

**IN THE UNITED DISTRICT COURT  
FOR WESTERN DISTRICT OF NORTH CAROLINA**

RONNIE ADCOCK, TIMOTHY )  
COCHRANE, THOMAS COCHRANE, )  
KATHERINE IVEY, & KRISTI JONES, )  
Plaintiffs, )

INTERNATIONAL UNION, UNITED )  
AUTOMOBILE AND AGRICULTURAL )  
IMPLEMENT WORKERS OF )  
AMERICA, )  
Defendant, )

FREIGHTLINER LLC, )  
Defendant. )

COMPLAINT–CLASS ACTION

**PRELIMINARY STATEMENT**

This is a class action suit under the Racketeer Influenced and Corrupt Practice Act, §§ 18 U.S.C. 1961-1968 (“RICO”) involving a scheme wherein an employer delivered valuable organizing assistance to a union in exchange for, *quid pro quo*, the union making bargaining concessions at the expense of employees the union represents. Plaintiff employees, on their own behalf and on behalf of the similarly situated employees of the Plaintiff Class, seek redress for the damages they have suffered as a result of Defendants’ unlawful scheme.

Freightliner is an employer that owns and operates several production facilities in North Carolina. In August 2002, it entered into several secret agreements with the International Union, United Automobile and Agricultural Implement Workers of America (“UAW”).

In the agreements, Freightliner agreed to deliver valuable organizing assistance to the UAW to support its organizing campaigns against non-union Freightliner employees. This includes compelling employees to attend captive audience meetings with UAW officials and organizers, granting UAW organizers special access to company property, and prohibiting

negative comments about the UAW.

In return for the organizing assistance, the UAW gave Freightliner control over how the UAW and its subordinate local unions would act as the fiduciary representative of Freightliner employees during collective bargaining negotiations with the company. The UAW secretly agreed that it would freeze the wages of represented employees, increase their benefit costs, and make other concessions regarding severance pay, transfer rights, and overtime.

Defendants implemented their scheme against the employees of several Freightliner facilities in North Carolina. Pursuant to their scheme, Freightliner delivered valuable organizing assistance to the UAW so as to unionize the employees of the targeted facilities. In return, the UAW submitted to Freightliner's control during collective bargaining negotiations and made concessions at the expense of employees. Defendants' arrangement—bargaining concessions in exchange for organizing assistance—was deliberately concealed from Freightliner employees.

Defendants' conduct is unlawful under 29 U.S.C. § 186, which prohibits employers from delivering "any money or other thing of value" to labor organizations, and prohibits labor organizations from requesting or receiving the same. Freightliner's willful delivery of valuable organizing assistance to the UAW, and the UAW's willful acceptance thereof, violates this anti-conflict of interest statute. RICO provides a private cause of action for damages resulting from a pattern of § 186 violations.

Plaintiffs and the proposed Plaintiff Class are individual employees who the UAW had a fiduciary duty to represent in collective bargaining negotiations with Freightliner. As a direct result of Defendants' scheme, Plaintiffs and the proposed Plaintiff Class were deprived of wages,

benefits, and other terms of employment. Moreover, many paid dues to the UAW for a service which they never received: loyal collective bargaining representation. In this suit, Plaintiffs and the proposed Plaintiff Class seek redress for the pecuniary injury they have suffered as a direct result of Defendants' unlawful and corrupt scheme.

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction of this action under 18 U.S.C. §§ 1964(a) and 1964(c) and 28 U.S.C. §§ 1331 and 1337.
2. This is a case of actual controversy in which the Plaintiffs and proposed Plaintiff Class are seeking a declaration of their rights. Under 28 U.S.C. §§ 2201 and 2202, this Court may declare their rights and grant further necessary or proper relief based thereon.
3. Venue is proper in the Western District of North Carolina and this Court has personal jurisdiction over the Defendants pursuant to 18 U.S.C. § 1965(a) and 28 U.S.C. § 1391(b), as the Defendants are found within, have agents within, are doing business in, and transact their affairs in this District, and the activities of the Defendants which gave rise to the claims for relief occurred in this District.

### **PARTIES**

4. Defendant Freightliner LLC ("Freightliner") is a Delaware corporation with its corporate headquarters located at 4747 Channel Ave, Portland, Oregon. Freightliner is a wholly-owned subsidiary of DaimlerChrysler.
5. Freightliner, either directly or through a subsidiary corporation, owns, operates, and controls several facilities, including but not limited to:

- a. Mt. Holly Truck Manufacturing Plant at 1800 North Main Street, Mt. Holly, North Carolina (“Mt. Holly facility”);
  - b. Gastonia Parts Manufacturing Plant at 1400 Tulip Drive, Gastonia, North Carolina (“Gastonia facility”);
  - c. Cleveland Truck Manufacturing Plant at 11550 Statesville Blvd., Cleveland, North Carolina, (“Cleveland Production facility”);
  - c. Cleveland Parts Distribution Facility at 260 Bear Poplar Road, Cleveland, North Carolina (“Cleveland PDI facility”);
  - d. Thomas Built Buses Manufacturing Plant at 1408 Courtesy Road, High Point, North Carolina (“TBB facility”)
  - e. Freightliner Custom Chassis Corporation Manufacturing Plant at 552 Hyatt Street, Gaffney, South Carolina (“Gaffney facility”).
6. Plaintiff Ronnie Adcock is a citizen of North Carolina who resides at 220 Fry Street, China Grove, North Carolina 28021. He has been employed by Freightliner at its Cleveland facility at times relevant to this action.
7. Plaintiff Timothy Cochrane is a citizen of North Carolina who resides at 770 Bermuda Avenue, Gastonia, North Carolina 28054. He has been employed by Freightliner at its Gastonia facility at times relevant to this action.
8. Plaintiff Thomas Cochrane is a citizen of North Carolina who resides at 2419 Lewiston Drive, Gastonia, North Carolina 28054. He has been employed by Freightliner at its Gastonia facility at times relevant to this action.

9. Plaintiff Katherine Ivey is a citizen of North Carolina who resides at 705 W. 19th Avenue, Gastonia, North Carolina 28052. She has been employed by Freightliner at its Gastonia facility at times relevant to this action.

10. Plaintiff Kristi Jone is a citizen of North Carolina who resides at 715 A Street, Bessemer City, North Carolina 28016. She has been employed by Freightliner at its Gastonia facility at times relevant to this action.

11. Defendant International Union, United Automobile and Agricultural Implement Workers of America (“UAW”) is a labor organization headquartered at 8000 East Jefferson Avenue, Detroit, Michigan, 48214.

12. United Auto Workers Local 5285, United Auto Workers Local 5286, and United Auto Workers Local 3520 are subsidiary local unions affiliated with, chartered by, subordinate to, and controlled by the UAW pursuant to the UAW Constitution and other governing documents, as well as in actual practice.

13. As a labor organization, the primary function of the UAW and its subordinate local unions is to deal with employers on behalf of represented employees concerning employees’ grievances, labor disputes, wages, rates of pay, hours of employment, and conditions of work.

