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March 2, 2023

VIA EMAIL

To: All UAW Stellantis Local Union Presidents, Recording Secretaries, Shop Chairs

Re: **PAA CALL-IN Suspension by Stellantis - March 2023**

Greetings Sisters and Brothers:

The Company notified the UAW Stellantis Department of their intentions to suspend the PAA Call-In for all locations until the 2022 vacation cycle ends in early May of 2023. We immediately gave our opposition to this decision by the company by charging the company with, once again, making a unilateral decision to suspend the PAA Call-Ins with no data or communication with the local unions.

We remind the Council that in June of 2020, the company suspended the PAA Call-In procedure for similar reasons at the Toledo Jeep Plant represented by Local 12. The UAW took the company head-on and presented Local 12's case before an Arbitrator. The Arbitrator ruled in favor of the company. The Arbitrator's decision is final and binding on all parties (Section 36; P, M&P):

> ***"…Application of its sixth condition is not restricted to pre-determined days, nor does it require that if there is documented need for more exception days due to changing circumstances they must be negotiated. Regrettable as it is that the Company did not invite Union engagement in a collaborative process in this case as it does in yearly exception-day pre-determination, it had authority to except additional work days with recent history of continuously high unplanned absence and adverse operational effects from future Call-In PAA use and did not violate Letter 257 by taking such action unilaterally. Therefore the grievance is denied."***

The Department has had several discussions with the company to cease and desist from this action and the company gave the reasoning that attendance is over 20% in most facilities and the company claims it can't get production or other work completed in a timely manner because of high absenteeism and this is the company's method to limit the unforeseeable absences whether excused or not, therefore the company decided to suspend the Call-In's because the company says it has evidence to show the locals that typically during the months of March and April employees want to use all of their vacation and PAA time before the new allotment is loaded the first week of May, thus creating downtime to the company's operations.

Again, we opposed this action, and we suggest the local unions have a serious dialogue with the company and request the data and file additional grievances regarding this matter. If the local determines there is a violation. We will attack this issue in bargaining this summer to put this issue to rest and take away the company's ability to unilaterally violate our membership's rights.

We have the Council's back and will continue to fight the company on all of our issues alongside all of you including this blatant, unnecessary action.

In solidarity

Rich Boyer
Vice President and Director
UAW Stellantis Department

RB:kb
opeiu494
cc: Joe Ferro, Top Administrative Assistant to Vice President Boyer
Harvey Hawkins, Jr., Administrative Assistant to Vice President Boyer
Regional Directors
Regional Assistant Directors
Regional Representatives
UAW Stellantis Servicing Staff

APPEAL BOARD
IMPARTIAL CHAIRMAN'S DECISION

FCA US LLC

-and- Appeal No. H-32086

INTERNATIONAL UNION, UAW

Nature of Dispute, Evidence & Arguments: Local [redacted] presented Grievance No. 20 093 on behalf of all [redacted] ([redacted]) employees on July 6, 2020. It progressed through all steps of the grievance procedure to the Appeal Board, which was unable to settle it, and was heard by the Impartial Chairman on July 30. It protests "alleged violation of Letter 257 of making a unilateral change to the 2019 CBA."

The alleged unilateral change was indefinite suspension of "use of call-in PAA for Friday, Saturday and Mondays," announced in a letter from Labor Manager [redacted] to Local [redacted] Chairman [redacted] and similar notice to all [redacted] bargaining unit employees) on June 24, 2020. The letter reads as follows:

> This Letter serves to inform you that effective immediately, [redacted] will be suspending indefinitely the use of call-in PAA for Friday, Saturday and Mondays. Pursuant to the PAA Utilization Letter (257): PAA Call-in can be used to cover an absence, providing there is no adverse effect to production or related operations due to the collective level of unplanned absences. Because we have experienced tremendously high absenteeism, which has had an effect on production, we are suspending Call-in PAA. All PAA requests must be pre-excused in writing by a member of Management. Any and all PAA Call-in requests will be unexcused and will result in occurrences in the attendance procedure. This supersedes any and all previous communications referencing Call-in PAA at [redacted].

Regular, not *called-in*, use of PAA time is governed by Section 104(e)—(i) of 2015 of the parties' Production, Maintenance and Parts Agreement, which reads as follows:

> An employee may use the hours credited to his Paid Absence Allowance in units of no less than one-half (1/2) day periods for: excused absence because of illness when not receiving Sickness and Accident Insurance; or absence that his supervisor has excused because of personal business; or as payment for a vacation leave of absence as specified in Section (79). A request for Paid Absence Allowance by an eligible employee made subsequent to such absence will be approved for payment, but such payment shall not make such absence an excused absence or preclude the Management from considering such absence as the basis, in whole or in part, for disciplinary action.

