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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

HARRY J. BEIER, an individual, JOHN R. SCHOLZ, an individual, KEVIN E. BYBEE, an individual, and SALLY DILL, an individual.

on behalf of themselves and all others similarly situated;

Plaintiffs,

vs.

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, a labor organization; TEAMSTERS SFO LOCAL 856/986, a labor organization; JAMES HOFFA, in his official capacity as INTERNATIONAL BROTHERHOOD OF TEAMSTERS President and Representative; PETER FINN, in his official capacity as TEAMSTERS SFO LOCAL 856/986 Principal Officer; UNITED AIRLINES, INC., a Delaware corporation; UNITED CONTINENTAL HOLDINGS, INC., a Delaware corporation;

Defendants.

Case No.: 18-cv-06632-JD

PLAINTIFFS' FIRST AMENDED COMPLAINT

REQUEST FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

CLASS ACTION

DEMAND FOR JURY TRIAL

PLAINTIFFS' FIRST AMENDED COMPLAINT

1 Plaintiffs Harry J. Beier, John R. Scholz, Kevin E. Bybee, and Sally Dill, (collectively,
2 “Plaintiffs”), by and through undersigned counsel, allege and aver as follows:

3 **I. INTRODUCTION**

4
5 1. Plaintiffs, employees of United Airlines (“UAL”), a subsidiary of United Continental
6 Holdings, (“UCH”), collectively, (“Company”), bring this action for damages. Plaintiffs allege
7 their union, International Brotherhood of Teamsters, (“IBT”) and their local, Teamsters SFO
8 Local 856/986, (“SFO Local”), collectively, (“Union”), have caused a major dispute by
9 breaching their duties of fair representation under the Railway Labor Act, (“RLA”), 45 U.S.C.
10 §151, et seq., and that the Company has caused a major dispute by violating certain contractual
11 rights in securing the most recent collective bargaining agreement, (“CBA”), between the
12 Company and the Union, through unilateral decisions regarding the Continental Airlines
13 Retirement Plan, (“CARP”), and the Company’s profit sharing plan, as it relates to Plaintiffs and
14 others similarly situated.
15

16
17 2. Plaintiffs further allege the Company and the Union have breached various fiduciary
18 duties owed to the Plaintiffs and others similarly situated, under the RLA, Labor Management
19 Reporting Disclosure Act, (“LMRDA”), and the Employee Retirement Income Security Act,
20 (“ERISA”). Plaintiffs assert the breaches by the Defendants have cost the Plaintiffs and others
21 similarly situated hundreds of millions of dollars in lost pension benefits and in lost profit-sharing
22 revenues. Plaintiffs respectfully request this court remedy these injustices. Plaintiffs further request
23 certain declaratory and injunctive relief be granted under ERISA.
24

25 **II. JURISDICTION AND VENUE**

26 4. Jurisdiction is proper in this court over Plaintiffs’ claims against the Defendants pursuant
27 to 28 U.S.C. §1331 because the case arises under federal law, namely the RLA, under which
28 Plaintiffs assert is a federal claim. Jurisdiction also arises pursuant to 28 U.S.C. §1337, as this is

1 an action arising under a statute regulating commerce and/or protect trade and commerce against
2 restraints, namely the RLA.

3 5. Plaintiffs' claims are also brought under LMRDA, 29 U.S.C. Section §501(b), under
4 ERISA, 29 U.S.C. §1132(e), under the Class Action Fairness Act, 28 U.S.C. §1332(d)(2), and
5 under Labor Organizations Act, 29 U.S.C. §185(c)(2).
6

7 6. Plaintiffs' claims are also brought under the Declaratory Judgment Act, 28 U.S.C. §§2201
8 and 2202, and seek a declaration as to the parties' rights and obligations under the RLA and
9 ERISA. Plaintiffs' are entitled to such a declaration because the instant dispute is an actual and
10 existing controversy.
11

12 7. Venue is proper in this Court under 28 U.S.C. §1391(b), (c) because the Defendants all
13 conduct substantial business in and at the San Francisco International Airport, located in the
14 County of San Mateo, all are entities with the capacity to sue and be sued, a substantial part of
15 the events or omissions giving rise to Plaintiffs' claims arose in this district, and Defendant
16 Company employs thousands of Defendant Unions' members in this district.
17

18 **III. INTRADISTRICT ASSIGNMENT**

19 8. Pursuant to Civil L.R. 3-2(c) and 3-2(d), this action is properly assigned to either the San
20 Francisco Division or the Oakland Division because a substantial part of the events giving rise
21 to the claims asserted herein occurred in the County of San Mateo.
22

23 **IV. PARTIES**

24 9. During the relevant periods, Plaintiffs were UAL employees as defined in Section 2,
25 Subsection (3) of 29 U.S.C. §152(3), members in good standing with the Union, and worked out
26 of airport facilities owned and operated by the Company.
27

28 10. And, at all times material, Plaintiffs have fully performed all of their obligations under

1 the terms of their CBA, accordingly, since October 1, 2010, Plaintiffs should have been
2 participants in CARP; however, they were only made participants of CARP on January 1, 2017.

3 11. Plaintiff Harry J. Beier (“Plaintiff Beier”) has been, and continues to be, at all material
4 times herein, a resident of the County of San Mateo, in the state of California. Plaintiff Beier, a
5 high school graduate and a navy veteran, is currently employed by UAL at the SFO-MOC
6 Maintenance Center in shop SFORQ at the San Francisco Airport, located in unincorporated San
7 Mateo County, in the state of California. Plaintiff Beier was hired by UAL on August 14, 1989
8 and has been so employed by UAL for almost thirty (30) years. Plaintiff Beier is currently an
9 Aviation Technician. Plaintiff Beier is a member in good standing of the Teamsters SFO Local
10 856/986 and a participant in CARP since January 1, 2017.
11

12 12. Plaintiff John R. Scholz (“Plaintiff Scholz”) has been, and continues to be, at all material
13 times herein, a resident of the County of Alameda, in the state of California. Plaintiff Scholz, a
14 high school graduate, is currently employed by UAL at the SFO-MOC Maintenance Center
15 located at the San Francisco Airport, in unincorporated San Mateo County, in the state of
16 California. Plaintiff Scholz was hired by UAL on March 23, 1998 and has been so employed at
17 all relevant times. Plaintiff Scholz is currently a Facilities Hydraulic Mechanical Technician.
18 Plaintiff Scholz is a member in good standing of the Teamsters SFO Local 856/986 and a
19 participant in CARP since January 1, 2017.
20

21 13. Plaintiff Kevin E. Bybee (“Plaintiff Bybee”) has been, and continues to be, at all material
22 times herein, a resident of the County of San Mateo, in the state of California. Plaintiff Bybee, a
23 high school graduate and a state certified automotive journeyman mechanic, is currently
24 employed by UAL at the SFO-MOC Maintenance Center located at the San Francisco Airport,
25 in unincorporated San Mateo County, in the state of California. Plaintiff Bybee was hired by
26
27
28

1 UAL on January 3, 1989 and has been so employed at all relevant times. Plaintiff Bybee is
2 currently employed by UAL as a Base Specialty Hydraulic Mechanical Technician. Plaintiff
3 Bybee is a member in good standing of the Teamsters SFO Local 856/986 and a participant in
4 CARP since January 1, 2017.
5

6 14. Plaintiff Sally Dill (“Plaintiff Dill”) has been, and continues to be, at all material times
7 herein, a resident of the County of McHenry, in the state of Illinois. Plaintiff Dill, certified as an
8 airframe and power plant certificate by Lewis University in Romeoville, in the state of Illinois,
9 is currently employed by UAL at the O’Hare Service Center Hangar, located at the O’Hare
10 Airport, in Chicago, in the state of Illinois. Plaintiff Dill was hired by UAL on April 16, 1984
11 and has been so employed at all relevant times. Plaintiff Dill is currently employed by UAL as
12 a Lead Aircraft Mechanic. Plaintiff Dill is a member in good standing of Teamsters Local 781
13 and a participant in CARP since January 1, 2017.
14

15 15. Defendant IBT is a labor organization with its principal offices located at 25 Louisiana
16 NW, in Washington, in the District of Columbia. Defendant IBT is a labor organization within
17 the meaning of 29 U.S.C. §§152 and 185 and is the certified representative under the RLA for
18 the nationwide craft or class of Mechanics and Related Technicians, (“UAL Mechanics”),
19 employed by UAL. Defendant IBT’s agents are similarly engaged in representing or acting for
20 employee members in this district.
21

22 16. IBT represents the approximately 11,000 UAL Mechanics on a systemwide basis. UAL’s
23 largest aircraft maintenance facility is located in San Francisco, California and UAL employs
24 more mechanics in San Francisco – approximately 4,000 – than in any other location.
25

26 17. Individual Defendant James Hoffa, (“Hoffa”), President and Representative, is an officer
27 of IBT who acts in his identified position pursuant to the IBT Constitution. Hoffa maintains an
28

1 office in IBT’s principal office in Washington, D.C.

2 18. IBT also has chartered local unions, including SFO Local, as agents of IBT to represent
3 UAL Mechanics in locations throughout the United States as part of nationwide bargaining unit.

4 19. SFO Local is a chartered local of IBT. SFO Local’s principal office is located at 453 San
5 Mateo Avenue, in San Bruno, in the state of California, and its duly authorized officers or agents
6 are engaged in representing or acting for employee members in this district.
7

8 20. Individual Defendant Peter Finn, (“Finn”), Secretary-Treasurer and Principal Officer of
9 SFO Local, is a member of IBT’s bargaining committee and grievance committee and is
10 responsible for negotiating collective bargaining agreements and implementing all terms and
11 conditions therein. Finn is also IBT’s agent. Finn maintains an office in at the SFO Local
12 principle office and an office on the UAL airport property.
13

14 21. Defendant UAL is, and at all times material times, a corporation, duly organized and
15 operating pursuant to the laws of the State of California and engaged in providing airline services
16 and in doing so maintains airports throughout the world, including the San Francisco
17 International Airport, located in unincorporated San Mateo County, California.
18

19 22. Now, and at all times material, Defendant UAL is a “common carrier” by air engaged in
20 interstate or foreign commerce under 45 U.S.C. §181 and is subject to the provisions of the RLA.
21 And, Defendant UAL is and has been engaged in “commerce” and in operations “affecting
22 commerce,” as defined in Section 2, Sub-Sections (6) and (7) of 29 U.S.C. §152. Defendant UAL
23 is also an “employer,” as defined in Section 2, Subsection (2), of 29 U.S.C. §152. Defendant
24 UAL is, and has been, a party to all relevant collective bargaining agreements. Defendant UAL
25 is also a plan sponsor and plan fiduciary of CARP.
26

27 22. Defendant UCH is, and at all times material, a holding company; its principal subsidiary
28

1 is UAL. UCH is duly organized in the State of Delaware and operates pursuant to the laws of the
2 State of California, having its principal place of business located in Willis Tower, 233 South
3 Wacker Drive, in Chicago, in the state of Illinois. UCH is and has been a party to all relevant
4 collective bargaining agreements. UCH administers and controls the retirement benefits and the
5 profit-sharing benefits for Plaintiffs. Defendant UAL is also a plan sponsor and plan fiduciary
6 of CARP.
7

8 V. RELEVANT FACTUAL ALLEGATIONS

9 A. Bankruptcy and Concessions

10 23. In late 2002, United Air Lines Corporation, the then parent company of UAL, and its
11 subsidiaries, including UAL, filed for protection under Chapter 11 of the Bankruptcy Code.
12 During the bankruptcy proceedings, the UAL Mechanics, represented at the time by the Aircraft
13 Mechanics Fraternal Organization, (“AMFA”), were forced, along with other work groups, to
14 make substantial concessions regarding wages and benefits in order for the company to have its
15 reorganization plan approved.
16

17 24. As a result, the UAL mechanic group completely lost its defined benefit pension plan and
18 took an approximate 25% wage reduction. As a partial substitute for the terminated defined
19 benefit pension plan, the parties agreed to a defined contribution plan, commonly known as a
20 401k. To make up for the dramatic wage cuts, a profit-sharing plan, based on a promulgated
21 formula was agreed upon.
22

23 25. These changes to the then existing CBA were reduced to a writing – Letter of Agreement
24 05-03M (“LOA 05-03M”). LOA 05-03M is an enforceable contract, plain and simple, between
25 the employees and the employer regarding the rights and duties of the parties in light of the
26 bankruptcy concessions.
27
28

1 26. LOA 05-03M attached to the CBA, colloquially referred to as a side letter, is like any
2 other contract; it survives on its own as a contract and it survives as a contract regardless of any
3 change in union representation or merger. A “successor” clause is standard, boiler plate language
4 in almost every CBA and all CBAs for UAL Mechanics include such successor clause language.
5 Not a word of LOA 05-03M or the CBA for that matter would or could be changed simply by
6 electing new collective bargaining representation. This is basic contract and CBA contract
7 interpretation and the terms of LOA 05-03M state the same.
8

9 27. The provisions of LOA 05-03M were negotiated by AMFA. AMFA, seeking to protect
10 the members as much as it could, bargained for very specific language to ensure, among other
11 things, if pensions were brought back to the Company, the UAL Mechanics would be offered a
12 pension as well. Specifically, AMFA fought for and won express terms in LOA 05-03M stating
13 in the event the Company “maintains or establishes a defined benefit plan for any UAL or
14 company employee group, the Company must allow UAL Mechanics, represented by AMFA or
15 by any then existing union representation, the option of voting” on whether to swap the
16 replacement defined contribution plan, for a defined benefit plan or, at a minimum, to stay in the
17 defined contribution plan, albeit with better terms. LOA 05-03M evidences this on its face.
18
19

20 28. No other work group – pilots, flight attendants, others – included such language in their
21 bankruptcy concession negotiations agreements. Easily accessible and proffered notes and
22 witness testimony from these specific negotiations documenting the purposeful drafting of the
23 language were and are available. The carefully crafted language was a conscious decision made
24 in light of the knowledge the Company was then in negotiations to merge with other airlines,
25 airlines having defined benefit pension plans in place. AMFA negotiators deliberately and
26 knowingly considered and provided for the possibility of a merger with an airline with an existing
27
28

1 defined benefit pension plan to give UAL Mechanics the best chance to restore the pensions and
2 wages being conceded because of the bankruptcy.

