

FILED
JAMES BONINI
CLERK

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

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INEOS ABS (USA) CORPORATION
356 Three Rivers Parkway
Addyston, OH 45001,

CASE NO. 1:09-CV-00706

J. BECKWITH
Judge _____

U.S. DISTRICT COURT
SOUTHERN DISTRICT OHIO
WESTERN DIVISION CINCINNATI

Plaintiff,

v.

**INTERNATIONAL CHEMICAL
WORKERS UNION COUNCIL OF THE
UNITED FOOD AND COMMERCIAL
WORKERS, LOCAL 561-C**
356 Three Rivers Parkway
Addyston, OH 45001,

COMPLAINT

Defendant.

Now comes the Plaintiff INEOS ABS (USA) Corporation (“INEOS” or the “Company”) and for its Complaint against Defendant International Chemical Workers Union Council of the United Food and Commercial Workers, Local 561-C (“Union” or “Defendant”) states as follows:

1. INEOS is a corporation that does business in Addyston, Ohio. INEOS is an employer within the meaning of 29 U.S.C. § 152.
2. Defendant is a labor organization representing employees in an industry affecting commerce defined in 29 U.S.C. § 152 with its principal office within Hamilton County, Ohio. Defendant represents for collective bargaining purposes a unit of production and maintenance employees at INEOS’ Addyston facility.
3. This action is brought pursuant to 29 U.S.C. § 185. This Court has jurisdiction pursuant to 29 U.S.C. § 185 and 28 U.S.C. § 1331.

4. Venue is proper in this District and Division pursuant to 28 U.S.C. § 1391 and 29 U.S.C. § 185. The parties are located in this Division and District and the conduct giving rise to the claims occurred within this Division and District.

5. INEOS and the Union are parties to a collective bargaining agreement, effective from February 22, 2008 through November 20, 2009.

6. This collective bargaining agreement provides a process for employees to process grievances against the Company through arbitration. The collective bargaining agreement does not require or allow the Company to process disputes against the Union through arbitration.

7. The collective bargaining agreement also provides for the parties to resolve disputes and grievances through settlement before and instead of arbitration.

8. The collective bargaining agreement provides that all agreements between the parties shall be binding.

9. In early 2008, INEOS discovered that a number of its employees, including employees represented by the Union, had been using its computers and e-mail systems to send inappropriate e-mails.

10. A number of employees had used the Company's computers and e-mail system to send graphic videos and pictures depicting nude and scantily clad women performing all sorts of sexual and degrading acts.

11. The e-mails, and videos and pictures that these e-mails contained were disgusting, pornographic and obscene.

12. The Company investigated and disciplined and discharged a substantial number of employees for their participation in this misconduct based on their degree of participation.

13. Union member Dave Disbro was among those whose employment was terminated. Mr. Disbro and the Union filed grievance 08-21 concerning his discharge.

14. On May 5, 2008, the Company, the Union and Dave Disbro entered into a settlement agreement in which the parties agreed to convert Mr. Disbro's April 3, 2008 discharge into a forty-five-day suspension. (A copy of this agreement is attached as Exhibit A). The parties agreed that the agreement was reached on a "nonprecedent, nonreferable basis as it applies to other employees of the Company and shall not constitute evidence of practice relative to the parties' interpretation or application of the current or any subsequent collective bargaining agreement." The parties agreed that the terms of the agreement, including converting Mr. Disbro's termination into a suspension and returning him to work, would not be used, referred to or introduced as evidence in any other grievance proceeding, except to enforce the terms of that agreement.

15. This agreement (Exhibit A) was the means chosen by the parties for the definitive settlement of their dispute and grievance. The settlement agreement was final and binding.

16. In reliance on the material promises by the Union that the agreement would be on a non-precedent and non-referable basis, INEOS reinstated Mr. Disbro to employment and converted his termination into a suspension.

17. Union member James Dumas was among those whose employment was terminated. Mr. Dumas and the Union filed grievance 08-20 concerning his discharge.

18. On May 5, 2008, the Company, the Union and James Dumas entered into a settlement agreement in which the parties agreed to convert Mr. Dumas March 31, 2008 discharge into a forty-five-day suspension. (A copy of this agreement is attached as Exhibit B). The parties agreed that the agreement was reached on a “nonprecedent, nonreferable basis as it applies to other employees of the Company and shall not constitute evidence of practice relative to the parties’ interpretation or application of the current or any subsequent collective bargaining agreement.” The parties agreed that the terms of the agreement, including converting Mr. Dumas’ termination into a suspension and returning him to work, would not be used, referred to or introduced as evidence in any other grievance proceeding, except to enforce the terms of that agreement.

