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Bahig Saliba

[REDACTED]

[REDACTED]

[REDACTED]

Email: medoverlook@protonmail.com

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

BAHIG SALIBA,
Plaintiff,

Case No.
COMPLAINT AND JURY DEMAND

v.

ALLIED PILOTS ASSOCIATION,
Defendant,

COMES NOW plaintiff, *Pro Se*, Bahig Saliba, an airline captain in the employ of American Airlines, Inc. (AA) and files this complaint against defendant, Allied Pilots Association (APA), the union representing the pilots in the employ of AA.

The plaintiff, who is not a member of APA, alleges that the defendant acted without authority, expressed or implied, on an arbitrarily adopted position in matters related to a pilot’s medical certification superseding the plaintiff’s authority vested in him by the Federal Aviation Administration (FAA) and the Federal Aviation Regulations (FARs), and directly contradicted the plaintiff’s interests and obligations relating to the terms of his contract with AA. In doing so, the

1 plaintiff alleges that APA was negligent and took actions that harmed the plaintiff financially,
2 placed in an untenable, perilous, and disadvantaged position that led to the brink of termination
3 after an impeccable 24-year career with the airline. APA's actions led to potential harm to the
4 plaintiff's FAA issued medical certificate perpetrated by AA.

5
6 The plaintiff alleges that APA arrived at that position in collusion with AA, and that the
7 subsequent actions in support of that position which led to a barrage of unlawful disciplinary
8 actions by AA causing material harm to the plaintiff up to potential termination of employment,
9 constitute a violation of the RLA and the Duty of Fair Representation (DFR) under the RLA. The
10 plaintiff alleges that APA has violated its DFR in this case and caused great financial harm and
11 irreparable damage to his career and his and his family's well-being and security.

12
13 Additionally, the plaintiff alleges that APA, as a union, departed from its statutory authority
14 given to it by Congress in representing the pilots in the employ of AA, and acted outside the
15 boundaries of the representation framework. As a result of its collusion with AA, APA laid the
16 foundation for the current AA and APA perpetuated efforts to harm the plaintiff's FAA issued
17 medical certificate for the remainder of his career at AA as well as after leaving AA. APA has
18 cast aside protections afforded to it by the Supreme Court and the Railway Labor Act in favor of
19 a political agenda and willfully exposed the membership to unlawful activity.

20 21 22 **JURISDICTION AND VENUE**

23
24 The plaintiff is a Federally Certified Flight officer (pilot or airman, used here
25 interchangeably) by the FAA who has been in the employ of AA for the past 24 years. The plaintiff
26 has been based at AA's Phoenix Sky Harbor International Airport hub for the duration of his

1 employment. The plaintiff resides in Scottsdale, Arizona and conducts all his flying for the airline
2 which begins and ends at the Phoenix Sky Harbor International Airport (KPHX).

3
4 APA campaigned and won an election to become the union representing the pilots in the
5 employ of AA under the RLA. The airline is engaged in interstate and international commerce
6 throughout the United States and APA, with a home office in Fort Worth, Texas, engages in
7 activities throughout the system and has representatives in all AA bases of operations, including
8 Phoenix, Arizona. The FAA is a branch of the Department of Transportation (DOT) that regulates
9 the operations of the airline primarily under 14 CFR Parts 121, 61 and 91, and any agreements
10 reached between AA and APA are subject to the same FAA rules and regulation as the plaintiff.

11
12 This court has subject matter jurisdiction under 28 U.S. Code § 1331 because this action
13 arises under Federal Law, namely the Railway Labor Act, and under 49 U.S. Code, 14 CFR, 18
14 U.S. Code and 42 U.S. Code § 1983. It is the proper venue because all damages to the plaintiff
15 occurred in the State of Arizona.

16
17 This court has personal jurisdiction because APA maintains presence in Phoenix, Arizona
18 and the defendant conducts business and maintains contacts with the forum directly and through
19 elected Chairmen and Vice Chairmen to the Phoenix pilot base.

20
21 **FACTUAL BACKGROUND**

22
23 The plaintiff received many pilot certificates since starting his flying career in August of
24 1984 and he is bound by, and must comply with, all the FARs. In addition, for a pilot to exercise

1 the privileges of a pilot certificate, and in accordance with 14 CFR Part 61.2 (FAR § 61.2¹), a pilot
2 must continually receive a valid medical certificate issued to him by an FAA Aeromedical
3 Examiner (AME) by following strict guidelines that are well established by the FAA. For the past
4 thirty-seven years, the plaintiff has received, and continues to receive every six months, a valid
5 FAA issued medical certificate.

6
7 Since he began his flying career, the plaintiff obtained many pilot certificates and ratings,²
8 including a flight instructor certificate in airplanes and helicopters. In addition, he holds a flight
9 engineer certificate, and has held many positions as an instructor and a pilot with various airlines
10 before joining America West Airlines (AWA) in the summer of 1997.

11
12 Directly prior to joining AWA, the plaintiff held an MD-11 instructor position at
13 McDonnell Douglas aircraft manufacturer in Long Beach California. To date, he has an
14 impeccable aviation career spanning 37 years. Not once during his 24-year employment with AA
15 did he perform any task unsatisfactorily, have any incident or accident or even have any report of
16 conflict with any of his colleagues.

17
18 As a pilot, the plaintiff struck an agreement with AWA which constituted his employment
19 contract with the airline. In simple terms, the plaintiff agreed to provide his product and services
20 for a consideration. The product the plaintiff provided and agreed to keep current for the duration
21 of employment or until mandatory retirement age, is a valid FAA issued medical certificate. The
22 plaintiff has the duty and is ethically responsible to uphold his end of the bargain in compliance
23 with the contract and the FARs, and for the safety and security of his crew and passengers. The

¹ FAR § 61.2 (b) **Currency**. No person may: (1) Exercise privileges of an airman certificate, rating, endorsement, or authorization issued under this part unless that person meets the appropriate airman and medical recency requirements of this part, specific to the operation or activity.

² **Rating** means a statement that, as part of a certificate, sets forth special conditions, privileges, or limitations.

1 plaintiff knows the seriousness of what he is engaged in and the consequences of any lapses in
2 safety, readiness or deficiencies while operating aircraft.

3
4 Over time and through mergers and acquisitions, AWA grew to become what is today the
5 largest airline operating under the AA name. The plaintiff's contract with AWA has been inherited
6 and now lives in the halls of AA, and its terms³ are managed by the APA through the Joint
7 Collective Bargaining Agreement (JCBA) that was struck between AA and the APA.

8
9 Pilots embark on a career path that is structured in a manner that disallows transfer from
10 one airline to another without financial hardship. Pilots work their way within a seniority system
11 which, once invested in, becomes more lucrative. Working at an airline and maintaining a valid
12 FAA issued medical certificate is a lifelong commitment that pilots cherish. The plaintiff alleges
13 that in this case his medical certificate, and as a result his flying career with the airline, has been
14 threatened, violated, and undermined by the defendant's actions.

15 16 AIRMEN MEDICAL CERTIFICATION

17
18 As outlined in FAR § 61.2, airmen are required, by law and FAA regulations, to go through
19 a medical examination and receive a valid FAA issued medical certificate in order to exercise the
20 privileges of their airman certificate. As a captain for AA, the plaintiff must receive a medical
21 examination every six months and once a year receive an electrocardiogram (EKG). After a
22 successful medical examination, the plaintiff is issued a First-class medical certificate, indicating
23 he has met the rigorous medical standards established by the FAA Aeromedical department. Those
24 standards are long established and listed under 14 CFR Part 67 of the code. The physicians

³ Terms refers to work rules, vacation earned, seniority, sick leave, compensation etc. It is not a reference to any authority over a pilot's medical certificate.

1 conducting such examination are authorized by the FAA to issue medical certificates and are
2 referred to in the industry as AMEs.