3 **B. Bankruptcy Concession Agreement - Letter of Agreement 05-03M**

4
5 29. As stated above, LOA 05-03M was originally negotiated by AMFA, the UAL Mechanics
6 union representative in 2005, during the Company's bankruptcy, which was filed in 2002. In
7 order for the Company's reorganization plan to be confirmed, massive wage concessions needed
8 to be made by all UAL employee groups, specifically, the defined benefit pension plans needed
9 to be terminated and wages needed to be dramatically reduced. After hard fought negotiations,
10 the Company secured the necessary concessions allowing the Company to terminate the defined
11 benefit pension plan and reduce wages. The parties' agreement regarding plan termination and
12 wage concessions was reduced to a writing – LOA 05-03M.
13

14 30. LOA 05-03M was executed on May 15, 2005, and the UAL board of directors ratified
15 LOA 05-03M on January 1, 2006. LOA 05-03M was published as an exhibit to UAL's 2006
16 Form 10K.
17

18 31. Although the Union in this lawsuit was not a signatory to LOA 05-03M, the Union is a
19 party to it because the Union became the certified representative of the UAL Mechanics in 2008.
20 After a hard-fought campaign against AMFA, the Union was voted onto the Company property
21 as the UAL Mechanics representative in 2008 and certified by the National Mediation Board,
22 ("NMB"), as such. Under the RLA, because there was a ratified and executed CBA in place at
23 the time of the union's certification, the Union accepted both benefits and obligations of the
24 contract as if the Union was an original signer to it, for and on behalf of the affected employees.
25 And, while the RLA allows for new representation opened up an existing CBA for negotiations,
26 the Union chose not to.
27
28

1 32. The CBA in place and accepted by the Union following the representation election
2 included a fully executed LOA 05-03M – the glimmer of hope for those working hard to help the
3 company survive and become financially viable again to provide a potential mechanism to be
4 made whole if the company was able to turn around.
5

6 **1. “Maintains or Establish a Single-Employer Pension Plan.”**

7 33. LOA 05-03M, Section 5, Paragraph D specifically provides in pertinent part, “[f]ollowing
8 the Plan Termination Date, the Company shall not maintain or establish any single-employer
9 defined benefit plan for any UAL or Company employee group unless AMFA-represented
10 employees are provided the option of electing to receive a comparable defined benefit plan in
11 lieu of the Replacement Plan Contribution.”
12

13 34. Essentially, UAL must allow UAL Mechanics the option of participating in a comparable
14 defined benefit plan or, at a minimum, the right to vote on whether to swap the existing defined
15 contribution plan for a defined benefit plan.
16

17 35. Again, the AMFA negotiators had specifically put in the unique language of “maintains.”
18 This was intentional so as to provide for the possibility of a merger with an airline with an existing
19 defined benefit pension plan. Logically, the term “maintains” would only be appropriate for a
20 merger scenario because the pension plans had been terminated in bankruptcy proceedings and
21 therefore, the plan would have to come from another company, from a merger with another.
22

23 36. Nothing in LOA 05-03M references, includes, refers to, or suggests UAL Mechanics
24 rights to join CARP are dependent on approval from any other work group at UAL who is
25 currently in CARP or may hope to join CARP. LOA 05-03M’s terms were the result of the
26 negotiations during the bankruptcy proceedings in order to get the UAL Mechanics to agree to
27 the wage reductions and pension plan termination needed for UAL to have its bankruptcy plan
28

1 confirmed, with the underlying intent to recognize and respond to the substantial sacrifices being
2 made by UAL Mechanics. Any “me too” suggestion ignores the express and explicit language
3 and terms of the agreement.
4

5 **2. Profit-Sharing Contribution**

6 37. LOA 05-03M, Paragraph 6 provides, “Company Profit Sharing Contribution. The 2005-
7 2009 Mechanics’ Agreement shall provide for AMFA-represented employees to participate in
8 the revised profit-sharing program described in Exhibit C to this Letter of Agreement.

9 38. The language in Paragraph 6 also fully reflects the underlying intent of the bargainers to
10 recognize and respond to the substantial wage sacrifices made by the UAL Mechanic employees
11 during concession bargaining during the bankruptcy. The profit-sharing piece of the side letter
12 was to provide incentive for the then morally deflated UAL Mechanics to keep striving to make
13 the airline thrive and as a way to make up for the wage reductions.
14

15 39. LOA 05-03M, Exhibit C referenced above provides, “Eligibility: All domestic employees
16 of UAL Corp. or United Air Lines, Inc. (including all AMFA-represented employees) who have
17 completed one year of service as of December 31st of the year for which Pre-Tax Earnings are
18 being measured.”
19

20 **3. Amendments and Waiver of the Statute of Limitations**

21 40. LOA 05-03M, Paragraph 13 provides, “Amendments; Waiver. This Letter of Agreement
22 may be amended, modified, superseded or canceled and any of its provisions may be waived only
23 by a written instrument executed by all parties or, in the case of a waiver, by the party waiving
24 compliance. The failure of any party *at any time* to require performance of any provision of this
25 Letter of Agreement shall not affect the right of that party *at a later time* to enforce the same or
26 a different provision. No waiver by any party of a right under this Letter of Agreement shall be
27
28

1 deemed or construed as a further or continuing waiver of any such right with respect to the same
2 or a different provision of this Letter of Agreement.

3 41. LOA 05-03M further grants any of the parties to the agreement a right to bring actions
4 relating to the performance under this document at any time.
5

6 **C. Merger of United and Continental in 2010**

7 42. On or about May 2, 2010, such a merger occurred; the Company entered into a merger
8 agreement with Continental Airlines and Continental Airlines became a wholly owned subsidiary
9 of United Air Lines Corporation. Following the completion of the transaction, UAL was merged
10 into Continental with United Air Lines Corporation as the parent company. Shortly thereafter,
11 United Air Lines Corporation changed its name to United Continental Holdings (UCH).
12

13 43. While the companies may have merged, the CBAs did not; each mechanic group still
14 operated under their own unique CBA. Claiming a “necessity of efficiency,” the Union insisted
15 on continuing the separate CBAs and then later securing a combined CBA. The Company
16 acquiesced to this demand.
17

18 44. On or about February 22, 2011, the Company, in a Securities and Exchange Commission
19 10k filing, stated it had assumed responsibility for Continental’s pension, Continental Airlines
20 Retirement Plan, (“CARP”), obligations beginning October 1, 2010.
21

22 45. In a letter, signed by Vice President of Tech-Ops Joe Ferreira, referenced in the
23 Continental Mechanics 2009-2012 CBA, the Company explicitly states and reaffirms its staunch
24 commitment to “maintain” CARP for Continental technicians and related employees.

25 46. At the time of the merger, Plaintiffs, and many others across the system, were told not to
26 worry about LOA 05-03M because it would all be worked out in negotiations when the CBAs
27 for similar work groups were combined. Plaintiffs were entirely dependent upon all Defendants
28

1 for any information and for any assertions being accurate because of the secrecy and
2 confidentiality under which the merger was conducted.

3 47. On information and belief, an official corporate entity merger occurred sometime in 2013;
4 however, and as stated above, the Company began to maintain CARP shortly after the merger in
5 mid-2010 and the Union was well aware of this fact.
6

7 **D. Collective Bargaining Agreements**

8 **1. *Pre-Merger CBAs***

9 48. At the time of the merger, both airlines mechanics' CBAs were in an amendable period.
10 UAL Mechanics CBA had become amendable at the end of 2009. Continental Mechanics' CBA,
11 amendable since 2008, was still in negotiations at the time of the merger.
12

13 49. At the time of the merger, both mechanics groups were represented by IBT – Continental
14 Mechanics since 1995 and UAL Mechanics since 2008.
15

16 **2. *First Post-Merger CBAs***

17 50. The Union and the Company mutually agreed to delay combining the mechanic work
18 groups and instead decided to keep the CBAs separate while the Company was navigating other
19 logistics of merging the two airlines.
20

21 **a. Continental CBA**

22 51. Fairly quickly, Continental Mechanics entered into a new CBA in August of 2010, made
23 retroactive to commence on January 1, 2009, amendable at the end of 2012. Under the terms of
24 the 2009-2012 CBA, Continental Mechanics had a single-employer defined benefit pension plan,
25 CARP; however, the Continental Mechanics gave up previously held profit sharing rights.
26

27 **b. UAL Mechanics CBA**

28 52. On December 11, 2011, the UAL Mechanics entered into their new CBA. The agreement

1 did not provide any change in pension benefits; however, the CBA did continue the bankruptcy
2 wage replacement profit-sharing plan for UAL Mechanics. The Union, in public statements and
3 official releases stated they had essentially foisted the Continental CBA onto the UAL
4 Mechanics, reasoning the two work groups would soon be combined and having more similar
5 CBAs would make the process that much easier. No seeming consideration was taken for the fact the
6 Continental CBA was not as lucrative or beneficial to the UAL Mechanics.
7

8 53. Contrary to the provisions of LOA 05-03M, Plaintiffs were not accorded the required
9 vote to elect CARP either prior to, during, or after the ratification in late December of 2011 of
10 the 2010-2013 CBA. The Union told Plaintiffs “not to worry” “it will be dealt with in the next
11 CBA, this is just a patch while we sort out combining the groups.”
12

13 54. It should be noted, LOA 05-03M is listed in the 2010-2013 UAL Mechanics CBA as
14 LOA #17. The Union renumbered LOA 05-03M on their own accord and for no discernible
15 purpose other than indexing the side letter with all of the other side letters accrued over the years.
16 LOA #17 is LOA 05-03M; the documents are one and the same. Nonetheless, the obligations
17 carried forward just like any other contract provision under the RLA.
18

19 **3. Combined CBA**

20 55. The UAL Mechanics 2010-2013 CBA expired and became amendable on December 31,
21 2013; the Continental Mechanics 2009-2012 CBA had become amendable at the end of 2012.
22

23 56. On information and belief, the Union filed Section 6 notices sometime in 2013, to open
24 up negotiations to combine the two work groups. A Section 6 notice refers to the provision of
25 the RLA obligating carriers and unions to provide timely notice of intended changes to rates of
26 pay, rules and working conditions. A Section 6 “Notice of Intended Change,” triggers the parties’
27 obligation to commence direct negotiations. Under the RLA, once the Section 6 notices are filed
28

1 and a CBA is amendable, the parties must maintain the status quo until an agreement has been
2 reached or until the statutory negotiation process is exhausted at the end of a 30-day cooling off
3 period.

4
5 57. During the period of status quo, air carriers are prohibited from changing rates of pay,
6 rules and working conditions except as provided for in agreements. Unions are prohibited from
7 engaging in any form of self-help against the carrier for the purpose affecting negotiations.

8
9 58. Disputes arising during this status quo period are regarded as major disputes because
10 technically there is no existing CBA to interpret, the parties are in the process of creating one or
11 of securing new rights, and therefore, the issue is not whether the existing agreement controls the
12 controversy, the focus is on the acquisition of rights for the future, not to assertion of rights
13 claimed to have vested in the past.

14
15 59. Negotiations to integrate were intense, protracted, and completely in secret. Any and all
16 Union negotiations surrounding LOA 05-03M and any other bargaining matters were shrouded
17 in total secrecy and were never communicated in any coherent or comprehensive manner to the
18 membership. The membership were completely in the dark until the first tentative agreement
19 was presented to the membership in late 2015.

20
21 60. Included in this tentative were terms relating to CARP and profit sharing. The required
22 separate stand-alone vote for UAL Mechanics opting for CARP or the defined contribution plan
23 would occur approximately six (6) months after ratification of the new CBA. And, if opted for,
24 CARP would not be retroactively applied, commencing for UAL Mechanics on January 1, 2017.

25
26 61. Profit sharing was also addressed in this tentative – the Union bargaining and
27 recommending to the members to reduce profit sharing from the current 15% to 5%.

28
62. This tentative agreement was overwhelmingly rejected – 93.7% voted no.

