March 29, 2023

Megan Underwood, Regional Director
1835 Market Street
Mailstop OLMS/21
Philadelphia, PA 19103-2968

Re: Complaint by Will Lehman, member of UAW Local 677 and candidate in 2022 UAW International Officer Election, demanding re-run of election

To Whom It May Concern:

My name is Will Lehman. I am a member in good standing of UAW Local 677, and I am a candidate in the 2022 UAW International Officer Election. This letter is my formal complaint to the Secretary of Labor that the conduct of this election violated my rights as a member and a candidate, as well as the democratic rights of all rank-and-file members and retirees of the UAW.

Only 9 percent of ballots were returned in the first round of the election. If this had been a national election in any country in the world, this turnout would be considered as proof in itself that the election was deficient. When Tunisia held elections in January 2023 with 11 percent turnout, the *New York Times* reported that experts considered the election to be an "illegitimate sham."

I protested the results of the first round of voting in the election on December 19, 2022 to the court-appointed monitor in charge of overseeing the elections, as required by the election rules. In my protest, I exposed systematic and deliberate voter suppression on the part of the entrenched UAW leadership, which remains mired in a corruption scandal. I also exposed the failure of the monitor's office to effectively "monitor" and restrain the anti-democratic conduct of the union.

On March 19, 2023, the very last day of the three-month period for responding, the court-appointed monitor's office denied my protest. The response fails to dispute the key facts of my protest and evinces total contempt for the democratic rights of rank-and-file workers. The response relies almost entirely on an unsigned and self-serving document submitted by the union leadership, but the credibility of that document is fatally undermined by the admission by outgoing UAW president Ray Curry that there was "rampant disenfranchisement of UAW voters" in the election.

The response to my protest by the monitor's office was also tainted by gross conflicts of interest.

The monitor's office presiding over the election in a supposedly "neutral" capacity consisted of two major law firms—Crowell & Moring and Jenner & Block—that frequently represent auto companies that employ UAW workers. Both law firms have longstanding revolving-door relationships with General Motors. It is a scandal that the denial of my internal union protest arrived on the letterhead of management's attorneys who have been paid millions in our dues money. These conflicts of interest constitute an independent ground to re-run the election.

I stand by every word of my protest, which is attached, as well as the additional points I make below. The response by the monitor's office is also attached. Since the legal rules give you the exclusive power to do so, and prohibit me from filing a lawsuit directly, I am hereby demanding that the Secretary of Labor and the Office of Labor-Management Standards require a re-run of this election.

Your office has required unions to re-run elections in the past in cases involving far less egregious deficiencies. In a new election, the law firms of Crowell & Moring and Jenner & Block should be barred from playing any role by virtue of their ongoing representation of clients with interests adverse to those of rank-and-file UAW members like me.

I. THE MONITOR'S RESPONSE TO MY PROTEST

A. The history of corruption on the part of the UAW bureaucracy underscores its motive to suppress the vote of the rank-and-file.

1. The monitor supposedly in charge of eliminating corruption within the UAW refuses to acknowledge corruption.

It is important to remember why this particular election—the first direct election of International officers in UAW history—took place at all. The election took place because the entrenched UAW leadership has become so hopelessly mired in what the Department of Justice called a "culture of corruption" that it has lost its legitimacy in in the eyes of rank-and-file workers like me.

The letter denying my protest contains no substantive reference to the UAW corruption scandal, although revelations of rampant criminal behavior by leading UAW officials is the reason why a court-appointed monitor was imposed in the first place under the January 2021 Consent Decree.

The fact that the consent decree exists is itself an implicit acknowledgement that there was a systemic problem and not merely a few "bad apples." In other words, if the removal of a few "bad apples" was sufficient to resolve the problem of corruption in the UAW, then a monitorship would not have been necessary.

Pursuant to the consent decree, a referendum on whether to conduct direct elections was conducted in December 2021. The UAW leadership campaigned for a "no" vote but the referendum passed with 63.7 percent in favor.

In this context, it is significant that the monitor's office in charge of overseeing this direct election—the monitor supposedly in charge of eliminating systemic corruption within the UAW—pretends that there is no such thing as corruption in the UAW in its response to my protest. The only acknowledgment of "corruption" in the entire letter responding to my protest appears when the monitor defends the UAW by saying low turnout was caused by "apathy in the face of the recent corruption scandals."

As a rank-and-file UAW member, my supporters and I saw this election as an opportunity for the genuine rank-and-file at long last to openly challenge the unaccountable, parasitic, corrupt leadership that has spent decades selling out our hard-won rights. I personally am a victim of that corruption: I am a second-tier worker and I do not have a pension because the entrenched UAW leadership agreed to these unfavorable terms on my behalf while the criminals at the helm stole my dues money and accepted bribes from management. I personally paid UAW dues while convicted criminals Dennis Williams and Gary Jones were president.

My campaign spoke for rank-and-file UAW workers who are being worked to the bone under "alternative work schedules," who are losing their homes as stagnant wages are eaten up by soaring inflation, and who are falling sick on the job. We are facing these conditions because the entrenched UAW leadership was too busy gorging itself on luxury villas, steak dinners, and swimming pools to defend our rights.

