). "The essence of a tortious discharge is the
4 wrongful, usually retaliatory, interruption of employment by means which are deemed to be
5 contrary to the public policy of this state." *Jones*, 107 Nev. at 718.

6 Plaintiffs' twelfth and thirteenth claims for "Tortious Discharge" allege that "Defendant
7 Local 1107, at the direction of and through the actions of Defendants SEIU, Manteca, Blue and
8 Henry improperly dismissed Plaintiff Gentry in order to fill Plaintiff's position with individuals
9 who would carry out SEIU's new program and policies at Local 1107, which violates public
10 policy upholding 'for cause termination' provisions in employment contracts." First Amended
11 Complaint, ¶ 89; *see id.* at ¶ 92 (alleging same claim regarding plaintiff Clarke).

12 Once again, these causes of action fail because neither SEIU nor Henry employed
13 Plaintiffs. *See D'Angelo*, 107 Nev. at 718 (observing that "a public policy tort cannot ordinarily
14 be committed absent the employer-employee relationship"). Absent an employment relationship
15 between Plaintiffs and SEIU or Henry, summary judgment should be granted in favor of SEIU
16 and Henry on Plaintiffs' twelfth and thirteenth causes of action for tortious discharge.

17 Moreover, Plaintiffs have failed to establish that they were terminated in violation of any
18 public policy. Rather, as discussed *infra*, Local 1107 terminated Plaintiffs *consistent with* public
19 policy, namely, federal labor policy which favors the ability of union leaders to select their own
20 administrations. *See Screen Extras Guild, Inc. v. Superior Court*, 51 Cal.3d 1017 (1990).
21 Allowing Plaintiffs' claims to proceed would turn public policy on its head, not vindicate it.

22 **V. Summary Judgment in Favor of SEIU and Henry Should Be Granted on Plaintiffs'**
23 **Seventh Cause of Action for International Interference with Contractual Relations.**

24 "In an action for intentional interference with contractual relations, a plaintiff must
25 establish: (1) a valid and existing contract; (2) the defendant's knowledge of the contract; (3)
26 intentional acts intended or designed to disrupt the contractual relationship; (4) actual disruption
27 of the contract; and (5) resulting damage." *J.J. Indus., LLC v. Bennett*, 119 Nev. 269, 274 (2003).
28 "At the heart of this action is whether Plaintiff has proved intentional acts by Defendant intended

1 or designed to disrupt Plaintiff's contractual relations” *Nat’l Right To Life Political Action*
2 *Comm. v. Friends of Bryan*, 741 F.Supp. 807, 814 (D. Nev. 1990). Moreover, “[t]he fact of a
3 general intent to interfere, under a definition that includes imputed knowledge of consequences,
4 does not alone suffice to impose liability. *Inquiry into the motive or purpose of the actor is*
5 *necessary.*” *Id.* (emphasis in original) (quoting *DeVoto v. Pacific Fidelity Life Ins. Co.*, 618 F.2d
6 1340, 1347 (9th Cir.1980)). Thus, a plaintiff must show that the defendant took some action with
7 “an improper objective of harming Plaintiff or wrongful means that in fact caused injury to
8 Plaintiff’s contractual” relationship. *Id.* at 815.

9 This cause of action, like the others, fails for a straightforward reason: SEIU did not take
10 any action intended to disrupt Plaintiffs’ employment contracts with Local 1107. *See J.J. Indus.*,
11 *LLC*, 119 Nev. at 274. The undisputed evidence establishes that Local 1107, *not SEIU*, made the
12 decision to terminate Plaintiffs. Because Plaintiffs have failed to show that SEIU or Henry took
13 any action that was specifically designed to disrupt their employment contracts with Local 1107,
14 they have failed to establish an essential element of this cause of action.

15 Nor does that conclusion change because Trustees Manteca and Blue were appointed by
16 SEIU President Henry following the imposition of a trusteeship over Local 1107. To the
17 contrary, it is well-settled that where an international union appoints a trustee to take control of
18 the affairs of a local union, the trustee acts on behalf of the local union, *not the international*
19 *union*. Fitzpatrick Decl., ¶ 11 (“As Trustees, Blue and Manteca stood in the place of SEIU Local
20 1107’s former officers and assumed responsibility and management of the day-to-day affairs of
21 SEIU Local 1107, including hiring, supervising and disciplining SEIU Local 1107 staff.”); *see*
22 *Dillard v. United Food & Commercial Workers Union Local 1657*, Case No. CV 11-J-0400-S,
23 2012 WL 12951189, at *9 (N.D. Ala. Feb. 9, 2012) (“As a matter of law, a trustee steps into the
24 shoes of the local union’s officers, assumes their rights and obligations, and acts on behalf of the
25 local union.”), *aff’d*, 487 F. App’x 508 (11th Cir. 2012); *Campbell v. Int’l Bhd. of Teamsters*, 69
26 F. Supp. 2d 380, 385 (E.D.N.Y. 1999) (“A trustee assumes the duties of the local union officer
27 he replaces and is obligated to carry out the interests of the local union and not the appointing
28 entity.”); *see also Perez v. Int’l Bhd. of Teamsters, AFL-CIO*, Case No. 00-civ-1983-LAP-JCF,

1 2002 WL 31027580, at * (S.D.N.Y. Sep. 11, 2002) (same); *Fields v. Teamsters Local Union No.*
2 988, 23 S.W.3d 517, 525 (Tx. Ct. App. 2000) (same). Thus, to the extent Plaintiffs' tortious
3 interference claims against SEIU and Henry are based on the fact that the Trustees were
4 appointed by SEIU President Henry, their claims fail as a matter of law.

5 Moreover, where, as here, an international union's constitution authorizes a trustee to
6 remove employees or officers of the local union following imposition of a trusteeship, courts
7 have concluded that the removed officers or employees have no claim for tortious interference.
8 For instance, in *Pape v. Local 390 of Int'l Bhd. of Teamsters*, 315 F. Supp. 2d 1297, 1318 (S.D.
9 Fla. 2004), the court held that "[b]ecause the trustee is empowered by the International
10 Constitution to remove officers, Plaintiff could not have been wrongfully removed from office."
11 *Id.* (citing *Dean v. General Teamsters Union, Local No. 406*, No. G87-286-CA7, 1989 WL
12 223013 (W.D. Mich. Sept. 18, 1989)) (emphasis added). In *Pape*, the international union placed
13 the local union into trusteeship, and the trustee thereafter terminated the plaintiff, the president of
14 the local union. *Id.* at 1303. The plaintiff alleged that, based on the local union's constitution and
15 bylaws, she had a right to continued employment with the local union, and that the international
16 union interfered with that right when it removed her from office following the trusteeship. *See id.*
17 at 1318. In granting summary judgment for defendants on the plaintiff's claim for tortious
18 interference, the court held that the plaintiff's right to continued employment "could not be
19 sustained in conflict with the International Constitution." *Id.* at 1318 (emphasis added). Similar
20 to SEIU's Constitution and Bylaws, the international union's constitution in *Pape* provided that
21 "[t]he trustee shall be authorized and empowered . . . to remove any and all officers" *Id.* at
22 1307; *see Fitzpatrick Depo.*, Ex. A (Art. VIII, § 7(b) ("The Trustee shall be authorized and
23 empowered to take full charge of the affairs of the Local Union . . . to remove any of its
24 employees[or] agents").

25 Likewise, in *Dean*, the court ruled that a trustee was not liable for tortious interference
26 with contractual relations for terminating plaintiff, a former business agent of the local union,
27 following a trusteeship. *See Dean*, 1989 WL 223013. As here, the plaintiff alleged that he was
28 hired by the local union's former officers, that they promised he would be terminated only for

1 good cause, and that, following imposition of a trusteeship, the trustee terminated him without
2 cause. *See id.* at *1-3. Like *Pape*, the court ruled that the trustee “possessed authority to take
3 whatever steps he chose to restore Local 406 to financial stability,” and that “[t]he decision as to
4 which business agents he should discharge and which agents he should retain in obtaining this
5 objective was certainly his to make.” *Id.* at *8. As here and in *Pape*, the international union’s
6 constitution authorized the trustee to remove officers of the local union upon imposition of the
7 trusteeship. *See id.* at *6.

