

Pension and Profit-Sharing Lawsuit Information
United Technicians Second Amended Complaint

Filed September 8, 2020

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

KEVIN E. BYBEE, JOHN R. SCHOLZ,
VICTOR H. DRUMHELLER, and SALLY A.
DILL, as individuals and plan participants in
The Continental Retirement Plan;

on behalf of themselves and all others
similarly situated; and on behalf of The
Continental Retirement Plan;

Plaintiffs,

vs.

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, a labor organization; JAMES
HOFFA, in his official capacity as the General
President of the International Brotherhood of
Teamsters; PETER FINN, in his official
capacity as the Principal Officer of Teamsters
Local 856; CHRISTOPHER GRISWOLD, in
his official capacity as the Principal Officer of
Teamsters Local 986; PAUL STRIPLING, in
his official capacity as Principal Officer of
Teamsters Local 781; GEORGE MIRANDA,
in his official capacity as Principal Officer of
Teamsters Local 210; UNITED AIRLINES,
INC., a Delaware corporation; UNITED
AIRLINES HOLDINGS, INC., a Delaware
corp.; the UNITED AIRLINES HOLDINGS'
ADMINISTRATIVE COMMITTEE, named
fiduciary of The Continental Retirement Plan.

Defendants.

Case No.: 3:18-cv-06632-JD

**PLAINTIFFS' SECOND AMENDED
COMPLAINT**

**REQUEST FOR DECLARATORY
JUDGMENT AND INJUNCTIVE
RELIEF**

CLASS ACTION

DEMAND FOR JURY TRIAL

PLAINTIFFS' SECOND AMENDED COMPLAINT

1
2 1. Plaintiffs Kevin E. Bybee, John R. Scholz, Sally A. Dill, and Victor H. Drumheller
3 (collectively, "Plaintiffs"), by and through undersigned counsel, on behalf of themselves, a class
4 of similarly situated people (the "Class," as defined below), and The Continental Retirement Plan
5 ("CARP") allege and aver as follows:
6

7 **I. INTRODUCTION**

8 2. Plaintiffs bring this action for damages alleging their employer, United Airlines, Inc.
9 ("United"), and United's parent company, United Airlines Holdings, Inc. ("UAH"), breached
10 contractual rights owed to the Plaintiffs and the Class by United and UAH under the parties
11 collective bargaining agreements. Plaintiffs allege their union representation, the International
12 Brotherhood of Teamsters ("Teamsters") breached the duty of fair representation owed to
13 Plaintiffs and the Class by the Teamsters failure to enforce the contractual rights owed to
14 Plaintiffs and the Class and breached by United and UAH. Plaintiffs also allege all Defendants
15 cooperated and conspired to permit United and UAH to breach the owed contractual rights for
16 over six years for financial gain for and to all Defendants.
17

18 3. Plaintiffs allege all United Defendants breached certain fiduciary duties owed to Plaintiffs
19 and the Class under the Employee Retirement Income Security Act ("ERISA") as fiduciaries to
20 the Continental Retirement Plan ("CARP") and the United Airlines Holdings, Inc. Profit Sharing
21 Plan ("PSP"). Plaintiffs allege the individual union defendants knowingly participated in those
22 breaches of fiduciary duty.
23

24 4. Plaintiffs further allege all individual union defendants breached fiduciary duties owed to
25 Plaintiffs and the Class under the Labor Management Reporting Disclosure Act (LMRDA), the
26 Teamsters' constitution, and the bylaws of the Plaintiffs' affiliated local unions.
27
28

1 5. Plaintiffs further allege all Defendants have violated Plaintiffs statutory due process rights
2 found and provided to Plaintiffs under the Railway Labor Act ("RLA") to remedy all Defendants
3 breaches of the parties' collective bargaining agreements.

4
5 6. Plaintiffs assert the actions by all Defendants have cost the Plaintiffs, and others similarly
6 situated, hundreds of millions of dollars in lost pension benefits and profit-sharing distributions.
7 Plaintiffs respectfully request this court remedy these injustices.

8 **II. JURISDICTION AND VENUE**

9 7. Jurisdiction is proper in this court over Plaintiffs' claims against all Defendants.

10 8. Plaintiffs bring this action pursuant to the Railway Labor Act, 45 U.S.C. § 151 et seq.
11 This Court has subject matter jurisdiction under the Railway Labor Act over Plaintiffs' claims
12 pursuant to 28 U.S.C. § 1331 and §1337 because Plaintiffs' claims present a federal question
13 concerning a contract made under the laws of the United States and Acts of Congress affecting
14 and regulating interstate commerce.
15

16 9. The Court has jurisdiction to hear this matter because the dispute is a major dispute arising
17 out of the contract formation process of new rights concerning rates of pay, rules, and/or working
18 conditions. Railway Labor Act, §§ 2, 3 subds. 2, and 6; 45 U.S.C. §§152, 153, subd. 2, and 156.

19 10. The Court has jurisdiction to hear this matter because exceptions to the exclusivity of the
20 airline's Board of Arbitration to arbitrate minor disputes applies in this case. Railway Labor Act,
21 §1 et seq., as amended, 45 U.S.C. §151 et seq.
22

23 11. The Court has jurisdiction to hear this matter because both "hybrid" exceptions to the
24 Railway Labor Act preemption apply in this case. First, there are good faith allegations and facts
25 supporting those allegations that the Plaintiffs' union breached its duty of fair representation and
26 that the Plaintiffs' employer breached the collective bargaining agreement and therefore, the
27
28

1 Plaintiffs cannot obtain meaningful relief before the Board of Arbitration. Second, there are good
2 faith allegations and facts supporting those allegations indicating collusion or otherwise tying the
3 Plaintiffs' union and Plaintiffs' employer together in conduct amounting to the breach of duty of
4 fair representation. Railway Labor Act, § 1 et seq., as amended, 45 U.S.C. § 151 et seq.

5
6 12. Plaintiffs also bring this action pursuant to LMRDA § 501(b), 29 U.S.C. § 501(b). The
7 Court has subject matter jurisdiction under LMRDA over Plaintiffs' claims pursuant to 28 U.S.C.
8 § 1331 and §1337 because this action arises under the laws of the United States.

9
10 13. Plaintiffs also bring this action pursuant to ERISA §§ 502(a)(2) and 502(a)(3), 29 U.S.C.
11 §§ 1132(a)(2), (3). This Court has subject matter jurisdiction over Plaintiffs' claims pursuant to
12 ERISA § 502(e)(1), 29 U.S.C. § 1132(e)(1) and 28 U.S.C. § 1331 because this action arises under
13 the laws of the United States and Acts of Congress concerning statutory violations related to
14 Plaintiffs' and the Class' pension rights.

15
16 14. Plaintiffs also bring this action pursuant to the Declaratory Judgment Act, 28 U.S.C.
17 §§2201 and 2202. Plaintiffs' are entitled to such a declaration because the instant dispute is an
18 actual and existing controversy.

19
20 15. The Court has personal jurisdiction over all Defendants because all transact business in
21 this district and have significant contacts with this district, and because ERISA provides for
22 nationwide service of process.

23
24 16. Venue lies in this district under 28 U.S.C. §1391(b),(c) because all Defendants conduct
25 substantial business at the San Francisco International Airport, located in the County of San
26 Mateo, including employing or representing Plaintiffs and because this district is where the
27 claims arose. And, Defendant United and Defendant UAH do business in this District, the
28 Defendant Teamsters maintain an affiliated local union principal office in this District, and

1 Defendant Teamsters' duly authorized officers and agents, some of whom are defendants in this
2 action, are engaged in representing and/or acting for employee members in this District.

3 17. Venue also lies in this district pursuant to ERISA § 502(e)(2), 29 U.S.C. § 1132(e)(2),
4 because all Defendants reside within or may be found in this district; a substantial portion of the
5 affected interstate trade and commerce was carried out in this District; and the alleged breaches
6 of the duties imposed by ERISA took place in this district.
7

8 **III. INTRADISTRICT ASSIGNMENT**

9 18. Pursuant to Civil L. R. 3-2(c) and 3-2(d), this action is properly assigned to either the San
10 Francisco Division or the Oakland Division because a substantial part of the events giving rise
11 to the claims asserted herein occurred in the County of San Mateo.
12

13 **IV. PARTIES**

14 **A. Employer Defendants**

15 19. Defendant United Airlines, Inc. ("United") is a Delaware corporation, with its corporate
16 headquarters located in Willis Tower, 233 South Wacker Drive, in Chicago, in the state of Illinois,
17 and is duly qualified, organized and authorized to transact and conduct, and is transacting and
18 conducting, business in the State of California. The acts alleged to have been done by United
19 were authorized, ordered, or performed by their directors, officers, managers, agents, employees,
20 or representatives while actively engaged in the management of their corporate affairs.
21

22 20. United is an air carrier subject to the Railway Labor Act, 45 U.S.C. §§ 151 et seq.,
23 operating an international airline, having customers in California and conducting operations in
24 California, including the San Francisco International Airport, located in unincorporated San
25 Mateo County, California, where United's largest aircraft maintenance facility is located
26 employing the largest number of United mechanics of any other United maintenance facility.
27
28

1 21. United is or has been a party to all collective bargaining agreement relevant to this action.
2 United is plan sponsor and plan fiduciary of the Continental Airlines Retirement Plan ("CARP")
3 with the ability to appoint the members of the committees tasked with administering the plans,
4 appointing the named fiduciary, and settling and compromising legal actions.
5

6 22. Defendant United Airlines Holdings, Inc. ("UAH") is a Delaware corporation with its
7 corporate headquarters located in Willis Tower, 233 South Wacker Drive, in Chicago, in the state
8 of Illinois, and is duly qualified and authorized to transact and conduct, and is transacting and
9 conducting, business in the State of California. The acts alleged to have been done by UAH were
10 authorized, ordered, or performed by their directors, officers, managers, agents, employees, or
11 representatives while actively engaged in the management of their corporate affairs.
12

13 23. UAH also administers and controls the retirement benefits plans and the profit-sharing
14 benefits plans for United and its employees, through committees provided for in its articles of
15 incorporation and bylaws. At all times relevant and material to this action, United and UAH
16 were the sponsors and administrators of the plans within the meaning of ERISA § 3(16)(A), (B).
17

18 24. Defendant United Airlines Holdings, Inc. Administrative Committee ("Administrative
19 Committee") is the fiduciary responsible under UAH's articles of incorporation, bylaws, and the
20 CARP plan document to act as fiduciary for CARP and to participate in overseeing the United
21 Airlines Holdings, Inc. Profit Sharing Plan. Plaintiffs has been unable to identify the individuals
22 comprising the Administration Committee at all relevant times material to this action; however,
23 Plaintiffs will endeavor to identify those individuals and entities in discovery and will seek leave
24 to amend the complaint to name them once their exact identities have been ascertained.
25

26 25. As of at least October 1, 2010, UAH owned all of the outstanding shares of United and
27 nonparty former Continental Airlines. At all relevant times material to this action, UAH officers
28

1 were also officers of United and vice versa; each entity regarded themselves as working for a
2 unified entity known, advertised, and represented to the general public as United.

3 26. UAH and United were co-parties to the bankruptcy exit agreement, Letter of Agreement
4 05-03M ("LOA 05-03M"), entered into on or about May 15, 2005, with Plaintiffs and the Class.
5

6 27. Collectively, United, UAH, and the Administration Committee are referred to herein as
7 the "United Fiduciary Defendants."

8 **B. Union Defendants**

9 28. Defendant International Brotherhood of Teamsters ("Teamsters") is an unincorporated
10 labor organization with its national headquarters at 25 Louisiana NW, in Washington, D.C.
11

12 29. National Mediation Board ("NMB") certified the Teamsters as the exclusive bargaining
13 representative of former United Air Lines Mechanics and Related Employees ("sUA mechanics")
14 in Case No. R-7141 on April 1, 2008.

15 30. NMB certified the Teamsters as the exclusive bargaining representative of nonparty
16 former Continental Airlines Technicians and Related Employees ("sCO mechanics") in Case No.
17 R-6513 on July 28, 1997.
18

19 31. And, NMB certified the Teamsters as the exclusive bargaining representative of the
20 combined sUA mechanics and sCO mechanics work group for United, in Case No. R-7363 on
21 September 5, 2013.
22

23 32. The Teamsters, therefore, are the exclusive bargaining representative under the Railway
24 Labor Act, 45 U.S.C. § 151, Sixth, for the nationwide craft or class of United mechanics, of
25 which the Plaintiffs and the Class belong and who bring this action in this district.

26 33. Individual Defendant James Hoffa ("Defendant Hoffa" or "Hoffa") is the Teamsters'
27 General President and principal officer who acts in his identified position pursuant to the
28

1 Teamsters' constitution. Hoffa is responsible for all acts performed by the Teamsters in the role
2 as the exclusive bargaining representative of all United mechanics.

3 34. The Teamsters are a hierarchical organization governed by a constitution and by bylaws
4 of affiliated local unions. The Teamsters authorize subordinate Teamsters' affiliated local unions
5 to serve as agents for the purposes of negotiating and enforcing collective bargaining agreements
6 with employers, including United. The principal officer in each Teamsters' affiliated local union
7 is responsible, per the Teamsters' constitution and each principal officer's affiliated local union's
8 bylaws, for the actions taken by the affiliated local union as agent for the Teamsters and taken
9 on behalf of the members of which Plaintiffs and the Class belong.
10

11
12 35. A principal officer is responsible for carrying out all duties imposed upon an affiliated
13 local union by the Teamsters' constitution and the affiliated local union's bylaws, including but
14 not limited to, supervising and controlling all officers, employees, and agents of the local union
15 including appointed business agents; supervising and controlling all grievances and labor
16 controversies; overseeing and ensuring all agreements between the union and an employer are
17 carried out; and supervising and ensuring all members abide by the Teamsters' constitution and
18 the local union's bylaws, including all local union officers, agents, and employees.
19

20 36. The named individual Teamsters defendants are principal officers of the Teamsters who
21 act in their identified positions pursuant to the Teamsters' constitution and their respective
22 affiliate local union's bylaws on behalf of the Plaintiffs.
23

24 37. Individual Defendant Peter Finn ("Defendant Finn") is the principal officer of Local 856,
25 located in San Bruno, California, the affiliated local Plaintiff Bybee is a member of. Defendant
26 Finn maintains an office in San Bruno, California, less than two miles from where Plaintiff Bybee
27 is employed by United, as well as four other satellite offices to carry out representational duties.
28

1 38. Individual Defendant Christopher Griswold ("Defendant Griswold") is the principal
2 officer of Local 986, located in Covina, California, the affiliated local Plaintiff Scholz is a
3 member of. Defendant Griswold maintains an office in Covina, California, as well as three other
4 satellite offices in Las Vegas, Santa Maria, and Lancaster, to carry out his representational duties.
5 Defendant Griswold's nearest office to the San Francisco Airport where Plaintiff Scholz is
6 employed by United is in Santa Maria which is over 250 miles away.
7

8 39. Individual Defendant Paul Stripling ("Defendant Stripling") is the principal officer of
9 Local 781, located in Chicago, Illinois, the affiliated local Plaintiff Dill is a member of.
10 Defendant Stripling maintains an office in Elmhurst, Illinois, to carry out his representational
11 duties. Defendant Stripling's office is within ten miles of the Chicago-O'Hare Airport where
12 Plaintiff Dill is employed by United.
13

14 40. Individual Defendant George Miranda ("Defendant Miranda") is the principal officer of
15 Local 210, the affiliated local Plaintiff Drumheller is a member of. Defendant Miranda maintains
16 an office in New York, New York to carry out his representational duties. Defendant Miranda's
17 office is over 250 miles from the Dulles Airport area where Plaintiff Drumheller is employed by
18 United.
19

20 41. Defendant Finn and Defendant Stripling maintain offices in the general geographic area
21 of the affiliated local union representational duties are carried out; Defendant Griswold and
22 Defendant Miranda, for reasons not known, only maintain offices hundreds of miles away from
23 its members which include Plaintiff Scholz, Plaintiff Drumheller, and other members of the Class
24 employed by United.
25

26 42. Collectively, Defendant Teamsters and all individual defendants are referred to herein as
27 the "Union Defendants."
28

1 43. Collectively, Defendant Finn, Defendant Griswold, Defendant Stripling, and Defendant
2 Miranda are referred to herein as the "Principal Officer Defendants."

3 **C. Plaintiffs**

4 44. All Plaintiffs are currently United mechanics and all Plaintiffs were mechanics for pre-
5 merger United, United Air Lines, Inc. ("sUA mechanics" or "pre-merger United mechanics").
6 All Plaintiffs are members in good standing with the Teamsters and, at all times material, have
7 fully performed all of the obligations under the terms of their collective bargaining agreement.
8 All Plaintiffs are participants and/or beneficiaries of an employment benefit plan within the
9 meaning of ERISA § 3(7), specifically, CARP, the single employer defined benefit plan at issue
10 in this action, since January 1, 2017.

11
12 45. Plaintiff Kevin E. Bybee ("Plaintiff Bybee") has been, and continues to be, at all material
13 times herein, a resident of the County of San Mateo, in the state of California. Plaintiff Bybee,
14 a high school graduate and state certified automotive journeyman mechanic, currently employed
15 by United as a Base Specialty Hydraulic Mechanical Technician at the SFO-MOC Maintenance
16 Center located at the San Francisco Airport, in unincorporated San Mateo County, in the state of
17 California. Plaintiff Bybee was hired by pre-merger United on January 3, 1989, and has remained
18 continuously employed by United ever since.

19 46. Plaintiff Bybee is a member in good standing with the Teamsters and is a member of
20 affiliated Local 856. Plaintiff Bybee filed a grievance on November 14, 2016, regarding LOA
21 05-03M. Plaintiff Bybee never received any hearing or written decision at any of the grievance
22 procedure steps outlined in the parties collective bargaining agreement because Plaintiff Bybee
23 was told his grievance became part of a grievance filed by another sUA mechanic and was made
24 "et al." As will be further alleged below, Plaintiff Bybee has never received any notice or hearing
25
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1 prior to his grievance being withdrawn with prejudice despite repeated demands to United and
2 to the Teamsters to be "released" to proceed unsupported by the union as a "no fund" case.

3 47. Plaintiff John R. Scholz ("Plaintiff Scholz") has been, and continues to be, at all material
4 times herein, a resident of the County of Alameda, in the state of California. Plaintiff Scholz, a
5 high school graduate, is currently employed by United as a Facilities Hydraulic Mechanical
6 Technician at United's SFO-MOC Maintenance Center located at the San Francisco Airport, in
7 unincorporated San Mateo County, in the state of California. Plaintiff Scholz was hired by pre-
8 merger United on March 23, 1998, and has remained employed by United at all relevant times.
9

10 48. Plaintiff Scholz is a member in good standing with the Teamsters and is a member of
11 affiliated Local 986. Plaintiff Scholz has been a shop steward alternate for the Teamsters.
12 Plaintiff Scholz filed a grievance on October 21, 2016, regarding LOA 05-03M. Plaintiff Scholz
13 never received any type of hearing or written decision at any of the grievance procedure steps
14 outlined in the parties collective bargaining agreement. Plaintiff Scholz was told his grievance
15 became part of a grievance filed by another sUA mechanic and was made "et al." As will be
16 further alleged below, Plaintiff Scholz has never received any notice or hearing prior to his
17 grievance being withdrawn with prejudice despite repeated demands to the Teamsters and United
18 to be "released" to proceed unsupported by the union as a "no fund" case.
19

20 49. Plaintiff Sally A. Dill ("Plaintiff Dill") has been, and continues to be, at all material times
21 herein, a resident of the County of McHenry, in the state of Illinois. Plaintiff Dill, certified as an
22 airframe and power plant mechanic by Lewis University, is currently employed by United as a
23 Lead Aircraft Mechanic at the O'Hare Service Center Hangar, located at the Chicago O'Hare
24 Airport, in Chicago, in the state of Illinois. Plaintiff Dill was hired by pre-merger United on
25 April 16, 1984 and has been continuously employed by United ever since.
26
27
28

1 50. Plaintiff Dill is a member in good standing with Teamsters and is a member of affiliated
2 Local 781. Plaintiff Dill filed a grievance on November 11, 2016, regarding LOA 05-03M.
3 Plaintiff Dill never received any type of hearing or written decision at any of the grievance
4 procedure steps outlined in the parties collective bargaining agreement. Plaintiff Dill's grievance
5 was "open" and at the top of the open grievance list for over two years. As will be further alleged
6 below, Plaintiff Dill has never received any notice or hearing prior to her grievance being
7 withdrawn with prejudice. The Teamsters, approximately two weeks after the First Amended
8 Complaint in this action was filed joining Plaintiff Dill, withdrew her grievance with prejudice
9 without warning, due process, or prior notification.
10

11
12 51. Plaintiff Victor H. Drumheller ("Plaintiff Drumheller") is a resident of the County of
13 Berkeley, in the state of West Virginia since 2017; from May 2, 2010, Plaintiff Drumheller was
14 a resident of the County of San Joaquin, in the state of California. Plaintiff Drumheller, a high
15 school graduate, is currently employed by United as a Lead Maintenance Line Technician at
16 United's FX Maintenance Facilities located at the Washington Dulles International Airport, in
17 Dulles, in the state of Virginia. Plaintiff Drumheller was hired by pre-merger United on April
18 20, 1990, and has remained continuously employed by United ever since.
19

20 52. Plaintiff Drumheller is a member in good standing with the Teamsters and is a member
21 of affiliated Local 210. Plaintiff Drumheller has been a shop steward for the Teamsters. Plaintiff
22 Drumheller filed a grievance on November 16, 2016, regarding LOA 05-03M. Plaintiff
23 Drumheller never received any hearing or written decision at any of the grievance procedure
24 steps outlined in the parties collective bargaining agreement. Plaintiff Drumheller's grievance
25 has never been withdrawn or closed and remains "open" as of the filing of this complaint. The
26 Teamsters have not provided any type of process to Plaintiff Drumheller regarding his grievance.
27
28

1 **D. The Plans**

2 53. There are two plans at issue in this action - CARP, the Continental Airlines Retirement
3 Plan and the United Airlines Holdings, Inc. Profit Sharing Plan ("PSP").

4 54. CARP is an "employee pension benefit plan" pursuant to ERISA § 3(2)(A), 29 U.S.C. §
5 1002(2)(A), whose purpose is to provide retirement income to any United or UAH employee
6 who participates in the plan.

7 55. CARP is a single employer defined benefit plan within the meaning of ERISA § 3(41),
8 29 U.S.C. § 1002(41), which states a single employer defined benefit plan is any plan that is not
9 a multi-employer defined benefit plan. CARP, as a tax qualified single employer defined benefit
10 pension plan, is covered by the plan termination insurance program established under Title IV of
11 ERISA. 29 U.S.C. §§ 1002(35), 1301(a)(15), 1321(a).

12 56. On information and belief, CARP has approximately 50,000 participants, which include
13 the Plaintiffs and the Class.

14 57. The Administrative Committee is the plan administrator of CARP, within the meaning of
15 29 U.S.C. §§ 1002(16)(A) and 1302(a)(1).

16 58. United and UCH are the contributing sponsors of CARP within the meaning of 29 U.S.C.
17 § 1301(a)(13).

18 59. CARP's plan document gives the United Fiduciary Defendants, "the exclusive right to
19 amend, change, implement, or construe the provisions of the Plan and to determine any and all
20 questions arising thereunder or in connection with the administration thereof."

21 60. United and UCH are members of a controlled group with nonparty ExpressJet Airlines.
22 The designation of CARP as being part of a controlled group demands designating CARP as a
23 single employer plan according to Form 5500 instructions and not Multiple-A or Multiple-B plan.
24
25
26
27
28

1 61. CARP is a legal entity that can sue and be sued. 29 U.S.C. § 1132(d)(1). In a breach of
2 fiduciary duty action such as this, the plan is not a party. Pursuant to 29 U.S.C. § 1109(a), and
3 the law interpreting it, the relief requested is for benefit of the plan and its participants.