When I was nominated at the UAW 38th Constitutional Convention in Detroit in July 2022, one veteran autoworker declared on the floor of the convention that he was nominating me for precisely this reason: because the corrupt officials who had gone to jail were only a part of the same entrenched apparatus that still presided over the union. When UAW Vice President Terry Dittes tried to talk over him, the worker stood his ground and declared that any IEB member who was complicit in the coverup of the corruption should "find a different career."

2. The UAW claims that rank-and-file workers cannot "look backwards" at criminal activity of which we are victims.

The UAW's response to my protest, which was the basis for the monitor's rejection, similarly claims that it is inappropriate to discuss the history of UAW corruption in the context of this election—even though that corruption is the whole reason this election took place at all.

> "He [Lehman] overlays all of his contentions with references to the prior bad acts that led to the Consent Decree," the UAW writes. "While it may serve Mr. Lehman's political purposes to cast aspersions on the entire union by continual backward looks at the bad acts of former officials who have been prosecuted and removed, his protest establishes no connection between those acts by those individuals, which are matters of public record, and the actual conduct of this election by UAW employees…"

This needs to be said at the outset: Contrary to what the UAW and the monitor write, my protest does establish the connection between past violations of the rights of the rank-and-file and current violations of those same rights. This election was a product of the corruption scandal and was nominally intended to be a remedy to the scandal. The corruption scandal is relevant because it provides the motive for the UAW bureaucracy to slow-walk the required notice of the election, obstruct it, and suppress the vote—precisely because it did not want to lose its grip on its privileges and to the flow of workers' dues money.

The union's indignant posturing about "prior bad acts" has no credibility. Until the union holds an election in which all members and retirees have a meaningful opportunity to vote—which the

union has thus far refused to allow—nobody can talk about "backward looks" at the corruption scandal as if it was something that happened in the past.

B. The monitor's claim that "it is not clear turnout was 'low'" is absurd on its face and evinces contempt for the rights of rank-and-file workers.

1. The UAW itself admits the "unquestioned fact of a low turnout."

Though the monitor was tasked with ensuring "the enfranchisement of as many members as possible" and for taking action to guarantee "the broad education of members on the fact of the 2022 Election to facilitate as broadly as possible their participation in it," the monitor's response to my protest evinces a total lack of concern over the undisputed fact that roughly 1 million out of 1.1 million eligible members did not vote.

The monitor states, "It is not clear that turnout was 'low,'" even though 104,776 ballots were cast out of more than 1 million eligible voters. But this is contradicted by the UAW's own response to my protest, which the monitor relies on, which acknowledges the "unquestioned fact of a low turnout." Federal district judge David Lawson used the word "anemic" to refer to the turnout during litigation in November 2022. He also called turnout "remarkably low" in his order denying relief.[1]

2. The monitor does not contest the fact that the UAW election saw the lowest turnout of any union election in US history

The monitor's claim that "it is not clear that turnout was 'low'" is easily refuted by historical evidence. The monitor does not contest that this was the lowest turnout of any national union election in US history. In response to these facts, the monitor just says that my protest "does not substantiate how these references [to past union elections] are useful here." This is not a legitimate answer.

The monitor claims that I should not have compared this election to union elections from "50 years ago." On the contrary, if anything, with all the advances in technology, it should be easier today to facilitate participation in an election than it was 50 years ago. If the UMWA could secure 55 percent turnout among rural coal miners in Appalachia in the 1960s, the UAW could do better than 0.26 percent among academic workers in Seattle in 2023.

The monitor also claims turnout was comparable in the Teamsters' 2021 election. That election saw a turnout of over 189,000 people, nearly double the total in the first round here. The monitor refers to 14 percent turnout in the Teamsters election as "5 percent higher" than the UAW election, but this is a statistical sleight of hand. A 14 percent turnout is 55 percent higher than a 9 percent turnout.

[1] The monitor's office claims that the figure of "9% turnout is not accurate" because that figure represents a comparison of mailed ballots to votes cast, instead of eligible voters to votes cast, but the monitor fails to contend that the difference between these two measures is substantial.

3. The monitor is unable to explain abysmally low turnout among tens of thousands of rank-and-file academic workers in California and Washington State.

The monitor provides no credible explanation for the fact that turnout among tens of thousands of locals representing West Coast academic workers was between 0.25 and 5 percent. Regarding these locals, the monitor responds that "a claimed low turnout is not itself evidence of voter suppression and Mr. Lehman does not otherwise substantiate this claim with evidence."

First of all, there is no innocent explanation for the drastically lower turnouts in these locals. It is undisputed that out of 9,195 ballots sent to Local 4121 members at the University of Washington, only 72 votes were cast. Out of 2,296 ballots sent to Local 4123 members at the California State University system, 29 votes were cast. Turnout among 48,000 members of Locals 5810 and 2865 at the University of California system was 2.6 percent.

Meanwhile, the claim that I failed to "substantiate this claim with evidence" is simply a lie. I surveyed members at those universities and presented evidence that none of them received any calls or texts from locals about the election or the need to update their addresses. Not a single member of Local 5810 at UC-SRU that I surveyed had heard of the election before my campaign told them. Between 80 and 100 percent of respondents said they could not vote or knew someone who could not vote. Turnout fell massively between the 2021 referendum vote and the first round in 2022.

The UAW, in its response brief, states "there is no evidence of a systematic failure of eligible members to receive ballots." My protest contains plenty of evidence—the UAW is just dishonestly pretending it does not exist.