8 These cases require summary judgment in favor of SEIU and Henry on Plaintiffs’
9 seventh claim for tortious interference. Even if the former Local 1107 president was authorized
10 to enter into for-cause employment contracts with Plaintiffs, such authority was always subject
11 to, and limited by, the SEIU Constitution, which clearly authorizes a trustee appointed by SEIU
12 to remove employees in the event of a trusteeship. *See Fitzpatrick Decl.*, Ex. A (Art. XV, § 3
13 (providing that “the Constitution and Bylaws of all Local Unions and affiliated bodies shall at all
14 times be subordinate to the Constitution and Bylaws of the International Union as it may be
15 amended from time to time.”); Art. VIII, § 7(b) (“The Trustee shall be authorized and
16 empowered to take full charge of the affairs of the Local Union and . . . to remove any of its
17 employees”). Thus, Plaintiffs’ tortious interference claims fail as a matter of law. *See Pape*,
18 315 F. Supp. 2d at 1318 (“Plaintiff cannot state a claim for tortious interference because she has
19 failed to establish existence of a legal right.”); *Dean*, 1989 WL 223013, at *6 (“[I]n light of the
20 explicit provisions of the [international] constitution and bylaws, [the plaintiff] could not
21 reasonably believe that his employment as a business agent was secure for a three year term and
22 terminable only for good cause, regardless of whether or not Crane and Viviano continued in
23 office during that time.”).

24 **VII. Plaintiffs’ Claims Are Preempted by the Labor Management Reporting and**
25 **Disclosure Act.**

26 As discussed below, Plaintiffs’ claims against SEIU and Henry are preempted by federal
27 law. Summary judgment in favor of SEIU and Henry is therefore proper on that basis alone.

28 **A. LMRDA Preemption.**

1 The Labor Management Reporting and Disclosure Act (“LMRDA”) is a federal statute
2 that regulates the internal affairs of unions. *See* 29 U.S.C. § 401, *et seq.*; *see also Finnegan v.*
3 *Liu*, 456 U.S. 431, 435-36 (1982). By virtue of the Supremacy Clause of the U.S. Constitution,
4 U.S. Const., Art. VI, cl. 2, the LMRDA preempts state law causes of action that conflict with the
5 federal labor policy embodied in the LMRDA.

6 A leading case is *Screen Extras Guild, Inc. v. Superior Court*, 51 Cal.3d 1017 (1990),
7 which addressed several claims by a former business agent of the Screen Extras Guild, a labor
8 union.⁴ Following the plaintiff’s termination for dishonesty and insubordination, she sued the
9 union for wrongful discharge in breach of an employment contract, intentional and negligent
10 infliction of emotional distress, and defamation. *See* 51 Cal.3d at 1020. On appeal of the denial
11 of the union’s summary judgment motion, the California Supreme Court concluded that the
12 plaintiff’s claims conflicted with, and were therefore preempted by, the LMRDA, and directed
13 the trial court to enter judgment in favor of the defendants on all causes of action. *See id.* 1024-
14 33. The court held that “to allow [wrongful discharge] actions to be brought by former
15 confidential or policymaking employees of labor unions would be inconsistent with the
16 objectives of the LMRDA and with the strong federal policy favoring union democracy that it
17 embodies.” *Id.* at 1024.

18 Citing the U.S. Supreme Court’s decision in *Finnegan v. Leu*, 456 U.S. 431 (1982), the
19 *Screen Extras Guild* court noted that the “[t]he primary objective of the LMRDA . . . is to ensure
20 that unions are democratically governed and responsive to the will of their memberships.” *Screen*
21 *Extras Guild, Inc.*, 51 Cal.3d at 1024. In *Finnegan*, the U.S. Supreme Court, construing the
22 language and legislative history of the LMRDA, ruled that “the ability of an elected union
23 president to select his own administrators is an integral part of ensuring a union administration’s
24 responsiveness to the mandate of the union election.” *Id.* at 441. As a result, the Supreme Court

25 ⁴ SEIU and Henry are not aware of a Nevada case that has adopted the reasoning of *Screen*
26 *Extras Guild*. Because this appears to be a matter of first impression in Nevada, this court may
27 look to California case law as persuasive authority. *See, e.g., Whitemaine v. Aniskovich*, 124
28 Nev. 302, 311 (2008) (“As this is an issue of first impression in Nevada, we look to persuasive
authority for guidance.”)

1 concluded that a local union did not violate the LMRDA by discharging the plaintiffs, appointed
2 business agents of the local union, because of their loyalty to the former union president. *Id.* at
3 439-42.

4 Based on *Finnegan*, the court in *Screen Extras Guild* reasoned that “[e]lected union
5 officials must necessarily rely on their appointed representatives to carry out their programs and
6 policies. As a result, courts have recognized that the ability of elected union officials to select
7 their own administrators is an integral part of ensuring that administrations are responsive to the
8 will of union members.” *Id.* at 1024-25. Relying on these federal policies, the court concluded
9 that “allowing [wrongful discharge claims] to proceed in the California courts would restrict the
10 exercise of the right to terminate which *Finnegan* found [to be] an integral part of ensuring a
11 union administration’s responsiveness to the mandate of the union election.” *Id.* at 1028 (internal
12 quotation marks and citations omitted). Moreover, the court reached the same result regarding
13 the plaintiffs’ claims for infliction of emotional distress and defamation, which it concluded were
14 “simply [the plaintiff’s] wrongful termination claim in other garb,” noting that the “facts [the
15 plaintiff] alleged to underlie these causes of action are essentially the same as those which
16 underlie her action for wrongful discharge (i.e., the fact and circumstances of her discharge).” *Id.*
17 at 1032.

18 Finally, the court rejected the plaintiff’s argument that because she was terminated for
19 incompetence and dishonesty, not her disagreement with policy goals of the leadership of the
20 union, her state law claims against the union did not implicate the LMRDA. *See id.* at 1027-28.
21 The court concluded that permitting even such “garden variety” wrongful discharge actions
22 against local unions would implicate the union democracy concerns of the LMRDA. *Id.* at 1027.
23 The court also observed that “[r]eplacement of business agents by an elected labor union official
24 is sanctioned by the [LMRDA] and allowance of a claim under state law would interfere with the
25 effective administration of national labor policy.” *Id.* (internal quotation marks and citations
26 omitted). As the court explained: “The expense of litigating wrongful discharge claims, as well
27 as the risk of liability should a discharge ultimately be deemed ‘garden variety,’ would surely
28 have a chilling effect on all discharges. But, as we have seen, Congress intends that elected union

officials shall be free to discharge management or policymaking personnel.” *Id.* at 1028.

Numerous California cases following *Screen Extras Guild* have similarly concluded that common law torts and breach of contract claims by discharged union employees are preempted by the LMRDA.⁵ Federal district court cases have also reached this same result.⁶ Additionally, a number of courts in other states have adopted the holding of *Screen Extras Guild*.⁷

Finally, as the court concluded in *Dean*, *Finnegan* applies equally to the authority of an appointed trustee to terminate union staff. As the court concluded, “[t]he obstruction of union democracy which can occur by leaving an elected president with his hands tied by appointed business agents, whom he could not discharge, is no less capable of occurring” in the context of a trusteeship. *See Dean*, 1989 WL 223013, at *5. Relying both on *Finnegan* and the trustee’s authority under the international union’s constitution and bylaws, the court held that “as trustee, Kantzler possessed the legal right of the displaced secretary-treasurer, Crane, to discharge Dean

⁵ *See Thurderburk v. United Food & Commercial Workers’ Union, Local 3234*, 92 Cal.App.4th 1332 (2001) (LMRDA preempted suit for wrongful discharge by former union secretary); *Hansen v. Aerospace Defense Related Indus. District Lodge 725*, 90 Cal.App.4th 977 (2001) (LMRDA preempted claims for wrongful discharge in violation of public policy by former business agent); *Ramirez v. Butcher*, 2006 WL 2337661 (Cal. Ct. App. 2006) (LMRDA preempted claims for breach of contract, implied covenant of good faith and fair dealing, defamation and contract interference by former union field representative); *Burrell v. Cal. Teamsters, Public Professional and Medical Employees Union, Local 911*, 2004 WL 2163421 (Cal. Ct. App. 2004) (LMRDA preempted claims for breach of implied contract, breach of implied covenant of good faith and fair dealing, intentional infliction of emotional distress, and defamation by former union office manager and bookkeeper); *see also Tyra v. Kearney*, 153 Cal.App.3d 921 (1984) (predating *Screen Extras Guild*; LMRDA preempted wrongful termination claim by former union business agent).