4
5 62. On information and belief, former Continental Airlines mechanics ("sCO mechanics")
6 have participated in CARP since 1988. United and UAH stated, in their 2010 SEC Form 10k, as
7 of October 1, 2010, United and UAH were "maintaining" CARP.

8 63. The United Airlines Holdings, Inc. Profit Sharing Plan ("PSP") is a written individual
9 account plan within the meaning of ERISA § 3(34), 29 U.S.C. § 1002(34). PSP, as is relevant to
10 this action, covers all eligible employees of United and UAH.

11
12 64. Under PSP, an employee can elect to receive a check for PSP monies or elect to deposit
13 PSP monies into an employee's defined contribution plan ("401k"). Those deposits into an
14 employee's 401k are ERISA-governed individual account retirement plan monies for which
15 United and UAH, as the plan sponsors, appoint a fiduciary to administer and oversee.

16
17 65. PSP fulfills its administrative functions through the same fiduciary overseeing CARP, the
18 Administrative Committee Defendant, which is appointed by United and UAH.

19 **E. Significant Non-Parties**

20 **1. Continental Airlines**

21 66. Pre-merger Continental Airlines, Inc. ("Continental") was an air carrier as defined by the
22 Railway Labor Act, 45 U.S.C. § 151 et seq. Continental was acquired by UAH on or before
23 October 1, 2010. UAH retired all of Continental's stock and reissued UAH stock to Continental
24 shareholders by merger. UAH subsequently merged Continental and former United Air Lines,
25 naming this new combined airline United Airlines.

26
27 67. Continental was the founding sponsor of CARP.
28

1 **2. ExpressJet**

2 68. ExpressJet Airlines, LLC. ("ExpressJet") was a wholly owned Continental subsidiary
3 before being sold in 2002.

4 69. ExpressJet is a regional airline flying under the United Express brand for United. On
5 information and belief, ExpressJet flies exclusively as United Express.
6

7 70. On information and belief, United and UAH are, at a minimum, a 49 percent stakeholder
8 in ExpressJet, making ExpressJet a partially owned subsidiary of United and UAH and making
9 ExpressJet part of a controlled group within ERISA definitions.
10

11 71. On information and belief, United and UAH control and direct ExpressJet through a series
12 of limited liability corporations including KAir, LLC and ManaAir, LLC. In United's and UAH's
13 most recent annual SEC 10k report, United and UAH acknowledge ownership of ExpressJet and
14 interests in and with ManaAir, LLC and KAir, LLC.

15 72. The Teamsters are the exclusive bargaining representative for ExpressJet mechanics, who
16 work under a collective bargaining agreement for ExpressJet negotiated by the Teamsters.
17

18 73. ExpressJet mechanics' collective bargaining agreement provides no defined benefit
19 pension plan option; however, a defined contribution pension plan right is provided.

20 74. ExpressJet mechanics' collective bargaining agreement makes no mention of CARP at all
21 nor does it make any reference to participation in CARP.
22

23 75. The United Fiduciary Defendants, in CARP's 5500 filings, list ExpressJet as an employer
24 for purposes of designating CARP a multiple employer plan. The Fiduciary Defendants also note
25 in CARP's 5500 filings, ExpressJet makes no contributions to CARP, has no liabilities to CARP,
26 has no sponsorship duties, rights, or obligations, and is part of a controlled group with United
27 and UAH all of which by definition require CARP to be designated a single employer plan.
28

V. RELEVANT FACTUAL ALLEGATIONS

1
2 76. From 1994 to 2005, pre-merger United and UAH would display stunning incompetent
3 executive management, squandering billions of dollars wrought from its labor workforce through
4 one concessionary contract after another. The Employee Stock Ownership Plan (ESOP) touted
5 as a plan to enrich employee retirement, reduced and flat lined labor wages during the prosperous
6 1990's, whilst denying even feeble gains during the strongest bull market of the twentieth century.

7
8 77. And, at the same time pre-merger United was reporting record financial results of billions
9 of dollars annually, it was employee concessions worth nearly \$5 billion dollars bolstering the
10 bottom line, funding management's reckless business decisions, and lining shareholders' pockets
11 - none of which was shared by the employees of the "employee owned" company

12
13 78. The first in a series of betrayals, and what would become standard operating procedure,
14 came when the ESOP contract became amendable in 2000. Having promised seamless contract
15 rollover, the process was anything but. Yes, pre-merger United quickly and lucratively settled
16 with the pilots on a contract but only after the pilots staged a work slowdown, resulting in the
17 forced cancellation of over 25,000 flights from May to August, one of the busiest travel seasons
18 in every year. The company, however, did not direct their ire at the pilots; it took its pound of
19 flesh instead from the mechanics and, rather than the "seamless contract negotiations" promised,
20 United filed for a temporary restraining order to force the mechanics to work overtime under the
21 amendable contract for years instead of just negotiating a new collective bargaining agreement
22 as promised. Time and time again, the company would go to this same playbook - promise the
23 world and then pull the rug out once it got what its executives wanted.

24
25
26 79. UAH and pre-merger Untied would use bankruptcy as a cudgel to continue to shake down
27 the mechanics, drastically reducing their wages, forcibly terminating their pension plans,
28

1 increasing their medical coverage costs, and limiting vacation and sick pay. Amidst all of this,
2 the rank and file, the mechanics and other labor groups, quietly performed their jobs. The airline's
3 on-time ranking moved to the top of the chart, lost baggage numbers dramatically declined, and
4 customer satisfaction hit all-time highs. The employees had decided they would improve the
5 only thing they could control, the day-to-day and flight-to-flight performance of the airline.
6

7 80. Meanwhile, the executives at UAH and pre-merger United focused on what they wanted
8 to control - their own personal bottom lines. In a stunning decision, top executives decided that
9 the decisions to void negotiated contracts, to forcibly terminate pensions, to cut pay, to cut
10 benefits, to cut medical insurance, made them business geniuses and therefore, they awarded
11 themselves millions of dollars in stock and bonuses for their efforts within weeks of emerging
12 from Chapter 11 reorganization. It cannot be overstated as to how much of a slap in the face that
13 truly was - that absolute failure of leadership and principle is, to this day, still a sore spot.
14

15 81. For their part during the bankruptcy, the mechanics, having again been forced to agree to
16 concessions in order for the court and the creditors to approve the reorganization plan, made a
17 few bets on themselves. The mechanics negotiated for the future - for future profits, for a future
18 defined benefit pension, and for a matching defined contribution plan which allowed them to
19 save for the future. This agreement is referred to as the bankruptcy exit agreement or Letter of
20 Agreement 05-03M ("LOA 05-03M") and was reduced to a writing, reviewed, and approved by
21 the Bankruptcy Court, and thereafter, made final and binding.
22

23 82. The men and women of the craft or class of mechanics then put their heads down and set
24 out on a mission with the rest of labor to restore what had been lost. And, they did just what they
25 set out to do. Prior to the current public health crisis, United was booming, posting record profits,
26 being dubbed the largest airline in the world, and basking in prosperity. The Defendants in this
27
28

1 action, all Defendants, however, would make every effort to deny the earned, negotiated, and due
2 and owing share of this unprecedented success to these mechanics once again.

3 83. This action addresses the attempt by United Defendants, with the Union Defendants help,
4 to once again deny the mechanics labor group their rightful, contractual, and earned share. More
5 specifically, this action relates to whether United Defendants violated the terms of the collective
6 bargaining agreements, including LOA 05-03M and whether the Union Defendants failed in their
7 duty to fairly represent Plaintiffs and the Class by enforcing those same collective bargaining
8 agreements, including LOA 05-03M. Plaintiffs further assert the Union Defendants colluded
9 with and cooperated with the United Defendants in their breaches of all agreements in order for
10 all Defendants to enrich themselves and their organizations at the expense of Plaintiffs and the
11 Class, causing statutory fiduciary duty breaches under ERISA and the LMRDA.
12

13
14 84. On May 2, 2010, UAH announced its intent to acquire Continental and combine it with
15 pre-merger United to create a new combined airline, calling the plan a "merger of equals."
16

17 85. As part of this plan, UAH and pre-merger United promised to maintain Continental's
18 single employer defined benefit plan, CARP, and in this acknowledgement, UAH triggered the
19 contingent pension rights in LOA 05-03M in favor of Plaintiffs and the Class. The bet the
20 mechanics had made on themselves was paying off. The only catch according to the Union
21 Defendants was the timing of the "payout." The Union Defendants told the mechanics, having
22 consulted with United and UAH, any rights under LOA 05-03M would be addressed with a joint
23 agreement combining the two mechanic work groups from the formerly separate airlines.
24

25 86. The Plaintiffs and the Class worked prior to the joint agreement with the understanding
26 the Union Defendants were negotiating for them, not only for a new joint collective bargaining
27 agreement, but also for the enforcement of the rights in LOA 05-03M, the rights found in every
28

1 pre-merger United mechanics collective bargaining agreement since 2005, including the pension
2 election and certain profit sharing pool rights, the latter provided for the forced surrender of the
3 pre-merger United mechanics pension as part of UAH's and United's bankruptcy proceedings.
4

5 The Union Defendants continually and consistently represented this to Plaintiffs and the Class.

6 87. It was not until a draft copy of what would become this anticipated joint agreement was
7 revealed that Plaintiffs realized this had all been a ruse. This tentative joint agreement contained
8 no provision for the pension election provided for under LOA 05-03M for the discrete group of
9 sUA mechanics but instead unilaterally enrolled them into CARP with no retroactivity.
10

11 88. Outraged, and prior to the vote and ratification of the joint agreement, Plaintiffs and
12 hundreds of others filed grievances to protest the failure to provide for the vote and for breach of
13 the then in force collective bargaining agreement. The years of promises to address the pension
14 election issue no later than the time of a joint agreement had been broken; the sUA mechanics
15 would take a stand and put an end to being a victim to broken promises and lies for others gain.
16

17 89. At least three things are undisputed. One, LOA 05-03M was incorporated into the 2005
18 sUA mechanics collective bargaining agreement, reviewed and approved in bankruptcy court,
19 and was enforceable on May 2, 2010 and on October 1, 2010, when UAH announced it had
20 acquired Continental and had plans to combine the two airlines into one.
21

22 90. Two, UAH was a party to LOA 05-03M along with United, as is clearly and expressly
23 stated in the title page of LOA 05-03M, and therefore, UAH is and was a party to and subject to
24 LOA 05-03M's terms, conditions, rights, benefits, and duties.

25 91. Three, the Teamsters are also a party to LOA 05-03M and subject to its terms, conditions,
26 rights, benefits, and duties because the Teamsters, having independently negotiated and decided
27 in the subsequent 2010 sUA mechanics collective bargaining agreement to include LOA 05-03M
28

1 verbatim, ratified its terms, conditions, rights, benefits, and duties as part of the 2010 sUA
2 mechanics agreement to which the Teamsters are a party as the Plaintiffs' and the Class' exclusive
3 bargaining representative under the Railway Labor Act.

4
5 92. Therefore, the issues in this action are simple. How long and to what extent did the Union
6 Defendants permit the United Defendants to violate the in force collective bargaining agreement,
7 of which LOA 05-03M was a part of, the CARP plan document, and the PSP plan document, and
8 to what extent did the Union Defendants violate and breach these agreements, themselves, as
9 judged by the terms of the in force collective bargaining agreements at the time the grievances
10 were filed in violation of Railway Labor Act, the duty of fair representation, and federal law.

11
12 **A. The 2005 sUA Agreement Grants Property Rights**

13 93. The Railway Labor Act ("RLA"), 45 U.S.C. § 151 et seq., governs labor-employment
14 relations in the rail industry and was designed to, among other things, "provide for the prompt
15 and orderly settlement of all disputes growing out of grievances or out of the interpretation or
16 application of collective bargaining agreements." Congress eventually extended the RLA to the
17 airline industry. 45 U.S.C. §§ 181-188

18
19 94. All employees in this action are covered by and work under the RLA.

20 95. United is an air carrier as defined by RLA and is therefore subject to its provisions.

21 96. All airline employees have an individual statutory contract of employment under the
22 RLA. 45 U.S.C. § 152. Eighth.

23
24 97. Upon being hired, a United employee is required to sign a statement referred to as "Terms
25 & Conditions of Employment," which is the individual contract of employment referred to in the
26 Railway Labor Act, 45 U.S.C. § 152, Eighth. There is no termination date on the RLA individual
27 contract and it is a "continuing contract." Pursuant to Section 6 and Section 2, First of the RLA,
28

1 the rates of pay, rules, and working conditions under a collective bargaining agreement continue
2 in effect while the parties negotiate for a successor agreement. 45 U.S.C. §§ 156, 152, First.

3 98. Airline employees have property rights under the RLA. An employee's rights include
4 seniority and contractual rights and are their recognized as property rights. Once an employee
5 has property rights, they cannot be taken away without due process.
6

7 99. United employees have the right to have good faith and fair dealing under the RLA, to
8 have their property, and to have their guaranteed statutory due process rights.

9 100. United agrees to and enforces their employee agreements under the RLA, filing the rates
10 of pay, rules and working conditions for represented and unrepresented employees with NMB
11 and the Department of Labor ("DOL"), thereby defining the property rights of its employees.
12

13 101. A breach, therefore, should entitle a plaintiff to recover the full value of the contract,
14 including the value of all rights and benefits.

15 102. Under the RLA, the employee's individual contracts are negotiated collectively by a union
16 acting as the groups exclusive bargaining agent, termed a collective bargaining agreement. Once
17 negotiated, collective bargaining agreements must be faithful honored and carried out. Adhering
18 to and following the terms of an in force collectively bargained agreement is not bargaining.
19

20 103. As is material to this action, from May 2, 2010 until December 11, 2011, the in force and
21 enforceable collective bargaining agreement was the 2005-2009 agreement between United Air
22 Lines, Inc. and the Aircraft Mechanics Fraternal Association (AMFA), referred herein as the
23 "2005 sUA Agreement." The 2005 sUA Agreement had become amendable on December 31,
24 2009. A new agreement was not ratified until December 11, 2011, the 2010-2013 Agreement
25 Between United Airlines, Inc. as Represented by The International Brotherhood of Teamsters,
26 referred to herein as the "2010 sUA Agreement."
27
28

1 **B. Bankruptcy Concessions - PBGC Settlement Agreement and LOA 05-03M**

2 104. Between 2002 and 2005, UAH and United had undergone a series of significant corporate
3 transactions, including the end of years long Chapter 11 Bankruptcy reorganization.

4
5 105. Among them, UAH's and United's termination of its single employer defined benefit
6 plans for its employees. One such affected group was then United Air Lines, Inc. Mechanics and
7 Other Related ("sUA mechanics") labor group. The terms of the involuntary termination of the
8 sUA mechanics pension was reflected, as is relevant to this action, in two agreements - the *IN*
9 *RE UAL CORPORATION, ET AL. (Case No. 02-B-48191) Settlement Agreement By and Among*
10 *UAL Corporation and all Direct and Indirect Subsidiaries and Pension Benefit Guaranty*
11 *Corporation* (herein, "PBGC Settlement Agreement") and the *(Bankruptcy Exit Agreement)*
12 *LETTER OF AGREEMENT by and between UAL CORP., UNITED AIR LINES, INC. and*
13 *Mechanics and Related Employees in the service of UNITED AIR LINES, INC. as represented*
14 *by THE AIRCRAFT MECHANICS FRATERNAL ASSOCIATION* (herein, LOA 05-03M").
15

16
17 106. For clarification, UAL Corporation or UAL Corp. refers to the current defendant in this
18 action, UAH. As will be shown below, through various corporate transactions, UAL Corp. would
19 first change its name to United Continental Holdings, Inc. following the acquisition and merger
20 with Continental and then, in June 2019, change its name to United Airlines Holdings, Inc.

21
22 107. United Air Lines, Inc. was the airline owned by UAH prior to its merger with Continental.
23 Following the merger with Continental, the new combined airline was named United Airlines,
24 Inc., the defendant in this action.

25
26 108. As is relevant to this action, the PBGC Settlement Agreement provided the terms of the
27 involuntary termination and take over the sUA mechanics pension plan. Significantly, the PBGC
28 Settlement Agreement, for consideration of certain securities, provided in pertinent part:

1 * "This Settlement Agreement (this "Agreement") is made effective as of the Approval
2 Date (defined below) by and among UAL Corporation, all of its direct and indirect subsidiaries,
3 and all members of its "controlled group" as defined under the Employee Retirement Income
4 Security Act of 1974 (as amended, "ERISA"), and all of its successors and assigns (collectively,
5 "United"), and Pension Benefit Guaranty Corporation ("PBGC") . . ."

7 * Paragraph 6, subsection b: "PBGC shall be deemed to have waived its rights to restore
8 any of the Pension Plans in full or in part . . ."

9 * Paragraph 6, subsection c: " United shall not establish any new ERISA-qualified defined
10 benefit plans for a period of ten (10) years after the Exit Date."

12 * Paragraph 15, "Conditions Precedent. The effectiveness of the Agreement shall be
13 subject to Bankruptcy Court approval . . ."

14 * Exhibit B, Contingent Senior Subordinated Notes: " Contingent Notes will be issued on
15 the Issuance Date following any fiscal year, starting with the fiscal year ending December 31,
16 2009 and ending with the fiscal year ending December 31, 2017, in which there is a Trigger
17 Date." and " "Trigger Date" is any Measuring Date where the following condition to Issuance is
18 met: LTM EBITDAR exceeds \$3.5 billion . . ."

20 109. The parties sought the required Bankruptcy Court approval and, on or about May 11,
21 2005, by court order, the Bankruptcy Court granted the parties motion to approve the PBGC
22 Settlement Agreement, albeit with additional findings of fact and conclusions of law.

24 110. The Bankruptcy Court hearing transcript on this motion is widely and publicly available
25 and it evidences as extensive and exhaustive, line by line review and ratification by all parties
26 before the court. All parties were represented by competent counsel.

1 111. The transcript evidences this exchange on page 6, line 15, "the Court: All right. Any other
2 changes in 6?" and the response, lines 17 and 18, "Mr. Sprayregen: Yes. In 6(c) we have reduced
3 the ten-year period to five-years." Sprayregen is UAH's and United's counsel of record.
4

5 112. The Bankruptcy Court granted this significant change to the above provided terms of the
6 PBGC Settlement Agreement. The approval of this amendment is reflected in the Bankruptcy
7 Court's order dated May 11, 2005, in an attachment following the exhibits, in pertinent part:

8 * Additional Terms and Conditions, paragraph 11: "With respect to each employee group,
9 the Agreement's prohibition on defined benefit pension plans is reduced from 10 years to 5 years,
10 provided, however, that this prohibition does not preclude negotiations of such plans becoming
11 effective at the end of the 5 year period."
12

13 113. Therefore, any prohibition on UAH and United establishing any type of defined benefit
14 plan would expire on or about May 11, 2010; however, this did not prevent either from planning
15 to prospectively establish any such plan as of the end of the prohibition.
16

17 114. And, the PBGC Settlement Agreement terms are limited to "establishing" a benefit plan.
18 The agreement makes no mention of "maintaining" as that would be factually and legally
19 impossible given the purpose was reflect the terms of the termination of all plans.

20 115. Furthermore, the PBGC Settlement Agreement involuntarily terminates all UAH and
21 United pension plans, including the sUA mechanics plan, and provides such plans could never
22 be restored and therefore, the idea of "maintaining" any plan at that time would be illogical.
23

24 116. For comparison, former Continental mechanics ("sCO mechanics") at this time in 2005,
25 had a single employer defined benefit plan, CARP, as their defined benefit pension.

26 117. The other significant agreement UAH and United entered into in order to exit the years
27 long bankruptcy was the aforementioned LOA 05-03M.
28

1 118. Like the PBGC Settlement Agreement, LOA 05-03M was reduced to a writing, executed
2 by all parties, reviewed, and approved by the Bankruptcy Court on the record in the United Entity
3 Defendants' bankruptcy proceedings on May 15, 2005, by written order.

4
5 119. LOA 05-03M lists the parties to the agreement on its title page: "(Bankruptcy Exit
6 Agreement) LETTER OF AGREEMENT by and between UAL CORP., UNITED AIR LINES,
7 INC. and Mechanics and Related Employees in the service of UNITED AIR LINES, INC. as
8 represented by THE AIRCRAFT MECHANICS FRATERNAL ASSOCIATION."

9
10 120. Therefore, the parties to the agreement are UAH, United, and the sUA mechanics; AMFA
11 represented the sUA mechanics as their exclusive bargaining representative at that time.

12 121. LOA 05-03M became a part of and was fully incorporated into the 2005 sUA mechanics
13 agreement.

14 122. On January 1, 2006, the board of directors for UAH and United ratified LOA 05-03M
15 and LOA 05-03M was published as an exhibit to UAH's and United's 2006 SEC Form 10K.

16
17 **1. General Provision of LOA 05-03M**

18 123. LOA 05-03M expressly provides that its terms would survive replacement, and therefore
19 modification, of any collective bargaining agreement of which it was incorporated and that its
20 terms could be altered only by "a written instrument executed by all parties."

21
22 124. LOA 05-03M is and was final and binding between the parties which include the United
23 Entity Defendants and sUA mechanics representation. "Paragraph 12. Agreement. This Letter
24 of Agreement is a final, binding and conclusive commitment and agreement . . ."

25 125. LOA 05-03M does not require, stipulate, or provide for the satisfaction of any reciprocal
26 duty UAH and United may owe to any other entity or work group in order for UAH and United
27 to perform its obligations to sUA mechanics under LOA 05-03M.
28

1 126. LOA 05-03M validity and enforceability was dependent on Bankruptcy Court approval
2 and UAH's and United's exit from Chapter 11 reorganization. Both conditions occurred.

3 127. LOA 05-03M does not stipulate to UAH's and United's willingness or tax elections to
4 implement the mandatory language. Valid consideration was given for these promises.
5

6 **2. Maintains or Establish a Single-Employer Pension Plan**

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

13 129. The intent of the language "shall not maintain," as evidenced by the contemporaneous
14 notes and personal recollections of James Seitz, the then AMFA Contract Administrator, means
15 UAH and United cannot maintain any single-employer defined benefit plan without first
16 providing sUA mechanics an option of electing to receive the same benefit in lieu of the 401k.
17

18 130. Seitz will testify to the extensive negotiations regarding these terms. AMFA negotiators
19 had specifically put in the unique term "maintains" because negotiators for UAH and United had
20 briefed AMFA on possible mergers it hoped to enter into immediately following reorganization.

21 131. AMFA negotiators intentionally included "maintain" because AMFA negotiators knew
22 the potential merger partners being considered had existing single employer defined benefit plans
23 for their employees and, should a merger result, the sUA mechanics could "restore" the pension.
24

25 132. Logically, the term “maintains” would only be appropriate for a merger scenario because
26 the pension plans had been irrevocably terminated in the bankruptcy proceedings and therefore,
27 any the plan would have to come from outside for it to be "maintained."
28

1 **3. Profit-Sharing Contribution**

2 133. LOA 05-03M, Paragraph 6 provides, "Company Profit Sharing Contribution. The 2005-
3 2009 Mechanics' Agreement shall provide for AMFA-represented employees to participate in
4 the revised profit-sharing program described in Exhibit C to this Letter of Agreement."
5

6 134. Seitz will testify the intention of Paragraph 6 was to recognize and respond to the dramatic
7 and substantial wage cuts forced upon sUA mechanics in order for UAH and United to reorganize
8 and exit bankruptcy.