The overwhelming majority of west coast rank-and-file academic workers in the UAW—between 95 and 99.75 percent—did not participate in the election, and many of them to this day are not even aware that an election took place. Locals representing workers at the UC system held contract ratification votes with massive turnout at the same time as the first round took place, proving that "apathy" was not the issue.

Notwithstanding the low turnout, my campaign won significant percentages of votes in these locals—up to 25 percent and higher. This establishes a motive to keep the members of these locals, who are highly exploited and militant, in the dark about the election. The suppression of the vote among academic workers is characteristic of the bureaucracy's obstruction of the election and constitutes an independent basis for re-running the election.

C. The monitor arbitrarily accepts what the UAW says as true while dismissing the corroborated and detailed statements of dozens of individual rank-and-file workers.

Throughout its denial, the monitor arbitrarily gives credit to the UAW's self-serving claims about its own actions, while dismissing the statements of rank-and-file workers whose rights have been violated as "unsubstantiated."

I did "substantiate" my claims of voter suppression with evidence. I submitted proof that UAW members in most locals received almost no calls, emails, texts or other communications regarding the election or the need to update their mailing addresses to receive ballots. In many cases, workers only learned about the election from my campaign.

The monitor's response to my protest does not contain any proof that calls, emails, or texts *were* sent where I said they were not—or that posters *were* put up in the workplaces where I said they were not—so if anything it is the monitor's office that fails to "substantiate" its claims.

My protest contained reports from over 100 rank-and-file members of the UAW from roughly 20 percent of the 600 UAW locals. It included a review of all Local Facebook pages and websites and established that only between 5 and 15 percent of UAW locals made any posts on Facebook or Local websites about the election or the need to update mailing addresses. This is corroborated by overall turnout.

In my protest, I presented the results of a survey I circulated among rank-and-file workers after the election establishing that between 75 percent and 95 percent of rank-and-file members never received any calls, emails, texts or other communication about the election or the need to update mailing addresses. I also submitted evidence that many locals did not even post posters in visible locations. The monitor did not respond to my protest with a survey of its own that disproved anything I submitted, the monitor just hand-waved the evidence I submitted away as "unsubstantiated."

The monitor simply presumed that everything the UAW officials submitted was true and everything that rank-and-file submitted was false. In light of the corruption scandal, this presumption is upside-down.

The reason there was an election was because the UAW *bureaucracy* was lying to the membership for years and was taking bribes from corporations in exchange for lowering workers' wages. It was the UAW *bureaucracy* which was robbing us of our dues money while rank-and-file workers lost their homes, their incomes and their rights. The rank-and-file workers included in the survey include many workers who were victims of these crimes.

The presumption should be that the bureaucrats are lying and the rank-and-file is telling the truth, not the other way around. But instead of defending the rank-and-file from the bureaucracy, the monitor evidently sees its role as defending the bureaucracy from the rank-and-file.

D. The UAW bureaucracy did not take adequate, reasonable measures to update the Global Mailing List through the LUIS system.

While the monitor's denial rejects the claim that the notice given to the rank-and-file was "inadequate," it does not dispute the key facts of what notice was given to rank-and-file workers about the election and the need to update their mailing addresses in order to receive ballots—which was little to none.

Describing the notice that was given of the election, the response leads with the fact that there was "an email campaign to those members whose email addresses were on the LUIS system," together with other electronic initiatives through the Local Union Information System (LUIS).

This amounted to sending emails to a list that reached only a fraction of the eligible voters—a maximum of 15 percent—and in which the union officials and their associates were disproportionately represented. The union claims that the adequacy of this list is "irrelevant," claiming that: "No law requires the UAW to maintain an email list for election purposes."

But it is this same list that the monitor's office points to as evidence that notice was given, and the fact that it corresponds so closely to the actual turnout (and also roughly corresponds to the UAW's Facebook presence of 138,000 followers) further underscores the fact that notice failed to reach large swaths of the rank-and-file members and retirees. Ninety percent of the membership would never have been reached by these methods.

Meanwhile, the response describes how there was "an email initiative to Local Union leaders" and a "meeting with the Union's Regional Directors." These facts support my position, not the monitor's, underscoring the fact that the union officialdom received notice of the election but the rank-and-file did not. Under the circumstances, this skewed the vote in favor of the candidates of the entrenched officialdom (Shawn Fain and Ray Curry) and suppressed the votes for my campaign.

The response claims that material referencing the election was posted on the "UAW Monitor's website and the UAW's official website." But the response does not dispute the fact that, as I indicated in my protest, the section of the UAW website labeled "Member News" did not make a single post about the election between July 29, when the UAW published a blog post on the UAW convention, and November 29, when it reported results.

Tellingly, the monitor's response can only point to the following postings on the UAW website: "(a) a November 2021 Member News feature [which related to the referendum, dated a year before the election]; (b) a May 2022 Member News feature [which was dated before the convention]; (c) the August 18, 2022 addition of the webpage for campaign literature; and (d) the September 29, 2022 addition of the webpage for the 2022 Election Candidate Forums." In other words, the response confirms that the union's updates to its websites consisted of only a few token gestures at websites that most rank-and-file workers never visit.

Meanwhile, the protest does not dispute the data that I presented that in a majority of locals there was no notice of the election posted on the local website—and perhaps even more importantly, no notice of the need to update mailing addresses.

