

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

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In re	)	
	)	
UAL CORPORATION, <u>et al.</u> ,	)	Chapter 11
	)	
Debtors	)	Case No. 02-B-48191
	)	(Jointly Administered)
	)	
	)	Hon. Eugene R. Wedoff
	)	
	)	Hearing Date: September 23, 2004
	)	Hearing Time: _____

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**NOTICE OF EMERGENCY MOTION**

TO: SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that on the 23rd day of September, 2004, the Association of Flight Attendants-CWA, AFL-CIO ("AFA") and the International Association of Machinists and Aerospace Workers, AFL-CIO ("IAM") shall appear telephonically before the Honorable Bankruptcy Judge Eugene R. Wedoff in the room usually occupied by him at the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division at 219 S. Dearborn St., Chicago, Illinois 60604, and present the attached **Joint Emergency Motion of the Association of Flight Attendants-CWA, AFL-CIO, and the International Association of Machinists and Aerospace Workers, AFL-CIO, to Strike United Air Lines' Informational Brief Regarding Its Pension Plans**, a copy of which is attached hereto and herewith served upon you.


Dated: September 23, 2004

Respectfully submitted,



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**JOINT EMERGENCY MOTION OF THE ASSOCIATION OF FLIGHT  
ATTENDANTS-CWA, AFL-CIO, AND THE INTERNATIONAL ASSOCIATION OF  
MACHINISTS & AEROSPACE WORKERS, AFL-CIO, TO STRIKE UNITED  
AIR LINES' INFORMATIONAL BRIEF REGARDING ITS PENSION PLANS**

The Association of Flight Attendants-CWA, AFL-CIO ("AFA"), and the International Association of Machinists and Aerospace Workers, AFL-CIO ("IAM"), hereby move on an emergency basis to strike the Informational Brief filed this same date by United Air Lines. The Informational Brief is a 107-page document that does not request any form of opinion or ruling from the Court. United's filing of the Informational Brief is wholly improper procedurally and only serves to prejudice the resolution of future issues regarding United's pension plans which may come before the Court. For all the reasons set forth below, the Informational Brief should be struck, an order issued to remove the filing from the Court's docket, and United ordered not to make any further court filings which do not conform with Court rules.

1. United's Informational Brief includes, among other things: a legal "primer" on pension plans and the basics of ERISA and the PBGC; a description of United's pension plans and its obligations thereunder; and a "preliminary analysis" of the effects that a potential termination and replacement of the pension plans would have on United's employees and retirees. The brief also includes legal argument regarding United's decision to cease its minimum funding obligations and legal argument on the nature of the PBGC's claims in bankruptcy upon termination of a pension plan. The brief is filled with factual claims, none of which are supported by sworn affidavits or otherwise verified.

2. The decision to strike a court filing is committed to the discretion of the Court. Paluck v. Gooding Rubber Co., 221 F.3d 1003, 1015 n.9 (7th Cir. 2000); Maldonado v. U.S. Bank, 186 F.3d 759, 768 (7th Cir. 1999). United's Informational Brief should be struck for the following reasons.

3. Neither the Federal Rules of Civil Procedure, the Bankruptcy Rules, the Local Rules of this Court, nor the Case Management Order entered in this case provide for the filing of an Informational Brief, or any briefs unrelated to a pending motion. Motion practice is the proper vehicle for submitting legal argument and factual materials to a court. Cochran v. Celotex Corp., 125 F.R.D. 472, 473 (C.D. Ill. 1989) ("the appropriate method for communicating with a court is by means of motion"). Absent a motion, there is simply no cause for the Court to consider the Informational Brief submitted by United and therefore the submission is properly struck.

4. As a further procedural matter, United's submission of facts to the Court through its Informational Brief is wholly improper. The facts contained in the brief are not supported by any affidavit or other form of sworn verification. Lacking any proper evidentiary foundation, the reliability of the factual assertions contained in the Informational Brief cannot be assessed either by the Court or the other parties

to these proceedings. We also note that the projections regarding pension benefits and pension funding issues contained in the Informational Brief are based upon United's preliminary analyses only. Informational Brief at 2 n.1. AFA and IAM strongly object to submission of such preliminary assessments for the Court's consideration, especially in the absence of an evidentiary foundation setting forth the basis for the analyses and the reliability of United's admittedly evolving projections.

