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***OKA V. AIR LINE PILOTS ASSOCIATION, ET AL.*,**
ND ILLINOIS, NO. 1:23-CV-15793

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PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT, U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS (FEBRUARY 24, 2026)

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

JOSEPH JOHN OKA,

Plaintiff,

v. Case No. 1:23-cv-15793

AIR LINE PILOTS ASSOCIATION, and UNITED AIRLINES, INC.,

Defendants.

PLAINTIFF'S OPPOSITION TO DEFENDANT AIR LINE PILOTS ASSOCIATION'S MOTION FOR SUMMARY JUDGMENT

I. Introduction

Defendant Air Line Pilots Association, International ("ALPA") asks this Court to believe it was a powerless bystander, a mere spectator to the religious discrimination perpetrated by Defendant United Airlines, Inc. ("UAL"). It argues that because Plaintiff Captain Joseph John Oka ("Oka") did not file a specific, formal grievance over an accommodation scheme whose full,

disparate nature was concealed from him, ALPA bears no responsibility for the harm he suffered. This narrative is fiction. The record, viewed in the light most favorable to Oka, reveals a union that was not a bystander, but an active and willing accomplice in a scheme that systematically penalized pilots for their religious beliefs.

ALPA's complicity began long before UAL announced its mandate, when ALPA negotiated Letter of Agreement 21-02 ("LOA 21-02"), an agreement one ALPA representative admitted was designed with consequences for those who don't take the vaccine voluntarily. It continued when ALPA, after explicitly promising to "protect the rights" of pilots with sincerely held religious beliefs, stood silently by as UAL implemented its mandate. And it culminated when ALPA's own negotiators—acting with full knowledge of the accommodation system's design—worked with UAL to worsen the terms of religious pilots' leaves of absence while simultaneously lobbying for enhanced financial benefits for medically exempt pilots. ALPA communications reveal a union that did not merely acquiesce in discrimination, it engineered it. This was not a union representative protecting his members.

ALPA's defense rests on the hollow procedural argument that Oka never formally grieved this disparate treatment. This ignores the reality of ALPA's open hostility. ALPA leadership derided religious objectors, mocked them in private text messages, and compared their principled stand to those invoking the Nuremberg defense. Oka App.001-014; Oka App.187. ALPA's First Vice President told Oka that religious objectors were viewed as "frauds" by union leadership. Ex. X, Oka Decl. 89. Most critically, ALPA was the very source of

the disparity it now claims Oka should have grieved—a disparity that ALPA had every reason to conceal and no intention of remedying.

A jury must decide whether ALPA's partnership in creating a punitive environment for unvaccinated religious pilots, its active negotiations to worsen their contractual position, and its pattern of overt hostility toward religious beliefs constitute a violation of Title VII. Because a reasonable jury could, and should, find that ALPA breached its duty to Oka and discriminated against him because of his faith, its motion for summary judgment must be denied.

II. ARGUMENT

a. The Legal Standard

Summary judgment must be denied if there is any genuine dispute of material fact, that is "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). The burden is on the moving party to demonstrate that no genuine dispute of material fact exists. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). On summary judgment, the Court views the facts in the light most favorable to the nonmoving party and draws all reasonable inferences in that party's favor. *Horton v. Pobjecky*, 883 F.3d 941, 948 (7th Cir. 2018). At the summary judgment stage, "a court may not make credibility determinations, weigh the evidence, or decide which inferences to draw from the facts." *Rowlands v. UPS–Fort Wayne*, 901 F.3d 792, 798 (7th Cir. 2018).

b. ALPA Actively Facilitated UAL's Discrimination.

Title VII of the Civil Rights Act of 1964 imposes independent anti-discrimination obligations on labor organizations, separate from and in addition to the obligations it imposes on employers. 42 U.S.C. § 2000e-2(c). A union that negotiates, ratifies, or acquiesces in policies that discriminate against employees on the basis of religion, or that fails to advocate for religious accommodations it has the bargaining power to secure, may face direct Title VII liability. *See Bhd. of Teamsters v. United States*, 431 U.S. 324, 349-50 (1977) (recognizing independent union liability under Title VII); *EEOC v. Pi·p cutters Ass 'n Local Union 120*, 334 F.3d 656, 659 (7th Cir. 2003). Such a claim may arise under three distinct theories: (1) failure to accommodate the employee's religious practice; (2) disparate treatment of the employee on account of religion; and (3) causing or attempting to cause the employer to discriminate—the "cause-or-attempt" theory under § 2000e-2(c)(3). A plaintiff may also bring a disparate treatment claim against a union under § 2000e-2(c)(1), independent of any accommodation failure. Courts in the Seventh Circuit analyze such claims under both the *McDonnell Douglas* burden-shifting framework and the holistic approach of *Ortiz v. Werner Enters., Inc.*, 834 F.3d 760 (7th Cir. 2016).

Under *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973), the plaintiff establishes a prima facie case by showing: (1) The plaintiff is a member of a protected class (a particular religion); (2) The union took an adverse action against the plaintiff, or failed to take a beneficial action on the plaintiff's behalf, in connection with employment; (3) A similarly situated

union member who did not share the plaintiff's religious beliefs was treated more favorably under comparable circumstances; and (4) The union's proffered legitimate, non-discriminatory reason for the differential treatment is pretextual. *McDonnell Douglas*, 411 U.S. at 802-04.

The comparator employee need not be identical in every respect; they need only be "similarly situated with respect to performance, qualifications, and conduct." *Filar v. Bd. of Educ. of City of Chicago*, 526 F.3d 1054, 1061 (7th Cir. 2008). In the vaccine mandate context, a medically exempt employee and a religiously exempt employee may be valid comparators because they are identical in the only respect that matters to the stated policy goal: both are unvaccinated. The fact that one group received favorable leave treatment while the other did not is sufficient to establish the third element. Pretext may be shown by demonstrating "such weaknesses, implausibilities, inconsistencies, or contradictions in the employer's [or union's] asserted reasons that a reasonable person could find [them] unworthy of credence." *Parker v. Brooks Life Sci., Inc.*, 39 F.4th 931, 938 (7th Cir. 2022). A post-hoc rationale that contradicts the union's prior litigation positions—or that relies on contractual distinctions the union had power to negotiate away—is fertile ground for a pretext finding.

The Seventh Circuit has instructed that courts must also assess all evidence holistically, without segregating it into discrete categories. *Ortiz v. Werner Enters., Inc.*, 834 F.3d 760, 765 (7th Cir. 2016). The sole question is "whether the evidence would permit a reasonable factfinder to conclude that the plaintiff's [religion] caused the [adverse] employment action." *Id.* Courts look to the full "mosaic" of evidence, which

may include: (1) ambiguous or suggestive comments or conduct by union officials; (2) better treatment of employees similarly situated but for religion; and (3) dishonest or pretextual justifications offered for disparate treatment. *Joll v. Valparaiso Cmty. Sch.*, 953 F.3d 923, 929 (7th Cir. 2020). The *Ortiz* approach is particularly useful where the evidence does not fit neatly into the *McDonnell Douglas* structure but, viewed as a whole, permits a reasonable inference of discriminatory motivation.

ALPA attempts to insulate itself from liability by claiming it cannot be held responsible for UAL's actions. This mischaracterizes the law and the facts. A union has an affirmative duty not to acquiesce in an employer's known discriminatory practices, and it certainly may not actively facilitate them. *See Goodman v. Lukens Steel Co.*, 482 U.S. 656, 665-66 (1987). The evidence here shows ALPA did far more than merely acquiesce; it was an active participant.

i. ALPA Systematically Betrayed its Promises to Protect Religious Pilots

ALPA made explicit promises to its members. In January 2021, it assured pilots that "a very small number of pilots may be unable to receive the vaccine due to legitimate medical or sincerely held religious beliefs and ALPA will protect their rights." Oka App.016. This was not a suggestion; it was a promise. Instead of protecting those rights, ALPA worked to undermine them. When UAL implemented a discriminatory two-tiered accommodation system, ALPA did not object, allowing the medically exempt to access sick leave in direct violation of the United Pilot Agreement ("UPA") and long-standing company policy, while

doing nothing for religious objectors. ALPA App. 908-929. This selective inaction—permitting UPA violations that benefited one group while ignoring the same violations that harmed a protected class—is itself an act of discrimination.

ii. ALPA Worsened the Terms of Religious Pilots' Leave

The most damning evidence of ALPA's discriminatory conduct comes from its own internal communications. These reveal that ALPA's Negotiating Committee member Brad Hunnewell was the architect of uniquely punitive terms for religious pilots' leaves of absence, acting with the knowledge and tacit approval of Negotiating Committee Chair Jeff Brown. The sequence of events is critical. On September 9, 2021, before ALPA's intervention, both the religious accommodation and the medical accommodation leave contained the same termination timeline: 72 months. Oka App.001-002. Upon seeing this, rather than accepting equal treatment, Hunnewell immediately set out to make the religious pilots' position worse. ALPA App. 900-902. He "queried" UAL's Sara Nau about changing the religious pilots' leave termination from 72 months to 60 months—shortening the time before Oka could be fired. *Id.*

In the same communications, Hunnewell sought and obtained from Nau a critical concession: that religious pilots on a personal leave of absence would be barred from returning to work in the event of furloughs, regardless of whether the pandemic had meaningfully receded. Hunnewell's evident motivation was to shield vaccinated pilots from furlough by ensuring that religious pilots would remain off the

property for a full five years if any furlough was occurring. When Nau confirmed this arrangement, Hunnewell replied with undisguised enthusiasm: "Yes, the magic words I was looking for!" ALPA App. 900-902. The harm to religious pilots' seniority and careers from this furlough provision was immediate and severe. Pilots earn seniority based on time on property. By engineering a provision that would keep religious pilots off property during a furlough—while vaccinated pilots remained at work—ALPA directly injured the career advancement and earnings of every religious objector, including Oka, in the event of a furlough.

The same communications reveal another dimension of ALPA's discriminatory engineering: sick leave. In UAL's original accommodation plan, sick leave was not available to medically accommodated pilots because, as UAL's own Sara Nau recognized, these pilots held valid FAA First Class Medical Certificates and were not sick within any recognized definition of that term. ALPA App. 883, 896. Indeed, sick leave was absent from the leave descriptions on September 1, 2021. Sambrano App. 94-97. After discussions with ALPA, sick leave was offered to the medically accommodated pilots, who, by definition, were not ill. ALPA App. 900-902. This benefit was granted only to medical objectors to the Covid-19 vaccine, not religious objectors. Religious pilots like Oka, who also held valid FAA medical certificates and were equally not sick, received nothing.

These de facto negotiations—Hunnewell's emails to Nau resulting in immediate, agreed-upon changes to accommodation terms—mirror in every functional sense the Letters of Agreement and Memoranda of Understanding that ALPA regularly executed with UAL. ALPA App. 903-907. ALPA now characterizes

these communications as mere "queries" for UPA "consistency." A jury may reject this characterization. The document record shows: (1) ALPA identified a potential equality between religious and medical pilots; (2) ALPA intervened not to maintain equality but to widen the gap; and (3) ALPA obtained specific, enforceable concessions that harmed only the religious pilot group.[1]

iii. The Accommodations Were Not Beyond ALPA's Authority

ALPA's central defense—that accommodation terms were exclusively between UAL and individual pilots, beyond ALPA's authority—is contradicted by its own conduct. ALPA cannot simultaneously claim it lacks authority to intervene on behalf of religious pilots and then exercise that very authority to make religious pilots' accommodations more punitive.

ALPA acknowledged in writing that it retained "springing statutory authority" over the downstream effects of accommodation upon a pilot's return to work. Yet ALPA invoked no such authority when the accommodation terms themselves violated the UPA's leave-of-absence provisions—provisions requiring that leaves be pilot-requested and of defined duration. UPA § 12; Oka App.027, P10:7-13; P13:8-12. ALPA's selective exercise of authority—intervening to secure worse outcomes for religious pilots while claiming

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[1] Also, contrary to Insler's declaration, United testimony and documents indicate unvaccinated flight attendants were flying. *See* Sambrano Vol. 2 OF 3 transcript of P.I. 10/13/21, P250:12-19 testimony of Sasha Johnson, P178:8-17 Limacher testimony, *See also*, Sambrano App.403 & App.288

powerlessness to secure better ones—is not a neutral contractual position. It is discrimination.

