

Union Sues UAL in Wake Of Settlement

By SUSAN CAREY

The Air Line Pilots Association International, in a major financial setback, is about to pay \$44 million to settle a lawsuit brought by a group of senior United Airlines pilots, according to an attorney for the pilots.

But Thursday the union fought back by suing the pilots' current or former employer, United parent UAL Corp., in state court in New York City. The lawsuit seeks the \$44 million that ALPA is paying out in the settlement.

A spokeswoman said the union declined to comment. United said it hasn't been formally served with the complaint and can't discuss pending litigation.

Last month, a U.S. District Court judge in Chicago approved the settlement of the original suit, filed more than three years ago, by some veteran United pilots who objected to the way their local ALPA leadership chose to split up a lump-sum payment related to United's termination of their pension plan in bankruptcy reorganization.

With the window for appeals now passed, the settlement is final, said Myron Cherry, one of the pilots' lawyers, and ALPA is expected to make payment within weeks. After legal fees and expenses, the 2,200 plaintiffs in the class-action complaint are expected to receive a total of \$28 million.

A spokeswoman for ALPA, which represents 50,000 commercial airline pilots, declined to comment on the settlement. It is a potentially serious blow to the union, which already is facing reduced dues income amid airline failures, furloughs and lower pilot pay rates. Although ALPA has a large insurance policy, its deductible is believed to be multiple millions of dollars, said one person familiar with the matter.

Now it appears that ALPA thinks it can force United, an intervenor in the original case, to pay up. The crux of this dispute arose when UAL was in bankruptcy proceedings and said it couldn't afford to keep its four employee pension plans, which were underfunded by \$9.8 billion. The plans ultimately were assumed by the Pension Benefit Guaranty Corp., which now makes payments to United retirees.

United and its employees agreed to new 401(k)-type pension plans and the airline gave the workers convertible notes to help make up for shortfalls they would experience when the PBGC took over the pension payments. ALPA and United agreed that the pilots would receive \$550 million in convertible notes, and the airline indemnified the union from paying damages related to the bankruptcy plan. That agreement could be revisited in light of ALPA's lawsuit Thursday.

The local union branch that represents United's then-6,600 active pilots debated how to allocate

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the proceeds from the sale of the notes and ultimately voted to use a method that would reward all the pilots. The plaintiffs contended that method provided a windfall to the airline's junior pilots, who were the majority and controlled the local union leadership, at the expense of the senior aviators.

The junior pilots lost little or none of the benefits they had earned under the terminated plan. But the 2,200 senior pilots, who already had accrued sizeable benefits based on their higher incomes and longer years of service, had much money on the line. The suit claimed the union took more than \$200 million from the plaintiffs for benefits they already had earned in their pension plan and gave it to junior pilots for benefits they hadn't earned, a breach of ALPA's duty of fair representation.

The federal judge last July denied motions by ALPA and United for summary judgment in the case. Days before the dispute was set to go to a jury trial last October, ALPA agreed to settle, said Mr. Cherry, the plaintiffs' lawyer.

ALPA had \$100 million in net assets at the end of 2008, according to its most recent financial report filed with the Department of Labor. That was down from \$132.1 million at the beginning of 2008. ALPA took in total receipts, including dues income, of \$233.5 million that year, and it disbursed \$238.1 million.

John Mansfield Jr., a 27-year United pilot who retired in 2005, was the first named plaintiff in the lawsuit. He receives about \$27,000 a year in retirement benefits from the PBGC, he said. Because of a law – now changed – that pilots must retire at age 60, their PBGC payments were reduced from what they would have gotten if they retired at 65. Before United jettisoned the pilot plan, Mr. Mansfield said he had expected to retire on as much as \$80,000 a year.

He thinks his part of the \$28 million settlement will amount to about 12% to 13% of what he would have received in note proceeds had the union adopted what the senior pilots considered fair. He said that probably will be the case for the

others in the class. Mr. Cherry, the attorney, said the payment formula will lead to varying results. A handful of the pilots will receive six-figure one-time payments, many are in line for payments of \$25,000 to \$35,000 and some will receive much less, he said.

Mike Glawe, a former ALPA leader at United and still an active pilot, said the settlement "isn't going to reestablish anybody's retirement security." But he, another of the named plaintiffs, said it sends a message: "A political majority still has to fairly represent the interests of a political minority."