As for what was sent by physical mail, the monitor attempts to dodge the issue by detailing various documents that were mailed that referenced the election in some way. But the problem was, as I indicated in my protest, that the mailing lists were demonstrably inaccurate. If you have the wrong address, it does not matter if you send one, two, five or five letters to the wrong address—the person you are sending it to is not going to get it. The monitor describes the efforts that were allegedly made to improve the mailing lists, but these efforts were insufficient on their

face in light of the turnout and the tens of thousands of ballots returned as undeliverable. Even if they had been successful, mailing one ballot to workers in a large national union with no past tradition of voting for national officers does not constitute adequate notice.

The response also references an "election hotline," but my protest incorporates the reports of numerous workers who were unable to vote because they could not receive ballots in time despite calling the hotline.

With respect to the survey of over a hundred union members I conducted after the election, the response says that this survey involved a "limited number of individuals" that was not "representative." Elsewhere the monitor implies these responses are not "credible." But the monitor's office points to no data of its own, and certainly the monitor's office does not appear to have ever systematically reached out to *any* rank-and-file members to investigate the issues I raised in my protest. [2] [3]

The monitor's response shrugs at the survey, saying that "even if the results of the survey were accepted as true, these results would fail to establish a violation of the notice requirement." But this is plainly untrue because if the results of the survey are accepted, then that means that 80 percent of members never received an email from the UAW or their local about the election or their obligation to update their mailing address, 55 percent knew someone who could not vote or could not vote themselves, 80 percent never received any physical mailings about the election, 75 percent never saw any posters at their workplaces, 96 percent never received a call or text message about the election or the need to update mailing addresses, and 69 percent never received a copy of Solidarity Magazine.

The UAW leadership had a clear motive for keeping members in the dark about the election: they did not want the election to happen and campaigned openly against it, and they were afraid that significant participation by the rank-and-file could dislodge the entrenched officials from their perches within the bureaucracy. This motive also renders inexcusable the blind reliance by

[2] The monitor and the UAW assert that the survey conducted by my campaign evinces "selection bias" and should be discounted. First, the survey was conducted among workers who actually learned about the election, so if there is selection bias, it would tend in favor of the bureaucracy, since I could obviously not survey any of the hundreds of thousands of members who still do not know about the election. Second, the monitor never conducted its own survey to find out whether the UAW was taking any action beyond sending a few emails within the bureaucracy, so my survey, however limited, is the best evidence of the facts on the ground. Third, on December 13, 2022, my campaign asked the monitor to send the survey out to the Global Mailing list to ensure it would reach the broadest audience and become more representative. The monitor refused to do so.

[3] In its denial, McGorty claims my attorney, Eric Lee, asked him if McGorty had audited *all* 600 locals. The monitor acknowledges that he replied, "that is not my responsibility." However, the question my attorney asked was not whether McGorty had audited *all* the locals. Lee specifically asked McGorty about the West Coast locals with miniscule turnout (locals 5810, 2865, 4121 and 4123) and inquired as to whether McGorty could point to any single step the monitor took to determine whether these locals had taken any measures to notify their membership of an election or the need to update their mailing addresses to obtain ballots. *This* is the question McGorty replied to with the answer, "that is not my responsibility." I was physically present for this conversation, as was Sharon Bell, Local 598 member and candidate for UAW vice president. On March 28, 2023, Ms. Bell said she remembered this conversation the same way I did. Ms. Bell says she would be happy to be interviewed regarding this exchange.

the monitor's office on that same bureaucracy to provide notice of the election to the rank-and-file members and retirees.

E. The UAW bureaucracy systematically failed to update mailing addresses, the monitor refused to intervene, and masses of voters were disenfranchised as a result.

Significant numbers of eligible voters were unable to vote because the membership and address records were inaccurate—the result of years of indifference, incompetence, and neglect on the UAW officials responsible for maintaining the records.

Local 2320, for example, which represents around 5,000 UAW members, has not updated its membership records for five years. On December 21, 2022, former UAW member Benjamin Brown wrote to the monitor to explain that although he has not been a UAW member since May 2017, "Shockingly, I received a ballot" for the international elections, "more than 5 years after I quit my unionized employment and more than 5 years since I have been a member of either Local 2320 or the UAW overall. This reflects troubling disorganization as well as a lack of elections integrity, because I am ineligible to vote in these elections and the membership list has apparently not been cleaned up in more than 5 years."

Mr. Brown continued: "When I was a member of Local 2320 and a bargaining unit chairperson, I noticed two significant problems with the Local's membership list: New members of the union were too often not added to the list, and departing members were too often not removed. I was aware of the issues and raised them back when I was a bargaining unit chair person. But I never expected that the dysfunction was so significant, or the leadership so deaf to my contemporaneous efforts to raise these concerns, that I would still be on a membership list used for elections more than 5 years after I departed."

Mr. Brown raised his concerns when he was still a UAW member with UAW official Gordon Deane, who ignored the concern and warned Mr. Brown: "On a personal level, I'm disappointed that you felt it necessary to pursue a formal appeal."