Moreover, ALPA's claim that the accommodation process was beyond its authority is inconsistent with its conduct in the COVID MOU 20-01 System Board proceeding, where ALPA argued strenuously, and correctly, that Section 13-A-5 of the UPA requires "actual sickness" for sick leave, and that using sick leave for quarantine absent illness violated the plain language of the contract. ALPA App. 920, 925. ALPA's MEC Aeromedical Chair Captain Travis Ludwig testified that before COVID-19, "management never removed a Pilot from flying and required that Pilot to use sick leave in order to be paid for the absence unless the Pilot was actually sick." ALPA App. 925. ALPA now abandons this position to justify the sick leave benefit it lobbied to secure for medically accommodated pilots, who held valid First Class FAA Medical Certificates and were not sick. The contradiction is inexplicable except as evidence of discriminatory intent.

iv. The Mandate is Not Allowable under UPA § 21-k

The vaccine mandate was not allowable under section 21-k of the UPA.[2] UAL's Mandate and ensuing policies was not only a change in condition of employment, but also a matter of RLA § 152 7th,

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[2] Section 21-k of the UPA provides that "Company personnel policy which affects Pilots shall not be changed without giving advance notice to the Association and affording it the opportunity to comment. Further, no change shall be made to any Company personnel policy which is contrary to any of the terms of this Agreement."

during section 6 negotiations. The implementation by UAL was a violation of Status Quo requiring ALPA and UAL to negotiate the change in condition of employment. ALPA's October 14, 2022 Update confirmed that 21-k is not for matters of RLA 152§ 7 and cannot be violative of the UPA. UAL calls the mandate a "condition of employment" never citing the UPA or past practice to impose the mandate. ALPA conveniently and erroneously alters its categorization of the mandate from "unilaterally imposed condition of employment" to "qualification to work" to suit its needs and to avoid the plain language of the statute. ALPA then reversed its own Oct 2021 representation of 21-k and continued that lie in its GRP decision and these court cases to evade its responsibility to intervene.

c. ALPA Demonstrated Religious Animus at its Highest Levels

Oka need only present sufficient evidence from which a jury could infer discriminatory intent. *Ortiz*, 834 F.3d at 765. The totality of the evidence here creates a compelling inference that ALPA's disparate treatment of religious objectors was driven by animus.

i. Direct Evidence: Derisive Statements by Senior ALPA Officials.

The animus is not merely inferred, it is expressed directly in the words of ALPA's leadership. MEC Chair Todd Insler stated, in writing, "I like how people can pick and choose their religious watermarks." Oka App.011. This sarcastic statement, using the term "watermarks" to describe the visible markers of religious identity, demonstrates that Insler doubted the sincerity of any religious accommodation request.

In his deposition, Insler attempted to recharacterize this comment as a genuine appreciation for religious freedom. Oka App. 175-178. A jury may reject this explanation. Moreover, MEC Grievance Chair Joe Pedata and MEC Chair Insler jointly mocked religiously accommodated pilot Dave Morgan in text messages. Oka App.011; Oka App.003-004. This ridicule of an individual pilot by the union's top grievance officer is direct evidence of personal animus against religious objectors.

MEC Negotiating Committee Chair Jeff Brown mocked religious pilots' requests to be treated like furloughed pilots, saying he was "surprised someone hasn't suggested calling [RAP pilots] 'hostages' yet." Oka App.013. Grievance Vice Chair DiCostanzo added that it was "unconscionable." Rivero joined in. These were the union's top officials, mocking the very members they were obligated to represent. Brown and DiCostanzo sarcastically referred to pilots attending a religious liberty rally as "heroes," with Brown noting that their absence from flying created "add pay opportunities"—a bonus available when reserve pilots are scarce. Oka App.013-014. Brown thus saw the career destruction of religious pilots as a financial benefit for other ALPA members. This is not neutral contract administration.

Hunnewell, Brown, and others participated in a text thread in which there was agreement that all religiously accommodated pilots should be fired. Oka App.006-010. This statement was not made by a rogue member; it came from ALPA's top negotiating officials. Regarding a pilot who had emailed ALPA asking for the same support given to furloughed pilots, Hunnewell dismissed the religious pilots as "voluntarily gone." Oka

App.013-014. The evidence shows they were placed on leave involuntarily, under threat of termination.

ii. ALPA's Hostility Infected Its Institutional Decision-Making

The animus expressed in private communications translated directly into institutional decisions that harmed religious pilots. For example, when ALPA filed its October 5, 2021 grievance over trip drops after LOA 21-02 expired, ALPA's own communications reveal it initially tried to exclude Reasonable accommodation Process ("RAP") pilots from the benefit of that grievance, seeking a "non-RAP victim" to use as the grievant. Oka App.012-014. ALPA was forced to include RAP pilots only due to a TRO in *Sam brano v. United Airlines. Sambrano*, ECF No. 66. The settlement that followed—recovering back pay for unvaccinated pilots—was thus not a product of ALPA's desire to protect religious pilots, but of circumstance.

When asked by Grievance Chair Thompson whether the union would support religious pilots on unpaid leave, MEC Chair Insler stated that the company had every right to only provide an unpaid leave policy as an accommodation for religious objectors. Oka App.031. This position—accepting the punitive leave as lawful—stands in stark contrast to ALPA's vigorous defense of non-RAP pilots in other contexts. When Insler was informed that a pilot disciplined for not getting vaccinated without an accommodation was about to be represented by ALPA in grievance proceedings, Insler told Thompson with a chilling predestination: "if a pilot gets disciplined for not getting vaccinated then the Union will represent them but they will lose. He went so far as to say that it was certain they will

lose." This is not the statement of a union representative making an honest assessment of a weak case. It is the statement of a union official who has already decided the outcome. ALPA consistently lied and made false claims to Oka on numerous occasions. Ex. 1, Oka Decl. 84, 92, 98.

d. ALPA's "Failure to Grieve" Argument is Factually and Legally Insufficient

i. Oka Did Raise the Issue of Disparate Treatment

ALPA's assertion that Oka failed to grieve the disparate accommodations is factually inaccurate. Oka raised the issue of discriminatory leaves of absence as early as his Second Amended Grievance ("SAG") filed September 22, 2021, which ALPA itself formatted and attended at Level 1. ALPA App. 968-972; ALPA App. 36 ¶ 7. The SAG explicitly alleged that leaves of absence were being utilized as a disciplinary action against pilots disguised as an accommodation for religious beliefs and medical concerns, effectively terminating them. This claim, which ALPA was present to hear argued, was not investigated.

Oka continued to seek ALPA's assistance as his understanding of the disparity grew. By March 2022, he had documented differences between medical and religious accommodation benefits and presented them directly to the Grievance Review Panel[3] ("GRP"), including a slide showing: "Exhibit D. Medical RAP

[3] The GRP process is a dues paying pilot's last report for help from ALPA, particularly when the contract has been violated. Oka also sent two emails pointing out the disparities. Oka Decl. ¶ 97

have benefits and are treated better than Religious RAP (no benefits)." ALPA App. 1140. During the GRP, pilots on medical leave openly described their benefits: the ability to use 50-90 hours of sick leave per month, travel privileges, paid medical benefits, and more. ALPA App. 1082-1214. ALPA representative Phil Otis acknowledged at the GRP that there are problems with the leave process which eventually became apparent, and that the leave process may be discriminatory. Oka App.185. Otis further assured attendees that "ALPA is looking into the leaves and mentioned something about 'ME too' language in Section 12." Oka App.183; Oka App.185. Despite these assurances, ALPA took no action. ALPA MEC Grievance Vice Chair Loeffler's response was that this would not go to the System Board because this is, "a case we don't believe in." Oka App.196-197.

ALPA's Vice Chair Morse testified she was aware of the disparity, concerned about it, and felt the religious pilots were justified in feeling disadvantaged. Oka App.109-111, 114-115, 139-140. Yet she could not explain why nothing was done about it. Oka App.140. The answer, the jury may conclude, is that doing something about it would have exposed ALPA's conduct and role as a source of the disparity.

ii. Filing Another Grievance Would Have Been Futile

A plaintiff is not required to exhaust internal union remedies when union officials are so hostile that a fair hearing is impossible. *Clayton v. Int'l Union, UAW*, 451 U.S. 679, 689 (1981). The futility here was complete and documented.

ALPA LEC Chair Wendy Morse, with 34 years of ALPA experience, had never witnessed a pilot forced to research and argue his own grievance without union support in her entire career. Oka App.126. Yet that is exactly what Oka was required to do. ALPA actively impeded his grievance journey at every step. Ex. X, Oka Decl. ¶ 90-93, 98. ALPA's Loeffler pilloried Oka's grievance arguments in front of United management at the Level 1 hearing. Ex. X, Oka Decl. 90 The message was unmistakable: ALPA was not Oka's advocate; it was his adversary. Similarly, Guam LEC Grievance Chair Sean Thompson—himself a dues-paying ALPA member who recognized the same disparities and tried to act on them—testified that he too felt "hamstrung" and that MEC Chair Insler was an "obstacle." Oka App.026, 037. Thompson understood the disparity and wanted to grieve it, but found no support. If even a union official on the grievance committee felt blocked by ALPA's leadership, demanding that Oka, a rank-and-file member, have filed yet another formal grievance defies any reasonable interpretation of the exhaustion requirement. Whether the futility of further grievance action was complete is a question of fact for the jury to resolve. *See Clayton*, 451 U.S. at 689.

iii. ALPA Concealed the Disparity It Claims Oka Should Have Grieved

ALPA's procedural argument is particularly audacious given that ALPA was the source of the disparity. ALPA now faults Oka for not grieving a disparity that ALPA's own negotiating committee created and then kept secret. The disparity between the leaves was not obvious to Oka from the face of any UPA provision, As Oka testified at deposition: "No. It

wasn't my job to find out what the differences were . . . when you ask ALPA to help with a grievance, you assume that includes them doing the investigation and research and helping and the arguing. All that comes with what you pay your dues for. So if there's any failure for me not to understand the differences, it's ALPA's failure." Oka App. 253. Oka is correct. The union that created a secret, more-punitive arrangement for religious pilots cannot now complain that the religious pilot failed to discover and formally grieve that secret arrangement.

e. Religiously and Medically Exempt Pilots Were Similarly Situated

ALPA's final defense–that medical and religious objectors were not "similarly situated" under the UPA, and therefore differential treatment was permissible–is a distinction without a difference for Title VII purposes. For the purpose of ALPA's Title VII obligations, both groups were identical in every relevant respect: they were unvaccinated pilots whom UAL barred from flying. The only distinction was the reason for their inability to comply with the mandate—one medical, one religious. Title VII expressly prohibits using religion as the distinguishing criterion for employment benefits, which is precisely what ALPA did.

ALPA had a choice. Nothing in the UPA prevented ALPA from advocating for equal treatment for all accommodation pilots. To the contrary, Section 21-G of the UPA prohibits discrimination based on "creed." ALPA App. 337. Moreover, ALPA did not merely passively accept UAL's framework. As detailed above, ALPA's Hunnewell actively invented and lobbied for the sick leave benefit for medical objectors—a benefit

not in UAL's original plan. UAL's Sara Nau initially understood, consistent with the UPA's plain language, that these pilots were not sick and therefore not entitled to sick leave. ALPA App. 883, 896. It was ALPA that changed this understanding. Having created the disparity, ALPA cannot now claim it was powerless to undo it. The argument that medical and religious objectors occupied different contractual categories—medical leave versus personal leave—does not end the analysis. The question for the jury is whether ALPA made good-faith efforts to advocate for equal treatment, or whether it accepted and indeed promoted a system that treated pilots differently based solely on the religious nature of their objection. *See Goodman*, 482 U.S. at 665-66. The evidence, viewed in the light most favorable to Oka, compellingly supports the latter conclusion.

f. The Sick Leave Arrangement Itself Was An Act of Discrimination that ALPA Was Obligated to Challenge-Not Facilitate

The sick leave benefit for medically accommodated pilots deserves separate examination because it illustrates ALPA's discriminatory conduct with particular clarity. The UPA is unambiguous: Section 13-A-5 provides that "[s]ick leave with pay shall be granted only in cases of actual sickness." ALPA App. 241. Section 12-1-3 further provides that sick leave shall not be granted while a pilot is on a leave of absence, with narrow exceptions inapplicable here.[4] Medically

[4] Sick leave definitions that move away from the plain language of the UPA, FOM and WTG are done by negotiated agreement, that is the true past practice history. Any change to the plain language understanding of 13-5-A has been done by negotiated

accommodated pilots who held valid FAA First Class Medical Certificates were not sick within any meaning of these provisions. That certificate is the most stringent aviation medical standard; its holder is certified as physically fit to perform the duties of an airline transport pilot. Medically accommodated pilots held such certificates, confirming they were not medically unable to fly. They were medically available and flying throughout the pandemic.

As mentioned previously, in the COVID MOU 20-01 System Board proceeding, heard in January 2022, ALPA itself argued that Section 13-A-5 means what it says. ALPA App. 920, 925. ALPA now abandons this position entirely to defend the sick leave benefit it lobbied United to provide to medically accommodated pilots, evidence that ALPA's invocation of UPA "consistency" as justification was pretextual. If ALPA were truly concerned with UPA consistency, it would have objected to the sick leave benefit for medically accommodated pilots—a clear violation of Section 13-A-5 under ALPA's own legal theory. ALPA App. 241. Instead, ALPA lobbied for that benefit, secured it, and then filed a simultaneous grievance in a different proceeding arguing that the exact same kind of sick leave use violated the UPA.

A jury hearing this evidence may conclude that ALPA's "consistency" argument was merely a pretext for giving a favored group a benefit it was not contractually entitled to, while denying the group's religious counterparts comparable relief.

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agreement not de facto agreement. ALPA and United on allowing the medically accommodated use of sick leave is contrary to this past practice.

