

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII

**Riki O’Hailpin; Nina Arizumi; Robert Espinosa; Erwin Young;
Puanani Badiang; Sabrina Franks; Ronald Lum; Dan Saiki; Brandee
Aukai v. Hawaiian Airlines, Inc.; Hawaiian Holdings, Inc.**

O’Hailpin v. Hawaiian Airlines, Inc., Civ. No. 22-00532 HG-WRP (D. Haw. Jan. 20, 2026) · No. Civ. No. 22-00532 HG-WRP · Decided January 20, 2026

SUMMARY

This order addresses Hawaiian Airlines and Hawaiian Holdings’ motion to dismiss for lack of subject-matter jurisdiction under the Railway Labor Act. The court holds that Plaintiffs Riki O’Hailpin and Brandee Aukai’s Title VII religious-accommodation claims, and O’Hailpin’s ADA medical-accommodation claim, require interpretation of the applicable collective bargaining agreement and therefore constitute minor disputes subject to the Railway Labor Act’s dispute-resolution procedures. The claims are dismissed with prejudice for lack of subject-matter jurisdiction.

CASE DETAILS

COURT	United States District Court for the District of Hawaii
WRITING FOR THE COURT	Helen Gillmor
JURISDICTION	United States District Court for the District of Hawaii
DECIDED	January 20, 2026
DOCKET	Civ. No. 22-00532 HG-WRP
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendants moved under Federal Rule of Civil Procedure 12(b)(1) to dismiss Plaintiffs O’Hailpin’s and Aukai’s Title VII religious-accommodation claims and O’Hailpin’s ADA disability-accommodation claim for lack of subject-matter jurisdiction under the Railway Labor Act. Plaintiffs opposed, requested jurisdictional discovery, and sought leave to amend to add an intentional-discrimination claim.
STANDARD OF REVIEW	A Rule 12(b)(1) challenge may be facial or factual. In a factual attack, the court may consider affidavits and other evidence outside the pleadings, the complaint’s allegations are not entitled to a presumption of truth, and the plaintiff bears the burden of establishing subject-

	matter jurisdiction. A Railway Labor Act jurisdictional challenge is properly treated as a factual attack.
PRECEDENTIAL VALUE	unpublished
PARTIES	Riki O’Hailpin, Nina Arizumi, Robert Espinosa, Erwin Young, Puanani Badiang, Sabrina Franks, Ronald Lum, Dan Saiki, Brandee Aukai v. Hawaiian Airlines, Inc., Hawaiian Holdings, Inc.

TOPICS

employment law

title vii

ada / disability

subject matter jurisdiction

civil procedure

PRACTICE AREAS

employment law

civil rights

labor law

civil procedure

QUESTIONS PRESENTED

1. Whether the Railway Labor Act deprived the district court of subject-matter jurisdiction over O’Hailpin’s and Aukai’s Title VII failure-to-accommodate claims and O’Hailpin’s ADA failure-to-accommodate claim because resolving them required interpretation of the parties’ collective bargaining agreement.
2. Whether Plaintiffs were entitled to jurisdictional discovery.
3. Whether Plaintiffs should receive leave to amend the complaint to add an intentional-discrimination claim.

HOLDINGS

1. The Railway Labor Act precludes court review of Plaintiffs’ Title VII and ADA failure-to-accommodate claims because determining the availability of the requested accommodations and the asserted undue-hardship defense requires interpretation of the existing collective bargaining agreement.
2. Jurisdictional discovery was not warranted because the jurisdictional issue was whether interpretation of the CBA was legally required, and additional discovery would not alter that determination.
3. Leave to amend was denied because Plaintiffs did not establish good cause to reopen the expired amendment deadline after nearly three years of litigation.

KEY QUOTATIONS

“Courts lack subject-matter jurisdiction to adjudicate minor disputes concerning an existing collective bargaining agreement.” (at 19)

“First, the court examines if the plaintiff’s claim seeks purely to vindicate a right or duty created by the collective bargaining agreement itself.” (at 20)

“The Court agrees with the Hawaiian Defendants that the questions raised by Plaintiffs’ accommodation claims require interpretation of the CBA terms.” (at 32)

“Plaintiffs’ failure-to-accommodate claims are precluded from court review pursuant to the RLA.” (at 39)

FACTUAL BACKGROUND

O’Hailpin and Aukai were Hawaiian Airlines flight attendants and union members covered by a collective bargaining agreement containing seniority, bidding, scheduling, route-assignment, and arbitration provisions. After Hawaiian implemented a mandatory COVID-19 vaccination policy, both plaintiffs sought religious exemptions, and O’Hailpin also sought a medical exemption based on antiphospholipid syndrome. Hawaiian denied the requests; O’Hailpin was placed on unpaid leave before returning to work, while Aukai was vaccinated rather than placed on leave. Plaintiffs alleged that the denials violated Title VII and, as to O’Hailpin’s medical request, the ADA.

PROCEDURAL HISTORY

Plaintiffs filed the complaint on December 22, 2022, asserting Title VII and ADA claims arising from Hawaiian Airlines’ COVID-19 vaccination policy. After extensive pretrial proceedings, Defendants moved to dismiss the claims of O’Hailpin and Aukai under the Railway Labor Act. The court denied jurisdictional discovery and leave to amend, granted the motion, and dismissed Count I as to O’Hailpin and Aukai and Count IV as to O’Hailpin with prejudice for lack of subject-matter jurisdiction.

DISPOSITION

dismissed

CASES CITED

- Thornhill Publishing Co., Inc. v. General Telephone & Electronics Corp., 594 F.2d 730 (9th Cir. 1979)
- Leeson v. Transamerica Disability Income Plan, 671 F.3d 969 (9th Cir. 2012)
- Safe Air for Everyone v. Meyer, 373 F.3d 1035 (9th Cir. 2004)
- Wolfe v. Strankman, 392 F.3d 358 (9th Cir. 2004)
- White v. Lee, 227 F.3d 1214 (9th Cir. 2000)
- Savage v. Glendale Union High School, 343 F.3d 1036 (9th Cir. 2003)
- Moore v. Maricopa County Sheriff’s Office, 657 F.3d 890 (9th Cir. 2011)
- Soper v. United Airlines, Inc., 2024 WL 4800082 (C.D. Cal. Sept. 4, 2024)
- Hinant v. American Airlines, Inc., 2024 WL 4988391 (D. Ariz. Dec. 5, 2024)
- Haralson v. United Airlines, Inc., 224 F. Supp. 3d 928 (N.D. Cal. 2016)
- Consolidated Rail Corp. v. Railway Labor Executives’ Ass’n, 491 U.S. 299 (1989)
- Aircraft Service International, Inc. v. International Brotherhood of Teamsters, 779 F.3d 1069 (9th Cir. 2015) (en banc)
- Elgin, Joliet & Eastern Railway Co. v. Burley, 325 U.S. 711 (1945)
- Herrera v. Command Security Corp., 837 F.3d 979 (9th Cir. 2016)

