

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

Will Lehman,)	
)	
Plaintiff,)	
)	
)	Case No. 22-12790
v.)	
)	
International Union, United Automobile,)	
Aerospace, and Agricultural Implement)	
Workers of America and Neil Barofsky,)	
)	
Defendants.)	

COMPLAINT

INTRODUCTION

Plaintiff Will Lehman is a 35-year-old rank-and-file Mack Trucks worker in Macungie, Pennsylvania and a bona fide, duly nominated candidate for the office of president of the United Auto Workers (“UAW”) in the unprecedented national elections that are currently underway.

These elections were forced upon the UAW by a consent decree imposed by the U.S. Department of Justice, which described a “culture of corruption” within the UAW leadership. In this emergency complaint for injunctive relief, Lehman contends that the entrenched leadership in the UAW, despite the oversight of the court-appointed monitor Neil Barofsky (the “Monitor”), is conducting the ongoing leadership elections in violation of his rights and the rights of all rank-and-file members under Title I of the Labor-Management Reporting and Disclosure Act of 1959, 29 U.S.C. §441, also known as the “Bill of Rights of Members of Labor Organizations.”

This “Bill of Rights” for union members provides that Lehman and his rank-and-file co-workers within the UAW have the democratic right to “choose their own representatives.” 29 U.S.C. 401(2)(a). Lehman and fellow rank-and-file workers “have equal rights and privileges...to vote in elections.” 29 U.S.C. 411 (a)(1). They “have the right to meet and assemble freely with other members” and this includes the right to “express any views, arguments or opinions” through “candidates in an election of the labor organization.” 29 U.S.C. 411(a)(2).

Without emergency intervention by this Court, the election that is currently taking place will fall far short of these basic guarantees. The UAW and the Monitor have failed to provide anything resembling adequate notice to hundreds of thousands of rank-and-file UAW members, who are not accustomed to direct elections and would not ordinarily expect to receive ballots. The UAW has the resources and the means to provide the necessary notice but deliberately and obstinately refuses to do so. As a result, only a demonstrably narrow sliver of UAW members are participating in the election, with only 9 percent of potentially eligible votes having been cast to date. Even more troubling is the fact that, as Lehman has demonstrated in detail to the Monitor, a substantial number of workers who are aware of the election have been unable to participate because they have not been able to obtain a ballot in time to vote, in many cases despite protracted and diligent efforts.

Currently, the deadlines are November 11, 2022 for replacement ballots to be requested by UAW members; November 18, 2022 for ballots to be postmarked; and November 28, 2022 for the ballots to be received. The Monitor has failed to act on Lehman’s specific request for these deadlines to be extended by 30 days, and Lehman has no other recourse but this action.

This election is *sui generis*, owing to the unique circumstances of the corruption scandal, the intervention of the Department of Justice, and the consent decree. This is the first direct election in the history of the UAW. The membership has no past pattern and practice of directly electing its leadership. Direct elections are only taking place because the UAW's recent leadership was convicted *en masse* for systematically violating the rights of its members by converting union funds and accepting bribes from the corporations. Under the circumstances, the refusal to conduct a free and fair election is no accident, but reflects the refusal of the entrenched leadership of the UAW to allow itself to be voted out—a state of affairs that the LMDRA was specifically passed to authorize federal courts to remedy. As one court noted:

A pervasive theme in the congressional debates about the election provisions was that revelations of corruption, dictatorial practices and racketeering in some unions investigated by Congress indicated a need to protect the rights of rank-and-file members to participate fully in the operation of their union through processes of democratic self-government, and, through the election process, to keep the union leadership responsive to the membership. This theme is made explicit in the reports of the Labor Committees of both Houses of Congress. It is reflected in the discrete provisions of ... Title I, the 'Bill of Rights' for union members.

Retail Clerks Union, Loc. 648 v. Retail Clerks Int'l Ass'n, 299 F. Supp. 1012, 1017 (D.D.C 1969) (citations omitted).