⁶ *See, e.g., Hurley v. Teamsters Union Local No. 856*, Case No. C-94-3750 MHP, 1995 WL 274349 (N.D. Cal. May 1, 1995) (LMRDA preempted claims for breach of implied contract and covenant of good faith and fair dealing by former union business representative); *Womack v. United Service Employees Union Local 616*, Case No. No. C-98-0507 MJJ, 1999 WL 219738 (N.D. Cal. 1999) (LMRDA preempted claims for breach of contract and implied contract and covenant of good faith and fair dealing, interference with economic advantage, infliction of emotional distress and defamation by former union executive director).

⁷ *See e.g., Vitullo v. Int’l Bhd. of Elec. Workers, Local 206*, 75 P.3d 1250, 1256 (Mont. Sup. Ct. 2003); *Packowski v. United Food & Commercial Workers Local 951*, 796 N.W.2d 94, 100 (Mich. Ct. App. 2010); *Dzwonar v. McDevitt*, 791 A.2d 1020, 1024 (N.J. App. Div. 2002), *aff’d on other grounds*, 828 A.2d 893 (N.J. Sup. Ct. 2003).

1 from his appointed position.” *Id.* at *6; *see also English, et al. v. Serv. Employees Int’l Union,*
2 *Local 73, et al.*, Case No. 18-c-5272, 2019 WL 4735400, *4 (N.D. Ill. Sep. 27, 2019)
3 (concluding that *Finnegan* applied to decision by unelected trustee to terminate appointed staff).

4 **B. Gentry and Clarke Were Policymaking, Managerial, and/or Confidential**
5 **Employees Whose Claims Are Preempted by the LMRDA.**

6 The undisputed evidence is clear that both Gentry and Clarke were policymaking and/or
7 confidential employees subject to LMRDA preemption.

8 In holding that the plaintiff’s claims were subject to LMRDA preemption, the court in
9 *Screen Extras Guild* found that plaintiff, as a business agent, had “significant responsibility for
10 the day-to-day conduct of union affairs,” was “at the forefront of implementing union policy,
11 linking the union member and the upper echelons of the union bureaucracy,” and made “strategic
12 decisions regarding pursuit of collective bargaining” 51 Cal.3d at 1031. The court also
13 noted that the plaintiff “herself acknowledges . . . that she was considered a management
14 employee.” *Id.* These same conclusions apply to the former employment of Gentry and Clarke.

15 **1. Gentry Was a Management and Policymaking Employee Within the**
16 **Meaning of *Screen Extras Guild*.**

17 As the former Communications Director of Local 1107, Gentry was unquestionably
18 management or policymaking personnel whose claims are subject to LMRDA preemption.

19 Most obviously, Gentry *admitted in earlier submissions to this Court that she was a*
20 *management employee.*⁸ Gentry’s repeated admission that she was a Local 1107 manager is itself
21 sufficient to establish LMRDA preemption over her wrongful termination claims. *See Screen*
22 *Extras Guild*, 51 Cal.3d at 1028 (concluding that “Congress intends that elected union officials
23 shall be free to discharge *management* or policymaking personnel.”) (emphasis added); *see id.* at

24 _____
25 ⁸ *See* Plaintiffs’ Motion for Partial Summary Judgment, filed 9/26/18, at 11:19-20 (“It cannot be
26 disputed that Ms. Gentry and Mr. Clarke were hired *to their management positions* with Local
27 1107 by former Local 1107 President Cherie Mancini.”) (emphasis added); *see also id.* at 11:21
28 (stating that Plaintiffs were “*management employees* that were not covered by” staff union
collective bargaining agreement) (emphasis added); Plaintiffs’ Reply in Support of Motion for
Partial Summary Judgment, filed 11/1/18, at 18:8 (admitting that Plaintiffs were “*management*
employees that answered to [the union’s former president].”) (emphasis added).

1 1031 (“Smith herself acknowledges . . . she was considered a management employee.”).

2 Gentry’s admission was unavoidable given the undisputed facts regarding her managerial
3 duties and responsibilities. She was supervised by, and reported directly to, the union’s former
4 president. She, along with a handful of other management-level employees, including Clarke,
5 attended weekly manager’s meetings with the former union president. Her title was
6 Communications Director, and she was one of only three individuals at the union (along with
7 Clarke) with a Director-level title. These undisputed facts highlight her managerial status.

8 It is equally clear that Gentry had significant responsibility for making strategic decisions
9 affecting the union’s collective bargaining and other goals. *See id.* at 1031 (noting plaintiff’s
10 position is responsible for making “strategic decisions regarding pursuit of collective
11 bargaining”). It is undisputed that Gentry was responsible for, among other things, acting as a
12 “key advisor to Local 1107 leadership in a variety of internal and external communications,”
13 “develop[ing] short-term and long-term campaign strategies” related to increasing the union’s
14 membership, and “development . . . of Local 1107 internal and external strategic
15 communications plans” Moreover, because of her previous experience on a television show
16 that regularly hosted politicians, Gentry even advised the union regarding its legislative strategy.
17 Gentry Depo. 189:15-190:8. These responsibilities are of at least as much strategic importance to
18 the union’s overall programs and policies as those of the business agent in *Screen Extras Guild*.
19 *See Screen Extras Guild*, 51 Cal.3d at 1031.

20 Importantly, Gentry also played a key role in directly promoting the union’s message.
21 Most notably, she regularly acted as the union’s spokesperson in the media. For example, she
22 was a spokesperson for the union in a radio interview related to a collective bargaining campaign
23 in Elko. Gentry Depo., at 28:2-12. She was also regularly quoted in the newspaper as the union’s
24 spokesperson in connection with collective bargaining disputes. Gentry Depo. Ex. 7. What is
25 more, Gentry cultivated relationships with journalists in order to enhance the union’s ability to
26 obtain positive coverage in the media. Gentry Depo. at 170:16-24; 171:8-15; 188:25-189:13. She
27 likewise coordinated with community allies to develop a joint media strategy when Local 1107
28 and its community allies shared joint campaign objectives. *See* Gentry Depo. 190:12-19; 192:18-

1 193:3. These examples further establish that, like the business agent in *Screen Extras Guild*,
2 Gentry had “significant responsibility for the day-to-day conduct of union affairs.” *See Screen*
3 *Extras Guild*, 51 Cal.3d at 1031.

4 Because Gentry was in a management or policymaking position, her claims against SEIU
5 and Henry are subject to LMRDA preemption. *See Screen Extras Guild*, 51 Cal.3d at 1031-33.

6 **2. Clarke Was a Management, Policymaking, and Confidential Employee**
7 **Within the Meaning of *Screen Extras Guild*.**

8 As the former Director of Finance and Human Resources, Clarke, like Gentry, was
9 management or policymaking personnel whose claims are subject to LMRDA preemption.
10 Clarke was also a confidential employee, an additional basis for concluding that his claims are
11 preempted by the LMRDA.

12 Like Gentry, Clarke also admitted in earlier submissions to this court that he was
13 managerial personnel.⁹ That repeated admission supports the conclusion that, like Gentry’s,
14 Clarke’s claims are preempted by the LMRDA. *See Screen Extras Guild*, 51 Cal.3d at 1028
15 (concluding that “Congress intends that elected union officials shall be free to discharge
16 *management* or policymaking personnel.”) (emphasis added); *see id.* at 1031 (“Smith herself
17 acknowledges . . . she was considered a management employee.”).

18 Clarke’s admission, like Gentry’s, was compelled by the undisputed facts regarding his
19 duties and responsibilities. Clarke, like Gentry, was supervised by, and reported directly to, the
20 union’s former president. He, like Gentry, attended weekly manager’s meetings with the former
21 union president. Clarke, like Gentry, was one of only three individuals at the union (along with
22 Gentry) with a Director-level title. Moreover, Clarke, as the head of his two departments,
23 supervised a number of employees, including an accountant and administrative assistants.

