

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

HONGBO HAN, on behalf of himself and all others)
similarly situated,)

Plaintiff,)

v.)

UNITED CONTINENTAL HOLDINGS, INC.,)
UNITED AIR LINES, INC., and MILEAGE PLUS)
HOLDINGS, LLC)

Defendants.)

CASE NO. _____

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

Plaintiff, Hongbo Han, on behalf of himself and all others similarly situated, by his undersigned attorneys, brings this class action lawsuit against United Continental Holdings, Inc., United Air Lines, Inc., and Mileage Plus Holdings, LLC. (collectively “United” or “United Airlines”) for breaching their agreement with members of their frequent flyer program to award mileage based on actual miles flown, and complains as follows:

I. Nature of the Case

1. United’s MileagePlus program fosters customer loyalty by offering awards and services to program members in exchange for flying with United. Every time program members purchase an eligible fare and travel on flights operated by United Airlines or select partner airlines, members earn “miles” that are deposited into their MileagePlus account. Members can then use the award miles to purchase travel, hotel and car rental, in addition to everyday purchases and activities.

2. United advertises that members of its frequent flyer program will be awarded “flight miles” that are “determined by the purchased ticket routing.” United Airlines, <http://www.united.com/CMS/en-US/Marketing/CustComm/Promotions/Pages/united.aspx> (last visited Mar. 17, 2013).

3. When members sign up for a MileagePlus account, United requires them to acknowledge and agree to the “MileagePlus Program Rules.” The MileagePlus Program Rules constitute a contract, which United drafted in its entirety and for which prospective members do not have any opportunity to negotiate the terms. Nowhere in the MileagePlus Program Rules does United state that the mileage or miles credited are not actual miles flown by the member. The MileagePlus Program Rules state at clause 18.1 that “[i]n the case of air travel, mileage will be credited only for flights actually flown by the member.” *See MileagePlus Program Rules*, <https://www.united.com/web/en-US/content/mileageplus/rules/default.aspx> (last visited Mar. 17, 2013). In explaining Premier status qualification requirements, United further states that “[Premier qualifying miles] are based on the number of *paid flight miles traveled* and the fare purchased.” *See Premier status qualification requirements*, <https://www.united.com/web/en-US/content/mileageplus/premier/qualify.aspx> (last visited Mar. 17, 2013) (emphasis added).

4. Program members, such as Hongbo Han, thus understand that if they fly United, they can accumulate miles corresponding to the distance of the United flight actually flown by them. This understanding is consistent with media reports about how airlines calculate frequent flyer miles. The USA Today, for example, reports that “frequent flier credit is awarded based on actual flight miles,” and cannot be precisely determined by passengers in advance. Regina Edwards, *How to Calculate Frequent Flyer Miles*, USA Today, available at

<http://traveltips.usatoday.com/calculate-frequent-flyer-miles-1670.html> (last visited Mar. 17, 2013). Based on United's agreement to award frequent flyer miles for actual miles flown, members such as Mr. Han are strongly incentivized to fly United in lieu of other competing airlines, and often choose United even when competing airlines offer cheaper airfares for the same route. When members purchase United tickets and fly United, they understand that, pursuant to the terms of their program membership, United will award them the miles actually flown by them.

5. Unfortunately, United has breached its MileagePlus contract with millions of its members, including Mr. Han, by *not* actually awarding the miles actually flown by them, as United had promised. Instead, United awarded miles that were *less than* the miles actually flown by its members without disclosing this fact to its members. Based on flight data from public sources such as <http://flightaware.com/>, United awarded miles much closer to the direct distance (i.e., a straight line point-to-point irrespective of flight route) between the origin and the destination instead of actually flown miles for each flight. United misled members such as Mr. Han into believing that United would uphold its obligations under the terms of the MileagePlus agreement by awarding the miles actually flown by them.

6. Therefore, Mr. Han brings this action to enforce his and others' contractual rights under the MileagePlus agreement.

II. The Parties

7. Plaintiff Hongbo Han is a resident of Rockville, Maryland. Mr. Han has flown frequently on United Airlines and is a member of the MileagePlus program.

8. Defendant United Continental Holdings, Inc. is a publicly held company incorporated under Delaware law. It was formed via a merger that closed on October 1, 2010,

between United Airlines and Continental Airlines. Its headquarters and principal place of business are located in Chicago, Illinois. United Continental Holdings, Inc. is one of the United entities that collectively offer the MileagePlus program to United customers and enter into the membership agreement with the MileagePlus program members. It also operates and controls the MileagePlus program.

