

CHRISTENSEN JAMES & MARTIN, CHTD.  
7440 WEST SAHARA AVE., LAS VEGAS, NEVADA 89117  
PH: (702) 255-1718 § FAX: (702) 255-0871

1 **CHRISTENSEN JAMES & MARTIN**  
2 EVAN L. JAMES, ESQ. (7760)  
3 DARYL E. MARTIN, ESQ. (6735)  
4 7440 W. Sahara Avenue  
5 Las Vegas, Nevada 89117  
6 Telephone: (702) 255-1718  
7 Facsimile: (702) 255-0871  
8 Email: elj@cjmlv.com, dem@cjmlv.com  
9 *Attorneys for Defendants Nevada Service Employees*  
10 *Union, Luisa Blue, and Martin Manteca*

11 **UNITED STATES DISTRICT COURT**  
12 **DISTRICT OF NEVADA**

13 JAVIER CABRERA, an individual;  
14 DEBORAH MILLER, an individual,  
15 CHERIE MANCINI, an individual;  
16 NEVADA SERVICE EMPLOYEES  
17 UNION STAFF UNION (“NSEUSU”),  
18 an unincorporated association,

19 Plaintiffs,

20 vs.

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

Defendants.

Case No.: 2:18-cv-00304-RFB-DJA

**AMENDED JOINT PRETRIAL  
ORDER**

1 After pretrial proceedings in this case,

2 IT IS HEREBY ORDERED in accordance with Chamber Practices:

3  
4 **I. THE NAMES, LAW FIRMS, ADDRESSES, AND TELEPHONE AND**  
5 **FAX NUMBERS OF TRIAL COUNSEL.**

6 A. Plaintiff's Counsel.

7 Michael J. Mcavoyamaya, Esq.  
8 4539 Paseo Del Ray  
9 Las Vegas, Nevada 89121  
10 Telephone: (702) 299-5083

11 B. Defendant Clark County Public Employees Association dba Nevada  
12 Service Employees Union dba Local 1107 (hereinafter "Local 1107")  
13 Counsel. Note, the caption misnames this defendant. The correct name of  
14 the defendant is Nevada Service Employees Union.

15 Christensen James & Martin  
16 Evan L. James, Esq.  
17 Daryl E. Martin, Esq.  
18 7440 W Sahara Ave.  
19 Las Vegas, NV 89117  
20 Telephone: (702) 255-1718  
21 Fax: (702) 255-0871

22 C. Defendant Service Employees International Union (hereinafter "SEIU")  
23 Counsel.

24 Rothner, Segall & Greenstone  
25 Glenn Rothner, Esq.  
26 Eli Naduris-Weissman, Esq.  
27 510 South Marengo Avenue  
Pasadena, California 91101-3115  
Telephone: (626) 796-7555  
Fax: (626) 577-0124

**II. SUBJECT MATTER JURISDICTION.**

A. Plaintiffs' Statement.

1 On February 16, 2018, this action was removed to Federal Court pursuant to  
2 the doctrine of complete preemption pursuant to 29 U.S.C. § 185, Section 301 of the  
3 LMRA. Plaintiffs amended the complaint to add federal discrimination claims in  
4 violation of the ADA. This Court has jurisdiction over the federal claims pursuant to  
5 28 USC § 1331 and §1343, and supplemental jurisdiction over the state law claims  
6 pursuant to 28 USC §1367.

7 B. Local 1107's Statements.

8 i. Miller's Claims.

9 a. Discrimination Claims (First and Tenth Claims for Relief).  
10 Jurisdiction over First Claim for Relief exists pursuant to Article  
11 III of the United States Constitution as the Americans with  
12 Disabilities Act ("ADA") is federal statute. Jurisdiction over the  
13 Tenth Claim for Relief exists pursuant to 29 U.S.C. § 1367.

14 b. Retaliation Claims (Second and Eleventh Claims for  
15 Relief). Jurisdiction over Second Claim for Relief exists pursuant  
16 to Article III of the United States Constitution as the ADA is  
17 federal statute. Jurisdiction over the Eleventh Claim for Relief  
18 exists pursuant to 29 U.S.C. § 1367.

19 c. Hostile Work Environment Claim (Third Claim for Relief).  
20 Jurisdiction over the Third Second Claim for Relief exists  
21 pursuant to Article III of the United States Constitution as the  
22 ADA is federal statute.

23 ii. Alter-Ego. Alter-ego is a legal doctrine and not a claim for relief.  
24 Jurisdiction must attach in connection to a claim for relief.

25 C. SEIU's Statements.

26 i. General Statement of Subject Matter Jurisdiction: SEIU concurs  
27 with Local 1107's statement regarding subject matter jurisdiction,

1 and does not contest that there is subject matter jurisdiction over  
2 Plaintiffs' claims under the Americans with Disabilities Act,  
3 section 301 of the Labor Management Relations Act, 29 U.S.C. §  
4 185 ("Section 301"), and supplemental jurisdiction, under 29  
5 U.S.C. § 1367, over Plaintiffs' claims under Nevada law,  
6 specifically the Tenth and Eleventh claims asserting violations of  
7 N.R.S. §§ 613.330(1) & 613.340(1).

8 **III. STATEMENTS OF ISSUES REMAINING TO BE TRIED.**

9 A. Plaintiffs' Statements.

10 This is an action for employment discrimination under state law and the  
11 Americans with Disabilities Act ("ADA"). Plaintiffs have also alleged alter-ego  
12 liability against SEIU International. The remaining claims are as follows:

13 i. Plaintiff Miller's Remaining Claims.

14 Claim One – Disability Discrimination in Violation of the ADA. *See* 42  
15 U.S.C. § 12101 et seq; 29 C.F.R. § 1630.2

16 Claim Two – Retaliation in Violation of the ADA *See* 42 U.S.C. § 12101  
17 et seq; 29 C.F.R. § 1630.2

18 Claim Three – Disability Harassment/Hostile Work Environment in  
19 Violation of the ADA *See* 42 U.S.C. § 12101 et seq; 29 C.F.R. § 1630.2

20 Claim Ten – Disability Discrimination in Violation of NRS 613.330

21 Claim Eleven - Disability Discrimination in Violation of NRS 613.340

22 ii. Plaintiff's Discrimination Claims. Local 1107 has conceded that  
23 Miller's diabetes constitutes a disability under the ADA, and as such  
24 Plaintiff need not prove at trial that she is disabled under the act. Plaintiff  
25 will show that she was qualified. Plaintiff will show that she was  
26 discriminated against because of her diabetes disability and that she was  
27

1 denied reasonable accommodations required by the ADA and Local  
2 1107's own policies.