14. When acting as the exclusive bargaining representative of employees, the UAW and its subordinate local unions owe a fiduciary duty of complete loyalty to represented employees. A labor organization, such as the UAW and its subordinate local unions, is disloyal and breaches its fiduciary duty to represented employees if it:

- a. engages in self-dealing by demanding or accepting money or things of value from an

- employer whose employees the union represents;
- b. is under the control or influence of the employer with which the labor organization bargains on behalf of represented employees; and/or
  - c. places the labor organization's self-interests before the interests of represented employees, such as by compromising the interests of represented employees in exchange for something from an employer that satisfies the self-interest of the labor organization.

### FACTS

#### **The Negotiation of the Card Check and Preconditions Agreements.**

15. As of March 2002, the UAW and its subordinate UAW Local 5285 was the exclusive bargaining representative of production and maintenance employees at the Mt. Holly facility. The UAW was not the exclusive bargaining representative of employees at several other Freightliner facilities, including but not limited to the Gastonia facility, Cleveland Production facility, Cleveland PDI facility, TBB facility, and Gaffney facility. However, the UAW sought to organize and become the exclusive bargaining representative of employees at these and other Freightliner facilities.
16. In pursuit of its objective to organize the employees of Freightliner's non-union facilities, the UAW requested and demanded that Freightliner assist UAW organizing campaigns against these employees. Among other things, the UAW requested and demanded that Freightliner:
- a. compel employees targeted for unionization to attend captive audience meetings with Freightliner and UAW officials, on company time and property, to be solicited to support UAW representation;

- b. grant UAW organizers special access to Freightliner facilities for the purpose of soliciting employees to support UAW representation; and
- c. prohibit negative comments about the UAW or unionization.

17. In response to the UAW's demand for organizing assistance, Freightliner insisted that the UAW agree to certain "preconditions" to receiving the requested organizing assistance. Among other things, Freightliner insisted that the UAW agree to make bargaining concessions at the expense of employees the UAW represents and seeks to represent (i.e., organize).

18. Freightliner and the UAW negotiated over the organizing assistance that Freightliner would deliver to the UAW and the concessions that the UAW would agree to in return. Individuals involved in the negotiations included, but were not limited to, Scott Evitt, former General Manager of Human Resources for Freightliner, Rainer Schmueckle, former President and CEO of Freightliner, Nate Gooden, UAW Vice-President, and David McAllister, Assistant to Nate Gooden. These negotiations were conducted in secret and deliberately concealed from Freightliner employees the UAW represented and sought to represent.

19. In a letter dated August 20, 2002, from Scott Evitt to David McCallister, Freightliner listed its preconditions to assisting UAW organizing campaigns. The letter stated in part:

A final agreement is dependent upon receiving some contractual relief at Mt. Holly. Specifically, Freightliner expects cancellation of 12/02-wage increase, cancellation of 1/03 profit sharing bonus, benefits cost sharing by employees, and an extension of the current contract with no wage increases.

20. In December 2002, Freightliner and the UAW entered into two interrelated agreements: the "Tentative Agreement Between Freightliner LLC and the UAW for the Purpose of Establishing a Card Check Procedure" ("Card Check Agreement") and "Tentative Agreement on Preconditions

to a Card Check Procedure Between Freightliner LLC and the UAW” (“Preconditions Agreement”). True and correct copies of the agreements are attached as Exhibit A.

21. In the Card Check Agreement, Freightliner agreed to deliver the following organizing assistance to the UAW:

a. *Captive Audience Meetings*. “Freightliner and the UAW will jointly present an initial information program that explains the card check procedure to employees. In advance of the meeting, a letter from Freightliner will be sent to all employees explaining the card check Agreement and process that will be used—including the date and time of the meetings to be held in the plant. Attendance at these meeting will be compulsory, with pay, during working hours. At the conclusion of the informational program, the designation cards will be distributed to the active employees of the designated bargaining unit,” Card Check Agreement, § B,

b. *Access to Facilities*. “During organizing campaigns, the UAW will have reasonable access to the employees during the workday in non-work areas, including parking lots, building entrances and exits, break areas, smoking areas, cafeterias, and hallways,” Card Check Agreement, § 8; and

c. *Gag Rule*. “Management agrees that it will not make any negative comments (written or verbal) against the UAW.” Card Check Agreement, § 9.

22. The above listed forms of organizing assistance have significant value to the UAW because, among other things:

a. the UAW desired the organizing assistance;



- b. the UAW subjectively believed the organizing assistance to have utility; and/or
- c. the organizing assistance has utility to the UAW.

23. In the Card Check Agreement, Freightliner also agreed to recognize the UAW as the exclusive bargaining representative of employees based on authorization cards acquired by the UAW with Freightliner's assistance. *See* Card Check Agreement, §§ 3-5.

24. In exchange for the organizing assistance Freightliner agreed to deliver in the Card Check Agreement, the UAW entered into the Preconditions Agreement and made the following commitments with regard to its conduct as the exclusive bargaining representative of employees:

- a. There will be separate consideration in terms and conditions of employment for each Business Unit because of industry differences (trucks, parts, busses, fire and rescue, chassis) including competitive wage and benefits packages within comparative product markets. Freightliner will provide proposals, as necessary, which reflect competitive analysis for each Business Unit's targeted market.
- b. There shall be no guaranteed employment or transfer rights between Business Units or Plants.
- c. There will be no provisions for severance pay or SUB in the event of a layoff or plant closure.
- d. There will be no strikes during the term of any collectively bargained agreement. The standard language will be identical to that contained in the Mt. Holly Labor Agreement.
- e. There are no future expectations that any Freightliner Business Unit will be required to meet 'UAW pattern' agreements.
- f. There will be no subcontracting prohibitions, provided economics reflect non-competitiveness. To the extent required, however, management will share economic non-competitive conditions with the Union before outsourcing or subcontracting.
- g. All production standards, plant layout, and job qualifications shall remain at the Company's discretion.
- h. There shall be no additional restrictions imposed against overtime scheduling.
- i. There may be a maximum of one paid union representative per plant location with basic office space provided. Further, the Union will ensure that grievance handling and related contract administration activities by committee persons are expedited.
- j. Future benefits cost increases, in excess of normal inflation, will be shared between the Company and the employees proportionately at a rate to be determined between the Company and its employees.
- k. The UAW will not attempt to organize any of Freightliner's office or professional

employees.

l. In consideration of Freightliner's financial turnaround objectives, there will be no wage adjustments provided at any newly organized facility prior to mid-2003.

m. The UAW agrees that it will not require, or pressure, Freightliner or its Business Units to utilize suppliers strictly based on upon their representational status.

25. The Preconditions Agreement was a binding contract and, but for it being unlawful, was fully enforceable by Freightliner against the UAW and its subordinate locals.

