

1 **ROBERT McCANN** SB170286
2 McCANN & ASSOCIATES
3 STATE BAR NUMBER6
4 2230 J STREET
5 SACRAMENTO, CA 95816
6 (916)492-8111

7 ATTORNEY FOR: ALEX HERNANDEZ

~~FILED~~
Superior Court Of California,
Sacramento
Dennis Jones, Executive
Officer
12/07/2007
gloda
By _____, Deputy
Case Number:
34-2007-00882688-CU-WM-GDS

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF SACRAMENTO**

10
11 ALEX HERNANDEZ,
12 Petitioner

13 vs.

14 JAMES HARD AND SERVICE
15 EMPLOYEES INTERNATIONAL
16 UNION LOCAL 1000

**PETITION FOR WRIT OF MANDATE
AND SUPPORTING MEMORANDUM
OF POINTS AND AUTHORITIES
CONCERNING REVIEW OF
NONJUDICIAL ACT, FILED IN
SUPERIOR COURT; PROPOSED
ORDER GRANTING WRIT**

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18 Petitioner ALEX HERNANDEZ (hereinafter referred to as "petitioner") petition this
19 Court for a Writ of Mandate directing respondents HARD and the SEIU LOCAL
20 1000(hereinafter referred to as "Respondents") to allow inspection of corporate documents in
21 accordance with California Corporations Code Sections 8334. Petitioner alleges:

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23 1. Petitioner is a director of the Service Employees International Union Local 1000
24 (hereinafter referred to as "SEIU")with its principal place of business (for the local 1000) located
25 in Sacramento County California.
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1 2. JAMES HARD is the President of the SEIU 1000 and Respondent SEIU is the entity
2 from which Petitioner has requested records pursuant to California Corporations Code Section
3 8334. The SEIU Local 1000 has its office in the County of Sacramento in the State of
4 California.
5

6 3. Petitioner has requested for several months to review bank statements and/or summary
7 statements concerning the Legal Defense Fund. Petitioner has been denied access to such records
8 each and every time he has requested to inspect said records.
9

10 4. Petitioner hired Robert McCann (hereinafter "McCANN") to represent him and contact
11 the SEIU on his behalf as director to request access to said records. On October 3, 2007,
12 McCANN requested in writing that Petitioner, as a director of the SEIU, be allowed access to
13 said records (See Exhibit #1). To this date McCANN no response has been forthcoming.
14 McCANN made another request in writing which has also been completely ignored by
15 Respondents (See Exhibit #2). Said letter also indicated that attorney's fees would be requested
16 should further legal action be necessary to gain access to said records.
17

18 5. California Corporations Code Section 8334 provides:

19 "Every director shall have the absolute right at any reasonable time to inspect and copy
20 all books, records, and documents of every kind and to inspect the physical properties of the
21 corporation of which such person is a director".
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1 6. Petitioner, as a director, has the absolute right to inspect said records under the
2 California Corporations Code Further, California Corporations Code Section 8337 Provides:

3 “In any action or proceeding under this article, and except as required by Section 8331, if
4 the court finds the failure of the corporation to comply with a proper demand thereunder was
5 without justification, the court may award the member reasonable costs and expenses, including
6 reasonable attorney’ fees, in connection with such action or proceeding.”

7
8 7. This is the proper jurisdiction for this action as the SEIU Local 1000 is located in this
9 county and this Writ concerns nonjudicial acts and as such should be filed in superior court. See
10 Cal. Const art VI, §§10-11; Huntington Beach Police Officers Ass’n v. City of Huntington
11 Beach (1976) 58 CA3d 492, 495, 129 CR 893.

12
13 8. Petitioner has no other remedy at law as his repeated requests to inspect documents he
14 is legally entitled to inspect have been ignored. Respondent’s failure to comply is without
15 justification or legal basis.

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18 **WHEREFORE**, Petitioner as a director of the SEIU respectfully pray that:

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20 1. An alternative writ of mandate issue under the seal of this Court commanding
21 Respondent’s to allow within 15 days of the date of the order the inspection of the corporate
22 records, specifically, but not limited to, any and all statements (bank or any other statements)
23 relating to the Legal Defense Fund, or to show before this Court at a time and place then or
24 thereafter specified by Court order why it has not done so and why peremptory writ should not
25 issue; and
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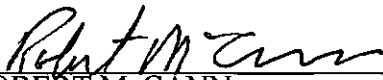
1 2. After hearing on this petition, this Court issue a peremptory writ commanding
2 Respondent' to allow the inspection of the corporate documents as requested by Petitioner; and

3 3. Petitioner be awarded costs of this action, including but not limited to attorneys fees
4 and costs; and
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6 4. Other relief be granted as the Court considers just and proper.
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8 DATED: December 7, 2007

Respectfully submitted,

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12 ROBERT McCANN,
13 Attorney for Petitioner
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VERIFICATION

I, ROBERT McCANN, declare:

I am the attorney for petitioner in this action. I have prepared correspondence to the SEIU directed to James Hand specifically requesting Petitioner be allowed to review corporate documents pursuant the California Corporations Code. I have also reviewed the documents and the discussed this matter at length with Mr. Hernandez.

