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

HARRY J. BEIER, an individual, JOHN R. SCHOLZ, an individual, KEVIN E. BYBEE, an individual;

on behalf of themselves and all others similarly situated;

Plaintiffs,

vs.

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

Defendants.

Case No.:

**COMPLAINT
CLASS ACTION**

DEMAND FOR JURY TRIAL

COMPLAINT

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

3 **I. INTRODUCTION**

4
5 1. Plaintiffs, on behalf of themselves and all others similarly situated, bring this lawsuit
6 under the Labor Management Relations Act of 1947, as amended, 29 U.S.C. §§ 185 et seq.,
7 involving a dispute arising under the terms of the Joint Collective Bargaining Agreement
8 between United Airlines and the Airlines Technicians and Related Employees in the service of
9 United Airlines collective bargaining agreement (hereinafter "2010-2013 CBA"). The
10 collective bargaining agreement at issue concerns United Airlines Mechanics and Related
11 employees (hereinafter "UAL Mechanics").
12

13 2. The Plaintiffs are members of the International Brotherhood of Teamsters (hereinafter
14 "IBT") and its affiliated local, Teamsters SFO Local 856/986 (hereinafter "SFO Local,"
15 collectively "Unions"); Plaintiffs are beneficiaries of the IBT negotiated 2010-2013 CBA. The
16 Plaintiffs are suing their employer, United Airlines (hereinafter "UAL" or "United") and its
17 parent company, United Continental Holdings (hereinafter "UCH" or "Parent"), for breach of
18 contract on account of their breaching the 2010-2013 CBA and other ERISA violations. Further,
19 the Plaintiffs are suing the Unions for breaching the duty of fair representation on account of
20 the Unions failure to enforce the collective bargaining agreement, breach of fiduciary duty, and
21 fraudulent concealment. The Plaintiffs assert the breaches by the Defendants have cost the
22 Plaintiffs hundreds of millions of dollars in lost pension benefits and profit-sharing revenues.
23
24

25 **II. JURISDICTION AND VENUE**

26 3. Jurisdiction is proper in this court over Plaintiffs' claims against the Defendants pursuant
27 to 28 U.S.C. §§1331 and 1337 in that the action arises under the laws of the United States and
28

1 Acts of Congress, specifically, Section 301 of the Labor Management Relations Act of 1947,
2 as amended, 29 U.S.C. §185, under 29 U.S.C. Section §501(b), and under 29 U.S.C. §1132(e).

3
4 4. Venue is proper in this Court under 28 U.S.C. §1391(b), (c) because the Defendants all
5 conduct substantial business in and at the San Francisco International Airport, located in the
6 County of San Mateo, all are entities with the capacity to sue and be sued, and a substantial part
7 of the events or omissions giving rise to Plaintiffs' claims arose in this district.

8 **III. INTRADISTRICT ASSIGNMENT**

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

13 **IV. PARTIES**

14
15 6. During the relevant periods, the Plaintiffs were UAL employees as defined in Section 2,
16 Subsection (3) of 29 U.S.C. §152(3), members in good standing with the Unions, and worked
17 out of the San Francisco International Airport facility, which is within this district. And, at all
18 times material, Plaintiff have fully performed all of their obligations under the terms of the
19 2010-2013 CBA, and were and remain willing and able to perform all of such obligations.

20
21 7. Plaintiff Harry J. Beier (hereinafter "Plaintiff Beier") has been, and continues to be, at all
22 material times herein, a resident of the County of San Mateo, State of California. Plaintiff
23 Beier, a high school graduate and a navy veteran, is currently employed by UAL at the SFO-
24 MOC Maintenance Center in shop SFORQ, and has been so employed at all relevant times, as
25 an Aviation Technician. Plaintiff Beier was hired by UAL on August 14, 1989. Plaintiff Beier
26 is a member in good standing of the Teamsters SFO Local 856/986.
27
28

1 8. Plaintiff John R. Scholz (hereinafter "Plaintiff Scholz") has been, and continues to be, at
2 all material times herein, a resident of the County of Alameda, State of California. Plaintiff
3 Scholz, a high school graduate, is currently employed by UAL at the SFO-MOC Maintenance
4 Center, and has been so employed at all relevant times, as a Facilities Hydraulic Mechanical
5 Technician. Plaintiff Scholz was hired by UAL on March 23, 1998. Plaintiff Scholz is a
6 member in good standing of the Teamsters SFO Local 856/986.
7

8 9. Plaintiff Kevin E. Bybee (hereinafter "Plaintiff Bybee") has been, and continues to be, at
9 all material times herein, a resident of the County of San Mateo, State of California. Plaintiff
10 Bybee, a high school graduate and a state certified automotive journeyman mechanic, is
11 currently employed by UAL at the SFO-MOC Maintenance Center, and has been so employed
12 at all relevant times, as a Base Specialty Hydraulic Mechanical Technician. Plaintiff Bybee
13 was hired by UAL on January 3, 1989. Plaintiff Bybee is a member in good standing of the
14 Teamsters SFO Local 856/986.
15

16 10. Defendant IBT is a labor organization within the meaning of 29 U.S.C. §§152 and 185
17 and regularly represents employees in collective bargaining, serving as the representative for
18 all unionized UAL Mechanics, including those covered by the 2010-2013 CBA. And, IBT is a
19 collective bargaining agent of the Plaintiffs and as such enters into contracts with Plaintiffs and
20 other Defendants regarding the wages, hours, and working conditions of Plaintiffs. IBT's agents
21 are similarly engaged in representing or acting for employee members in this district.
22 Defendant James Hoffa is the President of IBT.
23

24 11. Defendant SFO Local is a labor organization, serving as the local representative for all
25 unionized UAL Mechanics covered by IBT's CBA's, including the 2010-2013 CBA. SFO
26 Local's principal place of business is 453 San Mateo Avenue, in San Bruno, California, 94066
27
28

1 and its duly authorized officers or agents are engaged in representing or acting for employee
2 members in this district. Defendant Peter Finn is the Principal Officer of SFO Local.

3 12. Defendant UAL is, and at all times material times, a corporation, duly organized and
4 operating pursuant to the laws of the State of California, and engaged in providing airline
5 services and as such maintains airports throughout the world, including San Francisco
6 International Airport, in unincorporated San Mateo County, California. Now, and at all times
7 material, Defendant UAL is and has been engaged in "commerce" and in operations "affecting
8 commerce," as defined in Section 2, Sub-Sections (6) and (7) of 29 U.S.C. §152. Defendant
9 UAL is an "employer," as defined in Section 2, Subsection (2), of 29 U.S.C. §152. And, UAL
10 is and has been a party to the relevant 2010-2013 CBA.
11
12

13 13. Defendant UCH is, and at all times material, a holding company; its principal subsidiary
14 is UAL. UCH is duly organized in the State of Delaware and operates pursuant to the laws of
15 the State of California, having its principal place of business at Willis Tower, 233 South Wacker
16 Drive, in Chicago, Illinois, 60606. UCH is and has been a party to the 2010-2013 CBA.
17

18 **RELEVANT FACTS AND GENERAL ALLEGATIONS**

19 14. The stated purpose and policy of the Labor Management Relations Act (hereinafter,
20 "LMRA") is to "promote the full flow of commerce, to prescribe the legitimate rights of both
21 employees and employers in their relations affecting commerce, to provide orderly and peaceful
22 procedures for preventing the interference by either with the legitimate rights of the other, to
23 protect the rights of individual employees in their relations with labor organizations whose
24 activities affect commerce[.]" 29 U.S.C. §141.
25

26 15. LMRA, 29 U.S.C. §185, authorizes "[s]uits for violation of contracts between an
27 employer and a labor organization representing employees in an industry affecting commerce"
28

1 and provides “[a]ny labor organization which represents employees in an industry affecting
2 commerce . . . and any employer whose activities affect commerce . . . shall be bound by the
3 acts of its agents. Any such labor organization may sue or be sued as an entity and on behalf of
4 the employees whom it represents[.]”

5
6 16. At all times material, Plaintiffs Beier, Scholz, and Bybee were and are “employees” as
7 defined by LMRA, 29 U.S.C. §152(3). And, at all times material, UAL is and was an
8 “employer” as defined by LMRA, 29 U.S.C. §152(2).

9
10 17. At all times material, Defendant IBT and Defendant SFO Local were and are “labor
11 organizations” as defined by LMRA, 29 U.S.C. §152(5). And, at all times material,
12 Defendants IBT James Hoffa and Defendant SFO Local Peter Finn were "officers and
13 representatives of a labor organization," as defined by 29 U.S.C. §501(b).