3
4 The FAA publishes a guide titled Aeromedical Guide for AMEs (AME Guide). The AME
5 Guide outlines acceptable procedures and rules for conducting a physical examination. The
6 applicant, an airman, must meet the standards established under 14 CFR Part 67 for a medical
7 certificate issuance. Neither the AME Guide nor 14 CFR Part 67 have been amended to contain
8 guidance or reference giving authority over pilot medical certificates to anyone other than the pilot
9 himself. The FAA has not issued any exemption to the applicable standards required for the
10 issuance of medical certificates allowing the use of facial masks by pilots. The plaintiff underwent
11 an examination on 3/28/2022 by Dr. Ross Burr and was issued a valid First-Class medical
12 certificate.

13 14 AME GUIDE STATEMENT

15
16 Within the AME Guide, on page eight resides the following paragraph:

17 ***“Whoever in any matter within the jurisdiction of any department or agency of the United***
18 ***States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device***
19 ***a material fact, or who makes any false, fictitious or fraudulent statements or representations,***
20 ***or entry, may be fined up to \$250,000 or imprisoned not more than 5 years, or both (Title 18***
21 ***U.S. Code Secs. 1001; 3572).”***

22 Safety in aviation is paramount, and the statement above is to be considered seriously.
23 Aviators must abide by the law, and especially under Title 18 U.S. Code Sec. 1001. The FAA, the
24 airlines and the traveling public place a heavy burden, and rightfully so, on the Nation’s airmen.
25 For safety, it is morally imperative and dutifully necessary that airmen abide by the law and the
26 rules and regulations of aviation. It is also paramount for pilots to be physically and mentally fit

1 and ready to tackle the high demands of piloting aircraft that carry crew and hundreds of
2 passengers. Aviation physiology is a well-established study, and experience shows that well-
3 rested, physically and mentally fit airmen are the cornerstone in the foundation of aviation safety.
4 Having a valid medical certificate is a lifelong commitment and a required tool in the pursuit of
5 the Constitutionally protected right to life, liberty and happiness.

7 FAA HANDS OFF APPROACH

8
9 The FAA has a hands-off approach and entrusts the daily decisions of fitness for duty⁴ to
10 pilots themselves. Pilots and airlines must follow long established regulations related to fitness
11 for duty under 14 CFR § 61.53, and 14 CFR Part 117. Additionally, pilots must maintain
12 compliance with the standards established by the FAA under 14 CFR Part 67. It is the pilot, *and*
13 *only the pilot*, who can make that determination on a daily, hourly and minute-by-minute basis.
14 Each pilot will make that assessment independently, rendering a decision that is unique to their
15 individual situation and understanding.

16
17 Pilots must be fit for duty before reporting to their duty shift and must sign statements of
18 “fitness for duty” before every flight. The signed statements are required by law and are submitted
19 to the FAA. If pilots sign fit for duty while not meeting the standards of their medical certificate,
20 or slightly impaired for any reason or have any deficiency which may disqualify them under 14
21 CFR Part 67, the pilots, aside from the potential harm to life and property in doing so, may be
22 subject to \$250,000.00 fine and up to five years in prison or both under 18 U.S. Code Sec. 1001.

⁴ Definition of duty under the FAA is the following: Duty means any task that a flightcrew member performs as required by the certificate holder, including but not limited to flight duty period, flight duty, pre-and post-flight duties, administrative work, training, deadhead transportation, aircraft positioning on the ground, aircraft loading and aircraft servicing.

1 Ultimately, pilots shoulder a heavy burden and responsibility, and under FAR § 91.3⁵ the plaintiff
2 bears directly the full responsibility for every soul on board the aircraft.

3
4 Fitness for duty goes hand in hand with safety and neither begins at the flight deck door, it
5 is rather a 24/7, 365-day nonstop event in a pilot's lifetime. Although it is not within their
6 authority, APA has arbitrarily adopted a position contrary to the discussion above and based their
7 actions on that adopted position. Once more, it is the duty, authority and responsibility of the pilot,
8 *and only the pilot*, to continuously assess and determine the validity of his FAA medical certificate
9 and fitness for duty.

10 11 APA LACK OF AUTHORITY

12
13 APA assumed authority it does not have over the plaintiff's FAA medical certification. The
14 plaintiff received FAA issued medical certificates well before joining the airline and will continue
15 to receive FAA issued medical certificates well after retiring from the airline. APA has not been
16 given, by any Federal, State or Local agency, any authority to exercise over the plaintiff's FAA
17 issued medical certificate or render any opinions in that matter. Furthermore, APA does not pay
18 for or cover any costs of any FAA medical certification for the plaintiff. The plaintiff has not
19 given APA any expressed or implied authority over his medical certificate.

20
21 The plaintiff is the sole proprietor, interest holder, and beneficiary of his FAA issued
22 medical certificate, and he is the only authority in decision making in matters relating to its validity
23 and his health. The FAA is the Federal agency that has jurisdiction over the issuance of such
24 medical certificate and has *vested full authority in the plaintiff* to make the day-by-day, the hour-

⁵ FAR § 91.3 Responsibility and authority of the pilot in command. (a) the pilot in command of an aircraft is directly responsible for, and is the final authority as to, the operation of that aircraft.

1 by-hour, and minute-by-minute decisions relating to the validity of his medical certificate and
2 subsequent determination of readiness and fitness for duty, to safely execute the privileges of his
3 pilot certificate for AA and any private flying.

4
5 In this case, APA acted, under authority not given to it, in violation of the plaintiff's
6 contract with the airline and in interference with the liability assumed by the plaintiff. APA acted
7 well outside the boundaries and framework of representation in an arbitrary, unreasonable,
8 intentional, and negligent manner in the defense of the plaintiff's interests, (or the lack thereof)
9 and in complete reckless disregard to the authority of the plaintiff over his FAA issued medical
10 certificate. Again, the plaintiff asserts that APA's actions were outside the scope, authority, and
11 protections given to a union by Congress under the RLA and are in collusion with AA.

12
13 The manner in which a pilot maintains an FAA medical certificate is not open for
14 negotiations and it is an interest held by not only the plaintiff, but also individually by the nation's
15 pilots and the more than 14000 pilots represented by APA.

17 EXECUTIVE ORDER 13998

18
19 With the advent of the Corona virus, the President of the United States issued an executive order
20 to combat the spread of the disease caused by the virus. Executive Order 13998 (EO 13998) dated
21 January 21, 2021, was issued to promote safety in domestic and international travel. EO 13998
22 Sec. 2 Initiated an immediate action to require mask-wearing on certain domestic modes of
23 transportation. Sec. 2. (a) of EO 13998 states in part: "*Mask Requirement.* The Secretary of Labor,
24 the Secretary of Health and Human Services (HHS), the secretary of Transportation (including
25 through the Administrator of the Federal Aviation Administration (FAA)), the Secretary of
26 Homeland Security (including through the Administrator of the Transportation Security

1 Administration (TSA) and the Commandant of the United States Coast Guard), and the heads of
2 any other executive departments and agencies (agencies) that have relevant regulatory authority
3 (heads of agencies) shall immediately take action, ***to the extent appropriate and consistent with***
4 ***the applicable law***, to require masks to be worn in compliance with the CDC guidelines.” In
5 addition, EO 13998 Sec. 2. (c) states in part: “*Exceptions.* The heads of agencies may make
6 categorial or case-by-case exceptions to policies developed under this section, ***consistent with***
7 ***applicable law, to the extent that doing so is necessary or required by law.*** If the heads of
8 agencies do make exceptions, they shall require alternative and appropriate safeguards, ***and shall***
9 ***document all exceptions in writing.***” Additionally, EO 13998 Sec. 6. states in part: “*General*
10 *Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect: (i) the
11 authority granted by law to an executive department or agency, or the head thereof.” The TSA
12 was tasked with the implementation of the executive order. The TSA issued Security Directives
13 (SD) to airport and aircraft operators reflecting the CDC mask order.

