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2
3 UNITED STATES DISTRICT COURT
4 NORTHERN DISTRICT OF CALIFORNIA

5
6 WILLIAM TAYLOR,
7 Plaintiff,

8 v.

9 INTERNATIONAL UNION OF
10 PAINTERS AND ALLIED TRADES, et al.,
11 Defendants.

Case No. [21-cv-08712-WHO](#)

**ORDER GRANTING IN PART AND
DENYING IN PART MOTION TO
DISMISS**

Re: Dkt. No. 40

12 Defendants International Union of Painters and Allied Trades (“IUPAT”), Steve Bigelow,
13 Luis F. Robles, James A. Williams, Jr., Robert Collins, Richard Northam, and Clayton McBride
14 (“the defendants”), seek to dismiss pro se plaintiff William Taylor’s Second Amended Complaint
15 (“SAC”), in which Taylor makes 12 allegations that the defendants violated various sections of the
16 Labor Management Reporting and Disclosure Act of 1959 (“LMRDA”) and Labor Management
17 Relations Act of 1947 (“LMRA”).

18 The motion is GRANTED in part and DENIED in part. Claims Three, Four, Five, and
19 Twelve are DISMISSED without leave to amend, as they do not sufficiently state a claim for relief
20 arising under any of the relevant statutes. The remaining claims may proceed, but only under
21 section 501 of the LMRDA. Given the number of claims and statutory provisions at play, my
22 decision is explained in further detail below.

23 **BACKGROUND**

24 Taylor is a journeyman member of IUPAT, District Council 36, Local Union 510. SAC
25 [Dkt. No. 35] ¶ 13; Mot. to Dismiss (“MTD”) [Dkt. No. 40] 4:20–22. The IUPAT represents
26 workers in the finishing trades, including industrial and commercial painters, drywall finishers,
27 wall coverers, glass workers, and convention and show decorators. SAC ¶ 11; MTD at 4:16-19.
28 His suit alleges that union officials engaged in a series of financial and other improprieties.

1 Starting in 2014 or 2015, Taylor worked as an instructor in a Local Union 510 training
2 program called the Joint Apprentice Training Committee (“JATC”). *Id.* ¶ 14. The JATC was
3 funded by a Local 510 trust (“the training trust”), to which members contributed different amounts
4 for all hours worked under their operative collective bargaining agreements. *Id.* ¶¶ 16-17. From
5 2010 to 2012, members contributed 41 cents for all hours worked. *Id.* ¶ 17. Over time, that
6 amount rose to \$1.13. *Id.* Taylor alleges that Bigelow was listed as a trustee of the training trust
7 during the fiscal years 2015 and 2016. *Id.* ¶ 18.

8 On December 31, 2016, the trust was terminated without notice to the Local 510
9 membership. *Id.* ¶ 20. The money in the training trust was moved to another trust fund, which
10 listed Bigelow and Robles as trustees. *Id.* ¶¶ 21, 46. Despite the training trust’s termination,
11 Taylor alleges that two collective bargaining agreements negotiated by Bigelow and Robles in
12 April 2018 and April 2021 both allocated \$1.13 per hour worked to the training trust. *Id.* ¶ 46.

13 Next, Taylor alleges, from 2015 through 2017, union officials did not make financial
14 reports to the membership as required by the IUPAT constitution. *Id.* ¶ 22. Beginning in January
15 2017, Taylor made several requests to District Council 36 officers for information on Local 510’s
16 finances. *Id.* ¶ 24. In July of that year, he authored a motion seeking an audit of the training
17 program and “all financial information and records related to it,” which the membership passed.
18 *Id.* ¶ 25. However, Taylor alleges, Bigelow and another union official ignored the motion and did
19 not conduct the audit. *Id.* ¶ 26.

20 In February 2018, Taylor filed intra-union charges against Bigelow and other union
21 officials to compel them to comply with the audit and provide other information about the union’s
22 finances. *Id.* ¶¶ 28-29. In August of that year, after a trial was held in which Bigelow was found
23 “not guilty,” Bigelow gave Taylor two tax forms related to the trust fund. *Id.* ¶¶ 34, 39-40. Taylor
24 contends that this “in no way satisfied any request I or the membership made.” *Id.* ¶ 39.