The monitor never issued a ruling on Brown's protest and the UAW never attempted to rebut it. When Mr. Brown emailed his complaint to the UAW, the UAW replied on December 21, "The UAW is not in control of this election." He was reprimanded for attempting to update his local's LUIS list, as shown in the attached affidavit and documentation.[4] [5]

[4] The lack of cooperation by local officials responsible for updating LUIS remains a systemic problem to this day. On March 24, 2023, Shawn Fain's campaign published a statement complaining of the delay in the tabulation of ballots in the run-off. The statement says, "We have also been very frustrated and have been in frequent contact with the Monitor these last several weeks. **One factor in this delay is that it has been difficult to reach financial secretaries in small locals.**" (Emphasis in the original). These are the officials responsible for updating LUIS. Fain's statement underscores why it was unreasonable for the monitor to simply assume (or pretend) that such officials were diligently updating LUIS, when they clearly were not.

[5] UAW Local 1264 rank-and-file member Michelle Nadasky likewise wrote to the Monitor on December 2, 2022: "The Financial Secretary of Local 1264 here at Sterling Stamping insisted that he updated the LUIS system in June of this year 2022, and added me as a member. I don't believe that to be true. The last time I spoke to someone at the

Mr. Brown submitted all of this information to the monitor who held a perfunctory phone call with him and then did not even bother to respond on the merits of his protest. Following his experience with the monitor, Mr. Brown wrote an affidavit, attached here, which concludes: "In response to the concern I raised, the UAW Monitor made no commitment either to further investigate or to take corrective action."

The monitor dismisses the list of 31 workers I presented who asked to receive ballots but did not get to vote. The monitor says that 22 of the 31 members were "mailed" ballots and that my protest "does not explain how these 31 examples corroborate the claim of widespread lack of notice." But the same paragraph acknowledges that nine of the 31 were not sent ballots in the first round of mailings. If this proportion is extrapolated to the entire membership, it would mean that a minimum of 29 percent of members never got ballots and therefore never received notice of the election. Further, the monitor acknowledges that of these 31, only 12 were actually able to vote, meaning that 19 were disenfranchised—almost half of those in this sampling!

If my campaign, with its limited resources, was able to locate this many disenfranchised workers on short notice in the immediate aftermath of the election, the true number of members unable to vote despite actually knowing about the election and taking affirmative steps to vote must be orders of magnitude higher. This is in addition to all the workers who did not vote because they did not even know that an election was happening at all.

II. THE MONITOR'S CONFLICTS OF INTEREST

The monitor's response to my protest is entitled to no credit or deference whatsoever, in light of outrageous conflicts of interest on the part of the monitor's office—namely the law firms of Crowell & Moring and Jenner & Block. These firms are partisans of the auto corporations with which they have close ties, and their interests are adverse to those of rank-and-file union members working for those corporations like me.

A. Jenner & Block: Longtime lawyers for General Motors.

Jenner & Block has longstanding ties to General Motors, and the firm's financial and legal relationship with GM goes back many years.

It is worth recalling that in 1937, during the sit-down strike against GM in Flint, Michigan, the judge who issued an injunction against the strikers (Edward S. Black) was removed from the case after it was revealed that he owned 3,000 shares in GM. Here, the conflict of interest is even worse: my internal union protest against rampant voter suppression in the election was denied by a law firm which consists of lawyers that represent GM.

In 2014, the *New York Times* wrote that "Jenner & Block has done high-profile securities work for GM" as well as "product liability cases." GM spokesman Greg Martin was quoted as saying that the attorneys have "reputations for adhering to the highest standards." The *Times* continued,

monitor's office was 11/16/22 and her name was Grace. She had no record of an update and still had me listed under [former] Local 869."

"Both firms have done extensive work for GM. The carmaker has used Jenner for more than a decade, and its work includes advising GM on its post-bankruptcy initial public stock offering and negotiating a $5 billion line of credit for the company in 2012. The firm's website says it has represented GM in 'product liability cases involving vehicle incompatibility/aggressivity; crashworthiness; air bags; rollover/roof crush and seatbelts."

The relationship between GM and Jenner & Block is so close that in 2006 it hired the head of corporate practice at Jenner & Block, Robert Osborne, as its general counsel. According to the *Wall Street Journal*, while working for Jenner & Block Osborne helped GM spin-off auto corporations, leading to massive job losses and wage cuts. In a June 8, 2006 article headlined "General Motors Taps Jenner & Block Lawyer as new General Counsel," the *Journal* wrote that Osborne "represented GM in the disposition of Hughes Electronics, the spinoffs of Electronic Data Systems, Hughes Defense and Delphi, and the sale of National Car Rental. He also has represented GM in public offerings of stock and debt securities."

In other words, the firm responsible for "monitoring" the election is actually responsible for the decades-long attack on the rights and living standards of rank-and-file autoworkers and retirees. This is a direct conflict of interest. Such a firm clearly has an interest in helping GM suppress our wages, lower labor costs and attack our rights in the upcoming contract as well.

Most notoriously, Jenner & Block helped conduct the investigation that absolved GM's executives of criminal responsibility after the company covered-up ignition defaults that led to the deaths of many people, including several children. Anton Valukas, then chair of Jenner & Block, testified before congress in defense of GM.

One of the Jenner & Block attorneys tasked with helping oversee the UAW election—Reid Schar—was a leading figure in the GM ignition scandal. According to Schar's Jenner & Block profile, he "served as one of the team leaders conducting an investigation and producing an internal report to the board of directors for GM regarding recalls stemming from faulty ignition switches. The firm team coordinated GM's response to several federal agencies and congress. Reid represented GM in a related investigation by the US Attorney's Office for the Southern District of New York, culminating in the resolution of the matter through a deferred prosecution agreement."