19. This agreement (Exhibit B) was the means chosen by the parties for the definitive settlement of their dispute and grievance. The settlement agreement was final and binding.

20. In reliance on the material promises by the Union that the agreement would be on a non-precedent and non-referable basis, INEOS reinstated Mr. Dumas to employment and converted his termination into a suspension.

21. Union member Charles Kennemore was among those whose employment was terminated. Mr. Kennemore and the Union filed grievance 08-24 concerning his discharge.

22. On April 5, 2008, the Company, the Union and Charles Kennemore entered into a settlement agreement in which the parties agreed to convert Mr. Kennemore's March 31, 2008 discharge into a forty-five-day suspension. (A copy of this agreement is attached as Exhibit C). The parties agreed that the agreement was reached on a "nonprecedent, nonreferable basis as it applies to other employees of the Company and shall not constitute evidence of practice relative to the parties' interpretation or application of the current or any subsequent collective bargaining agreement." The parties agreed that the terms of the agreement, including converting Kennemore's termination into a suspension and returning him to work, would not be used, referred to or introduced as evidence in any other grievance proceeding, except to enforce the terms of that agreement.

23. This agreement (Exhibit C) was the means chosen by the parties for the definitive settlement of their dispute and grievance. The settlement agreement was final and binding.

24. In reliance on the material promises by the Union that the agreement would be on a non-precedent and non-referable basis, INEOS reinstated Mr. Kennemore to employment and converted his termination into a suspension.

25. Union member Kevin O'Leary was among those whose employment was terminated. Mr. O'Leary and the Union filed grievance 08-13 concerning his discharge.

26. On May 7, 2008, the Company, the Union and Kevin O'Leary entered into a settlement agreement in which the parties agreed to convert Mr. O'Leary's April 1, 2008 discharge into a sixty-day suspension. (A copy of this agreement is attached as Exhibit D). The parties agreed that the agreement was reached on a "nonprecedent, nonreferable basis as it applies to other employees of the Company and shall not constitute evidence of practice relative to the parties' interpretation or application of the current or any subsequent collective bargaining agreement." The parties agreed that the terms of the agreement, including converting Mr. O'Leary's termination into a suspension and returning him to work, would not be used, referred to or introduced as evidence in any other grievance proceeding, except to enforce the terms of that agreement.

27. This agreement (Exhibit D) was the means chosen by the parties for the definitive settlement of their dispute and grievance. The settlement agreement was final and binding.

28. In reliance on the material promises by the Union that the agreement would be on a non-precedent and non-referable basis, INEOS reinstated Mr. O'Leary to employment and converted his termination into a suspension.

29. Union member Michael Braun was among those whose employment was terminated.

30. The Union disputed that Mr. Braun's employment should be terminated.

31. On April 16, 2008, the Company, the Union and Michael Braun entered into a settlement agreement in which the parties agreed to convert Mr. Braun's April 2, 2008 discharge into a ten-day suspension. (A copy of this agreement is attached as Exhibit E). The parties agreed that the agreement was reached on a "nonprecedent, nonreferable basis as it applies to other employees of the Company and shall not constitute evidence of practice relative to the parties' interpretation or application of the current or any subsequent collective bargaining agreement." The parties agreed that the terms of the agreement, including converting Mr. Braun's termination into a suspension and returning him to work, would not be used, referred to or introduced as evidence in any other grievance proceeding, except to enforce the terms of that agreement.

32. This agreement (Exhibit E) was the means chosen by the parties for the definitive settlement of their differences concerning Mr. Braun's discharge. The settlement agreement was final and binding.

33. In reliance on the material promises by the Union that the agreement would be on a non-precedent and non-referable basis, INEOS reinstated Mr. Braun to employment and converted his termination into a suspension.

