

## United Airlines pilots union to pay \$44M to settle lawsuit by some members

By Paul Merrion  
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(Crain's) — The pilots union at United Airlines has agreed to pay \$44 million to about 2,000 senior pilots who claimed they were shortchanged by a lump-sum financial deal the union cut to get the Chicago-based carrier out of Bankruptcy Court four years ago.

The settlement puts to rest a class-action lawsuit brought by several former leaders of the union, which potentially could have cost the Air Line Pilots Assn. nearly \$200 million had it gone to trial.

Legal experts believe it to be the largest settlement ever in a case based on the “duty of fair representation,” an area of labor law where courts usually give union leaders a lot of leeway to define what’s fair.

“That’s a substantial settlement,” said Martin Malin, a Chicago Kent College of Law professor who has written a reference book for lawyers on the duty of fair representation. “It sounds like the union had a lot to be worried about.”

Although much of the settlement is believed to be covered by insurance, it’s a big hit for ALPA at a time when its finances are strained by airline mergers and diminishing pilot ranks.

The union declined to comment, but did not admit to any wrongdoing in agreeing to the settlement.

The case revolved around the distribution of a \$550-million convertible note the union agreed to accept in exchange for termination of the pilots’ pension plan, a critical element of United’s strategy to exit Chapter 11.

The deal allowed the note to be sold for \$537 million in cash, with distribution of the proceeds left up to the union, which chose to give junior pilots about \$200 million more than their more seasoned colleagues.

The deal does not resolve the question of whether United ultimately will be on the hook for the money.

United intervened in the case to get a ruling that it has no liability and to prevent any reopening of its bankruptcy case, but the settlement heads off a decision on the issue.

On Thursday, ALPA sued United in New York state court to recover the money, according to a report. A spokeswoman for the airline said it had not received any court filings and would not discuss pending litigation.

As part of its bankruptcy agreement, United protected ALPA from having to pay damages stemming from the bankruptcy plan, with some exceptions.

At the very least, experts said it’s likely to come up for discussion as a bargaining issue when contract talks between United and ALPA heat up this fall.

“It’s a debit on the mental balance sheet,” said Jack Gallagher, a longtime airline labor lawyer with Paul Hastings Janofsky Walker LLP in Washington, D.C.

“United could say we have no obligation to discuss the \$44 million,” he added, “but ALPA has a way to create issues when it isn’t happy.”

A secondary question is whether the settlement will inflame or calm down the friction that the case created between younger and older pilots, whose interests often diverge when it comes to issues such as pay, job security and retirement age.

“There was a lot of damage done to unity based on seniority levels,” said John Mansfield, the lead plaintiff, who is a retired captain for United and former chairman of the union’s Chicago chapter. “Senior pilots are looking at junior pilots with animosity and vice versa.”

About ten days before the case was scheduled to go to trial, ALPA settled, and the deadline for any objections by senior pilots eligible to participate in the class-action case expired Tuesday, making it final.

“We took the case based on a simple analysis that these guys earned the money and the younger guys took it from them,” says the plaintiffs’ attorney, Myron “Mike” Cherry, a Chicago commercial litigator who runs his own law firm, which will collect a 35% contingency fee. “We thought just on the simple basis of equity we should be able to find a way to get past summary judgment and get to trial.”