25 The next set of allegations relate to an agreement between the IUPAT and the state of
26 California, which provides funds for training apprentice and journeyman members of the union.
27 *Id.* ¶ 49. According to Taylor, under the direction and supervision of Northam, Robles, Bigelow,
28 and Williams, these members have not been given equal training or training opportunities, and

1 there has been inaccurate reporting of the training provided in violation of the agreement. *See id.*

2 Next, Taylor alleges that union officials violated Local 510’s operative collective
3 bargaining agreement by failing to publish or otherwise disseminate to members the guidelines
4 developed by the JATC and used to dispatch apprentices to Freeman Expositions, LLC. *Id.* ¶ 50.
5 Taylor further alleges that Northam violated Local 510’s “seniority dispatch procedures” and
6 collective bargaining agreement by accepting work from Freeman Expositions outside the rules of
7 the agreement and dispatch system. *Id.* ¶ 51. And, Taylor contends, under the “supervision or
8 influence” of Robles, Bigelow, and Northam, apprentices have been assigned to work for Freeman
9 Expositions in violation of the collective bargaining agreement. *Id.* ¶ 52.

10 According to Taylor, after he filed this suit, union officials—including Northam, Robles,
11 Bigelow, Collins, and McBride—retaliated against him and attempted to chill his speech at union
12 meetings, including by interrupting him, complaining about people who bring lawsuits related to
13 union activity, implying that Taylor should “shut up,” or allowing this to occur. *See id.* ¶¶ 56-58.

14 The next set of allegations relate to various union referendums. Taylor alleges that on July
15 23, 2018, he received notice of a bylaws referendum set for August 4, 2018. *Id.* ¶ 61. He wrote a
16 letter to union officials stating that he believed proceeding with the referendum would violate the
17 IUPAT constitution and requesting that they “take corrective action.” *Id.* No such action was
18 taken. *Id.* ¶ 62. According to Taylor, District Council 36 did not have the requisite approval of
19 council delegates before submitting the referendum to members and did not provide members with
20 proper notice of the vote. *Id.* ¶¶ 65-66. Taylor said he later challenged the referendum in a letter
21 to union officials, but never received a response. *Id.* ¶ 71.

22 Similarly, Taylor alleges that another referendum was held on April 17, 2021, in violation
23 of state and local laws and public health orders “prohibiting such events for such large groups of
24 people then in effect because of the Covid-19 pandemic.” *Id.* ¶ 73. Taylor again challenged this
25 referendum and asked for it to be held again by mail. *Id.* ¶ 75. Taylor alleges that he challenged
26 two other referendums in 2021, for the same reasons. *Id.* ¶ 80. In September 2021, he alleges that
27 he received a letter from Williams declining to take action. *Id.* ¶ 81. Taylor tried to delay a March
28 30, 2022, referendum on a collective bargaining agreement, citing the same procedural grounds,

1 this time via a temporary restraining order, which I denied. *See id.* ¶ 82. Taylor also challenged
2 this referendum. *Id.* ¶ 88. Williams denied his request. *Id.* ¶ 89.

3 Finally, Taylor contends that Local 510’s pension fund is being mismanaged by
4 “backfilling,” which he asserts “denies the members of earned compensation and harms all
5 members’ financial interests.” *Id.* ¶¶ 90-93.

6 Taylor brought this suit on November 9, 2021. Dkt. No. 1. I have twice dismissed his
7 claims for failing to plausibly state claims under section 501 of the LMRDA. See Dkt. Nos. 15,
8 34. He filed his SAC on May 5, 2022, asserting not only claims under section 501, but also under
9 section 101 of the LMRDA and sections 301 and 302 of the LMRA. *See* Dkt. No. 35. The
10 defendants moved to dismiss the SAC on May 26, 2022. Dkt. No. 40. Pursuant to Civil Local
11 Rule 7-1(b), this matter is suitable for disposition without oral argument.

12 **LEGAL STANDARD**

13 Federal Rule of Civil Procedure 8(a)(2) requires a pleading to contain “a short and plain
14 statement of the claim showing that the pleader is entitled to relief.” Plaintiffs are not required to
15 set out the facts supporting their claim in detail, but a statement “that will give the defendant fair
16 notice of what the plaintiff’s claim is and the grounds upon which it rests.” *Lee v. City of Los*
17 *Angeles*, 250 F.3d 668, 679 (9th Cir. 2001) (citation omitted).

