

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

**UNITED STATES OF AMERICA
PLAINTIFF,**

CASE: #: 20-cv-13293

VS.

HON. DAVID M. LAWSON

**INTERNATIONAL UNION, UNITED
AUTOMOBILE, AEROSPACE, AND
AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA,
DEFENDANT.**

**STATEMENT OF THE INTERNATIONAL UNION, UAW IN RESPONSE
TO THE MONITOR'S TWELFTH REPORT**

**STATEMENT OF THE INTERNATIONAL UNION, UAW IN RESPONSE
TO THE MONITOR'S TWELFTH REPORT**

The International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (“UAW”), by its attorney, Harold Gurewitz of Gurewitz & Raben, PLC, respectfully submits the following Response to the Monitor’s Twelfth Report.

UAW Statement in Response to the Monitor’s Twelfth Report

In his Twelfth Report (ECF No. 152), the Monitor presents his findings and conclusions of a fifteen-month investigation into the reassignment of certain of the Secretary-Treasurer’s departments in early 2024. The Monitor ultimately concludes that the reassignments “should” be reversed, but that the “Monitor does not appear to have the authority under the Consent Decree to compel such action.” Twelfth Report at 7 n.2. He thus recommends that the “Union, through the IEB [International Executive Board] or otherwise, should therefore immediately reverse [the actions].” *id.* at 7. As a next step, the International Executive Board will give due consideration to the Monitor’s Twelfth Report and consider its recommendations.

In advance of a more detailed review, however, the UAW submits this response to bring to the Court’s attention a few limited, but fundamental, issues

concerning the framing of the Report itself (as opposed to any particular factual error, which the IEB will address when it considers the Report).

First, the Monitor's most basic task under the Consent Decree is to prevent the corruption that plagued prior UAW administrations. ECF No. 10 at 1 ("past problems with fraud, corruption, and criminal conduct"). This dispute, about whether to reassign some of the Secretary-Treasurer's departments, however, is far removed from allegations of corruption and instead enmeshes the Monitor into the heart of internal union affairs. This flouts the basic principle that, even under the Consent Decree, internal union affairs are best left resolved by the union's democratically elected leaders and should not be subject to judicial or governmental interference. *E.g., Hodgson v. Loc. Union 6799, United Steelworkers*, 403 U.S. 333, 338 (1971) ("longstanding congressional policy" is one "against unnecessary governmental interference with internal union affairs"); *see also* ECF No. 10 at 2 (leaving union administration to the UAW "except as may be necessary to ensure the elimination of fraud, corruption, or illegal conduct"). In so enmeshing himself, the Monitor oversteps his realm of expertise and authority.

Second, the Monitor misinterprets the UAW Constitution (which itself is a union function vested in the President). The Monitor continually avers that *he* determined based on his investigation that the Secretary-Treasurer was not "derelict"

in her duties and thus should not have had her departments reassigned. Twelfth Report at 7, 23 (Constitution “requires a finding that the Officer ‘has been derelict in their duty or was guilty of a dishonest act’”); 65 (same). But this standard, which is the premise on which the whole report is based, is *wrong*. What the Constitution *actually* provides is that the “International President shall have power to withdraw any field assignment made to any elected officer *when they become convinced* that the officer has been derelict in their duty or been guilty of a dishonest act.” Art. 13, §4. The Monitor thus applied the wrong standard – the standard should have been whether the *UAW President* was “convinced” that the Secretary-Treasurer was derelict in her duties. At the point the President was “convinced” there was authority under the Constitution to remove the Secretary-Treasurer’s assignments.¹ The Monitor seeks through his Report to substitute *his* judgment for that of the President (and IEB).

Indeed, the Monitor *concedes* the Secretary-Treasurer was “at fault” for directing her staff to ignore the Communication Department’s designs for a yard sign and instead to use her own. Twelfth Report at 58. The Secretary-Treasurer should

¹ Even the Secretary-Treasurer understood and agreed, at least at the February 2024 IEB meeting when she disputed that she had been derelict: “I respect the constitution and I respect the right of the President to make assignments as he sees fit.” (2/20/24 IEB Meeting at p. 233).

have “directed Purchasing to use those signs or she should have further engaged with the Communications Department if she preferred a different sign.” *Id.* Nevertheless, the Monitor states that this “error did not rise to the standard necessary for reassigning” the Secretary-Treasurer’s departments. *But that is not a judgment for the Monitor to make fifteen months later.* It is a judgment for the President and the IEB to make in real time, thus illustrating the Monitor’s overreach with respect to his role.

This point is further illustrated by a footnote in the Report in which the Monitor states that the “Monitor does not take any position in this report whether, as a matter of discretion, any of the exception requests described in the Special Compliance Report should have been approved or denied.” Twelfth Report at 31 n.85. This, however, is one *key* aspect of why the UAW President was “convinced” that the Secretary-Treasurer was “derelict” – because she was *not* approving exception requests in the context where speed was of absolute necessity – an historic simultaneous Big Three Strike and massive organizing campaigns in the South. The Monitor, for instance, opines that it was acceptable for her to delay approving picket signs until four days after the strike started, Twelfth Report at 54; but this displays a critical misunderstanding of the importance of possessing those signs on the first day of the strike. The Monitor lauds the Secretary-Treasurer for attempting to save the

Union money but does not understand that she lacks the Constitutional authority to veto this type of spending decision.