14 **A. United Air Lines Background - Bankruptcy, Pensions, and Merger**

15
16 18. In late 2002, United Air Lines Corporation, the then parent company of UAL, and its
17 subsidiaries, including UAL, filed for protection under Chapter 11 of the Bankruptcy Code.
18 During the bankruptcy proceedings, the UAL Mechanics, whose then union representation was
19 the Aircraft Mechanics Fraternal Organization (hereinafter "AMFA"), were forced, along with
20 other work groups, to make substantial concessions regarding wages and benefits in order for
21 the company to have its reorganization plan approved. The UAL mechanic group completely
22 lost its defined benefit pension plan and took an approximate 30% wage reduction.

23
24 19. The changes to the then existing collective bargaining agreement were reduced to a
25 writing, entitled Letter of Agreement 05-03M (hereinafter LOA "05-03M"). LOA 05-03M is
26 an enforceable contract, plain and simple, between the employees and the employer regarding
27 the rights and duties of the parties in light of the bankruptcy concessions.
28

1 20. Such a contract attached to a CBA, often referred to colloquially as a side letter, is like
2 any other contract; it survives on its own and it survives regardless of any change in union
3 representation or merger. In fact, a "successor" clause is standard, boiler plate language in
4 almost every CBA; the 2010-2013 CBA includes such a successor clause. Not a word of LOA
5 05-03M or the CBA for that matter would or could be changed simply by electing new
6 collective bargaining representation. This is basic contract and CBA law interpretation and the
7 terms of LOA 05-03M state the same.
8

9 21. The provisions of LOA 05-03M were negotiated by the mechanics negotiating team to
10 ensure among other things, in the event UAL maintains or establishes a defined benefit plan for
11 any UAL or company employee group, UAL *must* allow UAL Mechanics represented by
12 AMFA or by any existing union represented employees the option of receiving a comparable
13 defined benefit plan or, at a minimum, the right to vote on whether to swap the existing defined
14 contribution plan for a defined benefit plan.
15

16 22. More, the UAL Mechanics negotiating committee specifically put in the unique language
17 of "maintains." No other group – pilots, flight attendants, or others – and no other union
18 representation at the time – ALPA, IAM, or AFA – included such language in their bankruptcy
19 concession negotiations agreements. There are notes and witness testimony from these specific
20 negotiations documenting the purposeful drafting of the language in light of the knowledge that
21 UAL was then in negotiations to merge with other airlines, airlines who had defined benefit
22 plans in place. The UAL Mechanics deliberately and knowingly considered and provided for
23 the possibility of a merger with an airline with an existing defined benefit pension plan.
24

25 23. On May 2, 2010, such a merger occurred. UAL entered into a merger agreement with
26 Continental Airlines. On October 1, 2010, Continental Airlines became a wholly owned
27
28

1 subsidiary of United Air Lines Corporation and following the completion of the transaction,
2 Continental was merged into UAL and United Air Lines Corporation became the parent
3 company. Shortly thereafter, United Air Lines Corporation name was changed to United
4 Continental Holdings (UCH).
5

6 24. On or about February 22, 2011, UAL, in a Securities and Exchange Commission 10k
7 filing, UAL assumed responsibility for Continental pensions, Continental Airlines Retirement
8 Plan (hereinafter "CARP"), obligations beginning October 1, 2010. Vice President of Tech-
9 Ops Joe Ferreira's letter states company commitment to maintain CARP for technicians and
10 related employees.
11

12 25. On or about November 30, 2011, the Federal Aviation Administration granted a single
13 operating certificate to United and Continental, recognizing the two carriers as a single carrier
14 for operational purposes.
15

16 26. The merger created additional complexity to the then in force collective bargaining
17 agreements of the work groups of both UAL and Continental, including respective mechanics
18 and related groups. The union representation, however, was the same; IBT represented both
19 UAL and Continental mechanic work groups. Claiming necessity of efficiency, IBT insisted
20 on completing negotiations with each UAL and Continental individually and securing separate,
21 stand-alone collective bargaining agreements with each and only once both collective
22 bargaining agreements were amended and ratified, would IBT enter into negotiations to
23 amalgamate the two contracts. UAL and Continental agreed to this.
24

25 27. Continental mechanics entered into a new collective bargaining agreement in 2009; while
26 the Continental mechanics' CBA included a single-employer pension plan, CARP, their CBA
27 provisions regarding profit sharing rights had been lined out.
28

1 28. On December 11, 2011, the UAL Mechanics entered into a collective bargaining
2 agreement with UAL, "Agreement Between United Airlines, Inc. and the Airline Technicians
3 and Related Employees in The Service of United Airlines, Inc. As Represented by the
4 International Brotherhood of Teamsters January 1, 2010 – June 30, 2013," (hereinafter "2010-
5 2013 CBA"). The agreement did not provide pension benefits but it did continue the bankruptcy
6 wage replacement profit-sharing plan.
7

8 29. Contrary to the provisions of the CBA, Plaintiffs were not accorded the required vote to
9 elect CARP either prior to, during, or after the ratification in late December of 2011 of the 2010-
10 2013 CBA.
11

12 **B. Bankruptcy concession Letter of Agreement 05-03M**

13 30. At all times material, relations between UAL, UCH, IBT, and SFO Local have been
14 governed by the 2010-2013 CBA, which remained in effect and was "renewed thereafter with
15 respect to the subject matter covered, unless either party gives written notice to the other party
16 of its desire to amend, modify, or terminate the Agreement[.]" The agreement was entered into
17 by Defendants for the benefit of the employees in the bargaining unit, and Plaintiffs, as
18 members, are accordingly entitled to the benefit of the agreement and to enforce its provisions.
19

20 31. Although SFO Local is not a signatory to the contract, it is a party to it; SFO Local and
21 its members have ratified, approved and worked under it, have accepted both benefits and
22 obligations of it, and have accepted, adopted and ratified it as fully as though SFO Local was a
23 signer to it, for and on behalf of the affected employees.
24

25 32. The provisions of LOA 05-03M were negotiated by the mechanics negotiating team to
26 ensure among other things, in the event UAL maintains or establishes a defined benefit plan for
27 any UAL or Company Employee group, then UAL *must* allow UAL Mechanics represented by
28

1 AMFA or by any existing union represented employees the option of receiving a comparable
2 defined benefit plan or, at a minimum, the right to vote on whether to swap the existing defined
3 contribution plan for a defined benefit plan. UAL Mechanics had made severe concessions in
4 bankruptcy and this side letter was a means to provide a mechanism for those who did so
5 sacrifice to be made whole if the company was able to turn around.
6

7 33. More, the UAL Mechanics negotiating committee specifically put in the unique language
8 of “maintains.” As previously stated, this was intentional and with merger discussions in mind.
9 AMFA on behalf of the he UAL Mechanics deliberately provided for the possibility of a merger
10 with an airline with an existing defined benefit pension plan.
11

12 34. And, logically, the term maintains would only be appropriate for a merger scenario
13 because the pension plans had been terminated in bankruptcy and therefore, there were no
14 existing plans at that time. To read this term any other way would be to defy the reasonable
15 and acknowledged intent.
16

17 35. LOA 05-03M was negotiated, agreed upon, and executed on May 15, 2005 as part of the
18 bankruptcy plan confirmation process. The UAL Mechanics along with other UAL employee
19 groups were forced to make enormous financial concessions in order to have UAL's bankruptcy
20 plan confirmed. The UAL board of directors adopted the document on January 1, 2006. And,
21 LOA 05-03M was published as an exhibit to UAL's 2006 Form 10K. LOA 05-3M and its
22 obligations carried forward just like any other contract provision under the Railway Labor Act.
23

24 36. LOA 05-03M is listed in the 2010-2013 UAL Mechanics CBA as LOA #17; however,
25 IBT added this nomenclature on their own. LOA #17 is LOA 05-03M; the documents are one
26 and the same. A prime example of obfuscation by IBT regarding LOA 05-03M.
27
28

1 37. LOA 05-03M, Paragraph 5 provides in part, "the Company shall not maintain or establish
2 any single-employer defined benefit plan for any UAL or Company employee group unless
3 AMFA-represented employees are provided the option of electing to receive a comparable
4 defined benefit plan in lieu of the Replacement Plan Contribution." AMFA, as previously
5 stated, was the union representation at the time of execution of LOA 05-03M; however, the
6 agreement is expressly stated as between the employer and the employees and therefore, the
7 lack of current AMFA affiliation does not change the express terms of the agreement.
8

9 38. UAL's 2011 Department of Labor Form 5500 identifies CARP as a Single-Employer
10 Plan; UAL used the SP form which is for single employer plans. Following the merger, as a
11 single-employer pension plan, once UAL began to maintain CARP, the LOA 05-03M rights
12 and duties were triggered. The date when UAL began to maintain CARP, identified by UAL
13 2011 Securities and Exchange Commission Form 10k Report, is the merger closing date of
14 October 1, 2010.
15

16 39. Nothing in LOA 05-03M references, includes, refers to, or suggests UAL Mechanics
17 rights to join CARP are dependent on approval from any other work group at UAL who is
18 currently in the plan or may hope to join the plan. These terms were the result of the
19 negotiations between UAL and the UAL Mechanics during the bankruptcy proceedings to agree
20 to the wage reductions and pension plan termination needed for UAL to avoid going out of
21 business; the underlying intent was to recognize and respond to the substantial sacrifices made
22 by UAL Mechanics during concession bargaining.
23

24 40. LOA 05-03M, Paragraph 6 provides Company Profit Sharing Contribution. The 2005-
25 2009 Mechanics' Agreement shall provide for AMFA-represented employees to participate in
26 the revised profit-sharing program described in Exhibit C to this Letter of Agreement.
27
28

1 41. The language in Paragraph 6 also fully reflects the underlying intent of the bargainers to
2 recognize and respond to the substantial sacrifices made by UAL Mechanic employees during
3 concession bargaining. This would provide incentive for the then morally deflated UAL
4 Mechanics to keep striving, to make the airline thrive. The profit sharing was to make up for
5 the wage reductions.
6

7 42. On 14, 2011, UAL handed out profit sharing checks to Continental mechanics.