26. In addition to the Preconditions Agreement, the UAW agreed to make bargaining concessions at the expense of represented employees at the Mt. Holly facility in exchange for Freightliner's agreement to deliver organizing assistance to the union. Among other things, the UAW made the following binding commitments:

a. no increase or adjustment in employees' wages for the three year (3) term of the collective bargaining agreement;

b. to cancel employees' profit sharing bonus;

c. to increase employee benefit payments, including but not limited to an increase in co-insurance and an increases in co-pays.

("Mt. Holly Agreement").

27. On information and belief, the UAW made additional commitments regarding its conduct as the exclusive bargaining representative of Freightliner employees in exchange for Freightliner's delivery of organizing assistance in the Card Check Agreement.

28. Freightliner, by and through agreeing to deliver organizing assistance to the UAW in the Card Check Agreement, acquired control over the management and operations of the UAW and its subordinate locals in their conduct as the exclusive bargaining representative of Freightliner

employees in the Preconditions Agreement and Mt. Holly Agreement.

29. Defendants deliberately concealed from Freightliner employees the terms of the Card Check Agreement, the Preconditions Agreement, and the Mt. Holly Agreement.

**Enforcement of the Card Check, Preconditions, and Mt. Holly Agreements.**

*Mt. Holly Facility*

30. At all times relevant to this Complaint, the UAW and its subordinate UAW Local 5285 have been the exclusive bargaining representative of production and maintenance employees at the Mt. Holly facility and have a fiduciary duty of complete loyalty to these employees.

31. On June 19, 2003, Freightliner and the UAW, on its own behalf and on behalf of its subordinate UAW Local 5285, entered into a collective bargaining agreement governing the terms and conditions of employment of production and maintenance employees at the Mt. Holly facility (“Mt. Holly CBA”).

32. During the negotiation of the Mt. Holly CBA, Freightliner, by virtue of its agreement to deliver organizing assistance to the UAW, maintained and exercised control over the management and operations of UAW and its subordinate UAW Local 5285 in its conduct as the exclusive bargaining representative of Mt. Holly employees pursuant to the Preconditions Agreement and Mt. Holly Agreement and caused the UAW and UAW Local 5285 to make bargaining concessions at the expense of employees in the Mt. Holly CBA that include but are not limited to:

- a. no increase or adjustment in employees’ wages for the three (3) term of the collective bargaining agreement;
- b. cancellation of an employees’ profit sharing bonus;

c. increased benefit payments by employees, including but not limited to an increase in co-insurance and increases in co-pays; and

d. the concessions delineated in the Preconditions Agreement.

33. The UAW and its subordinate UAW Local 5285 submitted to Freightliner's control during the negotiation of the Mt. Holly CBA and made bargaining concessions in the Mt. Holly CBA, as described above, in exchange for Freightliner's agreement to deliver organizing assistance to the UAW. The UAW and its subordinate UAW Local 5285 thereby breached its fiduciary duty to, and was otherwise disloyal to, represented employees at the Mt. Holly facility because it:

a. engaged in self-dealing by demanding and agreeing to accept "thing[s] of value" from Freightliner in violation of 29 U.S.C. § 186 (*see* Paragraphs 75-78, *infra*);

b. submitted to the control of the employer with which it was bargaining on behalf of represented employees; and/or

c. placed the UAW's self-interest in organizing before the business and property interests of represented employees at the Mt. Holly facility.

34. As a direct result of the conduct described above at Paragraphs 32-33, Freightliner employees whose terms and conditions of employment are or were governed by the Mt. Holly CBA:

a. were deprived of wages, benefits, and other terms and conditions of employment; and

b. those employees who paid dues to the UAW did not receive the services for which they paid—loyal collective bargaining representation.

35. Defendants deliberately concealed from Mt. Holly employees the terms of the Card Check Agreement, the Preconditions Agreement, the Mt. Holly Agreement, Freightliner's control over

the UAW, the UAW's disloyalty and breach of fiduciary duty, and that the UAW made bargaining concessions at their expense in the Mt. Holly CBA in exchange for Freightliner's delivery of organizing assistance.

*Gastonia Facility*

36. In or around January 2003, the UAW requested and demanded that Freightliner deliver valuable organizing assistance to the UAW pursuant to the Card Check Agreement to support a UAW organizing campaign against the employees of the Gastonia facility.

37. In or around January 2003, Freightliner delivered the following organizing assistance to the UAW to support the UAW's organizing campaign against the employees of the Gastonia facility:

- a. Freightliner conducted a series of Captive Audience Meetings pursuant to § B of the Card Check Agreement, wherein employees were compelled to attend mass meetings, on company property and during paid work time, during which Freightliner officials, UAW officials, and UAW organizers solicited employees to sign the union authorization cards distributed and collected at the meeting;
- b. Freightliner provided UAW organizers with special access to the Gastonia facility pursuant to § 8 of the Card Check Agreement to solicit and collect union authorization cards from employees; and
- c. Freightliner prohibited its managers from making any negative comments (written or verbal) against the UAW pursuant to § 9 Card Check Agreement.

38. The above-described organizing assistance that Freightliner delivered to the UAW had significant value to the UAW because, among other things,:

- a. the UAW desired the organizing assistance;
- b. the UAW subjectively believed the organizing assistance to have utility; and/or
- c. the organizing assistance had utility to the UAW.

39. On or about January 29, 2003, Freightliner recognized the UAW as the exclusive bargaining representative of the production and maintenance employees of the Gastonia facility based on union authorization cards collected by the UAW with Freightliner's assistance. The UAW had a fiduciary duty of complete loyalty to these employees upon being recognized as their exclusive bargaining representative.

40. On December 21, 2003, Freightliner and the UAW, on its own behalf and on behalf of UAW Local 5286, entered into a collective bargaining agreement governing the terms and conditions of employment of production and maintenance employees at the Gastonia facility ("Gastonia CBA").

41. During the negotiation of the Gastonia CBA, Freightliner, by virtue of delivering and agreeing to deliver organizing assistance to the UAW, maintained and exercised control over the management and operations of the UAW and its subordinate UAW Local 5286 in its conduct as the exclusive bargaining representative of Gastonia employees pursuant to the Preconditions Agreement and caused the UAW and UAW Local 5286 to negotiate and enter into a collective bargaining agreement limited by and consistent with the Preconditions and Mt. Holly Agreements.

42. The UAW and its subordinate UAW Local 5286 submitted to Freightliner's control during the negotiation of the Gastonia CBA and made bargaining concessions in the Gastonia CBA as per the Preconditions and Mt. Holly Agreements in exchange for Freightliner's delivery of organizing assistance to the UAW. The UAW and its subordinate UAW Local 5286 thereby

breached its fiduciary duty to, and was otherwise disloyal to, represented employees at the Gastonia facility because it:

- a. engaged in self-dealing by demanding and accepting “thing[s] of value” from Freightliner in violation of 29 U.S.C. § 186 (*see* Paragraphs 75-78, *infra*);
- b. submitted to the control of the employer with which it was bargaining on behalf of represented employees; and/or
- c. placed the UAW’s self-interest in organizing before the business and property interests of represented employees at the Gastonia facility .