34. Union member Ryan Friend was among those whose employment was terminated.

35. The Union disputed that Mr. Friend's employment should be terminated.

36. On April 18, 2008, the Company, the Union and Ryan Friend entered into a settlement agreement in which the parties agreed to convert Mr. Friend's April 18, 2008

discharge into a ten-day suspension. (A copy of this agreement is attached as Exhibit F). The parties agreed that the agreement was reached on a “nonprecedent, nonreferable basis as it applies to other employees of the Company and shall not constitute evidence of practice relative to the parties’ interpretation or application of the current or any subsequent collective bargaining agreement.” The parties agreed that the terms of the agreement, including converting Mr. Friend’s termination into a suspension and returning him to work, would not be used, referred to or introduced as evidence in any other grievance proceeding, except to enforce the terms of that agreement.

37. This agreement (Exhibit F) was the means chosen by the parties for the definitive settlement of their differences concerning Mr. Friend’s discharge. The settlement agreement was final and binding.

38. In reliance on the material promises by the Union that the agreement would be on a non-precedent and non-referable basis, INEOS reinstated Mr. Friend to employment and converted his termination into a suspension.

39. Union member Donald George was among those whose employment was terminated.

40. The Union disputed that Mr. George’s employment should be terminated.

41. On April 8, 2008, the Company, the Union and Donald George entered into a settlement agreement in which the parties agreed to convert Mr. George’s April 2, 2008 discharge into a seven-day suspension. (A copy of this agreement is attached as Exhibit G). The parties agreed that the agreement was reached on a “nonprecedent,

nonreferable basis as it applies to other employees of the Company and shall not constitute evidence of practice relative to the parties' interpretation or application of the current or any subsequent collective bargaining agreement." The parties agreed that the terms of the agreement, including converting Mr. George's termination into a suspension and returning him to work, would not be used, referred to or introduced as evidence in any other grievance proceeding, except to enforce the terms of that agreement.

42. This agreement (Exhibit G) was the means chosen by the parties for the definitive settlement of their differences concerning Mr. George's discharge. The settlement agreement was final and binding.

43. In reliance on the material promises by the Union that the agreement would be on a non-precedent and non-referable basis, INEOS reinstated Mr. George to employment and converted his termination into a suspension.

44. Union member Steven Gross was among those whose employment was terminated.

45. The Union disputed that Mr. Gross' employment should be terminated.

46. On , April 18, 2008, the Company, the Union and Steven Gross entered into a settlement agreement in which the parties agreed to convert Mr. Gross' April 18, 2008 discharge into a seven-day suspension. (A copy of this agreement is attached as Exhibit H). The parties agreed that the agreement was reached on a "nonprecedent, nonreferable basis as it applies to other employees of the Company and shall not constitute evidence of practice relative to the parties' interpretation or application of the

current or any subsequent collective bargaining agreement.” The parties agreed that the terms of the agreement, including converting Mr. Gross’ termination into a suspension and returning him to work, would not be used, referred to or introduced as evidence in any other grievance proceeding, except to enforce the terms of that agreement.

47. This agreement (Exhibit H) was the means chosen by the parties for the definitive settlement of their differences concerning Mr. Gross’ discharge. The settlement agreement was final and binding.

48. In reliance on the material promises by the Union that the agreement would be on a non-precedent and non-referable basis, INEOS reinstated Mr. Gross to employment and converted his termination into a suspension.

49. Union member Dan Haggard was among those whose employment was terminated.

50. The Union disputed that Mr. Haggard’s employment should be terminated.

51. On April 4, 2008, the Company, the Union and Dan Haggard entered into a settlement agreement in which the parties agreed to convert Mr. Haggard’s April 4, 2008 discharge into a seven-day suspension. (A copy of this agreement is attached as Exhibit I). The parties agreed that the agreement was reached on a “nonprecedent, nonreferable basis as it applies to other employees of the Company and shall not constitute evidence of practice relative to the parties’ interpretation or application of the current or any subsequent collective bargaining agreement.” The parties agreed that the terms of the agreement, including converting Mr. Haggard’s termination into a

suspension and returning him to work, would not be used, referred to or introduced as evidence in any other grievance proceeding, except to enforce the terms of that agreement.

52. This agreement (Exhibit I) was the means chosen by the parties for the definitive settlement of their differences concerning Mr. Haggard's discharge. The settlement agreement was final and binding.

53. In reliance on the material promises by the Union that the agreement would be on a non-precedent and non-referable basis, INEOS reinstated Mr. Haggard to employment and converted his termination into a suspension.