As mentioned in [redacted] letter, Letter 257, as negotiated in 2015 bargaining and dated October 22, 2015, extended permitted use of PAA to call-ins on a limited basis and subject to several conditions, as follows:

> The company and union discussed implementing a process that allows employees to utilize Paid Absence Allowance (PAA) time in situations that would normally result in an occurrence in the attendance procedure. As a result, the Company agrees to allow employees to use up to forty (40) hours of their annual Paid Absence Allowance (PAA) allotment to cover an absence provided the request is made thirty (30) minutes or more prior to the start of his shift and the following conditions are met:
>
> - The employee has annual PAA, not PAAH, available to use.
> - PAA has to be taken in increments consistent with payroll practices and/or the plant work schedule.
> - Employee has a minimum of one (1) year of on-roll employment.
> - Has not been issued a step of disciplinary time off under the Memorandum of Understanding-Absenteeism within the previous twelve (12) months of on roll-employment.
> - The PAA day is not used the last scheduled work day prior to, or the first scheduled work day after, a contractual holiday or scheduled layoff/shutdown.
> - There was no adverse effect to production or related operations due to the collective level of unplanned absences. The work days that have historically demonstrated high absenteeism will be pre-determined at the local level (e.g. Monday after the Super Bowl, Halloween, March Madness Tournament).

The current Letter 257, signed in September 2019 and appended to the 2019 Production, Maintenance and Parts agreement, has an additional, seventh bullet point. But it is irrelevant to this dispute, because it does not add another condition for utilization of call-in PAA. It provides an additional unpaid day off per year with at least 24 hours advance notice for employees who provide that much advance notice for all forty hours "of annual PAA usage" — in other words, for those who utilize *no* call-in PAA.

Letter 257 does not say how, when, or by whom "work days that have historically demonstrated high absenteeism *will be pre-determined.*" But as a routine process at [redacted], Company labor relations and Local [redacted] representatives monitor and discuss attendance in periodic manpower meetings, annually Labor Relations prepares a list of work days on which it has determined there was historically high absenteeism with adverse effects on plant operations and presents them as drafts with supporting data to Union representatives, who concur or disagree with days listed after reviewing the lists and data. Days for that year that the Union concurs with are included in notices to bargaining unit employees, but some they disagree with may be as well. Such notices begin by saying the "con-

tractual option to use a non-attendance counter PAA day by calling in 30 minutes prior to the start of shift cannot be used during ***the last scheduled work day prior to, or the first scheduled work day after*** a contractual holiday or scheduled layoff/shutdown," which is followed by a list of all contractual holidays plus the estimated first scheduled work day after seasonal plant shutdown.

The 2019 notice, dated January 19 and signed by [redacted] and Local [redacted] Chairman [redacted], is in evidence as a joint exhibit. The Union also put in evidence unsigned drafts for 2017, 2018 and 2019, with Union notes on the 2018 and 2019 drafts indicating which listed "UAW/[redacted] Exception Days" they concurred or disagreed with or questioned. As to 2019, comparing the signed notice to its draft version with Union responses shows that a day on the draft list to which the Union's noted response was "NO" (3rd Day after PAA Dump) was not in the final signed notice, but 2nd Day after PAA Dump, with which it also had noted disagreement, *was*, and so was another day that was not on the draft, NCAA National Championship (Football). I received no evidence of how those changes came about, but it is clear in general that the parties have used a collaborative process in which each party has input, but strictly speaking, exception days are not *negotiated* and the Company has final authority to *pre-determine* what they will be, year-by-year.

Similarly, whether that process resulted in any change(s) to the 2018 draft notice (dated January 31) on which then Local [redacted] Chairman [redacted] (now a UAW International Representative servicing Unit 12) noted agreement with all but three days (to which no response was noted), or whether a final version was signed by a Union representative, is unknown to the Chairman because the 2018 notice actually issued is not in evidence.

Likewise for 2017, when the collaborative process occurred in May, not January. In evidence for that year are an unsigned notice dated May 15 with only six exception days and copies of emails between labor relations and Union representatives indicating Committeeman [redacted] concurred that "these are the days we agreed to, based on historical data" but stated he did "not understand and am not in concurrence that these days are subject to change in your note below," and labor relations representative [redacted] responded, "I'll take it out." No "subject to change" statement appears in the unsigned

notice the Union in evidence, so it may be the final version, but whether it *was* or a final version was signed before issuance, I cannot tell based on this record.

Neither do I know whether the parties engaged in a similar process this year or issued a new 2020 call-in exception days notice, but the fact that they made the 2019 notice a joint exhibit suggests it still was in effect when this dispute arose. Lack of such evidence is immaterial, however, given the narrow scope of the issue before me: whether the Company violated Letter 257 by *prospectively* designating multiple additional call-in PAA exception days for an indefinite period on June 24, 2020.