1 63. As will be set forth in more detail below, another tentative agreement would be proposed
2 quickly and with several significant differences. For one, there would be no stand alone vote for
3 the UAL Mechanics regarding pension options – all mechanics would be enrolled in CARP with
4 a start date of January 1, 2017.
5

6 64. Second major change was a buyout provision – likely directly intended to entice those
7 UAL Mechanics that had been holding out for the retroactive CARP implementation to retire –
8 offered by the Company, a one-time \$100,000 buyout.
9

10 65. The tentative was passed by a razor thin margin – 50.6% to 49.4%.

11 66. Prior to the vote on the tentative agreement, many UAL Mechanics demanded answers
12 as to why they were not being afforded the LOA 05-03M UAL Mechanics separate vote for
13 CARP and why they were denied retroactivity back to when the Company began to maintain
14 CARP. They were explicitly told by the Union – your vote rejecting the February 2016 tentative
15 agreement was the vote on CARP. All will testify to this express statement having been made to
16 them directly, in front of others, over and over again.
17

18 67. As will be set forth in more detail below, in advance of the final vote on what would
19 become the 2016-2022 CBA, while the parties were still in the status quo period, Plaintiffs’ filed
20 grievances to address the issues presented by this latest tentative agreement and more broadly,
21 the treatment of LOA 05-03M’s additional provisions and how they should be dealt with in the
22 to be determined CBA.
23

24 **4. Grievance Procedures in 2010-2013 CBA**

25 **a. Article 18 – Union Representation**

26 68. Section A of Article 18 provides in pertinent part “[i]n order to provide for orderly and
27 peaceful labor relations the Company shall recognize the following Union Representatives to
28

1 participate in settling disputes within the framework of the Grievance Procedure:” (1) Shop
2 Stewards; (2) Local Grievance Committee – active employee members elected or appointed as
3 Coordinators, Chief Stewards and / or Secretaries at each point, in the same numbers existing as
4 of date of ratification of the 2010 – 2012 agreement; (3) Business Agents and Airline Division
5 Representatives of the Union who represent the Union with general officials of the Company;
6 and (4) a reasonable number of International IBT Officers.

8 69. All the named officials and/or representative have the ability to investigate grievances
9 and are mandated to notify one another should the need arise.

10 70. Section B of Article 18 provides, “the Company will designate a representative(s) at each
11 location where persons covered by this Agreement are employed who is empowered to settle all
12 local grievances not involving change in Company policy, or interpretations, or changes in the
13 intent and purpose of this Agreement.”

15 71. Section C of Article 18 provides, “the Union and Company will, at all times, keep the
16 other party advised through written notice of any change in authorized representatives.”

18 **b. Article 19 – Grievance Procedures**

19 72. Article 19 provides in pertinent part, “[s]hould a grievance occur, both the Union and the
20 Company shall make an earnest effort to ascertain the facts and seek a fair and equitable
21 settlement through the following procedures. It is the intent of the parties to settle complaints
22 and grievances at the lowest possible level in the procedure based upon the facts and common
23 sense.”

25 73. Article 19 further provides, “[i]n the event of a grievance arising over the interpretation
26 or application of this Agreement, the following [four-step] procedure shall be followed.

27 74. The First Step provides the aggrieved employee will first present the complaint to his
28

1 supervisor for discussion and possible solution within thirty (30) days after the employee or his
2 representative could reasonably have knowledge of the incident upon which the complaint is
3 based . . . During this discussion, the employee will have the right, but not the obligation, to be
4 represented by his shop steward or Local Business Representative . . . “[i]f the complaint cannot
5 be resolved through a discussion, the grievance shall be reduced to writing by the employee or
6 his representative, signed by the employee and his representative, and presented by the Union to
7 the supervisor within ten (10) calendar days after the date of the discussion . . . “[t]he grievance
8 will be answered in writing by the supervisor, who will send a copy to the grievant, the shop
9 steward and the Union Representative, within ten (10) calendar days after he receives the written
10 grievance.”
11
12

13 75. The Second Step provides, “[i]f the decision of the supervisor is not satisfactory, the
14 Union Representative may appeal the grievance directly to the designated Company Manager
15 that reports directly to a Vice President, with a copy to Labor Relations at the Company's office,
16 provided such appeal is presented in writing within ten (10) calendar days after the written
17 decision of the supervisor has been presented to the grievant, the shop steward, and the Union
18 Representative.”
19

20 76. The Second Step further provides, “[t]he designated Company Manager that reports
21 directly to a Vice President or their designee will meet to hear the grievance(s) within ten (10)
22 calendar days following the receipt of the written appeal. The grievant, the shop
23 steward/Coordinator and the Local Union business agent *shall be entitled to attend this meeting*
24 *and shall be allowed a reasonable opportunity to present relevant testimony and information.*
25 The designated Company Manager that reports directly to a Vice President shall issue his
26 decision in writing within ten (10) days after the presentation of such relevant testimony and
27
28

1 information.” And, “[w]ithin fourteen (14) calendar days after the receipt of the written decision
2 of the designated Company Manager that reports directly to a Vice President, if the decision is
3 not satisfactory to the employee and his Union Representative, the Union may appeal such
4 grievance to the Joint Board of Adjustment by serving a written notice to the Division Vice
5 President with a copy to Labor Relations at the Company's office.”

7 77. The Third Step provides, “[t]he Joint Board of Adjustment, (“Board”), shall be composed
8 of two (2) members designated by the Company and two (2) members designated by the Union.
9 The Board shall meet on a *monthly* basis as needed at stations throughout the system on a rotating
10 basis. Dates for the Board *shall be mutually agreed upon prior to the beginning of each New*
11 *Year.* . . . “The Joint Board shall render a decision no later than thirty (30) calendar days after it
12 has closed the record in the hearing of the case. The Joint Board's findings and decisions shall
13 be final and binding upon the Teamsters-Airline Division, the Company, and the individual
14 employee or employees to such dispute. If the Board deadlocks, the Union may appeal the case
15 to arbitration.”

17 78. Section E of Article 19 provides other general and procedural rules such as, “[t]he Union
18 will be given a reasonable opportunity to secure the presence of necessary individual(s) to fairly
19 conduct hearing and meetings required in connection with a grievance.” And, “[t]he Union will
20 be provided access to all documents and reports in the Company’s possession on which the action
21 taken was based. The Company will likewise be provided access to all documents on which the
22 Union’s case is based. Each party shall be entitled to copies of any such documents that it may
23 determine are needed.” And, “[a]ll time limits will be complied with by the Company, the
24 employee(s), and the Union. If the Company does not comply with the time limits, the grievance
25 will be deemed automatically appealed to the next step. Any Company answers not appealed by
26
27
28

1 the Union in writing within the specified time limits at any step of the procedure shall be
2 considered closed on the basis of such answer. It is recognized that Company or Union
3 representatives may request reasonable time limit extensions, and the parties may mutually agree
4 to extend any of the time limits in this Article.”
5

6 79. Also in Section E of Article 19, “[i]t is agreed by the parties hereto that the periods of
7 time for hearings, decisions, and appeals established in this section shall be considered as
8 maximum periods and that when hearings, decisions, and appeals can be handled in a period of
9 less than the maximum time stipulated, every effort will be made so as to expedite such cases.”
10 “The Company recognizes the right of the Union to file a group grievance when the issue is
11 common and identical to those employees in the group.” “In the event of permanent change of
12 the parties responsible for grievances at any step of this grievance procedure, the parties will
13 notify each other as soon as possible.”
14

15 80. Section F of Article 19 provides, “[b]oth parties shall agree to a discovery process and
16 they shall be compelled to disclose, to each other, all data/documents and the names of the
17 witnesses to be presented no later than ten (10) calendar days prior to the actual date of the Joint
18 Board of Adjustment and/or Arbitration. If either party receives a late document or witness list
19 it shall have the option to adjourn the hearing in light of the new document or witness list or take
20 the necessary time for review of the new evidence.”
21

22 81. No express provision removes all class wide grievances over company policies. The
23 grievance policy contemplates complaints from individual employees like Plaintiffs; it does not
24 prevent a claimant from grieving an issue that may affect his co-workers.
25

26 82. The grievance procedures may require separate and distinct arbitration hearings and
27 processes for each grievance; however, it does not state the resolution of any particular grievance
28

1 must affect only one employee. A grieving employee raising a complaint with implications for
2 others does not render the grievance process incapable of addressing his claim.

3 83. Nor does anything in the CBA prohibit a single employee from grieving an issue affecting
4 many employees nor would there be any reasoned or rational basis for such a conclusion.
5 Conversely, nothing in the CBA limits the number of people or the number of times an issue may
6 be grieved; to do so would subvert the rights of the many for a randomly selected first one.
7

8 **c. Article 20 - Board of Arbitration**

9 84. Particularly relevant, Article 20 states, “[d]ecisions rendered pursuant to this Article may
10 not add to, subtract from, or alter in any way the Agreement, but may only interpret or apply it.”
11

12 85. Negotiating a new contract has nothing to do with prosecuting violations of a previous
13 contract; in fact, a grievance of this nature may very well need to be addressed and closed out
14 before a new CBA would even be valid.

15 86. Plaintiffs sought to ensure future rights in a future CBA in light of the express terms of
16 the illicitly removed LOA 05-03M.
17

18 **E. Plaintiffs’ Participation in CARP**

19 ***1. Plaintiff Beier***

20 87. Plaintiff Beier has been continuously employed by UAL since August 14, 1989; at the
21 time of the occurrence complained Plaintiff Beier had been employed by Defendant UAL for a
22 period of approximately twenty-seven (27) years. And, since his date of hire, Plaintiff Beier has
23 been a union member in good standing and, throughout his employment with UAL, was covered
24 by a CBA, including the 2010-2013 UAL Mechanics CBA negotiated by IBT and relevant to the
25 issues in this case.
26

27 88. In July of 2016, at one of the regular Tuesday shop steward meetings, Plaintiff Beier was
28

1 made aware of LOA 05-30M and the intention of the Defendants to try and eliminate LOA 05-
2 03M provisions, ignoring the vested rights the UAL Mechanics possessed under its terms, into
3 the amalgamated CBA that was being negotiated. Another shop steward had been reviewing the
4 new Tentative Agreement, (“TA”), the Union had handed out and thought there was a violation
5 in the manner in which LOA 05-03M was being handled or would be handled should the TA be
6 ratified. Plaintiff Beier, having examined the terms of both LOA 05-03M and the TA, agreed
7 with the other shop steward.
8

9 89. Plaintiff Beier spent the next several weekly Tuesday shop steward meetings discussing
10 the impact of the new TA and how the TA was not adding the rights vested from LOA 05-03M
11 into the new CBA. The Defendants had released this most recent TA and were anxious for others
12 to get behind it and vote for it; the February 2016 TA had been rejected by a large margin by the
13 membership and the Defendants did not want a repeat of that embarrassment.
14

15 90. Plaintiff Beier met with other Union officials to discuss the problematic treatment of LOA
16 05-03M the new TA invoked, specifically, that there was not a provision or mechanism in the
17 new TA for the affected group - UAL Mechanics - to vote on whether to accept CARP or not nor
18 was the start date / vesting date for UAL Mechanics enrolling in CARP, if voted in, correct.
19

20 91. UAL had been maintaining CARP since 2010 and UAL Mechanics had been promised
21 that when the new CBA was ratified, the matter would be addressed correctly. The Union had
22 promised for years to hold UAL accountable to the terms of LOA 05-03M. In fact, that was the
23 entire platform IBT used to unseat the then union representation in 2008 - IBT stated repeatedly,
24 in an effort to garner votes and support, IBT could use LOA 05-03M to negotiate a new defined
25 benefit plan for mechanics if IBT was elected to represent the membership. The UAL Mechanics
26 had made great sacrifices in response to the urgent and repeated demand of UAL for concessions
27
28

1 while UAL was in bankruptcy. UAL Mechanics, along with other groups, made those
2 concessions on the agreement that if and when UAL could survive and thrive, they would be
3 made whole through restoration of a pension, should they maintain or establish one.
4

5 92. Around August of 2016, the UAL Mechanics had learned the Union had repeatedly
6 rejected overtures and proposals by the Company to enroll the UAL Mechanics into CARP
7 because the Union wanted the UAL mechanics in the Union controlled multi-employer Western
8 Teamsters Conference Pension Trust, (“WCTPT”).

9 93. On or about August 31, 2016, Plaintiff Beier was asked by then Chief Steward and Chief
10 Negotiator John Laurin to check with Joe Prisco as to whether LOA 05-03M had ever been
11 complied with; Plaintiff Beier became suspicious about this because he and others had been
12 pressing the negotiators all summer to deal with LOA 05-03M and explaining it was not being
13 complied with. This prompted Plaintiff Beier to act.
14

15 94. On or about September 1, 2016, Plaintiff Beier asked his shop steward, Dan Johnston and
16 grievance committee chairman Fred Wood to file a grievance for the Company’s violations of
17 the CBA, specifically, LOA 05-03M was not being properly implemented in order to be included
18 properly in the new CBA and the membership was being denied their vote to change the pension
19 status in the new CBA. This conversation resulted in Plaintiff Beier submitting a written Step 1
20 grievance to his shop steward Dan Johnston.
21

22 95. On or about September 16, 2016, Kathy Tetrev denied Plaintiff Beier's Step 1 grievance
23 several days beyond the promulgated deadline for a response at this step.
24

25 96. Plaintiff Beier’s complaint allegedly became IBT Grievance Number SFO20160901-053.
26 And, it was allegedly resubmitted to Mark Eldred who in turn gave it to Kellee Allain, a Director
27 of Human Resources; Mark Eldred is not a Company Manager that reports to a Vice President as
28

1 the grievance procedures provide; the grievance should have been handed to a Managing Director
2 of Human Resources and Employer Field Operations and who reports to a Vice President.

