

No. 21-11159

Case argued January 3, 2022; decided February 17, 2022

**In the United States Court of Appeals for
the Fifth Circuit**

DAVID SAMBRANO, ON THEIR OWN BEHALF AND *on behalf of* ALL OTHERS SIMILARLY SITUATED; DAVID CASTILLO, ON THEIR OWN BEHALF AND *on behalf of* ALL OTHERS SIMILARLY SITUATED; KIMBERLY HAMILTON, ON THEIR OWN BEHALF AND *on behalf of* ALL OTHERS SIMILARLY SITUATED; DEBRA JENNEFER THAL JONAS, ON THEIR OWN BEHALF AND *on behalf of* ALL OTHERS SIMILARLY SITUATED; GENISE KINCANNON, ON THEIR OWN BEHALF AND *on behalf of* ALL OTHERS SIMILARLY SITUATED; SETH TURNBOUGH, ON THEIR OWN BEHALF AND *on behalf of* ALL OTHERS SIMILARLY SITUATED,

Plaintiffs-Appellants,

v.

UNITED AIRLINES, INCORPORATED,

Defendant-Appellee.

On Appeal from the United States District Court
for the Northern District of Texas, Fort Worth Division
No. 4:21-cv-01074-P

**PLAINTIFFS-APPELLANTS' REPLY IN SUPPORT OF MOTION FOR LEAVE
TO FILE RESPONSE TO APPELLEE'S SUPPLEMENTAL BRIEF**

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CERTIFICATE OF INTERESTED PERSONS

No. 21-11159

*David Sambrano, individually and on behalf of all others
similarly situated, et al. v. United Airlines, Inc.*

The undersigned counsel of record certifies that the following persons and entities as described in the fourth sentence of Circuit Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal:

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/s/ Gene C. Schaerr

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Plaintiffs agree with United Airlines—appellate briefing must come to an end at some point. *See* United Opp. to Mot. for Leave at 3 (“United Opp.”). And Plaintiffs further agree that the briefing here *should have* come to an end after United’s April 13, 2022 supplemental brief. Indeed, United clearly thought that would be the last brief filed. Otherwise, why would United have felt so free to misrepresent facts and accuse the Plaintiffs of misleading the Court? The only possible explanation is that United did not contemplate Plaintiffs’ having a chance to respond or to point out the blatant falsity of United’s accusations.

But given the seriousness of United’s allegations—publicly accusing Plaintiffs of dishonesty—“equity entitles,” and indeed demands, an opportunity to respond. United Opp. at 1. In fact, given United’s decision to address *some* of the substantive issues addressed in Plaintiffs’ recently filed brief, it speaks volumes that United does not attempt to defend its public accusations about Plaintiffs’ honesty. *See generally* United Opp. Instead, United hides behind the procedural argument that it should have “the last word.” *Id.* at 1. But having the last word is not license to set facts aside, much less make them up and, in so doing, accuse the other party of misleading the Court. Rather, the Court should allow the filing of Plaintiffs’ April 20, 2022 response, as it is necessary to rebut United’s misrepresentations and accusations of dishonesty, while also providing insight into the lengths to which United will go to retaliate against and coerce its employees.

Finally, in all events, the Court should ignore United's recent opposition because it seeks to address the substance of the Parties' briefing without first seeking leave to do so. If United wished to file another substantive brief on these matters, it could have requested leave to do so. *See* 5th Cir. R. 28.4. But United did not request leave, and the Court should not countenance United's attempt to use its opposition to circumvent the Court's rules.

April 22, 2022

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Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to Fed. R. App. P. 25(d) and 5th Cir. R. 25.2.5, I hereby certify that on April 22, 2022, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fifth Circuit by using the CM/ECF system, which will accomplish service on counsel for all parties through the Court's electronic filing system.

/s/ Gene C. Schaerr
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CERTIFICATE OF COMPLIANCE

The foregoing complies with the type volume limitation of Fed. R. App. P. 27(d)(2) because it contains 332 words.

The foregoing also complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and 5th Cir. R. 32.1 and the type-style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman font.

Additionally, I certify that (1) any required redactions have been made in compliance with 5th Cir. R. 25.2.13; and (2) the document has been scanned with the most recent version of Microsoft Defender virus detector and is free of viruses.

/s/ Gene C. Schaerr
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Dated: April 22, 2022