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Attorney for Plaintiffs

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

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

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

Plaintiffs,

vs.

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

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

**DECLARATION OF KEVIN E. BYBEE
IN SUPPORT OF THE PLAINTIFFS'
OPPOSITION TO THE DEFENDANTS'
UNITED AIRLINES, INC.'S, UNITED
AIRLINES HOLDINGS, INC.'S, AND
UNITED AIRLINES HOLDINGS'
ADMINISTRATIVE COMMITTEE'S
MOTION TO DISMISS PLAINTIFFS'
SECOND AMENDED COMPLAINT**

Hearing Date: February 4, 2021

Hearing Time: 10:00 a.m.

Hearing Place: Courtroom 11 (19th Floor)

Judge: Hon. James Donato

DECLARATION OF KEVIN E. BYBEE

Pursuant to 28 U.S.C. § 1746, I hereby declare as follows:

1. I make this declaration in support of Plaintiffs' Opposition to Defendants' - United Airlines, Inc., United Airlines Holdings, Inc., and United Airlines Holdings' Administrative Committee - Motion to Dismiss Plaintiffs' Second Amended Complaint, in the above-captioned matter, based on my personal knowledge or, where specified, on information and belief based on documents and statements that I believe to be true and accurate.

2. I submitted a declaration in support of Plaintiffs' Opposition to Defendants' United Airlines, Inc. and then United Continental Holdings, Inc. Motion to Dismiss Plaintiffs' First Amended Complaint, on June 17, 2019, in the above captioned matter, filed as Docket #50-3. I attached exhibits to my declaration. I incorporate by reference my prior declaration and exhibits and my prior declaration remains true and correct to the best of my knowledge.

3. Attached hereto as Exhibit A is a true and correct copy of the Annual Return/Report of The Continental Retirement Plan ("CARP") Form 5500 received from the Department of Labor as a result of a Freedom of Information Act Request.

4. Attached hereto as Exhibit B is a true and correct copy of the Annual Return/Report of The Continental Retirement Plan ("CARP") Form 5500 Line by Line Instructions for 2010 downloaded from the United States Department of Labor website.

5. Attached hereto as Exhibit C is a copy of an excerpt from the First Amendment to Continental Airlines, Inc. Profit Sharing Plan as adopted on February 17, 2010.

6. Attached hereto as Exhibit D is a copy of the 2011 United Continental Holdings, Inc. Profit Sharing Plan.

1 7. Attached hereto as Exhibit E is a screenshot of a United Airlines' Flying Together page
2 explaining profit sharing money can be deposited into an employee's ERISA covered defined
3 contribution retirement plan ("401k").

4 8. Attached hereto as Exhibit F is a spreadsheet I created from the International Brotherhood
5 of Teamsters' Department of Labor LM2 forms listing the largest payments from any source to
6 the Teamsters for fifteen years, from 2005 through 2019. United Airlines made one of the highest
7 payments on June 6, 2017, exactly six months and one day from the date the Joint Agreement
8 was ratified. This was the only United Airlines reported payment of this magnitude.
9

10 9. Attached hereto as Exhibit G is a copy of United Airlines' LM10 that I downloaded from
11 the United States Department of Labor website for 2017. A payment for \$1.5 million dollars is
12 not listed.
13

14 10. Attached hereto as Exhibit H is a copy of the Teamsters' Local 856 Bylaws I received in
15 response to a written request I made for the bylaws.
16

17 11. Attached hereto as Exhibit I is a copy of grievance paperwork related to a grievance I
18 filed on or about March 15, 2017, regarding unpaid lead pay owed to me in the amount of \$38.65.
19 The union took my grievance to the Third Step Systems Board despite the grievance having been
20 agreed to and decided in my favor four months prior by my employer, United Airlines.

21 12. Attached hereto as Exhibit J is a copy of an August 2008 Teamsters Business Agent's
22 Report posted at work by the Teamsters. The report, on page 3, states a grievant can be released
23 by the union to proceed with their grievance even when the union thinks it has no merit and has
24 no chance to succeed. This is and has been the past practice and custom of the Teamsters to
25 release a grievant to proceed without union support as a "no fund" case when the Teamsters
26 choose not to proceed with a grievance.
27
28


13. Attached hereto as Exhibit K is a copy of a grievance involving United's failure to provide the United mechanics with a final, fully executed 2010 United Mechanics Agreement despite many requests and years of complaining. This grievance was never resolved. I made requests of United and the Teamsters to provide me with the final, fully executed contract; however, I have never received one.

14. Attached hereto as Exhibit L is a copy of a newsletter published by the Teamsters entitled the Teamsters Aviation Mechanics Coalition ("TAMC"), Volume 10, Issue 3, which praises a single shop steward / United Airlines mechanic for filing a grievance against United for violations under the contract related to VEBA contributions. The grievance affected all mechanics and was filed by a single mechanic.

I declare under penalty of perjury the foregoing is true and correct.

Executed this 28 day of DECEMBER, 2020, in San Bruno, California.

Respectfully submitted:



KEVIN E. BYBEE, *Declarant*

BYBEE EXHIBITS TO FOLLOW VIA
FEDEX TO THE COURT AND
ATTORNEYS OF RECORD -
ATTACHMENT LIMIT AND SIZE LIMIT
PREVENT FILING ON ECF