8 43. At the time, everyone was simply happy UAL was doing well. Continental mechanics
9 were somewhat shocked because they had given back profit-sharing rights in their most recent
10 IBT negotiated CBA. No one questioned the how or why; the company was making record
11 profits and morale was on the upswing. Life was good.
12

13 44. Similarly, as with the CARP analysis, nothing in LOA 05-03M relating to profit-sharing
14 mentions the approval of or sharing of with other UAL work groups as a condition to receiving
15 a profit-sharing share.
16

17 45. The right of UAL mechanics to enforce LOA 05-3M, its language and obligations, is
18 documented in Paragraph 13 of LOA 05-3M.

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

C. Grievance Procedures under the Collective Bargaining Agreement

1
2 47. Article 19 of the CBA provides for a specific three (3) step grievance procedure.

3
4 48. Article 19(B)(1), Step 1, provides an aggrieved employee first presents a complaint to his
5 supervisor for discussion and possible solution within thirty (30) days after the employee or his
6 representative could reasonably have knowledge of the incident upon which the complaint is
7 based.

8
9 49. Article 19(B)(2), Step 1, provides, "[i]f the complaint cannot be resolved through a
10 discussion, the grievance shall be reduced to writing by the employee or his representative,
11 signed by the employee and his representative, and presented by the Union to the supervisor
12 within ten (10) calendar days after the date of the discussion described above."

13
14 50. Article 19(B)(3), Step 1, provides, "[t]he grievance will be answered in writing by the
15 supervisor, who will send a copy to the grievant, the shop steward and the Union
16 Representative, within ten (10) calendar days after he receives the written grievance."

17
18 51. Article 19(B)(4), Step 2, provides, "[i]f the decision of the supervisor is not satisfactory,
19 the Union Representative may appeal the grievance directly to the designated Company
20 Manager that reports directly to a Vice President, with a copy to Labor Relations at the
21 Company's office, provided such appeal is presented in writing within ten (10) calendar days
22 after the written decision of the supervisor has been presented to the grievant, the shop steward,
23 and the Union Representative.

24
25 52. Article 19(B)(5), Step 2, provides, "[t]he designated Company Manager that reports
26 directly to a Vice President or their designee will meet to hear the grievance(s) within ten (10)
27 calendar days following the receipt of the written appeal. The grievant, the shop
28 steward/Coordinator and the Local Union business agent shall be entitled to attend this meeting,

1 and shall be allowed a reasonable opportunity to present relevant testimony and information.
2 The designated Company Manager that reports directly to a Vice President shall issue his
3 decision in writing within ten (10) days after the presentation of such relevant testimony and
4 information."
5

6 53. Article 19(B)(6), Step 2, provides, "[w]ithin fourteen (14) calendar days after receipt of
7 the written decision of the designated Company Manager that reports directly to a Vice
8 President, if the decision is not satisfactory to the employee and his Union Representative, the
9 Union may appeal such grievance to the Joint Board of Adjustment by serving a written notice
10 to the Division Vice President with a copy to Labor Relations at the Company's office."
11

12 54. Article 19(D)(2), Step 3, the last step, provides, "[t]he Joint Board shall render a decision
13 no later than thirty (30) calendar days after it has closed the record in the hearing of the case.
14 The Joint Board's findings and decisions shall be final and binding upon the Teamsters-Airline
15 Division, the Company, and the individual employee or employees to such dispute. If the Board
16 deadlocks, the Union may appeal the case to arbitration.
17

18 55. No express provision removes all class wide grievances over company policies. The
19 grievance policy contemplates complaints from individual employees like Plaintiffs; it does not
20 prevent a claimant from grieving an issue that may affect his co-workers.
21

22 56. The grievance procedures may require separate and distinct arbitration hearings and
23 processes for each grievance but it does not state the resolution of any particular grievance must
24 affect only one employee. A grieving employee raising a complaint with implications for others
25 does not render the grievance process incapable of addressing his claim. Nothing in the CBA
26 prohibits this nor is there any reasoned or rational basis for such a conclusion.
27
28

1 57. And, negotiating a new contract has nothing to do with prosecuting violations of a
2 previous contract; in fact, a grievance of this nature may very well need to be addressed and
3 closed out before a new CBA would even be valid, especially in light of the fact the new CBA
4 completely washed out and illicitly removed LOA 05-03M from existence.
5

6 **D. The Beier Grievance**

7 58. Plaintiff Beier has been continuously employed by UAL since August 14, 1989; at the
8 time of the occurrence complained Plaintiff Beier had been employed by Defendant UAL for a
9 period of approximately twenty-five (25) years. And, since his date of hire, Plaintiff Beier has
10 been a union member in good standing and, throughout his employment with UAL, was covered
11 by a CBA, including the 2010-2013 UAL Mechanics CBA negotiated by IBT and at issue in
12 the present case.
13

14 59. In July of 2016, at one of the regular Tuesday shop steward meetings, Plaintiff Beier
15 was made aware of LOA 05-30M and the intention of the Defendants to try and illicitly absorb
16 LOA 05-03M, ignoring the vested rights the UAL Mechanics possessed under its terms, into
17 the amalgamated CBA that was being negotiated. Another shop steward had been reviewing
18 the new Tentative Agreement (hereinafter "TA") Defendant SFO Local had handed out and
19 thought there was a violation in the manner in which LOA 05-03M was being / would be
20 handled should the TA be ratified. Plaintiff Beier, having examined the terms of both LOA 05-
21 03M and the TA, agreed with the other shop steward.
22

23 60. Plaintiff Beier spent the next several weekly Tuesday shop steward meetings
24 discussing the impact of the new TA and how the TA created violations of LOA 05-03M. The
25 Defendants had released this most recent TA and were anxious for others to get behind it and
26 vote for it; the February 2016 TA had been so brutally rejected by 93.7% of the vote, Defendants
27
28

1 did not want a repeat of that. And, since the 2010-2013 agreement had become amendable in
2 June of 2013, all parties were anxious to amalgamate the two groups - UAL Mechanics and
3 CAL mechanics - out of the status quo contract state.

4
5 61. Plaintiff Beier met with other IBT and SFO Local officials to discuss the violations the
6 new TA invoked, specifically, that there was not a provision or mechanism for the affected
7 group - UAL Mechanics - to vote on whether to accept CARP nor was the start date / vesting
8 date for UAL Mechanics who would be enrolled in CARP correct.

9
10 62. IBT constitutional Article 12, and LOA 05-03M itself, explicitly provided any
11 separately negotiated agreement impacting employee wage, hours, compensation, and
12 conditions, would need to be voted on by the *affected* members prior to any vote on a new CBA.
13 Plaintiff Beier, and others, urged for these rules to be followed.

14
15 63. UAL had been maintaining CARP since 2010 and UAL Mechanics had been promised
16 that when the new CBA was ratified, the matter would be addressed correctly. IBT had
17 promised for years to hold UAL accountable to the terms of LOA 05-03M. In fact, that was
18 the entire platform IBT used to unseat the then union representation in 2008 - IBT stated
19 repeatedly, in an effort to garner votes and support, IBT could use LOA 05-03M to negotiate a
20 new defined benefit plan for mechanics if IBT was elected to represent the membership. The
21 UAL Mechanics had made great sacrifices in response to the urgent and repeated demand of
22 UAL for concessions while UAL was in bankruptcy. UAL Mechanics, along with other groups,
23 made those concessions on the agreement that if and when UAL could survive and thrive, they
24 would be made whole through restoration of a pension, should they maintain or establish one.
25

26
27 64. IBT and SFO Local were anxious to get this second TA through. The first TA had
28 been a major embarrassment and the UAL Mechanics had learned during the summer of 2016

1 IBT's repeated rejection of putting the UAL Mechanics into CARP because IBT had wanted
2 the mechanics in the IBT plan, the Western Teamsters Conference Pension Trust ("WCTPT").