9 **4. Amendments and Waiver of the Statute of Limitations**

10 135. LOA 05-03M, Paragraph 13 provides, "Amendments; Waiver. This Letter of Agreement
11 may be amended, modified, superseded or canceled and any of its provisions may be waived only
12 by a written instrument executed by all parties or, in the case of a waiver, by the party waiving
13 compliance. The failure of any party at any time to require performance of any provision of this
14 Letter of Agreement shall not affect the right of that party at a later time to enforce the same or
15 a different provision. No waiver by any party of a right under this Letter of Agreement shall be
16 deemed or construed as a further or continuing waiver of any such right with respect to the same
17 or a different provision of this Letter of Agreement."
18

19
20 136. LOA 05-03M grants any of the parties to the agreement a right to bring actions relating
21 to the performance under this document at any time.

22
23 137. Seitz will attest to the parties having directly contemplated and addressed any potential
24 statute of limitations issue and agreed to a waiver of the same. This waiver is in every bankruptcy
25 exit agreement effectuated by every labor group forced to give massive concessions to UAH and
26 United in order to permit exit from Chapter 11 reorganization.
27
28

1 138. LOA 05-03M was similarly reviewed and approved by the same Bankruptcy Court, on or
2 about May 15, 2005, and became final and binding as provided for in LOA 05-03M.

3 139. Seitz has been at all times employed by United at United's SFO-MOC Maintenance
4 Facility located at the San Francisco Airport.

5 140. The Teamsters have never consulted Seitz on the intent and meaning of LOA 05-03M
6 despite Seitz being the signatory of LOA 05-03M on AMFA's and the sUA mechanics behalf.

7 141. On information and belief, there are four former AMFA negotiating committee members
8 who are currently employed with United and thus, are members of the Teamsters.

9 142. On information and belief, one former AMFA negotiator, Ken Meidinger, has been
10 appointed to and heads up a special benefits administration advisory branch of the Teamsters -
11 remarkably, he has never been consulted by the Teamsters, including any legal counsel hired by
12 the Teamsters to review and advise on LOA 05-03M.

13
14
15 **C. The Merger Triggers Property Rights**

16 143. According to a prospectus filed by UAH and United prior to the acquisition and merger
17 of Continental, UAH and United have tried unsuccessfully to merge with Continental since 2006.
18 Talks have been continuous and ongoing since that time.

19 144. The parties finally removed any impediments and on or about May 2, 2010, following
20 approval by the board of directors of each airline, the parties announced UAH would acquire
21 Continental and combine the two airlines in a "merger of equals." The combination of the two
22 airlines would be anything but "equal" for sUA mechanics.

23 145. On May 2, 2010, the 2005 sUA Agreement was the agreement under which the parties
24 agreed to govern the rates of pay, working conditions, and benefits. The 2005 sUA Agreement
25 contained LOA 05-03M.
26
27
28

1 146. On May 2, 2010, Continental sponsored a single employer defined benefit plan.

2 147. As a result of the announcement by UAH, United, and Continental, UAH's and United's
3 duties under LOA 05-03M, particularly, Paragraph 5, subsection d, were triggered.

4 148. The deal with Continental also triggered the PBGC Settlement Agreement Contingent
5 Note's issuance. UAH would end up obligated under the terms of the Contingent Note terms in
6 the PBGC Settlement Agreement to issue to the PBGC up to \$500 million in notes.

7 149. If UAH's consolidated income calculated EBITDAR exceeds \$3.5 billion over any
8 twelve-month measuring period beginning with the fiscal year ending December 31, 2009 and
9 ending with the fiscal year ending December 31, 2017, UAH would be liable.

10 150. As is relevant in this action, UAH's EBITDAR did exceed the limitation, triggering the
11 distributions outlined above. UAH would enter into settlement agreement with the PBGC and
12 agree to issue approximately \$400 million dollars' worth of 8% notes to honor the terms of the
13 original PBGC settlement Agreement Contingent Notes terms.

14 151. On information and belief, it is these overlapping, expensive, and required financial
15 obligations that gave birth to secret deals between the Teamsters and United and UAH to not
16 only delay the enforcement of LOA 05-03M's pension obligation against UAH and United but to
17 make every effort to subvert and extinguish the LOA 05-03M in its entirety.

18 152. Edward Gleason, a Teamsters' attorney, would later tell sUA mechanics their pension
19 rights were not honored in 2010 because UAH and United could not afford it. Not because there
20 was no pension right but because the Teamsters had agreed to delay enforcement because UAH
21 and United could not afford to fund whatever pension obligation would result from enforcement.

22 153. On May 2, 2010, both sUA and sCO mechanics group's collective bargaining agreements
23 were amendable and being negotiated. The Teamsters represented both in these negotiations.
24
25
26
27
28

1 **D. Merger Completed**

2 154. UAH and United announce the legal completion of the acquisition and merger with
3 Continental was completed as of October 1, 2010, in their annual 2010 SEC Form 10k, filed on
4 or about February 11, 2011.

5
6 155. In the 2010 SEC Form 10k filing, UAH and United acknowledge voluntary assumption
7 of and responsibility for "maintaining" CARP, beginning October 1, 2010.

8 156. LOA 05-03M's sUA mechanics defined benefit pension elective option was enforceable
9 and required to be performed by UAH and United at the latest as of October 1, 2010. And, a
10 duty also arose for the Teamsters, as the sUA mechanics representative, to enforce LOA 05-03M
11 against UAH and United.

12
13 157. Under the RLA, a collective bargaining agreement becomes amendable after the date of
14 its expiration. 45 U.S.C. § 156. During the bargaining process for a new agreement, the status
15 quo must be maintained and unchanged language retains an unchanged meaning.

16
17 158. The sUA mechanics 2005 Agreement, although amendable, remained unchanged as of
18 October 1, 2010, and therefore, all the rights and duties under LOA 05-03M were enforceable.

19 **1. sCO Agreement - CARP but No Profit Sharing**

20 159. As of October 1, 2010, sCO mechanics were on the verge of completing negotiations for
21 a new collective bargaining agreement.

22
23 160. On November 4, 2010, sCO mechanics ratify the new agreement, herein the 2009 sCO
24 Agreement. The 2009 sCO Agreement is made fully retroactive to commence on January 1, 2009,
25 the day after the previous collective bargaining agreement has become amendable, and remains
26 in effect until December 31, 2012.

1 161. Under the 2009 sCO Agreement, sCO mechanics participate in a single-employer defined
2 benefit pension plan, CARP. Letter of Agreement 26-1, incorporated into 2009 sCO Agreement
3 explicitly states and reaffirms a staunch commitment to “maintain” CARP for sCO mechanics.
4

5 162. As of October 1, 2010, there is nothing in the operative CARP plan document preventing
6 sUA mechanics from being included in CARP or prohibiting their inclusion.

7 163. Under the 2009 sCO Agreement, sCO mechanics surrendered any right to participate in
8 any profit-sharing plan. Letter of Agreement 19-1, the letter of agreement previously providing
9 these rights, is lined out. This is an industry practice denoting previously contained but since
10 deleted terms and/or provisions bargained away.
11

12 164. Under the 2009 sCO Agreement, a joint agreement is entered into, the sCO and sUA
13 collective bargaining agreements "will remain in effect for the respective groups . . . in
14 accordance with the RLA except as modified by this Letter of Agreement or by the JCBA, or
15 except as the Parties otherwise agree with respect to a CBA."
16

17 **2. sUA mechanics collective bargaining agreement**

18 165. The negotiations for the sUA mechanics were not even close to being completed.

19 166. Defendant Hoffa appointed David Bourne, Clacy Griswold, the brother of Defendant
20 Chris Griswold, and Edward Gleason to control and direct all negotiations for sUA mechanics
21 new collective bargaining agreement.
22

23 167. Despite the dictates of the Teamsters' constitution, the affiliated local union bylaws, and
24 the past practices of electing contract negotiation committee members from the rank and file,
25 most negotiation committee members are handpicked by the local union principal officers,
26 particularly Defendants Finn, Griswold, Stripling, and Miranda, at their respective locations to
27 be on the rank and file negotiation committees.
28

1 168. Over the next year or so, the Teamsters would take a wrecking ball to the sUA mechanics
2 collective bargaining agreement, foisting more concessions onto sUA mechanics, surrendering
3 important job protections, essentially abandoning its duty as exclusive bargaining representative
4 to manipulate contractual enforcement in order to enrich Teamsters' personal interests and
5 provide an employer friendly contract for United, inflicting harm on the sUA mechanics.
6

7 169. The 2009 sCO Agreement was not nearly as lucrative or beneficial as even the 2005 sUA
8 Agreement, a concessionary contract. The Teamsters made public statements and official releases
9 stating the 2009 sCO Agreement will be foisted onto the sUA mechanics because having more
10 similar agreements would make the process that much easier for the Teamsters to combine the
11 two agreements going forward.
12

13 170. Reports from the rank and file negotiators depict negotiations as not between the United
14 and the rank and file committees as it should be but were instead between Hoffa's handpicked
15 group and the rank and file negotiation committees.
16

17 171. Ramon Gonzalez, one of the few elected rank and file negotiators, will testify the Hoffa
18 group constantly engaged in secret, closed-door negotiations, excluding negotiation committee
19 members, multiple times, particularly when the pension benefits and healthcare benefits
20 provisions came up for negotiation. The men would then bring back proposals from United to
21 the committee members and try and sell the United position.
22

23 172. The Hoffa negotiators were cajoling and coercing the committee negotiators to give up
24 profit sharing. The negotiating committee would direct the Hoffa negotiators to stop asking and
25 to tell United this was a nonstarter - the group just kept at it.
26

27 173. Below is a chart representing the major points of negotiation and how they changed over
28 the various contracts. The 2005 sUA Agreement was the bankruptcy concessionary contract.

CBA Terms	2005 sUA	2005 sCO	2009 sCO	2010 sUA
Pay Progression	5 years	7 years	7 years	7 years
Start Pay % - Top Base Pay	66%	54%	54%	54%
Profit Sharing	15%	Not Defined	0%	15%
Skill Pay	\$1.36	0	0	0
C Check Line	A-320 / 757 / 777	737	737	0
Outsourcing	20% Limit	Unlimited	Unlimited	Unlimited
Overseas Outsourcing	777 & 747 Only	Unlimited	Unlimited	777 & 747 Only
Retirement	5% 401k	CARP	CARP	5% 401k
Retiree Medical	Lifetime - Starting at 55	5-year bridge (60 to 65)	5-year bridge (60 to 65)	Lifetime - Begin at 55
Medical	Free HMO <i>or</i> 20/80 with 9% Annual Cap	20/80 with 20% Annual Cap	20/80 with 20% Annual Cap	Free HMO <i>or</i> 20/80 with 9% Annual Cap
Pay Seniority	Accrues on Furlough	Stops at Furlough	Stops at Furlough	Accrues on Furlough
Company Seniority	Accrues on Furlough	Stops at Furlough	Stops at Furlough	Accrues on Furlough
Recall Rights	Lifetime	6 Years	5 Years	Lifetime
Furlough Protection	Oct.30, 1989	Feb 28 2005	Nov 2010	Dec 2011
Sick Time Accrual	12 days per yr.	12 days per yr.	12 days per yr.	12 days per yr.
Sick Time	Cannot be Disciplined	Disciplined by Teamster Policy	Disciplined by Teamster Policy	Cannot be Disciplined

1 174. The 2005 sUA Agreement was the result of severe and drastic cuts to benefits and wages
2 because of bankruptcy and yet, comparing it to the other contracts, it has such greater protections
3 for outsourcing, wage scales, profit sharing, and furlough protection.
4

5 175. At one point, Clacy Griswold ordered the rank and file negotiating committee members
6 to take United's offer or else he would appoint new business agents and empower them to vote
7 immediately in order to get his way. Rewarding essentially United employees with full time
8 Teamsters appointed business agent jobs while in negotiations to obtain favorable voting to force
9 concessionary contracts is a standard practice of the Teamsters.
10

11 176. Robert Fisher, another Hoffa appointed negotiator, in a separate arbitration proceeding,
12 under oath, stated that the parties in the negotiations, for both the 2010 sUA Agreement and the
13 subsequent joint agreement, agreed to model the collective bargaining agreements "largely after
14 the 2009 sCO Agreement and that the Parties further agreed that, generally, the interpretations of
15 the sCO language would also be applied"
16

17 177. David Bourne went so far as to make a thirteen-minute video stating he knew the 2010
18 sUA Agreement was bad but it was only transitional and so the members should vote for it so
19 negotiations could begin on the joint agreement where the sUA mechanics would see real gains.
20

21 178. The sUA mechanics expressed anger that the tentative agreement did not provide for the
22 elective option between the defined benefit or a comparable defined contribution plan. And,
23 there was not a clear consensus as to which option the majority of the sUA mechanics preferred.
24

25 179. The Teamsters did not then and have not ever provided any reason as to why the
26 Teamsters never provided for the elective option vote or forced United to hold the elective vote,
27 not after May 2, 2010, not after October 1, 2010, and not ever. As will be explained in greater
28 detail the pension election vote under LOA 05-03M was never held.

1 **3. sUA mechanics ratify 2010 sUA Agreement**

2 180. On or about December 11, 2011, the sUA mechanics ratified a new collective bargaining
3 agreement, the 2010 sUA Agreement, but not without controversy.

4
5 181. Defendant Finn, Defendant Griswold, Clacy Griswold, Edward Gleason, Robert Fisher,
6 David Bourne, conducted "roadshows" to promote ratification of the 2010 sUA Agreement to
7 the membership.

8 182. Gleason, on April 4, 2011, at a roadshows in San Bruno, told the sUA mechanics that
9 NMB officials had stated: (1) the NMB wants the agreement voted down; (2) the NMB was upset
10 and concerned contract was too lucrative when compared with what the other work groups at
11 United have been offered while they are in mediation; (3) United also wants the contract voted
12 down, since it will affect their negotiations in mediation; and (4) if the contract is voted
13 down, since it will affect their negotiations in mediation; and (4) if the contract is voted down,
14 NMB will keep them in mediation forever and they will not see a release for a very long time.

15 183. Following the roadshow, a group of sUA mechanics, so alarmed by Gleason's statements,
16 hired an attorney to demand the NMB immediately stop such interference in negotiations and
17 demanded a remedy. The NMB swiftly and credibly responded no such statements were or had
18 been made ever and Gleason was misleading the members.

19
20 184. This would not be the first or the last time Gleason would lie to the sUA mechanics about
21 subjects he had a legal duty to tell the truth about as the attorney of record for the sUA mechanics
22 negotiations and as a member of *any* state's bar.

23
24 185. Hoffa's handpicked negotiators repeatedly told the sUA mechanics LOA 05-03M would
25 be handled in the joint agreement and if there was a problem, it would go to arbitration.

26 186. This same group repeatedly told sUA mechanics any pension election - defined benefit
27 or defined contribution - would be made retroactive and would be looked at in its entirety.
28

1 187. The 2010 sUA Agreement included fully incorporated LOA 05-03M verbatim, unaltered,
2 unamended, and unchanged.

3 188. The Teamsters renamed LOA 05-03M as LOA #17, a label simply indicating its place in
4 the order of all of the letters of agreement in the collective bargaining agreement. The Teamsters
5 also removed former AMFA signatory Seitz' name from the signature line of LOA 05-03M.
6

7 189. LOA #17 is LOA 05-03M. LOA 05-03M was indexed with all of the other letters of
8 agreement that were in force and part of the contract. All of LOA 05-03M's terms, conditions,
9 rights, duties, and benefits were incorporated into the 2010 sUA Agreement.
10

11 190. The Teamsters, having independently negotiated and ratified the 2010 sUA Agreement
12 and incorporated LOA 05-03M into that agreement, became a party to and subject to its terms,
13 conditions, rights, benefits, and duties until such time as a new agreement may supplant it.

14 191. The Teamsters traded contract language, i.e. scope protections, outsourcing protections,
15 audits, and cross utilization ability for control of pension and healthcare benefits for the combined
16 mechanic group. Local 986 and Local 856 business agents Rich Petrovsky and Paul Molenburg
17 stated, "you have to give something to get something. If you don't like it, go to another airline."
18

19 192. The 2010 sUA Agreement provided no defined benefit pension and no current pension
20 increases. After five years under a severely concessionary contract resulting from bankruptcy,
21 sUA mechanics did not receive any meaningful recovery for their sacrifices.
22

23 193. Of note, any mechanic hired after October 1, 2010, through the sCO Agreement began
24 accruing pension vesting credits, service credits, and funding no later than January 1, 2012. In
25 contrast, any mechanic hired at this same time but hired through United received no defined
26 benefit plan benefits at all. And, because the sUA mechanics only began participation on January
27 1, 2017, even those who have been with United for decades, have been in the plan half the time.
28

1 **E. United Defendants Do Not Need Union Permission to Honor Contracts**

2 **1. No Pension Election of Defined Benefit Plan for sUA Mechanics**

3 194. The RLA demands carriers do all in their power to make and maintain agreements.

4 195. LOA 05-03M is between UAH, United, Plaintiffs, and the Class.

5 196. Any obligation United had to any other labor work group is not a condition precedent or
6 a condition subsequent to performing duties under LOA 05-03M.

7 197. Even if inclusion of sUA mechanics in CARP would trigger some other duty for United,
8 this has no legal bearing or relevance to the clear and express terms of LOA 05-03M and United
9 performing its obligations under the collective bargaining agreement and LOA 05-03M.

10 198. Any "me-too" agreement any other labor group had or has is separate and apart from the
11 sUA mechanics collective bargaining agreement and LOA 05-03M.

12 199. Any tax consequences or penalties incurred by United regarding performance under LOA
13 05-03M are the responsibility of United and do not terminate, delay, or impact the duties under
14 LOA 05-03M.

15 200. United can act unilaterally to increase or choses to go above what is required under the
16 contract. For example, because the starting wage scales negotiated by the Teamsters were so
17 low, United began hiring in new mechanics at the top of the pay scale because they could not
18 attract any new mechanics.

19 201. United as plan sponsor can do practically what it wants with CARP. United sponsors,
20 administers, and has the sole power to amend, change, add or subtract to CARP. United is solely
21 responsible for funding CARP.

22 202. Plaintiffs are employees of United, the plan sponsor. Plaintiffs work for United under a
23 collective bargaining agreement. CARP is a single employer defined benefit pension plan.
24
25
26
27
28

1 203. United could have honored its contractual and recognized duties without permission from
2 anyone least not the Teamsters. United did not do so because United and the Teamsters entered
3 into a secret deal to delay fulfillment of this obligation in order to financial benefit both United
4 and the Teamsters at the expense of the sUA mechanics.
5

6 204. According to the Teamsters, United stated unequivocally on December 9, 2010, United
7 had an obligation under LOA 05-03M to offer a single employer defined benefit plan to the sUA
8 mechanics. United informed the Teamsters of this and the Teamsters did nothing; however,
9 neither did United. As explained above, United did not need any permission from the Teamsters
10 to hold the pension election under LOA 05-03M triggered by the voluntary acquisition and
11 merger of Continental by UAH and United. United therefore breach the contract.
12

13 205. According to the Teamsters, at this same meeting, United explained it did not want to do
14 this because it may have adverse tax consequences for the corporation. Incredibly, the Teamsters
15 agreed this was sufficient reason to breach a collective bargaining agreement, accepting this
16 explanation at face value and abandoning the duties owed to sUA mechanics. The Teamsters
17 present at this meeting - Bourne, Griswold, and Gleason. On information and belief, it is at this
18 meeting that a deal is struck between United and the Teamsters.
19

20 206. The 2007 CARP plan documents states, in a Seventh Amendment executed on
21 December 27, 2012, in adding Dispatcher Participant provisions specifically making some of the
22 terms retroactive. This evidences the plan sponsor has the ability to include terms making
23 benefits retroactive.
24

25 207. The CARP plan document states, in Section 12.1 - Appointment, Term of Service, and
26 Removal, that only the President can appoint the Administrative Committee. Therefore, any
27 appointments made in any other manner are void and are in violation of the plan document. After
28

1 2010, Executive Vice President, Mike Bonds repeatedly makes appointments, amendments, and
2 changes to the plan in direct violation of the plan document because an EVP is not the President.

3 208. The CARP plan document was amended in 2015, in a Ninth Amendment, executed on
4 April 15, 2015. Section 12.1 of the plan was replaced in its entirety to allow the EVP to appoint
5 the Administrative Committee instead of the President. There is a serious question as to whether
6 any of the previous amendments or actions by EVP bonds are legally binding. More glaring is
7 the fact that the Administrative Committee did not correct or catch this for at least five years.
8

9 209. CARP funding notices, required under ERISA, have clearly and unequivocally stated
10 CARP is a single employer plan for decades.
11

12 210. A review of the CARP IRS Form 5500 evidences several improper and violative
13 elections in order to mislead not only Plaintiffs and others similarly situated but the Department
14 of Labor and the Internal Revenue Service, by failing to state the plan was maintained according
15 to a collective bargaining agreement; by making contradictory elections and statements related
16 to the self-designated selection of CARP as a multiple employer plan when in fact CARP is a
17 single employer plan; obfuscating the fact the alleged other employer, ExpressJet, and United
18 and UAH are part of a controlled group and therefore, ineligible to elect Multiple-A status.
19

20 211. On information and belief, the Administrative Committee Defendants abandoned their
21 independent duties, making no meaningful independent investigation into who were proper
22 eligible participants in either CARP or PSP. Instead, they acted at the express direction of United
23 and UAH, contrary to the express terms of plan documents and collective bargaining agreements.
24

25 **2. Profit sharing for sCO mechanics**

26 212. At this same time, the Teamsters were using LOA 05-03M to provide profit sharing
27 benefits to sCO mechanics. Following ratification of the sCO mechanics agreement in 2010, the
28

1 sCO mechanics became participants in the profit-sharing plan despite having no contractual right
2 to do so. More glaring is sCO mechanics participation is directly contrary to the clear and express
3 terms of the profit-sharing plan document with states:
4

5 Participating Employee Group. Each of the following is considered a 'Participating
6 Employee Group' . . . 3. each class or craft of employees covered by a collective
7 bargaining agreement between an Employer and a union which expressly provides
8 for coverage under a profit sharing bonus plan . . . excluded from such definition:
9 (i) each class or craft of employees covered by a collective bargaining agreement
10 between an Employer and a union which does not expressly provide for coverage
11 under a profit sharing bonus plan . . ."

12
13 213. sCO mechanics had surrendered profit sharing in the 2009 sCO Agreement and thus, were
14 excluded not only under the terms of their collective bargaining agreement but under the express
15 terms of the profit-sharing plan.
16

17 214. The profit-sharing plan document also provides, in relevant part:

18 "Plan Administration. The Company or its delegate has the authority and
19 responsibility to manage and control the general administration of the Plan, except
20 as to matters expressly reserved in the Plan to the Committee. Determinations,
21 decisions and actions of the Company or, if applicable, the Committee, in
22 connection with the construction, interpretation, administration, or application of
23 the Plan will be final, conclusive, and binding upon any person . . ."

24
25 215. The Administrative Committee Defendants should have prevented this participation.

26 216. No prudent or loyal fiduciary who performed a reasonably thorough investigation would
27 have included the sCO mechanics in the PSP.
28

1 217. Administrative Committee Defendants made no meaningful investigation into whether
2 including the sCO mechanics was in the best interests of the plan or its participants, or whether
3 the Plan's assets could have been used differently in a way that benefitted the plan and its
4 participants, the Administrative Committee Defendants just went along with what UAH and
5 United told them to do.
6

7 218. sCO mechanics did not have any such right in the relevant 2009 sCO Agreement, in fact,
8 the Teamsters had negotiated such profit sharing out of the 2009 sCO Agreement.

