

working copy YL

1 **ROTHNER, SEGALL & GREENSTONE**  
2 JONATHAN COHEN, Nevada State Bar No. 10551  
3 510 South Marengo Avenue  
4 Pasadena, California 91101  
5 Telephone: (626) 796-7555  
6 Facsimile: (626) 577-0124

7 **LAQUER, URBAN, CLIFFORD & HODGE LLP**  
8 MICHAEL A. URBAN, Nevada State Bar No. 3875  
9 DOUGLAS V. RITCHIE, Nevada State Bar No. 6795  
10 4270 S. Decatur Blvd., Suite A-9  
11 Las Vegas, Nevada 89103  
12 Telephone: (702) 968-8087  
13 Facsimile: (702) 968-8088  
14 Counsel for Respondent SEIU Local 1107

15 **STATE OF NEVADA**  
16 **LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT**  
17 **RELATIONS BOARD**

18 SERVICE EMPLOYEES INTERNATIONAL )  
19 UNION, LOCAL 1107, ) Case No.  
20 Complainant, )  
21 vs. )  
22 CLARK COUNTY, )  
23 Respondent. )

24 **PROHIBITED PRACTICES COMPLAINT**

25 Complainant, Service Employees International Union, Local 1107 ("Local 1107"), by and  
26 through its counsel of record, complains and alleges as follows:

27 **GENERAL ALLEGATIONS**

- 28
1. Local 1107 is an employee organization within the meaning Nevada Revised Statute § 288.040. Its address is 3785 East Sunset, Las Vegas, Nevada, 89120. Its phone number is (702) 920-5900.
  2. Respondent Clark County ("County") is a local government employer within the meaning of Nevada Revised Statute § 288.060. Its address is 500 South Grand Central Parkway, Las Vegas, NV 89155. Its phone number is (702) 455-0000.

*JK 10/26/09*

- 1 3. At all times relevant herein, Local 1107 has been the recognized exclusive bargaining agent of a  
2 bargaining unit of employees employed by Clark County.
- 3 4. Local 1107 and Clark County are parties to a collective bargaining agreement ("Agreement")  
4 covering terms and conditions of employment, the term of which is March 6, 2007, through June  
5 30, 2010.

#### 6 Layoff Procedure

- 7 5. Article 13 of the Agreement pertains to layoffs. Section 1.1 defines layoff "as any involuntary  
8 separation wherein management eliminates a position without prejudice to the incumbent."  
9 Pursuant to Section 1.2, layoffs "shall be done according to the inverse order of seniority of the  
10 employees in the affected classification within the given department." However, under Section  
11 1.4, in order "[t]o provide for the continued operation of the County, each department head may  
12 exempt 8% of the total number of positions authorized in the current budget within his/her  
13 department and retain them regardless of seniority."
- 14 6. Article 13 also provides a process for reviewing the County's layoff decisions. Pursuant to  
15 Section 1.3, a standing Layoff Review Committee, comprised of County and Local 1107  
16 representatives, has final authority to hear appeals "affecting layoff and recalls to determine  
17 whether the procedure was appropriately followed," and will not be reviewed by an arbitrator,  
18 "unless a decision of the Layoff Review Committee is alleged to have violated a specific,  
19 existing, contractual provision."
- 20 7. Under Article 13, the County shall attempt to find a vacant position for any eligible employee  
21 scheduled to be laid off by "evaluating the reassignment, transfer, reduction in grade, or any  
22 combination thereof" for the employee. Likewise, permanent employees affected by layoff  
23 "shall have the right to elect a reduction in grade to a lower classification" in certain  
24 circumstances. Last, permanent employees affected by layoff have the right to bump other  
25 employees in certain circumstances.

#### 26 Disciplinary and Dispute Resolution Procedure

- 27 8. Article 11 of the Agreement sets forth a detailed and specific dispute resolution procedure for,  
28 among other things, the imposition of employee discipline. Under Section 1.1, discipline is

1 defined "as an employee's written reprimand, final written warning, demotion, or involuntary  
2 termination from County service."