3 iii. Plaintiff's Retaliation Claims. Local 1107 has conceded that  
4 Miller engaged in a protected activity. Plaintiff will establish that she (1)  
5 suffered an adverse employment action and (2) that there was a causal  
6 connection between the action and the protected activity.

7 iv. Miller's Harassment/Hostile Work Environment Claim. Plaintiff  
8 will seek to establish that she was (1) subject to unwelcome harassment,  
9 (2) the harassment was based on her disability, (3) the harassment  
10 affected a term, condition or privilege of employment; and (4) the  
11 employer knew or should have known of the harassment and failed to  
12 take prompt, remedial action.

13 v. Damages. The issue of compensatory and punitive damages and  
14 mitigation of damages remains to be tried. Punitive damages are  
15 available and appropriate for jury consideration for Miller's First, Tenth  
16 and Eleventh Claims for Relief. *See* NRS 613.432; *see also* 42 U.S.C.S.  
17 § 1981a.

18 vi. Additional Matters. Plaintiffs have alleged alter-ego liability  
19 seeking to hold SEIU International jointly and severally liable for all  
20 claims alleged herein. The factors Plaintiff will seek to prove are that  
21 SEIU and Local 1107 had "1) inter-relation of operations; 2) common  
22 *vii.* management; 3) centralized control of labor relations; and 4)  
23 common ownership or financial control."); *see also Childs v. Local 18,*  
24 *Int'l Bhd. of Elec. Workers*, 719 F.2d 1379, 1382 (9th Cir. 1983);  
25 *Ritzer v. Gerovicap Pharm. Corp.*, 162 F.R.D. 642, 645 (D. Nev.  
26 1995).  
27

1 B. Local 1107's Statements.

2 The following matters are at issue.

3 i. Miller's Discrimination Claims. Local 1107 concedes that Miller's  
4 diabetes constitutes a disability. Miller must show that (1) she was  
5 discriminated against because of her diabetes and (2) the alleged  
6 discriminatory acts would not have occurred but-for the disability.  
7 Local 1107 asserts Miller cannot do so; that she was not subject to  
8 an adverse employment action; that she was granted reasonable  
9 accommodations; that but for a requested and granted leave of  
10 absence to address her diabetes, she refused to implement granted  
11 accommodations; the accommodations she requested were not  
12 reasonable nor available and / or would create an undue hardship,  
13 and that she abandoned the interactive process prior to voluntarily  
14 leaving her employment. Local 1107 asserts that since Miller  
15 voluntarily left her employment she must establish being  
16 constructively discharged as she has pleaded. Local 1107 further  
17 asserts that Miller was not a qualified individual under the  
18 discrimination statutes.

19 ii. Miller's Retaliation Claims. Local 1107 concedes that Miller  
20 engaged in a protected activity. She must therefore establish that she  
21 (1) suffered an adverse employment action and (2) the adverse action  
22 would not have occurred but for her claimed disability. Local 1107  
23 asserts Miller cannot do so; that she was not subject to an adverse  
24 employment action; that she was granted reasonable  
25 accommodations; that but for a requested and granted leave of  
26 absence to address her diabetes, she refused to implement granted  
27 accommodations; and that she abandoned the interactive process

1 prior to voluntarily leaving her employment. Local 1107 asserts that  
2 Since Miller voluntarily left her employment she must establish  
3 being constructively discharged as she has pleaded.

4 iii. Miller's Harassment/Hostile Work Environment Claim. Local 1107  
5 asserts that the Ninth Circuit Court of Appeals has not recognized the  
6 cause of action of hostile work environment under the ADA. As such,  
7 this is not a cognizable claim. Assuming that such a claim was  
8 recognized, Miller would need to prove that she was (1) subject to  
9 unwelcome harassment, (2) the harassment would not have occurred  
10 but for her disability, and (3) the conduct was sufficiently severe and  
11 pervasive to alter the conditions of her employment and create an  
12 abusive work environment. Local 1107 asserts that Miller cannot  
13 meet the elements nor show that the alleged conduct was frequent  
14 enough, severe enough, physically threatening or humiliating beyond  
15 mere coincidence, or sufficient enough to interfere with her  
16 employment so as to alter the terms and conditions of her  
17 employment, especially given the accommodations provided to  
18 Miller but which she refused to implement.

19 iv. Alter Ego. Local 1107 concurs with SEIU's statements on the matter.

20 v. Damages. For Miller's discrimination claim, the issue of  
21 compensatory and punitive damages and mitigation of damages  
22 remains to be tried. As to her punitive damages prayer for relief, the  
23 issue of intentional discrimination through acts of malice or reckless  
24 indifference will need to be specifically proven. Punitive damages  
25 are available and appropriate for jury consideration for Miller's First  
26 and Tenth Claims for Relief. *See* NRS 613.432; *see also* 42 U.S.C.S.  
27 § 1981a.

1  
2 vi. Issues not to be tried. The Fourth, Fifth, Sixth, Seventh, Eighth,  
3 Ninth, Twelfth, Thirteenth, Fourteenth, and Fifteenth Causes of  
4 Action are not to be tried based on prior dispositive rulings of the  
5 Court.

6 C. SEIU's Statements.

7 Below SEIU briefly summarizes the claims and defenses that remain to be  
8 tried. The list of remaining claims is based on the First Amended Complaint and the  
9 Court's prior dispositive orders, namely the Court's orders related to Defendants'  
10 motions to dismiss under Rule 12(b)(6) [ECF Nos. 131, 133, & 152], the Court's  
11 order on all parties' motions for summary judgment [ECF No. 224], and the Court's  
12 order on SEIU's motion for reconsideration [ECF No. 255].

13 i. As to All Claims: SEIU asserts that it may not be held liable for  
14 Local 1107's employment actions, as asserted by Plaintiffs, based on the  
15 "alter-ego" or "single employer" claims under the Americans with  
16 Disabilities Act or the claims asserted by Plaintiffs under Nevada law.