- Columbia Express Terminal, LLC v. International Longshore & Warehouse Union, 23 F.4th 836 (9th Cir. 2022)
- Livadas v. Bradshaw, 512 U.S. 107 (1994)
- Alaska Airlines, Inc. v. Schurke, 898 F.3d 904 (9th Cir. 2018) (en banc)
- Trans World Airlines, Inc. v. Hardison, 432 U.S. 63 (1977)
- Groff v. DeJoy, 600 U.S. 447 (2023)
- Petersen v. Snohomish Regional Fire & Rescue, 150 F.4th 1211 (9th Cir. 2025)
- Burnside v. Kiewit Pacific Corp., 491 F.3d 1053 (9th Cir. 2007)
- Angeles v. U.S. Airways, Inc., 2013 WL 622032 (N.D. Cal. Feb. 19, 2013)
- McKinley v. Southwest Airlines Co., 680 F. App'x 522 (9th Cir. 2017)
- Edelman v. Western Airlines, Inc., 892 F.2d 839 (9th Cir. 1989)
- Odell v. Kalitta Air, LLC, 678 F. Supp. 3d 904 (E.D. Mich. 2023)
- Stanley v. ExpressJet Airlines, Inc., 808 F. App'x 351 (6th Cir. 2020)
- Whitford v. National Railroad Passenger Corp., 2024 WL 4216050 (W.D.N.Y. Sept. 17, 2024)
- Grindling v. Cathay Pacific Airways, Ltd., 2024 WL 4164234 (N.D. Ill. Sept. 11, 2024)
- Saliba v. American Airlines, Inc., 2022 WL 4131485 (D. Ariz. Sept. 12, 2022)
- Felt v. Atchison, Topeka & Santa Fe Railway Co., 60 F.3d 1416 (9th Cir. 1995)
- Saridakis v. United Airlines, 166 F.3d 1272 (9th Cir. 1999)
- Sjoberg v. United Airlines, Inc., 2024 WL 4219736 (S.D. Tex. Sept. 17, 2024)
- Arbaugh v. Y&H Corp., 546 U.S. 500 (2006)
- Pearson v. Northwest Airlines, Inc., 659 F. Supp. 2d 1084 (C.D. Cal. 2009)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII RIKI O'HAILPIN; NINA ARIZUMI;) CIV. NO. 22-00532 HG-WRP ROBERT ESPINOSA; ERWIN YOUNG;) PUANANI BADIANG; SABRINA) FRANKS; RONALD LUM; DAN SAIKI;) BRANDEE AUKAI,)) Plaintiffs,)) vs.)) HAWAIIAN AIRLINES, INC.;) HAWAIIAN HOLDINGS, INC.,))) Defendants.)) ORDER GRANTING DEFENDANTS HAWAIIAN AIRLINES, INC. AND HAWAIIAN HOLDINGS, INC.'S MOTION FOR DISMISSAL FOR LACK OF SUBJECT-MATTER JURISDICTION AGAINST PLAINTIFFS O'HAILPIN AND AUKAI (ECF No. 383) Plaintiffs Riki O'Hailpin and Brandee Aukai, along with seven other individuals, have filed suit against Defendants Hawaiian Airlines, Inc. and Hawaiian Holdings, Inc. ("Hawaiian Defendants").

Plaintiffs O'Hailpin and Aukai are employed as flight attendants for Defendant Hawaiian Airlines, Inc. In August 2021, the Hawaiian Defendants implemented a mandatory vaccination policy for COVID-19 when the world was impacted by the COVID-19 global pandemic. Plaintiffs O'Hailpin

and Aukai requested to be exempt from the Hawaiian Defendants' COVID-19 vaccination policy based on 1 their religious beliefs.

Plaintiff O'Hailpin also submitted a request to be exempt from the COVID-19 vaccination policy based on her medical condition. The Hawaiian Defendants denied Plaintiffs O'Hailpin and Aukai's requests for exemption from their vaccination policy. Plaintiff O'Hailpin was placed on unpaid leave for an unspecified period of time, but returned to work in November 2022.

Plaintiff Aukai elected to be vaccinated rather than be placed on unpaid leave. In December 2022, Plaintiffs O'Hailpin and Auki, along with seven others, filed the Complaint before the Court. Plaintiffs O'Hailpin and Aukai claim the Hawaiian Defendants failed to reasonably accommodate their religious beliefs in violation of Title VII of the Civil Rights Act of 1964.

Plaintiff O'Hailpin also claims the Hawaiian Defendants failed to reasonably accommodate her medical condition in violation of the Americans With Disabilities Act of 1990. The Hawaiian Defendants assert that it would have caused undue hardship to accommodate the Plaintiff flight attendants' requests for exemption.

The Hawaiian Defendants filed a Motion to Dismiss based on lack of subject-matter jurisdiction as to Plaintiffs O'Hailpin and Aukai's religious accommodation claims and as to Plaintiff 2 O'Hailpin's disability accommodation claim.

The Hawaiian Defendants assert that Plaintiffs O'Hailpin and Aukai's Title VII failure-to-accommodate claims and Plaintiff O'Hailpin's ADA failure-to-accommodate claim require interpretation of the Collective Bargaining Agreement that applied to the two Plaintiffs as flight attendants at the time they sought exemption from the vaccination policy.

The Hawaiian Defendants argue that the Court may not review Plaintiffs O'Hailpin and Aukai's claims due to the jurisdictional limitations set forth in the Railway Labor Act, 45 U.S.C. §§ 181-188 ("RLA"). The RLA requires claims that involve interpretation of collective bargaining agreements for transportation workers to be resolved only through the RLA's internal dispute-resolution processes. -Se-e- 45 U.S.C. § 184.

Defendants' Motion for Dismissal for Lack of Subject-Matter Jurisdiction as to Plaintiffs O'Hailpin and Aukai (ECF No. 383) is GRANTED. Count I in the Complaint (ECF No. 1) as to Plaintiffs O'Hailpin and Aukai is DISMISSED WITH PREJUDICE for lack of subject-matter jurisdiction. Count IV in the Complaint (ECF No. 1) as to Plaintiff O'Hailpin is DISMISSED WITH PREJUDICE for lack of subject-matter jurisdiction.

3 PROCEDURAL HISTORY On December 22, 2022, Plaintiffs O'Hailpin and Aukai and seven other individual Plaintiffs filed the Complaint. (ECF No. 1). On August 14, 2023, Plaintiffs filed a Motion to Certify Classes and Appoint Counsel. (ECF No. 50).

On December 12, 2023, District Judge Otake issued an ORDER DENYING PLAINTIFFS' MOTION TO CERTIFY CLASSES AND APPOINT COUNSEL. (ECF No. 101). On January 18, 2024, the case was reassigned from Judge Otake to Judge Gillmor. (ECF No. 103).

On February 19, 2025, Defendants filed a Motion to Bifurcate. (ECF No. 176). On February 20, 2025, the Court held a Status Conference. (ECF No. 178). On March 5, 2025, the Court held another Status Conference and a hearing on Defendants' Motion to Bifurcate. (ECF No. 190).

On March 19, 2025, Defendants filed a Motion for Partial Dismissal as to Plaintiff Nina Arizumi. (ECF No. 197). On April 7, 2025, the Court held a hearing on the Parties' Joint Statement Regarding Severing Trials. (ECF No. 210).

On May 6, 2025, the Court issued an Order to Show Cause Why Count II For Disparate Impact Should Not Be Dismissed. (ECF No. 253). 4 Also on May 6, 2025, the Court issued an ORDER GRANTING DEFENDANTS HAWAIIAN AIRLINES, INC. AND HAWAIIAN HOLDINGS, INC.'S MOTION FOR DISMISSAL FOR LACK OF SUBJECT-MATTER JURISDICTION AS TO COUNTS I AND IV FOR PLAINTIFF NINA ARIZUMI.

(ECF No. 254). On May 7, 2025, the Court issued an ORDER GRANTING DEFENDANT HAWAIIAN AIRLINES, INC.'S MOTION TO BIFURCATE. (ECF No. 257). On May 9, 2025, the Court held a Status Conference. (ECF No. 276). On May 29, 2025, the Court held a hearing on the Parties' Motions in Limine for the trial set for Plaintiffs Espinosa and Saiki. (ECF No. 318). At the hearing, the Court dismissed Count II for Disparate Impact and Count III for Retaliation with prejudice as to Plaintiffs Espinosa and Saiki. (-Id.-) On May 30, 2025, the Court issued an ORDER GRANTING DEFENDANTS HAWAIIAN AIRLINES, INC. AND HAWAIIAN HOLDINGS, INC.'S MOTIONS IN LIMINE.

(ECF No. 316). Also on May 30, 2025, the Court issued an ORDER ON PLAINTIFFS ROBERT ESPINOSA AND DAN SAIKI'S MOTIONS IN LIMINE NOS. 2-6. (ECF No. 317). On June 2, 2025, Plaintiffs filed a Motion to Sever. (ECF No. 320).

On June 9, 2025, the Court held a hearing and denied Plaintiffs' Motion to Sever. (ECF No. 325). The Court explained that there were various outstanding issues to be addressed prior 5 to trial including the Parties' repeated requests for continuances, the issue of late-disclosed exhibits, the Parties' expert reports, deposition excerpts, and the Parties' exhibits and their lack of conformity to the Court's rulings regarding the Motions in Limine.

(Id.) Trial was continued to November 18, 2025. (Id.) On July 31, 2025, the Court issued an ORDER GRANTING, IN PART, AND DENYING, IN PART, PLAINTIFFS' MOTION IN LIMINE NO. 1 TO EXCLUDE EXHIBITS NOT PRODUCED IN DISCOVERY. (ECF No. 348).