9. Defendant United Air Lines, Inc. is a wholly owned subsidiary of United Continental Holdings, Inc. It is incorporated under Delaware law and its headquarters and principal place of business are located in Chicago, Illinois. United Air Lines, Inc. is one of the United entities that collectively offer the MileagePlus program to United customers and enter into the membership agreement with the MileagePlus program members. It operated and controlled the MileagePlus program prior to formation of United Continental Holdings, Inc.

10. Defendant Mileage Plus Holdings LLC is a wholly owned subsidiary of United Air Lines, Inc. It is incorporated under Delaware law and its headquarters and principal place of business are located in Chicago, Illinois. Mileage Plus Holdings LLC is one of the United entities that collectively offer the MileagePlus program to United customers and enter into the membership agreement with the MileagePlus program members. It administers the MileagePlus program.

III. Jurisdiction and Venue

11. This Court has original jurisdiction pursuant to 28 U.S.C. § 1332(d)(2). The matter in controversy, exclusive of interest and costs, exceeds the sum or value of \$5,000,000 and is a class action in which some of the members of the class of plaintiffs, whose number exceeds 100, are citizens of states different from United. Further, greater than two-thirds of the class members are citizens of states different from United.

12. Venue is proper in this Court under 28 U.S.C. § 1391 because the actions at issue took place, in whole or in part, within this district.

IV. The Facts

13. A frequent-flyer program is a type of loyalty program offered by many airlines. Typically, airline customers who have enrolled in the program accumulate frequent-flyer miles (or points or segments) corresponding to the distance flown on that airline or its partners. There are other ways to accumulate miles such as using co-branded credit and debit cards. Acquired miles can be redeemed for free air travel, for other goods or services, or for increased benefits, such as travel class upgrades, airport lounge access, or priority bookings.

14. Frequent-flyer programs were first introduced in the late 1970s. United's Mileage Plus was launched in the early 1980s. On June 29, 2011, United Airlines officially changed the name of the program from "Mileage Plus" to "MileagePlus." Following the merger that was closed on October 1, 2010, between United Airlines and Continental Airlines, Continental Airlines' frequent-flyer program, which was referred to as the "OnePass" program, was integrated into MileagePlus in 2012. Upon information and belief, Continental Airlines' OnePass program had similar terms and conditions as United's MileagePlus program.

15. Popularity of frequent flyer programs, such as United's MileagePlus program, has grown enormously. The primary method of obtaining award miles in a frequent-flyer program until recent years was to fly with the associated airline. Most systems reward travelers with a specific number of award miles based on the distance traveled.

16. According to United, its MileagePlus program builds customer loyalty by offering awards and services to program members. Members in this program earn miles for flights on United, Continental, United Express, airlines in the "Star Alliance" (including Lufthansa, All

Nippon Airways, Air China, U.S. Airways, Singapore Airlines, and others), and certain other airlines that participate in the program. Members can redeem MileagePlus miles for free, discounted, or upgraded travel and non-travel awards.

17. In 2012, 4.7 million MileagePlus travel awards (actual miles flown vary for each travel award) were used on United and Continental. These awards represented 7.4% and 6.8% of United's and Continental's total revenue passenger miles (i.e., miles flown by revenue paying passengers) in 2012, respectively. The total revenue passenger miles in 2012 for United (including Continental flights) were 179,416,000,000 miles.

18. Total miles redeemed for travel on United and Continental in 2012, including class-of-service upgrades, represented 83% of the total miles redeemed. In addition, excluding miles redeemed for travel on United and Continental, MileagePlus members redeemed miles for approximately 1.6 million awards in 2012. These non-United and non-Continental travel awards include United Club memberships, car and hotel awards, merchandise, and travel on other air carriers.

19. In addition, the more a member flies United or select MileagePlus partners, the sooner that member will achieve Premier status, which gives additional benefits to United's most active members. These include bonus award miles, upgrades, priority airport services, fee waivers, discounts, and benefits when traveling with Star Alliance members. The bonus miles are awarded based on the specific level of Premier status.

20. United also allows members to directly purchase miles with cash. United claims this is "[p]erfect if you are just a few thousand miles short of your next award trip. You can apply these miles toward award travel on United or any MileagePlus airline partner, or toward

upgrades on United.” The cost is \$0.035 per mile plus an applicable 7.5% Federal Excise tax. *See* Personal Miles, <http://www.ualmmiles.com/PersonalMiles.jsp> (last visited Mar. 17, 2013).