17 ii. Miller's Discrimination Claim (First and Tenth Causes of  
18 Action): SEIU concurs with Local 1107's statement of the claims and  
19 defenses at issue with respect to Miller's disability discrimination  
20 claims, alleged under the Americans with Disabilities Act, 42 U.S.C. §  
21 12101 et seq, and Nevada Revised Statutes § 613.330(1). In addition,  
22 SEIU raises the defense that it may not be held liable for Local 1107's  
23 employment conduct as alleged by Plaintiffs under those laws.

24 iii. Miller's Retaliation Claims (Second and Eleventh Causes of  
25 Action): SEIU concurs with Local 1107's statement of the claims and  
26 defenses at issue with respect to Miller's retaliation claims, alleged  
27 under the Americans with Disabilities Act, 42 U.S.C. § 12203(a), and



1 Nevada Revised Statutes § 613.340(1). In addition, SEIU raises the  
2 defense that it may not be held liable for Local 1107's employment  
3 conduct as alleged by Plaintiffs under those laws.

4 iv. Miller's Harassment/Hostile Work Environment Claim (Third  
5 Cause of Action): SEIU concurs with Local 1107's statement of the  
6 claims and defenses at issue with respect to Miller's harassment/hostile  
7 environment claims, apparently alleged under the Americans with  
8 Disabilities Act but without citation to any specific statute. *See* ECF  
9 No. 27 (First Amended Complaint) at 15-16. Additionally, SEIU raises  
10 the defense that it may not be held liable for Local 1107's employment  
11 conduct as alleged by Plaintiffs under the ADA.

12 v. Issues NOT to be Tried: SEIU hereby specifies that the Fourth,  
13 Fifth, Sixth, Seventh, Eighth, Ninth, Twelfth, Thirteenth, Fourteenth,  
14 and Fifteenth Causes of Action are not to be tried based on prior  
15 dispositive rulings of the Court.

16 **IV.** Statement on trial days and jury vs. judge trial.

17 A. The parties estimate trial will take eight days. Plaintiffs asserted a jury  
18 demand on all issues in their First Amended Complaint. Local 1107 asserts  
19 that (1) a jury is not allowed on Miller's retaliation claim because it is not  
20 subject to jury consideration, *See Alvarado v. Cajun Operating Co.*, 588 F.3d  
21 1261, 1270 (9th Cir. 2009), and (2) a jury is not allowed to consider punitive  
22 damages as it is the Court's duty to craft federal labor policy. SEIU concurs  
23 with Local 1107's position regarding which claims may be tried to a jury.  
24 Plaintiff asserts that a jury trial on Plaintiff's First, Tenth, and Eleventh claims  
25 for relief are permitted, including the Nevada retaliation claim. *See* NRS  
26 613.432. Plaintiff contends that the Court's duty to craft federal labor policy  
27 does not preclude the jury's consideration of appropriate punitive damages.

1           The parties propose trial for **the week of April 18-22, 2022 and April**  
2 **25-29, 2022.** Defense counsel and parties are not available for trial in May or  
3 June of 2022.

4 **V.** Consent to trial by magistrate judge.

5           The parties did not reach consensus on trial by a magistrate judge.

6 **VI.** Stipulations as to facts. The parties are unable to stipulate as to facts.

7 **VII.** Stipulations as to law. Diabetes is a recognized disability under the Americans  
8 with Disabilities Act.

9 **VIII.** A list of all trial witnesses, indicating whether such witnesses will testify in  
10 person or by deposition, and a brief summary of the substance of each  
11 witness's testimony.

12 **A.** Plaintiffs' lists of witnesses.

13           i. Javier Cabrera is expected to testify about his termination  
14 for engaging in union activity and overhearing Manteca tell  
15 Local 1107 managers to find reasons to terminate Miller's  
16 employment. The 2015 NLRB case.

17           ii. Debbie Miller is expected to testify about all matters  
18 relating to the allegations of the First Amended Complaint.

19           iii. Cherie Mancini is expected to testify regarding Local  
20 1107's prior grant of a Local 1107 employee reasonable  
21 accommodations of transfer from organizers to the front  
22 desk position and the qualifications for the front desk  
23 position. The 2015 NLRB case.

24           iv. Mary K. Henry is expected to give testimony regarding her  
25 involvement and directives to Local 1107 regarding  
26 operations, staffing and other matters related to the issue of  
27 alter-ego liability.

- 1 v. Kathy Eddie is expected to give testimony regarding SEIU  
2 International's involvement and directives to Local 1107  
3 regarding operations, staffing and other matters related to  
4 the issue of alter-ego liability.
- 5 vi. Neal Bisno is expected to give testimony regarding SEIU  
6 International's involvement and directives to Local 1107  
7 regarding operations, staffing and other matters related to  
8 the issue of alter-ego liability.
- 9 vii. Luisa Blue is expected to give testimony regarding all  
10 matters pertaining to the allegations in the FAC. Ms. Blue  
11 is also expected to give testimony regarding SEIU  
12 International's involvement and directives to Local 1107  
13 regarding operations, staffing and other matters related to  
14 the issue of alter-ego liability.
- 15 viii. Martin Manteca is expected to give testimony regarding all  
16 matters pertaining to the allegations in the FAC. Ms. Blue  
17 is also expected to give testimony regarding SEIU  
18 International's involvement and directives to Local 1107  
19 regarding operations, staffing and other matters related to  
20 the issue of alter-ego liability. Mr. Manteca will also testify  
21 regarding past allegations of harassment of organizing  
22 staff.
- 23 ix. Deedee Fitzpatrick is expected to give testimony regarding  
24 SEIU International's involvement and directives to Local  
25 1107 regarding operations, staffing and other matters  
26 related to the issue of alter-ego liability.  
27