On September 4, 2025, the Court issued a Minute Order regarding newly issued published decisions from the Ninth Circuit Court of Appeals and set a status conference for September 25, 2025. (ECF No. 373). On September 16, 2025, Defendants submitted a letter to the Court stating that they intended to file a Motion to Dismiss for Lack of Subject-Matter Jurisdiction as to Plaintiffs Espinosa and Saiki.

(ECF No. 375). On September 22, 2025, Defendants filed DEFENDANTS HAWAIIAN AIRLINES, INC. AND HAWAIIAN HOLDINGS, INC.'S MOTION FOR DISMISSAL FOR LACK OF SUBJECT MATTER JURISDICTION AGAINST PLAINTIFFS SAIKI AND ESPINOSA. (ECF No. 378).

On September 24, 2025, the Parties submitted a proposed stipulation to dismiss counts II, III, and V as to all Plaintiffs. (ECF No. 379).⁶ On September 25, 2025, the Court held a Status Conference. (ECF No. 380). At the hearing, Defendants were given leave to file a Motion to Dismiss pursuant to the Railway Labor Act as to Plaintiffs O'Hailpin and Aukai. (Id.)

The Court informed the Parties that it would not review the Proposed Stipulation until the questions related to subject-matter jurisdiction had been resolved. (Id.) On October 3, 2025, Defendants filed DEFENDANTS HAWAIIAN AIRLINES, INC. AND HAWAIIAN HOLDINGS, INC.'S MOTION FOR PARTIAL DISMISSAL FOR LACK OF SUBJECT MATTER JURISDICTION AGAINST PLAINTIFFS O'HAILPIN AND AUKAI.

(ECF No. 383). On October 13, 2025, Plaintiffs O'Hailpin and Aukai filed their Opposition. (ECF No. 386). On October 20, 2025, Defendants filed their Reply. (ECF No. 387). On October 28, 2025, the Court received a letter from Plaintiffs' counsel requesting leave to file a Supplemental Brief. (ECF No. 388).

The Court allowed Plaintiffs to file a Motion for Leave to File a Supplemental Brief and allowed Defendants to file a Response to the Motion. (ECF No. 389). On November 6, 2025, Plaintiffs filed their Motion for Leave to file a Supplemental Briefing. (ECF No. 391).

On November 13, 2025, Defendants filed their Response to the⁷ Motion for Leave to File a Supplemental Brief. (ECF No. 393). Without leave of Court, on November 21, 2025, Plaintiffs filed a Reply to their Motion for Leave to File a Supplemental Brief. (ECF Nos. 396 and 397). Following Plaintiffs' filing on November 21, 2025, Defendants filed a Motion to Strike Plaintiffs' Reply Seeking to File a Supplemental Brief.

(ECF No. 399). On November 24, 2025, Plaintiffs filed an Opposition to Plaintiffs' Motion to Strike their Reply Seeking to File a Supplemental Brief. (ECF No. 400). On December 4, 2025, the Court issued an Order Denying Plaintiffs' Motion for Leave to File Supplemental Brief and Denying Defendants' Motion to Strike. (ECF No. 401).

On December 10, 2025, the Court issued an ORDER GRANTING DEFENDANTS HAWAIIAN AIRLINES, INC. AND HAWAIIAN HOLDING, INC.'S MOTION FOR DISMISSAL FOR LACK OF SUBJECT-MATTER JURISDICTION AGAINST PLAINTIFFS SAIKI AND ESPINOSA. (ECF No. 402).

The Court elects to decide the Motion without a hearing pursuant to District of Hawaii Local Rule 7.1(c). BACKGROUND Plaintiffs O'Hailpin and Aukai allege in the Complaint that they are flight attendants employed by Defendant Hawaiian Airlines, Inc. and are based out of Honolulu, Hawaii. (Complaint 8 at ¶¶ 21, 29, ECF No. 1). Plaintiff's Collective Bargaining Agreement At the time of the COVID-19 pandemic, Plaintiffs O'Hailpin and Aukai were subject to a Collective Bargaining Agreement entitled: "Agreement Between Hawaiian Airlines, Inc. and the Flight Attendants in the Service of Hawaiian Airlines, Inc. as Represented by the Association of Flight Attendants-CWA." (Declaration of Justin Doane, Vice President of Labor Relations for Hawaiian Airlines, Inc., ("Doane Decl.") at ¶ 5, ECF No. 383- 2; CBA attached as Ex. 1 to Def.'s Motion, ECF No. 383-10).

Plaintiffs O'Hailpin and Aukai are both union members of The Association of Flight Attendants-CWA. (Deposition of Plaintiff O'Hailpin ("O'Hailpin Depo.") at p. 28, attached as Ex. 8 to Def.'s Motion, ECF No. 383-17; Deposition of Plaintiff Aukai ("Aukai Depo.") at p. 29, attached as Ex. 9 to Def.'s Motion, ECF No. 383-18).

The Collective Bargaining Agreement is commonly referred to as the "CBA." The CBA at issue in this case for Plaintiffs O'Hailpin and Aukai was in effect from April 3, 2020 through April 2, 2025. (CBA attached as Ex. 1 to Def.'s Motion, ECF No. 383-10).

The Collective Bargaining Agreement governed the working relationship between flight attendants, including Plaintiffs, and 9 the Hawaiian Defendants. (Doane Decl. at ¶8, ECF No. 383-2). The CBA sets forth the terms and conditions of the flight attendants' employment. (Id.)

The CBA provides detailed rules governing the performance of flight attendant duties including scheduling, route assignments, seniority, benefits, and retirement. (Id. at ¶ 11). Flight attendants' flight schedules are determined through a seniority-based bidding system created by numerous CBA provisions. (Id.)

The CBA requires flight attendants to be awarded their flight assignments in accordance with their seniority. (Id.) Pursuant to the terms of the CBA, flight attendants are classified as either "bid" or "reserve." (Id. at ¶ 15). Each bid flight attendant requests or bids for the grouping of flight segments or routes they prefer, known as a bid schedule. (Id. at ¶ 12).

Reserve flight attendants are not assigned a specific route or segments for the month. (Id.) Instead, reserve flight attendants request possible reserve assignments they would prefer for the next month, including whether the flight attendant requests to be called first or last from the reserve

pool. (Id. at ¶¶ 12, 16) For both bid and reserve flight attendants, the most senior flight attendant is awarded their first choice and the next most senior flight attendant receives their preference based on what 10 is remaining and so on.

(Id. at ¶ 13). Flight attendants may also be recalled on their days off or if a shortage of flight attendants exists. (Id. at ¶ 17). The seniority and bidding provisions of the CBA cover all Hawaiian flight attendants' work assignment routes, schedules (including locations, dates, duration, and layovers), and aircraft types. (Id. at ¶ 9; CBA at Section 8 on "Reserves," Section 9 on "Seniority," Section 10 on "Preparation, Bidding and Awarding of Flight Schedules Under PBS," and Section 11 on "Scheduling Policy," attached as Ex. 1 to Def.'s Motion, ECF No. 383-10).

Seniority and bidding procedures also affect work conditions, tasks, pay rates, and compensation. (CBA at Section 3 on "Compensation," and Section 7 on "Hours of Service," attached as Ex. 1 to Def.'s Motion, ECF No. 383-10).

The Collective Bargaining Agreement contains a provision mandating that any disputes concerning interpretation or application of any of the terms of the CBA be resolved through arbitration by the System Board of Adjustment whose decision is final and binding on the parties as provided by the Railway Labor Act, 45 U.S.C. § 151 et seq. (CBA at 1-15, attached as Ex. 1 to Def.'s Motion, ECF No. 383-10; Doane Decl. at ¶¶ 7, 18, ECF No. 383-2).

11 The Hawaiian Defendants' Vaccination Policy According to the Complaint, on August 9, 2021, in the midst of the worldwide COVID-19 pandemic, the Hawaiian Defendants announced a vaccination policy. (Complaint at ¶ 43, ECF No. 1). Plaintiffs allege that the Hawaiian Defendants required all of their U.S.-based employees to receive a COVID-19 vaccine or receive approval for exemptions based on religious or medical reasons.

(Id. at ¶¶ 43, 54). The Complaint asserts that on September 17, 2021, the Hawaiian Defendants published the vaccination policy and required proof of vaccination by January 30, 2022. (Id. at ¶ 45). The Hawaiian Defendants' employees were permitted to submit requests for accommodation to the vaccination policy based on their religious beliefs or medical conditions.