43. As a direct result of the conduct described above at Paragraphs 41-42, Freightliner employees whose terms and conditions of employment are or were governed by the Gastonia CBA:

- a. were deprived of wages, benefits, and other terms and conditions of employment; and
- b. those employees who paid dues to the UAW did not receive the services for which they paid—loyal collective bargaining representation.

44. Defendants deliberately concealed from Gastonia employees the terms of the Card Check Agreement, the Preconditions Agreement, the Mt. Holly Agreement, Freightliner’s control over the UAW, the UAW’s disloyalty and breach of fiduciary duty, and that the UAW made bargaining concessions at their expense in the Gastonia CBA in exchange for Freightliner’s delivery of organizing assistance.

#### *Cleveland Facilities*

45. In or around January 2003, the UAW requested and demanded that Freightliner deliver valuable organizing assistance to the UAW pursuant to the Card Check Agreement to support a

UAW organizing campaign against the employees of the Cleveland Production facility.

46. In or around January 2003, Freightliner delivered the following valuable organizing assistance to the UAW to support its organizing campaign against the employees of the Cleveland Production facility:

- a. Freightliner conducted a series of Captive Audience Meetings pursuant to § B of the Card Check Agreement, wherein employees were compelled to attend mass meetings, on company property and during paid work time, during which Freightliner officials, UAW officials, and UAW organizers solicited employees to sign the union authorization cards distributed and collected at the meeting;
- b. Freightliner provided UAW organizers with special access to the Cleveland Production facility pursuant to § 8 of the Card Check Agreement to solicit and collect union authorization cards from employees; and
- c. Freightliner prohibited its managers from making any negative comments (written or verbal) against the UAW pursuant to § 9 Card Check Agreement.

47. The above-described organizing assistance that Freightliner delivered to the UAW had significant value to the UAW because, among other things:

- a. the UAW desired the organizing assistance;
- b. the UAW subjectively believed the organizing assistance to have utility; and/or
- c. the organizing assistance had utility to the UAW.

48. On or about January 29, 2003, Freightliner recognized the UAW as the exclusive bargaining representative of the production and maintenance employees of the Cleveland Production facility



based on union authorization cards collected by the UAW with Freightliner's assistance.

49. On or about May 16, 2003, the UAW was certified as the exclusive bargaining representative of production and maintenance employees at the Cleveland PDI facility.

50. The UAW had a fiduciary duty of complete loyalty to the production and maintenance employees of the Cleveland Production facility and the Cleveland PDI facility upon being recognized as their exclusive bargaining representative.

51. On December 20, 2003, Freightliner and the UAW, on its own behalf and on behalf of UAW Local 3520, entered into a collective bargaining agreement governing the terms and conditions of employment of the production and maintenance employees of the Cleveland Production facility and the Cleveland PDI facility ("Cleveland CBA").

52. During the negotiation of the Cleveland CBA, Freightliner, by virtue of delivering and agreeing to deliver organizing assistance to the UAW, maintained and exercised control over the management and operations of the UAW and its subordinate UAW Local 3520 in its conduct as the exclusive bargaining representative of Cleveland employees pursuant to the Preconditions Agreement and caused the UAW and UAW Local 3520 to negotiate and enter into a collective bargaining agreement limited by and consistent with the Preconditions and Mt. Holly Agreements.

53. The UAW and its subordinate UAW Local 3520 submitted to Freightliner's control during the negotiation of the Cleveland CBA and made bargaining concessions in the Cleveland CBA as per the Preconditions and Mt. Holly Agreements in exchange for Freightliner's delivery of organizing assistance to the UAW. The UAW and its subordinate UAW Local 3520 thereby breached its fiduciary duty to, and was otherwise disloyal to, represented employees at the

Cleveland facilities because it:

- a. engaged in self-dealing by demanding and accepting “thing[s] of value” from Freightliner in violation of 29 U.S.C. § 186 (*see* Paragraphs 75-78, *infra*);
- b. submitted to the control of the employer with which it was bargaining on behalf of represented employees; and/or
- c. placed the UAW’s self-interest in organizing before the business and property interests of represented employees at the Cleveland facilities.

54. As a direct result of the conduct described above at Paragraphs 52-53, Freightliner employees whose terms and conditions of employment are or were governed by the Cleveland CBA:

- a. were deprived of wages, benefits, and other terms and conditions of employment; and
- b. those employees who paid dues to the UAW did not receive the services for which they paid—loyal collective bargaining representation.

55. Defendants deliberately concealed from the employees of the Cleveland Production and Cleveland PDI facilities the terms of the Card Check Agreement, the Preconditions Agreement, the Mt. Holly Agreement, Freightliner’s control over the UAW, the UAW’s disloyalty and breach of fiduciary duty, and that the UAW made bargaining concessions at their expense in the Cleveland CBA in exchange for Freightliner’s delivery of organizing assistance.

56. Indeed, the information described above was even deliberately concealed from Plaintiff Ronnie Adcock, who was an employee member of the local bargaining committee the UAW established to participate in the negotiation for the Cleveland CBA. On information and belief, Defendants deliberately concealed the information described above not only from rank-and-file

Freightliner employees, but also from the employee members of the UAW's own local bargaining committees at the Mt. Holly facility, Gastonia facility, Cleveland facilities.

57. At any time prior to April 14, 2004, Plaintiffs had no knowledge of, and could not have discovered through the exercise of due diligence, the terms of the Card Check Agreement, the Preconditions Agreement, the Mt. Holly Agreement, Freightliner's control over the UAW, the UAW's disloyalty and breach of fiduciary duty, or that the UAW made bargaining concessions at the expense of represented employees in the Mt. Holly CBA, Gastonia CBA, and Cleveland CBA in exchange for Freightliner's delivery of organizing assistance.

*Thomas Built Bus Facility ("TBB Facility")*

58. In or around February, 2004, the UAW requested and demanded that Freightliner deliver valuable organizing assistance to the UAW pursuant to the Card Check Agreement to support a UAW organizing campaign against the employees of the TBB facility.

59. In or around March 2004, Freightliner, by and through its subsidiary Thomas Built Buses, delivered the following valuable organizing assistance to the UAW to support its organizing campaign against the employees of the TBB facility:

- a. Freightliner conducted a series of Captive Audience Meetings pursuant to § B of the Card Check Agreement on March 4, 2004, and March 16, 2004, wherein employees were compelled to attend mass meetings, on company property and during paid work time, during which Freightliner officials, UAW officials, and UAW organizers solicited employees to sign the union authorization cards distributed and collected at the meeting;

- b. Freightliner provided UAW organizers with special access to the TBB facility pursuant to § 8 of the Card Check Agreement to solicit and collect union authorization cards from employees; and
- c. Freightliner prohibited its managers from making any negative comments (written or verbal) against the UAW pursuant to § 9 Card Check Agreement.