The UAW has the resources and means to notify its membership of the elections and ensure that each member receives a ballot. After all, it has no trouble collecting dues from each of its members, and its total assets are \$1.6 billion. Given the disastrous state of its mailing address records, the UAW could and should ship ballots to every local union, ensuring that each member could be handed a ballot in person. The UAW could and should set up tables at shift changes to distribute informational material to workers. It could and should make daily announcements via loudspeaker, email, on social media and other workplace communication mechanisms to explain members' right to vote and the method for acquiring and mailing a ballot.

The UAW did none of those things because the entrenched leadership does not want the membership to know that it has an unprecedented opportunity to vote the entrenched leaders out.

Despite entering into the consent decree and being placed under the supervision of a court-appointed monitor, the Monitor has consistently found that the UAW is violating both the consent decree and the rights of members like Lehman and his fellow rank-and-file co-workers. These violations are so serious that the Department of Justice threatened to prosecute the UAW's current president, Ray Curry, earlier this year. *See* Exhibit E (Monitor's July 19, 2022 Status Report). In recent weeks, the Monitor also determined that UAW president Ray Curry's slate violated federal law by using union resources to promote his campaign. Despite these facts, the Monitor has continued to unreasonably rely almost entirely on the UAW leadership—the same leadership that the Department of Justice has described as having a “culture of corruption,” and which opposed the holding of direct elections in the first place—to inform its membership that an election is taking place.

To ensure Lehman and the entire UAW membership's right to participate in a fair election that expresses the genuine views of the membership as a whole, the election must be delayed by 30 days to ensure all eligible members receive ballots and have the chance to cast them. This Court must also require Defendants take action reasonably aimed at providing notice of the election as well as ballots to the *entire membership*.

These actions are the minimum required for the election to have any shred of integrity or legitimacy. If no action is taken, the election cannot produce a “duly-elected” leadership with any plausible claim to represent the interests of rank-and-file workers like Lehman.

PARTIES

1. Will Lehman is a member of UAW Local 677 in good standing, a duly elected and qualified candidate for President of the UAW, and a resident of Pennsylvania.
2. The International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW) which holds itself to be a labor organization under the meaning of 29 U.S.C. § 402(i). It is headquartered in Michigan.
3. Neil Barofsky is a party in his official capacity as the Monitor. Mr. Barofsky was appointed to oversee the UAW and the election for international officers that is the subject of this action, pursuant to the consent decree in *United States v. International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America*, No. 20-cv-13293 (E.D. Mich.).

JURISDICTION AND VENUE

4. This court has jurisdiction of the claims under 28 U.S.C. §1331 and 29 U.S.C. §412.
5. Venue is proper in this judicial district because the UAW is headquartered here.

FACTS

Background to the Current Direct Leadership Elections

5. On January 21, 2021, the UAW entered into a consent decree with the U.S. Department of Justice. In the consent decree, the UAW “acknowledge[d] that there have been criminal convictions, allegations, sworn testimony, and judicial findings of past problems with fraud, corruption, and criminal conduct by certain officials within the UAW and certain of its related entities.” Case No. 20-cv-13293, ECF No. 10 at Page ID No. 108 (E. D. Mich. 2021).

6. The consent decree stated: “UAW members [must] be able to democratically participate in their union’s affairs as guaranteed by the Labor Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. § 401, *et seq.*” Id. at Page ID No. 108.

7. The consent decree stated that this entails the right to “honest and duly-elected officials” and mandated a referendum as to whether members wished to vote directly for international officers. This purpose of the referendum was to provide the membership with a fair opportunity to democratically challenge the entrenched leadership. The present entrenched leadership of the UAW (“the Administration Caucus”), including Ray Curry, campaigned against direct elections.

8. A referendum was conducted from October to December 2021. On December 2, 2021, the Monitor completed counting the ballots. The final results showed the membership was overwhelmingly supportive of direct elections, with 63.7 percent in favor. A total of 140,586 votes were tallied.