3 65. On or about August 31, 2016, Plaintiff Beier was asked by then Chief Steward and
4 Chief Negotiator John Laurin to check with Joe Prisco as to whether LOA 05-03M had ever
5 been complied with; Plaintiff Beier became suspicious about this because he and others had
6 been pressing the negotiators all summer to deal with LOA 05-03M. The terms had become
7 effective due to the Company maintaining CARP. And, the shop stewards thought this could
8 be any easy win for IBT. But IBT sat on their hands and did nothing.
9

10 66. On or about September 1, 2016, Plaintiff Beier asked his shop steward, Dan Johnston
11 and grievance committee chairman Fred Wood to request IBT and SFO Local file a grievance
12 for UAL's and UCH's violations regarding the then current 2010-2013 CBA; specifically, the
13 grievance asserted LOA 05-03M was not being properly enforced and the membership was
14 being denied their rights under LOA 05-30M's terms. This conversation resulted in Plaintiff
15 Beier submitting a written Step 1 grievance to his shop steward Dan Johnston.
16

17 67. On or about September 16, 2016, Kathy Tetrev denied Plaintiff Beier's Step 1 grievance
18 several days beyond the promulgated deadline for a response at this step.
19

20 68. Plaintiff Beier's complaint became IBT Grievance Number SFO20160901-053. It was
21 resubmitted to Mark Eldred who in turn gave it to Kellee Allain, a Director of Human Resources
22 but who is not a Company Manager that reports to a Vice President as the grievance procedures
23 provide; the grievance should have been handed to a Managing Director of Human Resources
24 and Employer Field Operations and who reports to a Vice President.
25

26 69. The grievance procedures were not followed for these next actions either. On or about
27 September 17, 2016, John Laurin submitted the Step 2 grievance letter. Despite the ten (10)
28

1 day meeting requirement, the only action that occurred was a rote decision rejecting and
2 denying Plaintiff Beier's grievance. The Step 2 decision was denied on October 11, 2016 -
3 Plaintiff Beier should have had an answer by September 27, 2016 - and was devoid of any real
4 reasons for denial; the answer was provided by an improper designee as unsatisfactory and
5 untimely.
6

7 70. There should have been a hearing within ten (10) calendar days following the receipt
8 of the written appeal, the Step 2 appeal submitted. Plaintiff Beier should have been allowed to
9 attend a hearing and allowed a reasonable opportunity to present relevant testimony and
10 information. None of this happened. Plaintiff Beier was never allowed to present testimony,
11 evidence, affidavits, or any other such documentation or proof for his grievance. And, while
12 time limits may be extended if the parties must mutually agree to do so, Plaintiff Beier never
13 assented to any such extensions nor was he ever asked to.
14

15 71. Plaintiff Beier next received, on or about November 11, 2016, a decision notification
16 of Step 2. Plaintiff Beier had no idea how to interpret this because there had never been a Step
17 2 hearing, none of the Step 2 rules had been followed, and he had not filed any sort of additional
18 documents. And, the grievance had been handed off this time to Marcello Navarro, a person
19 who reports to Kellee Allain, a person a step down from her and clearly not escalated up as it
20 should have been. The document further stated the grievance had been appealed to Step 3,
21 which by the terms of the then CBA is arbitration.
22

23 72. Months and months went on with no information or answers, no communication from
24 anyone. Plaintiff Beier requested information from John Laurin multiple times as to the status
25 of the grievance, from Nick Manicone, an IBT attorney, and from Mark DesAngeles, an SFO
26 Local Business Agent. None provided any concrete information other than to say to be patient.
27
28

1 73. The CBA provides, in pertinent part, "all time will be complied with by the union."
2 IBT and SFO Local constitutions and bylaws provide the same. And, while time limits may be
3 extended, the parties must mutually agree to do so. Plaintiff Beier never assented to any such
4 extensions nor was he ever asked to. He was told time and time again to just be patient and to
5 stop bothering the union about the issue.
6

7 74. Undeterred, Plaintiff Beier requested to invoke the Step 3 provisions of the CBA,
8 arbitration, without the IBT and SFO Local. This went nowhere.

9 75. During these intervening months, Plaintiff Beier was told by Plaintiff Scholz, IBT had
10 consolidated the grievances of Plaintiff Beier, Plaintiff Scholz, and Plaintiff Bybee into one
11 grievance and that the totality of LOA 05-03M was under review.
12

13 76. On or about March 31, 2017, Plaintiff Beier was shown a written document authored
14 by IBT attorney Edward Gleason (hereinafter "Gleason"), and Plaintiff Beier learned, for the
15 first time, IBT had decided to withdraw his grievance and dismiss it with prejudice. Plaintiff
16 Beier asked what "with prejudice" meant and he was told he was prevented from advancing his
17 grievance any further.
18

19 77. The union created a new "with prejudice" denial category. No such category exists in
20 any CBA, no such category exists in the union constitution, no such category or result exists in
21 the bylaws. Another obfuscation by the union to trick and deceive the plaintiffs into thinking
22 they had no recourse.
23

24 78. And, the memo was riddled with falsehoods, gross misstatements of fact, made
25 completely irrational conclusions and went on tangents; the memo completely failed to directly
26 and credibly address the actual grievance substance at all. The memo stated the same simplistic
27 and absolutely incorrect conclusion the grievance was untimely and meritless. More, the memo
28

1 failed to address any of the actual concerns of the grievances regarding the pension election and
2 the profit sharing. IBT issued a summary letter to this same effect - denying the grievance,
3 withdrawing the grievance, and forbidding Plaintiff Beier from going forward on his own with
4 the grievance - dated April 17, 2017. Almost seven (7) months after Plaintiff Beier had initiated
5 the grievance.
6

7 79. Plaintiff Beier was now in direct contact and consult with Plaintiffs Scholz and Bybee,
8 who also had shockingly defective results with the grievance process. The three got to together
9 following the release of the memo and decided to pursue these grievances further, to not be
10 deterred. And, because IBT and SFO Local had claimed all three grievances had been
11 consolidated and ultimately were considered, analyzed, and addressed under the same memo,
12 they assumed they would have to move together to continue the process.
13

14 80. The IBT constitution provides for appeals processes in matters of this nature. And so,
15 on or about July 13, 2017, Plaintiff Beier sent a letter to Manicone, the IBT attorney and officer,
16 asking to go to arbitration without union support. Plaintiff Beier believed in the merit of his
17 grievance and wanted to pursue it with or without the union. Plaintiff Beier never received a
18 reply from Manicone addressing his request.
19

20 81. Having waited months for a response and having heard from Plaintiff Scholz that
21 Manicone had denied his request to go forward without the union, sometime in January 2018,
22 Plaintiff Beier sent a letter to Tom Reardon (hereinafter "Reardon"), the Managing Director of
23 UAL, asking for the right to proceed in arbitration without the union.
24

25 82. Reardon responded to Plaintiff Beier's letter asking for more information and, in April
26 of 2018, Plaintiff Beier provided the information to Plaintiff Scholz who collected the requested
27 information for the three Plaintiffs and then forwarded the same to Reardon via email.
28

1 83. On or about May 1, 2018, Plaintiff Bybee received a written letter from Reardon stating
2 the Company considers this matter closed for all of the grievances and so informs Plaintiff
3 Beier.