3 97. Plaintiff Beier states allegedly because none of this information was conveyed to him
4 directly as required by the CBA.
5

6 98. The promulgated grievance procedures were not followed for the alleged next step of the
7 grievance process. Apparently, on or about September 17, 2016, John Laurin submitted the Step
8 2 grievance letter. Despite the ten (10) day meeting requirement, the only action that occurred
9 was a rote decision again rejecting and denying Plaintiff Beier's grievance; this decision was
10 marked as made on October 11, 2016. Plaintiff Beier should have had an answer by September
11 27, 2016. The answer was devoid of any reason for denial and was provided by an improper
12 designee as "unsatisfactory and untimely."
13

14 99. There should have been a hearing within ten (10) calendar days following the receipt of
15 the written appeal. Plaintiff Beier should have been allowed to attend a hearing and allowed a
16 reasonable opportunity to present relevant testimony and information. None of this happened.
17 Plaintiff Beier was never allowed to present testimony, evidence, affidavits, or any other such
18 documentation or proof for his grievance.
19

20 100. Plaintiff Beier never received the step paperwork until months later; Plaintiff Beier
21 received the paperwork from Plaintiff Scholz.
22

23 101. According to a document provided by John Laurin to Plaintiff Scholz – about Plaintiff
24 Beier's grievance no less – on or about November 11, 2016, a decision notification of Step 2 was
25 issued. And, again, without any participation from Plaintiff Beier or without his required
26 signature.
27

28 102. Plaintiff Beier had no idea how to interpret this because there had never been a Step 2

1 hearing, none of the Step 2 rules had been followed, and he had not filed any sort of additional
2 documents. And, the grievance had been handed off this time to Marcello Navarro, a person who
3 reports to Kellee Allain, a person a step down from her and clearly not escalated up as it should
4 have been. The document further stated the grievance had been appealed to Step 3, which by the
5 terms of the then CBA is arbitration.
6

7 103. By this time Plaintiff Scholz and Plaintiff Bybee had also filed grievances.

8 104. Months went by with no information, answers, or communication from anyone in the
9 Union or Company.
10

11 105. Plaintiff Beier routinely requested information from various Union officials including
12 John Laurin, Peter Finn, Nick Manicone, and Mark DesAngeles. Not one of those Union officials
13 ever provide Plaintiff Beier with any concrete information or status update, other than to say to
14 be patient.
15

16 106. Plaintiff Beier never assented to any such extensions nor was he ever asked to. He was
17 told time and time again to just be patient and to stop bothering the union about the issue.

18 107. Undeterred, Plaintiff Beier requested to invoke the Step 3 provisions of the CBA, the
19 System Board of Administration, (“SBA”), without the Union. This also went nowhere and
20 Plaintiff Beier’s request was ignored.
21

22 108. During these intervening months, Plaintiff Beier was told by Plaintiff Scholz, the Union
23 had consolidated the grievances of Plaintiff Beier, Plaintiff Scholz, and Plaintiff Bybee into one
24 grievance and that the totality of LOA 05-03M was under review.

25 109. On or about March 31, 2017, Plaintiff Beier was shown a written document authored by
26 IBT attorney Edward Gleason, (“Gleason”), and Plaintiff Beier learned, for the first time, IBT
27 had decided to withdraw his grievance and dismiss it with prejudice. Plaintiff Beier asked what
28

1 “with prejudice” meant and he was told it meant he was prevented from advancing his grievance
2 any further. Plaintiff Beier then asked who Gleason was as Plaintiff Beier did not recognize
3 Gleason as one of the appointed SBA or Board appointees. More, Plaintiff Beier knew Gleason
4 was not a Union official and definitely did not qualify as any of the promulgated designees to
5 deal with grievances. Plaintiff Beier was told Gleason was the IBT’s attorney and Gleason had
6 been appointed to deal with the grievance. Plaintiff Beier asked of the Company had agreed to
7 Gleason’s appointment and was told to just let the whole thing go, the grievance had no merit.
8

9 110. The Union created out of whole cloth processes and procedures in direct violation of the
10 2010-2013 CBA and even of the new 2016-2022 CBA. The union created a new “with prejudice”
11 denial category. No such category exists in any CBA, no such category exists in the union
12 constitution, no such category or result exists in the bylaws. And, it had taken the Union over
13 six (6) months to produce this memo killing Plaintiff Beier’s grievance.
14

15 111. The writing was riddled with falsehoods, gross misstatements of fact, made completely
16 irrational conclusions; it completely failed to directly and credibly address the actual grievance’s
17 substance at all. More important, it was unclear what this writing purported to be – was the
18 writing a Step 2 decision, a Step 3 decision, or something else. Beier did not know.
19

20 112. IBT issued a single page, three-line letter to Plaintiff Beier dated April 17, 2017, denying
21 the grievance, withdrawing the grievance, and forbidding Plaintiff Beier from going forward on
22 his own with the grievance.
23

24 113. Plaintiff Beier, now in direct contact and consult with Plaintiffs Scholz and Bybee, who
25 also had shockingly defective and nonexistent results with the grievance process, got together
26 following the release of the “memo” and decided to forge ahead on their own without the Union.
27

28 114. The IBT constitution provides for appeals processes in matters of this nature. And so, on

1 or about July 13, 2017, Plaintiff Beier sent a letter to Nick Manicone, the IBT attorney and officer,
2 asking to go to arbitration without union support. Plaintiff Beier has to this day never received a
3 reply from Manicone addressing his request.
4

5 115. In August of 2017, Plaintiff Beier learned Plaintiff Scholz' similar letter requesting
6 individual arbitration had been denied by Manicone.

7 116. On or about January 2018, Plaintiff Beier sent a written letter to Tom Reardon
8 ("Reardon"), a Managing Director of UAL, asking for the right to proceed in arbitration without
9 the Union. Plaintiff Beier figured Reardon would have been the person the Union had kept in
10 the loop regarding the grievance as he was type of official referred to in the grievance procedures
11 that should have been representing the company's side of the grievance.
12

13 117. On or about February 19, 2018, Reardon responded to Plaintiff Beier's letter asking for
14 more information, which Plaintiff Beier would eventually send to him. Plaintiff Beier also
15 provided the information to Plaintiff Scholz who ended up collecting the requested information
16 for all three Plaintiffs and then forwarded the same to Reardon via email.
17

18 118. On or about May 1, 2018, Plaintiff Bybee, not Plaintiff Beier, received a written letter
19 from Reardon stating the Company considers this matter closed for all of the grievances.
20

21 119. The Union's handling of the grievance was done incredibly poorly and there was no just
22 cause to do so. The discussions between IBT and SFO Local with respect to Plaintiff Beier's
23 grievance were spurious and deliberately designed to give Plaintiff Beier the false impression a
24 sincere effort was being made by the Union to resolve the grievance in order to stall the grievance
25 process long enough for the ratification of a new CBA to take place
26

27 120. Since September of 2016, Plaintiff Beier had requested Defendants' relevant grievance
28 committees' designees provide hearings and forums to resolve the issues raised by him, in order

1 to resolve the issues, first while in the status quo and when the new CBA was being formed and
2 then the following year when Plaintiff Beier was shown a copy of a recommendation memo from
3 someone named Gleason.

4
5 121. Plaintiff Beier was repeatedly stonewalled and lied to by the Union that various decisions
6 would be forthcoming and timely; they never were. Defendants have, without any reasonable
7 cause or any claim to reasonable cause, failed, still to this day, to provide a proper response.

8
9 122. Defendants also refused reasonable information requests calculated to, or at least had the
10 foreseeable effect of, avoiding any unjust repudiation of the grievance procedures and of properly
11 handling the implementation of the pension rights and the proper calculation of Plaintiff Beier's
12 profit-sharing allocation. At all turns, Defendants displayed total pretense of following the terms
13 of the CBA and of the Union constitution and bylaws.

14
15 123. Plaintiff Beier had a statutory right to bring his grievance to arbitration without the Union
16 but was forcibly prevented and denied. The Company was absolutely no where to be found in
17 the entire process. The Union stalled Plaintiff Beier's grievance out and the Company turned
18 their heads, which, if the current list of open grievances is anything to go by, is a pattern by all
19 Defendants to undeniably repudiate and ignore the entire grievance mechanism.

20
21 124. Plaintiff Beier's repeated complaints went unheeded, the Defendants controlled the entire
22 grievance process, and none of Plaintiff Beier's attempts to pursue his remedies was successful.

23
24 125. The Union and the Company were acting in concert. Nothing else explains how one lone
25 Union attorney could not only stand in place of the SBA and the Board but also speak for the
26 Company on such an important and substantial matter.

27
28
2. Plaintiff Scholz

126. Plaintiff Scholz is currently employed by UAL and his date of hire was March 23, 1998.

1 Plaintiff Scholz was furloughed from February 16, 2003 until August 9, 2004; however, since he
2 returned to the Company in 2004, Plaintiff Scholz has been continuously employed by UAL and,
3 at the time of the occurrence complained, Plaintiff Scholz had been employed by Defendant UAL
4 for a period of approximately eighteen (18) years. Since his date of hire, Plaintiff Scholz has been
5 a union member in good standing and, throughout his employment with UAL, was covered by a
6 CBA, including the 2010-2013 UAL Mechanics CBA negotiated by IBT and relevant to the
7 issues in this case.
8

9 127. In a road show meeting to discuss the upcoming vote on the new CBA, on October 18,
10 2016, Plaintiff Scholz asked in front of approximately 85 people what the status of the LOA 05-
11 03M grievances was. The grievance was discussed and Clancy Griswold, an IBT representative,
12 made a statement to the effect that they are moving that grievance to arbitration in the quickest
13 possible manner and we will resolve it there.
14

15 128. On or about October 21, 2016, Plaintiff Scholz decided to also turn in a grievance to
16 ensure LOA 05-03M would be dealt with. Plaintiff Scholz and a coworker, Geoff Wik, tried to
17 physically hand the grievance to Fred Wood; he would not touch it. The grievance ended up with
18 Kellee Allain, a Human Resources person but not the proper level person to receive the grievance.
19

20 129. Plaintiff Scholz received no other proper grievance responses, no hearings, no testimony
21 opportunity. Plaintiff Scholz texts with John Laurin regarding Plaintiff Scholz' grievance and
22 physically tries to give Laurin a copy of the grievance on November 7, 2016. As Plaintiff Scholz
23 is handing Laurin a copy, Laurin made a statement to the effect of its above me and I told you
24 guys to give a copy to Javier. Laurin also made statement to the effect of it's the same thing as
25 the first grievance so I don't have to read it. Plaintiff Scholz took the copy of the grievance and
26 handed it to Javier Lectora as instructed.
27
28

1 130. On or about November 8, 2016, Dan Johnston was standing in as chief steward for John
2 Laurin in the shop steward meeting. Plaintiff Scholz asks Dan Johnston if Johnston can find out
3 the status of the complaint and Johnston agrees, making a statement to the effect of yes, let's go
4 up after the meeting and ask Kellee Allain. When they see Allain, Johnston asks her what the
5 status of the complaint that John Scholz and Geoff Wik handed her on October 21s. Allain
6 answered with a statement to the effect of I answered it and handed it to Laurin.
7

8 131. On or about November 15, 2016, after the weekly shop steward meeting, Geoff Wik and
9 Plaintiff Scholz ask Laurin if he knew the status of the complaint. Laurin made a statement to the
10 effect of I don't have it; the business agents have it. Plaintiff Scholz was becoming more and
11 more concerned as the days are going by, more and more frustrated. The vote is under way on
12 the hurried through tentative and the Plaintiffs think the Defendants are trying to stall out the
13 grievances so the tentative will get passed and they will presumably get away with circumventing
14 the rules regarding LOA 05-03M.
15

16 132. These exchanges between Plaintiff Scholz and various officers and officials for
17 Defendants IBT and SFO Local would go on for months, stonewalling the process and the
18 Plaintiffs. Even when Plaintiffs were all called to the union office thinking the Step 2 hearing
19 was finally happening, they were met with a dressing down regarding their tenacity to inquire
20 about the grievances. Plaintiffs were again chastised and belittled for pursuing the matter. The
21 Defendant union officials stated they have other scope grievances to look at and this particular
22 one may not be heard anytime soon. Plaintiff Scholz was told directly you will not be updated
23 daily or even weekly on this, you need to be patient. DesAngeles also made statements to the
24 effect of they are tired of getting phone calls about this grievance from mechanics from all over
25 the system. Plaintiff Bybee pointed out that should show you how important this grievance is for
26
27
28

1 all the mechanics but DesAngeles was unimpressed and told the Plaintiffs to just be patient and
2 to stop making inquiries.

