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9 INTERNATIONAL BROTHERHOOD OF TEAMSTERS, JAMES HOFFA, PETER FINN,
10 CHRISTOPHER GRISWOLD, PAUL STRIPLING, and GEORGE MIRANDA

11 **UNITED STATES DISTRICT COURT CALIFORNIA**
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
13 **AT SAN FRANCISCO**

14 KEVIN E. BYBEE, JOHN R. SCHOLZ,
15 VICTOR DRUMHELLER, and SALLY A.
16 DILL, as individuals and plan participants in The
17 Continental Retirement Plan; on behalf of
18 themselves and all others similarly situated; and
19 on behalf of the Continental Retirement Plan,

20 Plaintiffs,

21 v.

22 INTERNATIONAL BROTHERHOOD OF
23 TEAMSTERS, a labor organization; JAMES
24 HOFFA, in his official capacity as General
25 President of the International Brotherhood of
26 Teamsters; PETER FINN, in his official capacity
27 as Principal Officer of Teamsters Local 856;
28 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 AIR LINES, INC., a Delaware
corporation; UNITED AIRLINES HOLDINGS,
INC., a Delaware corporation; the UNITED
AIRLINES HOLDINGS' ADMINISTRATIVE
COMMITTEE, named fiduciary of The
Continental Retirement Plan,

Defendants.

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

**OPPOSITION TO PLAINTIFFS' MOTION
FOR EXPEDITED AND LIMITED
JURISDICTIONAL DISCOVERY**

Hearing Date: February 4, 2021
Hearing Time: 10:00 a.m.
Courtroom: 11, 19th Floor
Judge: Hon. James Donato
Complaint Filed: October 31, 2018
Trial Date: Not set.

I. INTRODUCTION

1
2 Plaintiffs added individuals Paul Stripling and George Miranda as new Defendants to the
3 instant action. They do not live or work in California. They represent no employees in California and
4 lack minimum contacts with the State. Nonetheless, Plaintiffs seek to haul them into court in
5 California despite having failed to exhaust the administrative requirements for the claims brought
6 against them.

7 Plaintiffs sue Stripling and Miranda for breaches of fiduciary duty under section 501 of the
8 Labor-Management Reporting and Disclosure Act (“LMRDA”). Plaintiffs do not include a single fact
9 allegation in their Second Amended Complaint (SAC) alleging any specific action taken by Miranda
10 or Stripling that forms the basis for a claim against them. Moreover, Plaintiffs failed to comply with
11 the *jurisdictional* prerequisites of filing a 501 claim against either Stripling or Miranda. Plaintiffs
12 never asked either Local Union No. 781 based in Chicago or Local Union No. 210 based in New
13 York or the International Brotherhood of Teamsters in Washington, D.C., to take action against
14 Stripling or Miranda. Plaintiffs improperly skipped right over that jurisdictional requirement and
15 instead bring suit against them across the country in California and now seek discovery including
16 subjecting them to depositions. This is exactly the type of harassment that section 501(b) was
17 designed to avoid and should not be permitted.

II. ARGUMENT

A. Plaintiffs Cannot Make a “Colorable” Showing that the Court Can Exercise Personal Jurisdiction Over the Defendant to Obtain Jurisdictional Discovery

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19
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21 Jurisdictional discovery is not appropriate based on the bare assertion that plaintiffs should be
22 permitted to do so. “In order to obtain discovery on jurisdictional facts, the plaintiff must at least
23 make a ‘colorable’ showing that the Court can exercise personal jurisdiction over the defendant.”
24 *Mitan v. Feeney*, 497 F. Supp. 2d 1113, 1119 (C.D. Cal. 2007); *Martinez v. Manheim Cent. Cal.*,
25 2011 U.S. Dist. Lexis 41666, at *10-11 (E.D. Cal. Apr. 18, 2011); *Central States, Southeast &*
26 *Southwest Areas Pension Fund v. Reimer Express World Corp.*, 230 F.3d 934, 946 (7th Cir. 2000).
27 Plaintiffs have not made any showing that Miranda or Stripling have contacts with California, nor
28 demonstrated plaintiffs can supplement its allegations through discovery.

1 Plaintiffs concede that this Court has no general jurisdiction over Miranda or Stripling.
2 Plaintiffs argue that Miranda and Stripling directed activities in California and the claims in the
3 lawsuit arise from their forum-related activities. Plaintiffs' claims in their Motion cannot be squared
4 with the SAC and are contrary to reality. Miranda represents United employees at Dulles airport.
5 SAC ¶ 40. Stripling represents United employees at Chicago, O'Hare. SAC ¶ 39. The IBT is the
6 exclusive representative of the United mechanics. *See* Dkt. 44-8; 44-9. The IBT is located in
7 Washington, D.C. Dkt. 44 at ¶ 1. The IBT originally received the grievance asserting that the
8 mechanics should be enrolled in CARP upon the merger with Continental from former Plaintiff Harry
9 Beier. The IBT contracted attorney Ed Gleason, whose office is in Washington, D.C., to analyze the
10 merits of the grievance and Gleason prepared a 20-page legal memorandum concluding that the
11 grievance was meritless for several reasons. Dkt. 44-2. IBT Attorney Nicolas Manicone reviewed the
12 memorandum and agreed with its conclusions and the IBT decided to withdraw the grievance.
13 Subsequently, other grievances of an identical nature were filed and when referred to the IBT, the
14 IBT reached the same conclusion – that they lacked merit. The IBT has the exclusive duty to
15 represent the United mechanics and the IBT made the determination regarding the grievances at issue
16 here.