II. Conclusion

For the foregoing reasons, Plaintiff Joseph John Oka respectfully requests that this Court deny Defendant Air Line Pilots Association, International's Motion for Summary Judgment.

Respectfully submitted,

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Dated: February 24, 2026

DEFENDANT'S REPLY MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT, U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS (MARCH 10, 2026)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
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JOSEPH JOHN OKA,

Plaintiff,

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UNITED AIRLINES, INC. & AIR LINE PILOTS ASSOCIATION, INTERNATIONAL,

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DEFENDANT AIR LINE PILOTS ASSOCIATION, INTERNATIONAL'S REPLY MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT

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Introduction

The undisputed material facts compel summary judgment for ALPA. The UPA creates different categories of leave for United pilots who need to miss work, including the specific medical leave ("MLA") and the catchall personal leave ("PLA"). To accommodate approved pilot objectors to its COVID-vaccine mandate, United offered MLAs to medical objectors and PLAs to religious objectors. As all pilots' collective bargaining representative, ALPA had no role in the accommodation process—which was required by Title VII and the ADA, not the UPA—beyond ensuring that the accommodations did not violate the UPA. ALPA thus did not negotiate to obtain better benefits for medical or religious objectors than those provided in the UPA and did not discriminate between them in its representational function.

Oka's opposition to ALPA's summary judgment motion does not genuinely dispute any material facts. Contrary to basic procedural rules, he cites new "facts" not included in his discovery responses or a statement of additional facts, often not referring to record evidence at all. Substantively, he: (1) fails to show that he or any United pilot filed or sought a grievance over United's differing accommodations; (2) does not dispute medical objectors' right to MLAs while ignoring overwhelming evidence of their right to use sick leave before their MLAs began; (3) cites no UPA leave, other than PLAs, applicable to religious objectors; (4) incorrectly tries to recharacterize ALPA's enforcement of the UPA as a negotiation; (5) contradicts his earlier complaint that the PLAs violated the UPA by now attacking ALPA for notifying United of those inconsistencies; (6) relies on inadmissible, immaterial hear-

say; and (7) does not dispute that the MEC Grievance Committee ("GC") was the decision-maker regarding a possible grievance over the differing accommodations, but cites no evidence of discrimination by the GC in its decision, instead relying almost entirely on alleged irrelevant, stray remarks by non-decision makers.

The Court should grant ALPA's summary judgment motion.

I. The Court Should Disregard Additional Facts Alleged by Oka Because He Violated Discovery and Summary Judgment Briefing Rules

The Court should disregard most of Oka's new "facts" because he did not comply with discovery obligations and Local Rule ("LR") 56.1. He violated FRCP 26(e)(1)(A)'s requirement to supplement his interrogatory answers. ALPA's first three interrogatories asked Oka to: (1) "[s]tate all facts that you believe support your claim that ALPA discriminated against you" based on religion in connection with United's accommodations for religious and medical objectors (App. 941); (2) identify all communications "between any person and ALPA that you believe support[] your claim that ALPA discriminated between Religious Objectors and Medical Objectors" (App. 944); and (3) identify "all communications with ALPA in which you or any other Religious Objector asked ALPA to seek the same accommodation or benefits for Religious Objectors that United was providing to Medical Objectors" (App. 947). Oka's interrogatory responses (App. 941-947) failed to cite the following materials on which he now relies heavily: (1) MEC Contract Interpretation and Administration Committee ("CIAC") member Brad

Hunnewell's emails with United in September 2021 (App. 900-902; Opp. 5-6); (2) any text messages (Opp. 9-10); (3) his March 2-3, 2022, slide presentation to the GRP (App. 1082-1214; Opp. 11-12); and (4) then-MEC member Wendy Morse's deposition (Opp. 12).

Oka compounds his Rule 26(e)(1)(A) violation by flouting LRs 56.1(b)(2-3), 56.1(e)(1-2), and 56.1(f-g). He: (1) admits only 14 of the 37 paragraphs in ALPA's SUMF but cites the record in only six of the remaining 23 "disputed" paragraphs (SUMF Resp. ¶¶ 3, 7, 12, 21, 23, 32); (2) does not list the asserted fact before responding to it (*id. passim*); (3) asserts additional facts throughout his Opposition that are not set forth in a statement of additional material facts (Opp., *passim*); (4) presents argument (SUMF Resp. ¶¶ 5, 6, 12, 13, 26); (5) fails to cite the SUMF or his SUMF response throughout his Opposition (Opp., passim); and (6) cites materials not submitted with his Opposition (Opp. 6 (citing non-existent "Sambrano App."), 7 n.1 (same and purported *Sambrano* transcript not in record), 10 (incorrectly citing Oka App. 12-14)).

Oka's disregard for the rules should result in admission of all facts not properly contested with specific record citations in his SUMF response. The Court should exercise its discretion to disregard his noncompliant new and additional "facts" and arguments due to his violations of Rule 26(e)(1)(A) and LR 56.1. See LR 56.1(e)(2); *Campbell v. Fasco Indus., Inc.*, 861 F. Supp. 1385, 1391 n.7 (N.D. Ill. 1994), *aff'd*, 67 F.3d 301 (7th Cir. 1995). Nevertheless, for the Court's convenience and to protect ALPA's rights, ALPA addresses Oka's additional "facts" in this reply memorandum and accompanying responsive declaration.

II. Oka Filed No Grievance Over United's Differing Accommodations

Oka does not dispute that, as a condition precedent for his Title VII claim, he had to file or seek a grievance over United's differing accommodations for religious and medical objectors. Mem. 8-9. His deposition and interrogatory responses admit that he did not do so. SUMF ¶ 21 (citing App. 678 (154:4-13), 947). That failure defeats his claim against ALPA.

Oka's arguments to overcome this legal bar fail, as discussed below.

A. Oka's Discussion of Differing Accommodations Was Not a Grievance

Oka incorrectly seeks to conflate brief discussion of the accommodations' differences with a request that ALPA file a grievance. Opp. 11-12; SUMF ¶ 32; SUMF Resp. ¶ 32. Merely mentioning an issue to a union is not such a request. *Thorn v. ATU*, 305 F.3d 826, 829, 833 (8th Cir. 2002) (denying Title VII claim against union, despite plaintiff's complaint to union of sexual harassment, for failure to ask union to file grievance). So here, Oka mentioned the differing accommodations in passing but did not file or seek a grievance. The same result should follow.

Oka cites no communication to ALPA constituting or requesting a grievance. He asserts that his SAG "raised the issue of discriminatory leaves of absence[,]" but it makes no claim based on those differences, as his next sentence concedes. Opp. 11 (asserting that the leaves of absence were discipline for pilots raising "religious and medical concerns"); SUMF ¶ 21.

Similarly, Oka for the first time cites his slide presentation at the March 2-3, 2022, GRP hearing, as "evidence" that he sought a grievance over the differing accommodations. Opp. 11 (citing App. 1140); *compare* App. 944-947 (interrogatory responses). But, as Oka admitted in his deposition, while the cited slide noted different benefits for medical and religious objectors, he never requested that ALPA grieve the issue. SUMF ¶ 21 (citing App. 678 (154:4-13)); accord *id.* (citing App. 947). Consistent with that undisputed fact, Oka's GRP presentation did not seek to obtain medical objectors' benefits for religious objectors: he sought reinstatement with full backpay for both groups and reinstatement of medical objectors' sick leave. App. 1204-1205. He thus made no request for any relief specific to religious objectors, and he may not now contradict his sworn deposition and interrogatory responses to belatedly suggest otherwise. *James v. Hale*, 959 F.3d 307, 315 (7th Cir. 2020) ("every federal court of appeals permits a judge to disregard a 'sham' affidavit—typically an affidavit that contradicts prior deposition testimony").[1]

Oka next pivots to an alleged remark by GC member Phil Otis at the GRP hearing (not cited in Oka's interrogatory responses, App. 941-947), in which Otis allegedly acknowledged that the "leave process may be discriminatory" and that ALPA was looking into the leaves. Opp. 11. This argument rests on inadmissible hearsay: documents purporting to be the notes of two hearing attendees. *Id.* (citing Oka App. 183, 185). But Oka did not authenticate the documents

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[1] Oka's post-hearing emails to the GRP also note the different accommodations but do not purport to be a grievance seeking the same benefits as medical objectors. Oka App. 465 (¶ 97).

and fails to address that they are hearsay—out-of-court statements about what occurred at a meeting, offered for their truth. They thus do not create a disputed material fact. *Gunville v. Walker*, 583 F.3d 979, 985 (7th Cir. 2009). The notes also are immaterial: (1) the GRP hearing began on Otis' second day on the GC, long after the GC's decision not to grieve the differing accommodations; and (2) Oka does not dispute that Otis was not involved in the GC's decision. SUMF ¶¶ 12, 29; Di Costanzo Dec. ¶ 7 (filed herewith).[2]

Oka also asserts, for the first time, that then-MEC member Wendy Morse (wrongly labeled "Vice Chair") was concerned about the differing accommodations and that religious pilots were justified in feeling disadvantaged. Opp. 12; Oka App. 72 (14:12-20); SUMF ¶ 1; App. 947 (interrogatory response omitting this claim). Oka mischaracterizes Morse's testimony. She merely said that she did not like the different leave parameters for medical and religious objectors as a "personal opinion[.]" Oka App. 111 (53:3-15). Morse's personal views on United's leaves are immaterial. Despite deposing Morse, Oka cites no evidence showing that: (1) any pilot requested that she grieve the issue; or (2) she thought that medical objectors' sick-leave use followed by MLAs violated the UPA. Oka thus admittedly cannot identify any

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[2] Oka asserts that GC Vice Chair Loeffler stated at the GRP hearing that the Status Quo grievances would not go to the System Board because ALPA did not believe in them. Opp. 11-12. Loeffler's alleged comment reflected the GC's view that the grievances were meritless. The unauthenticated, unsworn notes of Mark Guillory (Oka App. 197-198) are inadmissible, immaterial hearsay that, in any event, do not address the differing accommodations or a grievance over them.

communication in which he "or any other Religious Objector asked ALPA to seek the same accommodation for Religious Objectors that United was providing to Medical Objectors[.]" SUMF ¶ 21.

B. Oka's Excuses for Not Filing a Grievance Do Not Create a Dispute of Material Fact

Oka makes two excuses for not grieving the different accommodations, but they do not create a disputed material fact. First, he asserts that ALPA "concealed" the differences. Opp. 13. The record defeats that argument: a week before Oka's SAG, ALPA specifically told him of the differing leaves and that UPA Section 12 addressed them. Mem. 6-7; SUMF ¶ 22. Oka simply chose not to review Section 12 in full. SUMF ¶ 23. He cites nothing to show that ALPA somehow hid information, nor does he refute that he had ready access to that information from the UPA as well as medical objectors he was representing and contacting. Mem. 6-7.

Second, Oka claims that filing a grievance would have been futile. Opp. 12-13. That is irrelevant. Futility is a defense for a plaintiff's failure to exhaust the grievance process in a DFR claim. *Bell v. DaimlerChrysler Corp.*, 547 F.3d 796, 803 (7th Cir. 2008). In contrast, Oka's Title VII claim requires him to show that ALPA discriminated in its "agency function" by not pursuing a grievance due to his religion. Mem. 8. ALPA could not have done so when Oka neither filed nor sought such a grievance.

III. Oka Does Not Show ALPA's Failure to Pursue a Grievance Harmed Him

Oka does not dispute that he must show that ALPA's failure to grieve the differing accommodations harmed him. Mem. 14; see ECF No. 90 at 6 n.1. He cannot do so because the accommodations complied with the UPA, and a grievance thus would have changed nothing.

Oka responds that medical objectors should not have been able to use sick leave before their MLAs because they were not "actual[ly] sick[]" and had first-class medical certificates. Opp. 6, 7 (citing UPA § 13-A-5), 14-15. This fails. First, medical objectors' retention of medical certificates is irrelevant. United, not the FAA, barred their service due to their medical conditions, allowing sick leave use. Mem. 14-15. Second, Oka does not dispute that the UPA allowed medical objectors to take MLAs in response to United's vaccine mandate.

Finally, Oka cites no UPA definition of "actual sickness" but only his own subjective view. He cites no case of pilots being unable to use sick leave before MLAs. He ignores: (1) sick leave use under the UPA rests on availability to work; (2) the undisputed practice of pilots using sick leave before their MLAs; (3) medical objectors having medical conditions that barred them from flying for United; and (4) the availability of sick leave in some cases by pilots who are not ill. SUMF ¶ 12; Mem. 14-15. Thus, ALPA did not "negotiate" a new right to sick leave use for medical objectors; the UPA and its practices entitled them to it, as reflected in Brad Hunnewell's email to United about the issue. App. 900-902.

Oka offers two unpersuasive responses. First, he asserts that sick leave "was absent from the leave descriptions on September 1, 2021." Opp. 6 (citing "Sambrano App. 94-97"). That cited "evidence" simply does not exist: there is no "Sambrano App." filed here and it is not in ALPA's Appendix or Oka's Appendix at those pages. Moreover, Oka does not include it in any statement of additional facts or interrogatory responses. App. 941-947. Finally, it does not show that medical objectors were not entitled to use sick leave before their MLAs began.