3 133. Plaintiff Scholz asked for a copy of his Step 2 form since the grievance was now with the
4 other grievances at Step 3. Laurin told everyone in the room Allain shredded her copy and I
5 shredded my copy. Plaintiff Scholz was stunned and stated shouldn't all complaints, answered
6 or not, be filed and not destroyed? No one responded to that question.
7

8 134. On or about December 2016, an arbitration ruling was made public regarding UAL pilots
9 and a grievance the pilots filed against the Company regarding profit sharing. The UAL pilots
10 had the same profit-sharing clause in a similar bankruptcy concession LOA. The terms are almost
11 identical to those of the UAL Mechanics LOA 05-03M profit-sharing clause language. The action
12 revolved around the improper dilution of the UAL pilots profit-sharing pool – the Company had
13 included the Continental pilots in the UAL pilots pool despite contractual terms to the contrary.
14

15 135. The Union, having learned the arbitration board awarded the UAL pilots \$32 million due
16 to the Company giving a share of pilots' profit-sharing pool to Continental pilots in violation of
17 the CBA and LOA, did nothing; the Union neither filed a grievance, informed the members, or
18 advocated for similar treatment for the UAL Mechanics. When Plaintiff Scholz tried to ensure
19 this clause of LOA 05-03M would also be addressed in the grievance analysis since it too was
20 part of LOA 05-03M, he was assured it would be.
21

22 136. On or about December 7, 2016, Bob Fisher, while on a national radio show, states CARP
23 is worth three times what the 401k is. Bob Fisher also stated this was the most lucrative contract
24 ever; not only a few weeks before, he would not even recommend the contract when asked his
25 opinion at the roadshows.
26

27 137. On or about January 6, 2017, Plaintiff Scholz emailed many on the IBT officials roster
28

1 asking about the status of LOA 05-03M, including Nick Manicone. Plaintiff Scholz sent an email
2 to Manicone stating he would like an update on the status of the LOA 05-03M grievances,
3 copying key figures in the email such as the Chief Steward, Chief Negotiator, Business Agents,
4 Principal Officers, Staff Counsel, the other grievants, and other key individuals. Plaintiff Scholz
5 asked why no one was requesting any documents or testimony from him or the other grievants
6 especially in light of the fact we had asked to do so.
7

8 138. On or about January 17, 2017, Manicone replied to the email stating Airline Division has
9 asked Ed Gleason, an IBT attorney, to evaluate the LOA 05-03M grievances. Manicone also
10 stated he had no idea where Gleason was with that assessment or when Manicone expected
11 Gleason to be done but he would ask Gleason for an update. Manicone also requested materials
12 related to the grievance from Plaintiff Scholz during this email exchange.
13

14 139. Plaintiff Scholz would exchange similar text message threads and email conversations
15 with multiple officials and officers for IBT and SFO Local. Throughout these contacts, Plaintiff
16 Scholz is assured, routinely, all three grievances are being addressed and the entirety of LOA 05-
17 03M is being reviewed. Everyone around the system was asking what was going to happen.
18

19 140. On or about March 31, 2017, Plaintiff Scholz received an email from John Laurin with
20 the Gleason memo attached. Plaintiff Scholz read and reviewed the memo and was absolutely
21 stunned by the result – withdraw, with prejudice, no merit, and untimely – what did this mean?
22 As described above, Plaintiff Scholz had the same reaction as the other Plaintiffs – who was Ed
23 Gleason and what was the memo purported to represent?
24

25 141. On or about April 17, 2017, Manicone sent a “closeout” letter to UAL on behalf of the
26 Union stating the matter had been closed, the grievance withdrawn, and dismissed with prejudice.
27 Laurin texted Plaintiff Scholz a few days later to come pick up a “closeout” letter for Plaintiff
28

1 Beier. Plaintiff Scholz received Plaintiff Beier's letter on April 20, 2017.

2 142. Plaintiff Scholz was aware he had a right to bring the grievance to arbitration without the
3 union and so Plaintiff Scholz sent a letter to that effect to Manicone on July 12, 2017.

4 143. Plaintiff Scholz called Manicone on August 4, 2017, as he had not heard from him at all
5 regarding the request to proceed without the union to arbitration. Manicone stated Plaintiff Scholz
6 and Plaintiff Beier would be receiving a written response shortly. Manicone also stated IBT was
7 not going to let the Plaintiffs go forward. When questioned as to the basis for denying the
8 Plaintiffs that right, Manicone started talking about all of the reasons the Plaintiffs, the UAL
9 Mechanics, had not been put into CARP at the earlier qualifying date. Manicone stated the
10 Company did not have the money at the time and IBT was trying to get us into several other plans
11 like the WTCPT but that never worked out. Manicone spent an inordinate amount of time
12 justifying the failure to enforce LOA 05-03M; he never once gave an answer rooted in fact or
13 provided any reasonable specifics as to why the Union had not just challenge the company and
14 grieve to enforce the terms of LOA 05-03M, why the Union did not just force a vote.
15
16
17

18 144. Plaintiff Scholz received Manicone's written response on August 9, 2017. Manicone's
19 letter, like Gleason's memo, denied the grievances had any merit, confused the issues on all three
20 grievances but admitted all three were processed and recorded grievances. Manicone went on to
21 say, however, Plaintiffs could not grieve on behalf of a group because that would be bargaining.
22 Plaintiff Scholz was mad; enforcement is not bargaining. IBT had a duty to enforce LOA 05-
23 03M now that the terms were in play.
24

25 145. On or about January 20, 2018, Plaintiff Scholz sent a letter to Tom Reardon, a Managing
26 Director of UAL, requesting to go to arbitration without IBT. Plaintiff Scholz was trying to
27 appeal the decision by IBT, trying to adhere to and utilize all of the promulgated procedures
28

1 afforded him under the CBA and IBT constitution, especially in light of the fact the Union was
2 actively thwarting his right to proceed with his grievance on his own. Plaintiff Scholz appealed
3 to the company directly to move forward with the grievances
4

5 146. On or about February 19, 2018, Plaintiff Scholz received a letter from Reardon in
6 response to the request to bring the grievance to arbitration. Reardon stated he was in receipt of
7 Plaintiff Scholz' January letter pertaining to the purported grievances concerning UAL's pension
8 obligations and profit-sharing distribution regarding LOA 05-03M. Reardon further stated he had
9 not seen copies of the grievances and asked, in order to evaluate the claims, could we forward
10 the three grievances and any grievance responses concerning the matter to his attention. Reardon
11 stated he would evaluate the request for arbitration upon receipt of the requested documents.
12

13 147. Shortly after receiving Reardon's letter and request, Plaintiff Scholz forwarded all the
14 requested documentation and the evidence relating to LOA 05-03M to Reardon via email.
15

16 148. On or about May 10, 2018, Plaintiff Scholz received a letter for Reardon, identical to a
17 letter Plaintiff Bybee would receive, denying the request for arbitration. Having determined a
18 final decision had been made when he received Reardon's letter, having decided they had
19 exhausted all possible administrative remedies, Plaintiff Scholz and the others decided to pursue
20 a remedy in district court.
21

22 **3. Plaintiff Bybee**

23 149. Plaintiff Bybee has been continuously employed by UAL since January 3, 1989; at the
24 time of the occurrence complained Plaintiff Bybee had been employed by Defendant UAL for a
25 period of approximately twenty-seven (27) years. And, since his date of hire, Plaintiff Bybee has
26 been a union member in good standing and, throughout his employment with UAL, was covered
27 by a CBA, including the 2010-2013 UAL Mechanics CBA negotiated by IBT and relevant to the
28

1 issues in this case.

2 150. Plaintiff Bybee was made aware of grievances filed by Plaintiffs Beier and Scholz during
3 the course of his employment with UAL. Plaintiff Bybee agreed with their grievances and
4 supported filing both grievances on his behalf.
5

6 151. Plaintiff Bybee had witnessed at least two occasions when SFO Local officials Mark
7 DesAngeles and John Laurin told Plaintiff Scholz to stop filing grievances about LOA 05-03M
8 because the grievances already on file covered all issues pertaining to LOA 05-03M.

9 152. Plaintiff Bybee also had been witness to a conversation between Plaintiff Scholz and other
10 officers and representatives of IBT where IBT officials made statements to the effect of drop it,
11 let it go, it is over, and there is nothing you can do about it, relating to the LOA 05-03M
12 grievances, amongst other things.
13

14 153. On or about October 18, 2018, at a Union road show meeting discussing the most recent
15 Tentative Agreement, Plaintiff Bybee learned Defendants planned to absorb LOA 05-03M into
16 the new CBA, if the CBA was passed and ratified, without any vote to so execute the terms of
17 LOA 05-03M and with a vesting date of January 1, 2017 instead of the date UAL began to
18 maintain CARP, October 1, 2010, even though Clancy Griswold stated the LOA 05-03M
19 grievances were being looked and would be handled.
20

21 154. Plaintiff Bybee, concerned the procedural processes were not going to be followed
22 regarding the implementation of LOA 05-03M, a separate vote of only UAL Mechanics would
23 not be held to decide whether they would agree to the execution of LOA 05-03M, went to his
24 shop steward to discuss filing a grievance regarding this aspect of LOA 05-03M.
25

26 155. On or about November 14, 2016, Plaintiff Bybee filed a grievance with his shop steward
27 regarding LOA 05-03M, requesting IBT and SFO Local follow the terms of LOA 05-03M and
28

1 follow the rules and procedures of the CBA and IBT and SFO Local constitution and bylaws and
2 hold the affected group vote for LOA 05-03M.

3 156. LOA 05-03M provides in part, "the Company shall not maintain or establish any single-
4 employer defined benefit plan for any UAL or Company employee group unless AMFA-
5 represented employees are provided the option of electing to receive a comparable defined
6 benefit plan in lieu of the Replacement Plan Contribution."
7

8 157. IBT Constitution, Article XII, Section 2(b) provides in part, "[w]here special riders,
9 supplements, or agreements applicable to one or more Local Unions are separately negotiated
10 and agreed to providing for wages, hours, fringe benefits, or working conditions, such special
11 riders or supplements, shall . . . [be] submitted to the affected members for a vote . . ."

12 158. On or about November 17, 2016, Plaintiff Bybee was informed by his shop steward that
13 he and several others were being called to a meeting in the SFO Local office on site at 10:00 am.
14 Plaintiff Bybee assumed this was to hold a Step 2 hearing and so Plaintiff Bybee, as Plaintiff
15 Scholz had done, came prepared with documentation and evidence to present thinking he was
16 attending the required Step 2 hearing.
17

18 159. There was no hearing, instead he, too, was admonished severely by the officers and
19 representatives of SFO Local to stop pressing the issue.
20

21 160. Mark DesAngeles made statements to the effect of Plaintiff Bybee's grievance would in
22 no way would affect the vote of this tentative. DesAngeles said the vote on the new CBA was
23 going forward no matter what. DesAngeles also stated he would do his due diligence in advancing
24 the grievance through the grievance procedures, but it would not stop the vote.
25

26 161. DesAngeles further stated he was tired of getting phone calls from individual members
27 wanting to discuss grieving LOA 05-03M from all over the system regarding the LOA 05-03M
28

1 grievances; Plaintiff Bybee stated to Mark DesAngeles this must show you how important the
2 issues surrounding LOA 05-03M are. The Plaintiffs knew the membership at large wanted to
3 know how a vote for the tentative would affect the grievances and the status of LOA 05-03M
4 because the tentative had inexplicably placed LOA 05-03M into an entirely new category entitled
5 "Historical Records Only," whose preamble provided, "the Letters of Agreement in Historical
6 Records Only (HRO) Appendix, attached to the 2016-2022 Collective Bargaining Agreement,
7 are solely for archival purposes and [do] not constitute part of the CBA. The Parties recognize
8 that these Letters of Agreement impose no obligations and confer no rights upon the Company,
9 the Union, or the employees covered under the 2016-2022 CBA."

10
11
12 162. Plaintiff Bybee asked for a copy of the signed Step 2 grievance form during the meeting
13 where Plaintiff Scholz was told by John Laurin that Kellee Allain had shredded Plaintiff Scholz'
14 grievances. There were several witnesses to this statement - Geoff Wik, Plaintiff Scholz, and
15 John Laurin. Plaintiff Bybee was stunned and asked the others to confirm he had heard Laurin
16 correctly; Geoff Wik and Plaintiff Scholz confirmed he had heard correctly.

17
18 163. To date, Plaintiff Bybee has never received the Step 2 form or signed it, as is required,
19 nor has Plaintiff Bybee ever been asked to attend a hearing or proffer evidence or testimony for
20 a hearing. Plaintiff Bybee would later discover, by reading Plaintiff Scholz' August 2017 letter
21 from Nick Manicone, Plaintiff Bybee's grievance was absorbed into Plaintiff Beier's grievance.