4 84. IBT and SFO Local conspired to permit the long delay in resolving the grievance,
5 although there was no just cause to do so; that the discussions between IBT and SFO Local with
6 respect to Plaintiff Beier's grievance were spurious, carried on in bad faith, and deliberately
7 designed to give Plaintiff Beier the false impression that a sincere effort was being made by
8 IBT and SFO Local to resolve the grievance in order to stall the grievance process long enough
9 for the ratification of a new CBA to take place
10
11

12 **E. The Scholz Grievance**

13 85. Plaintiff Scholz is currently employed by UAL and his date of hire was March 23,
14 1998. Plaintiff Scholz was furloughed from February 16, 2003 until August 9, 2004; however,
15 since he returned to the Company in 2004, Plaintiff Scholz has been continuously employed by
16 UAL and, at the time of the occurrence complained, Plaintiff Scholz had been employed by
17 Defendant UAL for a period of approximately twenty (20) years. And, since his date of hire,
18 Plaintiff Scholz has been a union member in good standing and, throughout his employment
19 with UAL, was covered by a CBA, including the 2010-2013 UAL Mechanics CBA negotiated
20 by IBT and at issue in the present case.
21

22 86. In a road show meeting to discuss the upcoming vote on the new CBA, on October 18,
23 2016, Plaintiff Scholz asked in front of approximately 85 people what the status of the LOA
24 05-03M grievances was. The grievance was discussed and Clancy Griswold, an IBT
25 representative, made a statement to the effect that they are moving that grievance to arbitration
26 in the quickest possible manner and we will resolve it there.
27
28

1 87. On or about October 21, 2016, Plaintiff Scholz decided to also turn in a grievance to
2 ensure LOA 05-03M would be dealt with. Plaintiff Scholz and a coworker, Geoff Wik, tried to
3 physically hand the grievance to Fred Wood; he would not touch it. The grievance ended up
4 with Kellee Allain, a Human Resources person but not the proper level person to receive the
5 grievance.
6

7 88. Plaintiff Scholz received no other proper grievance responses, no hearings, no
8 testimony opportunity. Plaintiff Scholz texts with John Laurin regarding Plaintiff Scholz'
9 grievance and physically tries to give Laurin a copy of the grievance on November 7, 2016. As
10 Plaintiff Scholz is handing Laurin a copy, Laurin made a statement to the effect of its above me
11 and I told you guys to give a copy to Javier. Laurin also made statement to the effect of it's the
12 same thing as the first grievance so I don't have to read it. Plaintiff Scholz took the copy of the
13 grievance and handed it to Javier Lectora as instructed.
14

15 89. On or about November 8, 2016, Dan Johnston was standing in as chief steward for
16 John Laurin in the shop steward meeting. Plaintiff Scholz asks Dan Johnston if Johnston can
17 find out the status of the complaint and Johnston agrees, making a statement to the effect of
18 yes, let's go up after the meeting and ask Kellee Allain. When they see Allain, Johnston asks
19 her what the status of the complaint that John Scholz and Geoff Wik handed her on October
20 21^s. Allain answered with a statement to the effect of I answered it and handed it to Laurin.
22

23 90. On or about November 15, 2016, after the weekly shop steward meeting, Geoff Wik
24 and Plaintiff Scholz ask Laurin if he knew the status of the complaint. Laurin made a statement
25 to the effect of I don't have it; the BA's have it. Plaintiff Scholz was becoming more and more
26 concerned as the days are going by, more and more frustrated. The vote is under way on the
27 hurried through TA and the Plaintiffs think the Defendants are trying to stall out the grievances
28

1 so the TA will get passed and they will presumably get away with circumventing the rules
2 regarding LOA 05-03M, ultimately denying the owed pension and profit-sharing rights.

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

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

18 93. The next shoe to fall was on or around December 2016 - an arbitration ruling was made
19 public regarding UAL pilots and a grievance they filed against UAL regarding profit sharing.
20 The UAL pilots had the same profit-sharing clause in a similar bankruptcy concession LOA.
21 The terms are almost identical to those of the UAL Mechanics LOA 05-03M profit-sharing
22 clause language. The action revolved around the improper dilution of the UAL pilots profit-
23 sharing pool - UAL and UCH had included the Continental pilots in the pool in spite of
24
25
26
27
28

1 contractual terms to the contrary. UAL Mechanics raised their eyebrows - what pool did the
2 Continental mechanics derive from?

3 94. Defendant IBT and Defendant SFO Local, having learned the systems board awarded
4 the UAL pilots \$32 million due to the Company giving share of pilots' profit-sharing pool to
5 CAL pilots in violation of the CBA and LOA, did *nothing*; Defendant Unions neither filed a
6 grievance, informed the members, or advocated for similar treatment for the UAL Mechanics.
7 And, when Plaintiff Scholz tried to ensure this clause of LOA 05-03M would also be addressed
8 in the grievance analysis since it too was part of LOA 05-03M, he was assured it would be.
9

10 95. To compound the issue even further, on or about December 7, 2016, Bob Fisher, while
11 on a national radio show, states CARP is worth three times what the 401k is. Tensions began
12 to run high. Given the secretive and opaque nature of the way IBT and SFO Local conduct
13 their business, there was absolutely no way for anyone in the membership to know what was
14 actually happening until the new CBA was revealed. And, because the new CBA was now
15 ratified, the die seemed to be cast. The Plaintiffs were more determined than ever.
16

17 96. On or about January 6, 2017, Plaintiff Scholz emailed many on the IBT officials roster
18 asking about the status of LOA 17, including Nick Manicone. Plaintiff Scholz sent an email to
19 Manicone stating he would like an update on the status of the LOA 05-03M grievances, copying
20 key figures in the email such as the Chief Steward, Chief Negotiator, Business Agents, Principal
21 Officers, Staff Counsel, the other grievants, and other key individuals. Plaintiff Scholz asked
22 why no one was requesting any documents or testimony from him or the other grievants
23 especially in light of the fact we had asked to do so.
24

25 97. On or about January 17, 2017, Manicone replied to the email stating Airline Division
26 has asked Ed Gleason, an IBT attorney, to evaluate the LOA 05-03M grievances. Manicone
27
28

1 also stated he had no idea where Gleason was with that assessment or when Manicone expected
2 Gleason to be done but he would ask Gleason for an update. Manicone also requested materials
3 related to the grievance from Plaintiff Scholz during this email exchange.
4

5 98. Plaintiff Scholz would exchange similar text message threads and email conversations
6 with multiple officials and officers for IBT and SFO Local. Throughout these contacts, Plaintiff
7 Scholz is assured, routinely, all three grievances are being addressed and the entirety of LOA
8 05-03M is being reviewed. Everyone around the system was asking what was going to happen.

9 99. On or about March 31, 2017, Plaintiff Scholz received an email from Laurin with the
10 Gleason memo attached. Plaintiff Scholz read and reviewed the memo and was absolutely
11 stunned by the result - withdraw, with prejudice, no merit, and untimely.
12

13 100. On or about April 17, 2017, Manicone sent a closeout letter to UAL on behalf of IBT
14 and SFO Local stating the matter had been closed, the grievance withdrawn, and dismissed with
15 prejudice. Laurin texted Plaintiff Scholz a few days later to come pick up a closeout letter for
16 Plaintiff Beier. Plaintiff Scholz received Plaintiff Beier's closeout letter on April 20, 2017.
17

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

20 102. Plaintiff Scholz called Manicone on August 4, 2017, as he had not heard from him at
21 all regarding the request to proceed without the union to arbitration. Manicone stated Plaintiff
22 Scholz and Plaintiff Beier would be receiving a written response shortly. Manicone also stated
23 IBT was not going to let the Plaintiffs go forward. When questioned as to the basis for denying
24 the Plaintiffs that right, Manicone started talking about all of the reasons the Plaintiffs, the UAL
25 Mechanics, had not been put into CARP at the earlier qualifying date. Manicone stated the
26 Company did not have the money at the time and IBT was trying to get us into several other
27
28

1 plans like the WTCPT but that never worked out. Manicone spent an inordinate amount of time
2 justifying the failure to enforce LOA 05-03M; he never once gave an answer rooted in fact or
3 provided any reasonable specifics as to why IBT or SFO Local had just moved to enforce the
4 terms of LOA 05-03M, why IBT and SFO Local did not just force a vote.
5

6 103. Plaintiff Scholz received Manicone's written response on August 9, 2017. Manicone's
7 letter, like Gleason's memo, denied the grievances had any merit, confused the issues on all
8 three grievances but admitted all three were processed and recorded grievances. Manicone
9 went on to say, however, Plaintiffs could not grieve on behalf of a group because that would be
10 bargaining. Plaintiff Scholz was mad; enforcement is not bargaining. IBT had a duty to enforce
11 LOA 05-03M now that the terms were in play.
12

13 104. On or about January 20, 2018, Plaintiff Scholz sent a letter to Tom Reardon, a
14 Managing Director of UAL, requesting to go to arbitration without IBT. Plaintiff Scholz was
15 trying to appeal the decision by IBT, trying to adhere to and utilize all of the promulgated
16 procedures afforded him under the CBA and IBT constitution for grieving issues, especially in
17 light of the fact IBT and SFO Local were actively thwarting his right to proceed with his
18 grievance on his own since the grievance had gone beyond the Step 2. Plaintiff Scholz appealed
19 to the company directly to move forward with the grievances
20

21 105. On or about February 19, 2018, Plaintiff Scholz received a letter from Reardon in
22 response to the request to bring the grievance to arbitration. Reardon stated he was in receipt
23 of Plaintiff Scholz' January letter pertaining to the purported grievances concerning UAL's
24 pension obligations and profit-sharing distribution regarding LOA 05-03M. Reardon further
25 stated he had not seen copies of the grievances and asked, in order to evaluate the claims, could
26 we forward the three grievances and any grievance responses concerning the matter to his
27
28

1 attention. Reardon stated he would evaluate the request for arbitration upon receipt of the
2 requested documents.