9 219. The Teamsters had no legal or contractual justification or basis to permit this dilution
10 especially not when holding the positions that one, LOA 05-03M was not valid, two, that LOA
11 05-03M could be set aside if the company asked, and three, there was no vote by the membership
12 to approve such modification.
13

14 220. The Teamsters were not obligated to do this, they did it voluntarily. All other labor groups
15 with similar provisions disputed or contested including sCO into their respective pools. The sUA
16 pilots grieved and arbitrated this exact issue and prevailed. Applying Teamster logic, the "me-
17 too" nature of the profit-sharing language in the bankruptcy agreements, following United's loss
18 in arbitration, United should have been obligated to cease this practice until a new joint agreement
19 was in place. United did not and the Teamsters did not ask them to.
20

21 221. The Teamsters, in fact, denied knowing about the ruling, denied having any control over
22 the profit-sharing issue, and took no action on behalf of the sUA mechanics.
23

24 222. United can act unilaterally when it increases or choses to go above what is required under
25 the contract as stated above.

26 223. United could have decided on its own, unilaterally, to add a new pool for sCO mechanics
27 until such time as there was a joint agreement. What United could not do was add in and dilute
28

1 the sUA mechanics pool with sCO mechanics in light of the express contract language of both
2 mechanic groups. But United did exactly that and Administrative Committee did nothing.

3 224. Nor did the Teamsters. The Teamsters did not grieve these actions on behalf of sUA
4 mechanics nor did they even explain or tell the sUA mechanics it was happening. As is alleged
5 in greater detail below, Plaintiff Scholz would discover the sUA pilots' grievance on this exact
6 issue in October of 2016 and learn of this for the first time.

7
8 225. The sUA pilots through their union, alleged UAH and United violated the express terms
9 of the pilots' bankruptcy exit agreement LOA 05-02 when United included sCO pilots in the
10 prospective pool of recipients for profit sharing monies and in the calculations because the two
11 groups were working under separate collective bargaining agreements and because sCO pilots
12 had no profit sharing right under the sCO pilot collective bargaining agreement.

13
14 226. The arbitration board agreed with sUA pilots and awarded the sUA pilots \$32 million
15 dollars in damages. The damages were calculated as illicit inclusion by United of sCO pilots in
16 the sUA pilots profit sharing pool up to the time the two pilot groups entered into a joint collective
17 bargaining agreement, approximately eighteen (16) months or so.

18
19 227. Plaintiff Scholz presented this arbitration decision to the Teamsters to add to the other
20 grievances related to LOA 05-03M. Scholz was told the entirety of LOA 05-03M was being
21 reviewed and so this was under review also; however, the Teamsters also accused the Plaintiffs
22 and the others of being greedy for wanting to challenge this. The Teamsters openly allowed
23 United to illicitly dilute sUA mechanics profit sharing monies for over six years without a single
24 word to the membership that this was happening, without allowing the membership to vote or
25 comment on whether this should happen, and in direct and express violation of not only the
26 collective bargaining agreement but the profit sharing plan as well.
27
28

1 **F. Teamsters Are Exclusive Bargaining Representative of sUA Mechanics**

2 228. The sUA mechanics have been represented, as a group, under the RLA, since April 1,
3 2008 until the present, by the Teamsters. NMB issued a determination establishing the Teamsters
4 as the certified bargaining representative for the sUA mechanics on that date.
5

6 229. Defendant Teamsters is a labor organization certified pursuant to Section 2, Ninth of the
7 RLA, as the authorized representative for sUA mechanics of which Plaintiffs were a part.

8 230. The Teamsters are governed by a constitution which is considered a contract between the
9 Teamsters, its affiliated local unions, and its members. Specifically, as an intended beneficiary
10 of the constitution, a Teamsters' member has a stake or interest in it.

11 231. The Teamsters employ affiliated local unions to carry out the Teamsters' representation
12 and constitution. The affiliated local unions are governed by a slate of officers, with ultimate
13 authority and accountability in the designated "principal officer" of each affiliated local union.
14

15 232. As stated above, Defendants Finn, Griswold, Stripling, and Miranda are the principal
16 officers of the affiliated local unions Plaintiffs are members of; Defendant Hoffa is the "principal
17 officer" of the national Teamsters organization of which the local unions are affiliated.
18

19 **1. Teamsters constitution**

20 233. Teamsters' constitution Article I, Sec.2, directs all officers "to perform its legal and
21 contractual obligations." And, Article II, Sec. 2(a) requires each member to conduct himself in
22 such a way as to avoid bringing reproach upon the Union.
23

24 234. Article VIII, § 1 provides rules of membership expressly prohibit any member from
25 "doing any act contrary to the best interests of the Association or its members."
26

27 235. Article XIV, § 3 provides in part, "[e]very member covered by a collective bargaining
28 agreement at his place of employment authorizes his Local Union to act as his exclusive

1 bargaining representative with full and exclusive power to execute agreements with his employer
2 governing terms and conditions of his employment."

3 236. Article XII, § 10 provides in part, " no proposed agreements shall become valid and
4 binding unless specifically approved by the General President." Defendant Hoffa, therefore, as
5 General President, has the ultimate responsibility to approve all collective bargaining agreements
6 and other agreements. And, the constitution vests Hoffa with the authority to settle and determine
7 all disputes submitted to him including by Local Unions, officers and members.
8

9 237. Relevant to this action, Article XII, Section 1 provides in relevant part, "Members shall
10 have the right to ratify the collective bargaining agreement negotiated . . . with their employer."
11 And, for a similar vote whenever a material change to a collective bargaining agreement will
12 materially impact a whole group or discrete group of its members; in the case of a discrete group,
13 only the discrete group votes on the changes.
14

15 **2. The Affiliated Local Union Bylaws**

16 238. Article XXII of the Teamsters' constitution provides affiliated local unions can adopt
17 bylaws that do not conflict with constitution and such bylaws shall designate a principal executive
18 officer who will oversee, supervise, control all of the business and affairs of the local union, its
19 officers, and employees.
20

21 239. Article XXII also provides the affiliated local union business agents are to be elected.
22 This has been abandoned by the affiliated locals and the business agents are simply appointed at
23 will by the principal officer. Defendants Finn, Griswold, Stripling, and Miranda are each the
24 named principal officer of the affiliated local unions of which the Plaintiffs are members and to
25 whom each Plaintiff's grievance was overseen and each appoints the business agents for the local.
26
27
28

1 240. The bylaws of the affiliated local unions relevant to this action are largely uniform.

2 241. As is relevant here, each affiliated local union's bylaws contain a provision stating, "the
3 principal officer shall adhere to the collective bargaining agreements and shall refrain from any
4 conduct interfering with performance by the local union of its legal and contractual obligations.
5

6 242. Important to this action, the affiliated local union principal officer has the exclusive power
7 to govern the enforcement of the collective bargaining agreement for the members of his local
8 "to ensure consistent, fair and equitable application of said agreement under the Railway Labor
9 Act . . . to work toward resolving all disputes with the company at the lowest level possible and
10 if unable to do so, use all means available through the grievance or legal process, whichever is
11 applicable to best represent our members . . ."

12
13 **3. Teamsters Accountability**

14 243. The Teamsters are liable for the failure and refusal of local principal officers to perform
15 their duties. The local bylaws state the local principle officer is an agent of the International both
16 in the implementation and enforcement of the collective-bargaining agreement and in the
17 processing of grievances.
18

19 **4. Teamsters' Pension Statements**

20 244. Beginning in 2008, and continuing through all contract negotiations up to and including
21 the ratification of the eventual amalgamated agreement for the two mechanics groups, the
22 Teamsters stated LOA 05-03M could and would be used to secure a pension for sUA mechanics.
23

24 245. In February 2008 Teamster attorney, Edward Gleason, in a legal advice letter to the sUA
25 mechanics stated he had reviewed LOA 05-03M and that under the terms of LOA 05-03M, the
26 Teamsters could deliver on the promise of using LOA 05-03M to get pension benefits for sUA
27 mechanics
28

1 246. Gleason, however, also erroneously states in that letter the PBGC Settlement Agreement
2 terms mean United can never again have a single employer defined benefit plan. Gleason
3 concludes the only option, therefore, for sUA mechanics to secure a defined benefit pension plan
4 is through a multi-employer plan. Gleason stated the only multi-employer plan option was the
5 Teamster's Western conference Teamsters Pension Trust ("WCTPT").
6

7 247. Gleason also stated in that same letter, the prohibition on United having any defined
8 benefit plan was ten years.

9 248. The Teamsters, evidenced through self-published flyers, business reports, and oral
10 statements, state LOA 05-3M could and would be used to negotiate a new defined benefit plan
11 for the sUA mechanics.
12

13 **F. Significant Developments**

14 249. On November 13, 2011, the Federal Aviation Administration ("FAA") grants single
15 carrier certificate to United. On this date the 2005 sUA Agreement is the in force collective
16 bargaining agreement for sUA mechanics. LOA 05-03M is valid and enforceable on this date.
17

18 250. On March 31, 2013, a paper "merger" between Continental and pre-merger United occurs.
19 The 2010 sUA Agreement is operative agreement on this date and this agreement includes the
20 fully incorporated and unchanged LOA 05-03M.

21 251. On June 30, 2013, the 2010 sUA Agreement is amendable; the 2009 sCO Agreement has
22 been amendable since December 31, 2012.
23

24 252. The parties, therefore, are negotiating for the joint agreement to combine the mechanics
25 work group. The negotiators are the same - Hoffa has again handpicked Bourne, Gleason, and
26 Griswold, with Gleason exclusively in charge of pension benefits.
27
28

1 253. In November 2013, the Teamsters demand all new hires and sUA mechanics be forced
2 into a Teamsters controlled Adjustable Pension Plan (APP). The Teamsters also demand sCO
3 mechanics terminate CARP and transfer into the APP.

4 254. Neither the sCO mechanics or the sUA mechanics have expressed or directed the
5 Teamsters to make such demands on their behalf. The negotiating committees are completely
6 bewildered by these sudden demands.

7 255. Gleason again spearheads a group made up of appointed Teamster officials and hired
8 actuary Cheiron, a benefit advising firm, to run different pension plan scenarios so the committee
9 can inform the membership. CARP is not discussed or mentioned as an available option.

10 256. The Teamsters also inexplicably lead the sUA mechanics in a demonstration against
11 United demanding United reinstate the mechanics' pension plan. The Teamsters are well aware,
12 specifically, Gleason, the PBGC Settlement Agreement permanently foreclosed this possibility
13 in 2005. The Teamsters construct this deception to send a message to United they can play dirty.

14 257. Of note, is the Teamsters website provided for its members. The website, for over twenty
15 years, until sometime in April of 2020, described CARP as "the perfect example of a single
16 employer plan." Plaintiffs routinely took screenshots of this. The website has since been scrubbed
17 of virtually all pension information.

18 258. Through all of this, the Principal Officer Defendants are silent. None has ever spoken up
19 about LOA 05-03M. But Defendant Griswold did make one trip to SFO in late 2013 - to hold a
20 secret trial in a hotel to send a message to anyone seeking to challenge the Teamsters rule.

21 259. Defendant Griswold put Seitz, the former AMFA Contract Administrator, on trial in
22 absentia for conduct disloyal to the Teamsters. What had Seitz done that was so harmful to the
23 integrity of the Teamsters? Hanging up flyers around the base to try and explain LOA 05-03M
24
25
26
27
28

1 and the absolute failure of the Teamsters to do anything about it. Griswold found him guilty and
2 forbade Seitz from voting on any contract or other union business; however, the Teamsters still
3 take his \$104 dollars a month in dues but they refuse to provide him with any representation or
4 participation in the Teamsters to this day.
5

6 260. The Teamsters also regularly publish flyers where they blame Seitz for the bankruptcy
7 and even for the termination of the pensions in bankruptcy, an event that Seitz literally could not
8 control or direct at all and which United had surreptitiously agreed to with the PBGC.
9

10 261. Teamsters' official monthly updates call him a snake and a traitor. Acts in direct violation
11 of the Teamster oath of office, the Teamster constitution, and Seitz' right to speak out in
12 opposition against his union under the LMRDA free speech rights. This is designed to send a
13 message to anyone who would speak out, to create a chilling effect on others who may think
14 about speaking out against the Teamsters failures in performing their representational duties.
15

16 262. As recently as July 15, 2020, the Teamsters again published flyers specifically naming
17 Seitz, inexplicably blaming Seitz for the Teamsters inability to enforce LOA 05-03M after the
18 merger with Continental. Seitz has not been a union representative of the sUA mechanics since
19 April 1, 2008, over two years prior to the merger.
20

21 263. Nor were any of the other Principal Officer Defendants seemingly engaged in what was
22 happening or falling to happen. More importantly, none has attempted or demanded LOA 05-
23 03M be enforced on behalf of their members.
24

25 **G. Corruption Forces Out Company Proposal**

26 264. By 2015, with no joint agreement in sight and negotiations contentious and unproductive,
27 things are being to unravel for United internally. On or about, February 7, 2015, UAH and United
28 receive criminal subpoenas from United States Attorney's Office for the District of New Jersey

1 ("USAO") for a bribery corruption scandal unmasked in the USAO investigation into the Fort
2 Lee, New Jersey lane closure scandal known as "Bridgegate," where a staff member and political
3 appointees of New Jersey Governor Chris Christie colluded to create traffic jams by intentionally
4 closing lanes at the main toll plaza for the George Washington Bridge to cause massive traffic
5 problem for retaliation against a political rival of Christie's.
6

7 265. One such participant was the Port Authority's Chairman, David Samson. Through its
8 investigation of Samson, USAO unmasked a conspiracy between Samson and UAH's Chairman
9 and President and United's Chief Executive Officer, Jeff Smisek, to reinstate a discontinued,
10 money-losing United flight twice a week from Newark Airport to Columbia, South Carolina
11 where Samson spent his weekends at his second home in exchange for favorable negotiations for
12 United on at least two projects at Newark Airport - \$25 million hangar and \$10 million relocation
13 of a taxiway. Once the flights began, the favorable contracts were executed.
14

15 266. On or about September 8, 2015, Smisek is fired along with two other senior executives,
16 Nene Foxhall, Executive V.P. of Communications and Government Affairs, and Mark Anderson,
17 Senior V.P. of Corporate and Government Affairs. United released a very brief statement to its
18 employees simply announcing executive changes due to an investigation; there was no mention
19 of the bribery and corruption scandal that forced these changes.
20

21 267. For its part, UAH and United conducted extensive internal company investigations that
22 paralleled the federal probe and that, on information and belief, revealed other similar bribes and
23 conspiracy surrounding Smisek and contractual negotiations. The USAO alluded to the extensive
24 and thorough cooperation in the criminal investigation by United, including an extensive internal
25 investigation.
26
27
28

1 268. On information and belief, these investigations uncovered the illicit cooperation between
2 United and the Teamsters to each benefit financially at the expense of the sUA mechanics by
3 delaying the implementation of LOA 05-03M's triggered pension obligations to sUA mechanics.

4 On information and belief, in exchange for this cooperation, the Teamsters would be permitted
5 to negotiate sUA mechanics into Teamsters controlled and administered pension and healthcare
6 benefit plans, and given unfettered access to United's property during work hours in order to sell
7 Teamsters' health care plan, pension plan, and medical assistance plan to the sUA mechanics..

8
9 269. On information and belief, United entered into this arrangement with Defendant Hoffa
10 and Hoffa then directed his handpicked negotiators, principal officers, and pension specialist
11 attorney to carry out this scheme leading to loss of pension opportunities for sUA mechanics and
12 dilution of sUA mechanics rightful share of profit-sharing pool monies.

13
14 270. United permitted Teamsters' TeamCare sales people on the property to cajole, persuade,
15 manipulate the sUA mechanics into choosing or agreeing to Teamster sponsored, administered,
16 and controlled health and retirement benefits violating the rule against a union receiving
17 something of value from employer.

18
19 271. The Teamsters used assets and facilities its members provided for the purpose of mutual
20 aid and protection against the employer and diverted such assets and facilities to unauthorized
21 purposes of financially enriching and benefiting United, the Teamsters', and certain Teamsters'
22 third-party vendors.

23
24 272. United provided approximately three hours of on the clock access to approximately 9,000
25 mechanics, whose average pay was approximately \$35 per hour, totaling a benefit of almost \$1
26 million dollars. United provided no such benefit to any other benefit plan or third-party benefit
27 salesforce.
28

1 273. The Teamsters' pension plan, WCTPT, was allowed unfettered access and influence. And
2 yet, not a single representative of CARP, the then sponsored United and UAH pension plan, or
3 any other pension plan, was allowed or permitted any similar access.
4

5 274. United also made a \$1.5 million dollar payment to the Teamsters on June 6, 2017, exactly
6 six months and one day after ratification of the Joint Agreement in 2016. The Teamsters buried
7 this payment by United in an "Other Receipts" schedule on the Teamsters LM2 for 2017.

8 275. United similarly suppressed this information in a single line entry in a miscellaneous
9 category in an over 200-page SEC 10k filing, with absolutely no explanation. United's required
10 DOL LM10 for 2017 does not show the \$1.5 million dollar payment, as required. A review of
11 the payments listed on United's LM10's for the years covering 2010 through 2017 do not show
12 any other payment of this magnitude to the Teamsters'.
13

14 276. A review of almost fifteen years of United's publicly filed financial reports and of the
15 Teamsters' publicly available financial reports reveal United has only ever made that one large
16 payment to the Teamsters in the twelve years since the Teamsters became certified representative
17 for sUA mechanics.
18

19 277. What United got in return was extraordinary. The Teamsters turned their heads for over
20 six years and did not enforce clear, express contractual language requiring United to not only
21 offer a defined benefit pension to sUA mechanics but to fund participation by sUA mechanics.
22

23 278. On information and belief, the Teamsters surrender of important and beneficial contract
24 language related to outsourcing, outsourcing audits, furlough protections, and scope language
25 was part of this deal. [Refer to the previous Contract Comparison chart]

26 279. United asked the Teamsters to ignore and undo the collective bargaining agreement in
27 force and entered into and the Teamsters granted that request. United changed the agreement
28

1 from the one the parties actually made into some other agreement United wished they had made
2 or which United simply preferred in order to save it money it should have committed to paying
3 the sUA mechanics.

4
5 280. Teamsters' official Bob Fisher, one of the lead negotiators for the Teamsters' airline
6 division, stated on a radio program in late 2016 that CARP was worth three times what the
7 defined contribution plan United offered was worth. Therefore, the sUA mechanics should have
8 been provided with an opportunity to choose between CARP and a defined contribution plan of
9 approximately 15%. No such opportunity was ever presented.

10
11 281. The Teamsters, therefore, in entering into this scheme with United not only contributed
12 and participated in United not making contributions on behalf of the sUA mechanics into CARP
13 or a comparable defined contribution plan, but also contributed and participated in not denying
14 sUA mechanics service and vesting credits for over six years, essentially providing United with
15 an estimated \$1.4 billion dollar gift.

16
17 282. The Teamsters similarly stood silently by while United paid profit-sharing monies to sCO
18 mechanics in clear violation of the collective bargaining agreements and the PSP plan documents.
19 an error ignored and uncorrected by the Administrative Committee Defendants.

20
21 283. On information and belief, the results of the internal investigation and United's desire to
22 do damage control, prompt them to clean up the mess. Negotiation updates released by both
23 sides for the first half of 2015 detail a completely broken process riddled with threats, disparaging
24 comments, picketing shareholders meetings, and accusations of bad faith. The Teamsters blamed
25 United for anemic contract proposals and United blamed the Teamsters for not countering to the
26 United proposal at all as directed by the mediator. What is more likely is the pressure and
27 undercurrent from the years of illegal actions.
28

1
2 284. As a result of this stalemate, Hoffa unilaterally decides and directs the Principal Officers
3 of the affiliated local unions to take over negotiations from the committees.

4
5 285. On June 8, 2015, in the midst of resolving the Smisek situation, the Teamsters picket the
6 annual shareholders meeting in Chicago. And, Teamsters' appointed lead negotiator Clacy
7 Griswold goes on a national radio show to shame United into giving better terms and suggesting
8 the collapse is all United's fault.

9
10 **H. Teamsters Further Corrupt the Bargaining Process**

11 286. The Teamsters weaponized bargaining not to protect the interests of the members but to
12 advance the Teamsters financial interests by promoting Teamsters controlled benefits.

13 287. The Teamsters also accepted gifts, payments, and other things of value from Cheiron, the
14 actuarial firm hired to look out for the Plaintiffs' financial interests, in return for the Teamsters
15 choosing Cheiron to administer benefit plans, advise the negotiations for collective bargaining
16 agreements for extraordinary and excessive fees, and for assisting in manipulating Plaintiffs and
17 others similarly situated to elect Cheiron created, controlled, and administered benefit plans.

18
19 288. These schemes were authorized by Hoffa, as shown in the multiple investigations carried
20 out by the Independent Review Board tasked with overseeing the Consent Decree the Teamsters
21 operated under until February 25, 2020.

22
23 289. Teamsters' officials were rewarded with cushy and lucrative appointments as business
24 agents and airline division jobs. Some business agents were appointed specifically to try and
25 pack the vote on collective bargaining agreement terms and proposals when the rank and file
26 negotiation committees disagreed with Hoffa's and his appointed cabal of negotiators' choices in
27 contract terms and/or benefits.
28

1 290. Hoffa and other top Teamster officials rigged the bidding on contracts with Teamsters'
2 benefit funds, taking unreported gifts, golf trips, sports tickets and payoffs from grateful brokers
3 who landed the lucrative benefit business in part from the sUA mechanics negotiations.
4

5 291. The Independent Investigations Officer details a long list of luxury outings taken by Hoffa
6 administration officials, including golf trips to Ireland and Scotland, adventures in Alaska and
7 South Carolina, and lavish meals and bar tabs in Las Vegas, all to land TeamCare and WCTPT
8 contracts, of which sUA mechanics were to be the subject of.

9 292. When the negotiating committees had questions regarding the benefit plans, the
10 committees requested advice. That advice was always provided by Cheiron, an actuarial
11 company and favored vendor of Hoffa and the Teamsters, at the request of the Teamsters and
12 Hoffa. Cheiron repeatedly and routinely directed the committees to TeamCare and WCTPT and
13 never any other plan options. Cheiron relentlessly promoted Teamcare in negotiations.
14

15 293. John Slatery, Teamsters Benefit Department Director, met with United Entity Defendants'
16 Senior Management several times during negotiations to switch the health care plan to TeamCare.
17 There were charges brought against Cheiron, John Slatery, Hoffa, and other top Teamster union
18 officers for rigging healthcare benefit bids.
19

20 294. It was further part of the scheme to choose Cheiron, its subsidiaries, and its economic
21 advisors services despite the overpriced, over bid, and excessive fees - the Teamsters received
22 gifts, favors, dinners, trips, and things of value from Cheiron for choosing them. And, Teamsters
23 officials directed and controlled by Hoffa are told to cooperate with Cheiron and allow them to
24 inflate the bid to the highest possible level imaginable and then award them the bid.
25

26 295. Teamsters LM2's for 2010-2017 list \$934,455 paid to Cheiron for sUA mechanics
27 negotiations. There are approximately 9,000 sUA mechanics the Teamsters represented in these
28

1 negotiations. Teamsters LM2's for negotiations for the three other largest union membership
2 groups the Teamsters represent - UPS, 220k employees; Kroeger, at least 50k employees; and
3 Central States Fund, 400k employees - from the same period, 2010 to 2017, paid \$1.2 M to
4 Cheiron for these negotiations.
5

6 296. The LM2s clearly demonstrate the inflated bid scheme - for approximately 1% of the
7 represented people, the billing was almost the same as for 99%. Stated another way - 44% of the
8 total billed from the four companies comes from the group with 1% of the people? 9,000 people
9 or 1% paid 44% of the bills?
10

11 297. Cheiron was driving the choices, always present, providing all of the recommendations
12 and advice regarding medical plans, i.e. TeamCare and WCTPT. And, Cheiron was directly
13 implicated in multiple Teamsters' corruption scandals over this same time period for excessive
14 billing, over bids, and providing illicit gifts and things to the Teamsters in exchange for the
15 Teamsters choosing them to perform services.
16

17 298. These schemes also bled into what could be costly and "disruptive" labor grievances.
18 Because the Teamsters have wide discretion in the filing and handling of members' grievances,
19 instead of filing meritorious and legitimate grievances and pursuing them, the Teamsters used
20 their control to kill, thwart, and dispose of them. In one arbitration, one of the Cheiron actuaries
21 stated, under oath and on the record, he did not understand how the formula for lead pay was
22 calculated even though this witness was responsible for reviewing and advising on all financial
23 elements of the contract. In that same arbitration, the Teamsters admitted they purposely hid a
24 wage chart from the membership. United prevailed in that arbitration.
25

26 299. These schemes were the direct cause of the harms to Plaintiffs and other sUA mechanics
27 because the Teamsters, paid to represent the sUA mechanics had in fact sold itself to in order to
28

1 enrich itself at the expense of its membership. The Teamsters weaponized bargaining not to
2 protect the interests of the members but to advance the Teamsters financial interests.

