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12 SEIU United Healthcare Workers - West

13 UNITED STATES OF AMERICA  
14 NATIONAL LABOR RELATIONS BOARD

15 CORIZON HEALTH/PRISON HEALTH  
16 SERVICES,

17 Employer,

18 and

19 NATIONAL UNION OF HEALTHCARE  
20 WORKERS-CALIFORNIA NURSES  
21 ASSOCIATION, AFL-CIO,

22 Petitioner,

23 and

24 SEIU UNITED HEALTHCARE WORKERS –  
25 WEST

26 Intervenor.

No. 32-RC-111382

**SEIU UNITED HEALTHCARE  
WORKERS – WEST’S REQUEST  
FOR REVIEW OF THE REGIONAL  
DIRECTOR’S DECISION AND  
DIRECTION OF ELECTION**

27 Pursuant to the provisions of Section 102.67 of the Board’s Rules and Regulations, SEIU  
28 United Healthcare Workers – West (“UHW”), hereby respectfully requests that the Board review  
the Regional Director’s Decision and Direction of Election in the above-referenced matter. The  
Union’s request for review is based on the grounds that the Regional Director’s Decision raises  
substantial questions of law and/or policy because of the absence of, and departure from, official

1 Board precedent, and that there are compelling reasons for reconsideration of an important Board  
2 rule and/or policy. UHW requests that the Board grant the Union's request for review and stay  
3 the *Sonotone* election directed by the Regional Director to be conducted on October 9, 2013.

4 The facts here are not in dispute. The Regional Director's Decision explains that on  
5 September 6, 1990 the bargaining unit at issue here first voted in a *Sonotone* election, conducted  
6 in case 32-RC-003290, to be represented in a combined unit of professional and non-professional  
7 employees. The Regional Director's decision also notes that in case 32-RC-5675 the Region also  
8 conducted *Sonotone* election on November 30, 2010 and the unit also voted to be represented in a  
9 combined unit. The election in case 32-RC-5675 involved the same Petitioner and Intervenor  
10 here. Moreover, the November 30, 2010 vote was actually the second election in case 32-RC-  
11 5675 wherein the unit voted to remain in a combined unit; the first election that was conducted on  
12 April 20, 2010 was set aside by the Board because of objectionable conduct. The results of the  
13 November 30, 2010 election were certified by the Board on May 11, 2011.

14 In light of previous votes by the bargaining unit members to remain in the historical  
15 bargaining unit, namely a combined unit consisting of professional and non-professional  
16 employees, a *Sonotone* ballot is no longer required and will serve to interfere with the ongoing  
17 bargaining process, which would destroy the laboratory conditions necessary for a fair election.  
18 The Regional Director's decision fails to acknowledge anywhere that this matter involves ongoing  
19 bargaining between the Employer and the Incumbent union, UHW, for a successor collective  
20 bargaining agreement covering the historically combined bargaining. The Regional Director's  
21 Decision does not cite any Board precedent addressing a *Sontone* ballot question under the unique  
22 circumstances of this case. *See Westinghouse Electric Corp.*, 116 NLRB 1545 (1956) (Board  
23 found no contract bar because existing contract had been prematurely extended); *Westinghouse*  
24 *Electric Corp.*, 129 NLRB 846 (1960) (no evidence of prior election between the same petitioner  
25 and intervenor or evidence of ongoing bargaining between incumbent and employer); *American*  
26 *Medical Response, Inc.*, 344 NLRB 1406 (2005) (no prior election between the same petitioner  
27 and intervenor and no ongoing bargaining because the five-year CBA between the incumbent and  
28 the employer was still in effect at the time of the election).

1 Thus, the interpretation of Section 9(b)(1) of the Act as requiring a *Sonotone* ballot in the  
2 cases cited in the Regional Director's Decision of election is distinguishable from the facts in this  
3 case and UHW urges the Board to review the Regional Director's application of the rulings in  
4 those cases to the undisputed facts present in this matter. The Board should also stay the election  
5 pending a decision on this review.

6 Dated: September 24, 2013

WEINBERG, ROGER & ROSENFELD  
A Professional Corporation

7  
8 By: /s/ Manuel A. Boígues  
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10 Attorneys for Intervenor  
11 SEIU United Healthcare Workers - West

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1 **PROOF OF SERVICE**

2 I am a citizen of the United States and an employee in the County of Alameda, State of  
3 California. I am over the age of eighteen years and not a party to the within action; my business  
4 address is 1001 Marina Village Parkway, Suite 200, Alameda, California 94501-1091. On  
5 September 24, 2013, I served upon the following parties in this action:

6 Regional Director  
7 NLRB, Region 32  
8 1301 Clay Street, Room 300N  
9 Oakland, CA 94612  
10 Fax: (510) 637-3315

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AFL-CIO*

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12 David S. Durham  
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18 *Counsel for Employer Corizon Health, Inc.*

19 copies of the document(s) described as:

20 **SEIU UNITED HEALTHCARE WORKERS – WEST’S REQUEST FOR REVIEW OF**  
21 **THE REGIONAL DIRECTOR’S DECISION AND DIRECTION OF ELECTION**

22 **[X] BY MAIL** I placed a true copy of each document listed herein in a sealed envelope,  
23 addressed as indicated herein, and caused each such envelope, with postage thereon fully  
24 prepaid, to be placed in the United States mail at Alameda, California. I am readily  
25 familiar with the practice of Weinberg, Roger & Rosenfeld for collection and processing  
26 of correspondence for mailing, said practice being that in the ordinary course of business,  
27 mail is deposited in the United States Postal Service the same day as it is placed for  
28 collection.

**[X] BY FACSIMILE** I caused to be transmitted each document listed herein via the fax  
number(s) listed above or on the attached service list.

I certify under penalty of perjury that the above is true and correct. Executed at Alameda,  
California, on September 24, 2013

/s/ Karen Scott  
Karen Scott