- 1 x. Barry Roberts is expected to give testimony regarding all  
2 matters pertaining to the allegations in the FAC. Mr.  
3 Roberts is also expected to give testimony regarding SEIU  
4 International's trusteeship program, scheme, or plan that is  
5 implemented in every SEIU International trusteeship. Mr.  
6 Roberts is expected to testify about directive he received to  
7 target Plaintiff Miller for termination.
- 8 xi. Davere Godfrey is expected to give testimony regarding all  
9 matters pertaining to the allegations in the FAC and  
10 directives given to managers to target certain Local 1107  
11 employees.
- 12 xii. Brian Shepherd is expected to give testimony regarding all  
13 matters pertaining to the allegations in the FAC. Mr.  
14 Shepherd is expected to give testimony regarding SEIU  
15 International's involvement and directives to Local 1107  
16 regarding operations, staffing and other matters related to  
17 the issue of alter-ego liability. Mr. Shepherd will give  
18 testimony regarding his prior involvement with Local 1107  
19 in 2015 and the termination of Plaintiff Cabrera in 2015.
- 20 xiii. Grace Vergara is expected to give testimony regarding all  
21 matters pertaining to the allegations in the FAC. Ms.  
22 Vergara is expected to give testimony regarding SEIU  
23 International's involvement and directives to Local 1107  
24 regarding operations, staffing and other matters related to  
25 the issue of alter-ego liability. Ms. Vergara will give  
26 testimony regarding his prior involvement with Local 1107  
27 in 2015 and the termination of Plaintiff Cabrera in 2015.

- 1           xiv. Lanita Troyano is expected to give testimony regarding all  
2           matters pertaining to the allegations in the FAC.
- 3           xv. Rosy Salinas is expected to give testimony regarding all  
4           matters pertaining to the allegations in the FAC.
- 5           xvi. Robert Clarke is expected to testify regarding Local 1107's  
6           prior grant of a Local 1107 employee reasonable  
7           accommodations of transfer from organizers to the front  
8           desk position. Mr. Clarke will also give testimony  
9           regarding Local 1107's breach of his employment contract.
- 10          xvii. Peter Nguyen is expected to testify regarding Local 1107's  
11          prior grant of a Local 1107 employee reasonable  
12          accommodations of transfer from organizers to the front  
13          desk position. Mr. Nguyen will also give testimony  
14          regarding Local 1107's breach of his employment contract.
- 15          xviii. Yvette Saenz is expected to give testimony regarding all  
16          matters pertaining to the allegations in the FAC.
- 17          xix. Betsy M. Palal MD is Plaintiff Miller's treating physician  
18          and is expected to testify regarding her physical  
19          impairment and its effect on her major life activities.
- 20          xx. Person Most Knowledgeable and/or Custodian of Records,  
21          Betsy M. Palal MD will authenticate medical records.
- 22          xxi. Nick Liu, MD is Plaintiff Miller's treating physician and is  
23          expected to testify regarding her physical impairment and  
24          its effect on her major life activities.
- 25          xxii. Person Most Knowledgeable and/or Custodian of Records,  
26          Nick Liu, MD, will authenticate medical records.
- 27

- 1 xxiii. Raji Venkat is Plaintiff Miller's treating physician and is  
2 expected to testify regarding her physical impairment and  
3 its effect on her major life activities.
- 4 xxiv. Person Most Knowledgeable and/or Custodian of Records,  
5 Raji Venkat, MD, will authenticate medical records.
- 6 xxv. Remzi Jaos is a former SEIU Local 73 staff member  
7 expected to testify regarding SEIU International's  
8 implementation of its trusteeship program, scheme or plan  
9 that involves getting rid of local union staff.
- 10 xxvi. Kevin B. Kirkendall, MBA, CPA-CGMA, CFE, 1522 is  
11 Plaintiff Miller's damages expert and will give testimony  
12 regarding her actual damages from lost wages, benefits etc.
- 13 xxvii. Brenda Marzan is expected to give testimony regarding  
14 SEIU International's involvement in Local 1107 operations  
15 during the trusteeship.
- 16 xxviii. Glenn Rothner is expected to testify regarding his  
17 involvement with drafting Local 1107's constitution and  
18 bylaws while serving as SEIU International's attorney.
- 19 xxix. Steve Ury is expected to testify regarding his involvement  
20 with drafting Local 1107's constitution and bylaws while  
21 serving as SEIU International's attorney.
- 22 xxx. Custodian of records Local 1107.
- 23 xxxi. Custodian of records SEIU International.
- 24 xxxii. In addition to the witnesses listed, Local 1107 lists those  
25 witnesses identified by other parties and reserves the right  
26 to call such witnesses.
- 27 xxxiii. Plaintiffs object to Defendants' expert witnesses.

1 xxxiv. Plaintiff objects to the use of any documents exchanged  
2 between himself and counsel for Local 1107 as they are  
3 documents exchanged for the purpose of settlement and not  
4 admissible.

5 B. Local 1107 list of witnesses.

- 6 i. Michael J. Mcavoyamaya. 4539 Paseo Del Rey, Las Vegas, Nevada  
7 89121. Mr. Mcavoyamaya is expected to authenticate documents  
8 authored by him and confirm statements made by him.
- 9 ii. Debbie Miller. C/O Michael J. Mcavoyamaya, 4539 Paseo Del Rey,  
10 Las Vegas, Nevada 89121. Ms. Miller will testify about the  
11 allegations and associated matters asserted in the First Amended  
12 Complaint.
- 13 iii. Martin Manteca. C/O Christensen James & Martin, 7440 W Sahara  
14 Ave., Las Vegas, NV 89117. Mr. Manteca will testify about the  
15 allegations and associated matters asserted in the First Amended  
16 Complaint.
- 17 iv. Luisa Blue. C/O Christensen James & Martin, 7440 W Sahara Ave.,  
18 Las Vegas, NV 89117. Ms. Blue will testify about the allegations and  
19 associated matters asserted in the First Amended Complaint.
- 20 v. Sean W. McDonald, Esq. 1375 55th Street Emeryville, CA 94608.  
21 Mr. McDonald will to testify about his interactions with the  
22 Plaintiffs' counsel, his communications with the Plaintiffs' counsel,  
23 and any other appropriate matter relating to the issues associated with  
24 the litigation. Note, listing Mr. McDonald as a witness is not intended  
25 to constitute a waiver of the attorney-client privilege or the attorney  
26 work product privilege. Numerous communications and interactions  
27 between Mr. McDonald and Mr. Mcavoyamaya occurred relating to

1 the subject matter of the First Amended Complaint, and it is those  
2 non-privileged communications, documents and interactions that  
3 may be the subject of his testimony.

