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8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

10 * * * *

11 JAVIER CABRERA, an individual, DEBBIE
12 MILLER, an individual, CHERIE MANCINI,
13 individually and on behalf of similarly situated
14 Local 1107 members; and NEVADA SERVICE
15 EMPLOYEES UNION STAFF UNION
16 (“NSEUSU”), an unincorporated association,

17 Plaintiffs,

18 vs.

19 SERVICE EMPLOYEES INTERNATIONAL
20 UNION, a nonprofit cooperative corporation;
21 LUISA BLUE, in her official capacity as Trustee
22 of Local 1107; MARTIN MANTECA, in his
23 official capacity as Deputy Trustee of Local
24 1107; MARY K. HENRY, in her official
25 capacity as Union President; CLARK COUNTY
26 PUBLIC EMPLOYEES ASSOCIATION dba
27 NEVADA SERVICE EMPLOYEES UNION
28 aka SEIU Local 1107, a non-profit cooperative
29 corporation; CAROL NIETERS, an individual,
30 DOES 1-20; and ROE CORPORATIONS 1-20,
inclusive,

Defendants.

CASE NO.: 2:18-cv-304-RFB-CWH

FIRST AMENDED COMPLAINT

(DEMAND FOR JURY TRIAL)

COME NOW, Plaintiffs JAVIER CABRERA, DEBORAH MILLER, CHERIE MANCINI and NSEUSU, by and through their attorney of record MICHAEL J. MCAVOYAMAYA, ESQ., and hereby complain and allege as follows:

I. PARTIES

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

1 2. Plaintiff Debbie Miller is and was at all times relevant herein a resident of Clark
2 County, Nevada.

3 3. Plaintiff Cherie Mancini is and was at all times relevant herein a resident of
4 Clark County, Nevada.

5 4. Plaintiff NSEUSU is and was at all times relevant herein a labor organization
6 formed in Clark County, Nevada.

7 5. Defendant Service Employees International Union (hereinafter referred to as
8 “SEIU”) is and was at all times relevant herein a nonprofit corporation and labor organization
9 with headquarters in Washington D.C. with sufficient contacts with Local 1107 in Clark
10 County, Nevada to confer personal jurisdiction.

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

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

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

18 9. Defendant Clark County Public Employees Association, dba Nevada Service
19 Employees Union aka SEIU 1107 (hereinafter “Local 1107”), is and was at all times relevant
20 herein a domestic non-profit cooperative corporation and labor organization, having its main
21 and principal office in Clark County, Nevada.

22 10. Defendant Carol Nieters is and was at all times relevant herein believed to be a
23 resident of Minnesota with sufficient contact with Local 1107 in Clark County, Nevada to
24 confer personal jurisdiction.

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

10 12. That the true names and capacities of Defendants named herein as DOE
11 AGENCIES 1 through 20 and ROE CORPORATIONS 1 through 20, inclusive, are unknown
12 to the Plaintiffs, who therefore sue said Defendants by such fictitious names. Plaintiffs are
13 informed and believe and thereon allege that each of the Defendants designated herein as a DOE
14 AGENCIES and/or ROE CORPORATION Defendant is responsible for the events and
15 happenings referred to and proximately caused damages to the Plaintiffs as alleged herein.
16 Plaintiffs will ask leave of the Court to amend the Complaint to insert the true names and
17 capacities of DOE AGENCIES 1 through 20 and ROE CORPORATIONS 1 through 20,
18 inclusive, when the same have been ascertained, and to join such Defendants in this action.
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20 **II. JURISDICTION AND VENUE**

21 13. This Court has exercised removal jurisdiction over the claims as set forth herein
22 pursuant to 29 U.S.C. § 185, holding that claims for violation of a collective bargaining
23 agreement are preempted by the Labor Management Relations Act (“LMRA”).
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25 14. Additionally, this Court has jurisdiction over this matter for violation of the
26 Americans with Disabilities Act and the Family Medical Leave Act pursuant to 28 USC § 1331
27 and §1343, and supplemental jurisdiction over the state law claims pursuant to 28 USC §1367.
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1 15. Venue is proper in this Court because SEIU Local 1107 operates its principal
2 place of business in Clark County, Nevada.

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

4 16. On April 26, 2017, Defendant SEIU President Mary Kay Henry removed
5 Local 1107 President Plaintiff Cherie Mancini from her position in bad faith and in breach of
6 the SEIU International Constitution.

7 17. On April 28, 2017 Henry placed Local 1107 under emergency trusteeship.

8 18. Henry appointed Defendants Luisa Blue and Martin Manteca as Trustee and
9 Deputy Trustee, respectively.
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11 19. That upon imposition of the trusteeship over Local 1107, Local 1107's
12 governing body was dissolved, the Local 1107 Constitution and Bylaws were suspended, and
13 the SEIU International Trustees took control over Local 1107 under the common
14 management, direction and supervision of the SEIU International President.

15 20. That after imposition of the trusteeship, Local 1107 began implementing
16 programs, and campaigns of SEIU International such that there was an interrelation of
17 operations and centralized control of labor relations.
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19 21. That upon imposition of the trusteeship, SEIU International exerted common
20 control over Local 1107's finances.

21 22. That after imposition of the trusteeship, SEIU International exerted a high
22 degree of involvement in the affairs of Local 1107.
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24 23. That after imposition of the trusteeship, the Trustees terminated numerous
25 management level staff members who were not covered by the collective bargaining
26 agreement ("CBA") entered into between Local 1107 and the NSEUSU.

27 24. Due to the reduction in Local 1107 staff who were terminated by the SEIU
28 Trustees, and in order to carry out the Local's new program and policies, the Trustees changed

1 the work schedules and duties of Local 1107 organizers and other staff members forcing the
2 staff to work longer hours to make up for the reduction in Local 1107 staff.

3 **FIRST CLAIM FOR RELIEF**

4 **(Disability Discrimination In Violation of the Americans with Disabilities Act (“ADA”)
5 Title I – Plaintiff Debbie Miller)**

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

8 26. Plaintiff Miller is a 57 year old woman. Plaintiff Miller was employed with SEIU
9 Local 1107 for nine (9) years, from 2009 through 2017. Plaintiff Miller was an experienced
10 union organizer who was responsible for Saint Rose hospital bargaining units within Local
11 1107. Miller was an effective organizer, who had the highest union membership and
12 participation at her designated bargaining units of any staff organizer at Local 1107. Miller was
13 well respected by the Local 1107 membership, who often praised her service to the membership.

14 27. That upon imposition of the trusteeship over Local 1107, the SEIU International
15 Trustees required the Local 1107 organizers to perform non-essential functions of the job to
16 accommodate a new organizing program, Together We Rise, which forced Mrs. Miller to work
17 longer hours, have an unset schedule, and imposed quotas on organizers that required more site
18 visits and longer periods of time on her feet. The Together We Rise program was a temporary
19 program that concluded in December 2018, at which time the quotas, and excess hours returned
20 to normal.

21 28. Additionally, the SEIU International Trustees introduced an additional check in
22 and check out procedure for organizers that was not an essential function of the organizer job,
23 that extended work organizers’ work schedules by three (3) to four (4) hours every day.

24 29. That because of the additional hours, unset work schedule, unreasonable
25 organizing quotas, and longer periods on her feet traveling two and from work sites and
26 organizing events to increase Local 1107’s dues paying membership, Mrs. Miller was unable
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1 to take sufficient breaks and eat at regular intervals in order to keep her diabetic blood sugar
2 levels in check while also meeting the these additional non-essential, temporary work duties
3 imposed on Local 1107 organizers after imposition of the trusteeship to meet the needs of the
4 TWR campaign.

5 30. That after several months of working under these new conditions, on September
6 13, 2017, after attending a TWR organizing rally at Rancho High School during working hours,
7 Mrs. Miller collapsed in the parking lot while getting out of her vehicle.

8 31. On September 19, 2017, Mrs. Miller went to see her primary care doctor, Dr.
9 Venkat, due to her fall at work. Dr. Venkat recommended and scheduled Mrs. Miller for an
10 appointment with an orthopedic doctor, Dr. Liu, for September 28, 2017.

11 32. Six days later, on September 25, 2017, while visiting her parents in Canada
12 because her father was ill, Mrs. Miller collapsed again, this time while sitting in a chair at a
13 restaurant.
14

15 33. On September 28, 2017, Mrs. Miller visited her orthopedic doctor, Dr. Liu, due
16 to her collapsing at work. Dr. Liu recommended that Mrs. Miller have xrays of her hips, and
17 two weeks of medical leave.
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19 34. That day, Mrs. Miller sent an email to her supervisors, Davere Godfrey, and
20 Local 1107 Deputy Trustee Martin Manteca, informing them that Dr. Liu had recommended
21 two weeks of medical leave, and requesting a meeting to discuss her medical condition upon
22 her return from medical leave.
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24 35. On October 9, 2017, while on medical leave, Mrs. Miller had a follow up
25 appointment with her primary care physician, Dr. Venkat. Dr. Venkat concluded that Mrs.
26 Miller's collapse at work, and later while on vacation, was due to her diabetes because
27 "Debbie's blood sugars can get out of control when she's not able to eat on time." Dr. Venkat
28 recommended that Mrs. Miller be given a set schedule for work and breach to ensure her blood

1 sugar levels can be controlled. Dr. Venkat noted that Local 1107 could contact her with any
2 questions about the recommendation.

3 36. On October 11, 2017, Mrs. Miller followed up with her orthopedic doctor, Dr.
4 Liu, who noted that she had “bilateral hip pain with diabetic neuropathy” and recommended
5 that Mrs. Miller be given a desk job.

6 37. On October 17, 2017, Mrs. Miller met with Local 1107 Deputy Trustee Martin
7 Manteca, Organizing Coordinator Grace Vergara, Human Resources manager Melody Rash,
8 along with her union Vice President, Susan Smith.

