IN THE SUPREME COURT OF THE STATE OF NEVADA

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| ROBERT CLARKE, an individual,<br><br>Appellant,<br><br>v.<br><br>SERVICE EMPLOYEES INTERNATIONAL UNION, et al.,<br><br>Respondents. | Supreme Court No. 80520<br>District Case No. A764942 |
| SERVICE EMPLOYEES INTERNATIONAL UNION, et al.,<br><br>Appellants,<br><br>v.<br><br>DANA GENTRY, AN INDIVIDUAL; and ROBERT CLARKE, an individual,<br><br>Respondents. | Supreme Court No. 81166<br>District Case No. A764942 |



**SERVICE EMPLOYEES INTERNATIONAL UNION AND SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 1107'S JOINT RESPONSE TO ROBERT CLARKE'S "NOTICE OF RECENT EVENTS"**

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Service Employees International Union ("SEIU") and Service Employees International Union, Local 1107 ("Local 1107") (collectively, "Unions") hereby oppose Robert Clarke's "Notice of Recent Events Re: Federal Court Decision on Alter Ego Liability."

Clarke brings to the Court's attention a recent unpublished order of the United States District Court for the District of Nevada in *Javier Cabrera, et al. v. Serv. Employees Int'l Union, et al.*, Case No. 2:18-cv-00304-RFB-DJA.[1] In particular, Clarke emphasizes the district court's ruling that SEIU was not entitled to summary judgment on the plaintiffs' claim that SEIU was an alter-ego of Local 1107 under federal law.

That order is not pertinent here for the following reasons. First, Clarke waived his alter-ego claim for the reasons described at pages 49–51 of the Unions' joint opening/answering brief.

Second, even assuming *arguendo* that Clarke did not waive it, the claim still fails for the reasons described at pages 51–56 of the Unions' opening/answering brief. Indeed, the evidence in this case failed to support Clarke's belated argument regarding the Unions' alleged alter-ego status. Nor is there any basis in the record for Clarke's unfounded assertion that the district court's unpublished order in

[1] Despite Clarke's professed candor in bringing the order to the Court's attention, he neglects to mention that on April 7, 2021, SEIU and Local 1107 filed motions for reconsideration of that order. Those motions are still pending.

*Cabrera* was "based on the same evidence as was presented in this case."

Last, the district court order lacks even persuasive value. There, the court applied a four-factor test under federal law to determine the Unions' alleged alter-ego status. Order at 7. Here, the parties' purported alter-ego status would be evaluated under a different state law test. *See, e.g.*, *Polaris Indus. Corp. v. Kaplan*, 103 Nev. 598, 601 (1987).

For these reasons, SEIU and Local 1107 respectfully oppose Clarke's "Notice of Recent Events."

DATED: April 30, 2021

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## CERTIFICATE OF SERVICE

*Service Employees International Union, et al. v. Gentry, et al.*
Supreme Court Nos. 80520 and 81166

I hereby certify that on this date 30th day of April, 2021, I submitted the foregoing **SERVICE EMPLOYEES INTERNATIONAL UNION AND SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 1107'S JOINT RESPONSE TO ROBERT CLARKE'S "NOTICE OF RECENT EVENTS"** 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:

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*/s/ Jonathan Cohen*
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