4 vi. LaNita Troyano. C/O Christensen James & Martin, 7440 W Sahara  
5 Ave., Las Vegas, NV 89117. Ms. Toroyano is expected to testify  
6 about matters relating to the allegations of the First Amended  
7 Complaint.

8 vii. Brenda Marzan. C/O Christensen James & Martin, 7440 W Sahara  
9 Ave., Las Vegas, NV 89117. Ms. Marzan is expected to testify about  
10 matters relating to the allegations of the First Amended Complaint.

11 viii. Rosario (Rosie) Salinas. C/O Michael J. Mcavoyamaya, 4539 Paseo  
12 Del Rey, Las Vegas, Nevada 89121. Ms. Salinas is expected to testify  
13 about matters relating to the allegations of the First Amended  
14 Complaint.

15 ix. Grace Vergara-Mactal. C/O Christensen James & Martin, 7440 W  
16 Sahara Ave., Las Vegas, NV 89117. Ms. Vergara-Mactal is expected  
17 to testify about the matters relating to the allegations of the First  
18 Amended Complaint.

19 x. Brian Shepherd. C/O Christensen James & Martin, 7440 W Sahara  
20 Ave., Las Vegas, NV 89117. Mr. Shepherd is expected to testify  
21 about the matters relating to the allegations of the First Amended  
22 Complaint.

23 xi. Edward L. Bennett. 5290 Overpass Road, Suite 118, Santa Barbara,  
24 CA 93111. Mr. Bennet will testify about matters associated with his  
25 expert report.  
26  
27



1           xii. Kirk Marangi. 30 N. Raymond Ave., Suite 411, Pasadena, CA 91103.  
2           Mr. Marangi will testify about matters associated with his expert  
3           report.

4           xiii. In addition to the witnesses listed, Local 1107 lists those witnesses  
5           identified by other parties and reserves the right to call such  
6           witnesses.

7           C. SEIU's list of witnesses.

8           SEIU concurs with the list of witnesses provided by Local 1107 and  
9           reserves the right to call any such witnesses as though SEIU's own witness. In  
10          addition, SEIU intends to call:

11          i. Deirdre Fitzpatrick. Rothner, Segall & Greenstone, 510 South  
12          Marengo Avenue, Pasadena, California 91101-3115. Chief of Staff  
13          of SEIU International. Ms. Fitzpatrick will testify about the  
14          allegations and associated matters asserted in the First Amended  
15          Complaint, and specifically regarding the relationship between SEIU  
16          International and Local 1107 during the trusteeship over Local 1107,  
17          in response to Plaintiffs' claims that SEIU is liable for Local 1107's  
18          conduct because it is an alter ego of or single employer with Local  
19          1107.

20          **IX.** Designation of deposition testimony.

21          All objections are preserved as to proffered deposition testimony. Otherwise,  
22          each party hereby designates as follows:

23          A. Plaintiffs' designations. Plaintiff intends to utilize depositions as  
24          testimony if a witness gave deposition testimony and that witness is  
25          justifiably unavailable for trial. Plaintiff reserves the right to identify  
26          such depositions or portions of the depositions as may be necessary.  
27          Plaintiff reserves the right to use depositions for all additional lawful

1 purposes. At present, Plaintiff designates the following as potential  
2 deposition testimony<sup>1</sup>

- 3 i. Brian Shepherd
- 4 ii. Martin Manteca
- 5 iii. Javier Cabrera
- 6 iv. Debbie Miller
- 7 v. Davere Godfrey
- 8 vi. Lanita Troyano
- 9 vii. Luisa Blue
- 10 viii. Grace Vergara
- 11 ix. Rosy Salinas
- 12 x. Brenda Marzan
- 13 xi. Mary Grillo
- 14 xii. DeeDee Fitzpatrick
- 15 xiii. Mary Kay Henry
- 16 xiv. Neal Bisno
- 17 xv. Local 1107's 30b6 witness
- 18 xvi. SEIU's 30b6 witnesses

19 B. Local 1107's designations. Local 1107 intends to utilize depositions as  
20 testimony if a witness gave deposition testimony and that witness is  
21 justifiable unavailable for trial. Local 1107 reserves the right to identify  
22 such depositions or portions of the depositions as may be necessary.  
23 Local 1107 reserves the right to use depositions for all additional lawful  
24 purposes. At present, Local 1107 designates the following as potential  
25 deposition testimony: Staff Union 36(b)6 (Rosario Salinas), Javier  
26 Cabrera, and Debbie Miller. Local 1107 joins in SEIU's objection to

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27 <sup>1</sup> These depositions include those conducted in related cases that the parties stipulated were part  
of the record of this case.

1 depositions taken in earlier actions and further objects to Plaintiff's  
2 blanket misstatement that depositions from prior cases were stipulated  
3 to be part of the record.

4 C. SEIU's designations. Pursuant to Federal Rule of Civil Procedure 32,  
5 SEIU designates the depositions of Plaintiffs Javier Cabrera, Debbie  
6 Miller, and the deposition of NSEUSU's designee under Rule 30(b)(6),  
7 Rosario Salinas. SEIU reserves the right to use such testimony for any  
8 and all purposes allowable by law, specifically against the adverse  
9 parties (Plaintiffs) in this action, and without limitation as to which  
10 portions of such depositions.

11 i. SEIU objects to use of depositions taken in earlier actions,  
12 including specifically the following depositions listed by  
13 Plaintiff: Brenda Marzan, Mary Grillo, DeeDee Fitzpatrick,  
14 Mary Kay Henry, Neal Bisno, Local 1107's 30b6 witness,  
15 SEIU's 30b6 witnesses. *See* Fed. R. Civ. Pro. 32(a)(8).

16  
17 **X. Exhibit lists.**

18 The parties agree that even where a document is marked as admissible,  
19 portions of the document may not be admissible. Local 1107 and SEIU have sought  
20 to follow the Court's chamber practices directive regarding the use of one star \* and  
21 two stars \*\* for authenticity and admissibility. However, that practice is difficult to  
22 apply to the documents because certain portions of documents may be impermissible  
23 for consideration. Objections to portions of documents are therefore preserved and  
24 may be asserted at appropriate times. If not marked with a \* or \*\*, all objections are  
25 retained.