18 Under Rule 12(b)(6), a district court must dismiss a complaint if it fails to state a claim
19 upon which relief can be granted. Fed. R. Civ. P. 12(b)(6). To survive a Rule 12(b)(6) motion,
20 the plaintiff must allege “enough facts to state a claim to relief that is plausible on its face.” *Bell*
21 *Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). A claim is facially plausible when the plaintiff
22 pleads facts that allow the court to “draw the reasonable inference that the defendant is liable for
23 the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citation omitted). This
24 standard is not akin to a probability requirement, but there must be “more than a sheer possibility
25 that a defendant has acted unlawfully.” *Id.* While courts do not require “heightened fact pleading
26 of specifics,” a plaintiff must allege facts sufficient to “raise a right to relief above the speculative
27 level.” *Twombly*, 550 U.S. at 555, 570.

28 In deciding whether the plaintiff has stated a claim upon which relief can be granted, the

1 court accepts his allegations as true and draws all reasonable inferences in his favor. *Usher v. City*
2 *of Los Angeles*, 828 F.2d 556, 561 (9th Cir. 1987). However, the court is not required to accept as
3 true “allegations that are merely conclusory, unwarranted deductions of fact, or unreasonable
4 inferences.” *In re Gilead Scis. Sec. Litig.*, 536 F.3d 1049, 1055 (9th Cir. 2008).

5 Pro se complaints are held to “less stringent standards than formal pleadings drafted by
6 lawyers.” *Haines v. Kerner*, 404 U.S. 519, 520 (1972). Where a plaintiff is proceeding pro se, the
7 court has an obligation to construe the pleadings liberally and to afford the plaintiff the benefit of
8 any doubt. *Bretz v. Kelman*, 773 F.2d 1026, 1027 n.1 (9th Cir. 1985) (en banc). However, pro se
9 pleadings must still allege facts sufficient to allow a reviewing court to determine whether a claim
10 has been stated. *Ivey v. Bd. of Regents of Univ. of Alaska*, 673 F.2d 266, 268 (9th Cir. 1982).

11 **DISCUSSION**

12 The defendants argue that Taylor’s SAC should be dismissed for both procedural and
13 substantive reasons. *See generally* MTD. As an initial matter, I agree that portions of the SAC
14 remain difficult to follow at times. I recognize that Taylor is representing himself in this matter—
15 no easy task in federal court—and appreciate the efforts that he has made to more clearly state his
16 claims. As amended, the SAC still covers a wide-ranging series of events, from alleged financial
17 improprieties and violations of collective bargaining agreements to faulty elections and comments
18 made at union meetings. *See generally* SAC. It also adds new individuals, along with the IUPAT,
19 as defendants. *See id.* Taken together, the breadth of allegations and number of defendants and
20 claims make for an SAC that, in some places, takes some effort to untangle.

21 That said, Taylor has stated at least some claims upon which relief may be granted and has
22 stated them in a manner that satisfies Rule 8. Unlike the FAC, the SAC streamlined many of
23 Taylor’s claims such that the defendants have sufficient notice of the specific allegations against
24 them. True, the SAC is longer than the FAC, but the fact that a complaint is 63 pages long does
25 not warrant dismissal on its own. Importantly, the SAC no longer relies on the accompanying
26 exhibits for key factual allegations, such as who was involved in the alleged misconduct and how.
27 The body of the SAC states the specific allegations supporting the plausible claims, which are
28 reiterated later in the specific claims for relief. Moreover, Taylor cites to specific paragraphs

1 when stating those claims for relief, further directing the defendants to the relevant allegations.
2 Not all of his claims survive, but many do, for the reasons explained below.