54. Union member Dan Hatfield was among those whose employment was terminated.

55. The Union disputed that Mr. Hatfield's employment should be terminated.

56. On April 23, 2008, the Company, the Union and Dan Hatfield entered into a settlement agreement in which the parties agreed to convert Mr. Hatfield's April 22, 2008 discharge into a seven-day suspension. (A copy of this agreement is attached as Exhibit J). The parties agreed that the agreement was reached on a "nonprecedent, nonreferable basis as it applies to other employees of the Company and shall not constitute evidence of practice relative to the parties' interpretation or application of the current or any subsequent collective bargaining agreement." The parties agreed that the terms of the agreement, including converting Mr. Hatfield's termination into a suspension

and returning him to work, would not be used, referred to or introduced as evidence in any other grievance proceeding, except to enforce the terms of that agreement.

57. This agreement (Exhibit J) was the means chosen by the parties for the definitive settlement of their differences concerning Mr. Hatfield's discharge. The settlement agreement was final and binding.

58. In reliance on the material promises by the Union that the agreement would be on a non-precedent and non-referable basis, INEOS reinstated Mr. Hatfield to employment and converted his termination into a suspension.

59. Union member Marc Jones was among those whose employment was terminated.

60. The Union disputed that Mr. Jones' employment should be terminated.

61. On April 8, 2008, the Company, the Union and Marc Jones entered into a settlement agreement in which the parties agreed to convert Mr. Jones' March 31, 2008 discharge into an eight-day suspension. (A copy of this agreement is attached as Exhibit K). The parties agreed that the agreement was reached on a "nonprecedent, nonreferable basis as it applies to other employees of the Company and shall not constitute evidence of practice relative to the parties' interpretation or application of the current or any subsequent collective bargaining agreement." The parties agreed that the terms of the agreement, including converting Mr. Jones' termination into a suspension and returning him to work, would not be used, referred to or introduced as evidence in any other grievance proceeding, except to enforce the terms of that agreement.

62. This agreement (Exhibit K) was the means chosen by the parties for the definitive settlement of their differences concerning Mr. Jones' discharge. The settlement agreement was final and binding.

63. In reliance on the material promises by the Union that the agreement would be on a non-precedent and non-referable basis, INEOS reinstated Mr. Jones to employment and converted his termination into a suspension.

64. Union member Morris Milton was among those whose employment was terminated.

65. The Union disputed that Mr. Milton's employment should be terminated.

66. On April 8, 2008, the Company, the Union and Morris Milton entered into a settlement agreement in which the parties agreed to convert Mr. Milton's April 2, 2008 discharge into a fifteen-day suspension. (A copy of this agreement is attached as Exhibit L). The parties agreed that the agreement was reached on a "nonprecedent, nonreferable basis as it applies to other employees of the Company and shall not constitute evidence of practice relative to the parties' interpretation or application of the current or any subsequent collective bargaining agreement." The parties agreed that the terms of the agreement, including converting Mr. Milton's termination into a suspension and returning him to work, would not be used, referred to or introduced as evidence in any other grievance proceeding, except to enforce the terms of that agreement.

67. This agreement (Exhibit L) was the means chosen by the parties for the definitive settlement of their differences concerning Mr. Milton's discharge. The settlement agreement was final and binding.

68. In reliance on the material promises by the Union that the agreement would be on a non-precedent and non-referable basis, INEOS reinstated Mr. Milton to employment and converted his termination into a suspension.

69. Union member Joe Norman was among those whose employment was terminated.

70. The Union disputed that Mr. Norman's employment should be terminated.

71. On April 8, 2008, the Company, the Union and Joe Norman entered into a settlement agreement in which the parties agreed to convert Mr. Norman's March 31, 2008 discharge into a ten-day suspension. (A copy of this agreement is attached as Exhibit M). The parties agreed that the agreement was reached on a "nonprecedent, nonreferable basis as it applies to other employees of the Company and shall not constitute evidence of practice relative to the parties' interpretation or application of the current or any subsequent collective bargaining agreement." The parties agreed that the terms of the agreement, including converting Mr. Norman's termination into a suspension and returning him to work, would not be used, referred to or introduced as evidence in any other grievance proceeding, except to enforce the terms of that agreement.

72. This agreement (Exhibit M) was the means chosen by the parties for the definitive settlement of their differences concerning Mr. Norman's discharge. The settlement agreement was final and binding.