3 106. Shortly after receiving Reardon's letter and request, Plaintiff Scholz forwarded all the
4 requested documentation and the evidence relating to LOA 05-03M to Reardon via email.
5

6 107. On or about May 10, 2018, Plaintiff Scholz received a letter for Reardon, identical to
7 a letter Plaintiff Bybee would receive, denying the request for arbitration. Having determined
8 a final decision had been made, having decided they had exhausted all possible administrative
9 remedies, Plaintiff Scholz decided to pursue a remedy in district court.
10

11 **F. The Bybee Grievance**

12 108. Plaintiff Bybee has been continuously employed by UAL since January 3, 1989; at the
13 time of the occurrence complained Plaintiff Bybee had been employed by Defendant UAL for
14 a period of approximately twenty-seven (27) years. And, since his date of hire, Plaintiff Bybee
15 has been a union member in good standing and, throughout his employment with UAL, was
16 covered by a CBA, including the 2010-2013 UAL Mechanics CBA negotiated by IBT and at
17 issue in the present case.
18

19 109. Plaintiff Bybee was made aware of grievances filed by Plaintiffs Beier and Scholz
20 during the course of his employment with UAL. Plaintiff Bybee agreed with their grievances
21 and supported filing both grievances on his behalf.
22

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

26 111. Plaintiff Bybee also had been witness to a conversation between Plaintiff Scholz other
27 officers and representatives of IBT where IBT officials made statements to the effect of drop it,
28

1 let it go, it is over, and there is nothing you can do about it, relating to the LOA 05-03M
2 grievances, amongst other things.

3 112. On or about October 18, 2018, at an IBT / SFO Local road show meeting discussing
4 the most recent Tentative Agreement, Plaintiff Bybee learned Defendants planned to absorb
5 LOA 05-03M into the new CBA, if the CBA was passed and ratified, without any vote to so
6 execute the terms of LOA 05-03M and with a vesting date of January 1, 2017 instead of the
7 date UAL began to maintain CARP, October 1, 2010, even though Clancy Griswold stated the
8 LOA 05-03M grievances were being looked and would be handled.
9

10 113. Plaintiff Bybee, concerned the procedural processes were not going to be followed
11 regarding the implementation of LOA 05-03M, a separate vote of only UAL Mechanics would
12 not be held to decide whether they would agree to the execution of LOA 05-03M, went to his
13 shop steward to discuss filing a grievance regarding this aspect of LOA 05-03M.
14

15 114. On or about November 14, 2016, Plaintiff Bybee filed a grievance with his shop
16 steward regarding LOA 05-03M, requesting IBT and SFO Local follow the terms of LOA 05-
17 03M and follow the rules and procedures of the CBA and IBT and SFO Local constitution and
18 bylaws and hold the affected group vote for LOA 05-03M.
19

20 115. LOA 05-03M provides in part, "the Company shall not maintain or establish any
21 single-employer defined benefit plan for any UAL or Company employee group unless AMFA-
22 represented employees are provided the option of electing to receive a comparable defined
23 benefit plan in lieu of the Replacement Plan Contribution."
24

25 116. IBT Constitution, Article XII, Section 2(b) provides in part, "[w]here special riders,
26 supplements, or agreements applicable to one or more Local Unions are separately negotiated
27 and agreed to providing for wages, hours, fringe benefits, or working conditions, such special
28

1 riders or supplements, shall . . . [be] submitted to the affected members for a vote . . ."

2 117. On or about November 17, 2016, Plaintiff Bybee was informed by his shop steward
3 that he and several others were being called to a meeting in the SFO Local office on site at
4 10:00 am. Plaintiff Bybee assumed this was to hold a Step 2 hearing and so Plaintiff Bybee, as
5 Plaintiff Scholz had done, came prepared with documentation and evidence to present thinking
6 he was attending the required Step 2 hearing.
7

8 118. There was no hearing, instead he, too, was admonished severely by the officers and
9 representatives of SFO Local to stop pressing the issue.
10

11 119. Mark DesAngeles made statements to the effect of Plaintiff Bybee 's grievance would
12 in no way would affect the vote of this TA. DesAngeles said the vote on the new CBA was
13 going forward no matter what. DesAngeles also stated he would do his due diligence in
14 advancing the grievance through the grievance procedures but it would not stop the vote
15

16 120. DesAngeles further stated he was tired of getting phone calls from individual members
17 wanting to discuss grieving LOA 05-03M from all over the system regarding the LOA 05-03M
18 grievances; Plaintiff Bybee stated to Mark DesAngeles this must show you how important the
19 issues surrounding LOA 05-03M are. The Plaintiffs knew the membership at large wanted to
20 know how a vote for the TA would affect the grievances and the status of LOA 05-03M because
21 the TA had inexplicably placed LOA 05-03M into a entirely new category entitled "Historical
22 Records Only," whose preamble provided, "the Letters of Agreement in this Historical Records
23 Only (HRO) Appendix, attached to the 2016-2022 Collective Bargaining Agreement are solely
24 for archival purposes and [do] not constitute part of the CBA. The Parties recognize that these
25 Letters of Agreement impose no obligations and confer no rights upon the Company, the Union,
26 or the employees covered under the 2016-2022 CBA."
27
28

1 121. Plaintiff Bybee asked for a copy of the signed Step 2 grievance form during the meeting
2 where Plaintiff Scholz was told by John Laurin that Kellee Allain had shredded Plaintiff Scholz'
3 grievances. There were several witnesses to this statement - Geoff Wik, Plaintiff Scholz, and
4 John Laurin. Plaintiff Bybee was stunned and asked the others to confirm he had heard Laurin
5 correctly; Geoff Wik and Plaintiff Scholz confirmed he had heard correctly.
6

7 122. To date, Plaintiff Bybee has never received the Step 2 form or signed it, as is required,
8 nor has Plaintiff Bybee ever been asked to attend a hearing or proffer evidence or testimony for
9 a hearing. Plaintiff Bybee would later discover, by reading Plaintiff Scholz' August 2017 letter
10 from Nick Manicone, Plaintiff Bybee's grievance was absorbed into Plaintiff Beier's grievance.
11

12 123. Plaintiff Bybee would make numerous requests over the next several months to find
13 out the status of the grievance. Plaintiff Bybee knew the timelines printed in CBA were not
14 being followed and there was absolutely no communication as to why or how such delays were
15 occurring or being dealt with. The new CBA had been voted on in November and subsequently
16 ratified on December 5, 2016, all while this grievance remained open and unresolved.
17

18 124. On or around March 31, 2017, Plaintiff Bybee was informed by Plaintiff Scholz a
19 memo had been released relating to the grievances, his included. Again, Plaintiff Bybee never
20 received any direct communication from IBT or SFO Local regarding this outcome. Plaintiff
21 Bybee was allowed to read the memo but the Unions did not provide him a copy.
22

23 125. The memo declared the grievances meritless and untimely. Plaintiff Bybee completely
24 disagreed with that assessment and voiced that opinion.

25 126. On or about July 13, 2017, Plaintiff Bybee sent a letter to Manicone asking to go to
26 arbitration on his own; he believed his grievance had merit and wanted to pursue it with or
27 without the union. Plaintiff Bybee never received a reply from Manicone about his request.
28

1 127. Having waited months for a response and having heard from Plaintiff Scholz that
2 Manicone had denied his request to go forward without the union, on or about January 22, 2018,
3 Plaintiff Bybee sent a letter to Tom Reardon, the Managing Director of UAL, asking for the
4 right to proceed in arbitration without the union.
5

6 128. On or about February 19, 2018, Reardon responded to Plaintiff Bybee's letter asking
7 for more information. And, on or around April 4, 2018, Plaintiff Bybee responded to Reardon
8 via email, providing him with the requested additional information.

9 129. On or about May 1, 2018, Plaintiff Bybee received a written letter from Reardon stating
10 the Company considers this matter closed.
11

12 130. As the others hand done, having determined a final decision had been made, having
13 decided all possible administrative remedies had been exhausted, Plaintiff Bybee decided to
14 pursue a remedy in district court.
15

16 **CLASS ALLEGATIONS**

17 131. Plaintiffs Beier, Scholz, and Bybee, collectively the Named Plaintiffs, on behalf of
18 themselves and all other persons similarly situated, bring this action against Defendants,
19 pursuant to Rule 23 of the Federal Rules of Civil Procedure.

20 132. The Plaintiffs seek to represent is composed of all individuals who were employed as
21 UAL Mechanics, including without limitation all the Plaintiffs and their respective spouses,
22 dependent children, and all persons and entities, heirs, successors and assigns who would have
23 rights under applicable state law to sue the Defendants independently or derivatively as a result
24 of their relationship with such an employed UAL mechanic, by either or both UAL and UCH
25 during any part of the period from October 1, 2010 through January 1, 2017 and who have been,
26 still are or will be denied vesting in CARP from October 1, 2010, due to the legal violations
27
28

1 alleged herein. This includes those individuals who have been IBT members or who were not
2 as that relates to IBT's representation of UAL Mechanics group in the relevant violation period.