3 300. The Teamsters went to great lengths to evade suspicion and prevent inquiry into their
4 illegal schemes, utilizing misstatements, false testimony, fraudulent reporting, and other
5 contrivances designed to suppress evidence of wrongdoing. Ironically, it is the Gleason memo,
6 explained below, written to be a get out of jail free card but instead is a confession of conspiracy.
7

8 301. Smisek would be fired in September, and within a few weeks, on or about October 23,
9 2015, United would turn the tables again on the Teamsters and push out a joint agreement
10 closeout proposal as "its' last, best, and final offer. The Teamsters would be furious.
11

12 **I. FAILED - 93.7% NO**

13 302. On October 23, 2015, United pushes out via its intranet an extensive term sheet to the
14 mechanics calling it a closeout proposal. This was not a tentative agreement and the difference
15 is significant because a closeout proposal contains terms either not fully negotiated or not agreed
16 to by the other side whereas in a tentative agreement, the parties reach agreement on all terms.
17

18 303. The Teamsters tell the membership United requested to put the closeout proposal out for
19 a vote and that United has added terms not in the original closeout proposal and therefore, there
20 is going to be significant delay in providing the final printed version for review.
21

22 304. On information and belief, and as is relevant to this action, United added the Letter of
23 Agreement addressing the pension election for the discrete group of sUA mechanics. United has
24 split it down the middle - TeamCare is in but the Teamsters controlled and administered pension
25 is out and CARP will be the defined benefit plan for all mechanics.

26 305. In early January, the Plaintiffs and others finally receive a copy of the company proposed
27 joint agreement. There is a letter of agreement entitled "LOA NEW - RETIREMENT." Relevant
28

1 to this action, this proposed letter of agreement provides the pension election required under LOA
2 05-03M:

3 **Effective January 1, 2017:**

4 **No later than six (6) months following the Effective Date of this Agreement,**
5 **Technicians who were covered by the sUA collective bargaining agreement**
6 **immediately prior to the Effective Date of this Agreement shall vote to either:**
7 **(A) retain the Replacement Plan Contributions and Turbo DC Contributions**
8 **in effect immediately prior to January 1, 2017; or (B) replace such benefits**
9 **with the sCO retirement benefits described in the sCO section above effective**
10 **as of January 1, 2017. Such vote shall be decided by a simple majority, and the**
11 **result shall apply to all Technicians eligible to vote. In the event that option**
12 **(B) is elected, Company service prior to January 1, 2017, shall be counted**
13 **under CARP solely for purposes of vesting and eligibility; and for any**
14 **Technician who retires prior to January 1, 2022, “Final Average**
15 **Compensation” under CARP shall be determined by using “Earnings” (as**
16 **defined under the United Airlines Ground Employee 401(k) Plan) as the sole**
17 **“Considered Compensation” under CARP for the period from January 1,**
18 **2012 through December 31, 2016, and using “Considered Compensation” (as**
19 **defined under CARP) for any period thereafter (wages of any kind prior to**
20 **January 1, 2012 shall not be used).**

21 306. The language tracks LOA 05-03M paragraph 5, section d exactly. Plaintiffs and the Class
22 are alarmed, however, by the terms of the bilateral choice. The defined benefit election is not
23 retroactive to any of the significant dates - not to the date of the merger, not to the date of the
24 FAA certification, not to the date of the second corporate merger, not even to the expiration date
25 of the last collective bargaining agreement.

26 307. The option, choosing to stay in the defined contribution plan only provided for a 1%
27 increase to the current levels, levels that had not changed since 2005 when forced upon the sUA
28 mechanics in bankruptcy. This was an insult.

1 308. Plaintiff Scholz attended weekly Tuesday shop steward meetings because at this time
2 Scholz was a shop steward alternate. Following the release of this proposal, these meetings were
3 largely spent on discussing the terms of the closeout proposal. Plaintiff Scholz brought up this
4 "new retirement LOA" and what could be done about such egregious terms.
5

6 309. Plaintiff Scholz was told "it was dead issue" and "there is nothing we can do about it now;
7 we are not happy either." Plaintiff Scholz and his colleagues understood this to mean that the
8 language was already finalized for this agreement and therefore, nothing could be done until the
9 vote on this closeout proposal happened. If the closeout proposal was not ratified, the parties
10 would be back at the table and could negotiate better terms.
11

12 310. The closeout proposal was soundly and decidedly rejected by all mechanics - 93.7% of
13 those casting a vote, voted "No."

14 311. The rank and file were very vocal about why. The inclusion of TeamCare and the
15 retirement options were the main problems. Not only were the sUA mechanics forced to choose
16 between bad and worse but the sCO mechanics who had over thirty (30) years in CARP, who
17 had maxed out already, received a 1% increase in the defined contribution plan. The sCO
18 mechanics had similarly been without any real increases since 2009.
19

20 312. Defendant Stripling was at the time clock after day shift on February 22, 2016. He said
21 Hoffa and the lead negotiators still feel the members don't comprehend the contract proposal.
22 Stripling said the Teamsters were hoping the sCO mechanics would have approved the contract
23 proposal. Stripling also commented after being asked "with a 94% mandate from the membership
24 is TeamCare gone?" The answer, "No, it will be reworked."
25

26 313. The Teamsters were adamant that the Teamsters would control one plan or another - either
27 the pension or healthcare.
28

1 314. Plaintiff Scholz and Plaintiff Bybee, as did many others, demanded an answer regarding
2 the broken promise of the retroactivity. The Teamsters had promised year after year to any
3 decision would be made retroactive to the merger. This was a common refrain. The Teamsters
4 had also promised all would be handled in the joint agreement and retroactive as it always is.
5

6 315. Because the rejected February 2016 agreement was a closeout proposal by United, the
7 ball was now in the Teamsters court to counter. The meetings surrounding what should be in
8 and what should be out were very contentious.

9 316. The teamsters surveyed the rank and file. The number one issue demanded by the
10 membership is the promised full retro pay, better pension terms, and the removal of TeamCare.
11

12 317. By July things are getting ugly in the shop steward meetings. Plaintiff Scholz and the
13 others are demanding to know what is going. Because the Teamsters at Hoffa's direction have
14 reduced the negotiators to only principal officers, no information is being relayed to the members.
15

16 **J. UNITED ENTERS NON-PROSECUTION AGREEMENT**

17 318. On or about July 11, 2016, United has secured a reprieve from the USAO for its role in
18 the bribery and corruption scandal at Newark Airport and United enters into a Non Prosecution
19 Agreement ("NPA") with the USAO. No criminal charges will be pursued.

20 319. Under the terms of the NPA, United had to admit wrongdoing, pay a \$2.5 million dollar
21 fine, and enhance its anti-bribery and anti-corruption training and standards in exchange for the
22 USAO's promise to not prosecute. The USAO stated UAH and United had conducted extensive
23 internal company investigations that paralleled the federal probe that, on information and belief,
24 revealed other similar bribes and conspiracy surrounding Smisek and contractual negotiations.
25

26 320. On or about July 14, 2016, United informs its shareholders of the NPA; however, United
27 does not tell the employees. There is no intranet news release about this.
28

1 321. On information and belief, CEO Oscar Munoz ("Munoz"), as a result of the internal
2 investigations conducted by United for the Smisek scandal, uncovered illicit deals between the
3 Teamsters and Smisek to benefit both sides at the expense of the mechanics.

4
5 322. The extensive remedial efforts detailed by the USAO in the NPA are not just United's
6 having forced Smisek's resignation along with two other senior executives. On information and
7 belief, deals struck between Smisek and the Teamsters regarding contract negotiations and
8 delayed enforcement of the collective bargaining agreement are also uncovered in the deep dive
9 into the transactions and actions of the Smisek reign.

10
11 323. Munoz, having secured the NPA, seeks to bring an end to the illicit deals between United
12 and the Teamsters regarding the mechanics contract negotiations. Munoz meets with Hoffa,
13 Griswold, Gleason, and Bourne in D.C. to discuss going forward on or about August 6, 2016.

14 324. On August 12, 2016, just six days later, the Teamsters release a terse statement - "United
15 and the International Brotherhood of Teamsters (IBT) announced jointly today that they have
16 reached an agreement in principle for a joint contract covering the company's approximately
17 9,000 technicians and related employees. The parties will complete final language and put the
18 resulting tentative agreement out to vote by the technicians and related employees."

19
20 325. The announcement on August 12, 2016 took most everyone by surprise largely because
21 of the Agreement in Principle ("AIP") verbiage. This was not a common practice nor even
22 initially understood as to what exactly the Teamsters had agreed to.

23
24 326. Drafts of sections of the AIP were shown to at the weekly shop steward meetings to get
25 input from the shop stewards.

26 327. Several of the shop stewards, including Plaintiff Scholz, discussed potentially grieving.

27
28 328. On or about August 31, 2016, during the weekly shop steward meeting, Chief Steward

1 John Laurin asked one of the shop stewards to check with Joe Prisco as to whether LOA 05-03M
2 had ever been complied with. The shop stewards at that meeting immediately became suspicious
3 - why would a Chief Steward and a member of the negotiating committee need to ask this
4 question. Joe Prisco was part of the AMFA negotiating team in bankruptcy.
5

6 329. One shop steward was so alarmed by the remark, he filed a grievance on LOA 05-03M
7 the next day. Therefore, the first grievance filed was on or about September 1, 2016.

8 330. Everyone agreed the issue should be grieved. Plaintiff Scholz and a few others asked
9 Fred Wood, the Grievance Committee Chairman to file the grievance. Fred Wood stated he was
10 too busy and that one of the stewards should do it. Plaintiff Scholz and the others immediately
11 became suspicious because normally when a violation or issue is identified and agreed upon in
12 one of these meetings, a Chief Steward or the grievance committee files the grievance.
13

14 331. Plaintiff Scholz realized they were being set up. They were using them as a test to gauge
15 the reaction to removal of the pension election language from any proposed tentative agreement
16 and to gauge the reaction to this created out of whole cloth "Historical Records Only" section.
17

18 **K. Shop Steward Grievance**

19 332. On September 1, 2016, the first grievance filed on LOA 05-03M is filed.

20 333. At the next weekly shop steward meeting, September 6, 2016, Chief Steward John Laurin
21 was asked about the status of the grievance. Laurin responded he "cannot answer any more
22 questions on this issue because it is in a grievance." Nothing in the collective bargaining
23 agreement, the grievance procedures, or even any past practice or custom prevents updating a
24 grievant on a grievance. Those at the meeting were simply seeking to confirm the grievance had
25 been submitted to the company supervisor and if that supervisor had discussed it with the union.
26
27
28

1 334. Under Article 19 of the 2010 sUA mechanics agreement, once a grievance has been
2 reduced to a writing and submitted, the company supervisor has ten (10) days to respond to the
3 submitted First Step grievance. Laurin's refusal to even acknowledge the grievance was in
4 process further alarmed those present at the meeting.
5

6 335. Scholz and another shop steward went to personally see Laurin the next day in the union
7 office. Scholz asked Laurin, "have they been maintaining CARP since 2010?" Laurin's response
8 was, "the company didn't maintain CARP for some time until around 2012 or 2013."
9

10 336. The Union Defendants had promised for years to hold United accountable to the terms of
11 LOA 05-03M. John Laurin did not even bat an eye when he said that.

12 337. Plaintiff Scholz sends an email to Defendant Finn on or about September 27, 2016,
13 detailing his concerns, the grievance, and the lack of response. Scholz received no response.
14 Scholz would send several emails cc'ing Defendant Finn, Defendant Griswold, business agents,
15 and any others he thought could act. No one responded.
16

17 338. A second or third email to Defendant Finn on September 30, 2016, received a short, "no,
18 not yet not in any detail, very busy in DC. [The Sept. 1] grievance is at Second Step."
19

20 **1. Scholz**

21 339. While the September 1 grievance was pending, Plaintiff Scholz learned UAH and United
22 had been awarding the sCO mechanics profit sharing pool monies in direct violation of the profit-
23 sharing plan terms, of the sUA mechanics agreement, and of the sCO mechanics agreement.

24 340. An arbitration decision, released in late September 2016, pertaining to the same profit-
25 sharing plan documents, bankruptcy exit agreement, and collective bargaining agreements for
26 the respective pilots' groups was discovered by Plaintiff Scholz.
27
28

1 341. The arbitration decision, as is relevant here, ruled that while the two work groups were
2 working under separate collective bargaining agreements, despite the acquisition and merger of
3 the two airlines, the profit sharing plan dictated eligibility and entitlement to profit sharing pool
4 monies was dependent upon a work group working under a collective bargaining agreement
5 which contained an explicit right to share in profit sharing pool monies in order to be eligible. If
6 a work group met this eligibility requirement, a separate pool of money must be allocated for
7 each work group working under a separate collective bargaining agreement; there could be no
8 combination if the work groups did not work under a joint agreement.
9

10 342. At the time of the pilots' arbitration, the sCO pilots worked under a separate agreement
11 from sUA pilots requiring a separate profit sharing pool for sCO pilots but, more importantly,
12 the sCO pilots in force collective bargaining agreement did not provide the required right to share
13 in any profit sharing plan and therefore, not only were two separate pools required, the sCO pilots
14 were ineligible to receive any profit sharing monies at all.
15

16 343. Also revealed in the arbitration decision was the crucial fact that United Defendants were
17 doing this - illicitly combining work groups and distributing profit sharing monies to ineligible
18 participants - for all labor work groups.
19

20 344. Profit-sharing plan documents, filed by United and UAH with the SEC on Form 10k,
21 stated a sCO employee could receive profit sharing monies if the collective bargaining agreement
22 the employee worked under contained a right to receive profit sharing monies. The 2009 sCO
23 mechanics agreement did not contain this right, in fact, the Teamsters Defendants had
24 surrendered the sCO mechanics right to profit sharing monies during the negotiations for the
25 2009 sCO agreement as is evidenced by the right being "lined out," an industry practice and past
26 practice indicating a previous right has been surrendered or will not be a part of a new agreement.
27
28

1 345. Thus, Plaintiff Scholz reached the obvious conclusion United and UAH were illegally
2 including the sCO mechanics, at the expense of the sUA mechanic, in not only the same profit
3 sharing pool as the sUA mechanics despite the two mechanics groups separation but also illicitly
4 distributing funds to the ineligible sCO mechanics because the sCO mechanics agreement did
5 not contain requisite profit sharing right.
6

7 346. Because the profit-sharing rights were contained in LOA 05-03M, Plaintiff Scholz sought
8 to amend the pension election grievance to include this newly discovered profit-sharing dilution
9 by the United Defendants. The business agents for Locals 856 and 986 - Javier Lectora and Mark
10 DesAngles - told Scholz the entirety of LOA 05-03M was being reviewed and so no formal action
11 was required to expand the original grievance to include this additional section of LOA 05-03M.
12

13 347. On or about October 21, 2016, Plaintiff Scholz decided to also turn in a grievance to
14 ensure LOA 05-03M would be dealt with. Plaintiff Scholz and a coworker, Geoff Wik, tried to
15 physically hand the grievance to Fred Wood; he would not touch it. The grievance ended up with
16 Kellee Allain, a Human Resources employee for United.
17

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

26 349. On or about November 8, 2016, Dan Johnston was standing in as chief steward for John
27 Laurin in the shop steward meeting. Plaintiff Scholz asks Dan Johnston if Johnston can find out
28

1 the status of the complaint and Johnston agrees, making a statement to the effect of yes, let's go
2 up after the meeting and ask Kellee Allain. When they see Allain, Johnston asks her what the
3 status of the complaint that John Scholz and Geoff Wik handed her on October 21, 2016. Allain
4 answered with a statement to the effect of I answered it and handed it to Laurin.
5

6 **2. Chicago - Dill**

7 350. Plaintiff Dill filed a grievance on November 11, 2016, with Local 781, regarding LOA
8 05-03M, specifically grieving, "[o]ther company employee groups have a pension plan. Sub UA
9 Airline Technicians and related employees do not have the option. This is contrary to LOA 17
10 5d. Remedy sought is to create a settlement fund and distribution plan with an amount equal to
11 what would have been earned in a comparable plan with a starting date of May 2, 2010. Date of
12 UAL and CAL merger."
13

14 351. Plaintiff Dill's grievance was accepted and assigned a number ORD-16-043. Plaintiff
15 Dill's grievance was listed at the top of the open grievance list in Teamster affiliated local union
16 local 781, whose principle officer is Defendant Stripling, office at the United facility in Chicago
17 where Plaintiff Dill works. Plaintiff Dill's grievance never received any type of hearing or
18 written decision and Plaintiff Dill's requests to be heard were repeatedly rebuffed. Plaintiff Dill's
19 grievance was "open," as confirmed by her Chief Steward Mike Pecararo at the time Plaintiffs
20 filed the First Amended Complaint joining Plaintiff Dill as a party to this action.
21
22

23 **3. San Francisco - Bybee**

24 352. Plaintiff Bybee was made aware of the other grievances filed at SFO. Bybee agreed with
25 their grievances and supported filing both grievances on his behalf.

26 353. In a road show meeting to discuss the upcoming vote on the joint agreement, on October
27 18, 2016, Plaintiff Scholz asked in front of approximately 85 people what the status of the LOA
28

1 05-03M grievance was. Clacy Griswold stated that they are moving that grievance to arbitration
2 in the quickest possible manner and we will resolve it there.

3 354. Plaintiff Bybee then stood up and asked Clacy Griswold what does it mean that 05-03m
4 is an HRO? Griswold refused to answer, stating, "don't worry there are grievances on file and
5 so it will be resolved." Griswold repeats United is enrolling sUA mechanics into CARP effective
6 January 1, 2017, and "cannot say anything more than that right now because of the grievance."
7

8 355. Plaintiff Bybee figuring the Defendants planned to absorb LOA 05-03M into the new
9 joint agreement if the joint agreement is ratified, without any vote for the sUA mechanics to
10 independently elect with pension option they prefer. Bybee thinks about grieving the issue.
11

12 356. Plaintiff Bybee had witnessed at least two occasions business agent Mark DesAngeles
13 and Chief Steward John Laurin told Plaintiff Scholz to stop filing grievances about LOA 05-03M
14 because the grievances already on file covered all issues pertaining to LOA 05-03M.
15

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

19 358. Plaintiff Bybee, concerned the procedural processes were not going to be followed
20 regarding the implementation of LOA 05-03M, went to his shop steward to discuss filing a
21 grievance regarding this aspect of LOA 05-03M.
22

23 359. On or about November 14, 2016, Plaintiff Bybee filed a grievance requesting LOA 05-
24 03M pension election be conducted and the voting rules and procedures of the collective
25 bargaining agreement, the Teamsters constitution, and the local's bylaws also be followed and
26 hold the affected group vote for LOA 05-03M.
27
28

1 360. Scholz was given a document by Chief Steward John Laurin on or about November 11,
2 2016, related to the first filed grievance; a Step 2 decision. Reviewing the document, Scholz
3 immediately questioned the decision. Scholz asked Laurin how could a decision have been made
4 when the Step 2 hearing never happened, what gave them the authority to bypass the hearing?
5 Upon further review, Scholz also noticed the grievant had not signed off on it either.
6

7 361. Plaintiff Bybee never received any type of hearing or written decision at any of the
8 grievance procedure steps outlined in the parties collective bargaining agreement. Plaintiff
9 Bybee was told his grievance became part of a grievance filed by another sUA mechanic and was
10 made "et al." Plaintiff Bybee was directed on November 17, 2016 by Teamster affiliated local
11 union 986 business agent Mark DesAngeles and by Teamster affiliated local union 856 business
12 agent Javier Lectora to "tell them to stop turning in grievances" because "we are being bombarded
13 with calls and emails."
14

15 362. Plaintiff Bybee never received any notice or hearing prior to his grievance being
16 withdrawn with prejudice despite repeated demands to United and the Teamsters to be "released"
17 and proceed to arbitration unsupported by the Teamsters as a "no fund" case. Plaintiff Bybee, in
18 preparation for this action propounded discovery requests of United and the Teamsters for his
19 original grievance; however, neither Defendant has produced the original signed copy despite
20 both Defendants acknowledging Plaintiff Bybee's grievance was received, filed, and made part
21 of the first September 2016 submitted grievance.
22

23 363. Plaintiff Bybee had a second, unrelated grievance, on or about March 2017, for a lead pay
24 miscalculation; Plaintiff Bybee's paycheck was underestimated and Plaintiff Bybee was owed
25 approximately \$38.65.
26
27
28

1 364. A System Board of Adjustment was convened in Chicago, on or about January 2018, over
2 \$38.65 despite a United HR representative having fully and finally resolved the grievance in
3 August 2017, unilaterally and via email.

4
5 365. Plaintiff Bybee was not afforded any hearing, any notice, any opportunity to appear or to
6 offer evidence for this grievance either nor was Plaintiff Bybee notified of this result by United,
7 the Teamsters, or Finn. Bybee heard through the grapevine he had prevailed, subsequently made
8 inquiries of his local officials and eventually was provided a "closeout" letter months later.
9 Plaintiff Bybee had to, without any union assistance track down and pester United's payroll
10 department for weeks to be actually paid the \$38.65.

11
12 **4. Dulles - Drumheller**

13 366. Plaintiff Drumheller filed a grievance on November 16, 2016, regarding LOA 05-03M,
14 with language identical to that of Plaintiff Scholz. Plaintiff Drumheller's grievance was similarly
15 rejected out of hand. When Plaintiff Drumheller and his supervisor submitted the grievance, the
16 then on duty steward initially refused to take it at all. After being reminded he had no authority
17 to reject it in that manner, the person begrudgingly grabbed the paper, wrote "this is above my
18 pay grade - rejected" on the grievance and then stated "I will put it with all the others - where all
19 the others go to die" and proceeded to open a file cabinet bottom draw and throw it inside.
20 Plaintiff Drumheller observed at least fifty other grievances similarly thrown into the drawer.

