

“GM routinely negotiates similar deals with the UAW”

## Fiat Chrysler seeks to dismiss GM lawsuit charging it “acquired” the UAW

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Attorneys for Fiat Chrysler Automobiles (FCA) filed a motion in US District Court last Friday asking the federal judge to “dismiss with prejudice” the lawsuit brought by General Motors last November. GM’s legal complaint charged that FCA gained an unfair competitive advantage by bribing the United Auto Workers to sign labor agreements favorable to the Italian-American automaker.

GM contends that from July 2009 to at least 2017, through a “pattern of racketeering activity,” FCA “acquired and maintained an interest in and/or control of the UAW, and in particular its decisions and actions regarding CBAs [collective bargaining agreements].” As a result of illegal payoffs, the lawsuit charges, the UAW was transformed into an “FCA-Control Enterprise” under the terms of the federal Racketeer Influenced and Corrupt Organizations [RICO] Act.

Among the “benefits, concessions and advantages” that GM says FCA “illegally purchased” from the UAW were the union’s collusion with FCA’s World Class Manufacturing system, which ensures that FCA’s facilities “are flexible and competitive with the best in the world,” the gutting of the grievance procedure, and the union’s agreement to allow a higher percentage of lower-paid and temporary workers than at GM factories.

The GM suit claims that FCA worked with the UAW to impose higher costs on GM in 2015 in order to press the company into merger talks with FCA.

GM’s legal complaint, based on the plea agreements and statements of indicted and convicted UAW and FCA officials, was filed on November 20, 2019, the same day that UAW President Gary Jones was forced to resign in disgrace. Tellingly, GM does not name the UAW as a defendant in its complaint. Instead, the lawsuit praises the supposed anti-corruption efforts of the UAW leadership, which had just sabotaged the 40-day strike by 48,000 GM workers and acceded to demands for plant closings and an expanded use of temporary workers.

In its lawsuit, GM does not seek the return to Fiat Chrysler workers of billions of dollars in concessions agreed to by the UAW. On the contrary, GM wants billions in damages from FCA because it allegedly did not receive as many concessions from the UAW as FCA did, although it actively sought them.

Fiat Chrysler responded aggressively to the suit, hiring powerful corporate law firms in New York City and Detroit to prepare its dismissal motion, which includes hundreds of pages of exhibits and citations of previous case law. FCA’s motion largely relies on technical arguments.

It asserts that GM filed its lawsuit too late to meet RICO’s four-year statute of limitations; that the dispute should be settled by the National Labor Relations Board and not adjudicated by the federal courts; and that even if GM’s contentions were true, GM would not be the “direct victim” of the bribery scheme, but only the third in line following FCA workers and the Internal Revenue Service (IRS), the latter having been defrauded of tax revenues as a result of the concealment of illegal payoffs by UAW and FCA officials.

FCA’s lawyers are most concerned with debunking the GM lawsuit’s assertion that “the UAW is a criminal enterprise controlled by FCA”—an entirely accurate characterization of the so-called “labor organization.” The motion to dismiss states: “GM’s contention that FCA influenced certain UAW decisions by virtue of the alleged prohibited payments does not establish that FCA acquired power over the UAW’s day-to-day operations—a requirement akin to owning enough stock to affect the composition of a corporation’s board of directors.”

The lawyers further argue: “GM’s allegation that, as a result of the alleged prohibited payments, the UAW occasionally ‘accede[d] to specific requests from FCA’—even if true—does not establish the level of operational control by FCA over the UAW” required for a RICO conviction. The lawsuit, they claim, fails to prove that

FCA gained “control over the essential functions” of the UAW, an organization of 400,000 active members.

But the legal record shows that Fiat Chrysler executives bribed the lead UAW negotiators during the 2009, 2011 and 2015 contract talks—General Holiefield and Norwood Jewell—as well as a significant portion of the UAW-Chrysler National Bargaining Committees in those years.

Left unsaid by both the GM and FCA lawyers is the fact GM and Ford have also spent years “acquiring” the UAW. This has taken the form of *billions* of dollars in bribes funneled by the auto companies through the training centers jointly operated by the UAW, GM, Ford and Chrysler since the early 1980s.

Several UAW-GM officials, including former union Vice President Joe Ashton, have been convicted of illegally using funds from the UAW-GM Center for Human Resources. Former UAW presidents Dennis Williams and Gary Jones have been linked to illegal schemes to use training money and union assets to wine and dine UAW officials.

The FCA attorneys know that the most damning answer to the GM lawsuit would be to state: “You bribed the UAW just as much as we did.” But this would open up a Pandora’s Box and further undermine the already deeply discredited union, upon which the auto companies have long relied to suppress the resistance of autoworkers.

There is, however, an element of the truth in a footnote on the bottom of Page 7 of the memorandum of law in support of the motion to dismiss. It reads: “GM repeatedly insinuates that FCA and the UAW entered into secret letter agreements and memoranda of understanding ‘negotiated outside of the collective bargaining process.’ But these agreements are neither secret nor unique to FCA... GM itself routinely negotiates similar letter agreements and memoranda of understanding with the UAW.”

While seeking to protect its own corporate executives and wealthy shareholders from potential financial damages, FCA’s motion to dismiss is contemptuous of the devastating consequences for tens of thousands of workers and their families. The motion glibly passes over the fact that FCA workers have been unable to obtain any legal relief from the courts. “In fact, there have been no fewer than five actions brought by FCA employees ‘aris[ing] out of the infamous bribery scandal.’ It does not matter that these actions have been dismissed,” the motion states.

The bitter legal battle between GM and FCA is being driven by the struggle that has erupted in the global auto industry over shrinking markets and control of new technologies, including electric and autonomous vehicles. A ruthless global restructuring of the auto industry is underway that will undoubtedly result in the disappearance of not a few currently existing companies in the next wave of

mergers, acquisitions and bankruptcies. One expression of this conflict is the conviction of former Renault-Nissan CEO Carlos Ghosn and his flight from Japan.

In the motion to dismiss, FCA’s attorneys compare GM’s resort to a RICO lawsuit to the use of a “thermo-nuclear device” aimed at disrupting FCA’s planned merger with the PSA Group in France. The tie-up will create the fourth largest automaker in the world, pushing GM to the sixth spot.

Autoworkers have no stake in the victory of one or another of the two corporate giants involved in this conflict. Both will wage the struggle on the backs of “their” workers.

The entire sordid affair does, however, further expose the corrupt and anti-working class character of the UAW. Essentially, the argument of both companies boils down to the fact that the UAW is in the pocket of the auto bosses and everybody knows it.

The UAW cannot be “reformed” and made to serve the interests of autoworkers any more than GM and Fiat Chrysler can be turned into benevolent societies for the advancement of workers and their families. The so-called “union” is an integral part of the corporate structure and bases the fat salaries, expense accounts and slush funds of its executives on obtaining a cut in the profits sweated out of the workers.

That will not be changed by replacing the current crop of bureaucrats with a new batch, or through a government takeover of the UAW by Trump’s Justice Department. The UAW’s transformation into a criminal enterprise is the product of its nationalist and pro-capitalist program and decades of collusion with corporate management.

That is why autoworkers must make a decisive break with the UAW and build new organizations of struggle: rank-and-file factory committees controlled democratically by the workers themselves and committed to the mobilization of autoworkers in the US and internationally to fight for secure jobs with decent pay and benefits and safe and healthful working conditions. This fight is inseparable from developing a political movement of the working class to fight for a socialist alternative to the capitalist system, all of its parties and political representatives, and the corporate and financial elite that profits off the exploitation and oppression of the working class.



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