22
23 164. Plaintiff Bybee would make numerous requests over the next several months to find out
24 the status of the grievance. Plaintiff Bybee knew the timelines printed in CBA were not being
25 followed and there was absolutely no communication as to why or how such delays were
26 occurring or being dealt with. The new CBA had been voted on in November and subsequently
27 ratified on December 5, 2016, all while this grievance remained open and unresolved.
28

1 165. On or around March 31, 2017, Plaintiff Bybee was informed by Plaintiff Scholz a memo
2 had been released relating to the grievances, his included. Again, Plaintiff Bybee never received
3 any direct communication from IBT or SFO Local regarding this outcome. Plaintiff Bybee was
4 allowed to read the memo but the Unions did not provide him a copy.
5

6 166. The memo declared the grievances meritless and untimely. Plaintiff Bybee completely
7 disagreed with the assessment and voiced that opinion to the Union; he also doubted not only the
8 authority of the author of the memo but the significance of the memo's conclusions.
9

10 167. On or about July 13, 2017, Plaintiff Bybee sent a letter to Manicone asking to go to
11 arbitration on his own; he believed his grievance had merit and wanted to pursue it with or
12 without the union. Plaintiff Bybee never received a reply from Manicone about his request.

13 168. Having waited months for a response and having heard from Plaintiff Scholz that
14 Manicone had denied his request to go forward without the union, on or about January 22, 2018,
15 Plaintiff Bybee sent a letter to Tom Reardon, the Managing Director of UAL, asking for the right
16 to proceed in arbitration without the union.
17

18 169. On or about February 19, 2018, Reardon responded to Plaintiff Bybee's letter the same
19 as he had to Plaintiff Scholz – send more information. At about the same time Plaintiff Scholz
20 mailed his response to Reardon, Plaintiff Bybee responded to Reardon via email, providing him
21 with the requested additional information.
22

23 170. On or about May 1, 2018, Plaintiff Bybee received a written letter from Reardon stating
24 the Company considers this matter closed.

25 171. As the others had done, having determined a final decision had been made, having
26 decided all possible administrative remedies had been exhausted, Plaintiff Bybee decided to
27 pursue a remedy in district court.
28

1 **4. *Plaintiff Dill***

2 172. Plaintiff Dill has been continuously employed by UAL since April 16, 1984; at the time
3 of the occurrence complained, Plaintiff Dill had been employed by Defendant UAL for a period
4 of approximately thirty-two (32) years. And, since her date of hire, Plaintiff Dill has been a union
5 member in good standing and, throughout her employment with UAL, was covered by a CBA,
6 including the 2010-2013 UAL Mechanics CBA negotiated by IBT and relevant to the issues in
7 the present case.
8

9 173. Plaintiff Dill filed a grievance on November 11, 2016, with Local 781, regarding LOA
10 05-03M, specifically grieving, “[o]ther company employee groups have a pension plan. Sub UA
11 Airline Technicians and related employees do not have the option. This is contrary to LOA 17
12 5d. Remedy sought is to create a settlement fund and distribution plan with an amount equal to
13 what would have been earned in a comparable plan with a starting date of May 2, 2010. Date of
14 UAL and CAL merger.”
15

16 174. Plaintiff Dill’s grievance received a number, ORD-16-043.
17

18 175. Plaintiff Dill’s grievance was accepted by Local 781, via the proper officials.
19

20 176. Plaintiff Dill’s has never had a hearing, never received any written decisions, nor been
21 asked to present evidence or testimony since the date she filed her grievance.
22

23 177. Plaintiff Dill’s grievance remains “open” to this date and such status was confirmed buy
24 her Chief Steward as recently as February 2019.
25

26 178. Plaintiff Dill’s grievance is listed as the first one on a grievance list kept in Local 781’s
27 office, indicating it should be next for arbitration.
28

179. Plaintiff Dill has asked repeatedly to have her grievance heard. She has been told on
multiple occasions that “there are other more important grievances than yours,” “there are guys

1 losing their jobs so that comes first,” “arbitration is expensive and so you will have to wait,”
2 amongst other things; basically, while her grievance is next in line, it may as well be last because
3 it gets passed over and ignored routinely.

4
5 180. Plaintiff Dill asked her union for a copy of the grievance list but was told it was the
6 property of the Company because they had created it and therefore, she could not have a copy.

7 181. Plaintiff Dill is equally as upset and aggrieved as the other Plaintiffs in this matter and
8 wishes to be heard.

9 182. Plaintiff Dill has never heard of Ed Gleason, has never read the Gleason memo, and is
10 not under any impression her grievance has been finalized so as to compel Dill to seek a different
11 resolution under specific time guidelines.

12
13 183. Plaintiff Dill now seeks remedy from the court.

14 **F. Union and Company Concerted Efforts to Deny Benefits – Gleason Memo**

15 184. The Union, for reasons wholly unexplained and quite frankly inexplicable, submitted a
16 memo drafted by IBT’s in house counsel, Edward Gleason, (“Gleason”), recommending not to
17 pursue the grievances as not only proof of the rationality of the Union’s decision not to go forward
18 with grieving the application of LOA 05-03M but also as evidence of the lack of merit to
19 Plaintiffs claims, proof of all Defendants adherence to the terms of the CBA and of their
20 respective duties owed to the Plaintiffs, and as accepted and understood by Plaintiffs as the end
21 of their grievances. Nothing could be further from the truth.

22
23
24 185. First and foremost, the Gleason memo is not evidence. Gleason is not an employee of
25 the Company and therefore, he may not speak for them or substitute himself for them in any of
26 the required roles the Company must play in the administration of the CBA. Further, Gleason is
27 not the proper party to administer and adhere to representing employee/members in adhering to
28

1 the CBA. Gleason was neither selected, appointed, agreed to, elected, or nominated, by the
2 Plaintiffs to render any type of binding decision on Plaintiffs' claims forget barring Plaintiffs and
3 unilaterally stripping them of pursuing their statutory and contractual rights.

4
5 186. Second, and equally important, the Gleason memo has absolutely no compulsory effect
6 whatsoever on Plaintiffs' claims and grieving the application of LOA 05-03M. At best, the
7 Gleason memo is a non-binding advisory opinion or recommendation and for reasons outlined
8 below, even that is a generous depiction. But again, it absolutely does not substitute for the
9 promulgated CBA processes, hearings, writings, and evidentiary showings that must occur when
10 an employee grieves any matter.

11
12 187. Because Defendants offer the Gleason memo as compliance and completion of Plaintiffs'
13 claims, Plaintiffs address the myriad of false statements, misrepresentations, distortions of facts,
14 and perversions of logic the Gleason memo offers as conclusive proof the Defendants have not
15 breached their duties or their contractual obligations.

16
17 *1. Timeliness*

18 188. The Gleason memo argues Plaintiffs' rights have lapsed due to the failure to enforce these
19 rights until now. However, LOA 05-03M explicitly states, and UAL and AMFA agreed, the
20 "failure of any party at any time to require performance of any provision of this Letter of
21 Agreement shall not affect the right of that party at a later time to enforce the same or a different
22 provision." In view of the plain and express language of LOA 05-03M, Gleason memo
23 incorrectly states the relevant facts.

24
25 189. It was only when the Company failed to provide for the proper vote prior to the ratification
26 of the latest CBA that Plaintiffs claims could have become viable. And, as stated in LOA 05-
27 03M, Plaintiffs could bring this issue up at any time. Plaintiffs tried, during the status quo period,
28

1 to force the Company to deal with this important issue; Plaintiffs were literally thwarted and
2 stonewalled at every turn and over many years through no fault of their own. The Plaintiff did
3 not know, and had no reason to know, that the Union had been cooperating all these years with
4 the Company to not fulfill the express terms of bankruptcy exit agreement in order to self-deal
5 in the hopes of receiving millions of dollars of plan contributions made by the Company on behalf
6 of the UAL: Mechanics.

8 190. More, the Union was well aware of the broken promises, lies, and obfuscations it had
9 made since the merger regarding the application of LOA 05-03M. Because of their fraudulent
10 and knowing concealment of these facts, the Union cannot plausibly mount a timeliness defense.

12 **2. *LOA 05-03M's Application to Post-Merger UAL***

13 191. The Gleason memo falsely provides that the obligations under LOA 05-03M attach only
14 to pre-merger UAL. The CBA contains explicit and express successor language in Article III
15 requiring any successor receiving control of 50% or more of UAL's equity or assets be bound by
16 the terms of the then existing CBA. LOA 05-03M's express terms make it a part of and a revision
17 of the CBA and therefore, Article III's successor mandate attaches to LOA 05-03M.

19 192. This successor language contained in LOA 05-03M is standard practice and procedure in
20 almost all CBAs, going back many years, in almost all collectively bargained agreements. There
21 is no basis for asserting post-merger UAL can legitimately evade the legal obligations of pre-
22 merger UAL. Logically, the term "maintain" can only be used in the event of a merger since,
23 following the bankruptcy, there were not any Defined Benefit Plans on the property.

25 **3. *The Union Erroneously Claims CARP is a Multiple-Employer Plan***

26 193. The Gleason memo asserts that CARP is a multiple-employer plan. However, the
27 Union's own website and printed materials used to inform those members of the Union who are
28

1 enrolled in the Western Conference Teamster Pension Trust, (“WCTPT”), the Union run multi-
2 employer pension plan, cites CARP as a perfect example of a single-employer plan.

3 194. The Company has filed numerous actuarial reports, under penalty of perjury, with both
4 the Security and Exchange Commission and the Internal Revenue Service stating they are
5 “maintaining” CARP, a single-employer plan. Even the form used – I.R.S. Form 5500-SP from
6 2011 indicated that particular form was to be filled out by those plans which are single-employer
7 plans.
8

9 195. More, in 2013, IBT talked about the strength of IBT’s multi-employer Plan, WCTPT,
10 comparing it and contrasting WCTPT to CARP because is a single-employer plan and WCTPP
11 is a multi-employer plan. There are a multitude of newsletters, campaign materials, emails, and
12 texts to back this up.
13

14 **4. UAL Offered Option of a Defined Benefits Plan**

15 196. The Union had a singular goal – put UAL mechanics in WCTPT because the Union would
16 immediately, specifically, and enormously profit from such enrollment.
17

18 197. The Gleason memo also expressly states the Union leadership and appointed negotiators
19 rejected multiple offers by the Company to have the UAL Mechanics join CARP beginning in
20 2010. Notwithstanding the fact it was the membership’s right to vote whether to become CARP
21 participants.
22

23 198. The Gleason memo, with these statements, confirms the Company believed the only way
24 to comply with LOA 05-03M – and to provide retirement security – would be to include UAL
25 mechanics into CARP. The Gleason memo states explicitly, the Company rejected all overtures
26 to place the UAL Mechanics in WCTPT because the Company did not think it was a viable plan.
27 For years, UAL Mechanics were told the details of providing the vote for UAL Mechanics to
28

1 decide about CARP would happen; it never did.

2 **5. Erroneous Contract Interpretation**

3 199. The Gleason memo completely misstates and misinterprets standard CBA language and
4 fails to properly apply even rudimentary contract interpretation rules regarding the respective
5 terms of the CBA and the intent of LOA 05-03M.
6

7 200. LOA 05-03M, the contract, is between the employees and the employer and therefore,
8 regardless of any change in representation or merger, and for the exact and express purpose such
9 language is included in such collectively bargained agreements, the contract survives the change
10 in union representation from AMFA to IBT, unchanged. The election of IBT changed not a word
11 of the CBA simply because new representation was elected. This is basic legal interpretation,
12 specifically, under the RLA as well as the terms of the LOA 05-03M.
13

14 201. The Gleason memo completely mischaracterizes the effect any “me too” clauses other
15 groups may have had on LOA 05-03M. *Only the UAL mechanics had “maintains” as a term in*
16 *their bankruptcy exit agreement.*
17

18 202. The UAL Mechanics language in their bankruptcy exit agreement is unique and purposely
19 so; the UAL Mechanics negotiators were very much aware, and made aware by the Company,
20 merger talks were looking promising. Knowing that each of the potential airlines the Company
21 sought as a possibility had defined benefit pension plans, the UAL Mechanic negotiators made
22 sure to put the maintain language in their agreement. No other craft or class did so and therefore,
23 there are no other “me too” clauses to even contemplate.
24

25 203. And, even if there were other “me too” clauses, such a reality would have absolutely no
26 bearing on the enforcement or validity or the express contractual terms of LOA 05-03M.
27
28

VII. CLASS ALLEGATIONS

1
2 204. Plaintiffs, collectively the Named Plaintiffs, on behalf of themselves and all other persons
3 similarly situated, bring this action against Defendants, pursuant to Rule 23 of the Federal Rules
4 of Civil Procedure.
5

6 205. The Plaintiffs seek to represent is composed of all individuals who were employed as
7 UAL Mechanics, including without limitation all the Plaintiffs and their respective spouses,
8 dependent children, and all persons and entities, heirs, successors and assigns who would have
9 rights under applicable state law to sue the Defendants independently or derivatively as a result
10 of their relationship with such an employed UAL mechanic, by either or both UAL and UCH
11 during any part of the period from October 1, 2010 through January 1, 2017 and who have been,
12 still are or will be denied vesting in CARP from October 1, 2010, due to the legal violations
13 alleged herein. This includes those individuals who have been IBT members or who were not as
14 that relates to IBT's representation of UAL Mechanics group in the relevant violation period.
15

16 206. The Plaintiffs further seek to represent all individuals who were employed as UAL
17 mechanics by UAL and/or UCH during any part of the period from October 1, 2010 through
18 January 1, 2017, and who received profit sharing checks that included Continental mechanics as
19 part of the pool of people included in the profit-sharing calculation resulting in a deficient profit-
20 sharing check thereafter as a result of the legal violations alleged herein.
21

22 207. The members of the class are so numerous, joining of all members is impracticable. After
23 investigation, Plaintiffs reasonably believe Plaintiffs are but a few of approximately 8,000 UAL
24 mechanics, most if not all of whom are within the class definition. Disposition of their claims in
25 a class action is a benefit to the parties and to the Court.
26

27 208. Common questions of fact and law predominate as to the claims brought on behalf of the
28

1 class. And, there is a well-defined community of interest in the questions of fact and law involved
2 affecting the class members to be represented, in that they all have been, are being or will be
3 denied their proper compensation, benefits, CBA rights due to violations of federal law.