14

15 TSA SECURITY DIRECTIVE & JURISDICTION

16

17 The TSA issued a Security Directive SD 1542-21-01A (B, C, & D) addressing airport
18 operators. A similar document, SD 1544-21-02, was issued to aircraft operators. Both documents
19 contain an exemption in paragraph F3. The exemption states: This SD exempts the following
20 categories of persons from wearing masks F – ***3. People for whom wearing a mask would create***
21 ***a risk to workplace health, safety, or job duty as determined by the relevant workplace safety***
22 ***guidelines or Federal regulation.***

23

24 Exemption F3, contained in the SDs issued by the TSA, correctly applies 49 U.S. Code
25 §114. Under 49 U.S. Code § 114 (g) (2) Authority of other departments and agencies – The
26 authority of the Administrator under this subsection shall not supersede the authority of any other
27 department or agency of the Federal Government under law with respect to transportation or

1 transportation-related matters, *whether or not during a national emergency*. The TSA may not
2 supersede the FAA and neither may AA or APA.

3 4 SAFETY ALERT FOR OPERATORS

5
6 The FAA has issued a document titled, "*Safety Alert for Operators 20009*" (SAFO 20009).
7 SAFO 20009 is an advisory document in nature and the following statement precedes its contents:
8 "*A SAFO contains important safety information and may include recommended action. Besides*
9 *the specific action recommended in a SAFO, an alternative action may be as effective in addressing*
10 *the safety issue named in the SAFO. The contents in this document **do not have the force and***
11 ***effect of law and are not meant to bind the public in any way. This document is intended only***
12 ***to provide clarity to the public regarding existing requirements under the law or agency***
13 ***policies.**"* Additionally, the SAFO 20009 contains references to the CDC order for mask wearing,
14 where the following exemption is contained therein: "*While the wearing of masks on aircraft is*
15 *required, the Order includes an exemption if wearing a mask would create a risk to workplace*
16 *health, safety, or job duty as determined by the relevant workplace safety guidelines or federal*
17 *regulations.*" (Identical to the language in the security directives issued for aircraft and airport
18 operators)

19
20 As discussed above, the pilot and only the pilot is the sole and final authority in any
21 decisions related to his FAA issued medical certificate. In this case the plaintiff. In an email to
22 the plaintiff, APA counsel Rupa Baskaran somehow derived law from the above document (SAFO
23 20009), which is a recommendation only, and does not have the force and effect of law, as stated
24 in the document.

1 At the time the AA manual was published and approved by the airline FAA Principal
2 Operations Inspector⁶ (POI), no one envisioned pilots being forced to accept certain medical
3 procedures or mask wearing. Again, the FAA has not amended or issued an exemption to the
4 medical standards established under FAR Part 67 to reflect the use of masks by pilots.

5
6 APA adopted a position in line with AA, and went so far as to declare, in an email to the
7 plaintiff, that: “.....APA does not agree with your position that the Company’s mask policy violates
8 FAR 61.53, nor does it agree that the Company mask policy is in violation of your rights in any
9 way.” The plaintiff alleges that APA, in agreement with AA, coached many pilots who did not
10 wear a mask to accept the negative outcome of many disciplinary hearings which resulted in, just
11 like in the plaintiff’s case, a written notice placed in the pilot’s file one step away from termination.

12
13 The plaintiff disagrees with the above statement made by APA, and so does the plaintiff’s
14 AME. Signing a fit for duty statement and submitting such statement to the FAA while wearing a
15 mask, is a violation of the FAR’s and 18 U.S. Code Sec. 1001.

16
17 Another AA created mask policy requiring pilots to wear masks during the Covid-19
18 pandemic bucked the safety mantra in aviation. For example, AA deceptively created a policy
19 which selectively complied with the TSA SD containing the mask exemption for pilots. The AA
20 policy contradicted the reason for its creation, and while pilots did not have to wear a mask on the
21 flight deck, AA allowed pilots who wished to wear a mask to do so, in violation of the safety
22 reasons cited for not wearing one in the first place. The policy, while materially reaffirmed the
23 fact that pilots are the final authority in decision making when complying with the standards of
24 their medical certificates, encouraged those who wished, to wear a mask.

25

⁶ POI is the liaison between commercial air carriers and the FAA

1 In a publication, APA reminded pilots of the airline's policy and more importantly that
2 they should not forget to wear a mask when the flight deck door is open or when they are standing
3 in the flight deck door facing the passengers. APA adopted this irrational position and acted upon
4 it in dealing with the plaintiff's grievance.

5
6 Another flawed policy required the pilot remaining on the flight deck to wear a mask when
7 one pilot must leave for physiological reasons. The plaintiff alleges that AA does not have a
8 training program and did not properly train pilots on the removal of facial masks and the donning
9 of oxygen masks in events such as rapid decompression or smoke and fumes on the flight deck -
10 both critical to the survival of the pilots and the safe outcome for crew and passengers. A single
11 pilot at the controls, wearing a facial mask, places the entire ship, its crew and passengers in grave
12 danger should such an event occur. The plaintiff himself never received any such training and
13 none was offered. Again, APA agreed with such a policy which abandons and sets the safety of
14 flight backwards providing a disservice to the professional interests of the pilot group.

15
16 AA mask policy also required pilots to wear masks while deadheading⁷. The plaintiff
17 alleges that this policy resulted in gross violations of the FARs. Pilots who wear a mask while
18 deadheading for hours at cabin altitudes of several thousand feet create a medical deficiency
19 whereby pilots have no way of knowing if they continue to meet the standards of their FAA issued
20 medical certificate rendering them illegal while on duty and in violation of their signed fit for duty
21 statements.

22
23 Pilots who wear a mask in airport terminals for hours on end as they wait for their aircraft
24 to arrive face the same outcome. Anecdotal evidence shows that pilots coped with the AA mask
25 policies by "cheating", placing the mask below their nose or pretending to be drinking or eating.

⁷ Deadheading is where a pilot is transported in the cabin to where said pilot can perform other duties for the airline or begin a new flight segment.

1 Those who were deadheading did not have that luxury for they were harassed by flight attendants
2 and forced to wear masks. In doing so, and in agreement with AA, APA forced pilots to violate
3 FAR § 91.11⁸. A pilot who is deadheading is on duty and could be called to action at any given
4 moment, even when simply returning home. Interfering with a pilot’s authority is a violation of
5 FAR § 91.11 which states: “No person may interferewith a crewmember in the
6 performance of the crewmember duties aboard an aircraft being operated.” During the disciplinary
7 hearing of the plaintiff on January 6th, 2021, AA was very clear in stating that pilots, as leaders,
8 wearing masks in public were their selling point, and critical to getting passengers and others to
9 wear a mask. Flight attendants, who are there for safety, became the mask police. Here again,
10 APA stepped outside their authority and into jurisdictional territory not belonging to it in violation
11 of the FAR’s.

12

13 The plaintiff at one point was contacted by a pilot who stated that he would carry an
14 oximeter and that he found that, by the time he arrived at the flight deck after a walk through the
15 terminal, his oxygen levels would be low enough to qualify for supplemental oxygen. He would
16 then use the oxygen mask available to pilots on the flight deck for emergencies to bring his oxygen
17 levels up before signing fit for duty for the flight. Pilots should not be forced to extreme measures
18 such as this in attempts to comply with the standards of their medical certificates, thereby placing
19 crew and passengers at risk, nor should they surrender authority vested in them by the FAA. APA
20 agreed with these mask policies resulting in such events.