9. Since the consent decree and throughout the referendum and general election process, the Monitor has found on numerous occasions that the UAW is acting in violation of the decree, election rules and federal law.

10. In the course of the referendum, the Monitor determined that the Administration Caucus and Ray Curry violated the rules for the referendum multiple times, including by using union resources and access to the apparatus to advocate against direct elections. Exhibit D at 10-11.

11. In its July 19, 2022 Status Report, the Monitor detailed a systematic effort by the UAW to block the Monitor’s oversight and cover-up misuse of union resources by Ray Curry. The Status Report found that a leading member of the Administration Caucus, Secretary-

Treasurer Frank Stuglin, was using union resources to promote his candidacy for Secretary-Treasurer by distributing backpacks with his name on it. Nevertheless, Stuglin was assigned by UAW Defendants to oversee important aspects of the election process, including the distribution of lists of delegates to the UAW convention to bona fide candidates as part of the nomination process.

12. The July 19 Status Report states, “the UAW has slowed its production of other investigative materials to the Monitor and declined to timely share certain information about its efforts to implement compliance reforms.” Exhibit E at 2. It states:

Making matters worse, as the Monitor tried to carry on with his work, the Monitor uncovered evidence that the Union’s leadership and its then-lawyers were concealing from the Monitor an investigation by the Union into the mishandling of a sum of cash by a regional Assistant Director, a senior Union official. The Union withheld information about this misconduct and the related investigation even though, from early in the monitorship, the Monitor has had a standing request to the Union for prompt disclosure of information about all investigations into potential financial misconduct or corruption taking place in the Union. The Monitor had also specifically warned the Union’s President in writing about the need to comply with that demand, following a previous failure to do so. The Union compounded that violation of its obligation to cooperate with the Monitor by improperly excluding a representative of the Monitor from an “executive session” of a meeting of the Union’s International Executive Board (“IEB”) in which factual information about this ongoing investigation was shared.

Id. at 2-3.

13. The July 19 status report notes that “these actions resulted in the apparent obstruction and interference with the investigative work of the Monitor in violation of Paragraph 18(d) of the Consent Decree.” Id. at 3. The status report explains that US Attorney Dawn Ison convened a meeting with her staff and Defendant Ray Curry at which she said the UAW and President Curry were engaged in “gamesmanship” and would “face action from the Department of Justice” as a result. Id.

14. The July 19 status report also discloses that there are currently 19 open investigations against the UAW, including “five new matters that were opened since the filing of the Initial Status Report” in November 2021. *Id.* at 7. The most recent report notes “it is still too soon to fully assess the Union’s progress in carrying out the reforms it must enact to sustain much needed cultural change” and that the UAW has a “great distance” to cover.¹ *Id.* at 8.

The Lack of Notice to Eligible UAW Members Regarding the Election

15. Despite ruling repeatedly that the UAW is violating the rights of its membership, despite the UAW’s recent criminal behavior, and despite the fact that the UAW’s entrenched leadership campaign actively against direct elections (and was found by the Monitor to have violated Federal law in so doing), the Monitor placed the UAW’s entrenched leadership substantially in charge of notifying the UAW membership of its rights to participate in the elections.

16. The Monitor’s report on the referendum states that before the 2021 referendum on direct elections, the **UAW did not have a functional mailing list**. The Monitor wrote, “The Monitor established a mailing list for use in the Referendum. At the onset of the monitorship, the UAW did not have a sufficiently accurate or comprehensive centralized mailing list for its members.” Exhibit D at 12. The system, known as Local Unions Information System (“LUIS”) is “dependent on receiving information about members from each of the Local Unions” and “not all

¹ On October 14, 2022, the Monitor notified James Harris—Region 1 Director and current candidate for that office under the Curry slate—that he violated the election rules when he “inappropriately denied” a pass to his electoral opponent the UAW convention in Detroit.

Local Unions routinely uploaded (or even had the technological capacity to routinely upload)” members’ information to a centralized database. Id. at 12-13.