(Declaration of Robin Kobayashi, Senior Vice President of Human Resources at Defendant Hawaiian Airlines, Inc., ("Kobayashi Decl.") at ¶ 4, attached to Def.'s Motion, ECF No. 383-6). A total of 268 unvaccinated flight attendants submitted accommodation requests to Defendants' vaccination policy. (Declaration of Willard Jackson, Senior Director of Leave Management for Defendant Hawaiian Airlines, Inc. ("Jackson Decl.") at ¶ 4, attached to Def.'s Motion, ECF No. 383-3).

12 Plaintiffs' Requests For Exemption From The Vaccination Policy Based On Religion Plaintiff O'Hailpin: Plaintiff O'Hailpin alleges that on October 1, 2021, she submitted a request for

exemption from the Hawaiian Defendants' vaccination policy based on her religious beliefs. (Complaint at ¶ 118, ECF No. 1).

The Complaint alleges that on October 13, 2021, the Hawaiian Defendants denied Plaintiff O'Hailpin's request for religious exemption from the vaccine mandate, stating that Plaintiff's basis for seeking an exemption was a "personal preference and not a generally applicable religious opposition." (Id. at ¶ 120). Plaintiff Aukai: Plaintiff Aukai alleges that on September 30, 2021, she submitted a request for exemption from the Hawaiian Defendants' vaccination policy based on her religious beliefs.

(Id. at ¶ 218). The Complaint alleges that on November 29, 2021, the Hawaiian Defendants denied Plaintiff Aukai's request for religious exemption from the vaccine mandate, stating that Plaintiff's basis for seeking an exemption was based on her "beliefs regarding the safety and/or efficacy of the COVID-19 vaccine as well as [Plaintiff Aukai's] personal lifestyle choices" rather than based on a sincerely held religious belief.

(Id. at ¶ 221). According to the Complaint, Plaintiff Aukai elected to comply with the vaccine requirement but claims she was "coerced into taking the vaccine. This injury is permanent and still causes Ms. Aukai distress." (Id. at ¶ 224). Plaintiff O'Hailpin's Request For Exemption From The Vaccination Policy Based On Medical Reasons According to Plaintiff O'Hailpin, on October 16, 2021, she submitted a separate request for exemption from the vaccination policy based on medical reasons.

(Id. at ¶ 122). Plaintiff asserts that she suffers from antiphospholipid syndrome which affects her circulatory system. (Id. at ¶ 123). The Complaint asserts that on November 2, 2021, the Hawaiian Defendants denied Plaintiff's request for a medical exemption from the vaccine mandate because her condition was not considered a "contraindication to receiving a COVID-19 vaccine." (Id. at ¶ 127).

Plaintiff O'Hailpin alleges that on an unspecified date Plaintiff was placed on unpaid leave but returned to work in November 2022 after the vaccine mandate was rescinded. (Id. at ¶¶ 130, 132). 14 PageID.2/953 Plaintiffs' Causes of Action On December 22, 2022, the Complaint was filed, asserting the following five causes of action against the Hawaiian Defendants: COUNT I: Violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq., for Religious Discrimination Based On Failure-To-Accommodate COUNT II: Violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq., for Religious Discrimination Based On Disparate Impact COUNT III: Violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq., for Religious Discrimination Based On Retaliation COUNT IV: Violation of the Americans With Disabilities Act of 1990, 42 U.S.C. § 12101, et seq., for Disability Discrimination Based On Failure-To- Accommodate COUNT V: Violation of the Americans With Disabilities Act of 1990, 42 U.S.C. § 12101, et seq., for Disability Discrimination Based On Retaliation The Hawaiian

Defendants' Motion to Dismiss Pursuant To the Railway Labor Act The Hawaiian Defendants have filed a Motion for Dismissal as to Plaintiffs O'Hailpin and Aukai for lack of subject-matter jurisdiction.

The Hawaiian Defendants' Motion argues that the Court lacks subject-matter jurisdiction to review Plaintiffs O'Hailpin and Aukai's failure-to-accommodate causes of action because such claims are precluded from court jurisdiction pursuant to the 15 PageID.2/954 Railway Labor Act, 45 U.S.C. § 151, et seq. STANDARD OF REVIEW A plaintiff has the burden of proving that subject-matter jurisdiction exists.

Thornhill Publ'g Co., Inc. v. Gen. Tel. & Elecs. Corp., 594 F.2d 730, 733 (9th Cir. 1979). The Court must dismiss any claims for which it lacks subject-matter jurisdiction. See Fed. R. Civ. P. 12(b) (1); Leeson v. Transamerica Disability Income Plan, 671 F.3d 969, 975 (9th Cir. 2012). A challenge to the Court's subject-matter jurisdiction may be "facial or factual." Safe Air for Everyone v. Meyer, 373 F.3d 1035, 1039 (9th Cir.

2004). In a facial attack, the party challenging jurisdiction argues that the allegations contained in a complaint are insufficient "on their face" to invoke federal jurisdiction. Id. A facial challenge therefore mirrors a traditional motion to dismiss analysis.

The Court must take all allegations contained in the pleading "to be true and draw all reasonable inferences in [its] favor." Wolfe v. Strankman, 392 F.3d 358, 362 (9th Cir. 2004). In a factual attack, the party challenging jurisdiction argues that the facts in the case, notwithstanding the allegations in the Complaint, divest the Court of subject-matter jurisdiction.

See White v. Lee, 227 F.3d 1214, 1242 (9th Cir. 16 2000). No presumptive truthfulness attaches to the Complaint's allegations. Id. The party challenging jurisdiction presents "affidavits or other evidence properly brought before the court" indicating that subject-matter jurisdiction is lacking. Savage v. Glendale Union High Sch., 343 F.3d 1036, 1039 n.2 (9th Cir.

2003). The burden then shifts to "the party opposing the motion [to] furnish affidavits or other evidence to satisfy its burden of establishing subject matter jurisdiction." Id. Failure to present suitable evidence establishing subject-matter jurisdiction necessitates dismissal. Moore v. Maricopa Cnty. Sheriff's Office, 657 F.3d 890, 895 (9th Cir. 2011). A motion challenging the district court's jurisdiction pursuant to the Railway Labor Act is properly considered as a motion bringing a factual attack on subject-matter jurisdiction pursuant to Fed.

R. Civ. P. 12(b)(1). Soper v. United Airlines, Inc., 2024 WL 4800082, *2 (C.D. Cal. Sept. 4, 2024). The Court may review the Collective Bargaining Agreement and other relevant evidence to determine whether it has subject- matter jurisdiction pursuant to the Railway Labor Act. Hinant v. American Airlines, Inc., 2024 WL 4988391, *3 (D. Ariz. Dec. 5, 2024). 17 PageID.2/7956 ANALYSIS I. The Railway Labor Act The Railway Labor Act ("RLA"), 45 U.S.C. § 151, et seq.,

was enacted to provide a comprehensive framework for resolving labor disputes involving transportation carriers.

In 1936, the Railway Labor Act was extended to cover the airline industry. *Hawaiian Airlines, Inc. v. Norris*, 512 U.S. 246, 248 (1994); see 45 U.S.C. § 181. The RLA addresses three kinds of labor disputes: (1) major disputes; (2) minor disputes; and (3) representation disputes. *Haralson v. United Airlines, Inc.*, 224 F.Supp.3d 928, 934 (N.D. Cal. 2016).

First, “major disputes” relate to the formation of collective bargaining agreements or the efforts of the parties to secure rights under the collective bargaining process. *Consol. Rail Corp. v. Ry. Labor Executives’ Ass’n*, 491 U.S. 299, 302 (1989). Major disputes look to the acquisition of rights for the future, and they do not involve disputes about rights that were already secured in existing contracts.

Id. Major disputes require the parties to undergo lengthy bargaining, mediation, and arbitration processes. *Id.* 18 Second, “minor disputes” seek to enforce existing contractual rights as embodied in an existing collective bargaining agreement. *Aircraft Serv. Int’l, Inc. v. Int’l Bhd. of Teamsters*, 779 F.3d 1069, 1081 (9th Cir. 2015) (en banc). Minor disputes require the existence of a collective bargaining agreement already in effect and involve “controversies over the meaning of an existing collective bargaining agreement in a particular fact situation.” *Elgin, J. & E. Ry.*

Co. v. Burley, 325 U.S. 711, 723 (1945). The RLA mandates that minor disputes are subject to an exclusive dispute resolution mechanism for the prompt and orderly settlement of such claims. *Norris*, 512 U.S. at 252. A distinguishing feature of a minor dispute from a major dispute is that a minor dispute requires interpretation of an existing collective bargaining agreement whereas a major dispute challenges an attempt to form or secure collective bargaining rights.