21

22 In addition, the plaintiff alleges that AA did not develop, nor provide, training to pilots or
23 flight attendants who perform duties on aircraft operating above altitudes of 25000 feet (flight level
24 FL250), as required by the FARs, with a facial mask on. Rule FAR § 121.417 requires airlines to
25 provide training in emergency procedures for crewmembers who operate aircraft above FL250.
26 Such training must include emergency procedures for decompression, respiration, hypoxia and

⁸ FAR § 91.11 Prohibition on interference with crewmembers. No person may assault, threaten, intimidate, or *interfere* with a crewmember in the performance of the crewmember’s duties aboard an aircraft being operated.

1 duration of consciousness without supplemental oxygen at altitudes. The plaintiff alleges that he
2 received such training in the past, but since AA created their mask policies, he did not receive, and
3 was not offered, any such training with a mask on nor has APA promoted such training.

4
5 The plaintiff alleges that, considering the dangers these AA policies posed to crew and
6 passengers alike, APA agreed with, (or championed as stated above) and did not challenge them,
7 in violation of their own Constitution and Bylaws, which direct APA to, “.....safeguard with
8 ceaseless vigilance, the safety of scheduled air transportation in recognition of the high degree of
9 public, confidence and responsibility....” The plaintiff alleges that APA played politics with the
10 safety of crew and passengers and acted without authority in adopting and promulgating policies
11 that AA created, which violated the pilots’ authority over decisions made relating to their FAA
12 issued medical certificates and well-being. By doing so, APA tied its hands and deprived itself
13 and the pilots of the ability to grieve any mask issue for any pilot. APA’s position paralyzed the
14 process.

15
16 The irrational construct of the AA mask policy, which APA held a non-opposing position
17 to, laid the foundation for APA’s irrational approach to dealing with the plaintiff’s disciplinary
18 hearing, and the resulting grievance and appeal. APA was simply acting in a perfunctory manner
19 going through the motions, with no intentions of providing any defense to the plaintiff. Even when
20 APA pretended to present a defense to the plaintiff, the defense had no basis or any merit. In
21 addition, during the appeal hearing at the senior vice president level, APA made statements that
22 were contrary to what the plaintiff and AA had agreed upon even though the plaintiff had warned
23 APA not to present such a defense.

EVENTS GIVING RISE TO THIS COMPLAINT

On December 6th, 2021, the plaintiff was the assigned captain for AA flight 484 (AA484). The flight was scheduled to depart the Spokane International Airport at 6 a.m., destination Dallas Fort Worth. The crew consisted of the plaintiff, the co-pilot, and a three-member cabin crew. That morning and in accordance with FAR § 91.3⁹ the plaintiff was responsible for over 150 souls on board that aircraft.

According to AA procedures, the sign in for the duty shift began at 5 a.m. At 5:15 a.m., the plaintiff arrived at the TSA security check point and, after presenting his credentials, was cleared through by the TSA officer (TSO). The plaintiff did not wear a mask, in compliance with his medical certificate requirements and exemption F3 contained in the TSA SD. The TSO asked the plaintiff to wear a mask. The plaintiff engaged in a discussion with the TSO explaining aviation law and exemption F3 contained in the SD. The plaintiff produced all relevant documents, but the TSO appeared unsure, and insisted on contacting the airport police. Instantly, three airport police officers appeared. The police insisted that the plaintiff must wear a mask. Again, the plaintiff attempted, but the police refused to listen to or accept the plaintiff's explanation of aviation law and exemption F3, and again insisted that he place a mask over the nose and mouth.

The plaintiff has a duty and responsibility towards his crew and passengers, and by law and for safety, he must abide by the standards of his FAA issued medical certificate. The logical and prudent response was for the plaintiff to not wear a facial mask if he were to perform his duty that morning. After an approximate fifteen-minute detention, the plaintiff was released without wearing a mask.

⁹ FAR § 91.3 Responsibility and authority of the pilot command. (a) The pilot in command of an aircraft is directly responsible for, and is the final authority as to, the operation of that aircraft.

1 The police actions did not end there. The police immediately notified AA, the plaintiff's
2 employer and upon arrival at the Dallas Fort Worth Airport, he was removed from flying status
3 and placed on administrative leave pending disciplinary action. Things took a turn for the worst
4 for the plaintiff and AA, through several hearings, turned his life upside-down, all because the
5 plaintiff followed the safety standards, and the law, to protect his crew and passengers on that
6 morning of December 6th, 2021.

7
8 Pilots at AA have an opportunity to participate in flying that is classified as premium.
9 Premium flying pays 50% more than regular flying, and the plaintiff was conducting such flying
10 when removed in Dallas Fort Worth. The plaintiff would be pay protected for that sequence of
11 flights, but he has not conducted any flying for AA since December 6th, 2021.

12 13 14 APA ROLE IN THE DISCIPLINARY ACTIONS

15
16 Upon arrival at the Dallas Fort Worth airport, the plaintiff was removed from flying. The
17 plaintiff contacted his Phoenix base chief pilot, captain Kenneth Wood (Ken), whom he knew for
18 many years and had a discussion. Ken asked the plaintiff: "Washington State is coming after you,
19 what have you done?" The plaintiff asked Ken if he remembered FAR § 61.53 and if he knew of
20 the exemption in the SD issued by the TSA. Ken responded that he did not. The plaintiff provided
21 the references, and Ken responded, in a text message, after a quick search in the following: "I
22 found FAR 61-53 a, b. Which per of the CDC was it. I wrote down CDC order footnote 7?"

23
24 Ken informed the plaintiff that he was asked by his manager, "...to give the plaintiff a
25 "directive,"" and, "If the plaintiff did not comply, we got him on insubordination." But Ken, not
26 being familiar with the law, and the fact that he knew the plaintiff for years and knew of his

1 impeccable record, was not about to do it, and did not. He later was disallowed to actively
2 participate in any of the disciplinary hearings that AA initiated (section 21 of the collective
3 bargaining agreement) and was only allowed as an observer in the first hearing that was conducted
4 by another captain, Timothy Raynor, flown in from AA's Chicago O'Hare hub. The plaintiff
5 alleges that AA was intent on terminating him immediately for not wearing a mask. The plaintiff
6 did not wear the mask for safety and in compliance with the FARs and the CDC mask order.

7
8 AA moved to disciplinary action against the plaintiff. APA was notified on December 9th,
9 2021, and contact was established between the plaintiff and APA labor counsel, Rupa Baskaran.
10 On December 10th, 2021, the plaintiff provided the labor counsel with many of the documents
11 discussed in this complaint, clarifying his position as the sole authority in decision making as it
12 relates to his FAA issued medical certificate.

13
14 A telephone conversation between the plaintiff and APA labor counsel, Rupa Baskaran,
15 took place on December 17th, 2021. To confirm and recap the conversation, the plaintiff sent an
16 email on that day, to APA counsel. In the conversation, APA counsel suggested a defense claiming
17 the plaintiff had a mask on going through security, and took it off for identification, for which the
18 plaintiff immediately disagreed with and suggested the lawful defense of the FARs and the
19 authority of the pilot over his medical certificate. APA counsel rebuked the idea and stated that
20 APA adopted a non-opposing position, when approached by AA, and supported the mask policy.
21 (In a letter to the pilots penned by APA president Eric Ferguson, and in contradiction to what the
22 plaintiff was told by APA counsel, it stated that APA pushed for uniform policies regarding the
23 use of face masks). The plaintiff then asserted his authority over his medical certificate and asked
24 for documents in the possession of APA outlining the reasoning for their position. APA counsel
25 stated that only an APA officer may release such documents and suggested the plaintiff asks for
26 them himself. That same day, the plaintiff wrote an email to APA president requesting such
27 documents; no documents were ever provided.

1 APA refused to defend the plaintiff's position of safety, and that of protecting the authority
2 vested in him by the FAA, over decisions he makes related to his FAA medical certificate. APA
3 stated so in communications with the plaintiff and went as far as stating the opinion that masking
4 does not violate any of the plaintiff's rights. The plaintiff was left to defend his position on his
5 own behalf. The parties, AA and APA, must follow the Joint Collective Bargaining Agreement
6 (JCBA) section 21 process. In accordance with the JCBA, the plaintiff is entitled to relevant
7 documents in his defense and, although he asked for the relevant documents, AA refused to provide
8 the requested documents and insisted that the only documents available were what was in the
9 company manual.