73. In reliance on the material promises by the Union that the agreement would be on a non-precedent and non-referable basis, INEOS reinstated Mr. Norman to employment and converted his termination into a suspension.

74. Union member Larry Sturgill was among those whose employment was terminated.

75. The Union disputed that Mr. Sturgill's employment should be terminated.

76. On April 9, 2008, the Company, the Union and Larry Sturgill entered into a settlement agreement in which the parties agreed to convert Mr. Sturgill's April 9, 2008 discharge into a seven-day suspension. (A copy of this agreement is attached as Exhibit N). The parties agreed that the agreement was reached on a "nonprecedent, nonreferable basis as it applies to other employees of the Company and shall not constitute evidence of practice relative to the parties' interpretation or application of the current or any subsequent collective bargaining agreement." The parties agreed that the terms of the agreement, including converting Mr. Sturgill's termination into a suspension and returning him to work, would not be used, referred to or introduced as evidence in any other grievance proceeding, except to enforce the terms of that agreement.

77. This agreement (Exhibit N) was the means chosen by the parties for the definitive settlement of their differences concerning Mr. Sturgill's discharge. The settlement agreement was final and binding.

78. In reliance on the material promises by the Union that the agreement would be on a non-precedent and non-referable basis, INEOS reinstated Mr. Sturgill to employment and converted his termination into a suspension.

79. Union member Mark Van Hook was among those whose employment was terminated.

80. The Union disputed that Mr. Van Hook's employment should be terminated.

81. On April 7, 2008, the Company, the Union and Mark Van Hook entered into a settlement agreement in which the parties agreed to convert Mr. Van Hook's April 7, 2008 discharge into a ten-day suspension. (A copy of this agreement is attached as Exhibit O). The parties agreed that the agreement was reached on a "nonprecedent, nonreferable basis as it applies to other employees of the Company and shall not constitute evidence of practice relative to the parties' interpretation or application of the current or any subsequent collective bargaining agreement." The parties agreed that the terms of the agreement, including converting Mr. Van Hook's termination into a suspension and returning him to work, would not be used, referred to or introduced as evidence in any other grievance proceeding, except to enforce the terms of that agreement.

82. This agreement (Exhibit O) was the means chosen by the parties for the definitive settlement of their differences concerning Mr. Van Hook's discharge. The settlement agreement was final and binding.

83. In reliance on the material promises by the Union that the agreement would be on a non-precedent and non-referable basis, INEOS reinstated Mr. Van Hook to employment and converted his termination into a suspension.

84. Union member Monty Walton was among those whose employment was terminated.

85. The Union disputed that Mr. Walton's employment should be terminated.

86. On April 8, 2008, the Company, the Union and Monty Walton entered into a settlement agreement in which the parties agreed to convert Mr. Walton's April 1, 2008 discharge into a ten-day suspension. (A copy of this agreement is attached as Exhibit P). The parties agreed that the agreement was reached on a "nonprecedent, nonreferable basis as it applies to other employees of the Company and shall not constitute evidence of practice relative to the parties' interpretation or application of the current or any subsequent collective bargaining agreement." The parties agreed that the terms of the agreement, including converting Mr. Walton's termination into a suspension and returning him to work, would not be used, referred to or introduced as evidence in any other grievance proceeding, except to enforce the terms of that agreement.

87. This agreement (Exhibit P) was the means chosen by the parties for the definitive settlement of their differences concerning Mr. Walton's discharge. The settlement agreement was final and binding.

88. In reliance on the material promises by the Union that the agreement would be on a non-precedent and non-referable basis, INEOS reinstated Mr. Walton to employment and converted his termination into a suspension.

89. These agreements (Exhibits A-P) do not provide for or require arbitration of any disputes concerning their enforcement.

90. The Union's agreement in each of these agreements (Exhibits A-P) that the terms of the agreements, including the return to work of the employees covered by the agreements, would not be used as precedent and would not be introduced as evidence or referred to during any other grievance proceeding was a material term of each of these agreements.

91. The Union has filed grievances over the terminations of 10 other employees who used the Company's computers and e-mail system to send degrading, sexual and pornographic videos. The Union is pursuing these grievances to arbitration.

92. The Union has repeatedly threatened to refer to or use as evidence of disparate treatment in these other arbitrations the fact that the 16 individuals who signed settlement agreements were returned to work.