3 133. The Plaintiffs further seek to represent all individuals who were employed as UAL
4 mechanics by UAL and/or UCH during any part of the period from October 1, 2010 through
5 January 1, 2017, and who received profit sharing checks that included Continental mechanics
6 as part of the pool of people included in the profit-sharing calculation resulting in a deficient
7 profit-sharing check thereafter as a result of the legal violations alleged herein.
8

9 134. The members of the class are so numerous, joining of all members is impracticable.
10 After investigation, Plaintiffs reasonably believe Plaintiffs are but a few of approximately 8,000
11 UAL mechanics, most if not all of whom are within the class definition. Disposition of their
12 claims in a class action is a benefit to the parties and to the Court.
13

14 135. Common questions of fact and law predominate as to the claims brought on behalf of
15 the class. And, there is a well-defined community of interest in the questions of fact and law
16 involved affecting the class members to be represented, in that they all have been, are being or
17 will be denied their proper compensation, benefits, CBA rights due to violations of federal law.
18

19 136. The claims of the Plaintiffs are typical of those of the class, and the Plaintiffs and their
20 attorney will fairly and adequately represent the interests of the class. The Plaintiffs have no
21 conflicts of interest with the absent class members who the Plaintiffs seek to represent. To the
22 contrary, the Plaintiffs' interests are fully aligned with the absent class members' interests in
23 this action, in seeking redress for IBT, SFO Local, UAL, and UCH common wrongful conduct
24 to the Plaintiffs and the absent class members.
25

26 137. For purposes of this Complaint, "Plaintiff Beier" or "Plaintiff Scholz" or "Plaintiff
27 Bybee" shall refer to the Plaintiffs only. Reference to "UAL Mechanic Class" shall be deemed
28

1 to include the named plaintiffs and each member of the class. The class is clearly defined, and
2 can be identified and notified effectively. The members of the class are readily ascertainable
3 and identifiable from reference to existing, objective criteria that are administratively practical,
4 including records maintained by IBT, SFO Local, UAL, and UCH.
5

6 138. This action is properly maintainable as a class action under Fed. R. Civ. P. 23(b)(1)(A).
7 Separate litigations by individual class members against the Defendants would create the risk
8 of conflicting, inconsistent or otherwise varying rulings and resolutions concerning those
9 individual class members that would create conflicting or otherwise incompatible standards of
10 conduct for the Defendants.
11

12 139. This action is properly maintainable as a class action under Fed. R. Civ. P. 23(b)(1)(B).
13 Separate litigations by individual class members against the Defendants would create the risk
14 of adjudications concerning the claims of individual class members that, as a practical matter,
15 would be dispositive, through preclusion, law of the case, or other doctrines, of the interests of
16 other class members not parties to the individual adjudications or would otherwise substantially
17 impair or impede their ability to protect their own interests.
18

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

24 141. Alternatively, this action is maintainable as a class action under FRCP Rule 23(b)(3),
25 as the common questions of law and fact described above predominate over any questions
26 affecting only individual members, and a class action is superior to other available methods for
27 the fair and efficient adjudication of the controversy.
28

1 142. Plaintiffs allege Defendants IBT, SFO Local, UAL, and UCH have engaged in the
2 above described actions, patterns, and practices pursuant to systemic policies and practices, or
3 lack thereof, wherein the rights of UAL Mechanics Class have been disregarded. Common
4 questions, such as those listed above, predominate over any questions affecting only individual
5 members. And, in light of the Defendants' common misconduct toward the class, the class is
6 sufficiently cohesive to warrant class treatment. Plaintiffs, on behalf of the UAL Mechanics,
7 allege a common body of operative facts and common legal claims relevant to each UAL
8 Mechanic Class' claims.
9

10 **COUNT I: BREACH OF CONTRACT**

11
12 143. Plaintiffs Beier, Scholz, and Bybee incorporate all previous paragraphs into this Count
13 I as if fully alleged herein.

14 144. Plaintiffs Beier, Scholz, and Bybee assert herein a claim against UAL and UCH for
15 breach of contract with regards to the collective bargaining agreement entered into with the
16 UAL Mechanics Class.
17

18 145. An employer breaches the collective bargaining agreement when and if the employer
19 acts contrary to the terms and conditions of a collective bargaining agreement, treats employees
20 adversely to the terms and conditions of the collective bargaining agreement, and fails to uphold
21 the terms and conditions of the collective bargaining agreement.
22

23 146. Defendants UAL and UCH breached the CBA when they began to maintain CARP, a
24 defined benefit plan for another group of employees, Continental mechanics, at UAL, and yet
25 failed to enforce the contractual obligations of LOA 05-03M. Failure to so honor and adhere
26 to these terms is an outright breach of contract.
27
28

1 147. Plaintiffs, as a result of being denied their pension and having had their profit share
2 diluted, in accordance with Article XIX of the CBA, filed grievances against Defendant UAL
3 seeking to recover lost pension time, ability to vote on any changes regarding the Letter of
4 Agreement, and lost profit-sharing monies.
5

6 148. UAL and UCH conduct with regard to Plaintiffs' grievances and throughout the
7 grievance process completely contradicts the mission and point of the CBA grievance
8 procedures as evidenced by their outrageous disregard and violation of the provisions of the
9 CBA. Defendants acted maliciously and with a willful disregard for Plaintiffs' rights when they
10 categorically denied Plaintiffs' rights to the pension and when Defendants diluted Plaintiffs'
11 profit-sharing distributions.
12

13 149. As a foreseeable and proximate result of Defendants UAL's and UCH's breach of the
14 CBA, and absolute abrogation of the grievance procedures, UAL Mechanics Class suffered
15 substantial losses in employment income, fringe benefits, and will continue to suffer such other
16 losses and benefits.
17

18 150. Until Plaintiffs obtain discovery of Defendant UAL's and Defendant UCH's records,
19 Plaintiffs are unable to state the exact amount owing to them by Defendants UAL and UCH by
20 reason of their failure to properly have enforced LOA 05-03M regarding CARP; however,
21 Plaintiffs' estimated calculations indicate approximately \$880 to \$1,200 per month per year per
22 mechanic was lost.
23

24 151. Similarly, Plaintiffs are unable to state the exact amount owing to them by Defendants
25 UAL and UCH by reason of their failure to properly allocate profit sharing per LOA 05-03M;
26 however, Plaintiffs' estimated calculations indicate in excess of \$20 million dollars was lost.
27
28

COUNT II: BREACH OF THE DUTY OF FAIR REPRESENTATION

1
2 152. Plaintiffs Beier, Scholz, and Bybee incorporate all previous paragraphs into this Count
3 II as if fully alleged herein.

4
5 153. Plaintiffs Beier, Scholz, and Bybee assert herein a claim against IBT for breach of its
6 duty of fair representation to the UAL Mechanics Class under the Labor Management Relations
7 Act. Under the Labor Relations Management Act, IBT, as the exclusive bargaining agent of
8 the UAL Mechanics Class, owed to the members of the UAL Mechanics Class a duty of fair
9 representation.

10
11 154. This duty encompasses the obligation to serve the interests of the UAL Mechanics
12 Class without hostility or discrimination toward any, to exercise its discretion with complete
13 good faith, and honesty and to avoid arbitrary conduct. The objective of the duty of fair
14 representation is to provide substantive and procedural safeguards for members of the collective
15 bargaining unit. The duty of fair representation also includes a union's responsibility to bargain
16 for and enforce the collective bargaining agreement, as well as process meritorious grievances
17 filed by the employees within the bargaining unit.

18
19 155. A union breaches its duty of fair representation if it intentionally causes harm to a
20 member or employee, acts arbitrarily towards the interests of the membership solely to
21 advantage itself, or by acting in bad faith in failing to enforce the terms and conditions of the
22 collective bargaining agreement.