17. The Monitor reported, “The ‘inactive’ list indeed contains over 500,000 ‘members,’ most of whom have no longer been affiliated with the Union for decades (including many deceased members).” Id. at 17. It attempted to determine which of the “inactive” members were eligible and ineligible to vote, and asked the Local Unions to make a determination of who it should and should not send ballots to. Id. at 16-17.

18. From July to November 2021, the Monitor took the following measures requesting the UAW improve its list. On July 21, the Monitor and UAW emailed Local Union officers asking them to update their mailing addresses and email addresses. On July 28, the Monitor and UAW emailed a similar request to the 41,320 members on the existing email list, and also made a single post about it on the UAW’s Facebook Page.

19. On November 4, the Monitor and UAW sent another letter “reminding” Local Unions to update their membership’s information. The monitor set up a hotline and encouraged local unions to post one-page notices of the need to update their information in workplaces.

20. In August 2021, the Monitor also worked with an election vendor to run the mailing list through a National Change of Address database maintained by the U.S. Postal Service. The Postal Service identified 46,000 mailing addresses that were unmailable because they were not in the proper postal formatting. Id. at 15. The election vendor mailed a postcard to the mailing addresses of everyone on the Global Mailing List on August 27, 2021 and 91,000

postcards were “returned as undeliverable,” meaning nearly 10 percent of eligible UAW members and retirees evidently received no notice of an election. Id.

21. In its report following the referendum, the Monitor makes clear that before the referendum, the UAW had no mechanism for communicating with its members via email. “At the outset of the referendum, the Monitor learned that that LUIS contained email addresses for only 39,528 active members and 1,792 retired members (totaling 41,320).”² Id. at 13, n. 13.

22. Ultimately 1,031,655 potentially eligible voters were sent ballots for the referendum. Nearly 10 percent of ballots—91,402—were not delivered to an accurate address as of January 4, 2022. Id. at 20. The final vote total was 140,586, or 13.6 percent turnout calculated as a share of total potentially eligible voters. The fact that 86.4 percent of potentially eligible voters did not vote reflected widespread problems updating LUIS as well as the email list. With an abstention rate of nearly 9 in 10, rank-and-file workers clearly did not receive proper notice that a vote was even taking place. If the UAW actually wanted to inform members of their rights, this low turnout would have spurred substantial activity to improve turnout in the upcoming direct elections.

23. This did not come to pass. In the direct election, in which votes are being cast for Lehman, hardly any steps have been taken to build the mechanisms for communicating with and providing notice to the entire membership, including eligible retirees. By September 1, 2022, the email list had increased from 41,320 (~4 percent of potentially eligible voters) to 81,121.

² This imbalance between active members and retirees raises the question: What measures were taken to update the email addresses of retirees?

24. But of those, emails sent by Lehman's campaign on or about September 1 were only "successfully delivered" to less than 70,000 members, meaning the email list only gave the UAW the ability to communicate with ~6.7 percent of potentially eligible voters at the beginning of the direct election for international officers.

26. As of mid-November, the global email list only contains 138,057 email addresses, and recent email sent by Lehman's campaign reached less than 120,000 of these.

27. In other words, after two years of Monitorship and on the eve of the first direct election in UAW history, Defendants' email list is only capable of providing notice to 11.6 percent of eligible voters.

Widespread Problems With Ballot Mailing And Monitor Website

On October 17, the Monitor began mailing ballots to UAW members. Since early November, a concerning high number of UAW members have been submitting reports to the Monitor complaining that they had not received ballots, either within a reasonable time or at all. Many members have reported the Monitor's website and hotline were non-responsive when members attempted to use those resources to request ballots.

Affiant Halle Minor, an autoworker and UAW member in good standing from Pottsville, Pennsylvania, explains in an affidavit that she asked her UAW Local 644 representative for a ballot on November 2 or 3. This representative informed Minor that he had also not received a ballot, and that he would inquire as to how broad a phenomenon this was. Minor explains:

The following week, I still hadn't received a ballot. I have also tried to request a new ballot through the UAWVote.com website on November 7 when I was given the link to it. On November 8, I spoke to my representative again and was told that I would receive my ballot "soon."