24 _____
25 ⁹ *See* Plaintiffs’ Motion for Partial Summary Judgment, filed 9/26/18, at 11:19-20 (“It cannot be
26 disputed that Ms. Gentry and Mr. Clarke were hired *to their management positions* with Local
27 1107 by former Local 1107 President Cherie Mancini.”) (emphasis added); *see also id.* at 11:21
28 (stating that Plaintiffs were “*management employees* that were not covered by” staff union
collective bargaining agreement) (emphasis added); Plaintiffs’ Reply in Support of Motion for
Partial Summary Judgment, filed 11/1/18, at 18:8 (admitting that Plaintiffs were “*management*
employees that answered to [the union’s former president].”) (emphasis added).

1 Clarke was also unquestionably a confidential employee, further compelling the
2 conclusion that his claims are subject to LMRDA preemption. In *Screen Extras Guild*, the court,
3 relying on, among other cases, *Finnegan*, observed that “policymaking and confidential staff are
4 in a position to thwart the implementation of policies and programs advanced by elected union
5 officials and thus frustrate the ability of the elected officials to carry out the mandate of their
6 election.” 51 Cal.3d at 1029 (emphasis added); *id.* at 1024 (“In our view, to allow such actions
7 [for wrongful discharge] to be brought by former *confidential* or policymaking employees of
8 labor unions would be inconsistent with the objectives of the LMRDA”) (emphasis added).

9 For example, in *Thunderburk, supra*, the court held that the union’s former executive
10 secretary was a “confidential” employee, and thus her wrongful termination claims against the
11 union were preempted by the LMRDA. *See* 92 Cal.App.4th at 1341-43. In finding that the
12 plaintiff was a confidential employee, the court cited the fact that the plaintiff had access to
13 various confidential information, including “the union’s communications with its attorneys;
14 union representatives’ mail; members’ disciplinary notices; grievance files; . . . union
15 membership records containing members’ names, Social Security numbers, homes addresses,
16 work location, compensation, and dues payment records” *Id.* at 1342. The plaintiff’s
17 confidential status supported preemption even though she “did not have policymaking or
18 management responsibilities” *Id.*

19 Also instructive is *Hodge v. Drivers, Salesmen, Warehousemen, Milk Processors,*
20 *Cannery, Dairy Employees & Helpers’ Local Union 695*, 707 F.2d 961 (7th Cir. 1983). Although
21 not a preemption case, the court ruled that a union secretary was a “confidential” employee and
22 therefore, following *Finnegan*, lawfully terminated by the union’s new administration. In
23 concluding that she was a “confidential” employee, the court cited her “wide-ranging . . . access
24 to sensitive material concerning vital union matters” *Id.* at 964.

25 Clarke’s access to confidential, sensitive information was at least as wide-ranging as that
26 of the plaintiffs in *Thunderburk* and *Hodge*. It is undisputed that he had access to all of the
27 union’s financial records. Indeed, as Finance Director, he prepared monthly financial statements;
28 monitored accounts receivable and payable; reviewed invoices; prepared checks; processed staff

1 payroll and benefits; maintained vendor and financial files; advised the union's leadership on
2 revenue and expense trends and cash flow projections; led in budget planning and prepared
3 monthly and year-to-date reports for the union's Finance Committee and Executive Board;
4 prepared bank deposits; maintained the union's political action committee accounts; prepared for
5 the union's regular audit and coordinated with its auditors; assisted in the filing of local and
6 federal government reporting obligations; and oversaw the union's tax and reporting obligations.
7 Clarke, as union's Human Resources Director, also had access to the union's personnel records.

8 Clearly, as a result of Clarke's unrestricted access to, and responsibility over, the union's
9 financial and personnel systems, he was a "confidential" employee whose claims are therefore
10 preempted by the LMRDA. *See Screen Extras Guild*, 51 Cal.3d at 1029; *Thunderburk*, 92
11 Cal.App.4th at 1341-43; *see also Burell*, 2004 WL 2163421, at * 4 (holding that union's former
12 office manager's claims were preempted by LMRDA where she "had access to confidential
13 information regarding the Union, its members and officers, and its financial and legal matters.");
14 *Hodge*, 707 F.2d at 964.

15 **3. Plaintiffs' Flagrant Disloyalty to the Trustees Underscores the Basis**
16 **for LMRDA Preemption Here.**

17 Apart from their status as policymaking, management, and/or confidential employees,
18 Plaintiffs' flagrant disloyalty to the Trustees highlights the reason that LMRDA preemption
19 applies here. As noted earlier, "[e]lected union officials must necessarily rely on their appointed
20 representatives to carry out their programs and policies," and "policymaking and confidential
21 staff are in a position to thwart the implementation of policies and programs advanced by elected
22 union officials and thus frustrate the ability of elected union officials to carry out the mandate of
23 their election." *Screen Extras Guild*, 51 Cal.3d at 1024, 1029. The same concerns apply equally
24 to a trustee's ability to select staff. *See Dean*, 1989 WL 223013, at *6 ("[A]s trustee, Kantzler
25 possessed the legal right of the displaced secretary-treasurer, Crane, to discharge Dean from his
26 appointed position."). As the court in *Dean* observed, "[t]he obstruction of union democracy
27 which can occur by leaving an elected president with his hands tied by appointed business agents
28 whom he could not discharge, is no less capable of occurring" in the context of a trusteeship. *See*

1 *id.* at *5.

2 This crucial point is exemplified by the undisputed facts regarding Plaintiffs' hostility to
3 the trusteeship and the Trustees. Clarke believed the trusteeship was illegitimate. He believed
4 Deputy Trustee Manteca was a "tyrant" and "bully," and he continued to hold that view of
5 Manteca until he was terminated. In text messages with colleagues, Clarke described the union's
6 former executive board members who had voted for a voluntary trusteeship as "fucking idiot[s]"
7 and "stupid." He joked with his then-fellow Director, Pete Nguyen, about Nguyen's anticipated
8 lawsuit against Local 1107, and mocked Local 1107. Worse still, knowing that his text messages
9 revealed his antagonism to the trusteeship and the Trustees and would result in his termination,
10 Clarke attempted to cover his tracks: He urged his co-workers, including Gentry, to delete their
11 text messages.

12 Gentry, too, opposed the trusteeship. Less than two weeks after her termination, she
13 volunteered to be the press contact on a press release that denounced the trusteeship and the
14 Trustees. That press release, which Clarke also participated in creating, condemned the
15 "illegitimate take-over" of Local 1107 which placed the union's members in "great peril," and
16 accused Local 1107 Trustees of communicating with members in an "incomplete and
17 misleading" manner, "ignoring" the union's legislative priorities, cancelling "[t]raining sessions,
18 [and] bargaining sessions," and "halt[ing] member representation." Gentry Depo. Ex. 18.

19 Needless to say, this is precisely why the LMRDA protects the ability of union leaders to
20 select their own staff. *See Screen Extras Guild*, 51 Cal.3d at 1029 (observing that "policymaking
21 and confidential staff are in a position to thwart the implementation of policies and programs
22 advanced by elected union officials and thus frustrate the ability of the elected officials to carry
23 out the mandate of their election."). Otherwise, the Trustees would have been saddled with at
24 least two Directors who were fervently opposed to the Trustees and the trusteeship, and who
25 were in unique positions to undermine, if not completely sabotage, the union's policies and
26 programs. Such facts highlight the basis for LMRDA preemption here.

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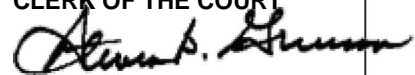
Conclusion

For the foregoing reasons, SEIU and Henry respectfully request summary judgment in their favor on all claims against them in the first amended complaint.

DATED: October 24, 2019

ROTHNER, SEGALL & GREENSTONE
CHRISTENSEN JAMES & MARTIN

By /s/ Jonathan Cohen
JONATHAN COHEN
Attorneys for Service Employees International
Union and Mary Kay Henry



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and Mary Kay Henry

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DANA GENTRY, an individual; and
ROBERT CLARKE, an individual,

Plaintiffs,

vs.