60. The above-described organizing assistance that Freightliner delivered to the UAW had significant value to the UAW because, among other things,:

- a. the UAW desired the organizing assistance;
- b. the UAW subjectively believed the organizing assistance to have utility; and/or
- c. the organizing assistance had utility to the UAW.

61. On or about March 22, 2004, Thomas Built Buses recognized the UAW as the exclusive bargaining representative of the production and maintenance employees of the TBB facility based on union authorization cards collected by the UAW with Freightliner's assistance. The UAW had a fiduciary duty of complete loyalty to these employees upon being recognized as their exclusive bargaining representative.

62. In the collective bargaining negotiations that followed, Freightliner, by virtue of delivering and agreeing to deliver organizing assistance to the UAW, maintained and exercised control over the management and operations of the UAW and its subordinate UAW Local 5287 in their conduct as the exclusive bargaining representative of TBB employees pursuant to the Preconditions Agreement.

63. On April 14, 2004, a TBB employee named Jeff Ward filed unfair labor practice charges with the National Labor Relations Board (“NLRB”) against the UAW and Thomas Built Buses, a subsidiary of Freightliner.

64. On October 13, 2004, the NLRB General Counsel’s Office issued a complaint alleging that the UAW and Thomas Built Buses, a subsidiary of Freightliner, committed the following unfair labor practices in violation of the National Labor Relations Act:

- a. bargaining and entering into an agreement regarding employee terms and conditions of employment prior to the UAW enjoying the support of a majority of employees (i.e., the Preconditions Agreement);
- b. Thomas Built Buses, a subsidiary of Freightliner, unlawfully assisted the UAW with the solicitation of union authorization from employees; and
- c. Thomas Built Buses, subsidiary of Freightliner, recognized the UAW as the exclusive bargaining representative of the employees of the TBB facility, and the UAW accepted said recognition, at a time when the UAW did not represent an uncoerced majority of employees.

65. On March 17, 2005, a settlement agreement between the NLRB General Counsel’s Office, the UAW, Thomas Built Buses, a subsidiary of Freightliner, and Jeff Ward was approved regarding the unfair labor practices committed at the TBB facility (“Settlement Agreement”). Terms of the Settlement Agreement include:

- a. Thomas Built Buses, a subsidiary of Freightliner, and the UAW will cease giving effect to the Preconditions Agreement at the TBB facility or at any other Freightliner facility;

b. Thomas Built Buses, a subsidiary of Freightliner, will cease assisting the UAW with the solicitation of union authorization cards from its employees; and

c. Thomas Built Buses, a subsidiary of Freightliner, will withdraw recognition from the UAW and not recognize the UAW as the representative of the employees of the TBB facility in the future unless and until the UAW is certified by the NLRB.

66. The Settlement Agreement did not address or affect the collective bargaining agreements that the UAW and Freightliner had already entered into governing the employees of the Mt. Holly, Gastonia, or Cleveland facilities (i.e., the Mt. Holly CBA, Gastonia CBA, and Cleveland CBA).

*Gaffney and Other Facilities*

67. At times relevant to this action, the UAW sought to organize the non-union employees of Freightliner facilities other than the Gastonia facility, Cleveland facilities, and TBB facility. This includes but is not limited to the non-union employees of the Gaffney facility.

68. But for the settlement agreement that Freightliner and the UAW entered into with the NLRB's General Counsel's Office and Jeff Ward:

a. the UAW would have continued to demand that Freightliner deliver organizing assistance to the UAW pursuant to the Card Check Agreement to support the union's organizing campaigns;

b. Freightliner would have continued to deliver organizing assistance to the UAW to support its organizing campaigns, as per the Card Check Agreement; and

c. upon Freightliner recognizing the UAW as the representative of newly organized employees, Freightliner would have controlled the management and operations of UAW

and its subordinate local in their conduct as exclusive bargaining representative pursuant to the Preconditions Agreement and would have caused the UAW and its subordinate local to negotiate and enter into a collective bargaining agreement limited by and consistent with the Preconditions Agreement and Mt. Holly Agreement.

### **The Freightliner Scheme**

69. Freightliner knowingly and willfully engaged in a scheme to deliver and agree to deliver valuable organizing assistance to the UAW in violation of 29 U.S.C. § 186 so as to acquire, maintain, and exercise control over the management and operations of the UAW and its subordinate locals in its conduct as the exclusive bargaining representative of Freightliner employees and cause the UAW and its subordinate locals to make concessions at the expense of represented employees in collective bargaining agreements negotiated with Freightliner (“Freightliner Scheme”).

70. Freightliner is engaged in an “industry affecting commerce,” is an “employer” or an “association of employers,” and is a “person . . . who acts in the interest of an employer,” within the meaning of 29 U.S.C. § 186(a).

71. At all materials times herein, the UAW was:

- a. a “representative of any of [Freightliner’s] employees who are employed in an industry affecting commerce,” within the meaning of 29 U.S.C. § 186(a)(1); and
- b. “a labor organization . . . which represents, seeks to represent, or would to admit to membership, any of the employees of [Freightliner] who are employed in an industry affecting commerce,” within the meaning of 29 U.S.C. § 186(a)(2).

72. In advancing, furthering, executing, conducting, and participating in the Freightliner Scheme, Freightliner willfully agreed to deliver and/or willfully did deliver “thing[s] of value” to the UAW in violation of 29 U.S.C. §§ 186(a)(1) and (2), including but not limited to the following:

- a. agreeing to conduct Captive Audience Meetings, as per § B of the Card Check Agreement, in December 2002;
- b. agreeing to provide UAW organizers with access to the Freightliner facilities, as per § 8 of the Card Check Agreement, in December 2002;
- c. agreeing to prohibit Freightliner supervisors and agents from making any negative comments against the UAW, as per § 9 Card Check Agreement, in December 2002;
- d. conducting Captive Audience Meetings pursuant to § B of the Card Check Agreement at the Gastonia facility in or around January 2003;
- e. providing UAW organizers with access to the Gastonia facility pursuant to § 8 of the Card Check Agreement in or around January 2003;
- f. prohibited Freightliner supervisors and agents from making any negative comments against the UAW pursuant to § 9 Card Check Agreement during the UAW organizing campaign conducted in or around January 2003 at the Gastonia facility;
- g. conducting Captive Audience Meetings pursuant to § B of the Card Check Agreement at the Cleveland Production facility in or around January 2003;
- h. providing UAW organizers with access to the Cleveland Production facility pursuant to § 8 of the Card Check Agreement in or around January 2003;
- i. prohibited Freightliner supervisors and agents from making any negative comments



against the UAW pursuant to § 9 Card Check Agreement during the UAW organizing campaign conducted in or around January 2003 at the Cleveland Production facility;

j. conducting Captive Audience Meetings pursuant to § B of the Card Check Agreement at the TBB facility on March 4, 2004;

k. conducting Captive Audience Meetings pursuant to § B of the Card Check Agreement at the TBB facility on March 16, 2004;

l. providing UAW organizers with access to the TBB facility pursuant to § 8 of the Card Check Agreement in and around March 2004; and

m. prohibited Freightliner supervisors and agents from making any negative comments against the UAW pursuant to § 9 Card Check Agreement during the UAW organizing campaign conducted in or around March 2004 at the TBB facility.