On November 15 I tried to ask again, but received no answer. I feel as though UAW members aren't being given any say in this election and the decisions are being made for us. On the shop floor, no one seems to know that an election is even happening.

Exhibit A at 1. Another UAW member in good standing, Lesley Johnson of Michigan, states: "I have not gotten a ballot and I requested one from the Monitor's website around October 28." Id. at 3. Johnson continues:

I know personally of one worker, Kim, in my department, who hasn't gotten a ballot and there are many others all over the plant. A lot Temporary Part Time workers (TPTs) haven't gotten ballots, and the UAW is not telling them they can vote and they are not telling retirees they can vote.

It seems to me that the UAW leaders are violating everyone's rights. They should extend the voting. The Curry team are trying to rig or steal the election. There are no notices in the plant about the election. The UAW was not telling anyone they could vote. I didn't know about the election until I met the Will Lehman campaign. I didn't know about the debate. No one at Mack knew. The UAW wasn't telling us.

Id. Johnson also reports that "the UAW was telling us we could not put up flyers about the election without permission of union and management" and that "the Curry campaign is sending out texts and emails" using union resources. Id. He states: "This violates my right to vote! This is the first time we have had direct elections in the UAW and nobody knew about it. Even if I had a ballot, how can I be expected to think my vote had a meaningful impact when nobody even knew about an election?" Id.

A third affiant, Jacquelyn Cargile, works at Stellantis' Warren Truck Assembly Plant and lives in Redford, Michigan. She is also a member of the UAW in good standing. She explains that she only received a ballot after a long process that involved much time and effort. She further explains:

It's crazy how this election is so hush-hush. If we didn't see it on your flyer (Will Lehman) a lot of us wouldn't know there is an election going on. There are a couple of flyers of people running in the plant but there is nothing about the process, who's running and their credentials posted anywhere in the facility.

I don't feel like this is a fair election. It took weeks to get a ballot. How can an election count if most people never even heard an election is happening?

Id. at 4. For a representative sample of similar concerns raised by other UAW members, see

Exhibit B:

- “I went on a link on October 29th and I still haven't gotten a ballot. In my honest opinion, this whole thing is corrupt. It needs to be fixed.”—Tom Bauer, Local 140, Stellantis Warren Truck Assembly Plant, UAW Local 140.

- John Deere worker Melissa Sorrells of Local 79:

“It is Wednesday, November 16, and I have still not received a ballot. I have requested a ballot two times online, on October 31 and November 3, and called on November 9. I still have no ballot. It still might come but it pisses me off that I've had to request three times total.

“When I called the monitor hotline, they said supposedly my zip code was wrong. I said to her ‘really, I don't think that's the problem, but ok, just send me my ballot.’ A lot of people at PDC haven't gotten ballots. We told our committeeman and he was no help.

“A union rep came down Tuesday, November 15, and actually show where my address is correct according to their records, so they don't understand why I didn't get one. Scott Werts, a guy I work with, didn't know anything about the ballots. He thought we went to the union hall and voted. I said no, and that's when he said he didn't get a ballot. Needless to say my committee man and few others heard an earful yesterday from me about this whole election.

“Our local said they posted something on the elections on Facebook, but I went back and looked and no they didn't. A lot of people I talk to don't even know about this election, that's the sad part. They don't want anybody to know because they want Curry to win.”

- “I have not received a ballot. I called and talked with UAW Vote Center and I was assured both times a ballot would be sent out, but have not received one.”—John Brooks, Local 140, Stellantis Warren Truck Assembly Plant, UAW Local 140.
- “I never got a ballot. I think it's all bad. They're doing us TPT's wrong. Every week they're switching us around, using us when they need us. They don't care. We need new people in office. They don't want us to have a voice.”—Ebony Stewart, Local 140, Stellantis Warren Truck Assembly Plant, UAW Local 140.

