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SEIU-UNITED HEALTH CARE WORKERS-WEST (“UHW”)  
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8 IN RE:

9 HEARING ON WHETHER A TRUSTEE  
10 SHOULD BE APPOINTED AT SEIU-UNITED  
HEALTHCARE WORKERS-WEST UNDER  
11 ARTICLE VIII, SECTION 7 OF THE SEIU  
CONSTITUTION.

**SUR-REBUTTAL DECLARATION  
OF BARBARA LEWIS**

**Hearing Officer: Ray Marshall**

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15 I, BARBARA LEWIS, declare:

16 1. I am an administrative vice president and director of the hospital division of United  
17 Healthcare Workers-West (“UHW”). I make this declaration based on my personal knowledge.

18 2. **James Philliou misrepresented that rank and file members were not excluded**  
19 **from the joint SEIU and UHW collective bargaining with Tenet:** On November 15, 2008,  
20 Mr. Philliou testified at the above-captioned hearing that he did not exclude rank-and-file members  
21 from negotiation sessions with Tenet in which terms and conditions were discussed or collective  
22 bargaining occurred. He did not, however, deny that rank-and-file members were excluded from  
23 some meetings. He also testified that I was never excluded from the bargaining table.

24 3. Mr. Philliou’s testimony was incorrect and misleading. UHW rank-and-file members  
25 and I were excluded from several important meetings and negotiation sessions with Tenet in which  
26 collective bargaining took place. Being shut out of meetings violated our express agreement that the  
27 parallel SEIU and UHW negotiations with Tenet were being combined in December 2006; there was  
28 no understanding or agreement that SEIU was taking over the negotiations. In addition to the first

1 December 2006 meeting that I described in my testimony on November 14, 2008, in which the  
2 International froze UHW out of the meeting, the UHW Tenet negotiation team was not allowed to  
3 participate in key negotiation sessions.

4 4. The first time that rank-and-file members attempted to join a meeting with Tenet after  
5 the negotiations were consolidated was February 20, 2007. At that time, 14 rank-and-file members  
6 flew with me to Washington D.C. We were surprised to learn when we arrived at SEIU headquarters  
7 on the morning of February 20, that Mr. Philliou and Mary Joyce Carlson intended to meet with  
8 Tenet without us. They told us that there was no need for us to also meet with the company. Florida  
9 Healthcare's negotiation team, which also included rank-and-file members, was also shut out.

10 5. Mr. Philliou and Ms. Carlson spent the next three days in meetings with the company,  
11 providing us with only sporadic reports on the terms that they had negotiated. Contrary to Mr.  
12 Philliou's testimony that rank-and-file members were never shut out of sessions that discussed their  
13 term and conditions, specific terms were negotiated each day of these meetings. We sat in a separate  
14 building from where the negotiations were being conducted from 8:30 a.m. to 6:00 p.m. on the 20th,  
15 from 10:00 a.m. to 6:00 a.m. on the 21st, and from 9:00 a.m. to 2:30 a.m. on the 22nd. During these  
16 long hours, we never once met with a representative of the company. It was only well into the early  
17 morning hours on the third day, at 2:30 a.m., after negotiations had concluded and after we had  
18 repeatedly pleaded to meet with the company, that Mr. Philliou and Ms. Carlson brought Tenet's  
19 representatives to meet the rank-and-file members directly.

20 6. We were similarly shut out of national Tenet negotiations that took place in Los  
21 Angeles on March 6-8, 2007. The first time that I was able to speak with the company was on the  
22 third day of bargaining, on March 8, and our rank-and-file members were not given any access. I was  
23 allowed to speak about only one issue.

24 7. Mr. Philliou testified that he agreed with membership being involved in bargaining.  
25 However, when we had previously discussed the importance of rank-and-file participation in the  
26 Tenet bargaining process, Mr. Philliou told me that he was not interested in allowing rank-and-file  
27 members into the meetings and that he thought it would slow down the process.  
28

1           8.       **Mr. Philliou also misrepresented that he had tried to rescind the tentative**  
2 **agreement on subcontracting:** In his testimony on November 15, 2008, Mr. Philliou acknowledged  
3 that he had signed a Tentative Agreement allowing Tenet to subcontract 12% of workers. This  
4 agreement was entered into on February 8, 2007. (See UHW **Exhibit 8.**) Mr. Philliou further  
5 testified that he later tried to rescind the subcontracting tentative agreement in my presence and that  
6 he actually did rescind the agreement. That testimony is incorrect.

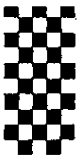
7           9.       Contrary to his testimony, Mr. Philliou did not attempt to rescind the tentative  
8 agreement in my presence. In fact, it is very hard to rescind a tentative agreement. Once an issue is  
9 tentatively agreed, it is generally considered bad faith bargaining to go back on that particular issue.

10          10.       Tenet also insisted that the agreement had not been rescinded. In May 2007, after the  
11 joint negotiations had been disbanded and negotiations returned to California, Tenet insisted that the  
12 tentative agreement on subcontracting was valid and that it had not been rescinded. The first resumed  
13 California negotiation session was held on May 8, 2007 from 9:00 a.m. to 10:00 p.m., and was  
14 attended by me, our full rank-and-file bargaining team and Bob Millman, Tenet attorney, Dan  
15 Rodriguez, Tenet's Vice President of Labor Relations, and Janis Thayer, Tenet's California Director  
16 of Labor Relations.

17          11.       At that meeting, we told Tenet, as we had told SEIU earlier, that we would not agree  
18 to subcontracting in California. This was an important issue: we had eliminated subcontracting with  
19 Tenet in Northern California, and we wanted to get rid of it in Southern California too. We had to  
20 argue that SEIU lacked authority from the California bargaining team to agree to the subcontracting.  
21 We explained that it was done without our knowledge and authorization.

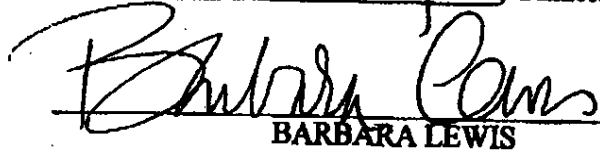
22          12.       My team had to negotiate with Tenet until October 11, 2007 to eliminate that tentative  
23 agreement. A copy of the tentative agreement that we entered into in October is attached and marked  
24 as new **UHW Exhibit 233**. The final agreement stated that there would be no subcontracting.

25          13.       Mr. Philliou's testimony that he had never discussed subcontracting with me prior to  
26 signing the tentative agreement in February 2007, was also incorrect, I had told him in January 2007  
27 that we would not accept terms that allowed subcontracting.  
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1 I declare under penalty of perjury under the laws of the State of California that the foregoing  
2 is true and correct.

3 Executed this 21st day of November 2008, at Colver City, California.

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6 BARBARA LEWIS

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# **UHW Ex. 233**

11:50pm -

**ARTICLE 22 - SUBCONTRACTING: UNION PROPOSES TO DELETE AND**

**REPLACE WITH:**

**"The employer shall not subcontract any bargaining union work during the term of this Agreement.**

**"The facility also agrees that it will, upon request, discuss with the Union the possibility of bringing currently subcontracted work into the bargaining unit."**

*unit*

*TA 10/11/07  
11:58pm  
[Signature]  
TA  
[Signature]*