- 3 9. The union may file grievances over the imposition of discipline and may pursue such grievances  
4 through final and binding arbitration. The grievance process affords employees with various  
5 rights, including the right to written notice of the statement of discipline, union representation  
6 during any meeting with County management regarding the discipline, and the right to challenge  
7 the basis for the discipline. Section 1.2 provides that an arbitrator reviewing discipline will  
8 consider "the incident and the discipline in terms of the severity of the action, evidence of  
9 progressive discipline and appropriateness of disciplinary action." Moreover, the Agreement  
10 requires discipline to be supported by "just cause."

#### 11 The 2009 Layoffs

- 12 10. In or about May 2009, a Clark County representative announced to employees that there would  
13 be layoffs in the Departments of Development Services and Comprehensive Planning at a  
14 meeting called by the County. At the same meeting, the representative stated that layoffs would  
15 occur in order of inverse seniority, namely, employees with the least seniority would be laid off  
16 first. The representative further stated that the 8% exemption would only be used to retain  
17 employees with critical and necessary skills who would otherwise be laid off by seniority.
- 18 11. In June 2009, the Departments of Development Services and Comprehensive Planning  
19 announced layoffs of approximately 24 employees. Department managers each identified  
20 employees to be retained, notwithstanding seniority, pursuant to the 8% exemption provision of  
21 the Agreement. The Departments ultimately utilized the full 8% exemption to lay off many  
22 employees with greater seniority than those employees it chose to retain.
- 23 12. Many of the laid-off employees filed appeals to the Layoff Review Committee. During the  
24 subsequent appeals process, County representatives justified the lay off of various employees by  
25 referencing, among other things, the laid-off employees' job performance.
- 26 13. None of the incidents or conduct identified during the Layoff Review Committee process had  
27 been noted previously by the effected employees' supervisors nor had any of the incidents been  
28 reduced to formal discipline and become subject to the Agreement's dispute resolution  
procedures, including the grievance and arbitration process.

- 1 14. At no time during the Layoff Review Committee appeals process did County representatives  
2 justify the order of lay offs, or the allegedly applicable exemption, by identifying the critical and  
3 necessary skills of retained employees who would have otherwise been laid off based on  
4 seniority. At times, even a perfunctory rationale was not given by the County for its selection of  
5 less senior employees who were presumably essential to "provide for the continued operation of  
6 the County."
- 7 15. Contrary to the terms of the Agreement, many laid-off employees were not permitted to bump  
8 employees or elect a reduction in grade into a lower classification, nor did the County attempt to  
9 find vacancies for many eligible employees scheduled to be laid off.
- 10 16. Prior to and during the lay off process, County employee Martin Bassick openly advocated for  
11 alternatives to lay offs, organized co-workers to preserve County jobs, and was an open  
12 supporter of the union's position concerning the lay off process. Despite having seniority over  
13 many employees in his classification, Bassick was laid off. During Bassick's subsequent appeal  
14 to the Layoff Review Committee, County representatives justified Bassick's layoff by reference  
15 to his protected and concerted union activities.

#### 16 FIRST CAUSE OF ACTION

##### 17 [Unilateral Change in Terms and Conditions of Employment]

- 18 17. Local 1107 hereby incorporates the allegations contained in paragraphs 1 through 16 as though  
19 set forth in full herein.
- 20 18. Pursuant to Nevada Revised Statute § 288.150 and applicable precedent, Clark County has a duty  
21 to bargain in good faith with Local 1107 concerning the terms and conditions of employment,  
22 including the obligation to refrain from making any unilateral changes in the terms and  
23 conditions of employment of members of the bargaining unit.
- 24 19. By selecting employees for lay off based on alleged performance deficiencies, Clark County  
25 unilaterally and unlawfully changed the discipline provisions of the Agreement, including the  
26 grievance and arbitration procedure, and the requirements of just cause and progressive  
27 discipline.  
28

1 20. By failing to permit employees to bump other employees or elect a reduction in grade into a  
2 lower classification, and by failing to attempt to find vacancies for eligible employees scheduled  
3 to be laid off, Clark County unilaterally and unlawfully changed the layoff provisions of the  
4 Agreement.