Second, Oka claims that ALPA argued to the System Board that United violated the UPA and Memorandum of Understanding 20-01 by requiring pilots missing work due to exposure to COVID to use sick leave instead of paid company leave. Opp. 15. He ignores that the arbitration involved a different issue than here – which type of paid leave should have been used. App. 925. Moreover, ALPA lost that case, with the Board holding, *contra* Oka's position here, that United's sick leave charge was appropriate even though the pilots were not actually ill. *Id.*

IV. Oka's Claim Fails Under the Direct Method of Proof

Oka offers a scattershot series of arguments seeking to directly prove religious discrimination by ALPA. None of them raise a genuine issue of material fact.

A. No Facts Show that ALPA "Directly Facilitated" the Differing Accommodations

Oka asserts, for the first time, that ALPA "directly facilitated" United's discrimination by seeking to worsen the terms of religious objectors' PLAs. Opp. 5-6. He cites emails by CIAC member Brad Hunnewell in which he told United of two inconsistences between the announced PLAs and the UPA: (1) their six-year maximum duration instead of five; and (2) their lack of a fixed end date, which had implications in the event of a furlough. Opp. 6; App. 900-901; *compare* App. 941-946 (interrogatory responses omitting this claim).

Oka's argument fails. The UPA limits PLAs to five years (SUMF ¶ 10), and Oka cites no UPA term granting six-year PLAs, PLAs without a fixed end date, or PLA pilots having the right to return early during a furlough. Opp. 6. Rather, Oka complained to United and the GRP that the PLAs violated the UPA because they lasted longer than the Section 12 "maximum of 5" years. SUMF ¶ 31; App. 1017, 1125. He also admits that PLAs must have a "defined duration." Opp. 7. The PLAs' fixed end date protects PLA pilots scheduled to return to work during a furlough, as they had a right to return, seniority permitting, despite the furlough; in contrast, United typically did not allow early returns during furloughs, and without an end date, any such return could be considered "early." See SUMF ¶ 10; App. 900. Hunnewell thus acted consistently with the UPA and ALPA's position that its only role in the RAP was to ensure compliance with the UPA. Mem. 3. As he wrote to United: "I think we're all better off if we try not to

do anything other than the standard PLA." App. 900. That is not religious discrimination.

Hunnewell's emails also did not harm Oka. Mem. 14. He was on a PLA for 4.5 months, not five years, and he cites no pilot furloughs during that time. SUMF ¶¶ 16-17; Opp. 5-6.[3]

That ALPA's above actions ensured UPA compliance defeats Oka's misleading assertion that ALPA "simultaneously claim[s] it lacks authority to intervene on behalf of religious pilots and then exercise[s] that very authority to make [their] accommodations more punitive." Opp. 7-8. ALPA's position was that it had no role in the statutory RAP except to ensure that the accommodations "were consistent with the UPA[.]" SUMF ¶¶ 9, 15. ALPA's reaction to United's initial accommodation announcement—which was not consistent with the UPA – did just that.

B. Oka's Claim that UPA § 21-K Does Not Allow United's Vaccine Mandate Does Not Show Discrimination

Oka disputes the conclusion of ALPA, including the GRP, that Section 21-K allowed United's vaccine mandate. Opp. 8; SUMF ¶¶ 28, 30; App. 1003-1009. That does not create a dispute of material fact because ALPA's conclusion applied equally to both medical and religious objectors and thus was not discriminatory. ECF No. 90 at 3 (rejecting Oka's LOA 21-02 claim because it "included no differential treatment for unvaccinated religious and non-religious objectors"); ECF No. 59 at 27 (rejecting Oka's Title VII claim because

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[3] Oka's incorrect claim that ALPA "negotiated" medical objectors' sick-leave use is addressed *supra* § III.

"much of the conduct that Oka takes issue with impacted both religious and medical objectors").

C. The Remarks Cited by Oka Are Inadmissible and/or Immaterial

As alleged direct evidence of discrimination, Oka cites alleged remarks—mostly different than those alleged in his SAC and interrogatory responses—by various ALPA representatives. He does not dispute that, to be material, direct evidence of discrimination, a defendant's remarks must be: "(1) made by the decision maker, (2) around the time of the decision, and (3) in reference to the adverse employment action." *Dass v. Chi. Bd. of Educ.*, 675 F.3d 1060, 1072 (7th Cir. 2012) (internal quotations omitted); *Consolino v. Dart*, 2023 WL 6141311, *7 (N.D. Ill.) (similar); Mem. 11. Oka also does not dispute that the GC was the relevant "decision maker" on an ALPA group grievance over United's differing accommodations. Mem. 2, 3-4.

The alleged remarks cited by Oka do not create a genuine issue of material fact because each fails to satisfy one or more of the three criteria for direct evidence. None concerned the differing accommodations. Only one (by GC Chair Pedata) was by a GC member; the remainder were by others outside of the decision-making process.

1. The Alleged GC Member Comments Are Immaterial and/or Non-Existent

Oka's belated citation of an undated text allegedly by GC Chair Pedata does not create a disputed material fact. Opp. 9; App. 941-946 (interrogatory responses omitting this text). After a discussion of an undated article concerning a religious objector being

placed on leave, MEC Chair Insler texted that "you don't even want to know the [Old Testament] punishment for [mixing] fabrics[,]" to which Pedata responded "or stripes with plaids." Oka App. 11. Oka characterizes the comment as "mock[ing]" the objector. Opp. 9.

The text is inadmissible and immaterial. Oka lays no foundation to show that Pedata sent it. The text jokes about fashion, and Pedata does not refer to the pilot, let alone "mock" him. More importantly, the text does not mention, and is unrelated to, United's differing accommodations or the GC's decision not to grieve them. Derogatory "remarks, when unrelated to the decisional process, are insufficient to demonstrate that the employer relied on illegitimate criteria, even when such statements were uttered by a decision maker." *Hong v. Children's Mem'l Hosp.*, 993 F.2d 1257, 1266 (7th Cir. 1993); *McCarthy v. Kemper Life Ins. Cos.*, 924 F.2d 683, 687 (7th Cir. 1991) (decision-makers' comments insufficient when "unrelated to [plaintiff's] firing"); *accord Fuka v. Thomson Consumer Elecs.*, 82 F.3d 1397, 1403 (7th Cir. 1996).

Oka next alleges, for the first time, that GC member Di Costanzo "sarcastically referred to pilots attending a religious liberty rally as 'heroes'" and that he was surprised that no one had called their PLAs "unconscionable." Opp. 9; App. 944-946. This is false. Di Costanzo's name is not on those texts, and Oka cites nothing linking them to Di Costanzo. Oka App. 13-14.

2. The Alleged Comments by Non-GC Members Are Immaterial

Oka's citation to remarks by non-GC members does not create a dispute of material fact. The Alleged

Insler Comments. Oka, for the first time, cites former MEC Chair Insler's text that he liked "how people can pick and choose their religious watermarks[.]" Opp. 9. *Compare* App. 944-946 (interrogatory responses not citing this text). The text is immaterial. First, it is undisputed that Insler played no part in the GC's decision not to challenge the differing accommodations. SUMF ¶ 29; *Gorence v. Eagle Food Ctrs., Inc*, 242 F.3d 759, 762 (7th Cir. 2001) ("[I]f someone not involved in the decisionmaking in a plaintiff's case expressed discriminatory feelings, that is not evidence that the decision was discriminatory."). Second, the text does not concern the differing accommodations. "[S]tray remarks that are neither proximate nor related to the employment decision are insufficient to defeat summary judgment." *Sun v. Bd. of Trustees of Univ. of Ill.*, 473 F.3d 799, 813 (7th Cir. 2007); Schreiner v. Caterpillar, Inc., 250 F.3d 1096, 1099 (7th Cir. 2001) (similar re sexist comment outside of decision-making process).

Next, Guam Grievance Chair Sean Thompson alleges that Insler told him he believed United had the right to provide unpaid leave to accommodate religious objectors. Opp. 10. This comment is immaterial: it did not concern the MLA/PLA differences; Insler was absent from the GC's decision-making process; and the UPA had no leaves other than PLAs for pilots missing work for personal reasons not involving medical, emergency, military, family, or parental situations. SUMF ¶ 7; App. 229-237.

Finally, Oka claims that Insler opined to Thompson that unvaccinated pilots who did not have a medical or religious accommodation would be fired and lose in arbitration. Opp. 10-11. This also is immaterial; Insler was outside of the GC's decision-making process,

and the comment relates to all objectors, not just religious objectors, and does not concern the differing accommodations. Oka App. 32 (15:13-23). Further, it is undisputed that ALPA represented such pilots in the grievance process, with some being reinstated. SUMF ¶ 36.

Alleged Comments by Other Non-Decision Makers. Oka next cites texts involving Negotiating Committee members. Jeff Brown allegedly said that he was "surprised nobody has suggested calling [RAP pilots] hostages yet," and Adrian Rivero allegedly made the "unconscionable" comment falsely attributed by Oka to Phil Di Costanzo. Opp. 9 (internal quotations omitted); *supra* § IV.C.1. In a separate text thread dated February 17, 2022, a group of pilots, purportedly including Rivero and Hunnewell, discussed the Fifth Circuit's decision issued that day in *Sambrano v. United*, 2022 WL 486610 (5th Cir.). Opp. 9-10.

All of these comments are immaterial. None concern the differing accommodations, and no speaker was a GC member. *Supra* at 11.[4]

[4] Other alleged comments cited by Oka also did not concern the differing leaves and were not made by GC members: (1) Insler's alleged, unauthenticated, pre-mandate comment about the Nuremburg Code, Opp. 1 (citing Oka App. 187); and (2) Morse's inadmissible opinion that "the MEC" (not a specific person or the GC) viewed religious objectors as frauds, Opp. 2 (Oka App. 463 (¶ 89)); *see Dorado v. Dial Corp.*, 2007 WL 1052499, *1 (N.D. Ill.) (opinions of those outside decision-making process concerning outcome of process are hearsay).

V. Oka Cites No Material Facts Supporting His Claim Under the *McDonnell-Douglas* Approach

Oka also fails to raise a genuine issue of material fact via the indirect method of proof.

Oka asserts that religious and medical objectors were similarly situated because both groups were unvaccinated and barred from flying. Opp. 13. Oka's argument incorrectly ignores the UPA, which provides different leaves for those missing work for medical reasons versus the catchall of personal reasons. Mem. 13. Employees who are treated differently in some relevant respect under a CBA are not similarly situated for Title VII purposes. *Oliver v. Jt. Logistics Mgrs., Inc.*, 893 F.3d 408, 412 (7th Cir. 2018) (where CBA provided for layoffs in seniority order, plaintiff not situated similarly to more senior employees); *Tyson v. Gannett Co.*, 538 F.3d 781, 783 (7th Cir. 2008) (similar re job assignments).

Oka fares no better with respect to the non-discriminatory reasons offered by ALPA – that its sole role in the RAP was to ensure that United's accommodations complied with the UPA and that the accommodations in fact did so. Mem. 13-15. He asserts that ALPA had a duty to "advocat[e] for equal treatment for all accommodation pilots[.]" Opp. 13-14 (citing *Goodman v. Lukens Steel Co.*, 482 U.S. 656, 665-66 (1987)), 3 (citing *EEOC v. Pipefitters Ass'n Local Union 120*, 334 F.3d 656, 659 (7th Cir. 2003)). This claim fails. First, *Goodman* and *Pipefitters* hold no such thing; rather, unions are "not vicariously liable for discrimination by a union member's employer" and are only liable for discriminating in the performance of their agency function. ECF No. 59 at 26 (citing *Maalik v.*

Int'l Union of Elevator Constructors Loc. 2, 437 F.3d 650, 652 (7th Cir. 2006)). Second, Oka's argument would impose a duty on ALPA to assert pilots' Title VII rights by seeking better accommodations than United provided. However, Oka ignores that ALPA does not represent him for purposes of his statutory rights, and the UPA does not incorporate those rights. Mem. 8, 13 n.3. This allows Oka and other objectors to decide how and whether to pursue and settle their statutory claims; ALPA has such a right only with respect to UPA grievances, subject to its DFR. *Alexander v. Gardner-Denver Co.*, 415 U.S. 36, 49-52 (1974); *Wickstrom v. ALPA*, 156 F.4th 835, 842 (7th Cir. 2025), *petition for cert. filed*, 94 U.S.L.W. 3261 (U.S. Feb. 18, 2026) (No. 25-974).