Each delivery or agreement to deliver a “thing of value” described above is a separate and independent violation of 29 U.S.C. §§ 186(a)(1) and (2).

73. Freightliner’s willful violations of 29 U.S.C. §§ 186(a)(1) and (2) violate, and are chargeable and indictable under, 29 U.S.C. § 186(d)(2).

74. The UAW conspired with Freightliner to willfully violate §§ 186(a)(1) and (2), and thus § 186(d)(2), by, among other things, requesting, demanding, receiving, accepting, and agreeing to receive and accept the “thing[s] of value” described at Paragraph 72, *supra*.

#### **The UAW Scheme**

75. The UAW knowingly and willfully engaged in a scheme to request, demand, receive, accept, agree to receive, and agree to accept, “thing[s] of value” from Freightliner in violation of 29

U.S.C. § 186, in exchange for which the UAW submitted to Freightliner’s control over the management and operations of UAW and its subordinate locals in its conduct as the exclusive bargaining representative of Freightliner employees and agreed to make concessions at the expense of represented employees in collective bargaining agreements negotiated with Freightliner (“UAW Scheme”).

76. The UAW is a “person” as that term is used in 29 U.S.C. § 186(b)(1).

77. In advancing, furthering, executing, conducting, and participating in the UAW Scheme, the UAW willfully requested, demanded, received, accepted, agreed to receive, or agreed to accept numerous “thing[s] of value” from Freightliner prohibited by 29 U.S.C. §§ 186(a)(1) and (2), in violation of 29 U.S.C. § 186(b)(1). This includes, but is not limited to:

- a. requesting or demanding the “thing[s] of value” delineated at Paragraph 72, *supra*;
- b. agreeing to receive or accept the “thing[s] of value” delineated at Paragraph 72, *supra*; and
- c. receiving and accepting the “thing[s] of value” delineated at Paragraph 72, *supra*.

Each demand, receipt, acceptance, or agreement to receive or accept the “thing of value” described above is a separate and independent violation of 29 U.S.C. § 186(b)(1).

78. The UAW’s willful violations of 29 U.S.C. § 186(b)(1) violate, and are chargeable and indictable under, 29 U.S.C. § 186(d)(2).

### **Class Action Allegations**

79. This is a class action brought by Plaintiffs on their own behalf and on behalf of all other individuals similarly situated pursuant to Federal Rules of Civil Procedure 23(b)(3). The class

consists of all employees whose terms and conditions of employment are governed by, or were governed by, the Mt. Holly CBA, Gastonia CBA, or Cleveland CBA.

80. The number of persons in the proposed Plaintiff Class are so numerous that joinder of the entire class is impractical. On information and belief, over three thousand employees' terms and conditions of employment are or were governed by the Mt. Holly CBA, Gastonia CBA, and Cleveland CBA.

81. There are questions of law and fact common to all members of the proposed Plaintiff Class, to wit, whether the class members were injured in their business or property by Defendants violations of 18 U.S.C. § 1962 as expressed in Counts One through Four, *infra*.

82. Plaintiffs' claims in Counts One through Four are typical of all other members of the class, who are subject to the same or similar injury to their business or property by Defendants violations of 18 U.S.C. § 1962 as expressed in Counts One through Four, *infra*.

83. Plaintiffs can fairly and adequately represent the interests of the proposed Plaintiff Class.

Plaintiffs have no interests relevant to the lawsuit's subject matter antagonistic to class members. Plaintiffs' attorneys, except for Phil Van Hoy and Steve Dunn, are providing *pro bono* legal services through a national charitable legal aid organization. Plaintiffs' attorneys are experienced in representing non-union employees in litigation involving issues similar to those raised in this action.

84. Questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy. In particular:

- a. members of the class have an interest in pursuing a class action;
- b. on information and belief, substantially similar litigation has not been initiated by any member of the class, or any other party;
- c. concentrating the litigation of the claims in this particular forum is desirable; and
- d. on information and belief, there are no difficulties likely to be encountered in the management of a class action in this case.

85. Each count of the Complaint below is pled in the alternative.

**COUNT ONE**

**Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962(b)  
(Freightliner Scheme to Acquire and Maintain Control Over the  
UAW and its Subordinate Locals)**

86. Plaintiffs reallege and restate paragraphs 1 through 85.

87. Freightliner is a “person” within the meaning of 18 U.S.C. §§ 1961(3) and 1962(b).

88. At relevant times, some or all of the following entities constitute an “enterprise” within the meaning of 18 U.S.C. §§ 1961(4) and 1962(b), in that they are individually and/or cumulatively a union, an association, and/or an association in fact: the UAW, UAW Local 3520, UAW Local 5285, and UAW Local 5286.

89. At relevant times, the enterprise was engaged in, and its activities affected, interstate commerce and foreign commerce.

90. Freightliner, directly and indirectly, acquired and maintained control of the enterprise through a pattern of racketeering activity within the meaning of 18 U.S.C. §§ 1961(1), 1961(5), and 1962(b), said pattern of racketeering activity consisting violations of 29 U.S.C. § 186 (as described with particularity in Paragraphs 72-73, *supra*). These acts all occurred after the

effective date of RICO and more than two such acts occurred within ten years of one another.

91. All of the predicate acts described in Paragraphs 72-73, *supra*, were related so as to establish a pattern of racketeering activity within the meaning of 18 U.S.C. § 1962(b), in that:

- a. their common purpose was to deliver valuable organizing assistance to the UAW so as to acquire and maintain control over the enterprise in its conduct as the exclusive bargaining representative of Freightliner employees and cause the enterprise to make concessions at the expense of represented employees in collective bargaining agreements negotiated with Freightliner;
- b. their common result was to deliver valuable organizing assistance to the UAW so as to control the management and operations of enterprise in its conduct as the exclusive bargaining representative of Freightliner employees and cause the enterprise to make concessions at the expense of represented employees in collective bargaining agreements negotiated with Freightliner;
- c. Freightliner participated in all of the acts;
- d. the acts were conducted pursuant to common agreements, including the Card Check Agreement, Preconditions Agreement, and Mt. Holly Agreement;
- e. the acts involved the same or similar methods of commission;
- f. Plaintiffs and the proposed Plaintiff Class were the intended victims of the acts of racketeering, in that Freightliner's delivered and agreed to deliver valuable organizing assistance to the UAW so as to obtain acquire and maintain control over the exclusive bargaining representative of Plaintiffs and the proposed Plaintiff class and cause it to make

concessions at their expense in collective bargaining agreements negotiated with Freightliner; and/or

g. the acts of racketeering were otherwise interrelated by distinguishing characteristics and were not isolated events.