SERVICE EMPLOYEES INTERNATIONAL
UNION, a nonprofit cooperative corporation;
LUISA BLUE, in her official capacity as
Trustee of Local 1107; MARTIN MANTECA,
in his official capacity as Deputy Trustee of
Local 1107; MARY K. HENRY, in her official
capacity as Union President; SHARON
KISLING, individually; CLARK COUNTY
PUBLIC EMPLOYEES ASSOCIATION
UNION aka SEIU 1107, a non-profit
cooperative corporation; DOES 1-20; and ROE
CORPORATIONS 1-20, inclusive,

Defendants.

Case No.: A-17-764942-C

DEPT. XXVI

**DECLARATION OF MARTIN
MANTECA IN SUPPORT OF SERVICE
EMPLOYEES INTERNATIONAL
UNION'S AND MARY KAY HENRY'S
MOTION FOR SUMMARY
JUDGMENT**

1 I, Martin Manteca, declare as follows:

2 1. I have personal knowledge of the facts set forth in this declaration, except where as
3 indicated otherwise, and would competently testify in a court of law. I make this declaration in
4 support of the Defendants' motions for summary judgment.

5 2. I was Deputy Trustee of Nevada Service Employees Union, Local 1107 ("SEIU Local
6 1107") from April 28, 2017, until June 13, 2018. SEIU Local 1107 is a labor organization
7 headquartered in Las Vegas, Nevada, that represents employees in both the private and public
8 sectors in Nevada. SEIU Local 1107 is affiliated with Service Employees International Union
9 ("SEIU"), an international labor organization headquartered in Washington, D.C. Mary Kay
10 Henry is SEIU's President. She has held that position since 2010.

11 3. On April 28, 2017, SEIU President Henry issued an emergency trusteeship order
12 immediately placing SEIU Local 1107 into trusteeship and removing its elected officers.
13 Attached hereto as Exhibit A is a true and correct copy of that emergency trusteeship order. The
14 trusteeship order cited various reasons for the trusteeship, including "an ongoing and serious
15 breakdown in internal union governance and democratic procedures at Local 1107, stemming
16 from warring factions on the Local Executive Board;" "Leadership conflicts and in-fighting in
17 Local 1107 have caused great instability in the Local and interfered with its carrying out its
18 collective bargaining responsibilities properly and effectively;" "Local 1107's failure to
19 communicate adequately with the Local membership interferes with its collective bargaining
20 responsibilities;" and "the communication breakdown in the Local impeded staff oversight,
21 leaving Local staff without clear direction on the work they are required to perform, to whom
22 they should report and from whom they will receive feedback."

23 4. In that same emergency trusteeship order, SEIU President Henry appointed Luisa Blue as
24 Trustee and me as Deputy Trustee of SEIU Local 1107. Immediately upon our appointment as
25 Trustees of SEIU Local 1107 on April 28 2017, Blue and I took over the duties of the former
26 officers of SEIU Local 1107 and were thereafter responsible for the day-to-day affairs of SEIU
27 Local 1107. Such responsibility included, among other things, determining how best to manage
28 SEIU Local 1107 and to supervise its staff.

1 5. When Blue and I were appointed Trustees of SEIU Local 1107, plaintiff Dana Gentry
2 was the Director of Communications of SEIU Local 1107 and plaintiff Robert Clarke was the
3 Director of Finance and Human Resources of SEIU Local 1107. Both of those positions were
4 management-level positions at SEIU Local 1107. Shortly after our appointment as Trustees,
5 Blue and I conferred and we determined that it would not be in the best interests of SEIU Local
6 1107 to continue employing Gentry and Clarke. In light of the significant and widespread
7 disarray described in the emergency trusteeship order, Blue and I believed that it was necessary
8 to manage the affairs of the union ourselves and not with the union's former management team,
9 at least until we could fill management-level positions with individuals whom we were confident
10 would carry out the union's programs and policies. Thus, on May 4, 2017, SEIU Local 1107
11 terminated both Gentry and Clarke. I met with both Gentry and Clarke and provided them with
12 written termination letters. Attached hereto as Exhibits B and C are true and correct copies of
13 the termination letters I provided to Gentry and Clarke, respectively.

14
15 I declare under penalty of perjury under the laws of the State of Nevada that the
16 foregoing is true and correct.

17 Executed on October 21, 2019, in Los Angeles, California.

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19 By 
20 MARTIN MANTECA
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EXHIBIT A



**ORDER OF EMERGENCY TRUSTEESHIP
APPOINTING A TRUSTEE AND DEPUTY TRUSTEE
TO TAKE CHARGE AND CONTROL OF THE AFFAIRS OF
SEIU LOCAL 1107, CTW, CLC**

**TO: All Members and Former Officers and Executive Board
Members of SEIU Local 1107, CtW, CLC**

Pursuant to my authority under Article VIII, Sections 7(a) and 7(f), of the SEIU Constitution and Bylaws, I have determined that an emergency situation exists within SEIU Local 1107, CtW, CLC (hereinafter "Local 1107," "Local Union" or "Local"), and that the interests of Local 1107 and the membership require the immediate appointment of a Trustee and Deputy Trustee to preserve the Local Union's status as collective bargaining representative and the performance of its representational duties and functions, restore democratic procedures at the Local, protect the interests of the Local and its members, and otherwise carry out the legitimate objects of the International Union.

In the summer and fall of 2016, I received complaints from Local 1107 members that democratic governance at Local 1107 had broken down, that the Local Executive Board was incapable of functioning properly and that divisions among various factions in the Local leadership were impeding the Local's work. In light of these concerns, pursuant to my authority under Article VIII, Section 7(g) of the SEIU Constitution, I appointed SEIU Vice President Carol Nieters to conduct a hearing on the internal needs of Local 1107 and on what, if any, remedial steps should be taken by the International Union to ensure effective democratic governance at Local 1107, promote and protect the interests of Local 1107 members, and build power for working people in Nevada. Local 1107 members were invited to appear at the hearing to share their views regarding these issues. Hearing Officer Nieters conducted the hearing on October 29, 2016, in Las Vegas, Nevada.

On April 26, 2017, Hearing Officer Nieters submitted her Report and Recommendations to me on the internal needs of Local 1107. Based on Sister Nieters' findings and recommendations, and based on a request that I received from Local 1107's Executive Board that I place the Local into an emergency trusteeship, I have determined that there is justification to place Local 1107 into an emergency trusteeship, and that there is justification to place Local 1107 into trusteeship without first holding a hearing.

The specific circumstances that make this Order of Emergency Trusteeship necessary include the following:

MARY KAY HENRY
International President

GERRY HUDSON
International Secretary-Treasurer

NEAL BISNO
Executive Vice President

LUISA BLUE
Executive Vice President

HEATHER CONROY
Executive Vice President

SCOTT COURTNEY
Executive Vice President

LESLIE FRANE
Executive Vice President

VALARIE LONG
Executive Vice President

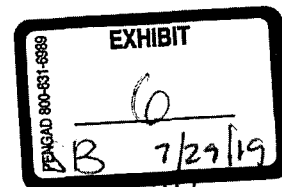
ROCIO SAENZ
Executive Vice President

SERVICE EMPLOYEES
INTERNATIONAL UNION
CTW, CLC

1800 Massachusetts Ave., NW
Washington, DC 20036

202.730.7000

www.SEIU.org



- There has been an on-going and serious breakdown in internal union governance and democratic procedures at Local 1107, stemming from warring factions on the Local Executive Board. The persistent conflict interferes with the Executive Board's ability to function in an orderly and democratic manner. Executive Board meetings regularly deteriorate into chaotic, bitter confrontations, name calling and shouting matches. The inability to maintain order and resolve even routine conflict prevents Local 1107's leaders from completing the work that the Local's members have elected them to do.
- Leadership conflicts and in-fighting in Local 1107 have caused great instability in the Local and interfered with its carrying out its collective bargaining responsibilities properly and effectively. For example, when Local 1107 members working at the University Medical Center ("UMC") were preparing to ratify a collective bargaining agreement last year, Local 1107's then-President, who had not actively participated in the bargaining process in spite of her constitutional obligation to do so, abruptly and unilaterally canceled the ratification vote by posting the cancellation notice on a public website. In the public notice, she announced that there would be an investigation into charges that the bargaining team had breached their fiduciary duty and failed to represent their unit members properly. In addition to undermining the bargaining team's authority, the former President's conduct signaled to employers the Local's lack of unity, thereby weakening the union's stature and damaging its ability to effectively advocate for and represent its members. Although the former President eventually relented under pressure from UMC members and leaders and the contract was ratified, the delay in ratification meant delayed longevity pay and raises for Local 1107.
- Local 1107's failure to communicate adequately with the Local membership interferes with its collective bargaining responsibilities. Members and stewards complained that difficulty getting the information and assistance from the Local that they need to represent themselves and their colleagues has impeded their ability to perform their representational duties properly.
- In addition, the communication breakdown in the Local impeded staff oversight, leaving Local staff without clear direction on the work they are required to perform, to whom they should report and from whom they will receive feedback. This confusion impedes the proper and efficient functioning of the Local and detracts the staff from expending resources and energy toward serving the membership.
- Local 1107's former Executive Vice President usurped the former President's constitutional authority to hire and fire Local staff by attempting to terminate a staff member while the former President was on vacation, undermining democratic governance in the Local.
- Several conflicting provisions in Local 1107's Constitution and Bylaws pertaining to the authority of the Local's officers and Executive Board members contribute to the conflict and confusion in the Local. The existence of multiple, conflicting provisions on a subject is not unique in the Local Constitution; it is a problem that exists on multiple topics throughout the Constitution. In addition, Local Executive Board does not make use of tools