I have read the above petition for writ of mandate and know its contents. All the facts alleged in the petition not otherwise supported by citations to the record, exhibits, or other documents are true of my own personal knowledge. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 7th day of December 2007 at Sacramento, California.


ROBERT McCANN,
Attorney for Petitioner

EXHIBIT 1

MCCANN & ASSOCIATES

2230 L STREET, SACRAMENTO, CA 95816 (916) 492-8111 FAX (916) 448-0466

Sent Via U.S. Mail

October 3, 2007

JAMES HARD, PRESIDENT
SEIU LOCAL 1000
1108 "O" STREET
SACRAMENTO, CA 95814

FAX: (916) 554-1272

**Re: ALEX HERNANDEZ, DIRECTOR SEIU LOCAL 1000
REQUEST FOR INSPECTION OF DOCUMENTS**

Dear Mr. Hard,

This is to advise you that Alex Hernandez, Director SEIU Local 1000, has retained our office to represent him in his request for inspection of corporate documents in accordance with California Corporations Code section 8334. Over the last several months Mr. Hernandez has requested to review bank statements and/or summary statements concerning the Legal Defense Fund. As of this date he has been denied access to inspect the documents or provided copies of the statements.

In the event it becomes necessary to pursue legal action to obtain the documents attorney fees and costs will be sought in accordance with California Corporations Code section 8337.

Your anticipated cooperation and assistance is appreciated.

Should you have any questions or concerns, please don't hesitate to contact me at the above number.

Sincerely,



Robert E. McCann, Esq.

CC: PAUL HARRIS, CHIEF COUNSEL
FAX: (916) 554-1272

EXHIBIT 2

MCCANN & ASSOCIATES

2230 L STREET, SACRAMENTO, CA 95816 (916) 492-8111 FAX (916) 448-0466

Sent Via U.S. Mail

October 17, 2007

JAMES HARD, PRESIDENT
SEIU LOCAL 1000
1108 "O" STREET
SACRAMENTO, CA 95814

FAX. (916) 554-1272

**Re: ALEX HERNANDEZ, DIRECTOR SEIU LOCAL 1000
SECOND REQUEST FOR INSPECTION OF DOCUMENTS**

Dear Mr Hard,

On October 3, 2007 I submitted a written request for inspection of corporate documents in accordance with California Corporations Code section 8334 on behalf of Alex Hernandez. Over the last several months Mr. Hernandez has requested to review bank statements and/or summary statements concerning the Legal Defense Fund. As of this date he has been denied access to inspect the documents or provided copies of the statements.

I am in the process of drafting the pleadings necessary to pursue legal action to obtain the documents Attorney fees and costs will be sought in accordance with California Corporations Code section 8337.

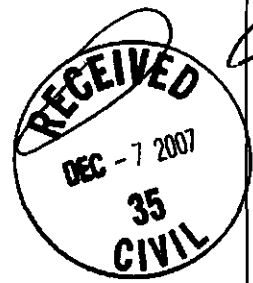
Should you have any questions or concerns, please don't hesitate to contact me at the above number

Sincerely,



Robert E. McCann, Esq.

CC. PAUL HARRIS, CHIEF COUNSEL
SEIU LOCAL 1000
1108 "O" STREET
SACRAMENTO, CA 95814



1 **ROBERT McCANN** SB1702FG
2 McCANN & ASSOCIATES
3 STATE BAR NUMBER 6
4 2230 J STREET
5 SACRAMENTO, CA 95816
6 (916)492-8111

7 ATTORNEY FOR. ALEX HERNANDEZ

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF SACRAMENTO**

11 ALEX HERNANDEZ,
12 Petitioner
13 vs.
14 JAMES HARD AND SEIU LOCAL 1000
15 Respondents.
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17 - - - - -

PREEMPTORY WRIT OF MANDATE

18 TO JAMES HARD AND THE SERVICES EMPLOYEE INTERNATIONAL UNION LOCAL
19 1000 Respondents:

21 WHEREAS, on _____ judgment was entered in
22 this action, ordering that a peremptory writ of mandate be
23 issued from this Court.

24 THEREFORE YOU ARE HEREBY COMMANDED, within fifteen (15)
25 days from the date this writ is served on you to allow
26 Petitioner ALEX HERNANDEZ in order to effectively represent the
27 members as a director to inspect and copy corporate documents
28 described as any and all documents, including but not limited

1 to, bank statements and/or summary statements concerning the
2 Legal Defense Fund.

3 YOU ARE FURTHER COMMANDED to make and file a return to this
4 writ within 31 days from the date a copy of this writ is served
5 on you showing what you have done to comply with this writ.

6
7 Dated: _____

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11 _____
12 Clerk
13 By _____
14 Deputy

15 LET THE FOREGOING WRIT ISSUE

16 Dated: _____

17 _____
18 JUDGE OF THE SUPERIOR COURT
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