21
22 367. Miranda equally did nothing and sent his officers and agents to suppress any and all
23 similar grievances. One of Miranda's business agents, Vincent Graziano, stated on the issue of
24 LOA 05-03M, do not bother trying to file any because they will not be accepted, not be filed, and
25 will be thrown out. Graziano often came yelling and screaming which acted to intimidate the
26 members into not filing grievances.
27
28

1 **L. UNION REFUSES TO ACCEPT, PROCESS GRIEVANCES**

2 368. These two issues - the pension election and the illicit dilution of profit-sharing monies -
3 were grieved system wide by Plaintiffs and the Class. The union, in the words of Teamsters
4 business agent Javier Lectora, were "bombarded by phone calls and emails over this and the
5 company was scared."
6

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

15 370. On or about November 17, 2016, Plaintiff Bybee was informed by his shop steward that
16 he and several others were being called to a meeting in the union office on site at the airport at
17 10:00 am. Bybee assumed this was to hold a Step 2 hearing and so he, as Plaintiff Scholz had
18 done, came prepared with documentation and evidence to present thinking he was attending the
19 required Step 2 hearing. There was no hearing, instead he, too, was admonished severely by the
20 officers and representatives present and told to stop pressing the issue.
21

22 371. Local 986 Business Agent Mark DesAngeles made statements to the effect that Bybee's
23 grievance would in no way affect the vote of the tentative joint agreement. DesAngeles said the
24 vote was going forward no matter what. DesAngeles also stated he would do his due diligence in
25 advancing the grievance through the grievance procedures, but it would not stop the vote.
26
27
28

1 372. DesAngeles further stated he was tired of getting phone calls from individual members
2 wanting to discuss grieving LOA 05-03M from all over the system regarding the LOA 05-03M
3 grievances. Bybee responded to the effect this must show how important it is to the members.
4

5 373. The Plaintiffs knew the membership at large wanted to know how a vote for the tentative
6 joint agreement would affect the grievances and the status of LOA 05-03M, largely because of
7 the inexplicably "Historical Records Only" designation, whose preamble provided, "the Letters
8 of Agreement in Historical Records Only (HRO) Appendix, attached to the 2016-2022 Collective
9 Bargaining Agreement, are solely for archival purposes and [do] not constitute part of the CBA.
10 The Parties recognize that these Letters of Agreement impose no obligations and confer no rights
11 upon the Company, the Union, or the employees covered under the 2016-2022 CBA."
12

13 374. This made no sense because there were consent decrees included in this section and
14 Scholz knew it could only be nullified via court order because it had been discussed.
15

16 375. And, when anyone questioned the Teamsters' officials about what HRO meant, they
17 received conflicting and nonsensical answers - "don't pay attention to that" "it has no real
18 meaning" "it does not mean anything" "all the LOA's are dead."

19 376. To date, Plaintiff Bybee has never received the Step 2 form or signed it, as is required,
20 nor has Plaintiff Bybee ever been asked to attend a hearing or proffer evidence or testimony for
21 a hearing. Plaintiff Bybee would later discover, by reading Plaintiff Scholz' August 2017 letter
22 from Nick Manicone, Plaintiff Bybee's grievance was absorbed into the original grievance.
23

24 377. Plaintiff Bybee would make numerous requests over the next several months to find out
25 the status of the grievance. Plaintiff Bybee knew the timelines printed in CBA were not being
26 followed and there was absolutely no communication as to why or how such delays were
27 occurring or being dealt with.
28

5. JCBA Ratified - 50.1% Yes, 49.9 % NO

1
2 378. On December 5, 2016, the JCBA ratified. All grievances are still unresolved.

3
4 379. On or about December 7, 2016, Bob Fisher, while on a national radio show, states CARP
5 is worth three times what the 401k is. Bob Fisher also stated this was the most lucrative contract
6 ever; not only a few weeks before, he would not even recommend the contract when asked his
7 opinion at the roadshows.

8
9 380. On or about January 6, 2017, Plaintiff Scholz emailed many union officers asking about
10 the status of LOA 05-03M, including Nick Manicone, a Teamsters in house counsel. Plaintiff
11 Scholz sent an email to Manicone stating he would like an update on the status of the LOA 05-
12 03M grievances; Scholz copied Chief Stewards, Chief Negotiator, Business Agents, Principal
13 Officers, and the other grievants. Scholz asked why no one was requesting any documents or
14 testimony from him or the other grievants especially in light of the fact we had asked to do so.

15
16 381. On or about January 17, 2017, Manicone replied to the email stating Airline Division has
17 asked Gleason to evaluate the LOA 05-03M grievances. Manicone also stated he had no idea
18 where Gleason was with that assessment or when Manicone expected Gleason to be done but he
19 would ask Gleason for an update.

20
21 382. Plaintiff Scholz would exchange similar text message threads and email conversations
22 with multiple officials and officers and through these contacts, Scholz was assured, routinely, all
23 three grievances are being addressed and the entirety of LOA 05-03M is being reviewed.
24 Everyone around the system was asking what was going to happen.

25
26 383. On January 17, 2017, at the weekly shop steward meeting told there will be a weeklong
27 SBA hearing to hear all grievances, to discuss all current open grievances - there is no way the
28 company does not have notice by this time.

1 384. Scholz asks John Laurin if the LOA 05-03M grievances would be heard and continued
2 asking about the HRO section meaning. John Laurin says not to worry because the language still
3 exists because it is in the contract and that being in this category is no big deal.

4
5 385. Normally, when language is surrendered or removed from a collective bargaining
6 agreement, the parties; practice and custom is to line it out. If language is added, it is underlined.
7 If unchanged is neither lined out or underlined, it is literally left unchanged.

8 386. A new collective bargaining agreement to be voted on by the membership, as is required
9 under the Teamsters constitution and bylaws, is presented to the membership in "line out" format
10 - an industry term for the tentative agreement containing all alterations for the members to be
11 able to appreciate what is remaining, what is being lost, and what has been gained.

12
13 387. LOA 05-03M has never been lined out or underlined in any version of any United airlines
14 collective bargaining agreement since it was initially negotiated and incorporated into the 2005
15 sUA mechanics collective bargaining agreement.

16
17 388. Saying LOA 05-03M is eliminated and yet, not lined out and not removed from the
18 collective bargaining agreement is irrational; no one includes terms or conditions discarded, not
19 agreed to, or not part of the contract.

20 389. Another noteworthy effort by the Teamsters to deceive, trick, and cheat sUA mechanics
21 of pressing on LOA 05-03M was a statement made by business agent Javier Lectora to Plaintiff
22 Scholz on January 10, 2017, in the union office at SFO. Lectora stated that the rejection of the
23 company proposal pushed out on October 23, 2015, the agreement rejected overwhelmingly by
24 a 93.7% NO vote, somehow satisfied and acted as the contingent vote provided for in the closeout
25 proposal that was to happen in six months' time. That vote satisfied the pension election
26 provision found in LOA 05-03M.
27
28

1 390. This statement is actually captured on a recording as Plaintiff Scholz had incidentally
2 engaged his phone during the meeting. Lectora can clearly be heard to say "You are not going
3 to like this but when you rejected the contract in February, that vote served as the vote." A more
4 illogical conclusion cannot be invented - that a vote rejecting a contract in its entirety, a vote of
5 both groups, not the discrete group of sUA mechanics, on a proposal containing a second future
6 vote, in fact operated as all the votes. An insulting and sophomoric attempt to deceive, trick and
7 cheat the Plaintiffs and the Class.
8

9 391. That vote counted for one purpose and one purpose only - to reject in its totality the
10 company proposal.
11

12 392. On or about March 31, 2017, Plaintiff Scholz was shown a written document authored by
13 none other than Gleason. Plaintiff Scholz remembers "felt sick to his stomach." Everyone was
14 familiar with Gleason's efforts over the years to put Teamsters interests ahead of the members.
15 Gleason had tried to force the sCO mechanics out of CARP in 2006 and had been the one to say
16 the roadshows the contracts were "shit sandwiches." Gleason was there to cover this up.
17

18 393. Before Plaintiff Scholz even read the "memo," Chief Steward John Laurin told Plaintiff
19 Scholz, Gleason had been handpicked by Defendant Griswold to deal with the grievance.
20

21 394. Because of Gleason's previous role in the negotiations over the years, Gleason is
22 completely disqualified from rendering this "objective legal advice" because of pervasive and
23 obvious conflicts of interests. The memo should, therefore, be disregarded in its entirety and the
24 merits of Plaintiffs' grievances reevaluated.
25

26 395. Gleason expressly told Plaintiffs and the Class at roadshows related to negotiations and
27 bargaining agreements that the pension rights could be enforced at any time then or in the future
28 and now somehow, they could not and would not be.

1 396. Gleason had previously made statements of full retroactivity for pensions and that CARP
2 was a single employer plan. Now he told them the exact opposite.

3 397. Gleason's memo is full of factual and legal impossibilities, falsehoods, and irrational
4 conclusions to explain away the illicit and violative actions taken by the Teamsters over the years.

5 398. Gleason's memo admits United told the Teamsters about the contractual obligations all
6 the way back in December of 2010 and yet, the Teamsters declined to enforce the contract
7 because United could not afford it! And, the memo details the inexplicably rejected offer after
8 offer, year after year, at one point admitting, "we wanted them in one of our plans."
9

10 399. Plaintiff Scholz showed the memo to Plaintiff Bybee. Plaintiff Bybee never received any
11 direct communication from Defendant Finn or Griswold regarding this outcome. Plaintiff Bybee
12 was allowed to read the memo but the union did not provide him a copy.

13 400. The memo declared the grievances meritless and untimely. Plaintiff Bybee completely
14 disagreed with the assessment and voiced that opinion to the then Chief Steward John Laurin.

15 401. A day or so later, the Teamsters sent a letter to United withdrawing the grievances with
16 prejudice. The teamsters did not inform any of the grievants of this prior to withdrawing the
17 grievances. Manicone sent a "closeout" letter to United on behalf of the Teamsters stating the
18 matter had been closed, grievance withdrawn with prejudice.

19 402. On or about April 20, the Teamsters provided a "closeout letter" to the September 2016
20 grievant stating the grievance was withdrawn with prejudice. The letter was a single page, three-
21 line letter denying the grievance, withdrawing the grievance, and forbidding the grievant from
22 going forward on with the grievance.

23 403. Plaintiffs Scholz and Bybee demanded an appeal of this decision, demanding to be
24 released to pursue the grievances without union support; the Union Defendants refused to do so.
25
26
27
28

1 404. On or about July 12, 2017, Plaintiff Scholz sent a letter to Nick Manicone asking to be
2 released and to be permitted to go forward on their own we want to go forward on our own.

3 Bybee sent a similar letter on or about July 13, 2017; Bybee never received an answer.

4
5 405. On or about August 4, 2017, Scholz had a phone conversation with Manicone. Manicone
6 states any grievance that affects more than one employee is negotiating and therefore, a single
7 employee cannot bring such a grievance forward. This is again a misrepresentation and designed
8 to confuse and deter Scholz from pursuing this.

9
10 406. Scholz reiterates this is about breaching the contract not negotiating - the grievance is
11 directed at United not at the union.

12 407. Manicone provides an additional reason - there would be no way to calculate the damages.
13 And, Manicone states United told them at that time United could not afford it. Manicone tells
14 Scholz the "union made the better choice for you."

15
16 408. Trying to find some rational footing, Scholz points out some of the more glaring mistakes
17 in the memo, Manicone states Gleason is a good guy and Manicone trusts him. The conversation
18 leads Scholz upset and incredibly frustrated.

19 409. On August 9, 2017, Scholz received Manicone's written response. Manicone's letter,
20 like Gleason's memo, denied the grievances had any merit, confused the issues on all three
21 grievances but admitted all three were processed and recorded grievances. Manicone again
22 reiterates, Plaintiffs grievances are bargaining.

23
24 410. By January 22, 2018, Plaintiffs Scholz and Bybee have sent a letter to Tom Reardon, a
25 Managing Director of United, asking for the right to proceed in arbitration without the union.

26
27 411. On or about February 19, 2018, Tom Reardon responds to both Scholz and Bybee and
28 states he has no idea what they are talking about, claims he has never heard of or seen the

1 grievances Scholz and Bybee are referring to, and asked, in order to evaluate the claims, could
2 they forward the grievances and any grievance responses concerning the matter to his attention.

3 Reardon stated he would evaluate their request for arbitration upon receipt of documents
4

5 412. On or about April 4, 2018, Plaintiff Scholz forwarded the requested information for
6 himself and the requested information of the other grievants from San Francisco.

7 413. On or about May 4, 2018, Plaintiffs Scholz and Bybee received a response from Reardon
8 denying their request to pursue their grievances independent of and without union support;
9 Scholz received an identical letter on May 5, 2018
10

11 414. Having determined a final decision had been made when he received Reardon's letter,
12 having decided they had exhausted all possible administrative remedies, Plaintiff Scholz and the
13 others decided to pursue a remedy in district court.

14 415. The Plaintiffs have a statutory right to bring their grievances forward with or without the
15 union under the Railway Labor Act. The Union Defendants forcibly prevented and denied this
16 and United cooperated and conspired in executing that subversion.
17

18 416. United reasoned that the duty to so only arose if the union permitted it. Essentially,
19 United reasoned the duty to follow relevant federal labor laws, industry practices and customs
20 only arose if the union was going to do the same and since the union was not going to, United
21 was relieved of these duties and obligations.
22

23 417. Plaintiff Dill has never had a hearing, never received any written decisions, nor been
24 asked to present evidence or testimony since the date she filed her grievance. Although, for years
25 Plaintiff Dill's grievance sat at the top of the open grievance list in Local 781's on site airport
26 union office, indicating it should be next for arbitration. She asked repeatedly to have her
27 grievance heard. She has been told on multiple occasions that "there are other more important
28

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

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

7 419. Plaintiff Dill, equally as upset and aggrieved as the other Plaintiffs in this matter, joined
8 this action on February 8, 2019, when Plaintiffs filed their first Amended Complaint.

9 420. On February 25, 2019, Plaintiff Dill's counsel received a letter addressed to Dill closing
10 her grievance as of February 25, 2019, and withdrawing her grievance with prejudice. The letter
11 was signed by Nick Manicone and a copy of the Gleason memo was included.

12
13 421. Plaintiff Dill showed the letter to her Chief Steward Mike Pecararo, who became angry
14 and said that did not happen and they cannot do that, it has to be decided here in Chicago. There
15 is no provision in Plaintiff Dill's affiliated local bylaws for adjudicating her grievance anywhere
16 but by and through local 781.

17
18 422. Plaintiff Dill's efforts to contact Defendant Stripling to complain, challenge, and disagree
19 with this wholly illicit and inappropriate letter and result have gone unanswered and unheeded.

20 423. Plaintiff Dill was later informed by Chief Steward Pecararo shortly after Dill joined this
21 action, "the lawyers from the union and the company are all over me. I am not talking to another
22 lawyer ever."

23
24 424. Like Plaintiffs Bybee and Scholz, Plaintiff Dill, in preparation for this action propounded
25 discovery requests of United and the Teamsters for any and all grievance paperwork related to
26 her grievance. United produced no documents; however, the Teamsters produced Step One and
27 Step Two grievance paperwork.
28

1 425. The Step One paperwork is signed by Plaintiff Dill; the Step Two document is a forgery.
2 Plaintiff Dill's signature is typed and a box is checked stating Plaintiff Dill released all her rights
3 to prosecute the grievance and instead was electing the Teamsters to unilaterally decide how to
4 resolve the grievance. Plaintiff Dill has never seen this document the Teamsters proffered as
5 original Step Two paperwork and certainly had never agreed to relinquish her rights nor had she
6 ever typed her name to consent to the same.
7

8 426. Following the filing of his grievance, Drumheller would ask about the status of the
9 grievance and receive no answer or a simple "no change" response.
10

11 427. Assistant business agent, Vincent Graziano, called Drumheller and said, "Dulles is not
12 getting involved in this, we will let San Francisco figure it out. Stop filing grievances."

13 428. Drumheller repeatedly tried to get Vincent Graziano to do something and Graziano would
14 just laugh and say, "ain't happening."
15

16 429. Drumheller has never received any type of hearing or written decision at any of the
17 grievance procedure steps outlined in the parties collective bargaining agreement for the
18 grievance Drumheller filed on LOA 05-03M. Therefore, Drumheller's grievance remains open.

19 430. Drumheller is aware of other co-workers who tried to file grievances on this exact issue
20 but were refused or their grievances were thrown out.
21

22 431. Because Miranda is the Principal Officer of the affiliated local union, Miranda is
23 responsible for ensuring all grievances are processed according to the collective bargaining
24 agreements and ensuring collective bargaining agreements are followed.

25 432. Miranda has also recently directed assistant business agent Vincent Graziano to tell the
26 members all System Boards and Arbitrations were cancelled. The reason provided was due to
27 the pandemic, no one could meet in person, and therefore, there could be no System Boards or
28

1 Arbitrations. There is no requirement that System Boards or Arbitrations be conducted in person
2 under the collective bargaining agreement; the Teamsters' constitution or bylaws; or federal law.

3 433. In fact, since the pandemic began, the union has met regularly in person with United on
4 multiple occasions and on a variety of other issues. And, the union has met with United over the
5 phone and over video conferencing to address other issues.
6

7 434. There is no rational or reasonable explanation as to why the grievance processes - System
8 Boards or Arbitrations - cannot or should not proceed in a similar manner. The only explanation
9 is that the Teamsters and United continue to collude in depriving and denying Plaintiffs and the
10 Class of important statutory and contractual rights by refusing to hold the provided for grievance
11 procedures and for illegally changing the contract.
12

13 435. The Teamsters are abusing their exclusive power to invoke the higher stages of the
14 grievance procedures under the collective bargaining agreement to deprive Plaintiffs and the
15 Class of due process and of valuable contractual rights for the union's own gain.
16

17 436. On information and belief, there are at least one hundred other "open" grievances that
18 were filed across the system prior to ratification of the now in force joint collective bargaining
19 agreement that were filed by sUA mechanics regarding the failure of the Teamsters to enforce
20 the bankruptcy exit agreement, an agreement part of and contained in the parties then in force
21 2010-2013 sUA mechanics CBA.
22

23 437. On information and belief, there were hundreds of sUA mechanics who called or
24 personally requested the Teamsters grieve United's staggering and blatant violation of the
25 bankruptcy agreement; the Teamsters refused to accept those requests, often belittling,
26 threatening, and yelling at anyone who so requested.
27
28

VI. CLASS ALLEGATIONS

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

6 439. Excluded from the class are: any of the Defendants, any fiduciaries of the Plans; any of
7 Defendants' officers, directors, or agents; and any member of the immediate family of and any
8 heirs, successors or assigns of any such excluded party.

9 440. The Plaintiffs seek to represent is composed of all individuals who were employed as
10 sUA Mechanics, including without limitation all the Plaintiffs and their respective spouses,
11 dependent children, and all persons and entities, heirs, successors and assigns who would have
12 rights under applicable state law to sue the Defendants independently or derivatively as a result
13 of their relationship with such an employed sUA Mechanic, by the United Defendants during any
14 part of the period from October 1, 2010 through January 1, 2017 and who have been, still are or
15 will be denied vesting in CARP from October 1, 2010, due to the legal violations alleged herein.
16 This includes those individuals who have been Teamsters members or who were not as that
17 relates to Teamsters' representation of sUA Mechanics group in the relevant violation period.
18

19 441. The Plaintiffs further seek to represent all individuals who were employed as sUA
20 Mechanics by the United Defendants during any part of the period from October 1, 2010 through
21 January 1, 2017, and who received profit sharing checks that included sCO Mechanics as part of
22 the pool of people included in the profit-sharing calculation resulting in a deficient profit-sharing
23 check thereafter as a result of the legal violations alleged herein.
24

25 442. Joinder of all members of the class would be impracticable based on the size of the class.
26 Based on the Form 5500 filed with the Department of Labor for 2017, CARP had more than
27
28

1 50,000 participants and/or beneficiaries. After investigation, Plaintiffs reasonably believe
2 Plaintiffs are but a few of approximately 8,800 sUA Mechanics, most if not all of whom are
3 within the class definition, and based on the Form 5500 filed with the Department of Labor for
4 2017, CARP had more than 50,000 participants and/or beneficiaries, and therefore, the number
5 of Class members is so large that joinder of all its members is impracticable. Disposition of their
6 claims in a class action is a benefit to the parties and to the Court.
7

8 443. Common questions of fact and law predominate as to the claims brought on behalf of the
9 class including whether the Defendants breached the collective bargaining agreement when the
10 Defendants failed to enforce the bankruptcy exit agreement, LOA 05-03M; whether the Class
11 was denied its statutory right to due process by the Defendants in failing to allow the bankruptcy
12 exit agreement to proceed to arbitration without Teamster support; whether ERISA fiduciary
13 duties of prudence and loyalty were violated by excluding sUA Mechanics Class from CARP;
14 whether Defendants engaged in transactions prohibited by ERISA by including sCO mechanics
15 in the PSP; whether the Plans and their respective participants suffered losses as a result of
16 Defendants' fiduciary breaches and/or prohibited transactions; and if the Defendants are liable to
17 the Plans for restitution or constructive trust with respect to illicitly distributed funds transferred
18 by the Fiduciary Defendants or for disgorgement or reimbursement of fees received by or profits
19 generated for the Defendants as a result of the fiduciary breaches and/or prohibited transactions
20 described herein.
21

22
23
24 444. The claims of the Plaintiffs are typical of those of the class because their claims arise
25 from the same events, practices and/or course of conduct as other members of the class and these
26 are claims common to and typical of other Class members. Moreover, these claims seek recovery
27 on behalf of the Plan.
28

1 445. The Plaintiffs and their attorney will fairly and adequately represent the interests of the
2 class. The Plaintiffs have no conflicts of interest with the absent class members who the Plaintiffs
3 seek to represent. To the contrary, the Plaintiffs' interests are fully aligned with the absent class
4 members' interests in this action in seeking redress for all Defendants' common wrongful
5 conduct. Nor do Defendants have any unique defenses that would interfere with Plaintiffs'
6 representation of the absent class members.
7

8 446. For purposes of this Complaint, "Plaintiff Scholz" or "Plaintiff Bybee" or "Plaintiff Dill"
9 or "Plaintiff Drumheller" shall refer to that particular Plaintiff only. Reference to "sUA Mechanic
10 Class" shall be deemed to include the named plaintiffs and each member of the class. The class
11 is clearly defined and can be identified and notified effectively. The members of the class are
12 readily ascertainable and identifiable from reference to existing, objective criteria that are
13 administratively practical, including records maintained by all Defendants.
14

15 447. This action is properly maintainable as a class action under Fed. R. Civ. P. 23(b)(1)(A).
16 Separate litigations by individual class members against the Defendants would create the risk of
17 conflicting, inconsistent or otherwise varying rulings and resolutions concerning those individual
18 class members that would create conflicting or otherwise incompatible standards of conduct for
19 the Defendants, specifically, because fiduciaries under ERISA covered plans have a legal
20 obligation to act consistently with respect to all similarly situated participants and to uniformly
21 act in the best interests of the Plan and its participants and this action challenges whether
22 Defendants so acted, prosecution of separate actions by individual members would create the risk
23 of inconsistent or varying adjudications with respect to individual members of the Class that
24 would establish incompatible standards of conduct for the fiduciaries of the Plan.
25
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1 448. This action is properly maintainable as a class action under Fed. R. Civ. P. 23(b)(1)(B).
2 Separate litigations by individual class members against the Defendants would create the risk of
3 adjudications concerning the claims of individual class members that, as a practical matter, would
4 be dispositive, through preclusion, law of the case, or other doctrines, of the interests of other
5 class members not parties to the individual adjudications or would otherwise substantially impair
6 or impede their ability to protect their own interests. And, under ERISA, the administration of a
7 plan requires all similarly situated participants be treated the same. Therefore, whether the
8 Defendants fulfilled their obligations with respect to the Plan and its participants in this action
9 would, as a practical matter, be dispositive of the interests of the other members of the Class
10 regardless of whether they are parties to the adjudication.
11
12

13 449. This action is properly maintainable as a class action under Fed. R. Civ. P. 23(b)(2). As
14 described above, the Defendants have acted or refused to act on grounds generally applicable to
15 the class, so that final injunctive relief or corresponding declaratory relief is appropriate
16 respecting the class as a whole.
17

18 450. Alternatively, this action is maintainable as a class action under FRCP Rule 23(b)(3), as
19 the common questions of law and fact described above predominate over any questions affecting
20 only individual members, and a class action is superior to other available methods for the fair
21 and efficient adjudication of the controversy. And, because relief is on behalf of the Plans,
22 common questions related to remedies and relief will likewise predominate over individual
23 issues.
24

25 451. Plaintiffs allege all Defendants have engaged in the above described actions, patterns, and
26 practices pursuant to systemic policies and practices, or lack thereof, wherein the rights of sUA
27 Mechanics Class have been disregarded. Common questions, such as those listed above,
28

1 predominate over any questions affecting only individual members. And, in light of the
2 Defendants' common misconduct toward the class, the class is sufficiently cohesive to warrant
3 class treatment. Plaintiffs, on behalf of the sUA Mechanics, allege a common body of operative
4 facts and common legal claims relevant to each sUA Mechanic Class' claims.
5

6 **VII. CAUSES OF ACTION**

7 **Count I – Breach of Contract**

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

9 453. Plaintiffs assert herein a claim against UAH and United for breach of the collective
10 bargaining agreements entered into with Plaintiffs and the Class and in effect on or about October
11 1, 2010, up to and including the joint agreement
12

13 454. As set forth above, on October 1, 2010, the 2005 sUA Agreement was the operative
14 collective bargaining agreement UAH and United were required to honor and maintain.