at its disposal to navigate conflicts that arise during Executive Board meetings, such as Robert's Rules of Order.

- On April 26, 2017, the Local 1107 Executive Board voted to request that the International Union place the Local into an emergency trusteeship.

Therefore, in light of the situation facing Local 1107, and based the request received from the Local's Executive Board, I have this date placed Local 1107 into an emergency trusteeship, and appointed Luisa Blue as Trustee of Local 1107 and Martin Manteca as Deputy Trustee of Local 1107, with all of the powers that they are entitled to assume under the SEIU Constitution and Bylaws and applicable law, for the purposes of preventing disruption of contracts, assuring that the Local Union performs its duties as collective bargaining representative, restoring democratic procedures, protecting the interests of Local 1107 and its membership, and otherwise carrying out the legitimate objects of the International Union. The Trustee and Deputy Trustee shall assume responsibility for Local 1107 on April 28, 2017. In addition, I have determined that an emergency exists that justifies the pre-hearing appointment of a Trustee and Deputy Trustee at the Local Union.

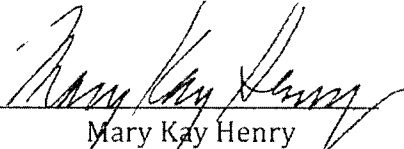
Local 1107's Constitution and Bylaws are suspended for the period of the trusteeship. In addition, in accordance with Article VIII, Section 7(f) of the SEIU Constitution and Bylaws, I will request that the International Executive Board appoint a hearing officer and that a Notice of Hearing, Appointment of Hearing Officer and Rules of Procedure be issued in the very near future. Further, consistent with this notice, a hearing regarding the imposition of an emergency trusteeship over Local 1107 will be held.

Further, pursuant to Article VIII, Section 7(b) of the SEIU Constitution, I hereby remove all Local 1107 officers, Executive Board Members, trustees and representatives from their positions as such, and all trustees of trust funds over which the Local Union has the power of appointment.

Consistent with the requirements of Article VIII, Section 7(f) of the SEIU Constitution, I will request that the International Executive Board appoint a hearing officer and that a notice of hearing be issued in the near future. Pursuant to that provision of the SEIU Constitution, a hearing regarding the SEIU's imposition of an emergency trusteeship over Local 1107 shall be held within thirty (30) days from the imposition of this trusteeship.

I request that all members and employees of Local 1107 cooperate with the Trustee and Deputy Trustee in every respect. All former officers, Executive Board members, trustees, representatives and employees of Local 1107 shall immediately make available to the Trustee and Deputy Trustee all books, records, funds and other property of the Local Union in their possession and control.

Dated this 28th day of April, 2017.


Mary Kay Henry
International President

cc: Gerald Hudson, International Secretary-Treasurer
Neal Bisno, Executive Vice President
Heather Conroy, Executive Vice President
Leslie Frane, Executive Vice President
Carol Nieters, Hearing Officer
Luisa Blue, SEIU Local 1107 Trustee
Martin Manteca, SEIU Local 1107 Deputy Trustee
Former Officers and Executive Board Members, SEIU Local 1107
Deedee Fitzpatrick, Deputy Chief of Staff
Nicole G. Berner, General Counsel
LaRell Purdie, Managing Counsel

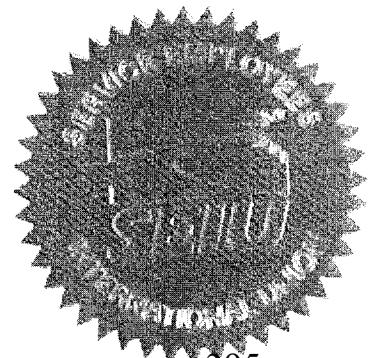


EXHIBIT B



SEIU Nevada Local 1107

2250 S. Rancho Drive, Suite 165

Las Vegas, NV 89102

Phone (702) 386-8849

May 4, 2017

HAND DELIVERED

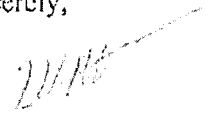
To: Dana Gentry

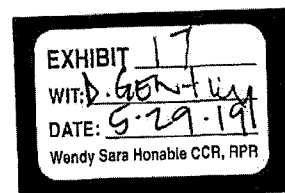
Dear Ms. Gentry:

As you know, Local 1107 has been placed under trusteeship by the Service Employees International Union. The Trustees of Local 1107 have been charged with the restoration of democratic procedures of Local 1107. In connection with formulating a program and implementing policies that will achieve this goal, going forward the Trustees will fill management and other positions at the Local with individuals they are confident can and will carry out the Local's new program and policies. In the interim, the Trustees will largely be managing the Local themselves with input from member leaders.

For these reasons, the Trustees have decided to terminate your employment with Local 1107, effective immediately. You are hereby directed to immediately return any property of the Local that you have in your possession, including but not limited to credit cards, phones, keys or key cards, vehicles, computers, files (both electronic and hard copy) and any other property in your possession.

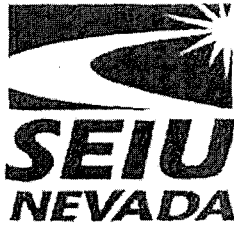
Sincerely,


Martin Manteca
Deputy Trustee, SEIU Local 1107



Gentry-Clarke000008

EXHIBIT C



SEIU Nevada Local 1107

2250 S. Rancho Drive, Suite 165

Las Vegas, NV 89102

Phone (702) 386-8849

May 4, 2017

HAND DELIVERED

To: Robert Clarke

Dear Mr. Clarke:

As you know, Local 1107 has been placed under trusteeship by the Service Employees International Union. The Trustees of Local 1107 have been charged with the restoration of democratic procedures of Local 1107. In connection with formulating a program and implementing policies that will achieve this goal, going forward the Trustees will fill management and other positions at the Local with individuals they are confident can and will carry out the Local's new program and policies. In the interim, the Trustees will largely be managing the Local themselves with input from member leaders.

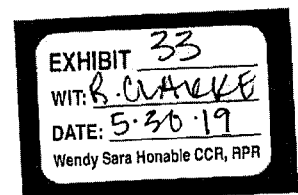
For these reasons, the Trustees have decided to terminate your employment with Local 1107, effective immediately. You are hereby directed to immediately return any property of the Local that you have in your possession, including but not limited to credit cards, phones, keys or key cards, vehicles, computers, files (both electronic and hard copy) and any other property in your possession.

Sincerely,

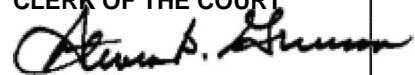
A handwritten signature in dark ink, appearing to read "Manteca", is written over a horizontal line.

Martin Manteca

Deputy Trustee, SEIU Local 1107



Gentry-Clarke000009



**DECL
ROTHNER, SEGALL & GREENSTONE**

Glenn Rothner (*Pro hac vice*)
Jonathan Cohen (10551)
Maria Keegan Myers (12049)
510 South Marengo Avenue
Pasadena, California 91101-3115
Telephone: (626) 796-7555
Fax: (626) 577-0124
E-mail: grothner@rsglabor.com
jcohen@rsglabor.com
mmyers@rsglabor.com

CHRISTENSEN JAMES & MARTIN

Evan L. James (7760)
7440 West Sahara Avenue
Las Vegas, Nevada 89117
Telephone: (702) 255-1718
Fax: (702) 255-0871

Attorneys for Service Employees International Union
and Mary Kay Henry

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DANA GENTRY, an individual; and
ROBERT CLARKE, an individual,

Plaintiffs,

vs.