Id. at 265. Courts lack subject-matter jurisdiction to adjudicate minor disputes concerning an existing collective bargaining agreement. *Id.* Third, the RLA also covers “representation disputes” which concern the definition of a particular bargaining unit and selection of the employee representative for collective bargaining. *Herrera v. Command Sec. Corp.*, 837 F.3d 979, 989 (9th Cir.

2016). Representation disputes are within the 19 exclusive jurisdiction of the National Mediation Board and courts also lack jurisdiction over such claims. *Id.* II. Courts Lack Subject-Matter Jurisdiction To Review Minor Disputes Pursuant To The Railway Labor Act Minor disputes about the contractual rights set forth in an existing collective bargaining agreement between an employee and a transportation carrier must be resolved through the RLA’s non-judicial, procedural mechanisms rather than through a lawsuit.

See 45 U.S.C. § 184. Courts lack subject-matter jurisdiction over minor disputes within the meaning of the RLA. *Norris*, 512 U.S. at 253. A. There Is A Two-Step Test To Discern If A

Dispute Over A Collective Bargaining Agreement Is Precluded From Court Jurisdiction Courts in the Ninth Circuit apply a two-step test to evaluate if a plaintiff's claim is preempted or precluded from court review by the RLA.

Columbia Exp. Terminal, LLC v. Int'l Longshore & Warehouse Union, 23 F.4th 836, 841-42 (9th Cir. 2022). First, the court examines if the plaintiff's claim seeks purely to vindicate a right or duty created by the collective bargaining agreement itself. *Id.* at 843. If so, the claim is preempted or precluded from review. If not, the court proceeds to the second step.

20 Second, even if the claim does not seek to vindicate a right created by the CBA, the court evaluates if the plaintiff's claim is substantially dependant on analysis and interpretation of the CBA. *Id.* If the claim does require analysis and interpretation of the CBA, the claim is preempted or precluded from review. B. Claims That Require Interpretation Of An Existing Collective Bargaining Agreement Are Precluded From Court Review Under The RLA Under step two, a court is without subject-matter jurisdiction to review a plaintiff's claim that concerns interpretation of the "duties and rights created or defined by the collective bargaining agreement." *Alaska Airlines, Inc. v. Schurke*, 898 F.3d 904, 919 (9th Cir.

2018) (en banc) (quoting *Norris*, 512 U.S. at 258). Such disputes must be resolved only through the RLA mechanisms, and not by a court. *Id.* The RLA exclusivity provision was enacted to ensure that disputes regarding existing collective bargaining agreements are governed by a uniform set of principles rather than conflicting substantive interpretations under competing legal systems in the federal and state courts.

Schurke, 898 F.3d at 919. C. Disputes That Do Not Require Interpretation Of the Existing Collective Bargaining Agreement Are Not Preempted Or Precluded From Court Review Consultation of the collective bargaining agreement alone is 21 insufficient to trigger application of the RLA. *Livadas v. Bradshaw*, 512 U.S. 107, 124 (1994).

In order to qualify as a minor dispute pursuant to the RLA, the dispute must require interpretation of the terms of a collective bargaining agreement. *Norris*, 512 U.S. at 265. The court is not divested of jurisdiction pursuant to the RLA if there is no disagreement as to the meaning of all of the terms of the collective bargaining agreement. *Schurke*, 898 F.3d at 927. "Reliance on and reference to CBA-established or CBA- defined terms of employment do not make for a CBA dispute if there is no disagreement about the meaning or application of any relevant CBA-covered terms of employment." *Id.* For example, a claim for damages dependent on a CBA's undisputed wage provisions are not preempted by the RLA because the claim is not dependent on interpretation of a CBA term.

Livadas, 512 U.S. at 125. III. Plaintiffs O'Hailpin and Aukai's Failure-To-Accommodate Claims Require Interpretation Of The Existing Collective Bargaining Agreement The Hawaiian

Defendants assert that Plaintiffs O'Hailpin and Aukai's failure-to-accommodate claims pursuant to Title VII of the Civil Rights Act and Plaintiff O'Hailpin's failure-to-accommodate claim pursuant to the Americans With Disabilities Act are precluded from review because they involve a "minor dispute" 22 about the terms of the existing collective bargaining agreement.

The Hawaiian Defendants argue that Plaintiffs' claims regarding the availability of accommodations from their vaccine policy and whether the airline faced undue hardship in providing accommodations to the policy require interpretation of various provisions of the existing CBA. A. Plaintiffs O'Hailpin and Aukai's Requests For Exemption From Vaccination Require Interpretation Of The Seniority, Bidding, Training, And Vacancy Provisions Of The Collective Bargaining Agreement The United States Supreme Court ruled in *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63, 67 (1977), that it was an undue hardship to force an employer to violate an existing collective bargaining agreement in order to provide an employee with his requested accommodation.

See *Groff v. DeJoy*, 600 U.S. 447, 470 (2023) (clarifying that undue hardship requires more than de minimis cost). The undue hardship analysis must take into account all relevant factors, including the particular accommodations at issue and their practical impact in light of the nature, size, and operating cost of an employer. *Groff*, 600 U.S. at 471. There is undue hardship on an employer "where a variance from a bona fide seniority system is necessary in order to accommodate an employee's religious practices when doing so would deny another employee his or her job or shift preference guaranteed by 23 that system." 29 C.F.R. § 1605.2(e)(2).

In the context of vaccine mandates during the COVID-19 pandemic, the Ninth Circuit Court of Appeals explained in *Petersen v. Snohomish Reg'l Fire & Rescue*, 150 F.4th 1211, 1220 (9th Cir. 2025), that it is appropriate to examine: (1) health and safety costs, (2) operational burdens, and (3) financial burdens on the employer.

The undue hardship analysis specifically requires consideration of potential operational disruption caused by accommodations to large numbers of employees seeking accommodations at the same time. *Id.* 1. Interpretation Of Various CBA Terms Is Required To Evaluate Plaintiffs' Claims Operational burdens are central to the undue hardship defense raised by the Hawaiian Defendants.

The Hawaiian Defendants argue that accommodating all 268 of the flight attendants that requested exemption from vaccination would have substantially disrupted not only their business operations but would have violated numerous terms of the existing CBA, including its seniority provisions, process bidding for routes, and scheduling of flight attendants. See *Hardison*, 432 U.S. at 79; 29 C.F.R. § 1605.2(e)(2).

During 2020 and 2021, Plaintiffs O'Hailpin and Aukai were permitted to be reserve flight attendants based on their requests and their seniority levels. (Declaration of Colin Beard, 24

Director Crew Planning for Defendant Hawaiian Airlines, Inc. (“Beard Decl.”), at ¶¶ 6, 9, ECF No. 383-8). Plaintiffs O’Hailpin and Aukai had specifically requested to be reserve flight attendants. (-Id.-) A reserve flight attendant is a flight attendant who has not been awarded a Bid Run and is available to be assigned to flying in the International operation, the Interisland operation, Airport Reserve duty, Interisland Reserve Desk duty or Standby Reserve duty.” (CBA Section 2, Definitions at § 2.AB., ECF No. 383-10).

Assignment of flights to a reserve flight attendant is done in seniority order, taking into consideration flight attendant preferences, including whether the flight attendant requests to be called first or last from the reserve pool. (CBA Section 8, Reserves at §§ 8.C.1, 8.J.2, 8.N.7, ECF No. 383-10; Doane Decl. at ¶¶ 11, 16, ECF No. 383-2). Plaintiffs O’Hailpin and Aukai testified that they regularly were assigned to fly international routes, including to Australia and Japan.

(O’Hailpin Depo. at p. 45, attached as Ex. 8 to Def.’s Motion, ECF No. 383-17; Aukai Depo. at p. 33, attached as Ex. 9 to Def.’s Motion, ECF No. 383-18). The Hawaiian Defendants argue that complications in assignments arose on numerous international routes from Honolulu during the COVID-19 pandemic. Defendants assert that they were aware that the governments of Australia, American Samoa, French Polynesia, and Japan implemented certain restrictions for unvaccinated travelers in their jurisdictions.