15 455. United Defendants breached the collective bargaining agreement when, despite the plain
16 meaning of the contractual terms, the clear and unambiguous terms of the CBA not susceptible
17 to differing interpretations, did not provide the pension election to the discrete sUA mechanics
18 as agreed upon, as bargained for, as ratified and contained in the in force CBA.
19

20 456. As set forth above, UAH and United did not honor the terms of the 2005 sUA Agreement,
21 specifically, the terms of LOA 05-03M, paragraph 5, subsection d, in not providing Plaintiffs and
22 the Class with a pension election vote once UAH and United began maintaining CARP, a single
23 employer defined benefit plan.
24

25 457. As set forth above, UAH and United delayed, frustrated, and subverted vested rights
26 belonging to Plaintiffs and the Class under the in force collective bargaining agreements
27 amounting to a breach of those agreements.
28

1 458. As set forth above, UAH and United required conditions not connected to any bargained
2 for term or condition in the collective bargaining agreement to impose unnecessary burdens on
3 Plaintiffs and the Class before UAH or United would perform their duties under the collective
4 bargaining agreement and in doing so breached the collective bargaining agreements.
5

6 459. As set forth above, UAH and United forced unilateral enrollment into CARP in direction
7 contravention of the express terms of the collective bargaining agreements which is a breach of
8 those agreements.
9

10 460. As set forth above, UAH and United had a clear and express duty to distribute profit
11 sharing pool monies according to the terms of the profit-sharing plan document, any collective
12 bargaining agreement, LOA 05-03M paragraph 6 and Exhibit C, and any common law decision
13 including arbitration decision. The failure of UAH and United to do this is a breach.
14

15 461. UAH and United breached the collective bargaining agreement when issued profit sharing
16 monies to sCO mechanics from the profit-sharing pool designated specifically, strictly, and solely
17 for the sUA mechanics.
18

19 462. UAH and United cannot, by secret agreement or fiat, add terms to the profit-sharing plan;
20 the plan must be conspicuously and purposefully amended to include all terms.
21

22 463. As set forth above, UAH and United breached LOA 05-03M, paragraph 6, by adopting a
23 formula and distribution method that improperly included sCO mechanics in the same profit-
24 sharing pool as sUA mechanics prior to any joint agreement being ratified.
25

26 464. As set forth above, UAH and United wrote the terms of the profit sharing plans and
27 therefore, had actual and constructive notice of the exact terms, their meaning, and their import
28 and therefore, there is no legal excuse to have violated these terms for over six years to the harm
of Plaintiffs and the Class.

1 465. As set forth above, UAH and United were informed in binding arbitration that including
2 sCO employees in profit sharing pools with sUA employees was an illegal dilution of the sUA
3 employees fair share of profit sharing pool monies and yet, UAH and United did nothing to
4 remedy this error and mitigate any harm to Plaintiffs and the Class. Such willful defiance of
5 specific contractual duties is a failure to honor and adhere to the terms of a collective bargaining
6 agreement as required under the Railway Labor Act and therefore, is a breach of contract.
7

8 466. As set forth above, United willfully and intentionally, with the cooperation and assistance
9 of the Teamsters, continued to flout their disregard for the collective bargaining agreements and
10 the corresponding duty to honor contracts by subverting the grievance process Plaintiffs tried to
11 utilize to remedy the profit sharing and pension illegal actions.
12

13 467. As set forth above, Defendants UAH and United acted with purposeful and malicious
14 intent to willfully disregard Plaintiffs' rights under LOA 05-03M in categorically denying
15 Plaintiffs' contractual rights claims , thereby breaching the contract.
16

17 468. Plaintiffs have no other plain, speedy or adequate remedy at law for the wrongs alleged.

18 469. By and through these acts by UAH and United, the Plaintiffs and the Class have been
19 harmed and continue to be harmed particularly because there is no other avenue available to
20 Plaintiffs to resolve this dispute.
21

22 470. As set forth above, United's failure to follow procedural steps for processing a grievance,
23 to adhere to contractual deadlines and duties for dealing with a grievance, and to provide the
24 promulgated hearings and process to Plaintiffs breaches the collective bargaining agreement.
25

26 471. As set forth above, UAH and United breached the contract and violated the Railway
27 Labor Act when it concealed years of evading providing the pension election to Plaintiffs, of
28 evading having to make pension contributions of some sort to fund Plaintiffs' and the Class'

1 pension election, and of evading paying a full share of profit sharing monies to Plaintiffs and the
2 Class by willfully and knowingly giving profit-sharing monies destined for the Plaintiffs and the
3 Class to ineligible parties, the sCO mechanics.

4
5 472. Plaintiff has exhausted all internal remedies provided for in the collective bargaining
6 agreement before bringing this action; and any further exhaustion of such internal remedies with
7 respect to these claims has been waived by Defendant United or would be futile.

8 473. United breached the collective bargaining agreement when it completely abandoned and
9 ignored grievance mechanisms promulgated in collective bargaining agreement.

10
11 474. As a direct and proximate result of the breach of the collective bargaining agreements by
12 UAH and United, Plaintiffs and the Class have been damaged by the loss of years of pension
13 credits and by the loss of diluted profit sharing pool monies in a sum Plaintiffs would have earned
14 under the collective bargaining agreement had Defendant United not wrongfully refused to
15 follow and adhere to the clear and express terms of the collective bargaining agreement, which
16 includes loss of benefits to which Plaintiffs and the Class were entitled to under the Agreement.

17
18 475. As a foreseeable and proximate result of these breaches by UAH and United, Plaintiffs
19 and the Class have suffered substantial losses in employment income, fringe benefits, important
20 employment rights, and continue to suffer such other losses and benefits. By and through these
21 acts, UAH and United have and remain in violation of the Railway Labor Act.

22
23 476. The exact amount of damages suffered by Plaintiffs and the Class cannot yet be
24 ascertained, and Plaintiff prays leave of court to amend this complaint to set forth the sum when
25 the same shall have been ascertained.

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

27 477. Plaintiffs incorporate all previous paragraphs into this Count as if fully alleged herein.
28

1 478. At all times material herein, Defendant Teamsters and the individual Principal Officer
2 Defendants owed a duty of fair representation to Plaintiffs and the Class.

3 479. Unions must "act for and not against those whom it represents." *Steele v. Louisville &*
4 *Nashville R.R.*, 323 U.S. 192, 202 (1944).

5 480. A union breaches this duty only when its "conduct toward a member of the collective
6 bargaining unit is arbitrary, discriminatory, or in bad faith." *Vaca v. Sipes*, 386 U.S. 171, 190,
7 87 S.Ct. 903, 916, 17 L.Ed.2d 842 (1967).

8 481. As set forth above, the Union Defendants violated the duty of fair representation owed its
9 members and the corresponding duty to negotiate and enforce contracts with the members
10 employer in good faith, by failing to submit multiple contract proposals for ratification to the
11 members because the contract proposals did not contain provisions for the Teamsters to
12 administer and control the sUA mechanics pension and healthcare options.

13 482. As set forth above, the Union Defendants violated the duty of fair representation owed to
14 its members, and the corresponding duty to negotiate and enforce contracts with the members
15 employer in good faith, by failing to enforce the express terms of the 2005 sUA Agreement
16 against United Defendants.

17 483. As set forth above, the Union Defendants violated the duty of fair representation owed to
18 its members by failing to enforce the successors and mergers clause found in Article III of the
19 2005 sUA CBA, the operative collective bargaining agreement at the time of the merger.

20 484. As set forth above, the Union Defendants violated the duty of fair representation owed its
21 members when lied to the sUA mechanics the bankruptcy exit agreement did not survive a merger
22 despite express terms to the contrary in all collective bargaining agreements including those
23 negotiated by the Teamsters and according to federal law.
24
25
26
27
28

1 485. As set forth above, the Union Defendants violated the duty of fair representation owed its
2 members when did not enforce the pension election contained in the bankruptcy exit agreement,
3 LOA 05-03M, paragraph 5, subsection d, when the United Defendants began maintaining CARP.
4

5 486. As set forth above, the Union Defendants violated the duty of fair representation owed its
6 members when did not accept or submit alleged offers made by United Defendants to present a
7 pension election to the plaintiffs and others similarly situated for a vote by the discrete group of
8 sUA mechanics regarding participation in CARP or to instead elect some other comparable plan.
9

10 487. As set forth above, the Union Defendants violated the duty of fair representation owed its
11 members when lied in stating the United Defendants could not sponsor a single employer plan
12 until 2015 per a settlement agreement entered into between the United Defendants and the PBGC.
13 The prohibition was five years not ten and is clearly and easily understood in the Bankruptcy
14 Court record, a transcript of which is widely available as well as the Bankruptcy Court's order
15 approving the settlement between the United Defendants and the PBGC stating the same.
16

17 488. As set forth above, the Union Defendants violated the duty of fair representation owed its
18 members when did not enforce the profit sharing terms of LOA 05-03M, paragraph 6 against the
19 United Defendants when the United Defendants began distributing monies to the sCO mechanics
20 that rightfully and exclusively belonged to the sUA mechanics.
21

22 489. As set forth above, the Union Defendants violated the duty of fair representation owed its
23 members when did not enforce the express terms of the profit sharing provisions in LOA 05-03M
24 by allowing the United Defendants to include sCO mechanics in sUA mechanic profit sharing
25 pools despite clear plan language disqualifying the sCO mechanics from so participating under
26 the sCO mechanics collective bargaining agreement negotiated by the Union Defendants and
27 against the profit sharing plan document..
28

1 490. As set forth above, the Union Defendants violated the duty of fair representation owed its
2 members by ignoring the fact sCO mechanics had surrendered profit sharing rights in the most
3 recent negotiations conducted, controlled, and completed by the Teamsters themselves.

4 491. As set forth above, the Union Defendants violated the duty of fair representation owed its
5 members when lied to the sUA mechanics that the bankruptcy exit agreement, LOA 05-03M was
6 no longer in force despite the agreement being in the collective bargaining agreements, expressly
7 negotiated and ratified by the Teamsters.
8

9 492. As set forth above, the Union Defendants violated the duty of fair representation owed its
10 members by entering into secret deals with United to delay enforcement of these provisions and
11 to self-enrich the Teamsters organization and its officers.
12

13 493. As set forth above, the Union Defendants violated the duty of fair representation owed its
14 members by negotiating for the Teamsters self-interest and not that of its members, specifically,
15 when it failed to negotiate on behalf of sUA mechanics and instead negotiated on behalf of non-
16 party third parties such as TeamCare, the Western Conference Teamster Pension Trust, and other
17 Teamster controlled trusts and plans, in direct contravention to its constitution, affiliated local
18 union bylaws, and federal law.
19

20 494. As set forth above, the Union Defendants violated the duty of fair representation owed its
21 members when utilized in house counsel to lie to the members about the legal rights contained
22 in LOA 05-03M, rights that had been explained, reviewed, agreed upon, finalized, and approved
23 in the Bankruptcy Court many years earlier in a true fashion and of which Plaintiffs were aware.
24

25 495. As set forth above, the Union Defendants violated the duty of fair representation owed its
26 members when unlawfully took things of value from United in exchange for taking United
27 friendly positions during collective bargaining negotiations, including those leading to the loss
28

1 of Plaintiffs' right to elect into any single employer defined benefit pension plan maintained by
2 United or to elect some other comparable plan.

3 496. As set forth above, the Union Defendants violated the duty of fair representation owed its
4 members when refused to process grievances over which it had exclusive discretion.

5
6 497. As set forth above, the Union Defendants violated the duty of fair representation owed its
7 members when acted in an arbitrary, discriminatory, and dishonest manner in its duty to fairly
8 represent Plaintiffs in the bargaining process resulting in the Joint Agreement which stripped
9 Plaintiffs and the Class of their rights under LOA 05-03M.

10
11 498. As set forth above, Plaintiffs were unable to discover the breach until the amalgamated
12 agreement became public knowledge in October 2016. Nor did Plaintiff have any way of
13 knowing that executives in the Teamsters had accepted bribes to act against their interest.

14 499. As set forth above, the Union Defendants violated the duty of fair representation owed
15 its members when withdrew the grievances without affording Plaintiffs their statutory right to
16 individually process those grievances. There has been no reason advanced by the union for its
17 failure to notify Plaintiffs prior to the withdrawal of the grievances.

18
19 500. Had such protests or grievances been prosecuted by Defendant Teamsters and/or the
20 affiliated local union Defendant Principal Officers on Plaintiffs and the Class' behalf, Plaintiffs
21 would have obtained increased pension benefits seven years ago, would have received a full share
22 of profit sharing monies owed to Plaintiffs and the Class over the last seven years ago, and been
23 otherwise made whole for damages and losses. All union Defendants acted arbitrarily,
24 invidiously and discriminatorily in this regard to Plaintiffs and the Class.

25
26 501. The individual Principal Officer Defendants also breached the fiduciary duties owed to
27 Plaintiffs and the Class under the Teamsters' constitution and their respective bylaws by failing
28

1 to put Plaintiffs' and the Class' interests above those of the union, in failing to follow the terms
2 of in force collective bargaining agreements as required, by failing to organize and hold
3 ratification votes for any matter materially impacting a member or a group of members, and in
4 taking things of value from Defendant United in exchange for not protesting or grieving
5 Defendant United's breaches of the collective bargaining agreement
6

7 502. The breach by all union Defendants of their duty of fair representation to Plaintiffs and
8 the Class was malicious, was designed to injure, and to intimidate and coerce other members of
9 the Defendant Teamsters so as to cause them to forego rights guaranteed them by the collective
10 bargaining agreement.
11

12 503. Defendant Teamsters knowingly failed to consult and investigate qualified and available
13 union witnesses to testify as to essential, relevant, and material matters regarding the grievances.
14

15 504. Defendant Teamsters arbitrarily and capriciously failed to consult union witnesses whose
16 testimony was of significant importance to an adequate presentation of the grievances.
17

18 505. Defendant Teamsters investigation failed to adequately disclose United Defendant's
19 breach of the collective-bargaining agreement, rules and practices.
20

21 506. As set forth above, the legal premises the Union Defendants base satisfaction of the duty
22 owed to Plaintiffs and the Class regarding the process of their grievances, i.e. the Gleason memo,
23 is so badly misstated and misconstrued so as to constitute fraud.
24

25 507. As set forth above, the grounds the attorney exclusively relied on to deem the grievances
26 meritless are not even factually or legally possible and are more akin to a confession than counsel.
27

28 508. The Union Defendants breached the duty of fair representation and acted in bad faith by
choosing counsel so seriously and deeply rooted with conflicts of interest so as to preclude him
from rendering any advice, not to mention objective advice, but choosing him anyway.

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

2 510. It is a breach of the duty, and frankly inconceivable to Plaintiffs, to allow the company to
3 unilaterally pick a date to honor the in force collective bargaining agreement in order to
4 financially benefit United and UAH. In doing so, the Union agreed to the systematic breach of
5 the contract in contravention to their duties as the Plaintiffs representative to allow on such terms
6 and in such manner as the employer alone prescribed.
7

8 511. Plaintiffs allege Teamsters breached the applicable collective bargaining agreement by
9 repeatedly and routinely assuring Plaintiffs the grievances regarding LOA 05-03M were going
10 to arbitration.
11

12 512. Plaintiffs allege all union defendants breached their duty of fair representation owed to
13 Plaintiffs when it negotiated, compromised and settled Plaintiffs' claims without Plaintiffs' input
14 or knowledge or authorization.
15

16 **Count III – Violation of Statutory Due Process (RLA § 184)**

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

18 514. The Railway Labor Act § 184 imposes a duty to not only create the specialized boards of
19 adjustment but also a duty to permit access and a role in the grievance process for all parties,
20 including represented employees.
21

22 515. Therefore, under the Railway Labor Act an individual airline employee has a statutory
23 right to due process before an adjustment board and any attempt to deny such a right is invalid
24 and unenforceable.

25 516. As set forth above, while Union Defendants may not have wanted to represent Plaintiffs
26 before the Board, its decision not to do so did not bar Plaintiffs from arbitrating their claim;
27 however, the Union Defendants actively inhibited, prohibited, and refused to allow or provide
28

1 the ability for Plaintiffs to arbitrate the matter themselves as did United.

2 517. Nothing in the relevant collective bargaining agreement states an employee waives their
3 statutory, individual right to arbitration. Any arbitration clause waiving such a right, particularly
4 a statutory right, must be "clear and unmistakable" in the collective bargaining agreement.
5

6 518. The collective bargaining agreement creates a System Board of Adjustment at the Third
7 Step and a Board of Arbitration as the final adjudication, defining the jurisdiction of each and
8 setting forth procedures for their operation. The Union Defendants and United may not by
9 agreement, secret or otherwise, divest these boards of statutorily prescribed jurisdiction over a
10 dispute unilaterally and arbitrarily.
11

12 519. Plaintiffs were given no warning that the drastic step of withdrawal would be taken, were
13 not consulted as to their views on withdrawal, or given an opportunity to take over the processing
14 of their grievances as provided for under the Railway Labor Act in § 184 and § 185. Withdrawing
15 grievances in this manner is arbitrary and lacks any rational basis.
16

17 520. Plaintiffs have been categorically foreclosed from any relief, effectively ending Plaintiffs'
18 grievances in favor of the United and UAH and Plaintiffs' and the Class' expense.

19 521. But for the general jurisdiction of the federal courts there would be no remedy to enforce
20 the statutory commands which Congress had written into the Railway Labor Act.
21

22 **Count IV – Violation of Fiduciary Duty (LMRDA § 501)**

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

24 523. Plaintiffs assert herein a claim against individual union officers Hoffa, Finn, Griswold,
25 Stripling, and Miranda for breach of fiduciary duty with regards to the enforcement of the
26 Teamsters' constitution and bylaws of their respective affiliated local unions, as well as the failure
27 to enforce bargaining agreements entered into on behalf of Plaintiffs and the Class.
28

1 524. These individual union officers owe a fiduciary duty to the Plaintiffs and the Class under
2 LMRDA § 501, 29 U.S.C. §501, as well as a fiduciary duty as defined by the Teamsters'
3 constitutions and their respective affiliated local union bylaws.

4
5 525. Federal law imposes heightened fiduciary duty of responsibility on union officials to hold
6 union's money and property solely for benefit of organization and its members. Labor-
7 Management Reporting and Disclosure Act of 1959. § 501(a). 29 U.S.C. § 501(a).

8 526. LMRDA § 501 imposes a fiduciary obligation on officers, agents, shop stewards, and
9 other representatives of a labor organization as persons occupying a position of trust within a
10 labor organization and must therefore act in the best interests of the members they represent.

11
12 527. LMRDA § 501 specifically requires such officers or agents, including each individual
13 union Defendant to refrain from dealing with the members as an adverse party or on behalf of an
14 adverse party in any matter connected with their duties and to refrain from holding or acquiring
15 any monetary or personal interest conflicting with the interests of the members.

16
17 528. By failing to take steps to put an end to the self-dealing involved over healthcare benefits
18 and pension participation, by the continued disregard for the rank and files rights and best
19 interests, the above-named individual union officer defendants breached the fiduciary owed to
20 Plaintiffs and the Class.

21
22 529. Each individual union Defendant officer breached their respective fiduciary duties to the
23 Plaintiffs and the Class by unreasonably failing to enforce all agreements entered into between
24 the employer and their members.

25
26 530. Each individual union Defendant officer breached their respective fiduciary duties to the
27 Plaintiffs and the Class by deliberately and intentionally denying improper conduct of business
28 agents, appointed negotiators, and others under their individual control and supervision whose

1 decisions were hostile and averse to the interests of the Plaintiffs and the Class and which were
2 also in direct conflict with their sworn duty and required statutory duty to regard the interests of
3 the Plaintiffs and the Class over those of any employer.

4
5 531. Hoffa violated the Teamsters oath of office and its constitution by failing to bargain in
6 good faith, failing to put the interests of the Plaintiffs and the Class before those of the Teamsters,
7 and deceitfully failing to enforce the bargaining agreements of the Plaintiffs and the Class.

8
9 532. Hoffa violated the Teamsters oath of office and its constitution by improperly soliciting
10 things of value from the company in the extensive TeamCare solicitation availability on company
11 property, which is a violation of his owed fiduciary duty under LMRDA § 501.

12
13 533. Hoffa allowed the national office to receive things of value from United, including but
14 not limited to payments of \$1.5M on June 6, 2020, exactly six months and one day after the
15 ratification of the joint agreement and in light of preventing any additional grievances to be filed
16 regarding bargaining, negotiating, or enforcing of contracts. these payments by United were
17 intended to and directly benefitted the Teamsters and their officials and employees instead of the
18 represented employees/rank and file.

19
20 534. Hoffa facilitated for his own personal gain the use of Cheiron, a financial advisory firm,
21 for the negotiations between United and the Teamsters, paying Cheiron extraordinary and
22 unusual sum of money given the size of the membership and the minimal work involved.

23
24 535. Hoffa received gifts, overseas golf trips, parties, in exchange for participating in and
25 allowing other officers and employees to participate in, fiduciary breaches involving members
26 health care options, pension plan options, grievance prevention, and diversion of dues money all
27 in violation of the LMRDA.
28

1 536 As set forth above, Hoffa and the Principal Officer Defendants permitted United to strip
2 Plaintiffs of their rights under LOA 05-03M. Such total abandonment by the individual union
3 officials to fairly represent the property interests of Plaintiffs violates LMRDA § 501.

4
5 537. As set forth above, Hoffa and the individual Principal Officer Defendants unlawfully
6 accepted things of value to take company-friendly positions and approved inflated third party
7 vendor contracts to the detriment of Plaintiffs and the Class during negotiations for Plaintiffs'
8 and the Class' new collective bargaining agreements.

9
10 538. Hoffa breached his fiduciary duties when he failed to adequately direct the airline division
11 negotiation team to adhere to the surveyed and proposed bargaining terms and instead directed
12 and allowed the airline division negotiators to ignore the elected rank and file negotiating teams,
13 enter into secret concessions with United, and continue to insist that the only way a contract was
14 going to the rank and file was if a Teamster directed healthcare plan or pension plan were part of
15 the contract despite overwhelming demands by the rank and file to drop any such demands.

16
17 539. As set forth above, Hoffa and the individual Principal Officer defendants placed the
18 interests of an employer above those of the union members, specifically, Plaintiffs and the Class,
19 which resulted in severe negative impacts to wages, rights, and benefits to them.

20 540. Plaintiffs have exhausted all internal union procedures with respect to their grievances.

21
22 541. As set forth above, neither the Teamsters constitution nor the bylaws of the affiliated local
23 unions provides a remedy for claims of this nature against union officers.