5. In addition to the fatal procedural flaws in United's filing, the filing is improper because it seeks to prejudice any future consideration of pension issues by this Court. Essentially, the brief sets forth arguments that the Company will doubtless raise, if necessary, in any future motion involving termination and replacement of its pension plans. To put the same arguments before the Court prior to any proper motion can only be viewed as an attempt to skew any later consideration of the same issues. The filing also improperly prejudices on-going discussions with United's unions and stakeholders by attempting to establish before the Court certain facts, the resolution of which are central to these continuing discussions. If United is truly interested in seeking alternatives to terminating the pension plans, as it now professes to be, it should not be seeking to engage the Court now on this issue and to thereby force the unions to shift their attention to a forum different from these discussions. Moreover, by the mere filing of this Informational Brief, United will likely proclaim to all interested parties, as well as the press, that this is an "official court pleading" that warrants their immediate attention.

6. In contrast to the prejudicial impact of filing the Informational Brief, no legitimate purpose necessitates the filing. The stated reason for the filing is to promote "the full, constructive and well-informed participation of all [the Company's] stakeholders" and "to provide a common foundation for constructively addressing the pension issues whose resolution will determine the future of United." Informational Brief at

2. United, however, could accomplish this informational goal by simply circulating to stakeholders the information contained in its filing. The stated informational objective does not require filing the document with the Court.

### CONCLUSION

For all the foregoing reasons, AFA and IAM respectfully request that this Court strike United's Informational Brief, order the Clerk of Court to remove the filing from the docket in these proceedings, and order Debtors not to make any further court filings which do not conform with Court rules.

Respectfully submitted,



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Dated: September 23, 2004

Counsel for the International Association of Machinists  
& Aerospace Workers

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Debtors	)	Case No. 02-B-48191
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	)	Hon. Eugene R. Wedoff
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**ORDER GRANTING MOTION OF THE ASSOCIATION OF FLIGHT ATTENDANTS-CWA, AFL-CIO, AND THE INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO, TO STRIKE UNITED AIR LINES' INFORMATIONAL BRIEF REGARDING ITS PENSION PLANS**

Upon the motion of the Association of Flight Attendants-CWA, AFL-CIO ("AFA"), and the International Association of Machinists and Aerospace Workers, AFL-CIO ("IAM"), in the above-captioned cases to strike the Informational Brief filed by United Air Lines, after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED THAT:

1. The Motion is GRANTED and the Informational Brief is struck from the record in these proceedings.
2. The Clerk of Court is instructed to remove the Informational Brief from the docket in these proceedings.
3. The Debtors are ordered not to make any further filings which do not conform to Court rules.



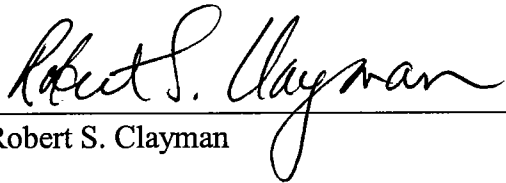
Dated: Chicago, Illinois  
\_\_\_\_\_, 2004

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Eugene R. Wedoff  
United States Bankruptcy Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on this 23rd day of September, 2004, true copies of the foregoing Joint Emergency Motion of the Association of Flight Attendants-CWA, AFL-CIO, and the International Association of Machinists and Aerospace Workers, AFL-CIO, to Strike United Air Lines' Informational Brief Regarding its Pension Plans were served via facsimile on the Core Group Service List and via facsimile or electronic mail on the 2004 Service List. Pursuant to Section C.3.i(1) of the Second Amended Notice, Case Management and Administrative Procedures in this proceeding, service lists have been filed with the Court. In accordance with Rules 9014 and 7004, a true copy of the foregoing objection was served by first-class mail on Frederic Brace, an Officer of United.

  
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Robert S. Clayman