A. Plaintiffs' list.

No.	Description	Bates Nos.
**	NSEUSU Collective Bargaining Agreement 2015-2018	CMM7892-7928
*	28-CA-209109 NLRB Trial Transcripts	CMM8017-8602
	28-CA-156789 NLRB Charge against Local 1107	CMM7773
	28-CA-156789 NLRB sworn statement Susan Smith and exhibits	CMM7716-7740
		CMM7741-7772
	NSEUSU Grievance 6/20/2017	CMM7948
	NSEUSU Grievance 7/29/2017	CMM7950-51
	NSEUSU Grievance 10/06/2017	CMM7952
**	NSEUSU Grievance 10/29/2017	CMM7954
	NSEUSU Grievance 10/31/2017	Local – 0036
	NSEUSU Grievance 11/28/2017	Local – 37
	Local 1107 Personnel Policies 12/2017	CMM7707
	Local 1107 Informal Meeting Notes	Local 89-90
	Debbie Miller Medical Records Dr. Raji Venkat	CMM1729-98
	Debbie Miller Medical Records Dr. Betsy Palal	CMM1725-28
	Miller Doctors Notes Dr. Nick Liu	Local 82, 83, 85
	Miller Doctors Notes Dr. Raji Venkat	Local 84, 86
	Local 1107 10/19/2017 Email/Letter to Miller	Local 14-16
	Local 1107 Email and Letter 10/26/2017	Local 27-30
	TWR Campaign Documents	CMM428-481
	Local 1107 Notice of Termination to Cabrera 8/11/2017	CMM7886-91
	Local 1107 Resp. 2nd Disc. Req. 11/14/2019	
	Local 1107 Step 1 Letter to Miller 1/3/2018	CMM184-187
	Local 1107 Step 2 Letter to Cabrera 1/29/2018	CMM161-165
	Local 1107 12/01/2017 Policies	CMM7708-15
	Miller email to Manteca and Blue RE: Request for Reasonable Accommodations	Local – 23-24
	Local 1107 Letter 2/12/2018	CMM203-205
	Local 1107 Letter 2/15/2018	CMM206
	Local 1107 Letter 2/26/2018	Local 10037
	Debbie Miller's Medical Records from Palm Medical Group,	CMM 1726-1728
	Debbie Miller's Medical Record from Dignity Health Group Nevada, dated September 19, 2017	CMM 1758
	Debbie Miller's Medical Record from Dignity Health Group Nevada, dated October 9, 2017	CMM 1746
	Debbie Miller's Medical Record from Dignity Health Group Nevada, dated October 31, 2017	CMM 1756
	Debbie Miller's Medical Record from Dignity Health Group Nevada, dated December 10, 2018	CMM 1737
	Local 1107 Letter 9/06/2019	
	Local 1107 Letter RE: Cabrera Termination 10/30/2017	CMM 151-155

1		Grievance filed October 31, 2017, seeking to have Javier Cabrera reinstated and made whole in every way	Local 36
2		Local 1107 Responses to Interrogatories	
3		Local 1107 Responses to Requests for Admission	
4		SEIU Responses to Interrogatories	
5		SEIU Responses to Requests for Admission	
6		Letter from Martin Manteca to Susan Smith, dated December 21, 2017	CMM 156-159
7		Barry Robert's Sworn Affidavit	CMM1737-41
8		SEIU International Emails (Clarke case discovery)	SEIU204-205
9		SEIU International Emails (Clarke case discovery)	SEIU0075
10		SEIU/Local 1107 Salary Agreement Manteca	SEIU-CAB674
11		Grievance filed on October 6, 2017 on behalf of John Archer.	CMM 176
12		Grievance, dated February 7, 2018	CMM 1669
13		SEIU Constitution	SEIU2376-2446
14		Kirkendall Expert Report with exhibits	
15		Blue email and memo RE: Cases against L1107	SEIU CAB686-688
16		Blue Responses To Requests for Admission	
17		Blue Responses to Interrogatories	
18		Manteca Responses to Requests for Admission	
19		Manteca Responses to Interrogatories	
20		SEIU International Emails	SEIU-CAB35-43
21		Mary Kay Henry Email 6/16/2017	CMM471-478
22		Troyano Investigatory Meeting Notes	CMM1587-88
23		Javier Emails RE: Out of the Office	SEIUNV70-74
24		Local 1107 Settlement with Javier Cabrera 5/17/2016	SEIUNV296
25		Javier Cabrera Weekly Plans	CMM7962-65
26		Godfrey Email	SEIUNV176
27		Javier Debrief Sheets	CMM7968-70
28		Local 1107 Personnel Policies 2015	SEIUNV498-505
29		Vergara Emails	SEIUNV75-81
30		Local 1107 March 1, 2019 Personnel Policies	CMM7829-35
31		November 27, 2017 Personnel Policies	CMM7836-43
32		Settlement agreement between L1107 and Cabrera 2016	CMM7946
33		Map of L1107 Office Building	CMM7955-56
34		Local 1107 Personnel Policies 2015	CMM8002-09
35		Local 1107 Member emails RE: C&B amendments	CMM8603-24
36		Vergara email 2/6/2018 Email RE: Turf Plan Deadline	CMM1672
37		Miller Income Tax Documents	CMM1-43
38		Miller Davita Pay Stubs	CMM44-121
39		Local 1107 12/21/2017 Letter	CMM156-59
40		NSEUSU Grievance 7/26/2017	CMM172
41		NSEUSU Grievance 5/03/2017	CMM173
42		NSEUSU Grievance 9/25/2017	CMM176
43		NSEUSU Grievance 5/3/2018	CMM178