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10 38. During this meeting Mrs. Miller provided Local 1107 the numerous doctors’
11 notes indicating that her diabetic neuropathy was being affected by the additional, temporary
12 non-essential job duties imposed by the Local 1107 trustees for the TWR campaign. In
13 response, Deputy Trustee Manteca asked Mrs. Miller if she was able to do her job, to which
14 Mrs. Miller responded that she could continue to do the essential functions of the organizer,
15 and requested reasonable accommodations with regards to the additional duties imposed on
16 organizers by the SEIU International Trustees to meet the demands of the SEIU International
17 TWR campaign. In the alternative, Mrs. Miller and the NSEUSU requested that she be
18 transferred to a front desk administrative position within the bargaining unit that was filled by
19 a temporary employment agency employee. Defendants provided no explanation for why Mrs.
20 Miller could not be given the front desk position at this meeting. Instead, Defendants asked
21 what Mrs. Miller’s percentage of disability was instead of engaging in the interactive process
22 to negotiate reasonable accommodations in good faith, and demanded further information be
23 provided from Mrs. Miller’s treating physicians regarding her disability, which was clearly
24 identified as diabetes.
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1 39. Mrs. Miller memorialized the discussion at the October 17, 2017 meeting via
2 email sent to Deputy Trustee Manteca that same day, informing him that she had scheduled
3 another doctors' appointment per Defendants' request.

4 40. On October 19, 2017, Defendants sent Mrs. Miller a formal letter regarding the
5 October 17th meeting. Defendants acknowledged that the meeting was requested to "discuss a
6 request for reasonable accommodations under the Americans with Disabilities Act (ADA). That
7 meeting is part of the Union's interactive process to evaluate your request for accommodations
8 under the ADA." Defendants noted that Mrs. Miller had proposed a reasonable accommodation
9 of a transfer from the field organizer position to the front desk receptionist position because her
10 Doctor recommended a desk job. According to Defendants' letter, Local 1107 was requesting
11 additional information as part of the interactive process, because Mrs. Miller's numerous
12 doctors notes that indicated that she: (1) had a disability, diabetes; (2) needed an
13 accommodation; and (3) requested, reasonable accommodation; was not sufficient because her
14 orthopedic doctor's note did not include a percentage of disability, nor a description of how
15 Mrs. Miller's disability affected her ability to perform the essential functions of her job. Despite
16 diabetes being a qualifying disability, Defendants asserted that it was "unclear what qualifying
17 disability you have that would warrant reasonable accommodations. From the information
18 supplied, it cannot be determined whether you are a qualified individual with a disability within
19 the meaning of the ADA." Defendants did not characterize Mrs. Miller's request for transfer to
20 the front desk position as unreasonable, nor did they assert that Mrs. Miller did not qualify for
21 the position. Defendants also noted that Mrs. Miller requested leave to meet with her doctors to
22 gather the requested information, asserting that the CBA did not provide such leave past thirty
23 (30) days, and after that she would be required to use her paid time off (PTO).

24 41. On October 23, 2017, Mrs. Miller met with Dr. Liu, who once again provided
25 recommendations that Mrs. Miller be provided accommodations in her job that required no
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1 more than “50% sitting and 50% standing during her shift.” Dr. Liu’s second note was provided
2 to Defendants.

3 42. On October 26, 2017, Defendants wrote Mrs. Miller another formal letter noting
4 that it would “summarize pertinent information that has been acquired during the interactive
5 process with you and will communicate our findings and conclusions with respect to your
6 requests for reasonable accommodations under the ADA.” Defendants acknowledged a clear
7 understanding that Mrs. Miller was diagnosed with a recognized disability under the ADA,
8 “diabet[es] with diabetic neuropathy.” Defendants acknowledged an understanding that Mrs.
9 Miller and her treating physicians stated that her work schedule was preventing her from
10 managing her blood glucose levels. Defendants acknowledged that Plaintiff Miller and her
11 treating physicians had requested that she be given reasonable accommodations for her
12 disability. Despite acknowledging both a qualifying disability diagnosis, how the disability was
13 affecting her daily life, and her request for accommodations, Defendants asserted that Mrs.
14 Miller had not clearly explained why the suggested accommodation would help her manage her
15 diabetes, again citing the 0 percent disability language in Mrs. Miller’s orthopedic doctor’s
16 note. Defendants rejected Mrs. Miller’s request for the reasonable accommodation of a fixed
17 schedule. Defendants rejected Mrs. Miller’s suggestion of a reasonable accommodation of
18 transfer to the front desk receptionist position that had a fixed schedule. Defendants’ reasons
19 for rejecting both of Mrs. Miller’s suggested accommodations was that Mrs. Miller had “not
20 clearly explained how any impairment prevents you from working your current schedule, which
21 is typically flexible for the organizer position to meet the scheduling needs of the various
22 jobsites to which you may be assigned, nor have you explained how that prevents you from
23 performing the essential duties of your job while managing your diabetes. You have also not
24 explained how a desk job would enable you to better manage your diabetes.” In rejecting Mrs.
25 Miller’s requests for accommodations, Defendants asserted that her position as an organizer
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1 already provided Mrs. Miller the ability to keep her diabetes in control despite the
2 recommendations of her treating physicians and directed her to return to work under the same
3 conditions that caused her to collapse due to her diabetic neuropathy. Finally, Defendants
4 asserted that Mrs. Miller's request to be transferred to the front desk position was not reasonable
5 because it would create an undue hardship on Local 1107 because it would eliminate an
6 essential job function of an organizer, and asserted for the first time that Mrs. Miller did not
7 qualify for the front desk position because, while Mrs. Miller was on leave, the front desk
8 position's essential job functions were mysteriously modified to include Spanish speaking
9 bilingualism.
10

11 43. That same day, Mrs. Miller was sent an email from her supervisor Grace Vergara
12 instructing her that she needed to be back at work on October 30, 2017.

13 44. On October 30, 2017, Mrs. Miller returned to work at Local 1107 and was
14 informed that she would no longer be working her organizing territory of nearly ten (10) years,
15 the Saint Rose Hospitals. Mrs. Miller was also informed that she had been demoted from lead
16 organizer to organizer and told she would be working a new bargaining territory, the Clark
17 County bargaining units, under another organizer. The new bargaining unit territory required
18 far more walking than Mrs. Miller's prior organizing territory, as the territory was spread out
19 amongst numerous county departments, and parking was limited. Mrs. Miller protested Local
20 1107 once again increasing her work duties, rather than accommodating her disability,
21 demoting her for requesting accommodations, and requested medical leave. Defendants
22 required her to take PTO.
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25 45. That the ADA, 42 U.S.C. Sections 12101 et seq. prohibits employment
26 discrimination based on disability or perceived disability in the terms, conditions, promotion
27 opportunities, salary and benefit and classification of employees.
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1 46. That Mrs. Miller was and is disabled as defined by the ADA because she suffers
2 from a recognized disability impairment, diabetes, which substantially limited major life
3 activities including, but not limited to, walking, eating and working.

4 47. That despite her disability, Mrs. Miller was physically, mentally and medically
5 qualified to perform the duties of her job as an organizer with Local 1107 at the time she was
6 hired up until her constructive termination after the imposition of the trusteeship, when the
7 Local 1107 trustees significantly changed her work duties and schedule when implementing an
8 SEIU International’s temporary “Together We Rise” (“TWR”) organizing campaign, which
9 imposed quotas on organizers, check in and check out procedures that extended working
10 schedules by up to four hours every day, and events that could extend into the late evening.

11 48. Mrs. Miller was, accordingly, at all times relevant hereto a qualified individual
12 with a disability within the meaning of the ADA Section 101(8), 42 USC §12111(8).
13

14 49. That Defendants discriminated against Plaintiff Miller on the basis of her
15 disability by failing to participate in the interactive process upon her request for
16 accommodations in good faith.
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18 50. That Defendants discriminated against Plaintiff Miller by asserting that she was
19 not covered by the ADA, despite knowing that she suffered from the recognized qualifying
20 impairment of diabetes with diabetic neuropathy.

21 51. That Defendants discriminated against Plaintiff Miller on the basis of her
22 disability by refusing to provide her with reasonable accommodations as required by the ADA.
23

24 52. That Defendants discriminated against Plaintiff Miller on the basis of her
25 disability by demoting her from lead organizer to organizer after she requested reasonable
26 accommodations.

27 53. That Defendants discriminated against Plaintiff Miller on the basis of her
28 disability by changing the designated bargaining units she had served for nearly ten (10) years,

1 requiring her to work the Clark County bargaining units that required considerable more time
2 walking despite having collapsed at work, and having requested reasonable accommodations
3 that included less standing and walking.

4 54. That Defendants discriminated against Plaintiff Miller on the basis of her
5 disability by changing the qualifications for the front desk position only after Plaintiff Miller
6 suggested placement in the position as a reasonable accommodation.

7 55. That as a direct and proximate result of Defendants' willful, knowing,
8 intentional, and unlawful discrimination against Plaintiff Miller, Plaintiff has and continues to
9 suffer humiliation, emotional distress, and physical and mental pain and anguish, all to her
10 damage in a sum according to proof at trial.

11 56. That as a direct and proximate result of Defendants' willful, knowing,
12 intentional, and unlawful discrimination against Plaintiff Miller, Plaintiff has suffered, and will
13 continue to suffer lost wages, salary, benefits and certain other incidental and consequential
14 economic expenses and losses which Plaintiff Miller would have received if Plaintiff had not
15 been constructively terminated from her position with SEIU Local 1107, in an amount
16 according to proof at trial but believed to be in excess of \$100,000.

17 57. The above-alleged misconduct constitutes oppression, fraud or malice thereby
18 entitling Plaintiff Miller to an award of punitive damages according to proof at trial.

19 58. Plaintiff Miller has incurred reasonable attorneys' fees and costs in prosecuting
20 this matter in an amount to be established at trial.

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23 **SECOND CLAIM OF RELIEF**

24 **(Retaliation in Violation of the ADA – Plaintiff Debbie Miller)**

25 59. Plaintiffs restate and reallege all preceding and subsequent allegations as though
26 fully set forth herein.
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1 60. The ADA, 42 U.S.C. § 12203(a) prohibits retaliation against employees who
2 oppose violations of disability discrimination under the ADA, or because such individual made
3 a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or
4 hearing under this chapter.