(See Public Health (COVID-19 Air Transportation Quarantine) Order (No 4) 2021, issued by the New South Wales Government, attached as Ex. 2 Def.’s Motion, ECF No. 383-11; Hawaiian Airlines Alert 20-12 re: American Samoa, dated September 10, 2021, attached as Ex. 4 to Def.’s Motion, ECF No. 383-13; Hawaiian Airlines Alert 20-11 re: French Polynesia, dated August 2, 2021, attached as Ex. 5 to Def.’s Motion, ECF No. 383-14; Health Alert - U.S. Embassy Tokyo by U.S. Mission Japan, dated September 29, 2021, attached as Ex. 6 to Def.’s Motion, ECF No. 383-15).

The Hawaiian Defendants assert that the actual and potential foreign restrictions created a complicated, shifting legal landscape during the COVID-19 pandemic and that they faced unpredictable operational concerns when scheduling flight attendants. (Chief Operations Officer of Hawaiian Airlines, Inc. Snook Decl. at ¶¶ 5-8, ECF No. 383-7; see Doane Decl. at ¶¶ 19- 24, ECF No. 383-2; -se-e- -a-ls-o- Declaration of Kathleen Mainerd, Senior Manager, South Pacific Airport Operations for Defendant Hawaiian Airlines, Inc., (“Mainerd Decl.”) at ¶ 3, ECF No. 383-4; Declaration of Ryan D. Thomas, Senior Director of Policies and Procedures for Airport Operations for Defendant Hawaiian Airlines, Inc. (“Thomas Decl.”) at ¶¶ 3, 5, 7, ECF No. 383-5).

26 PageID.2/905 Justin Doane, Defendants’ Vice President of Labor Relations, points to numerous provisions of the CBA requiring interpretation in order to evaluate the availability of certain accommodations for flight attendants and the potential undue hardship to the Hawaiian Defendants

during the pandemic, specifically: CBA Provision Topic: CBA Provision Number and Text Seniority 9.B.3 Seniority shall govern all employees in case of bidding of runs...

Awarding of Schedules 10.A.1 A Flight Attendant retains the right to fly any runs out of her/his domicile to which her/his seniority entitles her/him as a result of bidding. 10.A.2 Schedules shall be bid monthly and Flight Attendants shall be awarded their monthly run in accordance with their seniority. Awarding and 10.H.1 All monthly runs shall be Assignment of Monthly awarded in accordance with seniority Runs and bid preferences.

Assignment of Flights 8.C.1 Reserve Flight Attendants will be to Reserve Flight assigned to open flying on a daily Attendants basis in order of seniority.... 8.3.2 Reserves may submit the following preferences, in priority order, for groupings in Open Time by 1330 for groupings which report on the following calendar day.... 8.N.7 Filling Uncovered Positions Remaining After Assignment Process in N.6 Above 27 Hours of 7.I.b.

(1) If open grouping remain Service/Recalling uncovered after the voluntary recall Flight Attendants on award, or the departure time is within Days Off/Involuntary three (3) hours, Crew Scheduling may Recall involuntarily assign these trips in the following order.... (Doane Decl. at ¶ 11, ECF No. 383-2). Mr. Doane also asserts that based on past practices, the order of standby callout assignments from the prior CBA was also followed.

(Id.) The Hawaiian Defendants assert that: [a]llowing large numbers of unvaccinated flight attendants to continue to fly during the pandemic would have affected the seniority-based bidding process. Granting such accommodations to up to 268 unvaccinated flight attendants would have effectively granted them a reprieve from having to fly to/from international locations with COVID-related restrictions....

In addition, determining whether adjusting flight attendant schedules to accommodate unvaccinated flight attendants by not scheduling them for the Australia, Japan, American Samoa, and French Polynesia flights would require an interpretation of the CBA to determine whether the CBA grants seniority rights to flight attendants with regard to specific destinations and whether, and to what extent, more senior flight attendants' bidding preferences would be impacted by accommodating unvaccinated flight attendants to not fly to those international locations during the pandemic.

The issue of whether Hawaiian had a right to take additional steps to ensure vaccinated flight attendants would be available for these flights would necessarily entail interpreting the above-referenced seniority, scheduling, bidding, and assignments of flights to flight attendants provisions in the CBA (both as to those who bid a schedule and those who bid and were awarded the reserve pool).

(Id. at ¶¶ 21, 26). Plaintiffs disagree with the Hawaiian Defendants' 28 interpretation of the CBA. Plaintiffs rely on their own interpretation of the terms of the CBA to argue that granting their accommodation requests and their schedule preferences would not have violated the CBA terms. 2.

The Parties' Disputes About The Interpretation Of Numerous CBA Terms Preclude Court Jurisdiction The questions regarding the availability of reasonable accommodations and undue hardship pursuant to the terms of the CBA are the exact types of disputes that the Court lacks subject-matter jurisdiction to review.

In evaluating preclusion pursuant to the RLA, the analysis is whether a provision of the CBA could "arguably" dispose of a claim or defense. *Schurke*, 898 F.3d at 924. The analysis is not whether the terms of the CBA would actually permit the accommodation or would actually cause undue hardship. Instead, the analysis hinges on whether the trier of fact would arguably need to resolve disagreements about the terms of the CBA to evaluate Plaintiffs' failure-to-accommodate claims and the Defendants' undue hardship defense.

Id. Here, there are numerous disputes about the CBA's terms, the interplay within the various Sections of the CBA, and the meaning and applicability of various provisions. The CBA also requires interpretation in the context of the various local, state, federal, and international laws that were 29 at play (and were consistently evolving) during the pandemic, including the Federal Contractor Mandate, local and international travel restrictions, and quarantine requirements.

Despite Plaintiffs' arguments to the contrary, the Hawaiian Defendants were required to consider the potential operational disruption that may have been caused given the various laws, regulations, and protocols at play with the large numbers of accommodation requests.

The disputes as to the effect on the terms of the CBA is left for the arbitrator as it is clear from the record that the Parties dispute the interpretation of these terms in the context of the Plaintiffs' accommodation requests.

The Hawaiian Defendants argue that accommodating the 268 unvaccinated flight attendants' requests to be exempt from their vaccination policy, including Plaintiffs O'Hailpin and Aukai, would have displaced the bids of other Hawaiian flight attendants and impinged on their seniority and other rights in violation of the terms of the CBA.

The Plaintiffs disagree. The Plaintiffs argue that under their interpretation of the CBA, the Hawaiian Defendants have the authority to ignore the seniority rights and other provisions in the CBA. Disagreements about the interpretation, scope, or applicability of specific terms of an existing CBA are the exact types of disputes that are subject to preclusion pursuant to the 30 RLA.

Hinant, 2024 WL 4988391, at *3 (citing Int’l Ass’n of Sheet Metal Air, Rail, & Transp. Workers v. Union Pac. R.R. Co., 2019 WL 6499212 *10 (C.D. Cal. July 25, 2019); Pritchard v. American Airlines, Inc., 708 F.Supp.3d 861, 867 (N.D. Tex. 2023)). 3.

The Volume And Timing Of The 268 Flight Attendants’ Accommodation Requests Affect The Interpretation Of The Terms In The CBA In Petersen v. Snohomish Reg’l Fire & Rescue, 150 F.4th 1211, 1220 (9th Cir. 2025), the Ninth Circuit Court of Appeals ruled that the undue hardship analysis in determining whether a reasonable accommodation existed specifically requires consideration of potential operational disruption caused by accommodations to large numbers of employees seeking accommodations at the same time.

The effect of the volume and timing of similar accommodations requests on terms of the CBA is a question for the arbitrator who has specialized knowledge in this area. Here, Plaintiffs claim that they could have bid around certain routes or adjusted their own schedules without implicating or altering any of their own CBA rights. Plaintiffs, however, ignore that large numbers of unvaccinated flight crew had submitted accommodation requests.

The numerosity of requests is a necessary factor in conducting the undue hardship analysis pursuant to Petersen. The volume of the 268 flight attendants 31 requesting accommodations at the same time affects the analysis and the interpretation of the terms in the CBA as to what accommodations were reasonable and available. Plaintiffs claim the CBA terms would have permitted the Hawaiian Defendants to have unilaterally forced Plaintiffs O’Hailpin and Aukai to “bid down” and to fly on specific domestic routes.

Such action may have resulted in different routes and lesser pay, and additionally disrupted the seniority and bidding requests of other flight attendants. Various terms of the CBA would certainly be implicated in such a “self-help” accommodation scheme of potentially bidding around certain foreign destinations for an indefinite period of time.