SERVICE EMPLOYEES INTERNATIONAL
UNION, a nonprofit cooperative corporation;
LUISA BLUE, in her official capacity as
Trustee of Local 1107; MARTIN MANTECA,
in his official capacity as Deputy Trustee of
Local 1107; MARY K. HENRY, in her official
capacity as Union President; SHARON
KISLING, individually; CLARK COUNTY
PUBLIC EMPLOYEES ASSOCIATION
UNION aka SEIU 1107, a non-profit
cooperative corporation; DOES 1-20; and ROE
CORPORATIONS 1-20, inclusive,

Defendants.

Case No.: A-17-764942-C

DEPT. XXVI

**DECLARATION OF LUISA BLUE IN
SUPPORT OF SERVICE EMPLOYEES
INTERNATIONAL UNION'S AND
MARY KAY HENRY'S MOTION FOR
SUMMARY JUDGMENT**

1 I, Luisa Blue, declare as follows:

2 1. I have personal knowledge of the facts set forth in this declaration, except where
3 as indicated otherwise, and would competently testify in a court of law. I make this declaration
4 in support of the Defendants' motions for summary judgment.

5 2. I was Trustee of Nevada Service Employees Union, Local 1107 ("SEIU Local
6 1107") from April 28, 2017, until October 5, 2018. SEIU Local 1107 is a labor organization
7 headquartered in Las Vegas, Nevada, that represents employees in both the private and public
8 sectors in Nevada. SEIU Local 1107 is affiliated with Service Employees International Union
9 ("SEIU"), an international labor organization headquartered in Washington, D.C. Mary Kay
10 Henry is SEIU's President. She has held that position since 2010.

11 3. On April 28, 2017, SEIU President Henry issued an emergency trusteeship order
12 immediately placing SEIU Local 1107 into trusteeship and removing its elected officers.
13 Attached hereto as Exhibit A is a true and correct copy of that emergency trusteeship order. The
14 trusteeship order cited various reasons for the trusteeship, including "an ongoing and serious
15 breakdown in internal union governance and democratic procedures at Local 1107, stemming
16 from warring factions on the Local Executive Board;" "Leadership conflicts and in-fighting in
17 Local 1107 have caused great instability in the Local and interfered with its carrying out its
18 collective bargaining responsibilities properly and effectively;" "Local 1107's failure to
19 communicate adequately with the Local membership interferes with its collective bargaining
20 responsibilities;" and "the communication breakdown in the Local impeded staff oversight,
21 leaving Local staff without clear direction on the work they are required to perform, to whom
22 they should report and from whom they will receive feedback."

23 4. In that same emergency trusteeship order, SEIU President Henry appointed me as
24 Trustee and Martin Manteca as Deputy Trustee of SEIU Local 1107. Immediately upon our
25 appointment as Trustees of SEIU Local 1107 on April 28 2017, Manteca and I took over the
26 duties of the former officers of SEIU Local 1107 and were thereafter responsible for the day-to-
27 day affairs of SEIU Local 1107. Such responsibility included, among other things, determining
28 how best to manage SEIU Local 1107 and to supervise its staff.

5. When Manteca and I were appointed Trustees of SEIU Local 1107, plaintiff Dana Gentry was the Director of Communications of SEIU Local 1107 and plaintiff Robert Clarke was the Director of Finance and Human Resources of SEIU Local 1107. Both of those positions were management-level positions at SEIU Local 1107. Shortly after our appointment as Trustees, Manteca and I conferred and we determined that it would not be in the best interests of SEIU Local 1107 to continue employing Gentry and Clarke. In light of the significant and widespread disarray described in the emergency trusteeship order, Manteca and I believed that it was necessary to manage the affairs of the union ourselves and not with the union's former management team, at least until we could fill management-level positions with individuals whom we were confident would carry out the union's programs and policies. Thus, on May 4, 2017, SEIU Local 1107 terminated Gentry and Clarke. Attached hereto as Exhibits B and C are true and correct copies of the termination letters provided to Gentry and Clarke, respectively.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Executed on October 23, 2019, in Union City, California.

By Luisa Blue

EXHIBIT A



**ORDER OF EMERGENCY TRUSTEESHIP
APPOINTING A TRUSTEE AND DEPUTY TRUSTEE
TO TAKE CHARGE AND CONTROL OF THE AFFAIRS OF
SEIU LOCAL 1107, CTW, CLC**

**TO: All Members and Former Officers and Executive Board
Members of SEIU Local 1107, CtW, CLC**

Pursuant to my authority under Article VIII, Sections 7(a) and 7(f), of the SEIU Constitution and Bylaws, I have determined that an emergency situation exists within SEIU Local 1107, CtW, CLC (hereinafter "Local 1107," "Local Union" or "Local"), and that the interests of Local 1107 and the membership require the immediate appointment of a Trustee and Deputy Trustee to preserve the Local Union's status as collective bargaining representative and the performance of its representational duties and functions, restore democratic procedures at the Local, protect the interests of the Local and its members, and otherwise carry out the legitimate objects of the International Union.

MARY KAY HENRY
International President

GERRY HUDSON
International Secretary Treasurer

NEAL BISNO
Executive Vice President

LUISA BLUE
Executive Vice President

HEATHER CONROY
Executive Vice President

SCOTT COURTNEY
Executive Vice President

LESLIE FRANK
Executive Vice President

VALARIE LONG
Executive Vice President

ROCIO SÁENZ
Executive Vice President

In the summer and fall of 2016, I received complaints from Local 1107 members that democratic governance at Local 1107 had broken down, that the Local Executive Board was incapable of functioning properly and that divisions among various factions in the Local leadership were impeding the Local's work. In light of these concerns, pursuant to my authority under Article VIII, Section 7(g) of the SEIU Constitution, I appointed SEIU Vice President Carol Nieters to conduct a hearing on the internal needs of Local 1107 and on what, if any, remedial steps should be taken by the International Union to ensure effective democratic governance at Local 1107, promote and protect the interests of Local 1107 members, and build power for working people in Nevada. Local 1107 members were invited to appear at the hearing to share their views regarding these issues. Hearing Officer Nieters conducted the hearing on October 29, 2016, in Las Vegas, Nevada.

On April 26, 2017, Hearing Officer Nieters submitted her Report and Recommendations to me on the internal needs of Local 1107. Based on Sister Nieters' findings and recommendations, and based on a request that I received from Local 1107's Executive Board that I place the Local into an emergency trusteeship, I have determined that there is justification to place Local 1107 into an emergency trusteeship, and that there is justification to place Local 1107 into trusteeship without first holding a hearing.

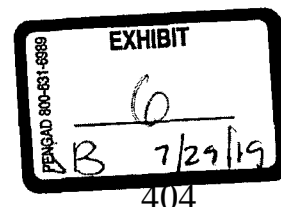
The specific circumstances that make this Order of Emergency Trusteeship necessary include the following:

SERVICE EMPLOYEES
INTERNATIONAL UNION
CTW, CLC

1800 Massachusetts Ave. NW
Washington, DC 20036

202 730 7000

www.SEIU.org



○ There has been an on-going and serious breakdown in internal union governance and democratic procedures at Local 1107, stemming from warring factions on the Local Executive Board. The persistent conflict interferes with the Executive Board's ability to function in an orderly and democratic manner. Executive Board meetings regularly deteriorate into chaotic, bitter confrontations, name calling and shouting matches. The inability to maintain order and resolve even routine conflict prevents Local 1107's leaders from completing the work that the Local's members have elected them to do.

