**UNITED STATES DISTRICT COURT**
**WESTERN DISTRICT OF KENTUCKY**
**AT LOUISVILLE**

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| UNITED PARCEL SERVICE, CO. | : | Case No. 3:10-cv-400-H |
| Plaintiff, | : | |
| v. | : | |
| INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 2727 | : | **COMPLAINT AND PETITION TO VACATE ARBITRATION AWARD** |
| Defendant. | : | |

Now comes Plaintiff United Parcel Service Co. ("Plaintiff" or "UPS"), by counsel, and for its Complaint states as follows:

1. Plaintiff UPS files this Complaint and Petition against Defendant International Brotherhood of Teamsters, Local 2727 ("Defendant" or the "Union"), to vacate the System Board of Adjustment's ("SBA") Award regarding Grievance No. 2005-0521 dated April 10, 2010.

2. UPS is a corporation duly organized and existing under and by virtue of the laws of the State of Delaware. Its principal place of business is in the State of Georgia, which is the location of its corporate headquarters. It is an air carrier engaged in interstate commerce by air and is a "carrier" within the meaning of that term as defined in Title II, Section 201 of the Railway Labor Act, 45 U.S.C. § 151, *et seq.*, and is subject to the provisions of the Act.

3. UPS has at all times material hereto been, and is currently, operating in Louisville, Kentucky providing domestic and international package transportation, delivery, and related services to its customers.

4. Defendant is an unincorporated association doing business in Kentucky and elsewhere as a labor union, and has been contractually recognized as the exclusive collective bargaining representative for certain of Plaintiffs employees, specifically those employees in the Aircraft Maintenance and Related Employees craft or class.

5. This Court has jurisdiction over this action under the laws of the United States including 28 U.S.C. § 1331 and the Railway Labor Act, 45 U.S.C. § 151, *et seq* (RLA).

6. Plaintiff and Defendant are parties to a collective bargaining agreement ("CBA"), which is effective; by its terms from October 8, 2001 to November 1, 2006.

7. The CBA between the parties has been extended as required by the RLA pending the negotiation and ratification of a new contract or the exhaustion of the negotiation processes provided by the RLA.

8. Articles 6 and 7 of the CBA contain a grievance procedure culminating in final and binding arbitration in the event that a grievance between the parties cannot be otherwise resolved. Article 7, Section 3.a. provides that "The jurisdiction of the Board shall not extend to proposed changes in the hours of employment, rates of compensation, or other working conditions covered by this or other existing Agreements between the parties."

9. The Preamble to the CBA provides, in part:

> United Parcel Service Co., a Delaware Corporation ... and Local 2727 of the International Brotherhood of Teamsters ... agree to be bound by the terms and conditions of this Agreement which is made and entered into in accordance with the provisions of the Railway Labor Act, 45 U.S.C. Sections 151, et seq. This Agreement will cover all operations over which the Union has jurisdiction in, into and out of, between and all of the states, territories, and possessions of the United States including but not limited to, Hawaii, Puerto Rico, Virgin Islands, and Guam.

10. On or about August 1, 2005, Defendant filed Grievance No. 2005-0521 against UPS alleging that UPS violated various provisions in Article 1 and Article 22 of the CBA by

using international aircraft mechanics employed by a third party vendor, not represented by the Defendant Union or covered by the CBA, to perform Periodic Maintenance Checks ("PMCs") 14 and 19 on a Boeing 767 aircraft tail number 306, in Taipei, Taiwan, on or about July 30, 2005.

11. The grievance was not otherwise resolved and the Union requested the grievance be resolved through an arbitration proceeding before the SBA.

12. The SBA, with Dana Edward Eischen sitting as Impartial Chairman, held a hearing on October 12 and 13, 2009 in Louisville, Kentucky. Both the Plaintiff and Defendant presented witnesses at the hearing. After completion of the hearing, both the Plaintiff and Defendant submitted post-hearing briefs summarizing their respective positions on the grievance.

13. On April 10, 2010, the SBA issued a Decision and Award (the "Decision and Award"). The Award sustained the Union's grievance and held that UPS could not move any work that is routinely performed by Local 2727 represented employees within the United States to an international location, unless expressly authorized by Article 1 of the CBA. The SBA awarded the Defendant fourteen hours of AMT salary payable to the individual grievants.

14. The SBA's Decision and Award did not arguably construe or apply the CBA to the Grievance and facts at issue. The Preamble to the CBA clearly limited the jurisdiction of the CBA to work performed in the United States. The SBA's Decision and Award was overbroad and overextended the CBA's jurisdiction and the Union's jurisdiction.

15. The SBA's Decision and Award impermissibly disregarded and modified multiple provisions of the CBA, including the Preamble.

16. The SBA's interpretation conflicts with the express terms of the CBA and engrafts a restriction on UPS that was not intended by the parties.

17. The Railway Labor Act does not grant the SBA jurisdiction to alter or amend the terms of collective bargaining agreements. The CBA itself prohibits the SBA from altering or amending the terms of the CBA.

18. The Railway Labor Act, 45 U.S.C. § 153(q) states that a court has jurisdiction to set aside the award of a SBA where it either violates the Railway Labor Act or violates the parties' agreement.

19. SBA's Decision and Award of April 10, 2010 does not arguably construe or apply the CBA and, thus, alters and violates the parties' agreement.

20. WHEREFORE, Plaintiff seeks judgment in its favor and moves for an Order from this Court granting the following relief:

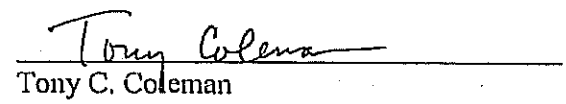
(a) vacating and setting aside the SBA's Award and Decision dated April 10, 2010 and declaring the Award and Decision null and void;

(b) issuing a decision denying Defendant's grievance against UPS or, in the alternative, directing the parties to arbitrate the dispute before a neutral arbitrator; and

(c) awarding any other relief this Court deems proper.

Respectfully submitted,

FROST BROWN TODD LLC



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