24 542. As set forth above, Hoffa and the Principal Officers owe Plaintiffs a fiduciary duty to
25 adhere to and follow the constitution and local union bylaws which instruct any union official to
26 honor in force agreements, provide votes for any issue materially impacting a member or a group
27 of members, and to put the interests of the members before any union officials personal gain.
28

1 543. As set forth above, the individual Defendant officers also breached the fiduciary duties
2 owed to Plaintiffs and the Class under the LMRDA § 501 in taking things of value from United
3 in exchange for not enforcing or grieving breaches of the bargaining agreement by United.
4

5 544. The incompetent and faulty process the grievances allegedly received demonstrate the
6 respective Principal Officer Defendants abandoned any duty the Principal Officer Defendants
7 owed to Plaintiffs to oversee and ensure the grievance procedures were effectually carried out.

8 545. As set forth above, use of a Teamsters newsletter to disparage a dues paying member for
9 speaking the truth about the vested rights of Plaintiffs and the Class under the collective
10 bargaining agreements and calling that same member a liar in an effort to discredit him and hide
11 the truth of the secret dealings with United and other third party vendors is a breach of fiduciary
12 duty under LMRDA § 501.
13

14 546. As set forth above, the individual Principal Officer Defendants abandoned any role in
15 supervising the enforcement of agreements in order to benefit the union and the company.
16

17 547. As set forth above, the misrepresentations to the Plaintiffs and the Class that the pension
18 benefit election was held and therefore, there was nothing to grieve, is a breach of the fiduciary
19 duty owed to Plaintiffs and the Class. Specifically, the individual Principal Officer Defendants
20 permitted business agents to tell Plaintiffs the vote in January of 2015 which resulted in the
21 complete rejection of the "closeout proposal" - 93.7% no vote - counted as the discrete vote
22 provide to Plaintiffs and the Class under the collective bargaining agreement, the Teamsters'
23 constitution, and the bylaws of the affiliated local unions.
24

25 548. Each individual union Defendant officer breached their respective fiduciary duties to the
26 Plaintiffs and the Class by unreasonably failing to give adequate representation arising out of the
27 collective bargaining agreement, the Teamsters' constitution, and the affiliated local union
28

1 bylaws when they failed to assist the Plaintiffs and the Class once the Plaintiffs and the Class
2 sought to invoke the protections found therein as alleged above.

3 549. As set forth above, the fiduciary duty owed to Plaintiffs and the Class under LMRDA §
4 501 was breached when the individual Union Defendants permitted United to favor former
5 Continental mechanics, sCO mechanics over Plaintiffs and the Class to their detriment
6

7 550. Threatened and publicly labeled fellow Teamsters as liars and rats based on good faith
8 attempts by these Teamsters' members to educate other Teamsters' members about the collective
9 bargaining agreement and the rights therein.

10 551. As set out above, the evasive and dilatory tactics, the "take it or leave it" ultimatums, the
11 regressive proposals, the outright rejection of final and binding agreements, the rejection of
12 proposals and survey results of Plaintiffs' and the Class' positions on mandatory subjects of
13 bargaining breaches the fiduciary duty owed.
14

15 552. As set forth above, hostility and bias against Plaintiffs show failure and refusal to provide
16 any fair process regarding filing, processing, or adjudicating grievances, particularly in the
17 repeated withdrawal of grievances filed by the Plaintiffs where each Plaintiff expressed a clear
18 desire to proceed on their own without union support.
19

20 **Count V - Breach of Fiduciary Duty (ERISA §§ 404(a)(1)(A)-(B))**

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

22 554. As set forth above, the Administrative Committee Defendants were ERISA fiduciaries
23 for CARP and the PSP pursuant to ERISA §§ 402(a) and/or 3(21) subject to ERISA's fiduciary
24 duties of prudence and loyalty, and exclusive purpose.
25

26 555. As set forth above, the Administrative Committee Defendants violated duties of prudence
27 and loyalty by failing to conduct adequate investigation into if Plaintiffs and the Class should be
28

1 participants in CARP and if that was in the best interests of CARP and CARP participants.

2 556. As set forth above, the Administrative Committee Defendants violated duties of prudence
3 and loyalty imposed by ERISA by failing to monitor the compliance and reporting requirements
4 of both CARP and the PSP.
5

6 557. As set forth above, Administrative Committee Defendants violated the duties of prudence
7 and loyalty imposed by ERISA by allowing plan terms and conditions to not be followed at the
8 direction of and for the purpose of benefitting the United and UAH financially.

9 558. As set forth above, Administrative Committee Defendants violated duties of prudence
10 and loyalty imposed by ERISA by including the sCO mechanics in the PSP without conducting
11 an adequate investigation into the eligibility requirements for the PSP, specifically, per the PSP
12 plan documents and collective bargaining agreements, in order to focus on the best interests of
13 the PSP and the PSP's participants and not the United Entity Defendants.
14

15 559. As set forth above, Administrative Committee Defendants violated duties of prudence
16 and loyalty imposed by ERISA by failing to conduct adequate investigation into whether
17 including sCO mechanics was in the best interests of the PSP and its participants.
18

19 560. The Administrative Committee Defendants breaches proximately caused losses to the
20 Plan in an amount to be determined at trial.

21 561. The Administrative Committee Defendants are liable to make good those losses to the
22 Plan and for all other available remedies under ERISA §§ 409 and 502(a)(3).
23

24 **Count VI - Breach of Fiduciary Duty (ERISA §§ 404(a)(1)(A)-(B))**

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

26 563. As set forth above, the Administrative Committee Defendants are ERISA fiduciaries for
27 CARP and PSP pursuant to ERISA §§ 402(a) and/or 3(21) subject to ERISA's fiduciary duties
28

1 of prudence and loyalty, and exclusive purpose.

2 564. As set forth above, United and UAH are ERISA fiduciaries with respect to the plans and
3 the participants. Thus, United and UAH were parties in interest pursuant to ERISA § 3(14)(H).

4 565 ERISA § 406(a) prohibits ERISA fiduciaries from causing ERISA plans to engage in
5 certain enumerated transactions with parties in interest and § 406(b) prohibits ERISA fiduciaries
6 from causing ERISA plans to engage in certain enumerated transactions with plan fiduciaries.
7

8 566. As set forth above, the Administrative Committee Defendants caused CARP to engage in
9 transactions with parties in interest by allowing parties in interest to dictate who would participate
10 in CARP and the PSP in direct contravention of the respective plan document terms.
11

12 567. As fiduciaries, United and UAH exercised their discretionary authority with respect to
13 cash belonging to the PSP plan, diverted that cash to and into accounts maintained by or for the
14 use of non participants, and subject to those non participants exclusive control.
15

16 568. Under ERISA, a fiduciary has a duty investigate and thoroughly understand all of the
17 terms and provisions of agreements for the provision of services to the plans for which it serves
18 as fiduciary, especially the terms and provisions for distribution of plan assets and cash, and a
19 continuing duty to monitor the plan and any changes.

20 569. All fiduciaries failed to make a thorough investigation of the distributions received in
21 connection with trust and specifically with respect to the PSP plan's eligible participants and
22 management of the PSP plan's cash assets.
23

24 570. The diversion of plan assets into accounts controlled by the non participant parties, and
25 the unrestricted use of those cash assets constitute transactions in violation of ERISA.

26 571. United and UAH knew or should have known diverting plan assets to the exclusive
27 control and benefit of non participant parties constituted either a prohibited loan or other
28

1 extension of credit between the plan and was prohibited or a prohibited transfer of plan assets to,
2 or use by or for the benefit of a prohibited party and therefore, United and UAL caused the PSP
3 plan to engage in a prohibited transaction under ERISA.

4
5 572. Additionally, ERISA § 406(b)(1) prohibits a fiduciary from dealing with the assets of a
6 plan for its own interest or its own account.

7 573. United and UAH and the Administrative Committee Defendants diverted the PSP plan's
8 cash assets away from the plan's trusts and into accounts subject to the exclusive control of non
9 participants for those non participants' own benefit for which PSP plan received no discernible
10 or meaningful benefit but for which the benefit to non participants was enormous.

11
12 574. As a result of the prohibited transactions caused by United, UAH, and the Administrative
13 Committee Defendants, Plaintiffs and the Class suffered losses they would not have suffered had
14 the PSP plan's cash assets been prudently managed by all fiduciaries for their benefit.

15 575. United's, UAH's, and the Administrative Committee Defendants' prohibited transactions
16 proximately caused losses to CARP and PSP in an amount to be determined at trial.

17
18 576. United, UAH, and Administrative Committee Defendants are liable to make good those
19 losses to CARP and PSP and for all other available remedies under ERISA §§ 409 and 502(a)(3).

20 577. Pursuant to ERISA § 502(a)(3), the Court should also award equitable relief.

21
22 **Count VII - Breach of Fiduciary Duty (ERISA § 404)**

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

24 579. United and UAH are plan sponsors of CARP, an ERISA covered single employer defined
25 benefit plan, which is maintained for the benefit of their employees. As plan sponsors, United
26 and UAH are fiduciaries with respect to CARP.

1 580. Under ERISA § 1002(21)A, those having discretionary authority or discretionary
2 responsibility in the administration of a plan are fiduciaries.

3 581. As fiduciaries, United's and UAH's fiduciary conduct is governed by the prudent man
4 standard of care set forth in 29 U.S.C. § 1104 (a)(1)(A) through (D). United and UAH violated
5 their fiduciary duty by failing to follow the documents governing CARP when they refused to
6 accept Plaintiffs and the Class as having met the definition of plan participant under the
7 definitions provided in CARP as of October 1, 2010. And, by failing to cover Plaintiffs and the
8 Class on October 1, 2010.
9

10 582. United and UAH breached this duty of loyalty by placing their own pecuniary interests
11 above the interests of the participants and beneficiaries as required by 29 U.S.C. § 1104(a)(1)(A).
12

13 583. The Administrative Committee Defendants did not demand the contributions for CARP
14 and allowed United and UAH not to fund the plan.

15 584. United and UAH breached this duty of loyalty by authorizing PSP plan to pay parties not
16 qualifying or eligible as participants, by failing to objectively and adequately review the PSP
17 plan documents and required filings with due care to ensure that each decision reflective of those
18 documents and filings was prudent, and by taking positions with respect to Plaintiffs and the
19 Class with respect to the overwhelming and obvious contrary information requiring a different
20 action in order to carry out duties to the PSP plan and as fiduciary.
21

22 585. The failure to make corrective disclosures regarding the correct participants caused
23 numerous participants in the plans to suffer repeated and preventable financial loss because the
24 former sCO mechanics received profit sharing distributions from the plan when they should not
25 have. The Administrative Committee Defendants compounded and magnified the problem each
26 year they failed to course correct.
27
28

1 586. Making a corrective disclosure once the pilots' arbitrator ruled against United and UAH,
2 became a clear alternative action that should have been taken that would have been entirely
3 consistent with the plan documents and the arbitration ruling which no prudent fiduciary could
4 have viewed as more likely to harm the PSP plan than to help it.
5

6 587. Nor are the lack of corrective disclosures at issue here merely a matter of oversight. It
7 would have been obvious to any prudent and loyalty fiduciary no later than April of 2014 that
8 corrective disclosure would have benefitted the PSP plan when the arbitration decisions was
9 made regarding these issues confirming certain former Continental employee's ineligible.
10

11 588. The failure to do so cannot be justified. The failure to monitor and review for accuracy
12 required filings and plan document terms is more than simply sloppy business practice - such
13 failures breach the fiduciary duties owed to Plaintiffs, the Class, and plan participants and
14 beneficiaries is a foundational duty and a failure to do so a breach of fiduciary duty.
15

16 589. ERISA § 405 renders ERISA fiduciaries liable for other fiduciaries' misconduct. Because
17 the Administrative Committee Defendants, United, and UAH knowingly participated in the acts
18 and omissions constituting breaches and because each enabled the breaches of the other
19 fiduciaries and had knowledge of the breaches by the other fiduciaries but undertook no
20 reasonable efforts under the circumstances to remedy the breaches, each are liable.
21

22 590. United and UAH co-fiduciary breaches proximately caused losses to CARP and the PSP
23 in an amount to be determined at trial.

24 591. All fiduciaries are liable to make good those losses to the plans and for all other available
25 remedies under ERISA §§ 409 and 502(a)(3).
26

27 **Count VIII - Knowing Participation in and/or Benefit from Fiduciary Breaches**
and Prohibited Transaction (ERISA § 502(a)(3))

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

1 593. 29 U.S.C. § 1105(a)(3) permits Plaintiffs to bring ERISA claims against non fiduciaries
2 for their participation in breaches of fiduciary duties by fiduciaries.

3 594. In this case, the Union Defendants conspired with the United Defendants to violate the
4 latter's fiduciary duties by preventing the Plaintiffs and the Class from becoming participants in
5 CARP on or about October 1, 2010.
6

7 595. The Union Defendants knew the United Defendants were breaching their fiduciary duties
8 by not covering the Plaintiffs and the Class and took affirmative steps to further delay the
9 Plaintiffs' and the Class' CARP participation.
10

11 596. As the result of the Union Defendants' conduct as set forth above, the Plaintiffs and the
12 Class lost years of service credits, thereby decreasing the amount of the pension benefit Plaintiffs
13 and the Class would otherwise receive upon retirement.

14 597. Plaintiffs further allege the Union Defendants knowingly participated in the United
15 Defendants fiduciary breaches by allowing the United Defendants to circumvent collective
16 bargaining agreements to pay full PSP monies owed under the plan to Plaintiffs and the Class.
17

18 598. Plaintiffs provided proof to Union Defendants and that proof was ignored. The Union
19 Defendants knew directly from the United Entity Defendants, from negotiations, from reports by
20 union officials, and from arbitration decisions Plaintiffs assertions were accurate.

21 599. The Union Defendants knew former sCO mechanics were excluded from the PSP because
22 the Union Defendants negotiated the sCO mechanics out of the PSP themselves.
23

24 600. To date, the Administrative Committee has failed to take any action to protect the PSP
25 plan and its participants, and have failed to publicly disclose the truth about whether former sCO
26 mechanics had a right to receive profit sharing checks beginning in 2011 despite sCO mechanics
27 collective bargaining agreement and PSP plan document explicitly prohibiting such participation.
28

1 601. Despite the knowledge of illicit inclusion of former sCO mechanics in the profit sharing
2 plan and the myriad of false representations made in relation to inclusion by United Defendants,
3 the Union Defendants took no action to disclose the truth regarding the profit sharing plan terms
4 and conditions nor to the truth regarding the eligibility of sCO mechanics participating in the
5 profit sharing plan. Instead, the Union Defendants did nothing as the Plaintiffs and the Class
6 who were eligible participants, continued to be cheated out of a fair share of PSP monies.
7

8 602. The Union Defendants further knowingly participated in these breaches by failing to
9 demand the books and records or any sort of accounting.
10

11 **Count IX - Duty to Avoid Conflicts of Interest - ERISA §§ 404, 405**
12 **(All Defendants)**

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

14 604. At all relevant times, United and UAH Defendants and the Administrative Committee
15 Defendants were fiduciaries within the meaning of ERISA § 3(21)(A), 29 U.S.C. § 1002(21)(A).
16 Consequently, they were bound by the duties of loyalty, exclusive purpose and prudence.

17 605. ERISA § 404(a)(1)(A), 29 U.S.C. § 1104(a)(1)(A), imposes on a plan fiduciary a duty of
18 loyalty, that is, a duty to discharge his duties with respect to a plan solely in the interest of the
19 participants and beneficiaries and for the exclusive purpose of providing benefits to participants
20 and its beneficiaries.
21

22 606. United, UAH, and the Administrative Committee Defendants breached their duty to avoid
23 conflicts of interest and to promptly resolve them by failing to timely engage independent
24 fiduciaries who could make independent judgments concerning the PSP's stated purpose and
25 terms; failing to notify appropriate federal agencies, including the DOL, of the facts and
26 transactions including errors and omissions on Form 5500; and failing to take such other steps as
27 were necessary to ensure that participants' interests were loyally and prudently served.
28

1 607. With respect to each failure, United, UAH, and Administrative Committee Defendants
2 did so in order to prevent drawing attention to the inappropriate practices and therefore, placed
3 the interests of United and UAH above the interests of participants.

4
5 608. As a consequence of United, UAH, and Administrative Committee Defendants breaches
6 of fiduciary duty, both plans suffered millions of dollars in losses. If United, UAH, and the
7 Administrative Committee Defendants had discharged their fiduciary duties prudently, the losses
8 suffered would have been minimized or avoided.

9
10 609. Where the fiduciary employee has otherwise simply served a corporation's request and in
11 fact not acted in its discretion at all but merely followed the dictates of its master, a breach has
12 occurred. More, an employee who is an employee of the plan sponsor and serves as the fiduciary
13 is conflicted. The Administrative Committee as alleged above has at least one such employee
14 fiduciary.

15
16 610. The employee fiduciary breaches of fiduciary duty occurred during the course and scope
17 of that employment with United and UAH. Indeed, the employee fiduciary's failure to make
18 corrective disclosures was a crucial part of United's and UAH's strategy.

19
20 611. Therefore, as a direct and proximate result of the breaches of fiduciary duties alleged
21 herein, the plans, and indirectly Plaintiffs and the plan's other participants and beneficiaries, lost
22 a significant portion of contributions and illicit distributions to ineligible participants.

23
24 612. Pursuant to ERISA § 502(a)(2), 29 U.S.C. § 1132(a)(2) and ERISA § 409, 29 U.S.C. §
25 1109(a), United, UAH, and Administrative Committee Defendants are liable to restore the losses
26 to the plans caused by their breaches of fiduciary duties alleged.

27
28 **Count X - ERISA Coverage Requirements Under 11 U.S.C. § 1051(a)(1)(A)**

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

1 614. ERISA's coverage requirements were violated because sUA mechanics were improperly
2 excluded from CARP.

3 615. ERISA restricts the amount of time an employee can be excluded from participating in a
4 pension plan. Basically, an employee like the sUA mechanics can only be excluded from CARP
5 on account of age and service if the employee is under the age of twenty-one (21) or has not
6 completed one (1) year of service or two (2) years of service, depending on the plan's vesting
7 schedule.
8

9 616. LOA 05-03M mandated Plaintiffs and the Class were eligible to be covered by CARP on
10 or about the time United and UAH maintained or established a single-employer defined benefit
11 plan. United and UAH began to maintain such a plan on or about October 1, 2010, ("Effective
12 Date").
13

14 617. None of the Plaintiffs were under the age of twenty-one (21) at the time of the Effective
15 Date and all Plaintiffs had more than two (2) years of service on the Effective Date.
16

17 618. All Defendants conspired to keep Plaintiffs and Class from becoming plan participants
18 on the Effective Date in order to further their own pecuniary interests.

19 619. By their failure to enroll the Plaintiffs and the Class on the Effective Date, the Defendants
20 – United, UAH, and Union Defendants – violated 26 U.S.C. §1051(a)(1)(A). Further, these
21 failures cost the Plaintiffs and the Class loss of six (6) years of creditable service thereby
22 substantially decreasing the pension the Plaintiffs and the Class would otherwise be entitled to if
23 these breaches had not occurred.
24

25 **X. PRAYER FOR RELIEF**

26 WHEREFORE, the individual Plaintiffs named above, on behalf of themselves and others
27 similarly situated, and on behalf of CARP, respectfully pray this Court accept jurisdiction of this
28

1 action and grant Plaintiffs demand for judgment against Defendants, jointly and severally, and
2 further demand judgment as follows:

3 A. For a declaratory judgment pursuant to 28 U.S.C. §2201 declaring that the actions of
4 defendant complained of herein constitute a violation of the Railway Labor Act, 45 U.S.C. §151,
5 et seq., as alleged herein;
6

7 B. Enter an order declaring this action may be maintained as a class action pursuant to Rule
8 23 of the Federal Rules of Civil Procedure;

9 C. Enter an order declaring Plaintiffs be designated as the Class representatives and their
10 counsel as Class Counsel;
11

12 D. Enter an order declaring Defendants have combined and conspired to breach the
13 collective bargaining agreement and that Plaintiff and Class members have been injured in their
14 business and property as a result of Defendants' violations;

15 E. Order Defendant United to account for all wages, benefits and increments Plaintiffs
16 would have received, from October 1, 2010, the date Defendant United acquired and merged
17 with Continental Airlines, to the date of this Order.
18

19 F. Order all Defendants to reimburse or compensate Plaintiffs for all damages suffered by
20 them as a result of Defendant United's breach of the collective-bargaining agreement and
21 Defendant Teamsters breach of their duty of fair representation.
22

23 G. Apportion the imposition of liability and the damages to be paid by each Defendant, as
24 the court deems just.

25 H. For plan wide injunctive and declaratory relief ordering the Company to follow CARP
26 plan documents and instruments;

27 I. For plan wide injunctive and declaratory relief requiring the Company to retroactively
28

1 enroll Plaintiffs and the Class as having met the definition of participant and eligible employee
2 to accrue pension benefits as of October 1, 2010;

3 J. For appropriate plan wide relief to remedy the fiduciary breaches caused by United
4 Defendants' and Union Defendants' knowing participation in those breaches, including making
5 restitution to the plan for all funding shortfalls;
6

7 K. Enter an order declaring the Union Defendants have breached their fiduciary and co-
8 fiduciary duties under LMRDA § 501 and ERISA as alleged herein;

9 L. Enter an order enjoining the Union Defendants from further breaches of their fiduciary
10 and co-fiduciary duties under LMRDA 501 and ERISA as alleged herein;
11

12 M. Enter an order enjoining the Union Defendants from further knowing participation in and
13 receipt of benefit from the United Defendants' breaches of their fiduciary and co-fiduciary duties
14 under ERISA and prohibited transactions;

15 N. Enter an order declaring the United Defendants have breached their fiduciary and co-
16 fiduciary duties under ERISA and engaged in prohibited transactions as alleged herein;

17 O. Enter an order enjoining the United Defendants from further breaches of their fiduciary
18 and co-fiduciary duties under ERISA and from further prohibited transactions;
19

20 P. Enter an order requiring the United Defendants to make good to CARP and to the PSP
21 the losses their fiduciary breaches, co-fiduciary breaches and/or prohibited transactions caused
22 CARP and the PSP pursuant to ERISA § 409;

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

24 R. Enter an order requiring United to hold the pension election and make any elective result
25 retroactive to October 1, 2010, including reforming, correcting, amending, or changing the
26 definition of participant and eligible employee to accrue pension benefits as of October 1, 2010;
27
28

1 S. Enter an order requiring the United Defendants to disgorge to CARP and the PSP any and
2 all property the United Defendants hold as a result of the United Defendants' fiduciary breaches,
3 co-fiduciary breaches and/or prohibited transactions that in good conscience belongs to CARP
4 and to the PSP, the proceeds of such property to the extent it has been disposed of, and any profits
5 they received as a result of holding such property;
6

7 T. Enter an order requiring the United Defendants to provide a full accounting of all fees
8 paid, directly or indirectly, by CARP and the PSP to the United Defendants;

9 U. Grant and award the Plaintiffs and the Class compensatory damages in an amount to be
10 determined herein, including pre- and post-judgment interest;

11 V. Grant and award damages in an amount to be determined by a jury, including lost profit-
12 sharing pool monies, compensatory damages, and whatever additional monetary relief may be
13 available in law and equity;
14

15 W. Grant and award reasonable attorney's fees, costs and expert witness fees, including those
16 costs permissible pursuant to ERISA § 502(g), 29 U.S.C. § 1132(g), the common benefit doctrine
17 and/or the common fund doctrine;
18

19 Y. Grant and award such other and further relief just and proper under the circumstances

20 Z. Plaintiffs and the Class hereby request a jury trial on each and every one of their claims
21 in this action.
22

23 Date: September 8, 2020

Respectfully submitted,

24 JANE C. MARIANI,
Law Offices of Jane C. Mariani

25 By: /s/ Jane C. Mariani
26 JANE C. MARIANI

27 *Counsel for Plaintiffs Kevin E. Bybee, et al.*
28