○ Leadership conflicts and in-fighting in Local 1107 have caused great instability in the Local and interfered with its carrying out its collective bargaining responsibilities properly and effectively. For example, when Local 1107 members working at the University Medical Center ("UMC") were preparing to ratify a collective bargaining agreement last year, Local 1107's then-President, who had not actively participated in the bargaining process in spite of her constitutional obligation to do so, abruptly and unilaterally canceled the ratification vote by posting the cancellation notice on a public website. In the public notice, she announced that there would be an investigation into charges that the bargaining team had breached their fiduciary duty and failed to represent their unit members properly. In addition to undermining the bargaining team's authority, the former President's conduct signaled to employers the Local's lack of unity, thereby weakening the union's stature and damaging its ability to effectively advocate for and represent its members. Although the former President eventually relented under pressure from UMC members and leaders and the contract was ratified, the delay in ratification meant delayed longevity pay and raises for Local 1107.

○ Local 1107's failure to communicate adequately with the Local membership interferes with its collective bargaining responsibilities. Members and stewards complained that difficulty getting the information and assistance from the Local that they need to represent themselves and their colleagues has impeded their ability to perform their representational duties properly.

○ In addition, the communication breakdown in the Local impeded staff oversight, leaving Local staff without clear direction on the work they are required to perform, to whom they should report and from whom they will receive feedback. This confusion impedes the proper and efficient functioning of the Local and detracts the staff from expending resources and energy toward serving the membership.

○ Local 1107's former Executive Vice President usurped the former President's constitutional authority to hire and fire Local staff by attempting to terminate a staff member while the former President was on vacation, undermining democratic governance in the Local.

○ Several conflicting provisions in Local 1107's Constitution and Bylaws pertaining to the authority of the Local's officers and Executive Board members contribute to the conflict and confusion in the Local. The existence of multiple, conflicting provisions on a subject is not unique in the Local Constitution; it is a problem that exists on multiple topics throughout the Constitution. In addition, Local Executive Board does not make use of tools

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Therefore, in light of the situation facing Local 1107, and based the request received from the Local's Executive Board, I have this date placed Local 1107 into an emergency trusteeship, and appointed Luisa Blue as Trustee of Local 1107 and Martin Manteca as Deputy Trustee of Local 1107, with all of the powers that they are entitled to assume under the SEIU Constitution and Bylaws and applicable law, for the purposes of preventing disruption of contracts, assuring that the Local Union performs its duties as collective bargaining representative, restoring democratic procedures, protecting the interests of Local 1107 and its membership, and otherwise carrying out the legitimate objects of the International Union. The Trustee and Deputy Trustee shall assume responsibility for Local 1107 on April 28, 2017. In addition, I have determined that an emergency exists that justifies the pre-hearing appointment of a Trustee and Deputy Trustee at the Local Union.

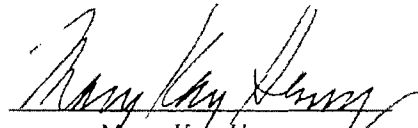
Local 1107's Constitution and Bylaws are suspended for the period of the trusteeship. In addition, in accordance with Article VIII, Section 7(f) of the SEIU Constitution and Bylaws, I will request that the International Executive Board appoint a hearing officer and that a Notice of Hearing, Appointment of Hearing Officer and Rules of Procedure be issued in the very near future. Further, consistent with this notice, a hearing regarding the imposition of an emergency trusteeship over Local 1107 will be held.

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Consistent with the requirements of Article VIII, Section 7(f) of the SEIU Constitution, I will request that the International Executive Board appoint a hearing officer and that a notice of hearing be issued in the near future. Pursuant to that provision of the SEIU Constitution, a hearing regarding the SEIU's imposition of an emergency trusteeship over Local 1107 shall be held within thirty (30) days from the imposition of this trusteeship.

I request that all members and employees of Local 1107 cooperate with the Trustee and Deputy Trustee in every respect. All former officers, Executive Board members, trustees, representatives and employees of Local 1107 shall immediately make available to the Trustee and Deputy Trustee all books, records, funds and other property of the Local Union in their possession and control.

Dated this 28th day of April, 2017.


Mary Kay Henry
International President

cc: Gerald Hudson, International Secretary-Treasurer
Neal Bisno, Executive Vice President
Heather Conroy, Executive Vice President
Leslie Frane, Executive Vice President
Carol Nieters, Hearing Officer
Luisa Blue, SEIU Local 1107 Trustee
Martin Manteca, SEIU Local 1107 Deputy Trustee
Former Officers and Executive Board Members, SEIU Local 1107
Deedee Fitzpatrick, Deputy Chief of Staff
Nicole G. Berner, General Counsel
LaRell Purdie, Managing Counsel

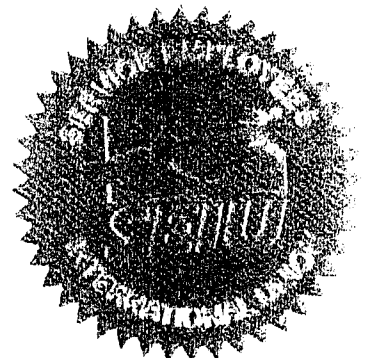


EXHIBIT B



SEIU Nevada Local 1107

2250 S. Rancho Drive, Suite 165

Las Vegas, NV 89102

Phone (702) 386-8849

May 4, 2017

HAND DELIVERED

To: Dana Gentry

Dear Ms. Gentry:

As you know, Local 1107 has been placed under trusteeship by the Service Employees International Union. The Trustees of Local 1107 have been charged with the restoration of democratic procedures of Local 1107. In connection with formulating a program and implementing policies that will achieve this goal, going forward the Trustees will fill management and other positions at the Local with individuals they are confident can and will carry out the Local's new program and policies. In the interim, the Trustees will largely be managing the Local themselves with input from member leaders.

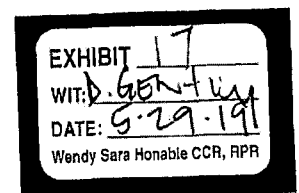
For these reasons, the Trustees have decided to terminate your employment with Local 1107, effective immediately. You are hereby directed to immediately return any property of the Local that you have in your possession, including but not limited to credit cards, phones, keys or key cards, vehicles, computers, files (both electronic and hard copy) and any other property in your possession.

Sincerely,

A handwritten signature in dark ink, appearing to read "Martin Manteca", is written over a light-colored background.

Martin Manteca

Deputy Trustee, SEIU Local 1107



Gentry-Clarke000008

EXHIBIT C



SEIU Nevada Local 1107

2250 S. Rancho Drive, Suite 165

Las Vegas, NV 89102

Phone (702) 386-8849

May 4, 2017

HAND DELIVERED

To: Robert Clarke

Dear Mr. Clarke:

As you know, Local 1107 has been placed under trusteeship by the Service Employees International Union. The Trustees of Local 1107 have been charged with the restoration of democratic procedures of Local 1107. In connection with formulating a program and implementing policies that will achieve this goal, going forward the Trustees will fill management and other positions at the Local with individuals they are confident can and will carry out the Local's new program and policies. In the interim, the Trustees will largely be managing the Local themselves with input from member leaders.

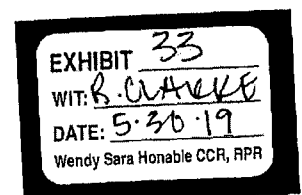
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Sincerely,

A handwritten signature in dark ink, appearing to read "M. Manteca", is written over a horizontal line.

Martin Manteca

Deputy Trustee, SEIU Local 1107



Gentry-Clarke000009

CERTIFICATE OF SERVICE

Clarke v. Service Employees International Union, et al.

Supreme Court No. 80520 and 81166

Case No. A-17-764942-C

I hereby certify that on this date 7th day of October, 2020, I submitted the foregoing **APPENDIX OF SERVICE EMPLOYEES INTERNATIONAL UNION AND CLARK COUNTY PUBLIC EMPLOYEES ASSOCIATION A/K/A SEIU LOCAL 1107, VOLUME 2** for filing and service through the Court's eFlex electronic filing service. According to the system, electronic notification will automatically be sent to the following:

Michael J. Mcavoyamaya 4539 Paseo Del Ray Las Vegas, NV 89121 Tel: (702) 685-0879 Email:Mmcavoyamayalaw@gmail.com	Evan L. James Christensen James & Martin 7440 W. Sahara Avenue Las Vegas, NV 89117 Tel: (702) 255-1718 Fax: (702) 255-0871 Email: elj@cjmlv.com
---	---

/s/ Jonathan Cohen

Jonathan Cohen