21. To enroll in the MileagePlus program, members must complete the MileagePlus enrollment form. For example, the MileagePlus enrollment form may be completed online on United’s website. *See* MileagePlus Enrollment, *available at* <https://www.united.com/web/en-US/apps/account/enroll.aspx> (last visited Mar. 17, 2013). Prospective members enter their contact information and email address. In addition, before they can be enrolled into the MileagePlus program, prospective members are shown “MileagePlus Program Rules, Terms, Conditions, and Legal Notices” (“MileagePlus Program Rules”) and must accept these terms and conditions in order to become members.

22. Nowhere in the MileagePlus Program Rules does United state that the mileage or miles credited are not actual miles flown by the member. Clause 18.1 of the MileagePlus Program Rules merely states that “[i]n the case of air travel, mileage will be credited only for flights actually flown by the member.”

23. United advertises, however, that members of its frequent flyer program will be awarded “flight miles” that are “determined by the purchased ticket routing.” United Airlines, <http://www.united.com/CMS/en-US/Marketing/CustComm/Promotions/Pages/united.aspx> (last visited Mar. 17, 2013). Additionally, in explaining Premier status qualification requirements, United states that “[Premier qualifying miles] are based on the number of *paid flight miles traveled* and the fare purchased” (emphasis added).

24. Mr. Han has been a MileagePlus member since around 2009 and has obtained Premier status. Members such as Mr. Han understand that if they fly United, they can accumulate miles corresponding to the distance actually flown on the United flight. Thus, members such as

Mr. Han are provided a strong incentive to fly United instead of other airlines, even if other airlines offer cheaper airfares. When members purchase United tickets and fly United, they understand that United will award them the miles that they have actually flown pursuant to the MileagePlus contract.

25. Unfortunately, United has breached its MileagePlus contract with its millions of members such as Mr. Han by *not* awarding the miles actually flown by them. Instead, United awarded miles that were *less than* the miles actually flown by its members without disclosing this fact to its members. Members such as Mr. Han were misled into believing that United upheld its obligations under the MileagePlus contract by awarding the miles actually flown by them.

26. In one instance, on February 18, 2013, Mr. Han took United Flight No. 898 from Beijing Capital International Airport to Washington Dulles International Airport. Upon information and belief, the actual flown distance for this flight was 7,276 miles.

27. United, however, only awarded Mr. Han 6,920 miles, excluding Premier bonus miles, for this flight. United did so despite knowing that the actual flown distance was 7,276 miles. Therefore, United awarded Mr. Han 356 miles less than it was required to by the MileagePlus Program Rules, excluding Premier bonus miles. As a result, United is liable to Mr. Han for at least 356 miles, in addition to Premier bonus miles, for this flight.

28. Since Mr. Han had Premier status, Mr. Han was entitled to a 25% Premier bonus. Therefore, United owes Mr. Han additionally at least 89 Premier bonus miles for this flight in addition to the 356 miles discussed above.

29. In another instance, on January 24, 2013, Mr. Han took United Flight No. 897 from Washington Dulles International Airport to Beijing Capital International Airport. Upon information and belief, the actual flown distance for this flight was 7,043 miles.

30. United, however, only awarded Mr. Han 6,920 miles, excluding Premier bonus miles, for this flight. United did so despite knowing that the actual flown distance was 7,043 miles. Therefore, United awarded Mr. Han 123 miles less than it was required to by the MileagePlus Program Rules, excluding Premier bonus miles. As a result, United owes Mr. Han at least 123 miles for this flight, excluding Premier bonus miles.

31. Since Mr. Han had Premier status, Mr. Han was entitled to a 25% Premier bonus. Therefore, United owes Mr. Han at least an additional 30 Premier bonus miles for this flight.

32. Mr. Han paid \$1,166 for a round-trip ticket including the two flights mentioned above, and thus should have been awarded the actual miles flown under the MileagePlus program, plus applicable bonus miles.

33. Upon information and belief, United regularly awards members 6,920 miles for flights between Beijing Capital International Airport and Washington Dulles International Airport. The actual miles flown, however, exceed 6,920 miles for most, if not all, flights between these two airports, based on flight data from public sources such as <http://flightaware.com/>. In yet another instance, United Flight No. 898 that departed from Beijing on February 24, 2013 actually flew 8,188 miles. Upon information and belief, United owes each member on that flight at least 1,268 miles for that flight alone.

