

EXHIBIT 9

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

HOME CARE ASSOCIATION OF AMERICA, <i>et al.</i>,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 14-cv-967 (RJL)
)	
DAVID WEIL, <i>et al.</i>,)	
)	
Defendants.)	

DECLARATION OF KIRK ADAMS

I, Kirk Adams, am the Executive Vice President of the Service Employees International Union. I possess personal knowledge of the matters set forth in this declaration, am competent to testify to the same, and if called to testify my testimony would be as stated in this declaration. I declare pursuant to 28 U.S.C. § 1746 under penalty of perjury that the following is true and correct:

1. My name is Kirk Adams. I am Executive Vice President of the Service Employees International Union (SEIU), CTW, CLC. As Executive Vice President, I have been assigned by International Union President Mary Kay Henry to oversee the SEIU Healthcare Division that includes over 500,000 SEIU-represented homecare workers.

2. SEIU is a union of more than two million men and women in the United States, Canada and Puerto Rico. SEIU represents more than 500,000 home care workers who will be directly affected by the Department of Labor rule that is the subject of this litigation. Many of our home-care-worker members are also family members of the elderly and disabled consumers they care for, so they and their family members are also affected by the new rule as consumers.

3. In 2012, SEIU submitted detailed comments supporting the Department of Labor's rule, drafted based on our members' direct experience as both home care workers and as family members of homecare consumers.

4. SEIU's comments are attached hereto as Exhibit A. SEIU's comment makes several key points that are relevant to the harm further delay of the revised "companionship services" regulation will likely cause. These points include:

a. Over the next 40 years, the number of Americans aged sixty-five and over is expected to double, from 40.2 million in 2010 to a projected 88.5 million in 2050.

During the same time period, the number of Americans expected to need at least some type of long-term care services is projected to grow more than 100%, to 27 million from approximately 12 million.

b. Because of these demographic changes, and because of the rebalancing of care away from institutionalization and in favor of care at home, it is estimated that while 1.9 million workers were employed as personal care and home health aides in 2010, we will need 3.2 million workers to fill those jobs by 2020.

c. As described at pages 3-4 of SEIU's comments, homecare is a vocation plagued by low pay and poor benefits, inadequate training, and high workloads and workplace injury rates. The median annual wage for personal care aides is barely \$16,000 (according to 2012 Bureau of Labor Statistics data), leaving a typical worker well below the poverty line.

d. The negative effects of this undervaluing of homecare work are seen in several different ways:

- i. First, the effect is seen in very high turnover rates. A 2011 report from the Paraprofessional Healthcare Institute, which we cited in our comments, found staggeringly high turnover rates, in some cases approaching 100% annually. These rates make for an unstable workforce and interfere with continuity of care, which is so important for many of the elderly and disabled.
- ii. Second, the effect is seen in the difficulty some consumers already have in finding quality workers to provide homecare. Without decent wages, workers are not attracted to the job. One major study, cited on p.19 of our comments, found that when consumers were given the option of using an individual budget to purchase services directly substantial proportions could not find any worker to hire.
- iii. Third, the effect is seen indirectly in the high injury rates for workers in this industry: 2011 Bureau of Labor Statistics data shows that direct care workers have one of the highest workplace injury and illness rates among all occupations, outranking laborers, paramedics, firefighters and even correctional officers. See p.5 of our comments. Homecare is difficult and physically taxing work, and workers being forced to work very high numbers of hours because of low pay presumably contributes to high injury rates.

5. My experience working with this industry across the country contradicts the claims stating that the new regulation will promote institutional bias in Medicaid, lead to great institutionalization, and reduce the home care workforce. Our members have negotiated pay

increases for homecare workers in states throughout the country. It has not been our experience that those pay increases have promoted institutional bias, led to greater institutionalization or reduced the homecare workers. In California, for example, homecare workers began organizing in the 1990s and most are now covered by collective bargaining agreements. Because of those efforts and agreements, workers who made only \$3.75 per hour when they first began organizing negotiated the right to \$6.75 per hour in 1999 and can now earn over \$12 per hour. Rather than lead to institutionalization and less homecare, the homecare program in California has remained vibrant.

6. After this court issued a temporary restraining order on December 31, 2014, the state of California announced that it would not implement a carefully negotiated resolution (under which workers may work as many as 66 hours per week and will be paid overtime) and would not begin to pay homecare workers overtime as of January 1, 2015. California had been planning to implement overtime pay notwithstanding the Department of Labor's non-enforcement policy, and state officials and workers there have devoted much effort toward preparing and implementing a new hours tracking and timesheet system.

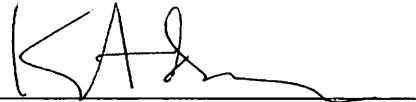
7. California's hold is in effect until this court rules on a preliminary injunction. In other words, approximately 385,500 home care workers and 280,000 SEIU members in California will suffer reduced pay and immediate and irreparable harm (in the form of uncompensated overtime) if a preliminary injunction is issued, and have already suffered that harm because of the temporary restraining order.

8. In other states, our members have devoted countless hours over the course of the past year to working toward implementation of the Department of Labor rule. In California, Oregon, Washington, Minnesota, Illinois, Massachusetts and elsewhere our local leaders have

met and developed and discussed implementation proposals with workers, allies in the disability and consumer community, and/or state officials. In Oregon, for example, our members have been working collaboratively with consumers and state officials to develop and exchange policy proposals for implementing the new rule, with the goal of ensuring responsible implementation in the next state budget cycle, which in most states is completed within the first six months of the calendar year. SEIU will continue to work with our allies in the consumer community, state governors and legislatures and the federal government to improve Medicaid and Medicare funding so that homecare services can be expanded and adequate wages paid.

I declare pursuant to 28 U.S.C. § 1746 under penalty of perjury that the foregoing is true and correct. Executed on this 5th day of January, 2015.

Washington, DC

A handwritten signature in black ink, appearing to read 'KAD', written over a horizontal line.

Kirk Adams, Executive Vice President
Service Employees International Union