5 61. That 42 U.S.C. § 2000e-3(a) provides that “it shall be an unlawful employment
6 practice for an employer to discriminate against any of his employees or applicants for
7 employment, for an employment agency ... to discriminate against any individual or for a labor
8 organization to discriminate against any member thereof or applicant for membership, because
9 he has opposed any practice made an unlawful employment practice by this subchapter, or
10 because he has made a charge, testified, assisted, or participated in any manner in an
11 investigation, proceeding, or hearing under this subchapter.”

12 62. That to assert a retaliation claim under federal EEO laws, including the ADA, a
13 plaintiff must show that he or she (1) engaged in prior protected activity; (2) the employer took
14 a materially adverse action; and (3) the requisite level of causal connection between the
15 protected activity and the materially adverse action.
16

17 63. That Plaintiff Miller engaged in protected activity when, after collapsing at work
18 and receiving recommendations for reasonable accommodations for her diabetes disability from
19 her treating physicians, she requested that Defendants provide reasonable accommodations on
20 multiple occasions including to be given a fixed schedule, to be exempt from the additional
21 non-essential duties of organizers imposed by the trustees upon imposition of the trusteeship to
22 facilitate the temporary SEIU International TWR campaign, and/or be transferred to the front
23 desk position that had a fixed schedule.
24

25 64. That Defendants rejected all of Plaintiff’s suggestions for reasonable
26 accommodations and provided no suggestions of their own.
27

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1 65. That when finally and officially rejecting Plaintiff's request to be transferred to
2 the front desk position, after Mrs. Miller had requested it numerous times, and Defendants
3 failure to indicate that Mrs. Miller did not qualify for the position, Defendants changed the
4 qualifications for the front desk position to require Spanish speaking bilingualism to deny
5 Plaintiff the accommodation.

6 66. That the front desk provision had never previously required Spanish speaking
7 bilingualism prior to Plaintiff requesting the reasonable accommodation, and Defendants only
8 asserted the requirement after failing to indicate that Plaintiff Miller was unqualified for the
9 position in numerous meetings and formal letters to Plaintiff prior to the date of the official
10 rejection of the request for accommodation.
11

12 67. That after rejecting Plaintiff Miller's requests for accommodations, Defendants
13 directed Plaintiff to return to work on October 30, 2017.

14 68. That upon her return to work, Defendants subjected Plaintiff Miller to additional
15 retaliation for engaging in protected activity by demoting her from Lead Organizer to
16 Organizer, and changing her organizing territory of nearly ten (10) years to another territory
17 that required even more walking and time on her feet.
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19 69. That as a direct and proximate result of Defendants' willful, knowing,
20 intentional, and unlawful discrimination against Plaintiff Miller, Plaintiff has and continues to
21 suffer humiliation, emotional distress, and physical and mental pain and anguish, all to her
22 damage in a sum according to proof at trial.
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24 70. That as a direct and proximate result of Defendants' willful, knowing,
25 intentional, and unlawful discrimination against Plaintiff Miller, Plaintiff has suffered, and will
26 continue to suffer lost wages, salary, benefits and certain other incidental and consequential
27 economic expenses and losses which Plaintiff would have received if she had not been
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1 constructively terminated from her position with SEIU Local 1107 in an amount according to
2 proof at trial, but believed to be in excess of \$100,000.

3 71. The above-alleged misconduct constitutes oppression, fraud or malice thereby
4 entitling Plaintiff Miller to an award of punitive damages according to proof at trial.

5 72. Plaintiff Miller has incurred reasonable attorneys' fees and costs in prosecuting
6 this matter in an amount to be established at trial.

7 **THIRD CLAIM FOR RELIEF**

8 **(Disability harassment resulting in a hostile work environment in violation of the ADA –**
9 **Plaintiff Debbie Miller)**

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

12 74. That Plaintiff Miller requested reasonable accommodations from Defendants of
13 a set schedule with less time on her feet to accommodate her ADA recognized disability,
14 diabetes.

15 75. That Defendants refused to provide Mrs. Miller reasonable accommodations for
16 her disability, directing Mrs. Miller to return to work.

17 76. That upon returning to work, Defendants' demoted Plaintiff Miller, and changed
18 the terms and conditions of her employment, transferring her organizing territory to Clark
19 County, a bargaining unit that required considerably more time on her feet despite both Mrs.
20 Miller and her treating physicians asserting that her position already required too much time on
21 her feet and requesting less walking and standing as a reasonable accommodation.
22

23 77. That Defendants changed Plaintiff Miller's organizing territory in order to
24 harass and intimidate her for engaging in protected activity.
25

26 78. That as a direct and proximate result of Defendants' willful, knowing,
27 intentional, and unlawful discrimination against Plaintiff Miller, Plaintiff has and continues to
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1 suffer humiliation, emotional distress, and physical and mental pain and anguish, all to her
2 damage in a sum according to proof at trial.

3 79. That as a direct and proximate result of Defendants' willful, knowing,
4 intentional, and unlawful discrimination against Plaintiff Miller, Plaintiff has suffered, and will
5 continue to suffer lost wages, salary, benefits and certain other incidental and consequential
6 economic expenses and losses which Plaintiff would have received if she had not been
7 constructively terminated from her position with SEIU Local 1107 in an amount according to
8 proof at trial, but believed to be in excess of \$100,000.

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10 80. The above-alleged misconduct constitutes oppression, fraud or malice thereby
11 entitling Mrs. Miller to an award of punitive damages according to proof at trial.

12 81. Plaintiff Miller has incurred reasonable attorneys' fees and costs in prosecuting
13 this matter in an amount to be established at trial.

14 **FOURTH CLAIM FOR RELIEF**

15 **(Violation of the Family Medical Leave Act ("FMLA") – Plaintiff Debbie Miller)**

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

19 83. That upon imposition of the trusteeship over Local 1107, Local 1107's
20 Constitution and Bylaws were suspended, it's governing body dissolved, and the SEIU
21 International Trustees over Local 1107 took charge of the local's operations and finances.

22 84. That the SEIU International Trustees were under the direct supervision of, and
23 reported directly to the SEIU International President.

24
25 85. That the officer of the SEIU International President (the Executive Office) was
26 directly involved in Local 1107's operations while it was under trusteeship, including, but not
27 limited to, directing the SEIU International Trustees over Local 1107 to engage a temporary
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1 employment agency to fill vacant positions, and to terminate staff and transfer of other SEIU
2 International and local union staff to Local 1107 to assist with the trusteeship.

3 86. That SEIU International exerted such a high degree of control over Local 1107
4 to be considered the alter-ego, or otherwise be considered a single employer for the purposes
5 of liability under the FMLA.

6 87. That SEIU International, and its trusted alter-ego, Local 1107, were employers
7 covered by the FMLA pursuant to 29 USC 2601 *et seq.* because they have more than fifty (50)
8 employees.

9 88. That Plaintiff Miller suffered from a chronic medical condition, diabetes and
10 diabetic neuropathy, as defined by 29 C.F.R. 825.115(c)(1), requiring periodic visits with her
11 treating physician more than twice a year.

12 89. That Plaintiff Miller collapsed at work due to her chronic condition and was
13 entitled to leave under the act pursuant to 29 C.F.R. 825.115(c)(1) between October and
14 December 2017.

15 90. That Defendants engaged in prohibited conduct under the FMLA by interfering
16 with, restraining or denying Plaintiffs' rights provided under the Act.

17 91. That Defendants' actions foreclosed Plaintiff's rights under the FMLA,
18 including but not limited to the right to be returned to her position and the right to be free from
19 harassment for attempting to exercise her rights under the act.

20 92. That as a direct and proximate result of Defendants' willful, knowing,
21 intentional, and unlawful actions to restrain or deny Plaintiff Miller from exercising her rights
22 under the act, Plaintiff has and continues to suffer humiliation, emotional distress, and physical
23 and mental pain and anguish, all to her damage in a sum according to proof at trial.

24 93. That as a direct and proximate result of Defendants' willful, knowing,
25 intentional, and unlawful actions, Plaintiff has suffered, and will continue to suffer lost wages,
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1 salary, benefits and certain other incidental and consequential economic expenses and losses
2 which Plaintiff Miller would have received if she had not been constructively terminated from
3 her position with SEIU Local 1107 in an amount according to proof at trial, but believed to be
4 in excess of \$100,000.

5 94. The above-alleged misconduct constitutes oppression, fraud or malice thereby
6 entitling Mrs. Miller to an award of punitive damages according to proof at trial.

7 95. Mrs. Miller has incurred reasonable attorneys' fees and costs in prosecuting this
8 matter in an amount to be established at trial.

9
10 **FIFTH CLAIM FOR RELIEF**

11 **(Labor Management Relations Act (“LMRA”) Section 301, 29 U.S.C. § 185 - Breach of**
12 **Collective Bargaining Agreement – Plaintiffs Debbie Miller, NSEUSU)**

13 96. Plaintiffs restate and reallege all preceding and subsequent allegations as though
14 fully set forth herein.

15 97. That Local 1107 entered into a valid and binding CBA with NSEUSU.

16 98. That Debbie Miller was, at all times relevant herein, a staff employee covered
17 by the CBA between Local 1107 and NSEUSU.

18 99. That after Defendants refused to provide reasonable accommodations to Plaintiff
19 Miller, including, but not limited to, refusing to transfer her to the front desk position by
20 asserting that Mrs. Miller did not qualify for the position because it required Spanish speaking
21 bilingualism, the NSEUSU filed a grievance against Defendants for violation of the NSEUSU
22 CBA.

23 100. The NSEUSU grievance alleged that Defendants had violated Article 1 and 2 of
24 the NSEUSU CBA, the recognition and non-discrimination clauses, as well as other Articles,
25 when asserting that the front desk position within the NSEUSU bargaining unit filled with a
26 temporary employee required Spanish speaking bilingualism to deny Plaintiff Miller reasonable
27 accommodations.
28

1 101. Article 1 of the NSEUSU is the Recognition clause, and provides that Local
2 1107 and the NSEUSU agreed and recognized that the NSEUSU is the exclusive bargaining
3 agent for all full time and part time staff employees for Local 1107.

4 102. Article 2 of the NSEUSU is a non-discrimination clause that states that Local
5 1107 and the NSEUSU agreed that “the provisions of this Agreement shall be applied without
6 discrimination on the basis of...physical disability...membership in the Staff Union or
7 participation in the activities of the Staff Union.”