- “The time frame to vote is narrowly coming to an end. I have not received my ballot (as of Nov 13) over a week ago I contacted the monitor. I have yet to receive a ballot and the issue is its thousands of people who haven’t gotten a ballot and we vote this week. I feel more time is needed to give workers every opportunity to vote.” –Tiffiney, Stellantis Jefferson North Assembly Plant, UAW Local 7
- “I have not received my UAW ballot as of November 15, 2022.” –Becky Sutherland. GM Flint Assembly Plant, UAW Local 589.
- “I still have NOT received a ballot even after requesting a ballot.” – John Maser
- “I am Alexander Novokhodko, a UAW4121 member and departmental steward. I am contacting you because myself and many in my department report receiving no ballot to vote in the UAW election, despite filing replacement ballot requests prior to the deadline.”
- “I’m a retired ford worker 36 yrs Douglas Louthan 862 Kentucky Truck Plant and I have not gotten a ballet. Please send a ballet”—Douglas Louthan.
- “I am an Electrician at the GM Arlington plant, Local 276. I and most of my fellow skilled tradesmen have not received a ballot. I called the number to request a ballot on October 28, and was told it would be 7-10 days. As of today 11-12-22, I still do not have a ballot. On Monday 11-7-22, as I was entering the plant, my shop chairman was handing out Curry literature at the gate. I told him about the problem with the ballots, and he said that was happening a lot but didn't seem too interested. I find this really strange since the Union has my address correct, because I receive the issues of Solidarity magazine, including the latest issue with the candidates. One man one vote is not really true if we don't get a ballot. Is there a protest procedure? I would be interested.”—Lonny Acker, GM Arlington, UAW Local 276.
- “My name is Jennifer Brown. I am a worker at ford kentucky truck plant in Louisville, KY and a member of uaw local 862. I was hired Jan 18, 2022 and converted to full time Jan 31, 2022. I am trying to vote and haven't received a ballot. I've called the monitor number, emailed my union financial secretary to verify my info, and requested a ballot online starting back on October 24th. I've tried multiple times. Still no ballot. I'm afraid I'm not the only one. Seems to me that the only ones receiving ballots are the ones that are voting for a certain candidate. What can I do to make sure I get to vote? This is beyond corrupt and I see now that it trickles down from the top all the way to the local level. Please help!”

This is only a small sampling of the statements that have been to the Monitor.

Not only has the Monitor failed to adequately respond to these complaints, the Monitor also took down the mechanism for requesting ballots roughly 10 hours before the deadline expired at midnight pacific time on Friday, November 11.

Members who called the telephone hotline well before 8 pm heard the number ring endlessly while no representative picked up to take their request for a new ballot. Moreover, UAWvote.com does not presently mention that ballots must be postmarked by November 18 in order to be received by the November 28 tabulation deadline.

Other Systemic Election Irregularities and the Monitor's Inaction

37. UAW members have also reported to the Monitor a series of other issues relating to the conduct of the election, which the Monitor has failed to address.

- On September 1, Lehman demanded that the Monitor investigate actions by a UAW Local 598 official in Flint, Michigan who instructed an individual to take photographs of workers who spoke to Lehman in the parking lot at Flint GM Assembly in an effort of intimidation. *See* Exhibit F at 22. This violated Rules 4-4 and 4-5 of the election rules which protect the right of UAW members to participate in the election free of retaliation or intimidation by the UAW. Representatives of the Monitor's office interviewed Lehman shortly thereafter but would not answer affirmatively when asked whether the Monitor was conducting an "investigation" into the matter. *Id.*
- On October 22, UAW member Ed Baum wrote: "Just received my ballot for UAW election and so did my deceased wife she has been dead 6 years."
- In early November, an official with UAW Local 3047 in Elizabethtown, Kentucky took photographs of the license plates of workers in the physical proximity of Lehman campaign volunteers who were distributing information about the election. Exhibit F at 36. This would not have happened had the monitor properly investigated the earlier incident of intimidation from Flint.
- On November 9, Lehman wrote to the Monitor to forward "serious concerns" that many members had reported to his campaign over lack of access to ballots and the failures with the Monitor's ballot requesting mechanism. It demanded "serious action" due to lower turnout and widespread issues with voting. *Id.* at 34.
- On November 11, Will Lehman forwarded to the Monitor a letter from the Vice President of Local 1302 stating that multiple managers had been sent a ballot,

while UAW members in good standing had not yet received theirs. The letter states:

“My name is Sherman Gray, I’m the vice president of UAW Local 1302. I would like to report that management is being sent ballots in the UAW elections, and they may be voting. I’m not showing bias to any candidate, but this isn’t right and workers should know about it.

“At our local, we had managers come and bring us ballots with their names and home addresses on it in October. They told us, “These just showed up in the mail, we don’t know what to do about it.” So, I turned it into the Monitor and the UAW international and asked them why management got to vote in our election and why ballots were being sent to them. I haven’t heard anything back. We gave them our personal info and asked for advice. We got radio silence. This would have been shortly after October 17 when ballots first went out.

“It isn’t an isolated thing. There are reports all over of managers getting 2 ballots even. It was multiple managers who came to us with this, there are a bunch of them. It’s unfair because workers still haven’t even gotten ballots. Our committee chair had to request a ballot, and he’s been a committee chair for 15 years. It’s a mess. I don’t like it. We sit at UAW conferences, and UAW always says “the ballot box is the key,” but we don’t even get to vote for IEB office.

“These managers who said they got ballots are not former workers. We thought that at first too, that it could be guys that were originally in our unit and got promoted, but that’s not the case. They were just straight-up management. And these were only the guys who came forward, I don’t know how many got ballots but did not come forward. I don’t know what happened to the ballots, either. They were returned to the local, but it’s possible they could have been mailed in by someone else.

“In my opinion everyone has to vote, and it has to be fair. Ballots can’t be going out to people that are not members of the union.” *Id.* at 48.

- Also on November 11, Lehman again forwarded additional members’ problems with receiving ballots and reiterated concerns over exceedingly low turnout in the election. Lehman demanded a 30-day delay to the deadline to request a new ballot and to postmark a ballot. Lehman also demanded that “serious, effective measures finally be taken to notify the entire membership of its right to vote.” *Id.* at 46.
- On November 11 at 9:30 PM, hours before the deadline ended to request new ballots, the Monitor wrote Lehman and told him to encourage voters to go to the Monitor’s website to request a ballot. Lehman replied indicating that he had been doing so for weeks, and forwarded reports from many UAW members who were

not able to acquire a new ballot through the Monitor's hotline or webpage. The Monitor also said they would reply to Lehman's requests for action "soon," but never did.

- In the same letter, Lehman notified the Monitor that the website was down and that workers were reporting they could not request new ballots, even though the deadline had not expired. *Id.* at 47.

38. As of 5 pm on November 16, 48 hours before the November 18 deadline to postmark ballots in the election for UAW International officers, only 94,184 votes have been received by the Monitor—less than an estimated 9 percent of the total eligible membership.

39. This means that 91 percent of the membership has not voted. They either did not vote because they do not know there is an election, they did not receive a ballot, or they did not want to vote. According to the Monitor's semi-regularly posted notices, an average of only 1,000 ballots arrive each day. For example, on November 15 at 5 pm Eastern, the Monitor's website stated that 93,149 votes had been submitted, and at the same time the next day, 94,184 had been submitted, an increase of only 1,035.

40. If ballots continue to be sent at this rate each day through the November 28 deadline, total turnout will be roughly 104,000—almost 40,000 ballots fewer than last year's referendum.

41. These abysmal numbers, combined with the affidavits and testimony provided above, are the result of the fact that the UAW made no real effort to inform the entire membership that an election was taking place.