5 21. By exempting employees from layoff, notwithstanding their lack of seniority, based on  
6 considerations other than the employees' critical and necessary skills, necessary "for the  
7 continued operation of the County," Clark County unilaterally and unlawfully changed the layoff  
8 provisions of the Agreement.

9 **SECOND CAUSE OF ACTION**

10 [Retaliation for Protected, Concerted Activity]

11 22. Local 1107 hereby incorporates the allegations contained in paragraphs 1 through 21 as though  
12 set forth in full herein.

13 23. Pursuant to Nevada Revised Statute §§ 288.140 and 288.270 and applicable precedent, Clark  
14 County is prohibited from interfering with, coercing, or discriminating against employees for  
15 engaging in protected, concerted activity, or on account of union membership.

16 24. Clark County selected Martin Bassick for lay off based on his protected, concerted activity, in  
17 violation of Nevada Revised Statute §§ 288.140 and 288.270 and applicable precedent.

18  
19 **WHEREFORE, the Complainant respectfully prays as follows:**

- 20 (1) For an order requiring Clark County to reinstate and make whole, including back pay, all  
21 employees laid-off pursuant to the June 2009 lay off;  
22 (2) For an order requiring Clark County to reinstate and make whole, including back pay,  
23 Martin Bassick;  
24 (3) For an order requiring Clark County to respect and honor the lay off provisions of the  
25 Agreement, *inter alia*, the requirement that all layoffs be scheduled in order of inverse  
26 seniority; and  
27  
28

1 (4) Such other relief deemed just and proper.

2  
3 DATED this 19<sup>th</sup> day of October, 2009.

4 **LAQUER, URBAN, CLIFFORD & HODGE**

5 By: *Douglas V. Ritchie*

6 Douglas V. Ritchie, Esq.

7 Nevada Bar No. 6795

8 4270 South Decatur Blvd., Suite A-9

9 Las Vegas, Nevada 89103

10 *Attorneys for Plaintiff SEIU Local 1107*

VERIFICATION

1  
2 STATE OF NEVADA )  
3 COUNTY OF CLARK )ss.

4 DAVID PETER, being duly sworn, deposes and says that;

5 1. I am a representative of the local employee organization named as complainant in the  
6 above entitled matter.

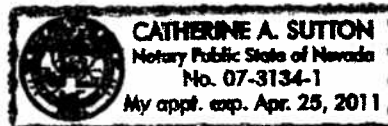
7 2. I have read the foregoing Prohibited Practices Complaint, know the contents thereof, and  
8 the same is true of my knowledge except for those matters stated upon information and belief and as to  
9 those matters, I believe them to be true.

10 Dated this 19<sup>th</sup> day of October, 2009.

11 *David M. Peter*

12 DAVID PETER  
13 SERVICE EMPLOYEES INTERNATIONAL UNION,  
14 LOCAL 1107  
15 3785 EAST SUNSET  
16 LAS VEGAS, NEVADA 89120

17 SUBSCRIBED AND SWORN to before  
18 me this 19 day of October, 2009.

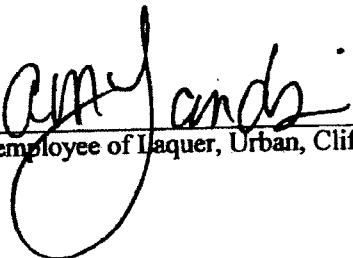


19 *Catherine A. Sutton*  
20 \_\_\_\_\_  
21 NOTARY PUBLIC in and for said  
22 County and State  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF MAILING**

I hereby certify that I am employee of Laquer, Urban, Clifford & Hodge, LLP, that service of the foregoing **PROHIBITED PRACTICES COMPLAINT** was made on this 19<sup>th</sup> day of October, 2009, by depositing a true and correct copy of the same in the U.S. Mail, via certified mail, return receipt requested, addressed as follows:

David Roger, Esq.  
District Attorney  
Carolyn C. Campbell, Esq.  
Deputy District Attorney, Civil Division  
P.O. Box 552215  
Las Vegas, NV 89155-2215  
Attorneys for Clark County

  
An employee of Laquer, Urban, Clifford & Hodge LLP

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28