1		TWR Emails and Power Point	CMM428-463
		TWR Plan Email and Attachments	CMM464-470
2		Manteca Email RE: TWR Materials	CMM479-517
		Barry Robert's Sworn Affidavit	CMM593-597
3		NLRB ALJ Decision	CMM598-612
		MKH Response to Requests for Admission	
4		MKH Responses to Requests for Interrogatories	
		Blue Email 5/27/2018	SEIU-CAB686-88
5		SEIU International emails	SEIU-CAB92-127
6		Shepherd Emails to Eddy 9/28/2018	SEIU-CAB131
7		Eddy Email COF Agenda	SEIU-CAB152-156
8		Eddy Email 1107 Report	SEIU-CAB157
		Trustees report to MKH 10/5/2018	SEIU-CAB159-166
9		Eddy Email 10/5/2018	SEIU-CAB169-170
10		Eddy Email 8/27/2018	SEIU-CAB181
11		Shepherd Email 9/10/2018	SEIU-CAB235-236
12		Shepherd email 9/10/2018	SEIU-CAB241-245
13		Fitzpatrick Email 11/13/2018	SEIU-CAB250
		Trustee Memo to MKH 10/5/2018	SEIU-CAB251-258
14		Trustee Memo to MKH 11/11/2018	SEIU-CAB259
15		Bisno Email	SEIU-CAB269
		Bisno Emails	SEIU-CAB271-75
16		Bisno Email	SEIU-CAB278-79
17		Bisno Email	SEIU-CAB280-81
18		Eddy Email 12/06/2018	SEIU-CAB284-85
19		Eddy Email 11/3/2018	SEIU-CAB290-91
20		Eddy Email 10/25/2018	SEIU-CAB292
21		Eddy Email COF Comms plan	SEIU-CAB295
		Bates Email 11/10/2018	SEIU-CAB320
22		Bates Email	SEIU-CAB334-342
23		Shepherd Email 10/22/2018	SEIU-CAB398-99
24		MKH Email 12/17/2018	SEIU-CAB416-418
25		Ratification Plan 11/28/2018	SEIU-CAB470-72
26		Bisno email 10/15/2018	SEIU-CAB489
27		MKH Email 10/1.2018	SEIU-CAB492-93

1		COF Draft Agenda	SEIU-CAB528-29
2		Draft Agenda SEIU Intl Meeting 10/11/2018	SEIU-CAB617-625
3		SEIU Planning Next Steps	SEIU-CAB651-63
4		Pension and Health Benefit Tables	Local 6841-42
5		While many of the designations in the preceding table list documents with bates numbers produced by Plaintiffs in this matter, Plaintiffs reserved the right to supplement these exhibits with corresponding identical documents presumed to be authentic because they were produced in discovery by Defendants.	
6			
7			
8		Rebuttal documents. Plaintiffs places other parties on notice that other documents not listed as an exhibit may be used as exhibits in rebuttal to testimony given or other evidence presented.	
9			
10			

11 Plaintiffs reserve the right to raise additional objections should issues be  
12 discovered in the future.

13 B. Local 1107's list. Local 1107, despite reserved objections, also objects  
14 to Plaintiffs' exhibit list as identifying documents not produced during  
15 the litigation and too indefinitely described. In addition, some of the  
16 documents may contain information that should not be admitted due to  
17 its content and the potential confusion of a jury. Local 1107 reserves the  
18 right to object to portions of documents.

19	No.	Description	Bates Nos.
20	1001	Emergency Trusteeship Order	
21	1002	Email from Debbie Miller to Martin Manteca, dated 22 September 28, 2017, at 3:35 p.m.	Local 603
23	1003	Email from Martin Manteca to Debbie Miller, dated 24 September 28, 2017, at 6:04 p.m.	Local 603
25	1004	Email from Debbie Miller with attachments, Dated 26 October 11, 2017, at 1:48:46 p.m.	Local 5-7
27			

1	1005	Raji Venkat, Dr. Note, dated October 9, 2017	Local 9
2	1006	Nick Liu, Dr. Note, dated October 11, 2017	Local 8
3	1007	Betsy Palal, Dr. Note, dated November 7, 2017	Local 63
4	1008	Meeting Notes, dated October 17, 2017	Local 681-682
5	1009	Email from Debbie Miller to Martin Manteca, dated	Local 607
6		October 17, 2017, at 9:09 p.m.	
7	1010	Email to Debbie Miller with attachment, dated October	Local 14-16
8		19, 2017, at 11:29:50 a.m.	
9	1011	Request for additional information letter dated October,	Local 516-517
10		19, 2017	
11	1012	Email from Debbie Miller with attachment, dated October	Local 23 - 25
12		23, 2017 at 9:38 p.m.	
13	1013	Accommodations letter dated 10/26/2017	Local 518-520
14	1014	Email from Debbie Miller to Martin Manteca, dated	Local 845-847
15		October 28, 2017, at 8:10:31	
16	1015	Email from Debbie Miller, dated October 31, 2017, at	Local 109
17		5:15:30 p.m.	
18	1016	Email from Martin Manteca, dated October 31, 2017, at	Local 862-863
19		2:35 p.m.	
20	1017	Email from Susan Smith with attachment, dated October	Local 34-35
21		29, 2017, at 8:29:54	
22	1018	Debbie Miller Grievance, dated October 29, 2017	Local 35
23	1019	Email chain between Martin Manteca and Susan Smith,	Local 113-114
24		last email dated December 4, 2017, at 4:10:58	
25	1020	Email chain between Martin Manteca and Debbie Miller,	Local 116-117
26		last email dated December 4, 2017, at 5:33:46 p.m.	
27			



1	1021	Email chain between Luisa Blue and Susan Smith, last	Local 118 -119
2		email dated December 7, 2017, at 7:45:19 a.m.	
3	1022	Email from Debbie Miller, dated January 7, 2018, at	Local 40-41
4		5:02:13.	
5	1023	**Letter from Sean W. McDonald to Michael	Local 121-122
6		Mcavoyamaya, dated December 21, 2017	
7	1024	**Email from Michael Mcavoyamaya, dated December	Local 123
8		22, 2018, at 5:02:40 p.m.	
9	1025	**Letter from Sean W. McDonald to Michael	Local 125
10		Mcavoyamaya, dated January 21, 2018, at 3:38:00 p.m.	
11	1026	Letter from Luisa Blue to Michael Mcavoyamaya, dated	Local 524-527
12		January 3, 2018.	
13	1027	**Email from Michael Mcavoyamaya, dated January 7,	Local 38
14		2018, at 2:52:39	
15	1028	**Email from Sean W. McDonald to Michael	Local 142-143
16		Mcavoyamaya, dated January 8, 2018, at 3:33:00 p.m.	
17	1029	**Letter from Debbie Miller, dated February 19, 2018	Local 71
18	1030	**Organizer Job Description	Local 219
19	1031	Charge of Discrimination filed with the EEOC	Local 363
20	1032	Debbie Miller's Medical Records from Palm Medical	CMM 1726-
21		Group,	1728
22	1033	Debbie Miller's Medical Record from Dignity Health	CMM 1758
23		Group Nevada, dated September 19, 2017	
24	1034	Debbie Miller's Medical Record from Dignity Health	CMM 1746
25		Group Nevada, dated October 9, 2017	
26	1035	Debbie Miller's Medical Record from Dignity Health	CMM 1756
27		Group Nevada, dated October 31, 2017	