42. From April 2021 to November 16, 2022, the UAW made 1 post on its official Twitter account (December 2, 2021, to announce the results) and 2 on its official Facebook account about the referendum. This is not accidental. Over this same period, the UAW made 0 Twitter posts and 2 Facebook posts about how members can update their mailing and email

addresses. It made slightly more posts about the election for international officers—2 on Twitter and 17 on Facebook—but this amounts to less than one post per month. As Lehman made clear in his affidavit, his Local made no real attempt to notify all workers of the election, their right to vote, or how to update mailing information. Exhibit A at 6.

COUNT ONE: Equal Right to Vote
29 U.S.C. §441(a)(1)

Plaintiffs restate paragraphs 1 through 42 as if alleged herein. Section 101 of the Labor Management Reporting and Disclosure Act (“LMRDA”) states that “[e]very member of a labor organization shall have equal rights and privileges within such organization...to vote in elections or referendums of the labor organization...” 29 U.S.C. §411(a)(1).

“When a union provides its membership with the right to vote on a certain matter, the right must be extended on an equal basis and in a meaningful manner.” *McGinnis v. Teamsters Local 710*, 774 F.2d 196, 199 (7th Cir. 1985).

The UAW and Monitor have denied Lehman and his fellow rank-and-file workers within the UAW the right to meaningfully vote in an election that genuinely expresses the will of the membership. An election cannot express the genuine will of the membership where the UAW and Monitor have not actually notified the bulk of the membership that an election is taking place and have also failed to establish a system through which workers have an equal right to vote with relative ease.

The UAW’s actions violate federal law and the Monitor has failed to take effective action to mitigate or remedy the violations.

Plaintiff Lehman therefore seeks the following relief:

- a. Injunctive relief extending the deadlines to request, postmark, or receive ballots by 30 days, or by a length of time that the Court determines necessary to preserve the integrity and fairness of the election;
- b. Injunctive relief requiring the Monitor and UAW to provide effective notice to the entire UAW membership that an election is taking place and that they have the right to vote in it.
- c. Injunctive relief requiring the Monitor and UAW to ensure that all eligible UAW members receive ballots in time for them to vote in the elections.
- d. Such other relief that this Court deems necessary to uphold the right of Lehman and other similarly-situated rank-and-file members to meaningfully vote in an election that genuinely expresses the will of the membership.

COUNT TWO: Equal Right to Speak
29 U.S.C. §101(a)(2)

Plaintiffs restate paragraphs 1 through 42 as if alleged herein. Section 101(a)(2) of the LMRDA guarantees union members the right to “express any views, arguments, or opinions...” 29 U.S.C. §411(a).

The Supreme Court has held that one vital way that union members exercise their right to free speech is through electing their leadership. *Sheet Metal Workers v. Lynn*, 488 U.S. 347, 355 (1989).

By failing to notify the entire UAW membership of the election and failing to distribute ballots successfully to the entire membership, the UAW has denied Lehman’s right to duly-elect the leadership of his union. Unless action is swiftly taken to guarantee the right to vote, whatever leadership emerges from this election will not be legitimate, “duly-elected” or in any way representative of the rank-and-file members of the union like Lehman.

The UAW's actions violate federal law and the Monitor has failed to take effective action to mitigate or remedy the violations.

Plaintiff Lehman therefore seeks the following relief:

- e. Injunctive relief extending the deadlines to request, postmark, or receive ballots by 30 days, or by a length of time that the Court determines necessary to preserve the integrity and fairness of the election process;
- f. Injunctive relief requiring the Monitor and UAW to provide effective notice to the entire UAW membership that an election is taking place and that they have the right to vote in it.
- g. Injunctive relief requiring the Monitor and UAW to ensure that all eligible UAW members receive ballots in time for them to vote in the elections.
- h. Such other relief that this Court deems necessary to uphold the right of Lehman and other similarly-situated rank-and-file members to exercise their rights under Section 101(a)(2) of the LMRDA.

Respectfully submitted,

Dated: November 17, 2022

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