34. Since United operates numerous flights daily, United has misled and deceived millions of its members by awarding miles that are *less than* the actual flown miles, and therefore breached its obligations under the MileagePlus Program Rules. Accordingly, Mr. Han brings this action to enforce his and others' contractual rights under the MileagePlus agreement.

V. Class Action Allegation

35. This action is brought as a class action by Plaintiff on behalf of himself and the following proposed class (“Class”): **All current and former members of United Airlines’ MileagePlus Program, including former members of Continental Airlines’ OnePass Program, who were awarded less miles than they actually flew on qualifying flights.** Excluded from the Class are Defendants; the officers, directors, and employees of Defendants; any entity in which Defendants have a controlling interest; the affiliates, legal representatives, attorneys, heirs, and assigns of Defendants; and any judge, justice, or judicial officer presiding over this matter and the members of their immediate families and judicial staffs.

36. This action may be maintained as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure.

37. **Numerosity:** Plaintiff is informed and believes that there are millions of Class members throughout the United States. As a result, the members of the Class are so numerous that their individual joinder in this action is impractical.

38. **Commonality:** There are questions of law and fact that are common to Plaintiff and all the members of the Class, including, but not limited to, the following:

- a. Whether United breached its contractual obligations to the Class;
- b. Whether United has been unjustly enriched;
- c. Whether Class members have suffered damages;
- d. Whether United’s awarding Class members miles less than what they are contractually owed entitles Plaintiff and the Class to equitable relief;
- e. Whether, and what form of, relief should be afforded Plaintiff and the Class.

39. **Typicality:** Plaintiff is a member of the Class and has claims that are typical of all the members of the Class. Plaintiff's claims and all of the Class members' claims arise out of the same uniform course of conduct by Defendants and arise under the same legal theories.

40. **Adequacy of Representation:** Plaintiff will fairly and adequately represent the interests of the members of the Class. Plaintiff has no conflicts of interest with or interests that are any different from the other members of the Class, and has retained competent counsel to represent Plaintiffs and other members of the Class.

41. **Predominance:** Common questions of law and fact predominate over questions affecting only individual Class members, and the Court, as well as the parties, will spend the vast majority of their time working to resolve these common issues.

42. **Superiority:** A class action is superior to all other feasible alternatives for the resolution of this matter. Individual litigation of multiple cases would be highly inefficient, a gross waste of the resources of the courts and of the parties, and potentially could lead to inconsistent results that would be contrary to the interests of justice.

43. **Manageability:** This case is well suited for treatment as a class action and can easily be managed as a class action because evidence of both liability and damages can be adduced, and proof of liability and damages can be presented, on a Class-wide basis, while the allocation and distribution of damages to Class members would be essentially a ministerial function.

44. Defendants have acted and continue to act on grounds generally applicable to the Class by uniformly awarding less than the miles that Class members are contractually entitled to and therefore should have been awarded under the MileagePlus Program Rules. Accordingly,

injunctive relief as well as legal and/or equitable relief (such as disgorgement, restitution, and/or monetary damages) are appropriate with respect to the Class as a whole.

Count I – Breach of Contract

45. Plaintiff incorporates the allegations in paragraphs 1 through 44 as if they were fully set forth herein.

46. United offered the MileagePlus Program memberships to Plaintiff and the Class to foster loyalty. Plaintiff and the Class accepted United's offer by enrolling into the MileagePlus Program. Plaintiff and the Class purchased tickets for United flights and actually flew on these flights. Therefore, the contractual relationship was supported by consideration by and for all parties.

47. Because Plaintiff and the Class purchased tickets for United flights and actually flew on these flights, Plaintiff and the Class performed all of their obligations under the contractual relationship.

48. United, however, breached its obligations and failed to perform all of its obligations under the contractual relationship. As explained in detail above, United breached its agreement with Plaintiff and the Class by awarding miles less than the actual miles flown.

49. As a result of United's breach, Plaintiff and the Class have been damaged.

50. Illinois law applies in this case, as the MileagePlus program is administered and run by United in its headquarters in Chicago, Illinois.

WHEREFORE, Plaintiff and the Class demand judgment against United and pray for: compensatory damages; attorneys' fees and costs; pre-judgment and post-judgment interest as provided by law; and such other relief as the Court deems fair and equitable.

Dated: March 18, 2013

Respectfully submitted,

/s/ Anne I. Shaw

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