1	1036	Debbie Miller's Medical Record from Dignity Health Group Nevada, dated December 10, 2018	CMM 1737
2			
3	1037	Notice of Termination for Javier Cabrera, dated October 30, 2017	CMM 151-155
4			
5	1038	Letter from Paul D. Cotsonis to Susan Smith with attachments, dated December 13, 2017	CMM 532-535
6			
7	1039	Debrief Sheet, dated October 18, 2017	Local 395-396
8	1040	Debrief Sheet, dated October 24, 2017	Local 394
9	1041	Email from Javier Cabrera to Grace Vergara, dated October 16, 2017, at 11:13 p.m. (Note, includes entire email chain).	Local 406
10			
11			
12	1042	Email from Grace Vergara to Javier Cabrera, dated October 16, 2017, at 11:48 p.m. (Note, includes entire email chain).	Local 406
13			
14			
15	1043	**Email from Sean W. McDonald to Michael Mcavoyamaya , dated January 2, 2018, at 3:38 p.m.	Local 314
16			
17	1044	**Email from Michael Mcavoyamaya to Sean W. McDonald, dated January 4, 28, at 9:05:51 p.m.	Local 128- 129
18			
19	1045	Staff Union CBA, dated January 1, 2015 through December 31, 2018	Local 169 -203
20			
21	1046	**Letter from Michael Mcavoyamaya to the National Labor Relations Bord, dated May 29, 2018	CMM 553-585
22			
23	1047	Debbie Miller's Responses to Interrogatories	
24	1048	Staff Union's Responses to Interrogatories	
25	1049	Requests for Admissions sent to Debbie Miller, dated August 22, 2019	
26			
27	1050	**Edward L. Bennett Expert Report with exhibits	

1	1051	**Kirk Marangi Expert Report with tables and	
2		attachments	
3	1052	**Joint Petition for Divorce, filed July 18, 2014	Local 1275-
4			1288
5	1053	**Decree of Divorce, filed August 27, 2014	Local 1340-
6			1361
7	1054	Rebuttal documents. Local 1107 places other parties on	
8		notice that other documents not listed as an exhibit may	
9		be used as exhibits in rebuttal to testimony given or other	
10		evidence presented.	
11	1055	Local 1107 incorporates and may use or otherwise rely	
12		upon exhibits identified and / or used by other parties.	

13 C. SEIU's list.

14 In addition to those exhibits listed below, SEIU hereby incorporates and may  
 15 rely for its case-in-chief on any exhibit named by Local 1107 or any other party, and  
 16 also reserves its right to call additional documents for rebuttal or impeachment  
 17 purposes.

18	No.	Description	Bates Nos.
19	1107	SEIU 2016 Constitution and Bylaws	
20			
21	1108	Trusteeship Order, dated April 28, 2017	
22			
23	1109	Report and Recommendations on Emergency Trusteeship	

24 Dated March 3, 2022.

25 CHRISTENSEN JAMES & MARTIN

ROTHNER, SEGALL & GREENSTONE

26 By: /s/ Evan L. James

By: /s/ Eli Naduris-Weissman

1 Evan L. James, Esq.  
2 Nevada Bar No. 7760  
3 7440 W. Sahara Avenue  
4 Las Vegas, NV 89117  
5 Tel.: (702) 255-1718  
6 Fax: (702) 255-0871  
7 elj@cjmlv.com  
8 *Attorneys for Local 1107,*  
9 *Luisa Blue, and Martin Manteca*

Eli Naduris-Weissman, Esq.  
Pro Hac Vice  
510 S. Marengo Ave.  
Pasadena, California 91101-3115  
Tel.: (626) 796-7555  
enaduris-weissman@rsglabor.com  
*Attorneys for SEIU and*  
*Mary Kay Henry*

7 By: /s/ Michael J. Mcavoyamaya  
8 Michael J. Mcavoyamaya, Esq.  
9 Nevada Bar No. 14082  
10 4539 Paseo Del Ray  
11 Las Vegas, NV 89121  
12 Tel.: (702) 299-5083  
13 mmcavoyamayalaw@gmail.com  
14 *Attorney for Plaintiffs*

13 IT IS ORDERED that Calendar call is set for September 19, 2023 at  
14 10:00 AM in LV 7C; Jury Trial is set for October 2, 2023 at 8:30 am in LV Courtroom 7C.



17 \_\_\_\_\_  
18 RICHARD F. BOULWARE, II  
19 United States District Judge

20 Dated: March 30, 2023

1 **CERTIFICATE OF SERVICE**

2 I am an employee of Christensen James & Martin and caused a true and correct copy of the  
3 foregoing document to be served in the following manner on the date it was filed with the Court’s  
4 ECF System.

5  ELECTRONIC SERVICE: Through the Court’s E-Filing System to the following:

6  VIA UNITED STATES MAIL:

7  
8 Michael J. Mcavoyamaya, Esq. Email copy to: mcavoyamayalaw@gmail.com  
4539 Paseo Del Ray  
9 Las Vegas, NV 89121

10 Jonathan Cohen, Esq. Email copy to: jcohen@rsglabor.com  
11 Eli Naduris-Weissman, Esq. Email copy to: enaduris-weissman@rsglabor.com  
12 Carlos Coye, Esq. Email copy to: ccoye@rsglabor.com  
Rothner, Segall & Greenstone  
13 510 South Marengo Avenue  
Pasadena, California 91101-3115

14  
15  
16 CHRISTENSEN JAMES & MARTIN

17 By: /s/ Evan L. James  
18 Evan L. James  
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