10

11 The first disciplinary hearing was scheduled and held on January 6th, 2022. The plaintiff
12 asked for a reschedule in an email on January 5th, in which APA was included, and on the day of
13 the hearing, in accordance with the JCBA. The plaintiff did not receive any documents or evidence
14 that he violated anything and was not ready to proceed in accordance with the JCBA, but the AA
15 Director of Flight, captain Timothy Raynor, refused the request, and continued to threaten
16 unknown outcomes and possible termination of the plaintiff if a reschedule was granted. The
17 plaintiff asked for a reschedule, no less than three times, and was refused and intimidated into
18 going through the hearing on January 6th, 2022. APA counsel Rupa Baskaran was included in the
19 email discussing the reschedule on the 5th of January and was on the conference call during the
20 hearing. Despite the fact refusing the plaintiff a reschedule is a violation of the JCBA, regardless
21 of the merits of the case, the APA counsel made no effort to support the plaintiff's request for a
22 reschedule of the hearing.

23

24 During the hearing, which was recorded, captain Raynor stated that in no way he would
25 do anything to jeopardize his medical certificate. He also stated that the reason for wanting the
26 plaintiff to wear a mask is because the plaintiff is in a leadership position, and AA needed him to
27 do so, to project a certain image that crew and passengers alike would follow, regardless of how it
28 affects the pilot's medical standards. In support of that narrative and in a message from APA , the

1 union reminded all pilots to wear a mask when standing in the flight deck door facing the
2 passengers.

3
4 The plaintiff conditionally offered captain Raynor authority over his medical certificate, if
5 AA could show they have jurisdiction or authority, and if that were the case, the plaintiff would
6 do anything AA asked of him to do. Captain Raynor replied in the negative, indicating AA cannot
7 do that. Even after that exchange, the APA counsel made no attempts to depart from the position
8 that APA took and would not support the plaintiff's position.

9
10 The entire hearing was witnessed by APA's Rupa Baskaran, who was on the conference
11 call. A court recorder was also present. Not once did APA offer any defense, or even an objection,
12 to the way the hearing was conducted. Not honoring a hearing reschedule is a violation of the
13 JCBA by AA.

14
15 The following day captain Raynor contacted the plaintiff over the phone, and at the end of
16 an extended monologue, captain Raynor asked the plaintiff if he will follow the company mask
17 policy. The plaintiff replied that he already agreed to follow the company policy, and the federal
18 mask mandate, which contains an exemption for pilots, which was what he was doing at the
19 Spokane International Airport on December 6th, 2021, and immediately sent him an image of the
20 transcript in a text message.

21
22 That same day, captain Raynor, emboldened by the position that APA took, and their lack
23 of defense of the plaintiff's obligations under the FARs, issued a written advisory, which was
24 inserted in the plaintiff employee file. The plaintiff made his disagreement with the letter known
25 to AA in writing. The written advisory is one step from termination and the plaintiff considers it
26 a threat to his job security and the security of his family. Considering what the plaintiff

1 experienced and learned, he determined that the letter is the perfect trap that he must avoid at any
2 cost. Any event involving a mask would result in an immediate termination of his employment.

3
4 In an email that contained the written advisory, captain Raynor added the following:
5 “Additionally, should you have a reason to request an accommodation, you may do so through the
6 links in Jetnet. For your convenience, here is the current link to the page in Jetnet that gives you
7 more information about that process. Americans with Disabilities Act (ADA) Jetnet (aa.com).”

8
9 It is ironic that after an impeccable 24-year career with the airline, suddenly a healthy 58-
10 year-old captain must declare a disability in order to be able to comply with his duty and authority
11 under the Federal Aviation Regulations. APA had no objections to such an approach by AA.

12
13 The plaintiff moved to the grievance process and on February 10th, 2022, the day of the
14 grievance hearing, APA’s labor counsel Rupa Baskaran, APA’s director of grievances and dispute
15 resolution, Patricia E. Kennedy, and the two Phoenix representatives, captain David Duncan, and
16 first officer Brian Ellis, were present on the zoom call. All these individuals were aware of the
17 plaintiff grieving the refusal of AA to honor his request for a reschedule of the hearing on January
18 6th, 2022. The plaintiff was willing to argue his position of authority over his FAA issued medical
19 certificate himself. According to emails he received from Rupa Baskaran, the representatives were
20 there to “provide APA representation,” and as the plaintiff understood it, they would be grieving
21 “AA’s refusal to honor the reschedule request” in violation of the JCBA. During the meeting,
22 none of the above individuals would agree to grieve the process, even though it was expressly
23 indicated by the APA labor counsel they would be there to do so. Captain Duncan went on to
24 question why the plaintiff wanted to grieve something that has happened in the past, and that they
25 were not there to grieve it.

1 The plaintiff exhausted every avenue, and followed the process outlined in the JCBA to
2 have the notice removed from his file to no avail. APA was of no help and, in fact, sided with AA
3 against the plaintiff every step of the way. At the last hearing, dated March 30th, 2022, the appeal
4 to the senior vice president for the removal of the written advisory, in addition to Rupa Baskaran
5 and Patricia E. Kennedy, APA’s senior labor counsel, Johnathan Elifson, was also present, and
6 once again, they all failed to grieve the January 6th, 2022, hearing even though it was made clear
7 that it is part of the grievance. The plaintiff declared that he considers the written advisory a threat
8 to his job security and the health of his family. He agreed that AA can make policies, but that AA
9 cannot make any policies that supersede the FAA and the medical standards outlined by the FAA,
10 or the authority vested in the plaintiff by the FAA.

11 The plaintiff used his sick time and was not available for AA. On April 19th, 2022,
12 following the defeat of the mask mandate in a Florida courthouse, he informed AA of his
13 availability. On April 22nd, 2022, AA placed the plaintiff on administrative leave one more time
14 to conduct a JCBA section 20. The reason cited for a section 20 was a “fitness for duty evaluation.”
15 The fitness for duty language does not exist in the JCBA section 20, and in accordance with the
16 JCBA the plaintiff was well within his right to personally clear sick and return to work without
17 any visits to the company physician. APA received the notification on the 22nd of April as well
18 and while APA intended on finding the reason for AA’s decision to conduct a section 20, APA has
19 never provided any answers to the plaintiff. APA has not even asked the plaintiff of the
20 circumstances, and even though the plaintiff informed AA and APA that he was well within his
21 contractual rights and that he satisfied his obligations towards AA, APA did not pursue the issue
22 beyond waiting for an answer from AA regarding the reason for the section 20. In fact, APA, in
23 an apparent agreement with AA’s demand, only offered the plaintiff support in preparation for
24 such an examination.

25
26 Considering that, *by law*, it is *the pilot* who determines fitness for duty, and after a medical
27 examination and consultation with the plaintiff’s own AME shortly after receiving the section 20

1 notification, the plaintiff is left to conclude, and alleges, that the process that AA is intent on
2 subjecting the plaintiff to is partial, subjective and detrimental to a pilot's career and FAA issued
3 medical certificate. AA is intent on painting the plaintiff as an unstable individual who does not
4 meet the standards of an FAA medical certificate. If successful, the plaintiff would lose his ability
5 to obtain an FAA medical certificate and would not be able to fly airplanes for any airline or
6 privately. As stated above, APA has not objected to the section 20 announcement even though it
7 is well within the right of the plaintiff to return to work. To the contrary, APA only offered
8 assistance in preparation for such an irrational and uncalled for "fitness for duty" evaluation. The
9 plaintiff concludes that if it were not for APA's adopted position, AA would not be overreaching
10 and taking such detrimental actions against the plaintiff.