The Hawaiian Defendants argue that allowing unvaccinated flight attendants to voluntarily opt out of international routes that Plaintiffs O’Hailpin and Aukai regularly flew would have required interpretation of the CBA due to the seniority implications of such changes and the ripple effects that they would have created. (Doane Decl. at ¶¶ 21-26, ECF No. 383-2).

The Court agrees with the Hawaiian Defendants that the questions raised by Plaintiffs’ accommodation claims require interpretation of the CBA terms. Interpretation of the CBA is required to determine if Defendants could have prioritized unvaccinated flight attendants’ bidding requests over the bidding of vaccinated flight attendants.

The CBA’s terms concern 32 seniority rights, recalling flight attendants on days off, route assignments, and job duties. The Parties’ disputes about such terms must be resolved by the

Systems Board of Adjustment Arbitrator as provided in Section 1, Paragraph H in the CBA. (CBA, Section 1, Recognition, Scope, and Job Security, at §1-H, Expedited Arbitration, ECF No. 383-10).

Interpretation of the CBA is also required with respect to the question regarding whether the Hawaiian Defendants could have granted an accommodation to Plaintiffs O'Hailpin and Aukai alone or whether the Defendants would have been required to provide the same accommodation to the other 266 unvaccinated flight attendants who also requested exemption from the vaccine policy.

(Jackson Decl. at ¶ 4, ECF No. 383-3). These disputes about the CBA require interpretation of numerous provisions of the CBA and are necessary to resolve Plaintiffs' failure-to-accommodate claims. The disputes regarding the terms of the CBA directly impact the evaluation of the reasonable accommodations available and the undue hardship defense. *Hardison*, 432 U.S. at 79; 29 C.F.R. § 1605.2(e)(2).

B. Plaintiffs' Failure-To-Accommodate Claims Require More Than Mere Reference To The Terms Of The Collective Bargaining Agreement Courts have ruled that a plaintiff's claim is not precluded by the RLA when the court need simply review a term in a CBA or 33 read the provisions of a CBA to determine its basic provisions. *Burnside v. Kiewit Pac. Corp.*, 491 F.3d 1053, 1060 (9th Cir.

2007); *Angeles v. U.S. Airways, Inc.*, 2013 WL 622032, *6 (N.D. Cal. Feb. 19, 2013); but see *McKinley v. Southwest Airlines Co.*, 680 Fed. Appx. 522, 524-25 (9th Cir. 2017) (finding rate of overtime pay required interpretation of the CBA because plaintiff disputed the amount due under the terms of the CBA).

Here, Plaintiffs' failure-to-accommodate claims do not merely require the Court to look to the CBA or reference its terms. Instead, Plaintiffs' failure-to-accommodate claims require interpretation of the complex Collective Bargaining Agreement and various provisions governing scheduling, bidding, and seniority for flight attendants. Plaintiffs' failure-to-accommodate claims are "inextricably intertwined" with the CBA's terms.

Edelman v. W. Airlines, Inc., 892 F.2d 839, 845 (9th Cir. 1989). Interpretation of the CBA is also required to determine the effect that past practice, usage, and custom have on the terms in the CBA. In *Consol. Rail Corp. v. Ry. Lab. Executives' Ass'n*, 491 U.S. 299, 311 (1989), the United States Supreme Court ruled that interpretation of collective bargaining agreements often depends on practice, usage, and custom.

Interpretation of CBA terms based on practice, usage, and custom is one of the primary 34 reasons that the RLA dictates that CBA interpretation must be before a specialized arbitrator and not the court system. The United States Supreme Court ruled that these types of disputes cannot be

reviewed by the courts because the RLA precludes review over claims where the parties disagree about the effect of past practices on the interpretation of CBA terms.

Consol. Rail Corp., 491 U.S. at 320 (holding that the court lacked jurisdiction to review the employees' claims because there were disputes about the effect of the employer's past practices regarding drug testing and whether its drug testing practices were justified under the terms of the CBA).

Here, both Plaintiffs and Defendants rely on past practices to support their interpretation of the CBA. Plaintiffs state that "bidding down" was a regular past practice that is permitted by the terms of the CBA. Defendants assert that the Order of Standby Callout Assignments was an established past practice set forth in a previous CBA and its terms are "still honored through the present." (Doane Decl. at p. 4 n.1, ECF No. 383-2).

The effect, if any, the prior CBA has on the interpretation of the current CBA at issue in this case is a matter for the Specialized Arbitrator. The past practices, usage, policy, and custom in the industry and how they affect interpretation of the CBA provisions on seniority, bidding, and scheduling as required to review Plaintiffs' requests for exemption from vaccination are 35 undoubtedly in dispute.

Consol. Rail Corp., 491 U.S. at 320; see also *Hinant*, 2024 WL 4988391, at *3; *Flanary v. USAIR, Inc.*, 1997 WL 364090, *3 (S.D. Cal. Mar. 27, 1997) (finding the flight attendant's claim was preempted under the RLA because of questions about the effect of practice, custom, and usage on the existing collective bargaining agreement, even though no specific section of the CBA directly addressed plaintiff's claim).

These disputes based on past practices and custom go to the heart of why the Court lacks jurisdiction over the matter. The purpose of the RLA's exclusivity provision is to ensure appropriate consideration of past practices, usage, policy, and custom be considered in analyzing and interpreting collective bargaining agreements.

The CBA requires arbitration of such claims before a Systems Board of Adjustment Arbitrator to allow for proper evaluation of past practices, usage, policy, and custom with respect to how the terms in the CBA are understood and used in the industry. (CBA at §1-H, Expedited Arbitration, ECF No. 383-10). C. Plaintiffs' Failure-To-Accommodate Claims In The Context Of The COVID-19 Pandemic Other Courts have ruled similarly with comparable facts.

In *Odell v. Kalitta Air, LLC*, 107 F.4th 523, 532 (6th Cir. 2024), the Sixth Circuit Court of Appeals recently ruled that a group of pilots' failure-to-accommodate claims were precluded from court 36 review pursuant to the RLA because the claims necessarily implicated interpretation of the CBA's terms regarding the pilots' scheduling and seniority.

In *Odell*, the plaintiff pilots were represented by some of the same counsel as in this case. The facts are comparable as applied here to the flight attendants' claims. In *Odell*, the plaintiff pilots elected not to vaccinate for COVID-19 and requested exemptions from their employer air carrier's mandatory vaccine requirement imposed during the global pandemic.

Id. at 531. The plaintiff pilots proposed an accommodation of limiting their flying routes to countries that did not impose vaccine requirements. *Id.* The employer denied their requests for exemption and accommodations. *Id.* The pilots sued their air carrier employer, asserting various claims including Title VII and ADA claims for failure-to- accommodate the unvaccinated pilots based on their religious beliefs and their alleged disabilities.

The district court ruled that the pilot's failure-to- accommodate claims were precluded from court review pursuant to the RLA. *Id.* On appeal, the Sixth Circuit Court of Appeals affirmed. *Id.* at 531-32. The Appellate Court ruled that the plaintiffs' failure-to-accommodate claims required interpretation of the existing collective bargaining agreement, specifically with respect to seniority, bidding, and scheduling of the pilots' routes.

Id. The Sixth Circuit Court of Appeals ruled that the courts lacked subject-matter jurisdiction over the pilots' failure-to-accommodate claims and that such claims were precluded from review pursuant to the RLA. *Id.* at 531-32.

Here, the *Odell* facts mirror the requests made by the Plaintiff flight attendants here. Plaintiffs O'Hailpin and Aukai requested that the Hawaiian Defendants allow them to fly unvaccinated and to fly only on specified routes. Just as in *Odell*, there are disputes as to whether Plaintiffs O'Hailpin and Aukai's requested accommodations require interpretation of the terms of the CBA regarding seniority and bidding provisions.

Plaintiffs' attempts to distinguish this case from *Odell* are not persuasive. As explained in the lower court decision, when a potential accommodation could interfere with a seniority scheme set forth in a CBA, it is necessary to interpret the applicable CBA because the agreement itself both creates and defines the scope of the employees' seniority rights. *Odell v. Kalitta Air, LLC*, 678 F.Supp.3d 904, 918 (E.D.

Mich. 2023). Just as in *Odell*, Plaintiffs O'Hailpin and Aukai's failure- to-accommodate claims require interpretation of the existing CBA with respect to seniority, bidding, and scheduling. In evaluating their claims, the Court would need to determine whether the CBA permitted Plaintiffs O'Hailpin and Aukai to bid 38 around certain routes.