8 103. Article 8 Section 2 Clause 4 of the CBA provides, in pertinent part, that Local
9 1107 has the right “To hire temporary employees, subcontract any of the work or services unless
10 it is for the sole purpose of displacing bargaining unit employees.”

11 104. Article 11 of the NSEUSU CBA outlines the grievance procedure, and defines
12 grievance as “a flied dispute between the Union, on behalf of an employee(s), and the Employer
13 over the interpretation and/or application of the express terms of this Agreement” but “shall not
14 be defined to include any matter or action taken by the Employer or its representatives for which
15 the Equal Employment Opportunity Commission (EEOC), or Nevada Equal Rights
16 Commission (NERC), has jurisdiction or any matter specifically excluded from grievance and
17 arbitration by other provisions of this Agreement.” “Grievances relating to the interpretation
18 and application of the express terms of the agreement shall be initiated at Step 2 of this
19 procedure; both shall be initiated within ten (10) working days of the employee's knowledge of
20 the contract violation.”

21 105. Article 22 of the CBA provides that only the Local 1107 “President has the right
22 to determine . . . whether or not an employee’s work duties necessitate a second language.”

23 106. Article 24 of the CBA provides that “[i]n the event of the transfer of control
24 from SEIU Nevada Local 1107 to SEIU International, or to any other entity, in whole or in part,
25 the Local hereby agrees that SEIU International, and/or any other successor’s or assigns, shall
26
27
28

1 recognize the Staff Union as the exclusive collective bargaining representative of its employees,
2 assume the [CBA] then in effect between [Local 1107] and the Staff Union and provide for the
3 retention of all employees covered under this Agreement as well as seniority and service
4 credited of the employees at the time of such change or transfer of control.”

5 107. The SEIU International Trustees over Local 1107 breached Articles 1 and
6 Article 8 Section 2 Clause 4 of the NSEUSU CBA by filling a vacant, existing full-time front
7 desk administrative position within the NSEUSU bargaining unit with a temporary employment
8 agency employee to circumvent NSEUSU as the exclusive bargaining representative for all full-
9 time administrative staff, and for the sole purpose of displacing a bargaining unit employee.
10

11 108. The SEIU International Trustees over Local 1107 breached Articles 1, 2, 8, 22
12 and 24 of the NSEUSU CBA by discriminating against Mrs. Miller because of her physical
13 disability when changing the “necessary qualifications” of the front desk position upon her
14 request for reasonable accommodations, without authority and in violation of the succession
15 clause, to requiring Spanish speaking bilingualism to circumvent the NSEUSU as the exclusive
16 bargaining representative for full-time administrative staff, and to displace a bargaining unit
17 employee.
18

19 109. The SEIU International Trustees over Local 1107 breached Article 24 of the
20 NSEUSU CBA when they failed to provide for retention of Plaintiff Miller, an employee
21 covered under the NSEUSU CBA, by refusing to grant her reasonable accommodations by
22 transferring her to the open front desk position at the request of NSEUSU, and unilaterally
23 changing the position’s qualifications to support denial of the request.
24

25 110. The SEIU International Trustees over Local 1107 breached Article 22 and 24 of
26 the NSEUSU CBA by determining the front desk position’s “necessary qualifications” included
27 a second language when only the Local 1107 President was authorized to make that
28 determination, the position had never previously required bilingualism, and Article 24 required
29

1 the SEIU International Trustees to maintain the status quo under the CBA until the trusteeship
2 ended.

3 111. The SEIU International Trustees breached Article 11 of the NSEUSU CBA
4 when they refused to hold the Step 2 grievance hearing after the NSEUSU filed the grievance
5 on behalf of Plaintiff Miller, unilaterally “making findings and conclusions on the basis of the
6 October 29, 2017 grievance as filed,” and asserting that “Local 1107 will neither arbitrate nor
7 agree to arbitrate the grievance as filed.”

8
9 112. That as a direct and proximate result of Defendants’ willful, knowing,
10 intentional, and unlawful actions in breach of the NSEUSU CBA, Plaintiff has and continues
11 to suffer humiliation, emotional distress, and physical and mental pain and anguish, all to her
12 damage in a sum according to proof at trial.

13 113. That as a direct and proximate result of Defendants’ willful, knowing,
14 intentional, and unlawful actions in breach of the NSEUSU CBA, Plaintiff has suffered, and
15 will continue to suffer lost wages, salary, benefits and certain other incidental and consequential
16 economic expenses and losses which Mrs. Miller would have received if Mrs. Miller had not
17 been constructively terminated from her position with SEIU Local 1107 in an amount according
18 to proof at trial, but believed to be in excess of \$100,000.

19
20 114. The above-alleged misconduct constitutes oppression, fraud or malice thereby
21 entitling Mrs. Miller to an award of punitive damages according to proof at trial.

22
23 115. Mrs. Miller has incurred reasonable attorneys' fees and costs in prosecuting this
24 matter in an amount to be established at trial.

25 **SIXTH CLAIM FOR RELIEF**

26 **(Retaliation in Violation of the ADA – Plaintiff Javier Cabrera)**

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

1 117. The ADA, 42 U.S.C. § 12203(a) prohibits retaliation against employees who
2 oppose violations of disability discrimination under the ADA, or because such
3 individual...participated in any manner in an investigation, proceeding, or hearing under this
4 chapter.

5 118. That 42 U.S.C. § 2000e-3(a) provides that “it shall be an unlawful employment
6 practice for an employer to discriminate against any of his employees or applicants for
7 employment, for an employment agency ... to discriminate against any individual or for a labor
8 organization to discriminate against any member thereof or applicant for membership, because
9 he has opposed any practice made an unlawful employment practice by this subchapter, or
10 because he has made a charge, testified, assisted, or participated in any manner in an
11 investigation, proceeding, or hearing under this subchapter.”

12 119. That to assert a retaliation claim under federal EEO laws, including the ADA, a
13 plaintiff must show that he or she (1) engaged in prior protected activity; (2) the employer took
14 a materially adverse action; and (3) the requisite level of causal connection between the
15 protected activity and the materially adverse action.
16

17 120. That Javier Cabrera was the President of the NSEUSU up until his termination
18 on October 30, 2017.
19

20 121. That in early October 2017, while Plaintiff Cabrera was serving as NSEUSU
21 President, he assisted with and participated in initiating the interactive process between Plaintiff
22 Miller and Local 1107 and requested that the SEIU International trustees provide Mrs. Miller
23 with reasonable accommodations for her diabetes disability including requesting that she be
24 given a fixed schedule, to be exempt from the additional duties of organizers imposed by the
25 trustees upon imposition of the trusteeship to facilitate the temporary SEIU International TWR
26 campaign, and/or be transferred to the front desk position within the NSEUSU bargaining unit,
27 a protected activity under 42 U.S.C. § 12203(a).
28

1 122. That within less than three weeks from Plaintiff Cabrera’s participation in the
2 interactive process to request that Defendants provide Mrs. Miller with reasonable disability
3 accommodations, Defendants retaliated against Plaintiff Cabrera by terminating his
4 employment.

5 123. That Plaintiff Cabrera’s EEOC claims are like or reasonably related to the
6 allegations that were contained Plaintiff Miller’s EEOC charge and thus properly before this
7 Court.

8 124. That as a direct and proximate result of Defendants’ willful, knowing,
9 intentional, and unlawful actions to in retaliation against Plaintiff Cabrera for engaging in a
10 protected active under the ADA, Plaintiff has and continues to suffer humiliation, emotional
11 distress, and physical and mental pain and anguish, all to her damage in a sum according to
12 proof at trial.

13 125. That as a direct and proximate result of Defendants’ willful, knowing,
14 intentional, and unlawful retaliation against Plaintiff Cabrera for requesting that Plaintiff Miller
15 receive reasonable accommodations, Plaintiff has suffered, and will continue to suffer loss of
16 wages, salary, benefits and certain other incidental and consequential economic expenses and
17 losses which Plaintiff would have received if he had not been terminated from his position with
18 SEIU Local 1107 in an amount according to proof at trial, but believed to be in excess of
19 \$100,000.
20

21 126. The above-alleged misconduct constitutes oppression, fraud or malice thereby
22 entitling Plaintiff to an award of punitive damages according to proof at trial.
23

24 127. Plaintiff has incurred reasonable attorneys' fees and costs in prosecuting this
25 matter in an amount to be established at trial.
26

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28 //

SEVENTH CLAIM FOR RELIEF

(Labor Management Relations Act (“LMRA”) Section 301, 29 U.S.C. § 185 - Breach of Collective Bargaining Agreement – Plaintiffs Javier Cabrera, NSEUSU)

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

129. That Article 7 of the NSEUSU CBA provides that no employee “may be disciplined, suspended or terminated with meeting the 7 steps of just cause.” Further, “Unless circumstances warrant severe actions, the Employer will use a system of progressive discipline,” which includes six steps: (1) Coaching/action plan; (2) verbal warning; (3) written warning; (4) final written warning; (5) disciplinary suspension without pay; and (6) termination.

130. Industrial common law defines the seven steps of just cause as: (1) Notice: Did the Employer give notice of the possible consequences of disciplinary conduct?; (2) Reasonable Rules and Orders: Was the Employer's rule reasonably related to the proper expectations that the Employer may have?; (3) Investigation: Did the Employer make an effort to discover whether the Employee did in fact violate a rule?; (4) Fair Investigation: Did the Employer conduct the investigation objectively and fairly?; (5) Proof: Did the Employer gather sufficient proof or evidence to indicate the Employee was guilty?; (6) Equal Treatment: Has the Employer applied its rules and discipline evenly among all of its employees?; (7) Penalty: Was the penalty handed down by the Employer reasonable given the nature of the disciplinary conduct and the Employee's overall employment record? *Enterprise Wire Co.*, 46 Lab. Arb. Rep. (BNA) 359, 362-65 (1966) (Daughtry Arb.); Koven and Smith, Just Cause, The Seven Tests, at p. 438 n. 194; *see also Assn. of W. Pulp & Paper Workers, Loc. 78 v. Rexam Graphic, Inc.*, 221 F.3d 1085, 1091 (9th Cir. 2000).