23
24 156. Time after time, as the UAL Mechanics Class would learn in 2017, over the course of
25 over seven (7) years, IBT and SFO Local failed to enforce the mandatory contract rights and
26 mandatory contract language in LOA 05-03M to provide the UAL Mechanics Class with a
27 defined benefit plan due to the maintaining of CARP by UAL. IBT has breached its duty of
28

1 fair representation to the members of the UAL Mechanics Class by arbitrarily choosing to
2 disregard their interests in favor of the interests of IBT itself and other IBT controlled unions,
3 and by acting in bad faith in failing to enforce the terms and conditions of the collective
4 bargaining agreement of the UAL Mechanics Class.
5

6 157. IBT acted arbitrarily and in bad faith in repeatedly trying to enroll the UAL Mechanics
7 Class in the IBT controlled WTCPT pension plan in order for IBT to directly, clearly, and
8 tremendously profit from such enrollment. A pattern of behavior of IBT going back decades.
9

10 158. And, the Unions - IBT and SFO Local - together acted arbitrarily and in bad faith when
11 they failed to enforce the collective bargaining agreement and process meritorious grievances
12 filed by the employees within the bargaining unit. IBT and SFO Local, without reason or cause
13 has arbitrarily and capriciously failed to fully investigate Plaintiffs' grievances and failed to
14 follow its normal and customary practices in the handling of grievances. Not merely
15 negligently, but recklessly, carelessly, failing to give due consideration.
16

17 159. The failure to have any meaningful tracking or make any meaningful effort to keep the
18 grievants informed was gross negligence and thus, also breaches the duty of fair representation.
19

20 160. This myopic focus on only enrolling UAL Mechanic Class in WTCPT and not restoring
21 pension rights under the maintenance of CARP, ignored clear and unambiguous provisions in
22 the agreement for the UAL Mechanics Class. Such breach of the duty of fair representation has
23 cost each mechanic greatly – approximately \$880 to \$1,200 per month per year per mechanic.
24 And thus, as a consequence of IBT's and SFO Local's breach, the UAL Mechanics Class have
25 been damaged collectively in an amount of several hundreds of millions of dollars.
26

27 161. IBT and SFO Local bear the responsibility of enforcing the contract as well as UAL.
28 Their absolute failure to do so in a timely manner is actionable.

COUNT III: FRADULENT CONCEALMENT

1
2 162. Plaintiffs Beier, Scholz, and Bybee incorporate all previous paragraphs into this Count
3 III as if fully alleged herein.

4
5 163. Plaintiffs Beier, Scholz, and Bybee assert herein a claim against UAL and UCH for
6 fraudulent concealment with regards to the collective bargaining agreement entered into with
7 the UAL Mechanics Class.

8
9 164. The Defendants knew their administrations lack of enforcement and ignoring of the
10 explicit terms of the 2010-2013 CBA was depriving the UAL Mechanics Class of pension
11 benefits and profit-sharing benefits owed to the UAL Mechanics Class.

12
13 165. Defendants IBT and SFO Local had superior knowledge of the true nature of the
14 negotiations, discussions, administration of the 2010-2013 CBA and its terms because
15 Defendants IBT and SFO Local were the only parties allowed in the secret and closed-door
16 negotiations and none of the Defendants shared any of that information with Plaintiffs.

17
18 166. The Defendants knew of and understood the failure to enforce the 2010-2013 CBA
19 would and was causing financial harm to the Plaintiffs because Plaintiffs were not receiving the
20 full pension benefit nor full profit-sharing benefit under the CBA.

21
22 167. Despite their superior knowledge, and flouting their duties to the Plaintiffs, the
23 Defendants knowingly and fraudulently concealed from Plaintiffs the many serious failures to
24 enforce the explicit language of the 2010-2013 CBA and LOA 05-03M and the harm this was
25 and would cause. To this day, the Defendants have never once proposed or put up for a vote
26 the invocation of LOA 05-03M despite repeated requests.

27
28 168. Rather than implementing the terms of the 2010-2013 CBA and LOA 05-03M, the
Defendants hid behind the closed-door negotiations and secret discussions and colluded

1 together to deprive the UAL Mechanics Class of their rights under the 2010-2013 CBA and
2 LOA 05-03M.

3 169. And, Defendants hid behind the entirely made up category of Historical Records Only
4 in the 2016-2022 CBA to circumvent the rights of the Plaintiffs, failed to hold the appropriate
5 vote, and failed to resolve the grievances prior to ratification of the 2016-2022 CBA, violating
6 all of the promulgated grievance procedures when Plaintiffs tried to in fact bring these matters
7 to light.
8

9 170. The Defendants knew the UAL Mechanics Class would rely on the Defendants IBT
10 and SFO Local to address the grievances properly and to comport with the terms and conditions
11 of the 2010-2013 CBA. The express purpose for their presence was to so enforce and advocate
12 for the rights of the UAL Mechanics Class. And, not only were IBT and SFO Local handsomely
13 paid for such efforts, IBT and SFO Local each had rules and regulations prescribing such a
14 relationship as a term for the UAL Mechanics Class to be in the unions. Plaintiffs held up their
15 end by paying dues; Defendants IBT and SFO Local did not.
16
17

18 171. Plaintiffs reasonably relied on the many statements made by all Defendants regarding
19 the situation over the years, both written and oral, publicly and privately, affirming and avowing
20 Defendants were diligently pursuing the pension and other vested rights of Plaintiffs.
21

22 172. Plaintiffs reasonably relied on IBT and SFO Local for guidance, advice, and
23 information concerning the state of affairs regarding these matters both for the short term and
24 the long term. And, Plaintiffs reasonably relied on what they did not say, that their profit share
25 was going to be illegally diluted and that they were not going to be compensated for the loss of
26 pension benefits for all of the time IBT and SFO Local tried to coerce UAL and UCH into
27 enrolling Plaintiffs in a pension plan benefitting the unions and not necessarily the Plaintiffs.
28

1 173. Plaintiffs reasonably believed the Defendants would not act illegally and in doing so,
2 damage the Plaintiffs and put them at risk of substantial and continuing financial harm.

3 174. The Defendants concealment was continuous and continues today.
4

5 175. Plaintiffs fraudulent concealment has caused great economic losses, emotional distress,
6 and harms and as a result, the Defendants are liable to the Plaintiffs for the full measure of
7 damages of all categories permissible under applicable law.

8 **COUNT IV: BREACH OF FIDUCIARY DUTY UNDER §501**

9 176. Plaintiffs Beier, Scholz, and Bybee incorporate all previous paragraphs into this
10 Count IV as if fully alleged herein.

11 177. Plaintiffs Beier, Scholz, and Bybee assert herein a claim against Defendants James Hoffa
12 and Peter Finn for breach of fiduciary duty with regards to the enforcement of the constitution
13 and bylaws of IBT and SFO Local, as well as the enforcement of the collective bargaining
14 agreement entered into with the UAL Mechanics Class.
15

16 178. Defendants James Hoffa and Peter Finn, in their capacities as officers and
17 representatives of respective unions and affiliates, owed a fiduciary duty to the UAL Mechanics
18 Class, under 29 U.S.C. §501, as well as a fiduciary duty as defined by their respective
19 constitutions and bylaws.
20

21 179. Defendants have so breached such respective fiduciary duties to the UAL Mechanics
22 Class through their arbitrary and unreasonable failure to not enforce all collective bargaining
23 agreements, by consciously avoiding and denying improper conduct of others under their
24 control and responsibility whose decisions ultimately were averse to the interests of the UAL
25 Mechanic Class, and by failing to enforce their own internal constitution and bylaws for the
26 benefit of the UAL Mechanic Class.
27
28

COUNT V: ERISA VIOLATION

1
2 180. Plaintiffs Beier, Scholz, and Bybee incorporate all previous paragraphs into this
3 Count V as if fully alleged herein.

4
5 181. The Plaintiffs in the above titled action allege Defendants UAL and UCH have violated
6 29 U.S.C. § 1132 (a)(1)(A). Defendants, as fiduciaries of CARP, must “discharge [their] duties
7 with respect to the Plan in the interest of the participants and beneficiaries . . . for the exclusive
8 purpose of providing benefits to participants and beneficiaries.

9
10 182. Defendant UAL violated 29 U.S.C. § 1132 (a)(1)(D) by failing to follow the documents
11 and instruments governing the plan when they refused to accept Plaintiffs as having met the
12 definition of plan participant under the definitions provided in the Plan as of October 1, 2010.

13 183. Defendant UAL are obligated to provide retiree benefits pursuant to the terms of CARP,
14 the Plan document and the collectively bargained agreements described above providing for
15 retiree benefits are “plan documents.” Defendants violated the terms of these agreements by
16 unilaterally not providing these benefits to eligible employees.

17
18 184. Defendant UAL repudiation of negotiated terms of the Plan is actionable under ERISA,
19 29 U.S.C. § 1132(a)(1)(B) and (a)(3). These statutes allow participants and beneficiaries to
20 initiate civil actions to recover benefits due to under the terms of the Plan, to enforce rights
21 under the terms of the plan, or to clarify rights to future benefits under the terms of the plan,
22 and further to enjoin any act or practice which violates the terms of the plan, or to obtain other
23 appropriate equitable relief to redress such violations or to enforce the terms of the plan.

24
25 WHEREFORE, Plaintiffs Beier, Scholz, and Bybee request this Court:

26 185. Obligate UAL to follow the documents and instruments governing CARP;

27 186. Obligate UAL to retroactively enroll the UAL Mechanic Class as having met the
28

