

**United Technicians' Pension and Profit-Sharing Lawsuit Update  
( Bybee et al v. IBT et al, Case No. 22-16280 Ninth Circuit Court of Appeals )**

**November 27, 2023**

On November 8, 2023, the Ninth Circuit Court of Appeals affirmed the District Court's decision to dismiss the case in its entirety with prejudice. In response to this, on November 22, 2023, we filed a Petition for Rehearing and Rehearing En Banc to ask the court to reconsider this decision. Both the order and the petition are posted on the website for you to read and review.

We have heard, or been told, of the statements made by the Defendants – the Teamsters bragging about “beating you” and United, perhaps coincidentally, boasting its inhouse counsel lawyers being named as inhouse counsel law group of the year – and so we want to address that and provide some context for everyone so you have accurate information regarding the litigation.

First, the court of appeals decided to affirm on the very narrow procedural grounds of the statute of limitations. This means that the court thinks the case was brought too late. Importantly, what it does not mean is that the claims made against the Teamsters or United, that the facts, do not have merit; it simply means the court believes it does not have the power to hear the claims or decide any claim on the merits because they believe the claims should have been brought sooner. We strongly disagree with this finding and the legal basis supporting such a finding at this stage of the litigation. The court of appeals, as did the district court before them, appears to have not considered that a statute of limitations defense should not be decided at the motion to dismiss stage without first providing a plaintiff the opportunity to offer evidence on the issue of timeliness. We stressed this in our appellate briefing, at oral argument, and again in the Petition. We can only hope the court will reconsider this decision and permit plaintiffs to offer evidence or supplemental briefing on this issue of timeliness.

Second, and perhaps more importantly, the court did *not* find or decide the Defendants did not commit the illegal acts we alleged. For example, the order states the Teamsters did not breach

the duty of fair representation because the claims were untimely not because the actions the Teamsters took were in good faith and fair. And, because only the Complaint is considered, we were not permitted to provide the court with additional evidence and information about the timeliness of the claims and the bad acts committed by the Teamsters. This is the frustrating part of the decision, and the court process, as we followed the pleading rules and that is being used against us. But again, we have asked the court to reconsider its decision and hopefully they will do that. But to be clear, the Defendants have only prevailed thus far not on the actual merits of the issues in the case but on an misperceived technicality.

Lastly, and perhaps most importantly, neither the Teamsters nor United have explained, or ever had to explain, why they took the actions they did and how those actions comport with what all parties agreed to, and ratified, in the CBA and Letter of Agreement 05-03M, and what their legal duties require of them. Why did United pay tens of millions of dollars of former United Air Lines mechanics profit sharing monies to workers who had no right to such money when United was expressly told in arbitration such actions violated the CBA and the profit sharing plan? Why did United ignore the pension election vote they negotiated and agreed to in order for the court to confirm their bankruptcy exit plan? Even more importantly, why did United pay the Teamsters \$1.5 million dollars?

Similar questions remained unanswered and unaccounted for related to your bargaining representative, the Teamsters. Why have the Teamsters refused to explain why they were directly paid \$1.5 million dollars from United in direct violation of the Railway Labor Act? Why did the Teamsters not represent you against United for clear violations by United of the CBA when you pay the Teamsters almost \$13 million dollars a year to represent you against United? Why did the Teamsters let United take money from former United Air Lines employees and improperly give it to former Continental employees but then refuse to give former United Air Lines employees the pension rights that former, and new hire, Continental employees got?

The legality of these, and other, bad acts have not been addressed by any court, not the district court nor the court of appeals. The case was decided, and we believe wrongly, not only on a technicality but on deliberate misrepresentations made to the court by the Teamsters and by United to escape liability. We tried to use the processes we are required to use to find out these answers and to make things right but unfortunately, we have not succeeded.

Nevertheless, the result does not mean we were, and are, not in the right. Nor does it mean that we are required to keep being deceived and cheated by the Teamsters. The court order does not require us to keep the Teamsters as our representative, we can vote them out. Do we really want a representative that gloats about screwing us over, sides with the company, and is disloyal and dishonest? We should think long and hard about that. Likewise, we do not have to continue to work for a company that does not respect us and breaks its word even if it is agreed to in writing. We have the power to speak with our feet and go work where we will not be treated that way. Those powers are not altered by these court decisions. Those powers remain with all of us to exercise as we see fit.

At this point, the decision to rehear the appeal is in the court's hands. We will update you as soon as we hear one way or the other. The most recent decision is very disappointing but it is not the end of the road nor is it a vindication of the Teamsters or United. Notwithstanding any outcome, we are proud of having brought this lawsuit and for fighting for what we all know we are owed. Standing up to corruption and dishonesty was, and always is, the right thing to do.

Feel free to reach out with any questions or concerns.