ALPA treated religious and medical objectors the same. *United*, not ALPA, decided on the offered accommodations, and ALPA responded the same way for both medical and religious objectors: (1) it declined to grieve the mandate (because it concluded it was UPA-compliant) (SUMF ¶¶ 27-28); (2) where the accommodations conflicted with the UPA, United realized its error or ALPA notified United and United changed the accommodation to make it compliant (SUMF ¶¶ 9-13); and (3) ALPA grieved United's discharges and threatened discipline of unvaccinated pilots, including those with religious objections (SUMF ¶ 36).[5]

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[5] Oka argues that he shows pretext based on ALPA's position in the grievance over whether company leave or sick leave should have been charged to pilots missing work due to exposure to COVID. Opp. 15. As explained *supra* § III, that grievance raised a different issue, and Oka cites nothing to show that ALPA's belief that medical objectors could use sick leave before beginning their MLAs was dishonest.

VI. Oka's "Holistic" Approach Does Not Create a Dispute of Material Fact

Oka's "holistic" approach to the evidence fares no better. Opp. 4 (citing *Ortiz v. Werner Enters*., Inc., 834 F.3d 760, 765 (7th Cir. 2016)). As shown above, he offers nothing to show that ALPA discriminated based on religion by not challenging United's differing accommodations for medical and religious objectors. "[I]t is simply not true . . . that if a litigant presents an overload of irrelevant or nonprobative facts, somehow the irrelevancies will add up to relevant evidence of discriminatory intent. They do not; zero plus zero is zero." *Gorence*, 242 F.3d at 763.

ALPA's memorandum shows ALPA's advocacy for unvaccinated pilots – 80% of whom, per Oka, were religious objectors. Mem. 11; SUMF ¶¶ 35-37. Oka responds, for the first time, that ALPA's successful pursuit of an MEC grievance on behalf of all pilots – vaccinated and unvaccinated – due to United's flight restrictions after it cancelled LOA 21-02 was discriminatory. Opp. 10; App. 941-946 (interrogatory responses omitting claim). He complains that GC Vice Chair Di Costanzo expressed anti-religious animus in seeking a "non-RAP victim" as one of the grieving pilots representative of the larger affected group. Opp. 10.

Oka's argument does not show discrimination. ALPA filed this grievance on behalf of "any and all affected pilots" who had trips dropped due to United's destination restrictions. SUMF ¶ 35; App. 1222, 1224 (¶ 2) (emphasis added). In preparing the grievance, Di Costanzo sought an example of a "non-RAP victim" of United's destination restrictions to anticipate (correctly) United's argument that it was entitled to drop RAP pilots' trips because they had been scheduled to be on

leave as of September 27, 2021. Di Costanzo Dec. ¶¶ 5-6. Those pilots therefore would not have been affected by the destination restrictions, although their leave ultimately was postponed due to developments in the *Sambrano* litigation. *Id.* ¶¶ 3, 5; *Sambrano v. United*, 2021 WL 4760645, *1 (N.D. Tex.). Di Costanzo's desire to identify a non-RAP victim did not limit the scope of this grievance but was an effective way to keep the grievance alive in light of United's anticipated response. Di Costanzo Dec. ¶ 5. Moreover, the example of a "non-RAP victim" referred to the accommodation process generally and did not distinguish between medical and religious objectors. *Id.* ¶¶ 4-5. ALPA thus pursued the grievance on behalf of all unvaccinated pilots—even after United settled with respect to vaccinated pilots—and obtained a full recovery for them. SUMF ¶ 35; App. 32-33 (¶ 14).[6]

Finally, Oka's argument concerning ALPA's inquiry about working, unvaccinated flight attendants also fails. ALPA showed how MEC Chair Insler reached out to United in January 2022 about a rumor of such flight attendant work in an effort to obtain like treatment for unvaccinated pilots. Mem. 4, 11; SUMF ¶ 37. Oka responds by referring to a transcript from *Sambrano*, characterizing it as showing, in October 2021, that unvaccinated flight attendants were working. Opp. 7 n.1. This "evidence" violates LR 56.1(b)(3) and is inadmissible and immaterial. Oka vaguely cites a mysterious "Sambrano App.[,]" but that is outside of the record. *Id.* That leaves only Oka's unsworn

[6] Oka imagines, without evidence, that the *Sambrano* TRO "forced" ALPA to include RAP pilots in the grievance. Opp. 10. The TRO enjoined United only; ALPA was not a party. *Sambrano*, 2021 WL 4760645, *1; Di Costanzo Dec. ¶ 3.

description of the transcript's contents, which is classic, inadmissible hearsay. Further, supposed information from October 2021 does not show that unvaccinated flight attendants were flying three months later or that Insler was aware of it.

Conclusion

For the foregoing reasons and those set forth in ALPA's Memorandum, the Court should grant ALPA's summary judgment motion.

Respectfully submitted,

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Dated: March 10, 2026

MEMORANDUM OPINION AND ORDER, U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS (MARCH 24, 2026)

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

JOSEPH JOHN OKA,

Plaintiff,

v.

UNITED AIRLINES, INC. & AIR LINE PILOTS ASSOCIATION, INTERNATIONAL,

Defendants.

Case No. 23 C 15793

Before: Matthew F. Kennelly, District Judge.

MEMORANDUM OPINION AND ORDER

MATTHEW F. KENNELLY, District Judge:

Joseph Oka is a pilot employed by United Airlines, Inc. and a member of the Air Line Pilots Association, International (ALPA), a labor union representing pilots. In August 2021, United implemented a mandate requiring its employees to obtain a vaccination against COVID-19, subject to religious and medical exemptions.

Oka received a religious exemption and was put on unpaid leave without benefits.

Oka sued United and ALPA under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, alleging that each discriminated against him on the basis of religion. At this stage, Oka has three remaining sets of claims: (1) a failure-to-accommodate claim against United, (2) a disparate treatment claim against United, and (3) a disparate treatment claim against ALPA.

United and ALPA have filed motions for summary judgment on Oka's remaining claims. For the reasons below, the Court grants both motions.

Background

United is one of the world's largest airlines. ALPA is the largest pilots' union in the world. At all relevant times, United and ALPA had a collective bargaining agreement—the United Pilot Agreement (UPA)—which established the terms and conditions of ALPA-represented pilots employed by United, including Oka. The United Pilots Master Executive Council (MEC) is ALPA's highest local coordinating body for those pilots.

A. United's vaccination mandate

On March 11, 2020, the World Health Organization declared COVID-19 a global pandemic. On March 13, the President Donald Trump declared the outbreak of COVID a national emergency. In response, United and ALPA negotiated a memorandum of understanding (MOU 20-01), which was ratified three days later. As relevant here, MOU 20-01 provided pay protection for pilots required to quarantine due to sickness,

the sickness of a relative, or direction by a government or medical official.

In January 2021, in response to public remarks by United about mandating vaccination against COVID, ALPA issued a communication to its pilots addressing the possibility. ALPA stated that "[m]andating an approved vaccine would be contractually permissible [under the UPA] and generally allowable under federal law." ALPA App'x at 860-63.[1]

In the spring of 2021, United informed ALPA that it planned to require vaccination. After negotiations, United and ALPA executed a letter of agreement in May 2021 (LOA 21-02), which prevented United from imposing a vaccine mandate, in exchange for COVID protocols incentivizing vaccination and restricting which flights unvaccinated pilots could be on. LOA 21-02 expressly provided that United could terminate the agreement with thirty days' notice.

On June 4, ALPA sent a written message to its pilots regarding the negotiations and agreement. The message stated that:

> Throughout the pandemic, United management has been vocal about the possibility of instituting a vaccine mandate. In early May, management came to ALPA expressing their belief that many foreign countries might start requiring a COVID vaccination to enter the country, even for flight crews. If this occurred,

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[1] The parties use consecutive pagination in the appendices regarding ALPA's motion. They organize by exhibit instead, largely without pagination, for United's motion. The Court follows the same convention.

> management believed they would either need to immediately mandate the vaccine for all flight crews or be prepared to drastically cut United's International schedule. They made it clear that reducing our International reach was not a viable option and concluded a vaccine mandate was their best path forward.
>
> ALPA supports the vaccine and the science behind it. However, we believe incentives and education should be exhausted well before any move to mandate the vaccine. Over the course of the month, we repeatedly advocated that vaccines remain a choice and tested the Company's assumptions. With only a few days to go before management mandated the COVID vaccine, we reached agreement on LOA 21-02 to forestall the mandate and instead incentivize the vaccine with add [sic] pay and route restrictions.

ALPA App'x at 870. In the message, ALPA also reiterated its belief that a vaccination mandate would be legal:

> The EEOC has clearly stated that employers may legally require the COVID vaccine as a matter of public health and safety We enlisted the help of a team of legal experts within ALPA as well as three outside law firms to assess our strategy and options for dealing with an imminent mandate from United management. All legal counsel has agreed that an employer mandate would likely be determined to be lawful. This was an important part of our calculation on how to proceed.

Id.

On August 6, 2021, United announced that it would require its employees to be vaccinated by September 27 of that year. On August 12, 2021, ALPA issued a statement saying that reasonable accommodation requests were outside its representational scope. On September 8, 2021, United representatives informed three ALPA representatives—attorneys Nathan Eisenberg and John Schleder and Negotiating Committee member Jeff Brown—that United would offer personal leaves of absence to pilots with accepted religious objections to the mandate and medical leaves of absence to pilots with accepted medical objections to the mandate.

Over the next few days, Brad Hunnewell—a member of the MEC Contract Interpretation & Administration Committee—emailed Sarah Nau, United's Director of Labor Relations, about the personal leave that would be offered for those with religious accommodations. He raised two concerns. First, he pointed out that United's religious accommodation announcement stated that the maximum duration of leave was six years, instead of the five provided in the UPA. Second, Hunnewell pushed for fixed end-dates, subject to renewal or early returns with United's approval, to avoid complications with recall priority in the event of a furlough.

Hunnewell also raised an issue regarding medical accommodations: "[I]t seems odd to put a pilot on medical leave while he still has sick bank. I'm not aware of that ever happening before. Maybe the pilot should have the option of exhausting [sick time] before going on the medical leave?" *Id.* at 900. Nau stated that she was working on the issue.

Indeed, earlier that day, Nau had reached out to Eisenberg and Jeffrey Loesel, another ALPA lawyer, to discuss the same proposal. She reached out to Eisenberg again shortly after her conversation with Hunnewell. Two hours later, Eisenberg emailed Nau saying that ALPA:

> agree[d] that allowing a pilot who was granted a [medical] accommodation . . . to exhaust sick leave prior to being placed on an unpaid [UPA] Section 12-B Medical Leave of Absence is consistent with the provisions of the UPA and practices surrounding them and does not violate the UPA rights of other pilots.

Id. at 904. Eisenberg also stated that ALPA had a limited role regarding accommodations:

> [ALPA]'s role in this matter is limited to determining if proffered accommodations are consistent with the UPA. ALPA does not have any role to determine, and takes no position as to, whether such an accommodation. . . is consistent with the governing discrimination statutes and related regulations.

Id. MEC Chair Todd Insler, MEC Grievance Chair Joseph Pedata, Hunnewell, Loesel, and Schleder were CC'ed on that email.

On September 15, 2021, Eisenberg emailed ALPA-represented pilots to address their inquiries regarding the vaccination mandate. He stated that the mandate was not a violation of the Railway Labor Act and that the personal and medical leaves that United offered were "specifically addressed in Section 12 of the UPA." *Id.* at 973. Oka read this email and

the UPA's personal leave provision, but he did not read the UPA medical leave provision.

On September 27, 2021, United rescinded LOA 21-02 and implemented its vaccination mandate, subject to medical or religious exemptions. Oka requested and received a religious exemption.

United did not permit its pilots to fly its planes without being vaccinated. It instead offered leaves of absence as it had previously communicated to ALPA. Pilots with a religious exemption, like Oka, received personal leave; pilots with medical exemptions received medical leave. Both were unpaid but differed in three ways relevant here. First, the maximum duration of personal leave was five years; medical leave could last up to six. Second, pilots retained more insurance and travel benefits on medical leave. Third, pilots with medical exemptions were permitted to use accrued sick time—during which they would be paid—before starting their unpaid medical leave.

United also offered those with either exemption preferential consideration for non-customer-facing roles at United and waived its ethical prohibition on outside employment. Oka did not pursue these alternatives.

B. Grievances

United's vaccination mandate prompted grievances. UPA Section 17 authorizes the MEC Grievance Committee to file a group grievance on behalf of multiple pilots. It also permits pilots to file grievances on their own. Those go through several layers of review. The first two are conducted by United: the grievance is first submitted to a chief pilot and can be appealed

to United's Vice President of Flight Operations. After that, the MEC Chair and the Grievance Committee (GC) decide whether the grievance should be submitted to an arbitral body called the System Board of Adjustment. If ALPA decides not to do so, the pilot may appeal that decision to the MEC Grievance Review Panel (GRP).

In September 2021, Oka filed a grievance on behalf of himself and a number of other pilots. Oka amended the grievance twice by the time it was reviewed, so the Court will refer to it as the second amended grievance (SAG). The SAG complained primarily that United violated the UPA by imposing a vaccination mandate. For example, it contended that the mandate "discriminated against pilots who engaged in the protected activity of identifying and revealing faith and medical based objections." *Id.* at 970. It also alleged that United violated the Railway Labor Act's restrictions on how an employer may modify certain working conditions of employees. *See* 45 U.S.C. § 152. The SAG initially did not allude to any disparity between religious and medical accommodations.