93. The Company has repeatedly warned the Union that doing so would violate these agreements (Exhibits A-P).

94. On July 28, 2009, five days after learning that an arbitrator had upheld the discharge of John Cady, one of the other terminated employees, the Union breached each of these agreements (Exhibits A-P). In an arbitration before Arbitrator Charles Martin involving former employee Scott Hodge, the Union referred to and introduced into evidence before the arbitrator that the 16 employees who were parties to these agreements had sent sex-act videos from Company e-mail and were nevertheless active employees at INEOS. The Union admitted that it submitted this evidence in an effort to show disparate treatment with respect to the grievant in that case who had also sent explicit sex videos.

95. The Union used the agreements, and terms of the agreements, referenced above to establish a precedent, offered them as evidence of practice, and referred to them during the course of grievance proceedings, all in violation of the sixteen agreements (Exhibits A-P).

96. The Union's breaches of these agreements have irreparably tainted the arbitration proceedings involving Scott Hodge and threaten to taint the five other grievances scheduled for arbitration or to be scheduled for arbitration between the parties.

COUNT ONE

97. Plaintiff incorporates the allegations in paragraphs 1 through 96 as if fully rewritten here.

98. The Union breached the agreement (Exhibit A) between Plaintiff, the Union and Dave Disbro.

99. The Union has engaged in a chronic pattern of ongoing activity in violation or in attempted violation of this agreement and has threatened continued breaches.

100. The Union's breach has caused injury and damages to the Company.

101. The Union's breach has prejudiced the Company and the arbitration of Scott Hodge's grievance, which is still in process.

102. The Union's breach and threatened continued breach will cause irreparable harm to the Company.

103. The Union's breach and threatened continued breach threaten and undermine the integrity of both the arbitral process and settlement process.

COUNT TWO

104. Plaintiff incorporates the allegations in paragraphs 1 through 103 as if fully rewritten here.

105. The Union breached the agreement (Exhibit B) between Plaintiff, the Union and James Dumas.

106. The Union has engaged in a chronic pattern of ongoing activity in violation or in attempted violation of this agreement and has threatened continued breaches.

107. The Union's breach has caused injury and damages to the Company.

108. The Union's breach has prejudiced the Company and the arbitration of Scott Hodge's grievance, which is still in process.

109. The Union's breach and threatened continued breach will cause irreparable harm to the Company.

110. The Union's breach and threatened continued breach threaten and undermine the integrity of both the arbitral process and settlement process.

COUNT THREE

111. Plaintiff incorporates the allegations in paragraphs 1 through 110 as if fully rewritten here.

112. The Union breached the agreement (Exhibit C) between Plaintiff, the Union and Charles Kennemore.

113. The Union has engaged in a chronic pattern of ongoing activity in violation or in attempted violation of this agreement and has threatened continued breaches.

114. The Union's breach has caused injury and damages to the Company.

115. The Union's breach has prejudiced the Company and the arbitration of Scott Hodge's grievance, which is still in process.

116. The Union's breach and threatened continued breach will cause irreparable harm to the Company.

117. The Union's breach and threatened continued breach threaten and undermine the integrity of both the arbitral process and settlement process.

COUNT FOUR

118. Plaintiff incorporates the allegations in paragraphs 1 through 117 as if fully rewritten here.

119. The Union breached the agreement (Exhibit D) between Plaintiff, the Union and Kevin O'Leary.

120. The Union has engaged in a chronic pattern of ongoing activity in violation or in attempted violation of this agreement and has threatened continued breaches.

121. The Union's breach has caused injury and damages to the Company.

122. The Union's breach has prejudiced the Company and the arbitration of Scott Hodge's grievance, which is still in process.

123. The Union's breach and threatened continued breach will cause irreparable harm to the Company.

124. The Union's breach and threatened continued breach threaten and undermine the integrity of both the arbitral process and settlement process.

COUNT FIVE

125. Plaintiff incorporates the allegations in paragraphs 1 through 124 as if fully rewritten here.

126. The Union breached the agreement (Exhibit E) between Plaintiff, the Union and Michael Braun.

127. The Union has engaged in a chronic pattern of ongoing activity in violation or in attempted violation of this agreement and has threatened continued breaches.

128. The Union's breach has caused injury and damages to the Company.

129. The Union's breach has prejudiced the Company and the arbitration of Scott Hodge's grievance, which is still in process.