3 **I. LMDRA SECTION 501 CLAIMS**

4 Section 501(a) of the LMRDA imposes upon a union’s “officers, agents, shop stewards,
5 and other representatives” the duty to, among other things, “hold its money and property solely for
6 the benefit of the organization and its members;” to manage, invest, and spend according to the
7 union’s governing documents; and “to account to the organization for any profit received by him
8 in whatever capacity in connection with transactions conducted by him or under his direction on
9 behalf of the organization.” 29 U.S.C. § 501(a). When one of those officers is alleged to have
10 violated those duties, section 501(b) allows union members to sue in district court. *Id.* § 501(b).

11 The Ninth Circuit has rejected a narrow reading of section 501, holding that “union
12 officials have fiduciary duties even when no monetary interest of the union is involved,” and that
13 Congress intended for section 501 to apply to “fiduciary responsibilities of union officials, agents,
14 and representatives, in any area of their authority.” *Stelling v. Int’l Bhd. of Elec. Workers Loc.*
15 *Union No. 1547*, 587 F.2d 1379, 1386-87 (9th Cir. 1978). For example, the Ninth Circuit has held
16 that an allegation that a defendant has “denied the membership of the union the constitutionally
17 guaranteed right to vote is a sufficient assertion of a breach of trust . . . to invoke the jurisdiction
18 of [section] 501.” *Id.* at 1387. That said, courts do not “have power to intervene in intra-union
19 affairs at slight provocation or on any invitation.” *Id.* Rather, the court should intervene “only
20 with great reluctance.” *Id.*

21 Two conditions must be met before bringing suit under section 501. *See Cowger v.*
22 *Rohrbach*, 868 F.2d 1064, 1066 (9th Cir. 1989). First, the union, its governing board, or its
23 officers must have refused or failed “to sue or recover damages or secure an accounting or other
24 appropriate relief within a reasonable time after being requested to do so by any member of the
25 labor organization.” 29 U.S.C. § 501(b). Second, a suit may only be filed upon leave of the court,
26 “obtained upon verified application and for good cause shown.” *Id.* “Because section 501(b)
27 extends the jurisdiction of the federal courts, it is strictly construed.” *Flaherty v. Warehousemen,*
28 *Garage & Serv. Station Emp. Loc. Union No. 334*, 574 F.2d 484, 487 (9th Cir. 1978).

1 Taylor again asserts all 12 of his claims under section 501. *See generally* SAC. In my
2 prior Order dismissing Taylor’s claims, I stated that for these claims to proceed, he must “make
3 specific allegations related to each claim that include: (1) the nature of the fiduciary duty allegedly
4 breached (for example, the provision of the IUPAT constitution at issue); (2) specific allegations
5 as to who breached that duty and how; and (3) when and how he requested that the union, its
6 governing body, or officers sue or secure other appropriate relief as to the issue.” *See* Order
7 Granting Mot. to Dismiss (“Second MTD Order”) [Dkt. No. 34] 8:9-13.

8 The defendants argue that Taylor failed to specifically identify the fiduciary duties
9 allegedly breached, the conduct by the defendants that allegedly constituted that breach, and when
10 and how he requested that a particular union entity sue or secure relief. MTD at 10:24-13:13.

11 The defendants are correct regarding some of Taylor’s claims. For example, Claim Three
12 alleges that Bigelow, Robles, and Williams violated their fiduciary duties to the union by
13 negotiating, approving, or reviewing, a collective bargaining agreement that provided for the \$1.13
14 contribution to the training trust, despite knowing that the trust had been terminated. SAC ¶¶ 110-
15 112. Taylor alleges that this violated certain provisions of the IUPAT constitution and harmed the
16 membership. *Id.* ¶¶ 46-47. But nowhere does he allege that he requested that the union, its
17 governing body, or its officers sue or secure other relief as to this issue, or that that particular
18 entity failed to do so. *See generally* SAC. And it appears that the requested audit pre-dated these
19 agreements, which were allegedly negotiated in April 2018 and April 2021. *Id.* ¶ 46.

20 The same flaw sinks Claims Four (alleging that Northam, Bigelow, and Robles breached
21 their fiduciary duties and violated Local 510’s collective bargaining agreement by inaccurately
22 reporting training under the agreement with the state) and Five (alleging the same, but arising from
23 the assignment of apprentices to Freeman Expositions). *See id.* ¶¶ 113-122. Even reading the
24 SAC generously, Taylor does not plead that he requested that the union, its governing body, or its
25 officers sue or secure other relief related to the alleged violations of the collective bargaining
26 agreements. *See generally* SAC. That alone is enough to dismiss the claims.