United denied the SAG in October 2021 and denied the appeal in January 2022. MEC Chair Insler, GC Chair Pedata, and GC Vice Chair Philip Di Costanzo discussed the SAG and declined to submit it to the System Board. Oka appealed that decision to the GRP, which held a two-day remote hearing on March 2 and 3, 2022. During that hearing, Oka presented a 133-slide Keynote deck (the Apple version of PowerPoint) over the course of approximately five hours. One slide compared medical accommodations to religious accommodations: "Medical RAP have benefits and are treated better than Religious RAP (no

benefits)." ALPA App'x at 1140. Eight days later, the GRP issued a written decision denying Oka's appeal, stating that "the Panel ultimately decided that . . . the Company could impose the vaccination requirement under the UPA, and any lawsuit alleging that United violated the [Railway Labor Act] status quo obligation would be baseless." *Id.* at 1004.

ALPA pressed a separate grievance on October 5, 2021 on behalf of pilots who allegedly had not been appropriately paid under LOA 21-02. United agreed to settle that grievance on February 4, 2022 by providing backpay. One of the pilots who received backpay was a religious objector. ALPA also filed several grievances on behalf of pilots disciplined for noncompliance with United's vaccination mandate. Some of these pilots were also religious objectors.

Finally, ALPA filed a grievance on behalf of pilots who United had directed to quarantine. ALPA asserted that United was required to provide pay protection under MOU 20-01 instead of using the pilots' sick time. The System Board disagreed. One of ALPA's arguments was that United could not require the use of sick time because UPA Section 13-A-5 limits its use to cases of actual sickness, and United had not previously required pilots to use sick time if they were not actually sick. The System Board rejected that argument. It reasoned that "[t]he language of Section 13-A-5 simply does not address the quarantine situation. While Section 13-A-5 does limit use of sick leave to when a Pilot is actually sick, the MOU modifies the provisions of Section 13 with respect to the use of sick leave. . . . " *Id.* at 925.

On March 11, 2022, United announced that it planned to soon allow employees with exemptions to

return to work. Oka returned to work on March 28, 2022.

Oka's lawsuit

On January 28, 2022, Oka filed a charge against United with the Equal Employment Opportunity Commission (EEOC). The charge stated, in relevant part:

> During my employment, I notified my employer of my religious belief and requested a religious accommodation to Respondents[']Covid-19 vaccination mandate. My request was approved, however the only accommodation offered to me was an indefinite, unpaid leave of absence with loss of all benefits and flying privileges. On November 12, 2021[,] I was placed on leave. I believe I have been discriminated against because of my religion.

United App'x, Ex. 2. On May 18, 2022, Oka filed a charge against ALPA with the EEOC. It contained significantly more information than the charge against United, including allegations that ALPA "allowed [United] to treat the medical subset more favorably than the religious subset" and that Oka's "religious . . . suspension was materially and disparately worse than those pilots requesting a medical accommodation." Oka-United App'x, Ex. 2.[2]

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[2] Oka has filed separate appendices to respond to ALPA's motion and United's motion. To distinguish between the two, the Court refers to them as Oka-ALPA and Oka-United, respectively.

On October 3, 2023, Oka filed a three-count complaint against United and ALPA in the District Court for the Eastern District of Kentucky. The suit was transferred to this Court, where Oka filed a seven-count amended complaint alleging that the defendants violated Title VII and that ALPA violated its duty of fair representation under the Railway Labor Act. United and ALPA filed motions to dismiss, which the Court granted in part and denied in part. *Oka v. Air Line Pilots Ass'n*, No. 23 C 15793, 2024 WL 3888763 (N.D. Ill. Aug. 20, 2024). Oka then filed a second amended complaint, and ALPA again filed a motion to dismiss, which the Court granted in part and denied in part. *Oka v. Air Line Pilots Ass'n*, No. 23 C 15793, 2025 WL 580843 (N.D. Ill. Feb. 23, 2025).

Oka now has three remaining claims, two against United and one against ALPA. First, Oka claims that United violated Title VII by failing to reasonably accommodate his religious objections to the vaccination mandate. Second, Oka claims that United violated Title VII by providing disparate treatment—namely, worse accommodations—to religious objectors than to medical objectors. Third, Oka claims that ALPA also violated Title VII by providing disparate treatment to religious and medical objectors. The Court addresses each in turn.

Discussion

Summary judgment is appropriate if there is "no genuine issue as to any material fact and . . . the moving party is entitled to a judgment as a matter of law." *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23 (1986) (quoting Fed. R. Civ. P. 56(c)). In other words, a court may grant summary judgment if a jury could

not reasonably find for the nonmovant based on the evidence. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248-252 (1986).

The party seeking summary judgment bears the initial burden of showing that there is no genuine dispute of material fact. *Celotex*, 477 U.S. at 323. Once the movant has met this burden, the nonmovant must identify "specific, admissible evidence showing that there is a genuine dispute of material fact for trial." *Johnson v. Advoc. Health & Hosps. Corp.*, 892 F.3d 887, 894 (7th Cir. 2018). "Inferences supported only by speculation or conjecture will not suffice." *Id.*

A. Failure-to-Accommodate Claim

"Title VII of the Civil Rights Act of 1964 requires employers to accommodate the religious practice of their employees unless doing so would impose an 'undue hardship on the conduct of the employer's business.'" *Groff v. DeJoy*, 600 U.S. 447, 453-54 (2023) (quoting 42 U.S.C. § 2000e(j)). To bring a failure-to-accommodate claim, an employee must show, as a threshold matter, that: "(1) the observance or practice conflicting with an employment requirement is religious in nature; (2) the employee called the religious observance or practice to [the] employer's attention; and (3) the religious observance or practice was the basis for [the employee's] discharge or other discriminatory treatment." *Adeyeye v. Heartland Sweeteners, LLC*, 721 F.3d 444, 449 (7th Cir. 2013) (internal quotation marks omitted). The burden then shifts to the employer to show that it reasonably accommodated the employee's religious belief or practice or could not do so without undue hardship. *Id.*; *see Ansonia Bd. of*

Educ. v. Philbrook, 479 U.S. 60, 68–69 (1986); *Groff*, 600 U.S. at 473.

For purposes of summary judgment, United does not challenge Oka's ability to satisfy the threshold showing. United instead asserts that summary judgment is appropriate because (1) it reasonably accommodated Oka's religion, and (2) alternative accommodations would have imposed an undue hardship. The Court agrees with United's second argument, so it need not address the first.

Title VII does not require an employer to provide an accommodation that would impose an undue hardship, *i.e.*, a burden that is "substantial in the overall context of [the] employer's business." *Groff*, 600 U.S. at 468. This inquiry is fact-specific, and a court must consider "all relevant factors in the case at hand, including the particular accommodations at issue and their practical impact in light of the nature, size and operating cost of [the] employer." *Id.* at 470–71 (internal quotation marks omitted). The Seventh Circuit has clarified that an employer must "demonstrate an objective undue hardship on its business, not one just subjectively perceived." *Kluge v. Brownsburg Cmty. Sch. Corp.*, 150 F.4th 792, 808 (7th Cir. 2025).

United states that the spread of COVID caused a drastic decline in air travel and sickness, hospitalization, and even death among its employees. According to United, the resulting financial harm and staffing shortages imposed a significant burden on its business. United argues that the vaccination mandate was necessary to prevent the spread of COVID and that permitting unvaccinated pilots like Oka to continue flying, increasing the risk of infection, would have constituted an undue hardship.

In response, Oka proposes twenty-one ways in which, in his view, United could have permitted him to continue flying unvaccinated without undue hardship. These proposed accommodations largely amount to a contention that United could have permitted Oka to continue to work if he wore a mask, tested for COVID regularly, and avoided contact with others.

This contention is unpersuasive. As United points out, the medical consensus at the time was that vaccination was the most effective way of containing COVID. Masking, testing, and avoiding contact with others—measures of containing COVID prior to the development of the vaccines—were inadequate substitutes. That is reflected in several empirical studies cited by United's expert, Dr. Carlos Del Rio, finding that vaccinated people were less likely to catch COVID than their unvaccinated parts. And although vaccination was not 100 percent effective, Del Rio states that when vaccinated people caught COVID (so-called breakthrough infections), they were less likely to spread it to others or suffer from serious illness resulting in hospitalization or death.

Del Rio also highlights several limitations with masking and testing as preventative measures. One limitation of masking is that it is effective only if individuals wear their masks and do so correctly. But, according to Del Rio, "[p]roper mask use is difficult to enforce and usually depends on close observation." United App'x, Ex. 3 ¶ 52. Moreover, Del Rio points out that a workplace mask mandate does nothing to prevent an employee from becoming infected outside of work and then bringing the virus to the workplace.

Turning to testing, Del Rio states that testing is not an effective preventative strategy because it only

"identifies those who are already infected." *Id.* ¶ 56. If someone becomes infected between tests, they can unknowingly spread that infection. Testing therefore serves only as a complement to other preventative measures, and its effectiveness depends on how frequently a person tests. Even in conjunction with masking, Del Rio asserts that weekly testing would not be frequent enough to substitute for vaccination. Moreover, Del Rio recalls that the rapid antigen tests available at the time had a false negative rate of around 20%, meaning that in one in five cases a rapid test would fail to detect an infection. He also states that confirming a rapid test result with a more reliable PCR test would take between one and three days to get results back. Del Rio thus concludes that "vaccines are far more effective at reducing community spread than other alternative measures, including masking and testing." *Id.* ¶ 59. Given the severe consequences of further COVID infection, United was not required to accept the risk of using those alternative measures.

Oka cites two scientific studies to contest the effectiveness of vaccination, but neither supports his position. He first quotes a July 30, 2021 statement by the Director of the Center for Disease Control (CDC) summarizing a study's finding that "Delta infection resulted in similarly high SARS-CoV-2 viral loads in vaccinated and unvaccinated people" and that "vaccinated people infected with Delta can transmit the virus." Pl.'s Resp. to United's Mot. for Summ. J. at 11 (quoting *Statement from CDC Director Rochelle P. Walensky, MD, MPH on Today's MMWR*, Ctrs. for Disease Control & Prevention (July 30, 2021), https://archive.cdc.gov/www_cdc_gov/media/releases/2021/

s0730-mmwr-covid-19.html). Oka also relies on a Lancet Infectious Diseases study of 621 participants that found that "fully vaccinated individuals with breakthrough infections have peak viral load similar to unvaccinated cases and can efficiently transmit infection in household settings." Pl.'s Resp. to United's Mot. for Summ. J. at 11 (quoting Anika Singanayagam et al., *Community Transmission and Viral Load Kinetics of the SARS-CoV-2 Delta (B.1.617.2) Variant in Vaccinated and Unvaccinated Individuals in the UK: A Prospective, Longitudinal, Cohort Study*, 22 The Lancet Infectious Diseases 183 (2021), https://www.thelancet.com/journals/laninf/article/PIIS1473-3099(21)00648-4/fulltext).

Those studies at most suggest that vaccination was less effective at mitigating how contagious a person was once already infected with the Delta variant. Put differently, once a breakthrough infection occurred, that infection was highly transmissible. That does not address the benefits of vaccination against other variants that were still circulating at the time. Nor does it undermine the other main benefit of vaccination—preventing infections in the first place.

The study cited by the CDC Director identified this nuance. Though it observed that a majority of the observed infections involved vaccinated people, the study reasoned that may merely reflect that more of the observed population was vaccinated in general: "As population-level vaccination coverage increases, vaccinated persons are likely to represent a larger proportion of COVID-19 cases." Catherine M. Brown et al., *Outbreak of SARS-CoV-2 Infections, Including COVID-19 Vaccine Breakthrough Infections, Associated with Large Public Gatherings—Barnstable County,*

Massachusetts, July 2021, 70 Morbidity & Mortality Weekly Report 1059 (Aug. 6, 2021), https://www.cdc.gov/mmwr/volumes/70/wr/mm7031e2.htm?s_cid=mm7031e2_w. The study thus cautioned that the "data from this report are insufficient to draw conclusions about the effectiveness of COVID-19 vaccines against SARS-CoV-2, including the Delta variant, during this outbreak." *Id.* Given these limitations, among others, the study emphasized that vaccination continued to be "the most important strategy to prevent severe illness and death." *Id.*

The Lancet study highlights the limitations of using peak viral loads as a proxy for effectiveness. That study, as Oka says, found that peak viral loads were comparable in vaccinated and unvaccinated individuals infected with the Delta variant. But it also found that vaccination was still effective at reducing transmission of the Alpha variant, that vaccination reduced the risk of Delta variant infection, and that infected individuals who were vaccinated were contagious for a shorter period of time. In short, the studies cited by Oka are actually consistent with the consensus that vaccination was the most effective way of preventing COVID from spreading.