131. That Article 11 of the NSEUSU CBA is the grievance procedure negotiated between Local 1107 and the NSEUSU, and provides for a three step grievance procedure in matters concerning employee discipline. That at Step 1 one the NSEUSU CBA calls for a

1 hearing before a single person, the President of Local 1107, the party charged with supervising
2 and terminating Local 1107 staff.

3 132. That Article 11 provides that “Within ten (10) working days of receipt of the
4 grievance, the SEIU 1107 Local President or his/her designee, a Union representative, and the
5 affected employee will meet to try to resolve the problem” and “[i]f desired, both parties may
6 choose an additional representative who may attend the meeting.” No prior notice of attendance
7 of an additional representative is required. If the problem is not resolved at Step 1, it moves to
8 Step 2.
9

10 133. That Article 11 provides that the Step 2 meeting be before a panel of 3 to 5 Local
11 1107 Executive Board members to ensure a fair process. If Steps 1 and 2 are followed, and no
12 acceptable resolution achieved, the NSEUSU may request arbitration.

13 134. That Plaintiff Cabrera is a more than fifteen (15) year employee of SEIU Local
14 1107.
15

16 135. That on April 12, 2017, prior to imposition of the trusteeship over Local 1107,
17 Plaintiff Cabrera was at the Las Vegas Convention Center Visitors Authority (“LVCVA”)
18 assisting with bargaining, and recording the bargaining sessions via his cell phone as customary
19 practice when Local 1107 is bargaining with an employer.

20 136. That same day, Plaintiff Cabrera attended an investigatory meeting for a
21 LVCVA employee, and inadvertently had his phone set to record. When the LVCVA
22 management asked Cabrera if the phone was recording, he answered honestly, stopped the
23 recording and deleted the recording from his phone. Cabrera immediately reported the incident
24 to his then supervisor, Peter Nguyen. Plaintiff Cabrera received a verbal coaching from Nguyen
25 for the incident.
26

27 137. That on August 2, 2017, the SEIU International Trustees held a meeting with
28 Plaintiff Cabrera, brought up the verbal warning issued by Nguyen months earlier, and issued

1 him a documented affirmation of a Verbal Warning previously given to him on or about April
2 12, 2017, for recording LVCVA.

3 138. That shortly after imposition of the trusteeship, the SEIU International Trustees
4 announced to the Local 1107 staff that Local 1107 would take part in the SEIU International
5 union wide TWR campaign that would be implemented over the course of fifteen (15) months
6 with the primary objective of increasing SEIU International membership and COPE
7 contributions.

8 139. That after imposition of the trusteeship over Local 1107, the SEIU International
9 Trustees implemented several new policies relevant to this suit, including requiring staff to fill
10 out debrief sheets and produce them at the check-out meetings at the end of their day, and
11 submit three week plans for the TWR campaign.

12 140. That the TWR campaign would achieve its objectives by having non-dues
13 paying members sign TWR cards and membership cards, both that included communication
14 authorization language.

15 141. That Local 1107 had also implemented text and email authorization forms on all
16 forms of member communications such as online Membership cards, COPE cards, sign in
17 sheets, and links to the online membership cards that sent via email to members and non-
18 members alike without previous authorizations.

19 142. That Local 1107 was consistently sending email and text message
20 communications to members without any additional communication authorization during this
21 time period.

22 143. That in September 2017, the Local 1107 trustees had two informal
23 meetings/training sessions to discuss the new TWR campaign.

24 144. That Local 1107 did not issue any formal written policy regarding the TWR
25 campaign, nor how the TWR cards were to be filled out.
26
27
28

1 145. That in the second and third week of October 2017, Plaintiff Cabrera developed
2 a serious, and incredibly painful toothache, which got so bad that it cause him to vomit, and call
3 out sick on October 16, 2017, which was approved by his supervisor.

4 146. That day, Plaintiff Cabrera informed his supervisors that he was able to schedule
5 an appointment with a dentist for a dental procedure on October 17, 2017, and he would thus
6 not be able to attend an organizing event at the Clark County Department of Family Service
7 (“DFS”), which he had set up that day, but believed he would be able to make an afternoon
8 event at the Clark County Public Defender’s Office. Defendants approved Plaintiff Cabrera’s
9 medical leave of absence for October 17, 2017.
10

11 147. Just before midnight on October 17, 2017, Plaintiff Cabrera’s supervisor, Grace
12 Vergara, emailed him acknowledging the leave of absence, and stating “see you tomorrow” in
13 regards to the Public Defender event.

14 148. The next day, Plaintiff Cabrera had his dental procedure, and was prescribed
15 medication. That morning, Plaintiff Cabrera noticed the email from Vergara, but did not see the
16 date it was sent, and believed that Vergara had given him the full day of October 17, 2017 off
17 due to his tooth ache and need for dental surgery. Plaintiff Cabrera was not given a coaching,
18 verbal or written warning for his failure to show up to the Public Defender event.
19

20 149. On October 18, 2017, Plaintiff Cabrera submitted numerous TWR cards from
21 existing members who had filled the cards out with the words “ON FILE” to indicate that their
22 correct contact information was already on file with the union. Plaintiff Cabrera was not given
23 a coaching, verbal or written warning for turning in cards with the words “ON FILE” written
24 on them.
25

26 150. On October 19, 2017, Plaintiff Cabrera submitted a debrief sheet for October 18,
27 2017, indicating that he made twelve contacts, and indicating that he had forgotten to bring the
28

1 TWR cards that day, so he had the members sign a sign in sheet. Plaintiff Cabrera was not given
2 a coaching, verbal or written warning for turning in contact information using the sign in sheet.

3 151. That on October 24, 2017, Plaintiff Cabrera submitted a debrief sheet with
4 numerous contacts. That same day, Plaintiff Cabrera notified his supervisors that he believed
5 he mistakenly duplicated some of the contacts from October 18, 2017 on the October 24, 2017
6 debrief sheet. Plaintiff Cabrera was not given a coaching, verbal or written warning for
7 accidentally duplicating the names on the October 24th debrief sheet. That same day Plaintiff
8 Cabrera turned in TWR cards with the members contact information from the October 18, 2017
9 sign in sheet with his initials, and noted he would go back to those members to have them sign
10 the cards. Plaintiff Cabrera was not given a coaching, verbal or written warning for turning in
11 the TWR cards with the members' information with his initials.
12

13 152. Defendants notified Mr. Cabrera on October 24, 2017, that he would be subject
14 to an investigatory meeting into alleged misconduct of failure to show up at the Public Defender
15 meeting on October 17, 2017, and turning in TWR cards with "ON FILE" written on them.
16 Plaintiff Cabrera requested that it be postponed so he could have union representation.
17

18 153. On October 26, 2017, an investigatory meeting was held that addressed not only
19 the October 17th failure to show for the Public Defender event and the TWR cards, but also for
20 alleged dishonesty in filling out debrief sheets and three week plans. Plaintiff Cabrera was
21 honest and candid regarding all matters at the meeting. Plaintiff Cabrera was not given a
22 coaching, a verbal warning, a written warning, a final written warning, or a disciplinary
23 suspension.
24

25 154. On October 30, 2017, Defendants terminated Plaintiff Cabrera's employment
26 citing dishonesty, no call no show, and supposed failure to adhere to the new non-written TWR
27 campaign "policy" implemented by the SEIU International Trustees. Plaintiff Cabrera received
28

1 no Coaching/action plan, no verbal warning, no written warning, final written warning,
2 disciplinary suspension without pay, and Defendants immediately terminated him.

3 155. That no other Local 1107 staff was terminated for improperly filled out three
4 week plans.

5 156. That no other Local 1107 staff was terminated for improperly filled out TWR
6 cards.

7 157. That no other Local 1107 staff was terminated for improperly filled out debrief
8 sheets.

9 158. That no other Local 1107 staff was terminated for no call no show despite it
10 happening frequently with other employees.

11 159. That other Local 1107 employees were permitted to go back to member and non-
12 member contacts and have them fill out the TWR cards properly.

13 160. The NSEUSU filed a grievance on behalf of Plaintiff Cabrera and requested that
14 Local 1107 hold a Step 1 meeting. The Step 1 meeting was scheduled for December 14, 2017,
15 at the law office of Michael Urban, Esq. Deputy Trustee Martin Manteca appeared on behalf of
16 Local 1107 with Local 1107 counsel, Paul Cotsonis, Esq., of the Urban Law Firm. Plaintiff
17 Cabrera presented with acting NSEUSU President, Susan Smith, and his authorized additional
18 representative, undersigned counsel. Cotsonis refused to allow the NSEUSU to ask Manteca
19 questions about the termination, and abruptly canceled the Step 1 meeting without significant
20 discussion because Plaintiff Cabrera appeared at the meeting with legal counsel. Defendants
21 failed to reschedule the Step 1 meeting, and demanded the process move to Step 2.
22

23 161. The NSEUSU requested that the Step 2 meeting be held before a panel as
24 required by the NSEUSU CBA. Defendants asserted that “[d]ue to the imposition of a
25 trusteeship over Local 1107 by its parent union, Service Employees International Union, Steps
26 1 and 2 of the grievance procedure became legally impossible” to adhere to, and thus
27
28

1 Defendants had authority to modify the grievance procedure as they saw fit, refusing to
2 reschedule the Step 1 meeting, disregarding the Step 2 requirement of a panel of 3 to 5 Local
3 1107 members/leaders to administer the Step 2 hearing, and refusing to negotiate an acceptable
4 resolution to the matter.

5 162. That during the course of the trusteeship, the SEIU International Trustees
6 formed at least one committee, the “Committee for the Future,” which was comprised of Local
7 1107 member leaders, many of them prior Local 1107 board members.