The head of the Center for Auto Safety, Clarence Ditlow, issued a statement at the time attacking the investigation and Jenner & Block's role as GM's lobbyist:

"GM killed over a 100 people by knowingly putting a defective ignition switch into over one million vehicles. Yet no one from GM went to jail or was even charged with criminal homicide. This shows a weakness in the law not a weakness in the facts. GM killed innocent consumers. GM has paid millions of dollars to its lobbyists to keep criminal penalties out of the Vehicle Safety Act since 1966. Today thanks to its lobbyists, GM officials walk off scot free while its customers are six feet under."

Jenner & Block's conduct of the election and their contemptuous attitude to the rights of rank-and-file workers like me is in alignment with the interests of their client, General Motors,

particularly as the expiration date of the current contract approaches for 48,000 UAW members at GM this year.

B. Crowell & Moring: A strikebreaking firm representing GM, Dana, CAT, Bosch and other corporations

Crowell & Moring has equally deep ties to auto corporations negotiating contracts impacting hundreds of thousands of rank-and-file members in 2023. Its clients include Caterpillar, General Motors, Mazda, Bosch, Dana Inc., BMW, Daimler, Bridgestone, and other companies.

Like Jenner & Block, there is a revolving door between the top attorneys at the firm and GM. In 2019, Crowell & Moring appointed Lawrence J. Lines to its Orange County, California office. Lines was "most recently litigation counsel for General Motors," where he served for 35 years, according to a Crowell & Moring press release dated June 18, 2019.

The firm's website has a section titled "Labor Management Relations and Labor Disputes" which explains that the firm "regularly represents employers in collective bargaining negotiations and grievance arbitration matters, and advise clients in developing and implementing strategies to prevent (or, if necessary, minimize the business impact of) strikes, lockouts or other work stoppages. We have successfully handled hundreds of union election proceedings involving employers across the country."

Crowell & Moring's website states they "successfully represented Caterpillar before the US Department of Commerce," and that the firm "has extensive experience in negotiating with and litigating against the most sophisticated labor unions in the country, including the International Brotherhood of Teamsters, American Postal Workers Union, Service Employees International Union, International Longshoremen's Union, the Auto Workers [sic], the Machinists, the Steelworkers, International Brotherhood of Electrical Workers, United Food and Commercial Workers, and numerous other labor organizations." In 2013 it represented General Motors in a $3 billion lawsuit.

The firm holds regular training events for how to oppose strikes, including one held in October 2022 as the UAW election's first round was taking place. It was called, "A conversation about responses to the surge in union organizing," which advertised giving corporate attendees "an opportunity to share experiences and exchange best practices on responses to the current wave of union organizing, including an increased willingness to engage in economic strikes."

The firm's search engine also yields an article discussing how the firm helps companies identify the "earliest stages of potential union organization campaigns" and helps them "through the actual campaigns, elections, and potential challenges." It appears the firm attempted to scrub this article from its website but failed to remove it from search results.

According to LexisNexis, Crowell & Moring currently represents GM in a number of pending or recent cases across the country, including *Vita v. Gen. Motors LLC*, 2023 US Dist. LEXIS.32445 (2d. Cir), *In re GMC Air Conditioning Mktg. & Sales Prac. Litig*., 2023 US Dist. LEXIS 30692 (6th Cir.), *Tucker v. Gen. Motors LLC*, 58 F.4th 392 (8th Cir. 2023), *Estate of Pilgrim v. Gen.*

Motors LLC, 2022 US Dist. LEXIS 219673 (E.D. Mich 2022). Earlier this month, attorneys from the firm appeared before David Lawson, the same judge in the Eastern District of Michigan that heard my lawsuit in November 2022, to represent General Motors!

These company lawyers had no business denying my protest. Not only do these conflicts of interest violate the election rules themselves, which strictly prohibit the employers from interfering with internal union business, it taints the monitor's response to my protest as well as the entire election.

The law firms overseeing the election had an improper motive to deny my protest and rubber-stamp the entrenched leadership's suppression of the vote, so as to ensure the victory of candidates likely to reach favorable agreements with the clients of these law firms—namely the auto companies. Meanwhile, if the monitor's office had agreed with my protest and agreed to re-run the election with meaningful notice to the membership, that would have created more favorable conditions for the interests of the rank-and-file to be expressed in the election, which would have been bad for their clients.

There is the old adage of the "fox guarding the henhouse." Here, the hens are also being required to pay the foxes hundreds of dollars an hour for legal services! This is a scenario that belongs in Alice in Wonderland or Kafka. Millions of dollars of UAW workers' dues money have been paid to date to these law firms for their services in overruling the objections of rank-and-file workers like me to the violation of our democratic rights.

These corporate law firms acted throughout the election first and foremost as advocates for their corporate clients, not in the interests of the democratic integrity of an internal union election. They hardly even hide it—it shines through every sentence of their response to my protest, which drips with contempt and indifference for the rights of rank-and-file members like me to participate in a meaningful democratic election.