4
5 209. The claims of the Plaintiffs are typical of those of the class, and the Plaintiffs and their
6 attorney will fairly and adequately represent the interests of the class. The Plaintiffs have no
7 conflicts of interest with the absent class members who the Plaintiffs seek to represent. To the
8 contrary, the Plaintiffs' interests are fully aligned with the absent class members' interests in this
9 action, in seeking redress for IBT, SFO Local, UAL, and UCH common wrongful conduct to the
10 Plaintiffs and the absent class members.

11
12 210. For purposes of this Complaint, "Plaintiff Beier" or "Plaintiff Scholz" or "Plaintiff
13 Bybee" or "Plaintiff Dill" shall refer to that particular Plaintiff only. Reference to "UAL
14 Mechanic Class" shall be deemed to include the named plaintiffs and each member of the class.
15 The class is clearly defined and can be identified and notified effectively. The members of the
16 class are readily ascertainable and identifiable from reference to existing, objective criteria that
17 are administratively practical, including records maintained by IBT, SFO Local, UAL, and UCH.

18
19 211. This action is properly maintainable as a class action under Fed. R. Civ. P. 23(b)(1)(A).
20 Separate litigations by individual class members against the Defendants would create the risk of
21 conflicting, inconsistent or otherwise varying rulings and resolutions concerning those individual
22 class members that would create conflicting or otherwise incompatible standards of conduct for
23 the Defendants.

24
25 212. This action is properly maintainable as a class action under Fed. R. Civ. P. 23(b)(1)(B).
26 Separate litigations by individual class members against the Defendants would create the risk of
27 adjudications concerning the claims of individual class members that, as a practical matter, would
28

1 be dispositive, through preclusion, law of the case, or other doctrines, of the interests of other
2 class members not parties to the individual adjudications or would otherwise substantially impair
3 or impede their ability to protect their own interests.

4
5 213. This action is properly maintainable as a class action under Fed. R. Civ. P. 23(b)(2). As
6 described above, the Defendants have acted or refused to act on grounds generally applicable to
7 the class, so that final injunctive relief or corresponding declaratory relief is appropriate
8 respecting the class as a whole.

9
10 214. Alternatively, this action is maintainable as a class action under FRCP Rule 23(b)(3), as
11 the common questions of law and fact described above predominate over any questions affecting
12 only individual members, and a class action is superior to other available methods for the fair
13 and efficient adjudication of the controversy.

14
15 215. Plaintiffs allege Defendants IBT, SFO Local, UAL, and UCH have engaged in the above
16 described actions, patterns, and practices pursuant to systemic policies and practices, or lack
17 thereof, wherein the rights of UAL Mechanics Class have been disregarded. Common questions,
18 such as those listed above, predominate over any questions affecting only individual members.
19 And, in light of the Defendants' common misconduct toward the class, the class is sufficiently
20 cohesive to warrant class treatment. Plaintiffs, on behalf of the UAL Mechanics, allege a common
21 body of operative facts and common legal claims relevant to each UAL Mechanic Class' claims.

22 **VIII. CAUSES OF ACTION**

23 **Count I – Breach of Contract**

24
25 216. Plaintiffs incorporate all previous paragraphs into this Count as if fully alleged herein.

26
27 217. Plaintiffs assert herein a claim against UAL and UCH for breach of contract with regards
28 to the collective bargaining agreement entered into with the UAL Mechanics Class.

1 218. An employer breaches the collective bargaining agreement when and if the employer acts
2 contrary to the terms and conditions of a collective bargaining agreement, treats employees
3 adversely to the terms and conditions of the collective bargaining agreement, and fails to uphold
4 the terms and conditions of the collective bargaining agreement.
5

6 219. The RLA provides, “[i]t shall be the duty of all carriers, their officers, agents, and
7 employees to exert every reasonable effort to make and maintain agreements concerning rates of
8 pay, rules, and working conditions, and to settle all disputes, whether arising out of the
9 application of such agreements or otherwise”
10

11 220. The parties were engaged in collective bargaining over a new contract at the time the
12 grievances were filed, as previously alleged herein.

13 221. By the following acts, as part of a continuation of earlier conduct and by cumulative
14 effect, Defendants have breached their duty to make and maintain agreements through bad faith
15 by a demonstrated purpose and intent not to reach or maintain agreements with Plaintiffs, not to
16 honor promulgated duties under the CBA, by obfuscating, delaying , frustrating, and subverting
17 required conditions connected to negotiations and to impose unnecessary burdens on Plaintiffs
18 in order to force Plaintiffs to acquiesce to Defendants’ arbitrary and unilateral demand CARP
19 benefits commence without a vote and at some date arbitrarily decided by Defendant company.
20

21 222. By and through these acts, Defendants have and remain in violation of the RLA.
22

23 223. By and through these acts by Defendants, the UAL Mechanics Class has been harmed
24 and will continue to be harmed because there is no other avenue available to Plaintiffs to resolve
25 this dispute.

26 224. More, Defendants UAL and UCH breached the CBA when they began to maintain CARP,
27 a defined benefit plan for another group of employees, Continental mechanics, at UAL, and yet
28

1 failed to enforce the contractual obligations of LOA 05-03M. Failure to so honor and adhere to
2 these terms is an outright breach of contract.

3 225. Defendants UAL and UCH breached the CBA by improperly distributing profit-sharing
4 checks to Continental Mechanics, deriving such monies from Plaintiffs' profit share as
5 promulgated under the UAL Mechanics CBA, as reflected in LOA 05-03M, essentially diluting
6 Plaintiffs rightful, annual share of profits, and failing to enforce the specific contractual duties of
7 LOA 05-03M. Failure to so honor and adhere to these terms is a breach of contract.
8

9 226. Plaintiffs, as a result of being denied their pension and having had their profit share
10 diluted, in accordance with the terms of the CBA, availed themselves of their contractual dispute
11 resolution processes and filed grievances against Defendant UAL seeking to redress the
12 violations of LOA 05-03M
13

14 227. Defendants UAL and UCH conduct regarding Plaintiffs' efforts completely contradict
15 the mission and point of the CBA and its dispute resolution mechanisms as evidenced by their
16 outrageous disregard and violation of the express provisions of the CBA. Defendants acted
17 maliciously and with a willful disregard for Plaintiffs' rights when they categorically denied
18 Plaintiffs' contractual rights to due process regarding Plaintiffs' stated grievances, thereby
19 breaching the contract.
20

21 228. Defendants UAL and UCH total failure to follow procedural steps for processing a
22 grievance, for missing contractual deadlines and duties for dealing with the grievance, for moving
23 the grievance to various next steps without informing Plaintiffs or having obtained the proper
24 signature from Plaintiffs, and for allowing Ed Gleason to usurp the entire promulgated process
25 and substitute his opinions for the contractually agreed upon grievant procedures, is a breach of
26 the CBA. Gleason was neither a proper grievance officer for the Company or even an employee
27
28

1 of the Company – he was the Union’s lawyer and allowing him to speak for the Company on
2 such a substantial matter was tantamount to colluding with the Union to subvert the meritorious
3 grievance.

4
5 229. Defendants UAL and UCH substitution of Gleason for the proper SBA and/or Board
6 members is a breach of the CBA.

7 230. Defendants UAL and UCH statements that the UAL Mechanics Class has already had the
8 vote in the voted down tentative agreement is purposely misleading.

9 231. Defendants UAL and UCH violated the RLA and the CBA when it concealed years of
10 negotiations regarding CARP in order to evade having to offer CARP to UAL Mechanics.

11
12 232. Defendants UAL and UCH willfully and knowingly gave profit-sharing monies destined
13 for the UAL Mechanic Class to Continental mechanics in breach of the CBA.

14 233. Defendants UAL and UCH became part of a scheme to defraud the UAL Mechanics when
15 Defendants UAL and UCH adopted the findings of Ed Gleason as accurate and binding on the
16 UAL Mechanics Class so as to end the meritorious grievances.

17
18 234. As a foreseeable and proximate result of Defendants UAL and UCH breach of the CBA,
19 the UAL Mechanics Class have suffered substantial losses in employment income, fringe
20 benefits, important employment rights, and continue to suffer such other losses and benefits.

21 235. Until discovery of Defendants UAL and Defendant UCH records is completed, the exact
22 amount owing to UAL Mechanics Class is unknown; however, estimated calculations indicate
23 approximately \$880 to \$1,200 per month per year per mechanic was lost under CARP and
24 approximately \$50 million dollars was lost because of the diluted profit sharing.

25
26 236. 28 U.S.C. §2201 provides “[i]n the case of actual controversy within its jurisdiction any
27 court of the United States, upon the filing of an appropriate pleading, may declare the rights and
28

1 other legal relations of any interested party seeking such declaration, whether or not further relief
2 is or could be sought. Any such declaration shall have the force and effect of a final judgment or
3 decree and shall be reviewable as such.”

4
5 237. The UAL Mechanics Class seeks a declaration pursuant to 28 U.S.C. §2201 that
6 Defendants UAL and UCH conduct constitutes a violation of the the CBA, under the RLA.

7 238. The UAL Mechanics Class are harmed by the violations alleged herein. Therefore, unless
8 the Court issues declaratory relief as requested, the UAL Mechanics Class will be irreparably
9 injured. The UAL Mechanics Class have no prompt, adequate and effective remedy at law and
10 will be successful on the merits of this action.
11

12 **Count II – Breach of the Duty of Fair Representation**

13 239. Plaintiffs incorporate all previous paragraphs into this Count as if fully alleged herein.

14 240. Plaintiffs assert herein a claim against the Union breach of its duty of fair representation
15 to the UAL Mechanics Class under the Labor Management Relations Act. Under the Labor
16 Relations Management Act, the Union, as the exclusive bargaining agent of the UAL Mechanics
17 Class, owed to the members of the UAL Mechanics Class a duty of fair representation.
18

19 241. Plaintiffs have exhausted all internal procedures with respect to the issues alleged above.

20 242. In the alternative, any attempt by Plaintiffs to utilize contractual procedures would be
21 futile because the Union has repudiated all such processes, the Union works in concert with the
22 Company to thwart Plaintiffs attempts at resolution, and because the Union has completely
23 eliminated any proper arbitral board as a resolution option.
24

25 243. Time after time, as the UAL Mechanics Class would learn in 2017, over the course of
26 over seven (7) years, the Union failed to enforce the mandatory contract rights and mandatory
27 contract language in LOA 05-03M to provide the UAL Mechanics Class with a defined benefit
28

1 plan due to the maintaining of CARP by UAL. The Union has breached its duty of fair
2 representation to the members of the UAL Mechanics Class by arbitrarily choosing to disregard
3 the UAL Mechanics Class' interests in favor of the interests of the Union, and by acting in bad
4 faith in failing to enforce the terms and conditions of the collective bargaining agreement of the
5 UAL Mechanics Class.
6

7 244. The union acted arbitrarily and in bad faith in repeatedly trying to enroll the UAL
8 Mechanics Class in the Union controlled WCTPT plan in order for the Union to directly, clearly,
9 and tremendously profit from such enrollment. A pattern of behavior of the Union going back
10 decades.
11

12 245. The Union acted arbitrarily and in bad faith in failing to enforce the express terms of the
13 CBA relating to and concerning the handling of employee/member meritorious grievances filed
14 by the employees within the bargaining unit. The Union, without reason or cause, arbitrarily and
15 capriciously failed to fully investigate the UAL Mechanics Class claims and failed to follow its
16 normal and customary practices in the handling of grievances. Not merely negligently, but
17 recklessly, carelessly, failing to give due consideration.
18

19 246. The Union, without reason or cause, substituted and delegated the duties accorded to the
20 systems board of adjustment and the board of arbitration to a single, Union attorney in direct
21 violation of the CBA without explanation or agreement from the UAL Mechanics Class.
22

23 247. The Union's abject failure to have any meaningful tracking or make any meaningful effort
24 to keep the grievants informed for over two years in some cases is gross negligence and thus,
25 also breaches the duty of fair representation.

26 248. The Union's myopic focus on only enrolling the UAL Mechanic Class in WCTPT and
27 not restoring pension rights under the maintenance of CARP, ignored clear and unambiguous
28

1 provisions in the CBA as it related to the UAL Mechanics Class. Such breach of the duty of fair
2 representation has cost each mechanic greatly – approximately \$880 to \$1,200 per month per
3 year per mechanic. And thus, as a consequence of the Union’s breach, the UAL Mechanics Class
4 has been damaged collectively in an amount of several hundreds of millions of dollars.
5

6 249. Explicit statements made by union officials and officers regarding the status, processing
7 and ultimate resolution of LOA would, at a minimum be arbitration, were knowingly false and
8 intentionally deceptive.