92. All of the predicate acts described in Paragraphs 72-73, *supra*, were continuous so as to form a pattern of racketeering activity in that:

- a. Freightliner engaged in the predicate acts over a substantial period of time;
- b. the predicate acts had become the Freightliner's regular way of conducting business with the UAW; and/or
- c. the predicate acts would have continued indefinitely into the future but for the settlement agreement discussed in Paragraph 65, *supra*.

93. As a direct and proximate result of, and by reason of, the activities of Freightliner and its conduct in violation of 18 U.S.C. §§ 1962(b), Plaintiffs and the Plaintiff Class have been injured in their business or property within the meaning of 18 U.S.C. § 1964(c) in that Freightliner acquiring and maintaining control over the enterprise through the provision of "thing[s] of value" unlawful under 29 U.S.C. § 186 resulted in:

- a. Plaintiffs and the Plaintiff Class being deprived of wages, benefits, and other terms and conditions of employment; and/or
- b. Plaintiff Ronnie Adcock and the members of the Plaintiff Class who paid dues to the UAW not receiving services for which they paid—loyal collective bargaining representation.

Plaintiffs and the Plaintiff Class, therefore, are entitled to recover threefold the damages they have sustained together with the cost of the suit including reasonable attorneys' fees and costs.

**COUNT TWO**

**Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962(d)  
(UAW Conspiracy to Participate in Freightliner Scheme to Acquire and  
Maintain Control Over the UAW and its Subordinate Locals)**

94. Plaintiffs reallege and restate Paragraphs 1 through 93.

95. The UAW conspired with Freightliner to commit violations of 18 U.S.C. § 1962(b) as per Count One *supra*, in violation of 18 U.S.C. §§ 1962(d). The UAW agreed to further and facilitate, and did further and facilitate, endeavors by Freightliner which, if completed, would satisfy all of the elements of a substantive RICO criminal offense and adopted the goal of furthering or facilitating the criminal endeavor. This includes, but is not limited to:

- a. the UAW willfully requesting, demanding, receiving, accepting, and agreeing to receive and accept “thing[s] of value” from Freightliner prohibited by 29 U.S.C. § 186;
- b. the UAW willfully submitting to Freightliner acquisition, maintenance, and exercise of control over the enterprise’s conduct as the exclusive bargaining representative of Freightliner employees in exchange for Freightliner’s delivery and agreement to deliver “thing[s] of value” prohibited by 29 U.S.C. § 186; and/or
- c. the UAW willfully making concessions at the expense of represented employees in collective bargaining agreements negotiated with Freightliner in exchange for Freightliner’s delivery and agreement to deliver “thing[s] of value” prohibited by 29 U.S.C. § 186.

96. Plaintiffs and the Plaintiff class were injured by the UAW's overt acts that are racketeering or are otherwise unlawful under the RICO statute, which include (among other acts) violations of 29 U.S.C. § 186 (as described with particularity in Paragraphs 77-78, *supra*).

97. As a direct and proximate result of, and by reason of, the activities of the UAW and its conduct in violation of 18 U.S.C. §§ 1962(d), Plaintiffs and the Plaintiff Class have been injured in their business or property within the meaning of 18 U.S.C. § 1964(c) in that Freightliner acquiring and maintaining control over the enterprise through the provision of "thing[s] of value" unlawful under 29 U.S.C. § 186 has resulted in:

- a. Plaintiffs and the Plaintiff Class being deprived of wages, benefits, and other terms and conditions of employment; and
- b. Plaintiff Ronnie Adcock and the members of the Plaintiff Class who paid dues to the UAW not receiving the services for which they paid—loyal collective bargaining representation.

Plaintiffs and the Plaintiff Class, therefore, are entitled to recover threefold the damages they have sustained together with the cost of the suit including reasonable attorneys' fees and costs.

### **COUNT THREE**

#### **Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962(c) (Freightliner Scheme to Conduct or Participate in UAW's Affairs As the Representative of Freightliner employees)**

98. Plaintiffs reallege and restate paragraphs 1 through 85.

99. At relevant times, some or all of the following entities constituted an "enterprise" within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c), in that they are individually and/or cumulatively a union, an association, and/or an association in fact: the UAW, UAW Local 3520, UAW Local



5285, and UAW Local 5286.

100. At relevant times, the enterprise was engaged in, and its activities affected, interstate commerce and foreign commerce.

101. Freightliner is a “person” within the meaning of 18 U.S.C. §§ 1961(3) and 1962(c) associated with the enterprise’s affairs within the meaning of 18 U.S.C. § 1962(c) in that the enterprise, in whole or in part, is exclusive bargaining representative of many Freightliner employees (which gives rise to a legal obligation to bargain) and by virtue of the contractual agreements between Freightliner and the enterprise.

102. Freightliner conducted, participated in, and engaged in the affairs of the enterprise through a pattern of racketeering activity within the meaning of 18 U.S.C. §§ 1961(1), 1961(5), and 1962(c), said pattern of racketeering activity consisting violations of 29 U.S.C. § 186 (as described with particularity in Paragraphs 72-73, *supra*). These acts all occurred after the effective date of RICO and more than two such acts occurred within ten years of one another.

103. All of the predicate acts described in Paragraphs 72-73, *supra*, were related so as to establish a pattern of racketeering activity within the meaning of 18 U.S.C. § 1962(c), in that:

- a. their common purpose was to deliver valuable organizing assistance to the UAW so as to acquire and maintain control over the enterprise in its conduct as the exclusive bargaining representative of Freightliner employees and cause the enterprise to make concessions at the expense of represented employees in collective bargaining agreements negotiated with Freightliner;

- b. their common result was to deliver valuable organizing assistance to the UAW so as to control the management and operations of enterprise in its conduct as the exclusive bargaining representative of Freightliner employees and cause the enterprise to make concessions at the expense of represented employees in collective bargaining agreements negotiated with Freightliner;
- c. Freightliner participated in all of the acts;
- d. the acts were conducted pursuant to common agreements, including the Card Check Agreement, Preconditions Agreement, and Mt. Holly Agreement;
- e. the acts involved the same or similar methods of commission;
- f. Plaintiffs and the proposed Plaintiff Class were the intended victims of the acts of racketeering, in that Freightliner's delivered and agreed to deliver valuable organizing assistance to the UAW so as to acquire and maintain control over the enterprise's conduct as the exclusive bargaining representative of Plaintiffs and the proposed Plaintiff class and to cause the enterprise to make concessions at their expense in collective bargaining agreements negotiated with Freightliner; and/or
- g. the acts of racketeering were otherwise interrelated by distinguishing characteristics and were not isolated events.

104. All of the predicate acts described in Paragraphs 72-73, *supra*, were continuous so as to form a pattern of racketeering activity in that:

- a. Freightliner engaged in the predicate acts over a substantial period of time;
- b. the predicate acts had become the Freightliner's regular way of conducting business

with the UAW; and/or

c. the predicate acts would have continued indefinitely into the future but for the settlement agreement discussed in Paragraph 65, *supra*.