130. The Union's breach and threatened continued breach will cause irreparable harm to the Company.

131. The Union's breach and threatened continued breach threaten and undermine the integrity of both the arbitral process and settlement process.

COUNT SIX

132. Plaintiff incorporates the allegations in paragraphs 1 through 131 as if fully rewritten here.

133. The Union breached the agreement (Exhibit F) between Plaintiff, the Union and Ryan Friend.

134. The Union has engaged in a chronic pattern of ongoing activity in violation or in attempted violation of this agreement and has threatened continued breaches.

135. The Union's breach has caused injury and damages to the Company.

136. The Union's breach has prejudiced the Company and the arbitration of Scott Hodge's grievance, which is still in process.

137. The Union's breach and threatened continued breach will cause irreparable harm to the Company.

138. The Union's breach and threatened continued breach threaten and undermine the integrity of both the arbitral process and settlement process.

COUNT SEVEN

139. Plaintiff incorporates the allegations in paragraphs 1 through 138 as if fully rewritten here.

140. The Union breached the agreement (Exhibit G) between Plaintiff, the Union and Donald George.

141. The Union has engaged in a chronic pattern of ongoing activity in violation or in attempted violation of this agreement and has threatened continued breaches.

142. The Union's breach has caused injury and damages to the Company.

143. The Union's breach has prejudiced the Company and the arbitration of Scott Hodge's grievance, which is still in process.

144. The Union's breach and threatened continued breach will cause irreparable harm to the Company.

145. The Union's breach and threatened continued breach threaten and undermine the integrity of both the arbitral process and settlement process.

COUNT EIGHT

146. Plaintiff incorporates the allegations in paragraphs 1 through 145 as if fully rewritten here.

147. The Union breached the agreement (Exhibit H) between Plaintiff, the Union and Steven Gross.

148. The Union has engaged in a chronic pattern of ongoing activity in violation or in attempted violation of this agreement and has threatened continued breaches.

149. The Union's breach has caused injury and damages to the Company.

150. The Union's breach has prejudiced the Company and the arbitration of Scott Hodge's grievance, which is still in process.

151. The Union's breach and threatened continued breach will cause irreparable harm to the Company.

152. The Union's breach and threatened continued breach threaten and undermine the integrity of both the arbitral process and settlement process.

COUNT NINE

153. Plaintiff incorporates the allegations in paragraphs 1 through 152 as if fully rewritten here.

154. The Union breached the agreement (Exhibit I) between Plaintiff, the Union and Dan Haggard.

155. The Union has engaged in a chronic pattern of ongoing activity in violation or in attempted violation of this agreement and has threatened continued breaches.

156. The Union's breach has caused injury and damages to the Company.

157. The Union's breach has prejudiced the Company and the arbitration of Scott Hodge's grievance, which is still in process.

158. The Union's breach and threatened continued breach will cause irreparable harm to the Company.

159. The Union's breach and threatened continued breach threaten and undermine the integrity of both the arbitral process and settlement process.

COUNT TEN

160. Plaintiff incorporates the allegations in paragraphs 1 through 159 as if fully rewritten here.

161. The Union breached the agreement (Exhibit J) between Plaintiff, the Union and Dan Hatfield.

162. The Union has engaged in a chronic pattern of ongoing activity in violation or in attempted violation of this agreement and has threatened continued breaches.

163. The Union's breach has caused injury and damages to the Company.

164. The Union's breach has prejudiced the Company and the arbitration of Scott Hodge's grievance, which is still in process.

165. The Union's breach and threatened continued breach will cause irreparable harm to the Company.

166. The Union's breach and threatened continued breach threaten and undermine the integrity of both the arbitral process and settlement process.

COUNT ELEVEN

167. Plaintiff incorporates the allegations in paragraphs 1 through 166 as if fully rewritten here.

168. The Union breached the agreement (Exhibit K) between Plaintiff, the Union and Marc Jones.

169. The Union has engaged in a chronic pattern of ongoing activity in violation or in attempted violation of this agreement and has threatened continued breaches.

170. The Union's breach has caused injury and damages to the Company.

171. The Union's breach has prejudiced the Company and the arbitration of Scott Hodge's grievance, which is still in process.