III. ADDITIONAL POINTS

A. The response to my protest falsifies the record in an effort to throw up procedural obstacles.

The response to my protest claims that that it was untimely. This falsifies the record and is also contradicted by the monitor's written correspondence with me. I wrote the monitor on December 6 and asked for the deadline for submitting a protest. The monitor replied the same day: "The Monitor announced the unofficial Election results yesterday (December 5, 2022). As such, pursuant to Election Rule 9-3, you have until Tuesday, December 20, to file a formal post-election protest with the Monitor." This correspondence is attached to this complaint. I timely filed my protest a day early, on December 19, 2022.

The response also suggests that I failed to file protests relating to issues arising during the election "within ten (10) calendar days of the day when the protestor became aware, or reasonably should have become aware, of the action protested" as required by the election rules. This is again false. As demonstrated by the correspondence attached to the protest, I timely

protested all of the deficiencies in the election that came to my attention, often on the same day I learned about them. It was the monitor that failed to timely investigate and take action in response to my complaints, as I indicate in my protest.

Not only did I submit numerous complaints throughout the progress of the election, I actually filed a lawsuit in November 2022, asserting my rights as a member and a candidate and warning that massive voter suppression was in danger of causing a historically low turnout. The monitor and UAW both told the court that my claims had to wait until after the election to be addressed under Title IV. Under the circumstances, the claim that I failed to "timely" raise these issues can only be described as absurd.

B. The admissions by UAW president Ray Curry fatally undermine the response to my protest.

There is a glaring and fatal problem with the response of the monitor's office to my protest.

The response to my protest is based almost entirely on a submission from the union to the effect that, in essence, "everything is fine and there's nothing to see here." But it presents a problem for the monitor's office that on March 16, mere days before the monitor's office denied my protest, the UAW's outgoing president Ray Curry issued a public statement admitting there had been "rampant disenfranchisement of UAW voters."

First, Curry's statements are admissions that substantiate every claim I made in my protest, especially those related to LUIS. These statements are hard evidence that massive disenfranchisement did, in fact, take place.

Second, the outgoing UAW leadership led by Curry took two entirely inconsistent positions within hours of each other. When it came to my protest, it argued that the election was perfectly fair and no democratic rights were violated. Then it filed its own protest (after Curry fell behind in the vote tallies) stating the exact opposite and echoing many of the points that I had made in my own protest, including that "tens of thousands of ballots were returned as undeliverable" and that countless members "who did not receive ballots had to make multiple phone calls and wait weeks before receiving ballots."

Curry's statement says the election violated the "democratic election process" and that large swaths of members and retirees were denied the right to vote. Curry would know, since he was in charge of the UAW at the time! Clearly, under the circumstances, it was disingenuous for the monitor's office to rely on a submission from the union leadership that had already been contradicted by the time my protest was denied.

C. Union elections have been re-run for far less egregious election deficiencies.

All rank-and-file union members have the right to meaningfully participate in democratic union elections, including the right to receive adequate notice of the election. Obviously, union members cannot meaningfully participate in elections that they do not know about.

Just to cite a few examples, in a case called *Chao v. Loc. 54, Hotel Emps. & Rest. Emps. Int'l Union*, which the UAW cites in its submission, the uncontradicted evidence was that the union failed to mail notice of the election to 1,975 out of 15,093 eligible voters. That election was just like this one except on a smaller scale, in that the "union knew its mailing lists contained invalid addresses." The election was required to be re-run.[6]

In another case called *Chao v. Loc. 290, Plumbers, Steamfitters, Pipefitters & Marine Fitters of the United Ass'n of Journeymen & Apprentices of the Plumbing & Pipefitting Indus. of U.S. & Canada*, the union successfully mailed ballots to over ninety-nine percent of its eligible voting membership. However, the judge determined that this still did not "excuse the Union from taking reasonable steps to ascertain a correct address for a member whose mail was returned as undeliverable.' The judge continued: "Whether this effort is successful is of no import to our inquiry. The law requires that the Union undertake a reasonable effort to update its mailing list. The Union has failed to meet this requirement."[7]

Here, the data in the LUIS system—which was the basis on which ballots were mailed and eligibility was determined—was poorly maintained in many locals, and in many cases was not maintained at all. While the union admits that the system was "not perfect and apparently did contain some inaccurate addresses," the problem was much worse than that. The problem was so bad that my own ballot was not even counted—and I am a candidate in the election—although the monitor's office told me after I complained about it that the issue had been fixed.

The theory presented in the monitor's office response to my protest is basically that that even if substantial numbers of voters were disenfranchised, it is good enough if the union claims to have made some kind of effort to give notice. This theory has been expressly rejected by at least one court.

In a 1989 case called *Dole v. Loc. 492, Bakery, Confectionery & Tobacco Workers Intl Union, AFL-CIO,CLC*, for example, the union argued that it "made every reasonable effort to insure that each eligible member had an opportunity to vote," and that the law should be interpreted as permitting "real world" errors. Expressly rejecting this argument, a federal district court judge wrote that "every court that has interpreted the election notice provision … has held that it imposes a strict obligation of notification upon the union," not merely an obligation to make an "effort" to notify members.[8]

In the case of the UAW election, the problem was so severe that more ballots were returned as undeliverable than were actually cast—a staggering defect in the election on its face. The efforts by the monitor's office to explain this statistic only make matters worse: the monitor's office claims that this number includes "duplicate ballots" and "ballots returned because the member

[6] 166 F. Supp. 2d 109, 116 (D.N.J. 2001)
[7] 2008 WL 920337, at *4 (D. Or. Apr. 1, 2008)
[8] 1989 WL 126182, at *4 (E.D. Pa. Oct. 23, 1989); *accord Marshall v. Office and Professional Employees Union, Local 2,* 505 F.Supp. 121 (D.D.C.1981) (rejecting the same argument that it is unrealistic to require a union to be completely accurate when mailing election notices).

was deceased." These excuses only serve to underscore the deplorable state of the data in the records.[9]

The monitor's claim that the widespread voter suppression I documented in my protest could not have affected the outcome is mathematically false on its face. There were over a million eligible voters, of whom around 100,000 voted. Had another 200,000-500,000 additional rank-and-file workers and retirees voted, given the context of the corruption scandal, a rank-and-file candidate challenging the bureaucracy could easily have gathered enough votes to make up the difference. It was precisely for this reason that the vote was suppressed!