8
9 163. That on January 22, 2017, the NSEUSU, Cabrera and counsel attended the a
10 meeting with the SEIU International Trustees to try and negotiate a fair resolution to Plaintiff
11 Cabrera’s termination, or otherwise negotiate adherence to the Step 2 procedure requiring a
12 panel of Local 1107 member leaders to hear the Step 2 matter. Defendants insisted that the
13 SEIU International Trustee could unilaterally alter the NSEUSU CBA, hear and decide the
14 matter at Step 2 herself, and affirmed the termination. The NSEUSU rejected Defendants’
15 refusal to adhere to the grievance procedure and/or negotiate a resolution in good faith.
16 Defendants refused to negotiate a fair process for handling the grievance after the imposition
17 of the trusteeship and refused to reinstate Plaintiff Cabrera.
18

19 164. The SEIU International Trustees breached Article 7 of the CBA by failing to
20 follow the seven steps of just cause.

21 165. The SEIU International Trustees breached Article 7 of the CBA by refusing to
22 follow the six steps of progressive discipline.

23 166. The SEIU International Trustees breached Article 7 by writing Plaintiff Cabrera
24 up for a prior violation that occurred months prior to the trusteeship, and for which he had
25 already received a verbal warning constituting double jeopardy.
26
27
28

1 167. The SEIU International Trustees breached Article 11 unilaterally canceling the
2 Step 1 meeting because Plaintiff Cabrera appeared with his legal representative, as authorized
3 by the NSEUSU CBA.

4 168. The SEIU International Trustees breached Article 11 of the NSEUSU CBA by
5 refusing to facilitate a Step 2 hearing before a panel of individuals to assess the legitimacy of
6 Plaintiff Cabrera's termination, asserting that the grievance procedure was legally impossible
7 to adhere to, and refusing to negotiate a compromise in good faith.

8 169. The SEIU Trustees breached Article 24 of the CBA by failing to provide for
9 retention of Plaintiff Cabrera, an employee covered under the CBA, terminating him without
10 just cause and without following the procedures in Articles 7 and 11 of the CBA.

11 170. That as a direct and proximate result of Defendants' willful, knowing,
12 intentional, and unlawful actions, Plaintiff Cabrera has and continues to suffer humiliation,
13 emotional distress, and physical and mental pain and anguish, all to his damage in a sum
14 according to proof at trial.

15 171. That as a direct and proximate result of Defendants' willful, knowing,
16 intentional, and unlawful actions, Plaintiff has suffered, and will continue to suffer lost wages,
17 salary, benefits and certain other incidental and consequential economic expenses and losses
18 which Plaintiff would have received if he had not been terminated from his position with SEIU
19 Local 1107 in an amount according to proof at trial, but believed to be in excess of \$100,000.

20 172. The above-alleged misconduct constitutes oppression, fraud or malice thereby
21 entitling Mrs. Miller to an award of punitive damages according to proof at trial.

22 173. Plaintiff Cabrera has incurred reasonable attorneys' fees and costs in prosecuting
23 this matter in an amount to be established at trial.

24 //

25 //

EIGHTH CLAIM FOR RELIEF

(Labor Management Relations Act (“LMRA”) Section 301, 29 U.S.C. § 185 - Breach of Collective Bargaining Agreement – Plaintiff NSEUSU)

1
2
3 174. Plaintiffs restate and reallege all preceding and subsequent allegations as though
4 fully set forth herein.

5 175. Plaintiff NSEUSU entered into a valid and binding CBA with Local 1107.

6
7 176. After the NSEUSU filed numerous grievances against the SEIU International
8 Trustees for violation of the CBA, the SEIU International Trustees attempted to force or
9 otherwise coerce all NSEUSU employees to sign a new set of policies drafted by the SEIU
10 International Trustees that changed the terms and conditions of the CBA without bargaining.

11 177. That the SEIU International Trustees breached Article 24 of the CBA by forcing
12 NSEUSU employees to sign new policies that altered the terms and conditions of the CBA
13 without engaging in collective bargaining with NSEUSU.

14 178. The SEIU International Trustees breached Article 8 Section 2 Clause 4 of the
15 CBA by hiring a temporary employee to fill a vacant permanent front desk position covered by
16 the CBA for the sole purpose of displacing a bargaining unit employee.

17
18 179. The SEIU International Trustees over Local 1107 breached Article 11 of the
19 CBA by attempting to unilaterally alter the grievance procedure after imposition of the
20 trusteeship without bargaining.

21 180. The SEIU International Trustees over Local 1107 breached Article 11 of the
22 CBA by refusing to follow the grievance procedure for the working conditions grievance filed
23 by NSEUSU on February 7, 2017 for all NSEUSU employees, unilaterally determining the
24 grievance did not qualify for the grievance procedure.

25
26 181. As a proximate result of Defendants’ actions, as alleged above, Plaintiffs have
27 been harmed in that Plaintiffs has suffered, and will suffer loss of wages, salary, benefits,
28 seniority and certain other incidental and consequential economic expenses and losses which

1 Plaintiffs would have received if Plaintiffs had not been terminated from their positions with
2 SEIU Local 1107. As a direct and proximate result of Defendants conduct and consequent harm,
3 Plaintiffs have suffered such damages in an amount according to proof at trial.

4 182. That as a direct and proximate result of Defendants' knowing, willful,
5 intentional, and unlawful conduct Plaintiff has suffered and will continue to suffer lost dues
6 revenue from the termination and/or loss of NSEUSU bargaining unit employees in an amount
7 to be proven at trial.

8
9 183. The above-alleged misconduct constitutes oppression, fraud or malice thereby
10 entitling Plaintiffs to an award of punitive damages according to proof at trial.

11 184. Plaintiffs have incurred reasonable attorneys' fees and costs in prosecuting this
12 matter in an amount to be established at trial.

13 **NINETH CLAIM FOR RELIEF**

14 **(Violation of NRS 614.90-110 – Denial of Right to Counsel in Labor Hearing – Plaintiffs**
15 **NSEUSU, Miller, Cabrera)**

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

18 186. That on December 14-15, 2017, labor hearings were scheduled to address
19 matters involving wages and conditions of employment.

20 187. That the SEIU Trustees refused to hold these hearings because Plaintiffs showed
21 up represented by counsel in violation of Nevada public policy as stated in NRS 614.090-100.

22 188. As a direct and proximate result of Defendants' unlawful actions in violation of
23 Nevada public policy, Plaintiffs have been harmed in that Plaintiffs has suffered, and will suffer
24 damages in an amount according to proof at trial.

25
26 189. That Defendants' misconduct constitutes oppression, fraud or malice thereby
27 entitling Plaintiffs to an award of punitive damages.

28

1 197. That Defendants discriminated against Plaintiff Miller on the basis of her
2 disability by demoting her from lead organizer to organizer after she requested reasonable
3 accommodations.

4 198. That Defendants discriminated against Plaintiff Miller on the basis of her
5 disability by changing the designated bargaining units she had served for nearly ten (10) years,
6 requiring her to work the Clark County bargaining units that required considerable more time
7 walking despite having collapsed at work, and having requested reasonable accommodations
8 that included less standing and walking.

9 199. That Defendants discriminated against Plaintiff Miller on the basis of her
10 disability by changing the qualifications for the front desk position only after Plaintiff Miller
11 requested placement in the position as a reasonable accommodation.
12

13 200. That as a direct and proximate result of Defendants' willful, knowing,
14 intentional, and unlawful discrimination against Plaintiff Miller, Plaintiff has and continues to
15 suffer humiliation, emotional distress, and physical and mental pain and anguish, all to her
16 damage in a sum according to proof at trial.
17

18 201. That as a direct and proximate result of Defendants' willful, knowing,
19 intentional, and unlawful discrimination against Plaintiff Miller, Plaintiff has suffered, and will
20 continue to suffer lost wages, salary, benefits and certain other incidental and consequential
21 economic expenses and losses which Mrs. Miller would have received if Mrs. Miller had not
22 been constructively terminated from her position with SEIU Local 1107 in an amount according
23 to proof at trial, but believed to be in excess of \$100,000.
24

25 202. The above-alleged misconduct constitutes oppression, fraud or malice thereby
26 entitling Plaintiff Miller to an award of punitive damages according to proof at trial.

27 203. Plaintiff Miller has incurred reasonable attorneys' fees and costs in prosecuting
28 this matter in an amount to be established at trial.

ELEVENTH CLAIM OF RELIEF

(Retaliation in Violation of NRS 613.340(1) – Plaintiff Debbie Miller)

1
2
3 204. Plaintiffs restate and reallege all preceding and subsequent allegations as though
4 fully set forth herein.

5 205. NRS 613.340(1) makes it an “unlawful employment practice for an employer to
6 discriminate against any of his employees or applicants for employment... because he has
7 opposed any practice made an unlawful employment practice by NRS 613.310 to 613.435,
8 inclusive, or because he has made a charge, testified, assisted or participated in any manner in
9 an investigation, proceeding or hearing under NRS 613.310 to 613.435, inclusive.”
10

11 206. That Mrs. Miller engaged in protected activity when, after collapsing at work
12 and receiving recommendations for reasonable accommodations for her diabetes disability, she
13 requested that Defendants provide reasonable accommodations on multiple occasions including
14 to be given a fixed schedule, to be exempt from the additional duties of organizers imposed by
15 the trustees upon imposition of the trusteeship to facilitate the temporary SEIU International
16 TWR campaign, and/or be transferred to the front desk position.
17

18 207. That Defendants rejected all of Plaintiff’s suggestions for reasonable
19 accommodations and provided no suggestions of their own.

20 208. That when finally and officially rejecting Plaintiff’s request to be transferred to
21 the front desk position, after Mrs. Miller had requested it numerous times, and Defendants
22 failure to indicate that Mrs. Miller did not qualify for the position, Defendants changed the
23 requirements for the front desk position to require Spanish speaking bilingualism to deny
24 Plaintiff the accommodation.
25

26 209. That the front desk provision had never previously required Spanish speaking
27 bilingualism prior to Plaintiff requesting the reasonable accommodation, and Defendants only
28 asserted the requirement after failing to indicate that Mrs. Miller was unqualified for the

1 position in numerous meeting and formal letters to Plaintiff prior to the date of the official
2 rejection.

3 210. That after rejecting Plaintiff Miller's requests for accommodations, Defendants
4 directed Plaintiff to return to work on October 30, 2018.

5 211. That upon her return to work, Defendants subjected Mrs. Miller to additional
6 retaliation for engaging in protected activity by demoting her from Lead Organizer to
7 Organizer, and changing her organizing territory of nearly ten (10) years to another territory
8 that required even more walking and time on her feet.