11
12 While nothing changed in the position of APA regarding the pilot authority over his FAA
13 issued medical certificate, APA decided to move to a pre-arbitration conference, and notified the
14 plaintiff of their intent in an emailed letter on May 27th, 2022.

15
16 This ordeal has taken a heavy toll on the plaintiff, mentally and physically, and placed his
17 impeccable 24-year career teetering on termination. The plaintiff's family suffered as well. APA's
18 actions have placed an enormous amount of stress on the daily life of the plaintiff and his family.

19
20 **APA'S CONFLICT OF INTEREST AND ACTIONS**

21
22 APA adopted a non-opposing position to AA's mask policy. By doing so, APA relied on
23 authority not given to it by any Federal, State or Local agency, specifically the FAA, and acted
24 outside the statutory authority given to it by Congress. The plaintiff did not give APA any
25 authority over his FAA medical certificate. By doing so, APA intentionally abdicated rights it

1 does not have authority to abdicate or even negotiate. The plaintiff asserts that his FAA issued
2 medical certificate is not a negotiable item.

3
4 By adopting that position, APA created a conflict of interest that subverted the ability of
5 the union to grieve any intrusion into any individual pilot authority over decisions made relating
6 to the pilot's FAA issued medical certificate. APA essentially nullified the grievance process and
7 paralyzed it at the detriment of the interests of the plaintiff and all similarly situated pilots. On
8 multiple occasions, the plaintiff asked APA to declare any conflict of interest. At one point in a
9 telephone conversation APA counsel declared that APA does not have a conflict of interest.
10 Another answer came in an email from APA: "....Whether or not it is correct to characterize the
11 circumstances as a conflict of interest, APA will not make those arguments at your direction." The
12 plaintiff asserts that any argument or defense contrary to the position that APA adopted, is a
13 conflict of interest and a non-starter.

14
15 Although the plaintiff was told that APA was approached by AA regarding the mask policy,
16 it is documented that APA spearheaded the project, and championed a policy of "uniform
17 masking" by AA and reminded pilots to wear a mask when standing in the flight deck door facing
18 the passengers. The plaintiff asserts that APA was serving a political agenda rather than what is
19 in the interest of the pilot group, maintaining their authority over their FAA issued medical
20 certificate and their obligations under the law. Even when the CDC mask order and the TSA SD
21 were issued containing exemption F3, APA never deviated from their position of mandatory
22 masking for pilots. APA made conclusory statements, not supported by law that: "...it will not
23 argue that the Company's mask policy violates your right to maintain your FAA medical
24 certificate....it does not believe such arguments are legally sound" and, "....APA does not agree
25 with your position that the Company's mask policy violates FAR 61.53, nor does it agree that the
26 Company's mask policy is in violation of your rights in any way...." and, "..... it has never filed
27 a grievance protesting the Company's implementation of the mask policy...."

1 In a letter to the plaintiff, APA counsel stated that: "...Neither I nor APA are obligated to
2 pursue arguments on your behalf that APA does not agree with institutionally." The plaintiff
3 asserts it is not conventional, or the norm, for this institution to strip the individual rights and legal
4 obligations of pilots in making their own determination regarding their fitness for duty under many
5 of the FARs, namely FAR 61.53 and FAR Part 117. The plaintiff asserts that APA's position is
6 not grounded in law, and the rules and regulations of the FAA relating to safety, but rather serves
7 a political agenda that APA pursued at the detriment of these rights and obligations. APA contends
8 that SAFO 20009, an advisory document issued by the FAA, that clearly does not have the force
9 and effect of law is proof enough the plaintiff is wrong, and that somehow AA does have authority
10 over his FAA issued medical certificate (In the initial hearing which AA subjected the plaintiff to,
11 AA was very clear that it does not have such authority). Even though AA stated it does not have
12 such authority during APA's counsel presence at the hearing, APA still contended that AA did by
13 continuing to agree to AA's mask policy and the disciplinary actions taken by AA.

14
15 On December 25th, 2021, the plaintiff asked APA: ".....to provide all necessary defense
16 using the full force of APA following a defense of my choosing. A defense formulated to protect
17 my ultimate and final authority over my FAA medical certificate and any and every decision I take
18 in protecting my FAA medical from any and all interference by AA,.....in the exercise of the
19 privilege and responsibility of said certificates....." As discussed above, APA responded and
20 declared that they are not obligated to pursue the plaintiff's argument. APA was never able to or
21 willing to present any viable defense that the plaintiff desired, that of protecting his authority over
22 his FAA issued medical certificate. Again, APA paralyzed the process by adopting their non-
23 opposing position. APA declared they never grieved any mask issue with AA and from personal
24 knowledge, pilots went through the process, received a letter of warning or a written notice and
25 went back to the line with a mask on. The plaintiff alleges hearings were well-orchestrated and
26 lasted about 10 minutes.

1 When proceeding to grieve the results of the hearing the plaintiff was clear, and APA
2 understood the intent of the plaintiff. The plaintiff knew that APA would not represent his position
3 but wanted to grieve the violation of the process as well (refusal to reschedule the hearing by AA
4 and APA’s silence). In an email the APA counsel stated: “...I understand that you wish to grieve
5 the Written Advisory issued to you *and the manner in which the Section 21 hearing was*
6 *conducted.....*” clearly APA understood the plaintiff’s request. APA wanted to proceed directly
7 to the appeal level, but the plaintiff insisted on a step-by-step process. In at least two different
8 communications APA assured the plaintiff that the base representatives will be at the grievance to
9 represent him. In an email on February 7th, 2022, APA wrote: “...You will have APA
10 representation through your reps, CA David Duncan and FO Brian Ellis....” And again on
11 February 8th, 2022, APA wrote: “...Your base reps will be on the call representing you as well...I
12 have copied your reps on this email for your reference...” in another email dated February 8th,
13 2022, APA wrote: “...The reps are familiar with your grievance and will be there to assist you
14 during the meeting...I will have them contact you in advance of your hearing.” The plaintiff did
15 not hear from the reps and on the day of the hearing they refused to grieve the violation of the
16 process or participate in any meaningful way.

17
18 When the plaintiff elected to proceed to the appeal process provided in Section 21 of the
19 JCBA, the APA counsel submitted a document not authorized by the plaintiff and affixed his
20 signature to it. When confronted, the counsel claimed they could not read the intended document
21 because of formatting but failed to query the plaintiff about the correct document. In a similar
22 fashion and during the appeal hearing, the plaintiff did not expect the union to advocate for him
23 considering their past behavior, however the APA counsel proceeded to advocate using language
24 the plaintiff specifically asked APA labor counsel not to be used because it would harm his
25 argument. Again, the plaintiff asserts that the union was acting in a perfunctory fashion and just
26 going through the motions without any meaningful effort.

1 The plaintiff consistently asked for at least an outline of the defense that APA would
2 prepare but did not receive any and APA consistently demanded that the plaintiff agree to APA’s
3 representation. The plaintiff had already asked for APA to represent him very early on. The
4 plaintiff alleges that APA was not truthful and forthcoming. APA made statements such as: “...In
5 the event the Company does not find your arguments persuasivethe Company’s progressive
6 discipline policy, which is outlined in Section 21 of the JCBA , will be applied.” APA had already
7 agreed to a non-opposing position and already knew the outcome of such actions by AA but did
8 not relay that information to the plaintiff. Additionally, although APA used the term
9 “progressive”, at one point in the process attempted to bypass a step in the process. The plaintiff
10 asserts that APA acted and continues to act in a perfunctory fashion that is no more than going
11 through the motion, involving no real effort to put forward a position.

12
13 In a surprising change in their behavior, APA has elected to move forward with a Pre-
14 Arbitration Conference process however, past behavior of APA is evidence of its inadequacy
15 which will jeopardize the outcome of any arbitration. The plaintiff disagrees with and asserts that
16 even an arbitrator may not legally able to make decisions related to a pilot’s FAA issued medical
17 certificate.