While my campaign received a significant number of votes—nearly 5 percent of the ballots cast—my campaign did not win enough votes to survive the first round of voting because of widespread voter suppression, obstruction, and intimidation by the entrenched leadership, as I demonstrated by my protest. But the monitor implies that the percentage of votes cast for me is itself evidence that the outcome was not affected—a perfectly circular argument.

One fact I presented in my protest, which the union and the monitor cannot answer, is that the union bureaucracy was far more zealous in transmitting notice of the 2022 midterm elections to its members than in transmitting notice of its own internal election. In the midterms, the UAW used the AFL-CIO LAN (Labor Action Network), an accurate tool used by the Democratic Party to stay in close contact with union members. A substantial staff operates the AFL-CIO LAN and the AFL-CIO has invested substantial resources into keeping it updated.[10]

This completely exposes the claim by the monitor and union that they took "reasonable steps" to inform the membership. The resources and means existed to notify the membership, but the union bureaucracy deliberately chose not to employ them.[11]

The monitor's office claims that I failed to "substantiate" this claim, but this is simply pretending that the evidence I presented does not exist. Not only did I identify hundreds of thousands of dollars of expenditures in the union's LM-02 filings related to these midterm campaigns in my protest, I also pointed to the pile of mailers I personally received relating to the midterms—including mail that reached my correct address, which my ballot did not.

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[9] The monitor "estimates" that approximately 35,000 eligible voters did not receive ballots in the election. Even if we accept this speculative and unsubstantiated assertion, it is incidentally greater than the 34,000 votes the monitor says would have been necessary for my campaign to have affected the outcome of the election.

[10] The AFL-CIO LAN website notes that "The LAN is a secure voter file system that tracks the voting habits and histories of AFL-CIO union members. It allows us to do specific targeting to reach the members who we need to reach while excluding those we do not. In other words, it helps us work smart and efficiently." The LAN is a highly complicated system that compiles all data known about the individual voter to determine their propensity for voting and to help "tailor the message" to encourage each individual to vote for the AFL-CIO's preferred candidate. A significant amount of information about the LAN is available at: https://www.uagetinvolved.org/content/labor-action-network-lan.

[11] The notion that it is difficult to contact the vast majority of UAW members is false on its face. The UAW is able to draw dues payments automatically.

This is a union with over a billion dollars in assets. Especially in the context of the corruption scandal, the consent decree, the 2021 referendum, and the looming contract struggles, what could have been more important than ensuring that every eligible member and retiree was able to meaningfully participate and vote in this historic election—and in this election in particular? Evidently, the union had other things it would rather spend money on. These facts explode the argument that the union took "reasonable steps" to improve its mailing lists and give notice of the election to eligible voters.

Given the massive resources of the union and the context of this particular election, the disastrous state of the mailing address records, the slow-walked and measly efforts to give notice, and the catastrophically low turnout are inexcusable.

Conclusion

As I said in my November lawsuit and my December protest, this could have been a very different election. More than a million rank-and-file members and retirees could have participated in the first direct leadership election in the history of the union. There could have been genuine, good faith efforts to reach every single one of us. The locals could have asked each and every one of us personally to update our addresses to ensure we received a ballot.

This could have been an election in which rank-and-file members like me could have freely reached our coworkers without intimidation or interference. We could have debated our strategy and our goals, decided what we were willing to fight for, and determined what direction we wanted to take our struggles in 2023.

It would have been an election in which the real issues confronting workers could have been addressed, in which the real interests and aspirations of the rank-and-file could have been expressed, and in which the "culture of corruption" that was exposed by the Justice Department investigation could finally have been confronted head-on.

That election did not happen because the entrenched union bureaucracy deliberately prevented it from happening—aided and abetted by a collection of corporate law firms that represent our adversaries in management. The result was an election with such miserably low turnout that no rank-and-file workers will recognize it as legitimate—especially once they learn in greater and greater numbers what I have exposed in my protest.

Your office opposed my lawsuit in November, siding with the UAW bureaucracy and the monitor. I requested additional time for workers to receive and mail ballots, and I warned: "If ballots continue to be sent at this rate each day through the November 28 deadline, total turnout will be roughly 104,000." My prediction was extremely precise: a total of 104,776 ballots were counted.

If the judge, the union, the monitor, and your office had heeded my warnings in November, this disastrously low turnout could have been averted. I was right and I am still right. On behalf of one million of my rank-and-file brothers and sisters who were deprived of a meaningful democratic election, I am demanding that you re-run the election with actual notice of the election to all of the eligible members and retirees.

Sincerely,

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