Any labor leader responsible for conducting a strike would be dismayed to know that a union officer effectively held up and delayed obtaining new picket signs with the slogan “Stand Up Strike” days past the start of the strike, because she wrongly believed she could veto any decision based on her view that the new signs were of “poor quality” and a “waste [of] money.” (Twelfth Report at p. 53). That is not how a successful union can operate, and the Monitor lacks the experience in the time-sensitive nature of strikes and picket lines to say otherwise. *Id.*

At its core, the Monitor’s Twelfth Report not only improperly delves into the issue of internal union affairs, but also seeks to overturn the will of the majority of a democratically elected IEB in an 11-2 vote.

Third, the Twelfth Report represents an unwarranted attack on the Union’s Compliance Director. It finds conspiracies and “retaliatory intent” where none exist; direct communications between the President’s Office, elected Officers, and the Compliance Director are dramatically described with such terms as “cloaked.” The Report accuses the UAW Compliance Director of being improperly influenced by the President’s Office. There is no evidence, however, that the UAW Compliance Director acted improperly. Rather, the Compliance Director received complaints

from IEB members and staff, including but not limited to the President's Office, about how the Secretary-Treasurer was interpreting policies. In June 2023, the IEB passed a resolution to make changes in policies so they would not have to deal with what should be routine operational issues like the ones outlined in the Twelfth Report, e.g., reimbursing employees for what were obviously proper business expenses. There is nothing improper about a Compliance Officer receiving information from the President's Office to identify the issues encountered by different departments and to work toward drafting resolutions addressing those issues for consideration by the IEB. The Monitor may disagree with her conclusions, but he should not suggest her views were not genuine or informed by what she believed was best for the International Union, UAW.

Similarly, there is nothing improper about the members of an elected Board discussing potential resolutions and strategy with each other and with staff prior to an IEB meeting. That is how elected Boards operate in the normal course – members talk to each other and strategize between meetings. Texting the specific verbiage of a motion – from staff to one IEB member – which passes almost unanimously is not evidence of executing an improper plan. (Twelfth Report at p. 65). And President Fain did not “admit” in his interview an intent to “cloak” his actions by contacting another IEB member before the meeting to make a motion. (Twelfth Report at p.

68). The use of the hyperbolic term “cloak” says more about the intent of the Monitor than the intent of the President and his “inner circle.” (Twelfth Report at p. 65, 68).

Fourth, through his investigation and ninety-three page report, without yet bringing charges, the Monitor has ignored the careful delineation in the Consent Decree between his compliance and investigative mandate. His investigative mandate is limited to matters that may potentially violate the injunctive provisions of the Consent Decree; matters that may represent violations of state or federal criminal law; and matters involving barred persons. As part of his investigative mandate, the Monitor may bring charges which would then be handled by the Adjudications Officer appointed by the Court or by the UAW’s internal trial procedures. (Consent Decree, ECF No. 10, Page ID.119, paras. 29 and 30). The Monitor may also refer cases to the Department of Justice. (Id., Page ID.132, para. 60). His compliance mandate is to assist the International Union, UAW staff with instituting policies and procedures that will help the union avoid the misconduct that necessitated the Consent Decree.

The Twelfth Report conflates the investigative and compliance mandate at great expense to the Union. The Monitor mimics the role of the Adjudications Officer and the UAW Trial Committee by conducting an investigation, weighing the

credibility of witnesses, analyzing intent and motivation, making findings of fact based on those determinations, drawing conclusions, and then recommending a remedy. In essence, the Monitor conducted a trial without taking testimony under oath or allowing for the cross-examination of any witnesses or for factual and legal arguments by counsel on behalf of the subjects of the investigation and has improperly now put his hand on the scales in any future disciplinary proceeding (*see* Twelfth Report at 13-15, discussing the Monitor's "deferring" at this time bringing those charges). The Monitor should recommend policies and procedures that he concludes will prevent or remove "fraud, corruption, illegal behavior, dishonesty, and unethical practices from the UAW and its constituent entities," but trials involving credibility determinations are the purview of the Adjudications Officer or an internal UAW Trial Committee, not the Monitor.

In conclusion, as noted above, the IEB will review and give due consideration to the Monitor's Twelfth Report and determine whether to accept the Monitor's recommendation, or some version thereof. The IEB will include the Monitor's office in these discussions and will solicit ongoing comments, observations, and recommendations from the Monitor's office. The IEB's primary concern, now further informed by the Twelfth Report, is the successful operation of the UAW for the benefit of the membership.

Respectfully submitted,

GUREWITZ & RABEN, PLC

By: /s/ Harold Gurewitz (P14468)
333 W. Fort Street, Suite 1400
Detroit, MI 48226
(313) 628-4733
Email: hgurewitz@grplc.com

Date: June 20, 2025

CERTIFICATE OF SERVICE

I hereby certify that on June 20, 2025, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to all parties of record.

/s/Harold Gurewitz (P14468)
333 W. Fort Street, Suite 1400
Detroit, MI 48226
(313) 628-4733
Email: hgurewitz@grplc.com