

No. 22-16280

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Kevin E. Bybee, *et al.*, *Plaintiffs-Appellants*,

v.

International Brotherhood of Teamsters, a labor organization, et al., *Defendants-Appellees*.

On Appeal from the United States District Court
for the Northern District of California
The Honorable James Donato, District Judge
Case No. 3:18-cv-06632-JD

**UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE
UNITED DEFENDANTS-APPELLEES' ANSWERING BRIEF**

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Attorneys for Defendants-Appellees United Airlines, Inc., United Airlines Holdings, Inc., and United Airlines Holdings' Administrative Committee

Pursuant to Circuit Rule 31–2.2(b), Defendants-Appellees United Airlines, Inc., United Airlines Holdings, Inc., and United Airlines Holdings’ Administrative Committee (collectively the “United-Appellees”) hereby move for an extension of time in which to file United-Appellees’ answering brief. Counsel for the parties do not oppose or object to this motion for an extension of time, and Defendants-Appellees International Brotherhood of Teamsters, James Hoffa, Peter Finn, Christopher Griswold, Paul Stripling, and George Miranda (collectively, “Union-Appellees”) join the request and do not object to this motion for an extension of time. *See* Declaration of Chris Hollinger in Support of Unopposed Motion for Extension of Time to File United Defendants-Appellees’ Answering Brief (“Hollinger Decl.”) ¶ 7.

The United-Appellees’ answering brief is currently due to be filed on March 1, 2023. *Id.* ¶ 2; Dkt. 16. The United-Appellees submitted a streamlined request to extend the time to file their brief on January 13, 2023, which this Court granted on the same day. Hollinger Decl. ¶ 5; Dkt. 15, 16. The original deadline for the United-Appellees’ answering brief was January 30, 2023. Hollinger Decl. ¶ 2; Dkt. 8.

The United-Appellees respectfully requests that the due date for the United Appellees’ answering brief be extended by one week, through March 8, 2023. Good cause exists for a one-week extension of time to file the answering brief. *Id.*

¶¶ 4-5. Chris Hollinger, counsel for the United Appellees, underwent an unexpected, emergency surgery on February 25, 2023, and will remain hospitalized until at least February 28, 2023. He will need to recover for the next few days. Because of this unexpected medical issue, the one-week extension would allow the United-Appellees' counsel sufficient time to finalize the answering brief and confer with their clients. Counsel for the United-Appellees have diligently worked to prepare their answering brief and endeavored and planned to complete it before the March 1, 2023 deadline. *Id.* ¶ 5. However, the United-Appellees cannot meet that deadline because of the disruption caused by Mr. Hollinger's medical emergency.

Although counsel for the United-Appellees is aware that Circuit Rule 31–2.2(b) requires such a motion to be filed at least seven days prior to a briefing deadline, the United-Appellees respectfully request that this Court still consider and grant this Motion. *See* Rutter Group Prac. Guide Fed. Ninth Cir. Civ. App. Prac. Ch. 6-B (The Rutter Group 2022) ¶ 6:75 (“Comment: The court has not made the untimely filing of a motion for an extension of time an absolute bar to the grant of such extension.”). The United-Appellees could not have filed this motion more than seven days prior to the briefing deadline because the need for an extension did not arise until four days prior to the current filing deadline. *See* Hollinger Decl. ¶ 4.

Counsel for the United-Appellees contacted counsel for Plaintiffs-Appellants Kevin E. Bybee, John R. Scholz, Victor H. Drumheller, and Sally A. Dill and counsel for the Union-Appellees to ask if the parties would agree to an extension. *Id.* ¶ 7. Counsel for all parties confirmed that they have no objection to the United-Appellees' request for an extension of time to file their answering brief and the Union-Appellees indicated they do not object to the motion for an extension of time and would join the request. *Id.*

The United-Appellees will file their answering brief by March 8, 2023 if this extension is granted. *Id.* ¶ 6. The court reporter is not in default with regard to any designated transcripts. *Id.* ¶ 9.

Dated: February 27, 2023.

CHRIS A. HOLLINGER
ROBERT A. SIEGEL

O'MELVENY & MYERS LLP

By: /s/ Chris Hollinger
Chris Hollinger

*Attorneys for Defendants-Appellees
United Airlines, Inc., United Airlines
Holdings, Inc., and United Airlines
Holdings' Administrative Committee*

**DECLARATION OF CHRIS HOLLINGER IN SUPPORT OF UNOPPOSED
MOTION FOR EXTENSION OF TIME TO FILE UNITED DEFENDANTS-
APPELLEES' ANSWERING BRIEF**

I, Chris Hollinger, declare and state as follows:

1. I am a partner at O'Melveny & Myers LLP and counsel for Defendants-Appellees United Airlines, Inc., United Airlines Holdings, Inc., and United Airlines Holdings' Administrative Committee (collectively the "United-Appellees") in the above-entitled action. I make this declaration in support of United-Appellees' Unopposed Motion for Extension of Time to File Answering Brief (the "Motion"). I have personal knowledge of the matters set forth herein, and if called to testify thereto, I could and would do so competently.

2. The United-Appellees' current deadline to file the answering brief is Wednesday, March 1, 2023. The original deadline to file the answering brief was January 30, 2023.

3. On February 25, 2023, I underwent an unexpected, emergency surgery that will require me to remain hospitalized until at least February 28, 2023. I will need to recover for the next few days. Because of this unexpected medical issue, the one-week extension would allow sufficient time to finalize the answering brief and confer with my clients.

4. Because the emergency surgery was unplanned, I was not aware of the need for this extension until February 25, 2023, fewer than seven days prior to

the filing deadline. Because I was not aware of the need for this extension until February 25, 2023, I could not have made this Motion in compliance with the time limit set forth in Circuit Rule 31-2.2.

5. On January 13, 2023, the United-Appellees submitted a streamlined request to extend the time to file their answering brief, which was granted on January 13, 2023. Since obtaining the streamlined extension, I have diligently worked to prepare the United-Appellees' answering brief. However, this matter presents several complex legal issues that must be addressed in briefing, and the record is extensive.

6. The answering brief will be filed within the time requested and no later than March 8, 2023.

7. On February 26, 2023, my colleague Karen Gillen sent an email to counsel for Plaintiffs-Appellants and counsel for Defendants-Appellees International Brotherhood of Teamsters, James Hoffa, Peter Finn, Christopher Griswold, Paul Stripling, and George Miranda ("Union-Appellees") to ask if the parties would oppose this extension. On February 26, 2023, Susan Garea responded via email that the Union-Appellees do not object to this motion for an extension of time and join the United -Appellees' request for an extension to file the answering brief. On February 27, 2023, Jane Mariani responded via email that the Plaintiffs-Appellants would not object to any extension. The United-Appellees

have not previously submitted a motion under Circuit Rule 31–2.2(b) for an extension of time.

8. The court reporter is not in default with regard to any designated transcript.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 27th day of February 2023.

/s/ Chris Hollinger

Chris Hollinger
O'Melveny & Myers LLP

*Attorney for Defendants-Appellees
United Airlines, Inc., United Airlines
Holdings, Inc., and United Airlines
Holdings' Administrative Committee*