9 212. That as a direct and proximate result of Defendants' willful, knowing,
10 intentional, and unlawful discrimination against Plaintiff Miller, Plaintiff has and continues to
11 suffer humiliation, emotional distress, and physical and mental pain and anguish, all to her
12 damage in a sum according to proof at trial.

13 213. That as a direct and proximate result of Defendants' willful, knowing,
14 intentional, and unlawful discrimination against Plaintiff Miller, Plaintiff has suffered, and will
15 continue to suffer lost wages, salary, benefits and certain other incidental and consequential
16 economic expenses and losses which Mrs. Miller would have received if Mrs. Miller had not
17 been constructively terminated from her position with SEIU Local 1107 in an amount according
18 to proof at trial, but believed to be in excess of \$100,000.

19 214. The above-alleged misconduct constitutes oppression, fraud or malice thereby
20 entitling Plaintiff Miller to an award of punitive damages according to proof at trial.

21 215. Plaintiff Miller has incurred reasonable attorneys' fees and costs in prosecuting
22 this matter in an amount to be established at trial.

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TWELFTH CLAIM FOR RELIEF

(Retaliation in Violation of NRS 613.340(1) – Plaintiff Javier Cabrera)

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3 216. Plaintiffs restate and reallege all preceding and subsequent allegations as though
4 fully set forth herein.

5 217. NRS 613.340(1) makes it an “unlawful employment practice for an employer to
6 discriminate against any of his employees or applicants for employment... because he has
7 opposed any practice made an unlawful employment practice by NRS 613.310 to 613.435,
8 inclusive, or because he has made a charge, testified, assisted or participated in any manner in
9 an investigation, proceeding or hearing under NRS 613.310 to 613.435, inclusive.”
10

11 218. That Javier Cabrera was the President of the NSEUSU up until his termination
12 on October 30, 2017.

13 219. That in early October 2017, while Plaintiff Cabrera was serving as NSEUSU
14 President, he assisted with and participated in initiating the interactive process between Mrs.
15 Miller and Local 1107 and requested that the SEIU International trustees provide Mrs. Miller
16 with reasonable accommodations for her diabetes disability including requesting that she be
17 given a fixed schedule, to be exempt from the additional duties of organizers imposed by the
18 trustees upon imposition of the trusteeship to facilitate the temporary SEIU International TWR
19 campaign, and/or be transferred to the front desk position within the NSEUSU bargaining unit,
20 a protected activity.
21

22 220. That within less than three weeks from Plaintiff Cabrera’s participation in the
23 interactive process to request that Defendants provide Mrs. Miller with reasonable disability
24 accommodations, Defendants retaliated against Plaintiff Cabrera by terminating his
25 employment.
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1 227. That Mancini’s employment with Local 1107 was governed by the Local 1107
2 Constitution, the SEIU Constitution, and the CBA between Local 1107 and St. Rose
3 Dominican Hospital (“SRDH”).

4 228. That Article 23(M) of the SRDH CBA provides that when a SRDH employee
5 is elected to be Local 1107 President they are granted “unpaid leave of absence for a three
6 year term of office and any subsequent term of office.”

7 229. The SRDH CBA further provides that upon completion of that term of office,
8 the employer is required to return the employee “to work consistent with the Return to Duty
9 provisions of Article 23 (M) of the Agreement so long as he/she remains competent to fill the
10 position and possesses the necessary qualifications for the job.”

11 230. While on leave as Local 1107 President, the employee is guaranteed to “retain
12 seniority and other benefits consistent with the Employer's benefit plans and the law and so
13 long as the Union reimburses the Employer for the cost of such benefits.”
14

15 231. Upon conclusion of the term of office as Local 1107 President, the employee
16 is entitled to be returned to work “to the same classification, position, unit and shift as
17 occupied at the start of the leave. If conditions have changed so that this is not possible, the
18 employee shall be reinstated in a posit unit, and shift as nearly comparable as is possible under
19 the circumstances.”
20

21 232. That Article 7, Section 6, Subsection B of the Local 1107 Constitution
22 provides that “In recognition of all of the duties of the office of President, the importance of
23 the office, the goal of being available for and with all the members, and that the President is
24 the highest ranking elected Officer of this Local Union, it shall be a continuing goal of this
25 Local Union that the President be granted from his/her employer forty (40) hours release time
26 each week with pay Including premiums and the accrual of the earned benefits to accomplish
27 Union business, and that when an employee has completed their service as President, they
28

1 shall be returned to their previous position without loss of any status or benefit governed by
2 the applicable Collective Bargaining Agreement. Where this exists in a Collective Bargaining
3 Agreement, it shall be vigorously defended, and where this does not exist in a Collective
4 Bargaining Agreement, it shall be a major goal of the respective bargaining committee to
5 achieve. In all cases, the objective is to have an available and working President responsive
6 to all the members, and that the President be able to achieve this while incurring no economic
7 harm. This Local Union shall make reasonable efforts to ensure no financial loss to the
8 member during their term of office as President.”

10 233. That Article 21 of the Local 1107 Constitution, “Trials and Appeals,” provides
11 that “before a trial and appeal (hearing) will be held, the filing member or members must first
12 have an informal meeting with the member or members against whom the charges are brought
13 and the President and/or a Trustee in an attempt to reach a possible solution. This meeting
14 must be held within thirty (30) calendar days of the request of the charging member. After
15 this meeting, if any resolution is not satisfactory to the charging member, then he/she may
16 proceed to bring forth charges in accordance with this Article.”

18 234. That Article 21 further provides that “Charges against any member or Officer
19 of this Local Union shall be filed in duplicate with the Secretary of this Local Union, who
20 shall serve a copy thereof on the accused either personally or by registered or certified mail,
21 directed to the last known address of the accused, at least ten (10) calendar days before the
22 hearing (trial) upon the charges.”

24 235. That Article 21 further provides that “The charges must be in writing and
25 specify the events or acts which the charging party believes constitute a basis for charges, the
26 date, time and place of occurrence, and must state which subsection(s) of Section 3 of this
27 Article the charging party believes has been violated. If the charges are not specific, the Trial
28 Body (the Executive Board) may dismiss the charges either before or at the hearing, but the

1 charging party shall have the right to file more detailed charges which comply with this
2 Section.”

3 236. That Article 21 further provides that the trial body for Local 1107 members
4 and officers charged with offenses is the Local 1107 Executive Board, and that the accused is
5 permitted to a full and fair hearing before that trial body.

6 237. That Article XVII, Section 2(a) of the SEIU International Constitution states
7 that charges must “specify the events or acts which the charging party believes constitute a
8 basis for charges and must state which subsection(s) of Section 1 of [Article XVII] the
9 charging party believes has been violated.”
10

11 238. That Article XVII further provides that for charges filed at local unions against
12 local union members or officers, for which the charging party seeks the SEIU International
13 President to assume original jurisdiction, must be filed initially with the Local Union
14 Secretary, then the charging party must forward a copy of the charges to the International
15 Union with an express written request for the SEIU International President to assume original
16 jurisdiction over the charges. Failure to adhere to this procedure results in procedurally
17 defective charges that SEIU International rejects.
18

19 239. That in September of 2016, Local 1107 members Brenda Marzan and Sharon
20 Kisling filed baseless charges against Plaintiff Mancini for various violations of both the
21 Local 1107 and SEIU International Constitutions.
22

23 240. That said charges were not sufficiently specific, nor properly served on
24 Plaintiff Mancini in accordance with the Local 1107 Constitution or the SEIU International
25 Constitution.

26 241. That said charges were not first filed with the Local 1107 Secretary, but rather
27 filed directly with SEIU International.
28

1 242. That no formal written request to SEIU International to assume jurisdiction
2 over the charges against Mancini was made by Mancini, Marzan or Kisling.

3 243. That Defendants violated the SEIU International Constitution by exempting
4 Kisling and Marzan from the procedural requirements for filing charges against local union
5 members and officers, and for requesting the SEIU International President assume original
6 jurisdiction for the purpose of removing Mancini from office without cause and in violation
7 of the Local 1107 and SEIU International Constitutions.

8 244. That Defendants strictly enforced the SEIU International Constitution with
9 regards to other charging parties and requests to assume original jurisdiction constituting
10 arbitrary and disparate enforcement of the union's rules, dismissing those charges for lack of
11 specificity, notice, filing at the proper venue, and failing to properly request the SEIU
12 International President to assume original jurisdiction over the charges.

13 245. That Defendants denied Plaintiff Mancini her rights as a charged party under
14 the Local 1107 and SEIU International Constitutions when they exempted the parties charging
15 Mancini with misconduct from the charging procedures of the SEIU International and Local
16 1107 Constitutions, which are intended to safeguard union members' due process rights and
17 protect them against improper disciplinary action.

18 246. That Defendants breach of the SEIU International and Local 1107
19 Constitutions with regards to accepting and assuming jurisdiction over the charges against
20 Mancini resulted in an unlawful and unfair disciplinary process that should have been handled
21 by the Local 1107 Executive Board.

22 247. That Defendants removed Mancini from her position as Local 1107 President
23 and suspended her membership based on knowingly procedurally defective charges, and
24 suspended Mancini from membership with Local 1107.
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1 248. That Defendants' discipline of Mancini in breach of the SEIU International
2 and Local 1107 Constitution caused her significant economic loss and financial harm in
3 violation of the Local 1107 Constitution as she was not returned to her previous position with
4 SRDH, had to accept a lower pay rate, lost both seniority status and benefits governed by the
5 applicable CBA, and was demoted to a lower position in violation of Article 23 of the SRDH
6 CBA with Local 1107, and the Local 1107 Constitution.

7 249. That Defendants have failed in their duty to vigorously defend the SRDH CBA
8 provision to ensure Mancini did not receive economic harm and financial loss for her services
9 as Local 1107 President.

10 250. That as a direct and proximate result of Defendants' willful, knowing,
11 intentional, and unlawful actions, Plaintiff has and continues to suffer humiliation, emotional
12 distress, and physical and mental pain and anguish, all to her damage in a sum according to
13 proof at trial.

