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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

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

I. INTRODUCTION

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

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

II. JURISDICTION AND VENUE

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

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

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

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

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

III. INTRADISTRICT ASSIGNMENT

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

IV. PARTIES

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

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

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

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

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

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

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

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

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

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

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

office in IBT's principal office in Washington, D.C.

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

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

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

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

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

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

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

V. RELEVANT FACTUAL ALLEGATIONS

A. Bankruptcy and Concessions

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

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

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

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

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

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

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

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

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

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

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

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

1. *"Maintains or Establish a Single-Employer Pension Plan."*

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

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

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

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

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

2. Profit-Sharing Contribution

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

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

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

3. Amendments and Waiver of the Statute of Limitations

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

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

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

C. Merger of United and Continental in 2010

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

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

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

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

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

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

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

D. Collective Bargaining Agreements

1. Pre-Merger CBAs

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

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

2. First Post-Merger CBAs

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

a. Continental CBA

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

b. UAL Mechanics CBA

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

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

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

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

3. Combined CBA

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. Grievance Procedures in 2010-2013 CBA

a. Article 18 – Union Representation

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

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

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

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

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

b. Article 19 – Grievance Procedures

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

c. Article 20 - Board of Arbitration

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

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

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

E. <u>Plaintiffs' Participation in CARP</u>

1. Plaintiff Beier

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

107. Undeterred, Plaintiff Beier requested to invoke the Step 3 provisions of the CBA, the System Board of Administration, ("SBA"), without the Union. This also went nowhere and Plaintiff Beier's request was ignored.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Plaintiff Scholz

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Plaintiff Bybee

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

issues in this case.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. Plaintiff Dill

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

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

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

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

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

177. Plaintiff Dill's grievance remains "open" to this date and such status was confirmed buy her Chief Steward as recently as February 2019.

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

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

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

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

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

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

183. Plaintiff Dill now seeks remedy from the court.

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

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

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

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

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

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

1. ***Timeliness***

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

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

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

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

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

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

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

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

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

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

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

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

4. UAL Offered Option of a Defined Benefits Plan

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

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

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

decide about CARP would happen; it never did.

5. Erroneous Contract Interpretation

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

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

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

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

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

VII. CLASS ALLEGATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

VIII. CAUSES OF ACTION

Count I – Breach of Contract

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Count II – Breach of the Duty of Fair Representation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

invoke these protections.

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

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

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

Count IV – Improper Exclusion of Plaintiffs from CARP Under ERISA

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

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

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

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

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

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

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

Count V - ERISA Fiduciary Breaches by Defendants UAL and UCH

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

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

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

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

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

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

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

Count VI - ERISA Knowing Participation Claims Against Defendant Unions

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

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

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

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

IX. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request this Court:

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

et seq., as alleged herein;

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

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

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

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

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

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

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

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

DATED: February 8, 2019.

/s/ Jane C. Mariani
JANE C. MARIANI
Attorney for Plaintiffs