17 The SAC does not allege that Miranda or Stripling made the determination regarding the
18 grievances nor that the determination was made in California. Plaintiffs seek to pursue discovery to
19 invent ties that do not exist.

20 In an attempted grasp at straws to establish some connection to California, Plaintiffs make the
21 baseless assertion in the Motion that, "Defendant Stripling permitted Nick Manicone to send Plaintiff
22 Dill a letter stating Plaintiff Dill's grievance was handled in California." That is demonstrably false.
23 The Declaration of Nick Manicone filed concurrently herewith attaches the letter that he sent to Dill.
24 It states:

25 Grievants in another location filed grievance regarding the same issue
26 around the same time in 2016. The IBT-AD investigated their claims, both
27 factually and legally, and informed the grievants on or about March 29,
28 2017 that it would not continue to process their grievances. I have attached
to this letter a copy of the memo investigating the grievances and a copy
of the memo declining to process the grievances. Although the IBT-AD
was unaware of your grievance, we fully intend the information regarding
the denial, including the investigatory memo, be made available to any

1 interested Technician or related employee. Based on the investigation and
2 analysis contained in the memos attached with this letter, the IBT-AD is
3 declining to process your grievance any further; we will not take it to
4 System Board nor to arbitration and plan to inform United Airlines the
5 matter is withdrawn. As the enclosed memos set out in great detail, the
6 IBT-AD has concluded that your grievance, like the previous CARP
7 grievances, is untimely and factually and legally unsustainable.

8 Exhibit A to the Declaration of Nick Manicone.

9 Manicone did not tell Dill that her grievance “was handled in California.” Mot. at 14. The IBT
10 reviewed Dill’s grievance in Washington, D.C., determined that it was the same as the prior
11 grievances from SFO and exercised its judgment not to pursue it based on the legal advice from
12 veteran attorney Edward Gleason. Stripling did not make the determination regarding Dill’s
13 grievance; the determination regarding Dill’s grievance was not made in California; and certainly
14 Stripling did not take any action to have Dill’s grievance processed in California.

15 Regarding Miranda, plaintiffs assert that Miranda’s business agent Vincent Graziano “made
16 statements to the effect that a decision had been made to have California handle and deal with
17 Plaintiff Drumheller’s grievance.” Mot. at 7. Assuming, *arguendo*, that allegation is true, that does
18 not tend to establish any action by Miranda. We know from the SAC that no one in California made
19 any determination regarding these grievances. Moreover, that would not establish that Miranda
20 availed himself of the forum. Further, the complaints of Dill and Drumheller do not arise from
21 actions in California.

22 Further, whatever positions that Miranda holds with the Airline Division are not relevant to
23 this case. Plaintiffs have not alleged any action taken by Miranda in his role on the Airline Division.
24 That cannot be the basis for any further discovery.

25 Defendants Stripling and Miranda have specifically denied directing the IBT as to the
26 handling of these grievances much less directing the grievances to be handled in California.
27 (Declarations of Stripling and Miranda). “Where a plaintiff’s claim of personal jurisdiction appears to
28 be both attenuated and based on bare allegations in the face of specific denials made by defendants,
the Court need not permit even limited discovery . . .” *Terracom v. Valley Nat’l Bank*, 49 F.3d 555,
562 (9th Cir. 1995) (citation omitted.)

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1 **B. Ordering Jurisdictional Discovery Would Conflict with the LMRDA**

2 Section 501(b) contains s a jurisdictional prerequisite to bringing the instant suit against
3 Miranda and Stripling. Plaintiffs were required to have asked the applicable Local Unions to take
4 action to remedy the alleged breach of fiduciary duty. Plaintiffs have never done this. Thus, plaintiffs
5 cannot proceed with these claims in court at all much less in California.

6 The requirements set out in section 501(b) are designed to protect union officers from
7 harassment. *Loretangeli v. Critelli*, 853 F.2d 186, 189 (3d Cir. 1988); *Phillips v. Osborne*, 403 F.2d
8 826, 830 (1968). Forcing Miranda and Stripling to go through discovery where plaintiffs have failed
9 to meet the 501(b) requirements is contrary to the balance struck in the LMRDA.

10 Plaintiffs’ discovery plan is broad and covers topics beyond jurisdictional discovery and
11 includes taking depositions of four people including Stripling and Miranda, none of whom live or
12 work in California.

13 Plaintiffs wrap up their motion by stating that “it is likely that this jurisdictional discovery
14 will reveal additional California contacts by the Defendants that the Defendants failed to disclose in
15 the Defendants’ motion to dismiss.” Mot. at 8. This rank speculation is not sufficient for
16 jurisdictional discovery. Plaintiffs have not demonstrated a colorable showing that this Court will be
17 able to exercise jurisdiction over Stripling or Miranda.

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19 Dated: January 19, 2021

BEESON, TAYER & BODINE, APC

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21 By: /s/ Susan K. Garea

SUSAN K. GAREA

22 Attorneys for Defendants INTERNATIONAL
23 BROTHERHOOD OF TEAMSTERS, JAMES
24 HOFFA, PETER FINN, CHRISTOPHER
25 GRISWOLD, PAUL STRIPLING, and
26 GEORGE MIRANDA
27
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