The crux of the Union's claim that it did is that such action essentially rewrites Letter 257, by substituting "is" for "was" in the first sentence of its sixth "condition." It asserts that determining if there *was* a "collective level of unplanned absences" adversely affecting plant operations on any particular day only can be done by "looking back" at what the absenteeism level and its effect on plant operations actually were, unless the parties agree to something else.

In addition to reliance on the literal wording of that condition, the Union presented evidence purportedly showing this was how it was applied in practice at the [redacted]. [redacted] and [redacted] testified about their involvement in resolution of a dispute that arose during the first year of Letter 257's existence, when [redacted] management retroactively disallowed utilization of call-in PAA because unplanned absence on the day in question purportedly turned out to have been so high that it adversely affected production. [redacted] said records for that day did not reveal a high level of unplanned absence, however, but rather that some employees were sent home due to overstaffing, negating a claim of adverse effect, so management rescinded the disapproval and excused those absences.

[redacted] was involved in 2015 bargaining on Letter 257 as assistant to the Vice President of the Union's FCA division, and he said it was agreed the first sentence of the sixth condition called for a "look-back" to see if there was adverse effect from high unplanned absence on particular days *in the past*, and if so, disallowance of call-in PAA utilization on those days *in the future*. He said when that [redacted] dispute was elevated to the national level he discussed it with Employee Relations official [redacted] and they did a look-

back that did not reveal a high level of unplanned absence adversely affecting plant operations on that day, so [redacted] told [redacted] management to excuse the absence(s) for which call-in PAA had been claimed but retroactively disallowed.

Neither party presented evidence of how the [redacted] call-in process works as a practical matter. Thus it is unclear to the Chairman (but ultimately unimportant) whether employees who call in an absence and say they will utilize call-in PAA to cover it simply leave that message to a recording system or actually speak to a person who compares their employment record and then-current circumstances in the plant with the Letter 257 conditions before approving or disapproving such utilization on the spot.

[redacted] testimony about that call-in PAA dispute differed from [redacted] and [redacted]. He said retroactive disapproval of that call-in PAA utilization was rescinded not because high absenteeism did not adversely affect operations on the day in question, but because it was impractical and unfair to employees to permit use of call-in PAA to cover an unexcused absence at time of call-in but disapprove it later. He asserted that *prospective* disallowance of call-in PAA use for other than pre-determined exception days based on high absenteeism adversely affecting plant operations on the same days in the recent past is a proper application of the sixth condition in Letter 257, which neither precludes that nor requires such additions to be negotiated with the Union.

That is the crux of the Company's position, based on [redacted] testimony and the language of Letter 257, which it insists it did not violate by indefinitely suspending call-in PAA use on work days on which there had been continuing, extremely high absenteeism adversely affecting [redacted] operations every week after their resumption following the pandemic shutdown. It presented statistics showing unprecedented high levels of collective absenteeism at both plants June 3 through July 26; adverse operational effects; and significantly more call-in PAA use May 18 through July 2, 2020 than in a comparable period in 2019 (daily averages of 149.8 and 97.2 respectively). The Company agrees that pre-determination of yearly exception days at [redacted] has been done collaboratively, but not *negotiated*, and contends it has final authority both to pre-determine exception days each year and to add more mid-year if changing circumstances warrant such action.

The Union did not dispute any of that evidence. It concedes absenteeism at unprecedented high levels during the pandemic has adversely affected plant operations and might justify disapproval of call-in PAA use on Fridays, Saturdays and Mondays, but only retrospectively, not prospectively. It argues the first sentence of Letter 257's sixth condition is inherently ambiguous and must be interpreted in light of evidence of how it has been interpreted and applied in practice, both in annual collaborative pre-determination of historical exception days and in resolution of the [redacted] grievance soon after Letter 257 first took effect. Implicitly, it suggests there should have been a similar collaborative process to determine whether pandemic-related absenteeism justified additional exception days and if so, which days and for how long. It insists the Company violated Letter 257 by announcing the indefinite Friday-Saturday-Monday suspension as a *fait accompli,* but does not explicitly claim that either annual pre-determination or designation of additional exception days mid-year due to changing circumstances must be *negotiated*. In effect, it concedes the Company *could* disapprove call-in PAA use *retroactively, day by day,* for any days on which high absenteeism had a demonstrated adverse effect, but vehemently denies that recent undisputed history justified suspending its use for the indefinite future without Union concurrence.