172. The Union's breach and threatened continued breach will cause irreparable harm to the Company.

173. The Union's breach and threatened continued breach threaten and undermine the integrity of both the arbitral process and settlement process.

COUNT TWELVE

174. Plaintiff incorporates the allegations in paragraphs 1 through 173 as if fully rewritten here.

175. The Union breached the agreement (Exhibit L) between Plaintiff, the Union and Morris Milton.

176. The Union has engaged in a chronic pattern of ongoing activity in violation or in attempted violation of this agreement and has threatened continued breaches.

177. The Union's breach has caused injury and damages to the Company.

178. The Union's breach has prejudiced the Company and the arbitration of Scott Hodge's grievance, which is still in process.

179. The Union's breach and threatened continued breach will cause irreparable harm to the Company.

180. The Union's breach and threatened continued breach threaten and undermine the integrity of both the arbitral process and settlement process.

COUNT THIRTEEN

181. Plaintiff incorporates the allegations in paragraphs 1 through 180 as if fully rewritten here.

182. The Union breached the agreement (Exhibit M) between Plaintiff, the Union and Joe Norman.

183. The Union has engaged in a chronic pattern of ongoing activity in violation or in attempted violation of this agreement and has threatened continued breaches.

184. The Union's breach has caused injury and damages to the Company.

185. The Union's breach has prejudiced the Company and the arbitration of Scott Hodge's grievance, which is still in process.

186. The Union's breach and threatened continued breach will cause irreparable harm to the Company.

187. The Union's breach and threatened continued breach threaten and undermine the integrity of both the arbitral process and settlement process.

COUNT FOURTEEN

188. Plaintiff incorporates the allegations in paragraphs 1 through 187 as if fully rewritten here.

189. The Union breached the agreement (Exhibit N) between Plaintiff, the Union and Larry Sturgill.

190. The Union has engaged in a chronic pattern of ongoing activity in violation or in attempted violation of this agreement and has threatened continued breaches.

191. The Union's breach has caused injury and damages to the Company.

192. The Union's breach has prejudiced the Company and the arbitration of Scott Hodge's grievance, which is still in process.

193. The Union's breach and threatened continued breach will cause irreparable harm to the Company.

194. The Union's breach and threatened continued breach threaten and undermine the integrity of both the arbitral process and settlement process.

COUNT FIFTEEN

195. Plaintiff incorporates the allegations in paragraphs 1 through 194 as if fully rewritten here.

196. The Union breached the agreement (Exhibit O) between Plaintiff, the Union and Mark Van Hook.

197. The Union has engaged in a chronic pattern of ongoing activity in violation or in attempted violation of this agreement and has threatened continued breaches.

198. The Union's breach has caused injury and damages to the Company.

199. The Union's breach has prejudiced the Company and the arbitration of Scott Hodge's grievance, which is still in process.

200. The Union's breach and threatened continued breach will cause irreparable harm to the Company.

201. The Union's breach and threatened continued breach threaten and undermine the integrity of both the arbitral process and settlement process.

COUNT SIXTEEN

202. Plaintiff incorporates the allegations in paragraphs 1 through 201 as if fully rewritten here.

203. The Union breached the agreement (Exhibit P) between Plaintiff, the Union and Monty Walton.

204. The Union has engaged in a chronic pattern of ongoing activity in violation or in attempted violation of this agreement and has threatened continued breaches.

205. The Union's breach has caused injury and damages to the Company.

206. The Union's breach has prejudiced the Company and the arbitration of Scott Hodge's grievance, which is still in process.

207. The Union's breach and threatened continued breach will cause irreparable harm to the Company.

G. That Defendant be enjoined from scheduling or continuing any arbitration (including the arbitration of the grievance filed by Bryan Cherry) related to discharges for e-mailing pornography before Arbitrator Charles Martin who has received information by the Union in violation of these sixteen agreements;

H. That Plaintiff be awarded all damages incurred in connection with the Union's breaches, including the costs and attorney fees incurred in connection with the Scott Hodge arbitration;

I. That the sixteen agreements (Exhibits A-P) be rescinded at the option of the Plaintiff and the original terminations of these individuals be reinstated;

J. That Plaintiff be awarded reasonable attorney's fees and costs; and

K. That Plaintiff be awarded all such other equitable and legal relief to which the Plaintiff may be entitled.

Respectfully submitted,

s/ Kerry P. Hastings

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