9 250. The Union’s complete cooperation with Defendant UAL and UCH directly contradicts
10 the primary function of the Union to represent employee interests against management. The most
11 brazen and troublesome example is the abject disregard for all of the promulgated grievance
12 procedures, for the failure in negotiating the new CBA, and in allowing a significant, system
13 wide meritorious grievance to be improperly disposed of.
14

15 251. The Unions failure to conduct a proper investigation before closing the case, absolute
16 subversion of the truth of the facts, and allowed their self-interest of administering the pension
17 rights interfere with the representation of the employee are all acts done and representative of
18 bad faith because it is so grossly inadequate so as to transcend poor judgment.
19

20 252. Employees have a statutory right to arbitration before system board under 45 USC §184.
21 The Defendant Union prevented the Plaintiffs from exercising this right.
22

23 253. The Defendants knew their administrations lack of enforcement and ignoring of the
24 explicit terms of the 2010-2013 CBA was depriving the UAL Mechanics Class of pension
25 benefits and profit-sharing benefits owed to the UAL Mechanics Class.

26 254. Defendants Unions had superior knowledge of the true nature of the negotiations,
27 discussions, administration of the 2010-2013 CBA and its terms because Defendant Unions were
28

1 the only parties allowed in the secret and closed-door negotiations and never shared any of that
2 information with Plaintiffs.

3 255. The Defendant Unions knew of and understood the failure to enforce the 2010-2013 CBA
4 would and was causing financial harm to the UAL Mechanics Class because the UAL Mechanics
5 Class was not receiving the full pension benefit nor full profit-sharing benefit under the CBA.
6

7 256. Despite their superior knowledge, and flouting their duties to the Plaintiffs, the Defendant
8 Unions knowingly concealed from the Plaintiffs the many serious failures to enforce the explicit
9 language of the 2010-2013 CBA and LOA 05-03M and the harm this was and would cause. To
10 this day, the Defendant Unions have never once proposed or put up for the required LOA 05-
11 03M vote.
12

13 257. The Defendant Unions colluded with and cooperated with Defendants UAL and UCH to
14 deprive the UAL Mechanics Class of their rights under the 2010-2013 CBA.
15

16 258. Plaintiffs reasonably relied on the many statements made by all Defendants regarding the
17 situation over the years, both written and oral, affirming and avowing Defendants were diligently
18 pursuing the pension and other vested rights of the UAL Mechanics class

19 259. Plaintiffs reasonably relied on the Defendant Unions for information concerning the state
20 of affairs regarding these matters both for the short term and the long term.
21

22 260. The Defendant Unions bear the responsibility of enforcing the contract as well as the
23 other Defendants. The Defendant Union's blind eye to all of the promulgated rules, rights, and
24 duties coupled with their conspiracy with the Defendants UAL and UCH is a breach of the duty
25 of fair representation

26 261. The Defendant Union ignored the grievants' reasonable requests for the Defendant Union
27 to question the profit-sharing calculations proffered by the Defendants UAL and UCH, in light
28

1 of competent and credible evidence of the potential reality the Defendants UAL and UCH were
2 improperly diluting the UAL Mechanics Class profit sharing rights, and is a breach of the duty
3 of fair representation

4
5 262. The Defendant Union irrationally allowed Ed Gleason to control and dictate the
6 processing of a system wide grievance when Ed Gleason was not in any way allowed to do so
7 and is a breach of the duty of fair representation.

8 263. The Defendant Unions cooperation with the Defendants UAL and UCH at every turn,
9 completely disregards the entire mandate of union representation – exclusive enforcement of the
10 CBA on behalf of the members as the fiduciary of the members / employees – and is a breach of
11 the duty of fair representation.
12

13 264. As set forth above, the Defendant Unions has acted in an arbitrary, discriminatory, and
14 dishonest manner in its duty to represent the UAL Mechanics Class in the bargaining process
15 that resulted in the 2016-2022 CBA stripping them of their vested rights under LOA 05-03M and
16 therefore, the Defendant Unions have breached the duty of fair representation.
17

18 265. Due to the Defendant Unions’ breach, the UAL Mechanics Class has sustained damages,
19 including lost pension rights and profit-sharing revenue share to which they would have
20 otherwise been entitled.
21

22 266. Further, 28 U.S.C. §2201 provides “[i]n the case of actual controversy within its
23 jurisdiction any court of the United States, upon the filing of an appropriate pleading, may declare
24 the rights and other legal relations of any interested party seeking such declaration, whether or
25 not further relief is or could be sought. Any such declaration shall have the force and effect of a
26 final judgment or decree and shall be reviewable as such.”
27

28 267. Plaintiffs seek a declaration pursuant to 28 U.S.C. §2201 that Defendants’ conduct

1 constitutes a violation of the employment contract, the CBA, under the RLA.

2 268. Plaintiffs are aggrieved of the violations of law alleged herein. Therefore, unless the
3 Court issues declaratory relief as requested, Plaintiffs will be irreparably injured. Plaintiffs have
4 no prompt, adequate and effective remedy at law. Plaintiffs will be successful on the merits of
5 this action.
6

7 **Count III – Violation of Fiduciary Duty of Officers of Labor Organizations**

8 269. Plaintiffs incorporate all previous paragraphs into this Count as if fully alleged herein.

9 270. Plaintiffs assert herein a claim against individual Defendants James Hoffa and Peter Finn
10 for breach of fiduciary duty with regards to the enforcement of the constitution and bylaws of
11 IBT and SFO Local, as well as the enforcement of the collective bargaining agreement entered
12 into with the UAL Mechanics Class.
13

14 271. Defendants James Hoffa and Peter Finn, in their capacities as officers and representatives
15 of respective unions and affiliates, owed a fiduciary duty to the UAL Mechanics Class, under 29
16 U.S.C. §501, as well as a fiduciary duty as defined by their respective constitutions and bylaws.
17

18 272. These individual Defendants have breached their respective fiduciary duties to the UAL
19 Mechanics Class through their arbitrary and unreasonable failure to not enforce all agreements,
20 by consciously avoiding and denying improper conduct of others under their control and
21 responsibility whose decisions ultimately were averse to the interests of the UAL Mechanic
22 Class, and by failing to enforce their own internal constitution and bylaws for the benefit of the
23 UAL Mechanic Class.
24

25 273. The Defendant Union officials, as signatories to a CBA on behalf of the employees, serves
26 in a capacity of a fiduciary and thus, violated their statutory duty to give adequate representation
27 arising out of the CBA when they failed to assist the UAL Mechanic Class when they sought to
28

1 invoke these protections.

2 274. The officials refusal to make the Company hold the vote on CARP is a textbook definition
3 of a violation of their fiduciary duty; the officials primary function is to represent employee
4 interests against the Company.
5

6 275. Plaintiffs have clearly shown hostility and bias against the UAL Mechanic Class where
7 no proper notice was given regarding grievances or the alleged withdrawal of their grievances.

8 276. The entire process surrounding the implementation of LOA 05-03M as a result of the
9 merger with Continental and the resultant amalgamation of the two mechanic work group CBAs
10 is so lacking of fundamental fairness and is so defective as to be literally non-existent. It is easily
11 conceded and recognized there was a serious violation of the UAL Mechanics Class' rights and
12 that such violations continue to this date for even as of today, Plaintiff Dill's grievance sits open
13 and at the top of the list, not heard or even scheduled to be heard.
14

15 **Count IV – Improper Exclusion of Plaintiffs from CARP Under ERISA**

16 277. Plaintiffs incorporate all previous paragraphs into this Count as if fully alleged herein.
17

18 278. The Employee Retirement Income Security Act (“ERISA”) restricts the amount of time
19 an employee can be excluded from participating in a pension plan. An employee like Plaintiffs
20 can only be excluded from CARP on account of age and service if the mechanic is under the age
21 of twenty-one (21) or has not completed one (1) year of service or two (2) years of service,
22 depending on the plan's vesting schedule.
23

24 279. LOA 05-03M mandated UAL mechanics were eligible to be covered by CARP on or
25 about the time the Company maintained or established a single-employer defined benefit plan.
26 The Company began to maintain such a plan on or about October 2010, (“LOA Effective Date”).
27

28 280. None of the Plaintiffs were under the age of twenty-one (21) at the time of the LOA

1 Effective Date, and all the Plaintiffs had more than two (2) years of service on the LOA Effective
2 Date.

3 281. On information and belief, the Defendants - Company and Union Defendants - conspired
4 to keep the UAL mechanics from becoming plan participants on the LOA Effective Date in order
5 to further their own pecuniary interests.
6

7 282. By their failure to enroll the UAL mechanics on the LOA Effective Date, the Defendants
8 – Company and Union Defendants – violated 26 U.S.C. §1051(a)(1)(A). Further, these failures
9 cost the Plaintiffs loss of six (6) years of creditable service thereby decreasing the pension the
10 Plaintiffs would otherwise be entitled to if these breaches had not occurred.
11

12 **Count V - ERISA Fiduciary Breaches by Defendants UAL and UCH**

13 283. Plaintiffs incorporate all previous paragraphs into this Count as if fully alleged herein.

14 284. Defendants UAL and UCH are plan sponsors of CARP, an ERISA covered defined
15 benefit plan, which is maintained for the benefit of its mechanics. As plan sponsors, UAL and
16 UCH are fiduciaries with respect to the CARP defined benefit plan.
17

18 285. As fiduciaries, Defendants UAL and UCH fiduciary conduct is governed by the prudent
19 man standard of care set forth in 29 U.S.C. § 1104 (a)(1)(A) through (D).

20 286. Under 29 U.S.C. § 1104(a)(1)(A), Defendants UAL and UCH have a fiduciary duty of
21 loyalty and must discharge their fiduciary duties solely in the interest of the participants and
22 beneficiaries. By failing to cover the UAL mechanics on the LOA Effective Date, the Defendants
23 UAL and UCH breached this duty of loyalty by placing their own pecuniary interests above the
24 interests of the participants and beneficiaries as required by 29 U.S.C. § 1104(a)(1)(A).
25

26 287. Under 29 U.S.C. § 1104 (a)(1)(D), Defendants UAL and UCH must discharge their
27 fiduciary duties in accordance with the governing plan document and instruments. By failing to
28

1 cover the UAL mechanics on the LOA Effective Date, the Defendants UAL and UCH breached
2 this duty by placing their own pecuniary interests above their duty to follow the governing plan
3 document and instruments.

4
5 288. As a result of the above fiduciary breaches, the Plaintiffs lost six (6) years of service
6 credits, thereby decreasing the amount of the pension that they would otherwise receive upon
7 retirement.

8 **Count VI - ERISA Knowing Participation Claims Against Defendant Unions**

9 289. Plaintiffs incorporate all previous paragraphs into this Count as if fully alleged herein.

10 290. 29 U.S.C. § 1105(a)(3) permits Plaintiffs to bring ERISA claims against non-fiduciary
11 for their participation in breaches of fiduciary duties by fiduciaries.

12
13 291. In this case, the Defendant Unions conspired with Defendants UAL and UCH to violate
14 the latter's fiduciary duties by preventing Plaintiffs from becoming participants in CARP on the
15 LOA Effective Date. Further, as the Plaintiffs' representative, the Defendant Unions knew that
16 Defendants UAL and UCH were breaching their fiduciary duties by not covering the UAL
17 mechanics as of the LOA Effective Date and took affirmative steps to delay the UAL mechanics
18 CARP coverage.

19
20 292. As the result of the Defendant Union's conduct as set forth above, the Plaintiffs lost over
21 six (6) years of service credits, thereby decreasing the amount of the pension Plaintiffs would
22 otherwise receive upon retirement.

23
24 **IX. PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiffs request this Court:

26 A. For a declaratory judgment pursuant to 28 U.S.C. §2201 declaring that the actions of
27 defendant complained of herein constitute a violation of the Railway Labor Act, 45 U.S.C. §151,
28

1 *et seq.*, as alleged herein;

2 B. For plan wide injunctive relief requiring the Company to follow CARP plan documents
3 and instruments;

4
5 C. For plan wide injunctive relief requiring the Company to retroactively enroll the UAL
6 Mechanic Class as having met the definition of participant and eligible employee to accrue
7 pension benefits as of October 1, 2010;

8 D. For appropriate plan wide relief to remedy the fiduciary breaches caused by the Company
9 and the Union’s knowing participation in those breaches’

10
11 E. To bar certain Defendants from serving as fiduciaries to ERISA covered plans;

12 F. Award the members of the UAL Mechanics Class compensatory damages in an amount
13 to be determined herein, including pre- and post-judgment interest;

14 G. Award the members of the UAL Mechanics Class their reasonable attorneys fee and costs
15 of suit; and

16
17 H. Grant such other and further relief as is just and proper under the circumstances.

18 I. UAL Mechanic Class hereby request a jury trial on each and every one of their claims in
19 this action.

20 DATED: February 8, 2019.

21 /s/ Jane C. Mariani
22 JANE C. MARIANI
23 Attorney for Plaintiffs
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25
26
27
28