Oka next attempts to undermine United's safety justification by pointing to United communications and policies that, in his view, show that United itself viewed vaccination as unnecessary. He first relies on United's pilot bulletin 21-273, which permitted pilots to exercise their discretion whether to wear masks in the cockpit, to suggest that United viewed masking as sufficient. Oka's reliance is misplaced. As United points out, that pilot bulletin was in place during the

vaccination mandate, so it authorized masking as a complement to vaccination, not a substitute.[3]

Second, Oka asserts that United "was simultaneously and publicly boasting about its aircraft's safety—telling passengers and the media that its cabins were among the safest indoor spaces—while internally telling employees that the vaccine mandate Perhaps, but other pilots may not have been as comfortable, hence United's choice to leave it to pilot discretion. was necessary because they might be a safety risk." Pl.'s Resp. to United's Mot. for Summ. J. at 11. Oka contends that those representations were contradictory, suggesting that United's safety concerns were mere pretext.

The Court disagrees. The public statements that Oka relies upon state that the risk of COVID infection on a flight was close to zero because of the filtration in an airplane cabin. But a flight is not the only time when unvaccinated pilots would present a risk. For example, pilots must walk to and from the airplane, often through a crowded airport. They also spend time with the rest of their flight crew between flights, for example, spending layovers at a Union-approved hotel. United might have viewed its flights as safe and nonetheless been concerned that unvaccinated pilots could spread COVID elsewhere at work.

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[3] United likely permitted (vaccinated) pilots to choose whether to wear masks in the cockpit because of its concern that masking could impede communication or the donning of an oxygen mask in emergency situations. Oka quibbles with these concerns, stating in a declaration that he had never encountered communication problems and could don an emergency mask quickly even with a surgical mask.

Perhaps recognizing this, Oka's attests in a declaration that he would have volunteered to find separate transportation and lodging at his own expense and eaten crew meals in a separate chair with a barrier surrounding it. But the risks were not so confined. An unvaccinated pilot, anytime they were in contact with anyone else, presented a heightened risk of infection. Oka does not suggest that he could have avoided contact with everyone else entirely, nor could he. As experience shows, that was simply not feasible.

Third, Oka contends that Scott Kirby, United CEO, revealed in an interview that the real purpose of the vaccination mandate was to advance the Biden Administration's goal of nationwide vaccination. The interview does suggest that Kirby wanted the entire nation to become vaccinated, but that is not inconsistent with a belief that vaccination was necessary to ensure that United employees and customers were safe. The only statement pertaining to that issue is Kirby's statement that "[t]he aircraft itself is safe." Oka-United App'x, Ex. 9. But as discussed earlier, unvaccinated pilots could still pose a significant risk elsewhere in the workplace environment.

Oka proposes another ulterior motive: "[United's] management feared that foreign countries might require vaccinations for flight crews to enter, which would 'drastically cut UAL's International schedule.' . . . The mandate was . . . about protecting International route authority and commercial interests." Pl.'s Resp. to United's Mot. for Summ. J. at 12. But as discussed above, United could have had multiple motivations for imposing the vaccination mandate. But that does not undercut its claim of undue hardship. To the contrary, Oka's argument introduces additional economic reasons

why United legitimately could not permit unvaccinated pilots to continue flying.

Fourth, Oka repeatedly references exhibits and testimony in another case that purportedly undermine United's safety justification. Oka did not provide those in connection with his responses to the summary judgment motions in this case, so they are not part of the record and therefore do not help him avoid summary judgment. *See Alexander v. Casino Queen, Inc.*, 739 F.3d 972, 978 (7th Cir. 2014). Even if they were, they would offer him no support. For example, Oka purports to quote Johnson's testimony that testing and masking was a reasonable accommodation, but the Court cannot find anything to that effect in the testimony that Oka cites. *See* Pl.'s Resp. to United's Mot. for Summ. J. at 15 n.16 (citing Redacted Appendix in Support of Plaintiffs' Motion for Class Certification at App'x 796–813, *Sambrano v. United Airlines, Inc.*, 347 F.R.D. 155 (N.D. Tex. 2024) (No. 4:21 C 1074-P)). Oka also cites Johnson's testimony as "directly contradict[ing]" deposition testimony from Kirk Limacher, United's Vice President of Human Resources, where Limacher said that he consulted Johnson because "[United] considered accommodations with a safety lens." Pl.'s Resp. to United's Mot. for Summ. J. at 8; United App'x Ex. 4, 53:25–54:20. But as far as the Court can tell, Johnson's testimony is materially consistent with Limacher's. Johnson testified that she was involved in United's consideration of safety measures such as masking and testing but not in the specific decision to put employees on unpaid leave. Redacted Appendix in Support of Plaintiffs' Motion for Class Certification, *supra*, at App'x 809-11.

Finally, Oka argues that summary judgment is inappropriate because United has produced "no modeling, no quantified projections, no cost analysis, and no operational data" to support its claim of undue hardship. *Id.* at 14. But Oka cites no authority stating that United needed to do so. Nor is there any indication in the text of Title VII or the caselaw suggesting that such quantitative proof is necessary. Rather, to establish that it could not permit Oka to fly unvaccinated, United only needed to show that doing so would impose a burden that was "substantial in the context of [its] business." *Groff*, 600 U.S. at 471. As other courts have found, the increased risk from permitting unvaccinated employees to continue working in person readily qualifies. *See, e.g.*, *Rodrique v. Hearts Commc'ns, Inc.*, 126 F.4th 85, 91-94 (1st Cir. 2025) (holding that a defendant demonstrated undue hardship, and was entitled to summary judgment, based on undisputed evidence that it reasonably relied on objective medical evidence in setting its vaccination policy) *Henry v. S. Ohio Med. Ctr.*, 155 F.4th 620, 632-33 (6th Cir. 2025) ("[I]n determining whether an accommodation would pose an undue hardship, an employer is permitted to draw conclusions based on evidence and information that was available at the time."); *see also, e.g.*, *Petersen v. Snohomish Reg'l Fire & Rescue*, 150 F.4th 1211, 1220 (9th Cir. 2025); *Hall v. Sheppard Pratt Health Sys., Inc.*, 155 F.4th 747, 753-55 (4th Cir. 2025); *Wise v. Child.'s Hosp. Med. Ctr. of Akron*, No. 24-3674, 2025 WL 1392209, at *3-5 (6th Cir. May 14, 2025). United has therefore established that permitting Oka to continue flying unvaccinated, even with his proposed accommodations, would impose an undue hardship. Oka has not produced evidence from which a jury reasonably could find otherwise.

B. Disparate treatment claims

The Court next considers Oka's disparate treatment claims, first against United, then against ALPA.

1. United

Oka claims that United discriminated against him on the basis of religion by (1) imposing the vaccination mandate and (2) providing worse accommodations to religious objectors than to medical objectors.

Before addressing the merits, the Court considers United's contention that Oka has not exhausted the latter claim. "Before bringing a Title VII claim, a plaintiff must first exhaust his administrative remedies by filing charges with the EEOC. . . ." *Chaidez v. Ford Motor Co.*, 937 F.3d 998, 1004 (7th Cir. 2019). That requirement is a mandatory claim-processing rule, not a jurisdictional one. *Fort Bend County v. Davis*, 587 U.S. 541, 543-44 (2019). Its purpose is to "give[] the employer some warning of the conduct about which the employee is aggrieved and afford[] the EEOC and the employer an opportunity to attempt conciliation without resort to the courts." *Alam v. Miller Brewing Co.*, 709 F.3d 662, 666 (7th Cir. 2013).

The Seventh Circuit has stated that in assessing whether a plaintiff's EEOC charge adequately described the claims raised in a later lawsuit, a court should ask whether the claims are "like or reasonably related to the allegations of the charge and growing out of such allegations." *Cheek v. W. & S. Life Ins. Co.*, 31 F.3d 497, 500 (7th Cir. 1994). That test is satisfied "if there

is a reasonable relationship between the allegations in the charge and the claims in the complaint"—at a minimum, describing the same conduct and implicating the same individuals—"and the claim in the complaint can reasonably be expected to grow out of an EEOC investigation of the allegations in the charge." *Id.* at 500-01.

United argues that Oka has not exhausted his disparate treatment claim based on the disparity between medical and religious objectors because it was not mentioned in his EEOC charge. Oka's EEOC charge did, however, complain that religious objectors received unpaid leave with no benefits or flying privileges. Though the charge did not spell it out, those were ways in which he contends the religious accommodations were worse than the medical accommodations.

In the abstract, whether this sufficed for exhaustion may be a close call. In a sense, it alleges the same conduct—the religious accommodation—and implicates the same individual, United. But because it did not make a comparison to the medical accommodations, it is difficult to say whether the EEOC would discover that disparity in the course of investigating the charge. *Cf. id.* at 500 ("The second part of the [exhaustion] test is difficult to apply because it requires speculation as to what the EEOC might or might not discover in the course of an investigation.").

Oka, however, has produced evidence of what appear to be an EEOC interviewer's notes from talking to Oka about his charge against United. Those notes state that Oka "claimed that United treated people different[ly] when you filed a religious exemption rather than a medical exemption" and that "medical

exemptions were allowed to still use there [sic] benefits." Oka-United App'x, Ex. 2. In other words, the evidence shows that the EEOC in fact discovered the alleged disparity in accommodations. United has not challenged the authenticity of this evidence. With the purposes of the exhaustion requirement in mind, the Court concludes that Oka has met *Cheek*'s test and that he exhausted his disparate treatment claim against United.

With that established, the Court turns to the merits of Oka's claims. To establish a disparate treatment claim under Title VII, a plaintiff must show that discriminatory motive or intent caused an adverse employment action. *See Puffer v. Allstate Ins. Co.*, 675 F.3d 709, 716 (7th Cir. 2012); *Khungar v. Access Cmty. Health Network*, 985 F.3d 565, 573 (7th Cir. 2021). A plaintiff may do so by presenting evidence that, when viewed as a whole, shows discriminatory intent. *See Ortiz v. Werner Enters., Inc.*, 834 F.3d 760, 765 (7th Cir. 2016).

A plaintiff may also organize the evidence through the burden-shifting framework created by *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973). Under that framework, a plaintiff must first show that he is a member of a protected class, he was meeting the defendant's legitimate expectations, he suffered an adverse employment action, and similarly situated employees who were not members of his protected class were treated more favorably. *Khungar*, 985 F.3d at 573. If the plaintiff makes that showing, the burden shifts to the defendant to provide a legitimate, nondiscriminatory reason for the adverse action. *Id.* The plaintiff then bears the final burden of

producing evidence that the proffered reason is a pretext for discrimination. *Id.*

Regardless of how a plaintiff presents a disparate treatment claim, the ultimate question at summary judgment is whether the evidence viewed as a whole permits a reasonable inference that discriminatory intent caused the challenged conduct. *See id.* at 574. Here, that ultimately boils down to whether Oka can show pretext. To survive summary judgment, Oka must show "a genuine issue about the honesty, not the accuracy," of United's proffered justifications. *Widmar v. Sun Chem. Corp.*, 772 F.3d 457, 465 (7th Cir. 2014). United asserts that its decision to impose the vaccination mandate was motivated by safety, a legitimate, non-discriminatory reason. As discussed earlier, Oka's attempts to undermine that explanation are unavailing. No jury reasonably could find based on the evidence that United's safety concerns in imposing the vaccination mandate were a mere pretext for discrimination.

That leaves Oka's argument that United discriminated against him by offering worse accommodations to religious objectors compared to medical objectors. According to United, the difference between the accommodations derived from differences between personal leave and medical leave set out in the UPA. Oka does not dispute that compliance with a collective bargaining agreement, like the UPA, is a legitimate, non-discriminatory policy.[4] *See Winfrey v. City of Chicago*, 259 F.3d 610, 618 (7th Cir. 2001).

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[4] Oka does not claim that the UPA's terms were a form of discrimination.

Instead, Oka primarily challenges that explanation by arguing that United's accommodation terms were inconsistent with the UPA. First, he contends that the UPA did not authorize United to place him on a forced, unpaid leave. The relevant provision, section 12-A-1, states in relevant part that "a Pilot may be granted a personal leave of absence up to a maximum of five (5) years for any reason deemed adequate by the Company." United App'x, Ex. 8 § 12-A-1.

The Court does not see how that language supports Oka's position. In context, the phrase "may be granted" merely establishes that *United* has discretion whether to grant personal leave. Perhaps Oka's contention is that the word "granted" implies an initial request, but he *did* make such a request by applying for a religious accommodation that he knew amounted to personal leave. To be sure, Oka disputes whether United appropriately could offer personal leave as his accommodation, but that goes to his failure-to-accommodate claim, not the relevant question here of whether United complied with the UPA. It is also not clear that the word "granted" in UPA section 12 impliedly prohibits United from placing a pilot on leave in appropriate circumstances, especially because section 12 is not clearly a restriction on United's authority in the first place. United's rejection of that reading is not so obviously wrong to suggest that a reasonable jury could find it was not honestly attempting to structure its accommodations according to the UPA. In any event, United imposed leave on religious and medical objectors alike. As a result, even if that decision was inconsistent with the UPA, that would do little to advance Oka's claim that United treated the two groups differently.