18 19 20 LEGAL AUTHORITY

21
22 The exclusive agent’s statutory authority to represent all members of a designated unit
23 includes a statutory obligation to serve the interests of all members without hostility or
24 discrimination toward any, to exercise its discretion with complete good faith and honesty, and to
25 *avoid arbitrary conduct.* Humphrey v. Moore, 375 U.S. 335, 55 LRRM 2031 (1964). APA,
26 without authority given to it by any Federal, State or Local agency and without the expressed or
27 implied authority from the plaintiff (the plaintiff asserts APA was not given authority by any of

1 the pilots it represents), arbitrarily took a position, that by law is reserved to pilots, without input
2 from the plaintiff himself or the more than the 14000 pilots it represents. Having taken its arbitrary
3 position, APA would not depart from it in the grievance process.

4
5 “A breach of the statutory duty of fair representation occurs only when a Union’s conduct
6 toward a member of the collective bargaining unit is *arbitrary*, discriminatory, or *in bad faith*.”
7 *Vaca v. Sipes*, 386 U.S. 171, 190, 64 LRRM 2369, 2376 (1967). As discussed above, APA
8 arbitrarily adopted a position without authority and continued to act in accordance with that
9 position. The plaintiff asserts that APA, formed and led by pilots must know aviation law just as
10 much as the plaintiff himself, acted without restraint in an autocratic fashion, and in bad faith in
11 the use of authority not given to it by any government agency, the plaintiff or any other pilot.

12
13 Court held that “a union’s actions are arbitrary only if, in light of the factual and legal
14 landscape at the time of the union’s actions, the union’s behavior is so far outside a ‘wide range of
15 reasonableness,’ as to be irrational.” *Air Line Pilots Assoc. v. O’Neill*, 499 U.S. 65,67 (1991).
16 Considering the FAR’s and the law, and the fact that there is an exemption in the security directive
17 issued by the TSA targeting “***People for whom wearing a mask would create a risk to workplace***
18 ***health, safety, or job duty as determined by the relevant workplace safety guidelines or Federal***
19 ***regulation.***” It is reasonable to conclude that pilots must comply with the Federal laws governing
20 their FAA issued medical and pilot certificates. It is irrational for APA to conclude that a document
21 (SAFO 20009) that does not have the force and effect of law would supersede the FAR’s and it is
22 unreasonable to disregard an exemption in existence that applies to pilots so they may remain legal
23 when exercising the privileges of their pilots’ certificates.

24
25 In a case involving preemption of tort claims by the Labor Management Relations Act, the
26 Supreme Court noted in dicta that *mere allegations of negligence* by a union do not state a claim
27 for breach of the duty of fair representation. *United Steelworkers of America v. Rawson*, 495 U.S.

1 362, 134 LRRM 2153. There are not mere allegations in this case. The plaintiff has suffered real
2 harm perpetuated by the defendant's willful negligence of aviation law. As stated above, the pilots
3 directing the actions of the union must know the words and meaning of aviation law just as much
4 as the plaintiff does. As previously discussed, only the pilot has authority over decisions related
5 to the validity of his FAA issued medical certificate and considering that APA is formed and
6 directed by pilots who must know the FAR's, one must conclude that APA's actions must be
7 willful and intentional in serving a political agenda rather than the pilots it represents.

8
9 In an email exchange APA's labor counsel stated the following: "With regard to your
10 assertion that APA has a duty to represent your interests, and by extension the APA as well, I
11 direct you to RLA case law on the matter, specifically in *Ford Motor Co. v. Huffman* 345 U.S. 330
12 (1953) and *ALPA v. O'Neill*, 499 U.S. 65 (1991), which require a labor organization to represent
13 the entire working group reasonably, with good faith, and honestly, rather than arbitrarily,
14 discriminatorily, or in bad faith. Those cases also require the labor organization to represent the
15 interests of the group at large over the conflicting interests of an individual or smaller group and
16 allow broad discretion for labor organizations to determine how best to represent their working
17 groups and organizations in general."

18
19 The plaintiff is not in disagreement with the courts' decisions. As a matter of fact, he is in
20 full agreement and asserts that it is APA who departed from those decisions. It is reasonable to
21 assert, as the plaintiff has, that all the pilots represented by APA carry a valid FAA issued medical
22 certificate, all 14500 give or take a few, and all of them must exercise their authority over their
23 medical certificate. There is not one pilot who can exercise any authority over any other pilot's
24 medical certificate, therefore it is very reasonable to protect the interest of the individual, and by
25 extension APA's since it is populated by AA pilots, by protecting their authority over their medical
26 certificate. APA arbitrarily abdicated their duty and willfully surrendered that authority to AA.

1 In addition, APA claimed in the above email that pilots such as the plaintiff are individual,
2 or a minority and that APA is required to represent the interest of the larger group. APA
3 intentionally disregarded the fact, as stated above, that if one pilot has a medical certificate, 14500
4 pilots at AA have a medical certificate and they all have the duty and obligation to determine their
5 fitness for duty and validity of their medical certificates on their own accord. After all they all
6 must sign a statement of fitness for duty in compliance with the FARs and 18 U.S. Code Sec.1001.

7
8 The plaintiff agrees that labor organizations are allowed broad discretion in determining
9 how best to represent their working group but disagrees that a labor organization can negotiate or
10 even abdicate the pilots' authority over their FAA issued medical certificate. As discussed above,
11 APA does not have the statutory authority, or any other authority granted to it to do so. A pilot's
12 authority over his medical certificate is not a negotiable item. Unions are charged with improving
13 working conditions for the craft and abdicating authority over a pilot's medical certificate
14 accomplishes the opposite. Once understood, the plaintiff asserts that none of the 14500 pilots at
15 AA would support or would desire APA's position.

16
17 "...A union may not arbitrarily ignore a meritorious grievance or process it in a
18 perfunctory fashion..." and "...In administering the grievance and arbitration machinery as
19 statutory agent of the employees, a Union must, in good faith and in a non-arbitrary manner, make
20 decisions as to the merits of particular grievances..." *Vaca v Sipes*, 386 U.S. 171, 64 LRRM 2369
21 (1967). Again, APA sealed the fate of any merits a grievance may hold by agreeing to AA's mask
22 policy pertaining to pilots, and as described above, in violation of the pilot's authority over his
23 FAA issued medical certificate. The plaintiff asserts that the pilot's FAA issued medical certificate
24 is not negotiable and that leaves APA with only one position and that is the defense of the pilot's
25 authority over his medical certificate at any cost. After all, without a medical certificate a pilot
26 certificate becomes a mere ornament.

1 Again from the above cited case “.....an employee need not exhaust contractual remedies,
2 however, if the employer repudiates the grievance procedures or if the Union wrongfully refuses
3 to process the employee’s grievance...” as discussed above, early on, AA refused to honor a
4 requested reschedule by the plaintiff and APA failed to grieve the process violation. AA
5 repudiated the process and APA refused to process the plaintiff’s grievance. The plaintiff does
6 not have the obligation to continue participating in the process and has exhausted every possible
7 chance to grieve AA’s actions. The plaintiff is no longer obligated to participate in an arbitration
8 process that APA and AA are intending on conducting and has moved to the court with his claim
9 of failure of duty of fair representation by APA.

10
11 Considering the discussion above, the plaintiff asserts that exhausting the process would
12 impair an adequate remedy and available procedures could not provide an adequate remedy.

13 *Dorn v. Meyers Parking System*, 395 F.Supp. 779, 89 LRRM 2619 (E.D. Pa. 1975); *Lucas v.*
14 *Philco-Ford Co.*, 380 F.Supp. 139, 87 LRRM 2176 (E.D. Pa 1974). It is irrational that after
15 refusing to represent the plaintiff in the hearing, the grievance and the appeal that, somehow, APA
16 has found a valid argument to now defend the plaintiff’s position or even honor the process.