105. As a direct and proximate result of, and by reason of, the activities of Freightliner, and its conduct in violation of 18 U.S.C. §§ 1962(c), Plaintiffs and the Plaintiff Class have been injured in their business or property, within the meaning of 18 U.S.C. § 1964(c). Among other things, Plaintiffs and the Plaintiff Class have suffered damages as a result of:

a. Plaintiffs and the Plaintiff Class being deprived of wages, benefits, and other terms and conditions of employment; and

b. Plaintiff Ronnie Adcock and the members of the Plaintiff Class who paid dues to the UAW did not receive services for which they paid—loyal collective bargaining representation.

Plaintiffs and the Plaintiff Class, therefore, are entitled to recover threefold the damages they have sustained together with the cost of the suit including reasonable attorneys' fees and costs.

#### **COUNT FOUR**

#### **Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962(c) (UAW Scheme)**

106. Plaintiffs reallege and restate Paragraphs 1 through 85 and 98-105.

107. At all relevant times, Freightliner, including but not limited its Mt. Holly facility, Gastonia facility, Cleveland Production facility, Cleveland PDI facility, Gaffney facility, and TBB facility, constitute an “enterprise” within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c), in that it is individually and/or cumulatively a corporation(s), an association, and/or an association in fact.

108. At all relevant times, the enterprises was engaged in, and it's activities affected, interstate commerce and foreign commerce.

109. The UAW is a "person" within the meaning of 18 U.S.C. §§ 1961(3) and 1962(c) associated with and the enterprise's affairs within the meaning of 18 U.S.C. § 1962(c) in that the UAW is the exclusive bargaining representative of many of the enterprise's employees (which gives rise to a legal obligation to bargain) and by virtue of the contractual agreements between the UAW and the enterprise.

110. The UAW conducted, participated in, and engaged in the conduct of the affairs of the enterprise through a pattern of racketeering activity within the meaning of 18 U.S.C. §§ 1961(1), 1961(5), and 1962(c), said pattern of racketeering activity consisting of violations of 29 U.S.C. § 186 (as described with particularity in Paragraphs 77-78, *supra*). These acts all occurred after the effective date of RICO and more than two such acts occurred within ten years of one another.

111. All of the predicate acts described in Paragraphs 77-78, *supra*, were related so as to establish a pattern of racketeering activity within the meaning of 18 U.S.C. § 1962(c), in that:

- a. their common purpose was to receive organizing assistance from Freightliner, in exchange for which the UAW submitted to Freightliner's control with regard to its conduct as the exclusive bargaining representative of Freightliner employees and agreed to compromise, and did compromise, the interests of represented employees in collective bargaining negotiations with Freightliner, in exchange for Freightliner's delivery of organizing assistance;
- b. their common result to receive organizing assistance from Freightliner, in exchange for which the UAW submitted to Freightliner's control with regard to its conduct as the exclusive

bargaining representative of Freightliner employees and agreed to compromise, and did compromise, the interests of represented employees in collective bargaining negotiations with Freightliner, in exchange for Freightliner's delivery of organizing assistance;

c. the UAW, through its officers and agents, directly participated in all of the acts;

d. the acts were conducted pursuant to common agreements, including the Card Check Agreement, Preconditions Agreement, and Mt. Holly Agreement;

e. the acts involved the same or similar methods of commission;

f. Plaintiffs and the proposed Plaintiff class were the intended victims of the acts of racketeering, in that the UAW submitted to Freightliner's control with regard to its conduct as the exclusive bargaining representative of Plaintiffs and the Plaintiff class employees and agreed to compromise, and did compromise, their interests in collective bargaining negotiations with Freightliner, in exchange for Freightliner's delivery of organizing assistance; and/or

g. the acts of racketeering were otherwise interrelated by distinguishing characteristics and were not isolated events.

112. All of the predicate acts described in Paragraphs 77-78, *supra*, were continuous so as to form a pattern of racketeering activity in that:

a. the UAW engaged in the predicate acts over a substantial period of time;

b. the predicate acts had become the UAW's regular way of conducting business with Freightliner; and/or

c. the predicate acts would have continued indefinitely into the future but for the settlement

agreement discussed in Paragraph 65, *supra*.

113. As a direct and proximate result of, and by reason of, the activities of the UAW and its conduct in violation of 18 U.S.C. §§ 1962(c), Plaintiffs and the Plaintiff Class have been injured in its business or property, within the meaning of 18 U.S.C. § 1964(c). Among other things, Plaintiffs and the Plaintiff Class have suffered damages as a result of:

- a. Plaintiffs and the Plaintiff Class being deprived of wages, benefits, and other terms and conditions of employment; and/or
- b. Plaintiff Ronnie Adcock and the members of the Plaintiff Class who paid dues to the UAW did not receive services for which they paid—loyal collective bargaining representation.

Plaintiffs and the Plaintiff Class, therefore, are entitled to recover threefold the damages they have sustained together with the cost of the suit including reasonable attorneys' fees and costs.

### **RELIEF**

Wherefore, Plaintiffs, on their own behalf and on behalf of the proposed Plaintiff Class, request judgment from the Court as follows:

- A. To award damages against the UAW and Freightliner for a sum of money equal to the amount of injury that Plaintiffs and the Plaintiff class have sustained to their business and property;
- B. To award prejudgment interest on the amount of damages that Plaintiffs and the proposed Plaintiff Class have sustained;
- C. To treble the amount of said damages pursuant to 18 U.S.C. § 1964(c);
- D. In the alternative, if the relief requested at Paragraphs A-C is not awarded, then to award nominal damages in the amount of \$1 for each Plaintiff and member of the proposed Plaintiff Class;

E. To award reasonable attorney fees, costs, disbursements and expenses pursuant to 18 U.S.C. § 1964(c);

F. To hold Freightliner and the UAW jointly and severally liable for any and all damages, attorney fees, costs, disbursements and expenses that are awarded;

G. To issue a declaratory judgment declaring that Defendants' conduct is unlawful under 18 U.S.C. §§ 1962(b), (c), and (d); and

H. all other legal or equitable relief that the Court deems just and proper.

Respectfully submitted this \_\_\_\_\_ day of January, 2006.

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Philip M. Van Hoy (N.C. Bar No. 5859)  
Stephen J. Dunn (N.C. Bar No. 25796)  
VAN HOY, REUTLINGER, ADAMS & DUNN  
737 East Boulevard  
Charlotte, North Carolina 28203  
(704) 375-6022  
(704) 375-6024 (fax)

William L. Messenger (Va. Bar No. 47179)\*  
National Right to Work Legal Defense  
Foundation  
8001 Braddock Road, Suite 600  
Springfield, Virginia 22160  
(703) 321-8510  
(703) 321-9319 (fax)

\* *Pro hac vice motion to be filed.*