Next, Oka asserts that United deviated from the UPA by permitting medically exempt pilots to use sick leave when they were not actually sick. This argument is rooted in UPA section 13-A-5, which states that "[s]ick leave with pay shall be granted only in cases of actual sickness." *Id.* § 13-A-5 The rest of section 13-A-5, however, permits a pilot to use sick leave for dental or doctor appointments if his dentist or doctor does not have availability outside of scheduled work hours. Other provisions of the UPA similarly suggest that actual sickness was not always required. Section 12-F-4, for example, permits pregnant pilots to exhaust paid sick leave prior to taking a parental leave of absence. And agreements between United and ALPA outside of the UPA further suggest that United's sick-leave practice was not as constrained as Oka asserts. For example, Letter of Agreement 16-01 uses sick leave to handle instances of pilot fatigue.

United, like ALPA, reads these provisions as a whole to permit sick leave if an employee is unavailable to "work for a medical reason, sometimes even if a pilot is not actually ill." *See* ALPA Stat. of Facts ¶ 12; United's Reply in Supp. of Mot. for Summ. J. at 15. That reading is arguably difficult to square with the language of section 13-A-5, but it is important to recognize that the UPA was not crafted with COVID in mind. An honest attempt by United to adhere to the UPA in addressing the unique problems of COVID may nonetheless have led to some arguable inconsistencies of the kind that Oka points out. But viewed in context, United's interpretation is not so implausible to give rise to a reasonable inference of pretext.

Perhaps recognizing that he needs something more, Oka argues that United's current interpretation is a litigation invention at odds with its previous positions in response to two grievances. One is a grievance denial where Bryan Quigley, United's Senior Vice President of Flight Operations, asserted that vaccination was not a "flight qualification." Oka-United App'x, Ex. 12. But in context, Bryan Quigley's point was that the vaccination requirement was not a limitation on flying specifically, but rather a requirement to work at United, full stop. Properly understood, there is no contradiction. Under Quigley's view and United's position now, an unvaccinated pilot could not fly or otherwise work for United. If he could not be vaccinated because of a medical condition, then he would be unavailable to work for a medical reason.

Oka also alludes to an instance where United denied long-term disability status to medically exempt pilots because they held valid Federal Aviation Act (FAA) First-Class medical certificates. That, according to Oka, concedes that medically exempt pilots were medically able to fly. Oka, however, does not provide any citation to the record for this purported grievance or response and thus forfeits the point. In any event, Oka conflates different standards. A pilot may qualify for sick leave without qualifying for long-term disability or losing their FAA medical certificate, which relates to general fitness to fly rather than temporary sickness, *see generally Guide for Aviation Medical Examiners*, Fed. Aviation Admin. (Mar. 8, 2023), https://www.faa.gov/ame_guide/standards. That is true under United's interpretation: for example, a pilot may be unable to work due to a medical condition that is too temporary to qualify as a long-term disability.

In short, Oka's contention that United deviated from the UPA would not permit a reasonable inference that United's explanation is a pretext for discrimination.

Oka advances two other arguments. First, he suggests that United could have negotiated new leave provisions. United, however, responds that it did not have time to do so before implementing its vaccination mandate, which it viewed as urgent because of the rapid rise of the Delta variant. Oka notes that United could have negotiated new leaves in May 2021, when it first considered a vaccination mandate. That might have been prudent, but United's failure to do so does not permit a reasonable inference of discriminatory intent. Oka also asserts that the 48-hour negotiation of MOU 20-01 shows that United was capable of moving quickly, but as United points out, MOU 20-01 did not require renegotiating the UPA's preexisting leave structure.

Finally, Oka tries to get at discriminatory intent more directly by asserting that United was "guided by an executive openly hostile to religious exemptions." Pl.'s Resp. to United's Mot. for Summ. J. at 20. The only admissible basis for that assertion, however, involves the previously discussed comments by Kirby generally expressing approval of vaccination. But that does not reasonably imply animus against religious objectors. Oka also states that United intentionally created a sham process, but his proof falls flat there too. He relies solely on his own declaration, quoting the following statement by Nau:

> [Regarding] requesting accommodations for COVID-19, we modified our process a little bit and made it automated So it went from a

> very personal one-on-one conversation, same amount of documentation, same process, but now it was definitely more employee driven. Like a lot less handling [regarding] the return to work[] and pilots. That was on a personal level. We followed up with a number of pilots a couple of times that hadn't either responded or sort of responded no, making sure that they were aware that they had the opportunity to come back So we did—on an individual basis, I believe our chief pilots sort of divided and [conquered] the group that were on leaves of absence to ensure that these individuals knew their rights to return if they hadn't communicated back to the Company.

But this statement does not distinguish between religious and medical accommodations. In fact, it says almost nothing about United's motives. United could have cut down on the accommodations process for a number of other nondiscriminatory reasons, such as a desire to minimize logistical burdens. To infer from Nau's statement discrimination against religious objectors specifically would be pure speculation. That is not enough to avoid summary judgment.

In sum, Oka's arguments do not permit a reasonable inference that United offered different accommodations to religious and medical objectors due to discriminatory intent.

2. ALPA

In his final claim—his disparate treatment claim against ALPA—Oka asserts that ALPA discriminated against him by permitting the disparity in the

religious and medical accommodations that United offered.

Section 703(c) of Title VII forbids a union from discriminating against any individual because of his religion and from causing an employer to discriminate unlawfully. 42 U.S.C. § 2000e-2(c). A union is liable under this section, however, only if it "discriminates in the performance of its agency function," *i.e.*, its role "as the employees' agent (in bargaining and in implementing contracts)." *Maalik v. Int'l Union of Elevator Constructors, Local 2*, 437 F.3d 650, 652 (7th Cir. 2006) (quoting *EEOC v. Pipefitters Ass'n Local Union 597*, 334 F.3d 656, 660 (7th Cir. 2003)). Moreover, a union does not have an affirmative duty to investigate and rectify discrimination in the workplace. *Pipefitters*, 334 F.3d at 659–61. A union may, however, be liable for certain forms of selective inaction, for example, if it refuses to press a black worker's grievance but would do so if he were white. *Id.* at 661.

At the outset, ALPA argues that Oka must make a threshold showing that he complained to ALPA about the disparity in accommodations. The Court does not agree. Nothing in section 703(c) imposes such a requirement. To be sure, a plaintiff must complain to a union as a prerequisite to a suit against the union for breach of its duty of fair representation. *Mechmet v. Four Seasons Hotel, Ltd.*, 825 F.2d 1173, 1178 (7th Cir. 1987). After all, "if a worker doesn't even ask his union to press a grievance for him he can hardly complain that it has failed to represent him." *Id.* The Seventh Circuit, however, has made clear that liability under section 703(c) of Title VII does not turn on the existence or breach of such a duty. *Green v. Am. Fed'n of Tchrs.*, 740 F.3d 1104, 1105–07 (7th Cir.

2014). Whether Oka complained to ALPA is still relevant, for example, regarding whether he can show that ALPA's failure to pursue his claim was discriminatory. But a failure to complain is not an automatic basis for summary judgment.

Turning to the merits of Oka's claim, he argues that ALPA discriminated against religious objectors by failing to challenge the disparity in medical and religious accommodations. ALPA responds that its role was limited to ensuring that United adhered to the UPA and preexisting practices. According to ALPA, it did not challenge the difference in accommodations because it viewed them as consistent with the UPA's provisions for personal and medical leave. ALPA did not have an affirmative duty to challenge the disparity. ALPA's justification is also a legitimate, non-discriminatory explanation. Thus to survive summary judgment, Oka must show that a jury reasonably could find that ALPA's inaction was selective and, relatedly, that its policy of intervening only to enforce the UPA was pretextual.

Oka attempts to do so in four ways. First, he argues that ALPA took active steps to worsen United's religious accommodation. Specifically, Oka points out that Hunnewell prompted Nau in their email conversation to change the maximum personal leave duration from six years to five and to prevent religious pilots from having the unilateral right to return early in the event of a furlough. But ALPA states that Hunnewell's proposed changes resolved conflicts with the UPA, and Oka does not contend otherwise.

Second, Oka contends that ALPA went beyond ensuring compliance with the UPA when Hunnewell suggested to Nau that pilots with medical accom-

modations should be able to use sick leave. In Oka's view, that was not required by the UPA and even contradicted UPA section 13-A-5's actual sickness requirement. The latter point, as discussed earlier, is unavailing. Oka points out that, unlike United, ALPA itself took the position in a later arbitration that sick leave was appropriate only in cases of actual sickness. It did so, however, to argue that United should have provided pay protection instead of forcing pilots to use sick leave, an argument that the System Board rejected. The question of whether Section 13-A-5 prohibits United from permitting use of sick leave in cases not involving actual sickness is different.

Regarding whether Hunnewell's suggestion went beyond what was required by the UPA, the text of his email suggests that disallowing sick leave may have constituted a departure from previous practice: "[F]or the medical RAPs it seems odd to put a pilot on medical leave while he still has sick bank. I'm not aware of that ever happening before." ALPA App'x at 900. Eisenberg's follow-up email to confirm ALPA's position on the issue expressly stated that ALPA's role was limited to ensuring compliance with the UPA, and it approached the issue accordingly, stating only that ALPA agreed that permitting sick leave would be consistent with the UPA and previous practices.

Taking a step back, to the extent that Hunnewell's email may have stepped beyond that role, it appears to have been a one-off. ALPA's communications to its members and to United were otherwise consistently in line with its position now that its only role regarding accommodations was to align them with the UPA. Oka's burden is to produce evidence from which a jury reasonably could find that ALPA's

explanation is dishonest, not merely that it did not adhere to it perfectly. Hunnewell's single email suggestion that only arguably stepped beyond ALPA's compliance role does not get Oka there.

Third, Oka argues that ALPA did not ensure compliance with the UPA because it did not challenge United's decision to implement the vaccination mandate without negotiating with ALPA first. According to Oka, that violated UPA section 21-k. This argument lacks merit. Section 21-k states in relevant part: "Company personnel policy which affects pilots shall not be changed without giving advance notice to the Association and affording them the opportunity to comment." *Id.* at 338. As the System Board and GRP recognized, that simply required United to provide advance notice and an opportunity to comment, not to negotiate the vaccination mandate with ALPA.

Fourth, Oka produces evidence of statements by ALPA members that, in his view, establish animus against religious objectors. He asserts that "ALPA leadership derided religious objectors, mocked them in private text messages, and compared their principled stand to those invoking the Nuremberg defense." Pl.'s Resp. to ALPA's Mot. for Summ. J. at 1. That assertion, however, largely mischaracterizes the evidence. For example, the Nuremberg comparison was made by a religious objector who cited the Nuremberg Code as a basis for his objection to the vaccination mandate in an email to MEC Chair Insler. Insler found the comparison highly offensive.

Some cited conversations contain no signs of animus, such as the following conversation about United's religious accommodation page between Daniel

Fandrei (presumably another ALPA member) and Hunnewell:

> Fandrei: This says 72 months
>
> Hunnewell: Maybe that's right I didn't look out [sic] up Fandrei: It's 60 months
>
> Hunnewell: Oh dear
>
> Fandrei: [Quoting the UPA personal leave provision]

Oka-ALPA App'x, Ex. 1. Others might be fairly characterized as derisive but do not display animus toward religious objectors. For example, Hunnewell extensively criticizes a court opinion related to United's COVID protocols in one conversation, but his critiques are largely legal in nature, and none provide a basis to reasonably infer animus toward religious objectors.

Oka's strongest evidence is a text message from Insler reacting to an article about a religious objector, where he stated: "I like how people pick and choose their religious watermarks." *Id.* But stray remarks, even if discriminatory, are insufficient to defeat summary judgment if they are not related to the challenged decision. *Hong v. Child.'s Mem. Hosp.*, 993 F.2d 1257, 1266 (7th Cir. 1993); *Bahl v. Royal Indem. Co.*, 115 F.3d 1283, 1293 (7th Cir. 1997). Here, Oka can point to no connection between that comment and any decision by ALPA not to press a grievance regarding the disparity in religious and medical accommodations. Insler attests that he was not involved in any such decision, and Oka does not dispute that representation.[5]

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[5] UPA Section 17-A-7 seems to authorize the MEC Chairman to initiate review of "an alleged misapplication or misrepresentation"

From the record, the only decision-makers who considered a grievance regarding the accommodations were Di Costanzo and Pedata, and none of the admissible evidence supports a reasonable inference of animus on their part, let alone animus connected to their decision.

In sum, a jury could not reasonably find in Oka's favor based on the arguments and the evidence in the record.

Conclusion

For the above reasons, the Court grants United's motion for summary judgment [dkt. 137] and ALPA's motion for summary judgment [dkt. 127]. The Court directs the Clerk to enter judgment stating: Plaintiff's claims are dismissed with prejudice. The trial date and all other dates and deadlines are vacated.

. /s/ Matthew F. Kennelly
U.S. District Judge

Date: March 24, 2026

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of the UPA. ALPA App'x at 248. It is conceivable that Insler did not exercise this authority to raise the issue of the different accommodations because of bias against religious objectors. But Oka does not brief this issue. And in any event, he has not presented sufficient evidence in the record to support this theory.