The Union seeks no monetary remedy for alleged violations of Letter 257, because affected employees were paid for PAA on days they called in during indefinite suspension of its use to avoid attendance procedure occurrences, and the suspension actually lasted only two weeks, then management rescinded it pending decision in this arbitration. Nor did it request retroactive change of attendance procedure status of employees (if any) who got absence occurrences for days during those two weeks that they sought but were not permitted to cover with call-in PAA.

[redacted] HR Manager [redacted] said he shared post-shutdown absence, production and call-in PAA records with Union officers in a manpower meeting sometime before the indefinite suspension was announced. He did not say exactly when or whether he told them the Company contemplated partial suspension of call-in PAA or asked them to concur in such action. But he said that when they subsequently were given the suspension

announcement, they said they disagreed with it, but did not "ask for data" or dispute the gravity of the absenteeism situation.

Analysis and Findings: The Union is correct that the sixth condition in Letter 257 is somewhat unclear and ambiguous, at least as applied to this dispute, but not correct that clear interpretive guidance can or must be found in its past practical application. The undisputed fact that yearly pre-determination of work days that historically demonstrated high absenteeism at [redacted] has been done collaboratively is not controlling precedent for this case, because the circumstances from which it arose involve an entirely different sort of history, plus reasonable expectation if not near-certainty that they will continue for the indefinite future. In any event, the facts regarding application of Letter 257 in a different sort of dispute several years ago are unclear and disputed, since witnesses involved in its resolution recall them quite differently.

The Union suggests it was not clearly established that [redacted] and [redacted] even testified about the same case, and it is true that both their accounts were somewhat imprecise, not surprisingly given the passage of time. But it appears they *were* describing the same case but recalled different aspects of the resolution: [redacted] focused on particular facts of the day then in question; but Richey concluded that no matter what those facts were, to disapprove call-in PAA use retroactively due to plant absenteeism *that day*, which could not have been known when an employee called in pre-shift, would be impractical and unfair to employees. [redacted] conclusion was reasonable in those respects, and consistent with the purpose and structure of Letter 257 reflected in its fifth condition and the second sentence of the sixth, which both *prospectively* preclude call-in PAA use to avoid attendance occurrences on work days which, viewed *retrospectively*, demonstrated high absenteeism adversely affecting plant operations.

The same approach provides a reasonable, contractually permissible way to cope with attendance ramifications of the coronavirus pandemic, which the parties could not have foreseen or considered when they negotiated Letter 257. For reasons [redacted] cogently stated, it would be impractical, unfair and illogical to apply Letter 257 by looking back a day at a time in these circumstances and leaving good faith claims for call-in PAA use in

limbo pending retrospective analysis of absenteeism and production statistics. The clear continuous history of several weeks of high post-shutdown absenteeism and adverse operational effects on Fridays, Saturdays and Mondays and high likelihood of that situation persisting indefinitely were valid reason to designate them as added exception days until further notice, provided that collective unplanned absence and its effects are continually monitored and shared with the Union and such exceptions are rescinded as soon as the unplanned absences decline sufficiently for production to return to pre-pandemic levels.

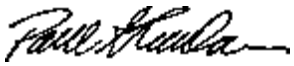
It would have been better (and this proceeding might have been avoided) if management had not only shared absenteeism statistics with Union representatives before suspending Friday-Saturday-Monday call-in PAA use but also requested their concurrence for such action rather than taking it unilaterally. The Company is correct that it has final authority to determine whether a historical collective level of unplanned absences on a given day or days has adversely affected production or related operations and, if so, to disallow call-in PAA use to avoid attendance occurrences on such days in the future, and the relevant history need not be *ancient history*. But there was no reason not to collaboratively discuss the relevant *recent* history *and* the action it contemplated in this unprecedented situation with Union representatives in a collaborative process such as the parties have used for the last five years to annually pre-determine "exception days." Had it done so, and the Union refused to concur with the planned action, management still could have taken such action unilaterally, subject to challenge in the grievance procedure, in which event it would have the burden to substantiate its analysis of relevant attendance and operational history and the objective need for such action.

Of course this is exactly the situation in which we find ourselves, and the Company carried that burden, so the Union's claim that it violated Letter 257 is unproven. Application of its sixth condition is not restricted to pre-determined days, nor does it require that if there is documented need for *more* exception days due to changing circumstances they must be negotiated. Regrettable as it is that the Company did not invite Union engagement in a collaborative process in this case as it does in yearly exception-day pre-determination, it had authority to except additional work days with recent history of continu-

ously high unplanned absence and adverse operational effects from future call-in PAA use and did not violate Letter 257 by taking such action unilaterally. Therefore the grievance must be denied.

DECISION

Grievance No. 20 093 is denied.



Paul Glendon, Chairman
August 21, 2020