The Court lacks jurisdiction over such questions pursuant to the RLA, because interpretation of the CBA is required to resolve the claims. See *Stanley v. ExpressJet Airlines, Inc.*, 808 Fed. Appx. 351, 356 (6th Cir. 2020). Evaluation of the type of accommodations that were available to the

Plaintiffs in the midst of the COVID-19 pandemic is precluded from court review pursuant to the RLA.

These claims require interpretation of terms in the existing Collective Bargaining Agreement. Such interpretations must be conducted before the Systems Board of Adjustment Arbitrator as agreed to in the CBA. Other Federal District Courts have ruled that similar failure-to-accommodate claims against transportation carriers in the context of the COVID-19 pandemic are precluded from court review.

The District Courts have found that plaintiffs' failure- to-accommodate claims implicate CBA provisions regarding scheduling, bidding, routes, and compensation. Such claims require interpretation of collective bargaining agreements for which the courts lack subject-matter jurisdiction. *Whitford v. Nat'l R.R. Passenger Corp.*, 2024 WL 4216050, at *6 (W.D.N.Y.

Sept. 17, 2024); *Grindling v. Cathay Pacific Airways, Ltd.*, 2024 WL 4164234, at *3 (N.D. Ill. Sept. 11, 2024); see also *Saliba v. American Airlines, Inc.*, 2022 WL 4131485, at *5 (D. Ariz. Sept. 12, 2022). 39 The Court agrees with the reasoning in *Odell*, 107 F.4th at 532, *Whitford*, 2024 WL 4216050, at *6, and *Grindling*, 2024 WL 4164234, at *3. Plaintiffs' failure-to-accommodate claims are precluded from court review pursuant to the RLA.

D. Plaintiffs' Claims Are Distinguishable From Intentional Discrimination Causes Of Action Plaintiffs primarily rely on cases that have ruled that intentional discrimination causes of action are generally not precluded from court review by the RLA. (Pl.'s Opp. at pp. 17- 19, ECF No. 386).

In *Felt v. Atchison, Topeka & Santa Fe Ry. Co.*, 60 F.3d 1416, 1420 (9th Cir. 1995), as a matter of first impression, the Ninth Circuit Court of Appeals ruled that Title VII religious discrimination claims are generally not precluded by the RLA because these types of claims typically exist entirely independent of the collective bargaining agreement and usually do not require interpretation of CBA terms.

See also *Norris*, 512 U.S. at 266 (finding that the RLA generally does not preclude state law intentional employment discrimination claims); *Saridakis v. United Airlines*, 166 F.3d 1272, 1277 (9th Cir. 1999) (finding federal disability discrimination claim did not require interpretation of CBA).

Here, Plaintiffs' causes of action in Count I and Count IV, however, are not intentional discrimination claims. Rather, 40 Count I and Count IV are premised solely on Defendants' alleged failure to provide a requested accommodation. There is no intentional discrimination claim and no state law claims. Plaintiffs have brought only Title VII and ADA failure-to-accommodate claims where they have placed the interpretation of multiple provisions of the Collective Bargaining Agreement in dispute.

See *Sjoberg v. United Airlines, Inc.*, 2024 WL 4219736, at *4 (S.D. Tex. Sept. 17, 2024), holding that the RLA bars court review of discrimination claims where “Plaintiff puts interpretations of provisions of the [collective bargaining agreement] at the center of this dispute”).

The questions here concerning the availability of the Plaintiffs’ requested accommodations and the evaluation of undue hardship based on disputed interpretations of the seniority, bidding, and scheduling provisions distinguish Plaintiffs’ causes of action from *Felt and Norris*. IV. Plaintiffs’ Request For Jurisdictional Discovery And For Leave To Amend The December 22, 2022 Complaint A. Jurisdictional Discovery Is Not Warranted In their Opposition, Plaintiffs O’Hailpin and Aukai request jurisdictional discovery for the first time, despite the discovery deadline being closed for more than six months since March 14, 2025.

(Pl.’s Opp. at p. 25, ECF No. 386; see Minute Order, ECF No. 182). 41 Plaintiffs have not established good cause to amend the scheduling order to allow for additional discovery. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 608 (9th Cir. 1992) (explaining that good cause is required to amend the Rule 16 scheduling order). Jurisdictional discovery is not warranted.

The Ninth Circuit Court of Appeals has explained that it is not for the courts to determine whether a claim actually violates a term of the collective bargaining agreement. The task of the Court is merely to determine if interpretation of the CBA is required to adjudicate a plaintiff’s claim or whether a provision in a CBA arguably disposes of a plaintiff’s claim.

Schurke, 898 F.3d at 924. The question before the Court is the legal question of whether the applicable Collective Bargaining Agreement requires interpretation in the context of Plaintiffs’ requested accommodations and the undue hardship standard.

The Court finds that the CBA requires interpretation and jurisdictional discovery will not alter the determination. B. Leave To Amend The Complaint Is Not Warranted In their Opposition, Plaintiffs O’Hailpin and Aukai also request leave to amend the December 22, 2022 Complaint to add a claim for intentional discrimination. (Pl.’s Opp. at p. 26, ECF No. 384).

Plaintiffs’ request for leave to amend the Complaint is 42 untimely. The Complaint in this case was filed over three years ago on December 22, 2022. The deadline for seeking amendment to the Complaint closed more than two years ago on August 8, 2023.

The Rule 16 Scheduling Order has been continued and altered numerous times. The Court has previously denied Plaintiffs’ request to reopen the deadline and amend the Complaint due to Plaintiffs’ lack of diligence. Plaintiffs’ counsel has been aware of the potential applicability of the RLA in this case since well before the filing of Defendants’ Motion, for which Defendants were given leave of Court.

Plaintiffs' counsel, John C. Sullivan, was counsel for plaintiffs in *Odell v. Kalitta Air, LLC*, 107 F.4th 523, 532 (6th Cir. 2024), cited above, which was argued on March 21, 2024, and decided by the Sixth Circuit Court of Appeals on July 9, 2024. Plaintiffs characterize Defendants' RLA Motion as "late- filed," but defenses based on lack of subject-matter jurisdiction, such as preclusion under the RLA, can be raised at any time and can never be waived or forfeited by the parties.

See *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514 (2006); *Pearson v. Northwest Airlines, Inc.*, 659 F.Supp.2d 1084, 1088 n.3 (C.D. Cal. 2009). Plaintiffs have not established good cause required to amend the scheduling order to assert a new cause of action after nearly 43 three years of litigation. *Johnson*, 975 F.2d at 608 (explaining that a plaintiff must first establish good cause pursuant to Fed.

R. Civ. P. 16(b) to amend the scheduling order prior to seeking amendment of a pleading pursuant to Fed. R. Civ. P. 15(a)). CONCLUSION Defendants' Motion for Dismissal for Lack of Subject-Matter Jurisdiction Against Plaintiffs O'Hailpin and Aukai (ECF No. 383) is GRANTED. Plaintiffs' request for jurisdictional discovery is DENIED. Plaintiffs' request to amend the Complaint is DENIED. // // // // // // // // // // // // // // 44 PageID.2/983 Count I in the Complaint (ECF No. 1) as to Plaintiffs O'Hailpin and Aukai is DISMISSED WITH PREJUDICE for lack of subject-matter jurisdiction.

Count IV in the Complaint (ECF No. 1) as to Plaintiff O'Hailpin is DISMISSED WITH PREJUDICE for lack of subject-matter jurisdiction. IT IS SO ORDERED. DATED: January 20, 2026, Honolulu, Hawaii. orre® rT - ew. & j, oF i? of Nelen Gillmor ' United States District Judge ry "er oF Riki O'Hailpin; Nina Arizumi; Robert Espinosa; Erwin Young; Puanani Badiang; Sabrina Franks; Ronald Lum; Dan Saiki; Brandee Aukai vs. Hawaiian Airlines, Inc.; Hawaiian Holdings, Inc., 22- cv-00532 HG-WRP; ORDER GRANTING DEFENDANTS HAWAIIAN AIRLINES, INC. AND HAWAIIAN HOLDINGS, INC.'S MOTION FOR DISMISSAL FOR LACK OF SUBJECT-MATTER JURISDICTION AGAINST PLAINTIFFS O'HAILPIN AND AUKAI (ECF No. 383) 45