17
18 In addition, courts can issue injunctions staying arbitration pending resolution of fair
19 representation claims regarding the adequacy of a Union’s pre-arbitration conduct. *Melanson v.*
20 *John J Duane Co.*, 605 F.2d 31, 102 LRRM 2597 (1st Cir. 1979). Again, in *Vaca v. Sipes* 386
21 U.S. 171, 64 LRRM 2369 (1967) “....Courts need not defer to arbitration, however, if resolution
22 of the fair representation claim also resolves most of the arbitration dispute. Instead, courts may
23 decide the underlying claim and provide a remedy directly...” The plaintiff once more asserts that
24 an arbitration attempt by APA in unable, will and cannot deliver justice.

APA ABANDONS PROTECTIONS

1
2
3 APA abused authority given to it by Congress and the RLA and willfully acted outside the
4 law to serve a political agenda and by doing so subjected the plaintiff to deprivation of his rights
5 and obligations under the law. The plaintiff asserts that APA is in violation of 18 U.S. Code § 242
6 and further asserts that actions taken by APA must not go unpunished.

7
8 The Supreme Court held that an award of punitive damages for a Union's breach of the
9 duty of fair representation in processing an employee's grievance was prohibited by the Railway
10 Labor Act. The Court majority stated: "Because general labor policy disfavors punishment, and
11 the adverse consequences of punitive damage awards could be substantial, we hold that such
12 damages may not be assessed against a union that breaches its duty of fair representation by failing
13 properly to pursue a grievance." *Electrical Workers v. Foust* 442 U.S. 42, 101 LRRM 2365 (1979).

14
15 The plaintiff asserts that APA abandoned the grievance process and the protections
16 afforded to it by the Supreme Court and the Railway Labor Act and acted outside their statutory
17 authority and in collusion with AA, crippling the grievance process and rendering it null and void
18 and deprived the pilots it represents of the protections afforded to them by the grievance process.
19 The plaintiff asserts that APA deserves neither the protection afforded to it by the Supreme Court
20 nor the Railway Labor Act protections, and as such, the plaintiff is entitled to punitive damages.

IN CONCLUSION

1
2
3 APA adopted and promoted a non-opposing position to AA's mask policy using authority
4 not given by any Federal, State or Local agency, or by the plaintiff at any time. The position that
5 APA adopted and promoted regarding AA's mask policy violated the authority of a pilot over his
6 FAA issued medical certificate and crippled and subverted the grievance process.

7
8 APA created a conflict of interest by adopting the above-described position. Even though
9 it claimed not to have a conflict of interest to the plaintiff, APA's position paralyzed the grievance
10 process and took authority away from the pilots it represents, their position regressed any advances
11 in safety that pilots have at their disposal in contradiction to APA's constitution and bylaws.

12
13 Even though APA lacks the statutory authority, it negotiated on behalf of the pilots a non-
14 negotiable item, the pilot FAA issued medical certificate. A pilot comes to the job with an FAA
15 issued medical certificate and leaves the job with the same FAA issued medical certificate. APA
16 has no authority over a pilot's medical certificate whatsoever.

17
18 In a clear indication of its intent to not represent the plaintiff and considering that APA
19 understood the ability to reschedule the initial hearing, APA forced a deadline of December 31st,
20 2021, demanding an answer in the affirmative from the plaintiff regarding representation. The
21 plaintiff had already asked for full APA representation on the 25th of December 2021.

22
23 Even though the plaintiff asked for APA representation early on, APA consistently
24 frustrated the plaintiff and the process by asking for a confirmation of his desire for APA
25 representation.

1 APA refused to provide the plaintiff with any meaningful defense or an outline of any
2 meaningful defense and proceeded in a perfunctory fashion with no more than going through the
3 motions, involving no real effort to put forward a position in the defense of the plaintiff.

4
5 In preparation for the defense by the plaintiff, the plaintiff requested documents supporting
6 the evolution of APA's position regarding the AA mask policy, but APA refused to provide any
7 documents.

8
9 During the initial hearing, APA failed to protest AA's refusal to grant the plaintiff a
10 reschedule in accordance with the JCBA section 21 even though the plaintiff asked for a reschedule
11 in at least three instances during the hearing as well as on the preceding day.

12
13 APA, on several occasions communicated to the plaintiff and affirmed APA's
14 representation through the Phoenix base representatives during the grievance process through
15 emails that were shared with the Phoenix representatives. On the day of the grievance the APA
16 counsel and the Phoenix representatives balked and refused to represent the plaintiff or even grieve
17 AA's violation of the process during the initial hearing as described in the JCBA section 21.

18
19 APA knew well in advance of the outcome of a mask grievance but did not truthfully
20 communicate the information to the plaintiff. The position that APA took sealed in advance the
21 fate of any mask grievance by any pilot.

22
23 APA intentionally, and in a veiled attempt to show a semblance of representation, presented
24 a position during the appeal process that the plaintiff disagreed with and warned APA not to use.

1 APA arbitrarily submitted a document not authorized by the plaintiff that included the
2 plaintiff's signature and claimed to not be able to read the intended document sent to APA by the
3 plaintiff.

4
5 Considering all the above, APA has moved, and again in a perfunctory and an irrational
6 fashion, to conduct a pre arbitration conference. APA is going through the motions knowing full
7 well that they do not intend to defend the plaintiff or oppose the AA position.

8
9 The plaintiff asserts that APA is in violation of 18 U.S. Code § 242 and its's actions denied
10 the plaintiff the ability to participate in any flying and placed him on track to being terminated by
11 AA. The plaintiff has not flown for AA since December 6th, 2021.

12
13
14 **PRAYER FOR RELIEF AND REMEDY**

15
16 WHEREFORE, plaintiff respectfully requests the Court enter the following judgement and
17 relief:

18
19 Find that by supporting, adopting and acting in a non-opposing position to the AA mask
20 policy as it relates to pilots, APA acted unlawfully and outside the statutory authority given to it
21 by congress and the RLA.

1 Find that by supporting AA's mask policy, APA cast aside the grievance process and
2 discarded, and abandoned protections afforded to it by the U.S. Supreme Court and the Railway
3 Labor Act and award plaintiff punitive damages in the amount of \$35,000,000.00 or higher as the
4 court sees fit.

5
6 Award plaintiff compensatory damages in the amount of \$167,791.00 or higher as the court
7 sees fit to include awards for pain and suffering.

8
9 Find that APA failed its Duty of Fair Representation (DFR) by failing and violating the
10 grievance process.

11
12 Enjoin APA from infringement in negotiating any inherent rights and obligations afforded
13 to pilots under the Federal Aviation Regulations (FARs) relating to authority vested in them by
14 the Federal Aviation Administration (FAA) issued medical certificate.

15
16 Find that APA is in violation of 18 U.S. Code 242.

17
18 Find that APA is in violation of 14 CFR § 91.11.

19
20 Instruct APA to use their full resources in support of the plaintiff to grieve and remove the
21 "Written Advisory" letter placed in the plaintiff's file by AA.

22
23 Suspend any APA initiated Pre-Arbitration Conference activity or any Arbitration pending
24 the outcome of action taken by plaintiff.

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Issue judgment in plaintiff’s favor on all causes of action alleged herein pursuant to 42 U.S. Code § 1983

Award plaintiff reasonable court costs and attorney fees, if retained, pursuant to 42 U.S. Code § 1988

Grant plaintiff other and further legal and equitable relief as the Court deems just and proper.

JURY DEMAND

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NOW COME plaintiff, PRO SE, and herby demands trial by jury of the above-referenced causes of action.

On this day

Bahig Saliba

[Redacted]

[Redacted]

[Redacted]

Email: msdoverlook@protonmail.com