14 251. That as a direct and proximate result of Defendants' willful, knowing,
15 intentional, and unlawful actions, Plaintiff has suffered, and will continue to suffer lost wages,
16 salary, benefits, union rights and certain other incidental and consequential economic expenses
17 and losses which Plaintiff would not otherwise have suffered had she not been unlawfully
18 removed from office in breach of the Local 1107 and SEIU International Constitutions based
19 on procedurally defective charges in an amount according to proof at trial, but believed to be in
20 excess of \$100,000.

21 252. The above-alleged misconduct constitutes oppression, fraud or malice thereby
22 entitling Plaintiff to an award of punitive damages according to proof at trial.

23 253. Plaintiff has incurred reasonable attorneys' fees and costs in prosecuting this
24 matter in an amount to be established at trial.

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FOURTEENTH CLAIM FOR RELIEF

(Defamation Per Se – Plaintiff Cherie Mancini against Carol Nieters and SEIU International)

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3 254. Plaintiffs restate and reallege all preceding and subsequent allegations as though
4 fully set forth herein.

5 255. That after Defendants assumed jurisdiction over the procedurally defective
6 charges against Mancini in order to remove her from office as Local 1107’s President,
7 Defendants produced a written Report and Recommendation on the charges against Mancini.
8

9 256. That the Internal Charges Report and Recommendation authored by Carol
10 Nieters and the other Defendants included numerous false and defamatory statements
11 concerning Plaintiff Mancini, including that she failed to keep apprised of the UMC bargaining
12 in 2016, accused the UMC bargaining team of misconduct without evidence or any
13 investigation, broadcast unfounded, disloyal, and derogatory accusations against the members
14 of the UMC committee.
15

16 257. That these statements in Defendants’ Internal Charges Report and
17 Recommendation were knowingly false.

18 258. That Defendants made an unprivileged publication of the report to third parties,
19 a copy of which eventually ended up in the hands of the Las Vegas Review Journal that
20 published these defamatory statements.

21 259. That Defendants’ conduct was intentional, and at the very least negligent in
22 making these statements because they were contradictory to the known facts and evidence in
23 their possession and control.
24

25 260. That Defendants’ knowingly false and defamatory statements against Mancini
26 imputed her lack of fitness for her trade, business or profession as a union President and harmed
27 her union reputation.
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1 political activity on behalf of local union members, retain professional services
2 including accountants and attorneys, as well as make policy determinations
3 concerning PEA. In that regard, SEIU hereby waives the provisions of Article
4 VIII, Section 1(f) insofar as it pertains to the authority of the President of SEIU
5 to negotiate a collective bargaining agreement for PEA.

6 267. That Article VIII, Section 7 of the SEIU International Constitution empowers
7 the SEIU International President to impose a trusteeship over a local union and appoint a trustee
8 that is empowered to take full charge of the affairs of the Local Union, hire and fire employees
9 so long as they are not covered by negotiated contracts, “to take such other action as in his or
10 her judgment is necessary for the preservation of the Local Union or affiliated body and for the
11 protection of the interests of the membership. The Trustee shall report on the affairs/transactions
12 of the local Union or affiliated body to the International President. The Trustee and all of the
13 acts of the Trustee shall be subject to the supervision and direction of the International
14 President.”

15 268. That Article XXIV of the SEIU International Constitution, “Amendments,”
16 provides that “This Constitution and Bylaws may be amended by action of any regular
17 Convention of the International Union or Special Convention called for that purpose.
18 Amendments may be proposed at such Convention in the same manner as is provided herein
19 for the submission of Convention resolutions. A majority of the Convention votes cast on such
20 amendment shall be necessary for adoption. Except as otherwise provided, all amendments shall
21 be effective immediately upon adoption by the Convention.”

22 269. That Article 26, Section 1 of the Local 1107 Constitution, “Amendments,”
23 provides that “Proposed amendments to this Constitution and Bylaws may be originated during
24 the tri-annual Constitutional Convention (See Article 29) or may be originated by a two-thirds
25 (2/3) vote of the Executive Board, or by a petition signed (name printed and signed, clearly
26 legible in order to be verified) by at least fifteen percent (15%) of the membership at large in
27 good standing.”
28

1 270. That Article 26, Section 2 of the Local 1107 Constitution, provides that after the
2 amendments are properly proposed, “The Constitution and Bylaws of this Local Union may be
3 amended by a two-thirds (2/3) vote of those voting at a regular or special membership meeting,
4 provided notification to all members at large has been given at least fifteen (15) days prior to
5 the membership meeting at which action is to be taken. Such meeting requires a quorum of five
6 percent (5%) of the membership at large.”

7 271. That Article 26, Section 4 of the Local 1107 Constitution, provides that “The
8 Executive Board may choose to refer proposals for amendments to a mail ballot. A two-thirds
9 (2/3) vote of at least five percent (5%) of the membership at large in good standing is required
10 to amend this Constitution and Bylaws. A mail ballot shall include the opportunity for written
11 arguments for and against the proposed amendments, and shall be governed by written rules
12 developed by the Election Committee and approved by the Executive Board.”

13 272. That the trusteeship section of the SEIU International Constitution does not
14 empower the SEIU International Trustee to amend the trustee local union’s constitution at will
15 and without following the amendment procedures of the either the local or international
16 constitutions.

17 273. That while Local 1107 was under trusteeship the SEIU International Trustees,
18 at the direction of SEIU International, handpicked members from Local 1107 to form the
19 “Committee on the Future.”

20 274. That the “Committee on the Future” spent less than three months on a complete
21 rewrite of the Local 1107 Constitution that reduces the Local 1107 Constitution from over
22 seventy (70) pages to fourteen (14) pages, stripping the Local 1107 membership, including
23 Mancini, of its union rights..

24 275. That no constitutional convention was held at Local 1107 to propose
25 amendments to the Local 1107 Constitution.
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1 276. That the proposed amendments to the Local 1107 Constitution were not
2 originated by a two-thirds (2/3) vote of the Executive Board.

3 277. That the proposed amendments to the Local 1107 Constitution were not made
4 by a petition signed by at least fifteen percent (15%) of the Local 1107 membership at large in
5 good standing.

6 278. That the Local 1107 Constitution was not amended by a two-thirds (2/3) vote of
7 those voting at a regular or special membership meeting, after prior fifteen (15) day notification
8 of the meeting and with a quorum of five percent (5%) of the membership at large.

9 279. That the SEIU International Trustees submitted the amendments to the Local
10 1107 Constitution that were proposed by the unelected Committee for the Future for
11 amendment via mail in ballot, which did not include the opportunity for written arguments for
12 and against the proposed amendments, were not timely provided to the membership, nor were
13 any written rules developed by the Election Committee and approved by the Executive Board
14 for the ratification procedure.

15 280. That Defendants, through the SEIU International Trustees, breached the Local
16 1107 and SEIU International Constitutions by inventing a procedure to amend the Local 1107
17 Constitution, circumventing the existing democratic procedures that protected the Local 1107
18 membership's right to democracy, and informed the Local 1107 membership that the
19 amendment needed to pass for them to be removed from trusteeship.

20 281. That the Proposed Local 1107 Constitution has no provisions for collective
21 bargaining, no provisions for the ratification of collective bargaining agreements, no provisions
22 for membership meetings, no member bill of rights, no procedures for disaffiliation, affiliation,
23 dissolution, strikes, constitutional conventions, trials and appeals, or the responsibilities of the
24 Local Union and its officers.

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1 282. That the Proposed Local 1107 Constitution permits Defendants to send staff
2 members to Local 1107 to run for office and unfairly fund their desired candidates undermining
3 Local 1107's democratic process and denying Local 1107 members their right to elect its own
4 officers.

5 283. That Defendants' unlawful amendment of the Local 1107 Constitution violated
6 the Affiliation Agreement by rushing through a clearly inadequate rewrite of the Local 1107
7 Constitution that strips Local 1107 of its autonomy as a local union including its right to retain
8 its own Constitution and By-Laws, its own dues structure, elect its own officers, select its own
9 staff, make its own decisions regarding contract demands and negotiations, including joining
10 coalitions for bargaining purposes, engage in political activity on behalf of local union
11 members, retain professional services including accountants and attorneys, as well as make
12 policy determinations.

13
14 284. The amended Local 1107 Constitution's omissions of signification provisions
15 requires Local 1107 to rely primarily on the SEIU International Constitution for the majority of
16 its governance in violation of the Affiliation Agreement.

17
18 285. That the proposed amendment to the Local 1107 Constitution changed the
19 governance structure of Local 1107 vesting totalitarian control of the union in a single position,
20 the Executive Director, which Local 1107 members were not properly noticed of.

21 286. That after Defendants' underhanded and hasty amendment of the Local 1107
22 Constitution, which created confusion within the Local 1107 membership regarding governance
23 positions, Defendants immediately scheduled an election for officers.

24
25 287. That because of this confusion regarding the officer positions for governing
26 Local 1107, the current deputy trustee of Local 1107, Grace Vergara, an SEIU International
27 employee, ran unopposed in the Executive Director position, installing an SEIU International
28 employee as head of Local 1107 indefinitely.

1 296. That considering SEIU International and Local 1107 separate for the purposes
2 of liability would result in manifest injustice, as the Nevada Local 1107 members will be forced
3 to pay any sum of damages awarded to Plaintiffs as a result of the SEIU International Trustees
4 and employees’ unlawful conduct while Local 1107 was in trusteeship.

5 297. As such, Local 1107 should be considered and treated as the alter-ego and/or
6 agent of SEIU International, and SEIU International should be held jointly and severally liable
7 for any and all damages awarded in this action.

8
9 **IV. PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiffs pray for jury trial and judgment in their favor as follows:

- 11 1. General damages according to proof at trial;
- 12 2. Pre-judgment and post-judgment interest on said sum of damages;
- 13 3. Special damages for financial loss according to proof at trial;
- 14 4. Punitive damages as allowed by law;
- 15 5. Costs of suit herein;
- 16 6. Reasonable attorney fees according to proof at trial under federal and state law; and
- 17 7. Such other and further relief as this court may deem just and proper.

18 Dated this 8th day of March, 2019.

19
20 /s/ Michael J. Mcavaoyamaya

21 _____
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