27 Claim Twelve fails on similar grounds. It alleges that Williams, Robles, and Bigelow
28 violated their fiduciary duties by “as a policy, withholding members’ earned compensation for

1 years without fiscal need or justification; by not informing the members of compensation
2 information that directly affects their earnings and inserting into the collective bargaining
3 agreement . . . earnings compensation changes without informing members.” *Id.* ¶ 154. It further
4 alleges that Williams was “informed of these actions and activities” but “has taken no appropriate
5 action.” *Id.* ¶ 155. Taylor cites in support Paragraphs 29, and 90 through 94. *Id.* ¶ 156. Although
6 Taylor alleges that he requested information about the pension fund and those requests were not
7 acted upon, he does not specifically allege any requested action related to the alleged backfilling
8 itself, nor the terms of the collective bargaining agreement. The distinction makes a difference. If
9 Taylor alleges that the policy of backfilling violates section 501, he must allege that he requested
10 that the union, its governing body, or its officers sue or secure appropriate relief regarding that
11 policy. He has not done so. Moreover, his requests for financial information are covered in other
12 claims that, for reasons stated below, may proceed as pleaded.

13 Taylor has sufficiently pleaded violations of section 501 in the remaining claims. Claims
14 One and Two allege that Williams, Robles, and Bigelow violated the IUPAT constitution by
15 failing to provide financial reporting to the membership and refused requests for appropriate relief,
16 including by failing to take action on the membership-approved audit. *Id.* ¶¶ 96-100. Claim Two
17 makes similar allegations against Collins. *Id.* ¶¶ 101-107. This provides the specificity that was
18 lacking in the previous complaint, as it describes the nature of the fiduciary duty at issue, alleges
19 who breached that duty and how, and states when and how Taylor requested relief as to the issue.
20 *See* Second MTD Order at 8:9-13.

21 Claim Six is admittedly thinner. Taylor alleges that Williams, Robles, Bigelow, Collins,
22 Northam, and McBride violated the IUPAT constitution by blocking and interrupting his speech at
23 union meetings or taking or encouraging actions at meetings “designed to suppress . . . and
24 dissuade” members from exercising their rights to attend those meetings, participate in
25 deliberations, or express their views. SAC ¶ 125. As the Ninth Circuit held in *Stelling*, allegations
26 that a defendant “denied the membership of the union” a constitutionally guaranteed right “is a
27 sufficient assertion of a breach of trust” to invoke section 501. *Stelling*, 587 F.2d at 1387. Taylor
28 also alleges that he requested that Williams take action in response, but that he failed to do so.

1 SAC ¶¶ 58, 126. This sufficiently satisfies the barebones requirements: Taylor alleges the nature
2 of the fiduciary duty at issue, who breached that duty and how, and when and how he requested
3 relief that was not acted upon. Moreover, the defendants do not directly challenge whether these
4 specific allegations fit within a section 501 claim. *See* MTD at 10:1-13:13. I will allow this claim
5 to proceed for now, as the threshold for pleading is relatively low.

6 Claims Seven, Eight, Nine, Ten, and Eleven all allege that Robles and Bigelow violated
7 provisions of the IUPAT constitution and their fiduciary duties to the membership by violating
8 their rights to participate, deliberate, and vote in the August 4, 2018; April 17, 2021; August 21,
9 2021; September 10, 2021; and March 30, 2022, referendums. SAC ¶¶ 127-151. The same claims
10 allege that Williams was informed of their actions yet “took no appropriate corrective action as
11 requested.” *See id.* Again, Taylor has sufficiently alleged the fiduciary duties allegedly breached
12 (the sections of the IUPAT constitution), who breached that duty and how (Robles, Bigelow, and
13 Williams, in part by failing to give proper notice or moving forward with the referendums), and
14 that he requested that a union officer (Williams) secure appropriate relief. *See* SAC ¶¶ 61-85. The
15 Ninth Circuit has held that an allegation that a union official denied the union’s membership the
16 right to vote is a “sufficient assertion of a breach of trust” to invoke section 501. *Stelling*, 587
17 F.2d at 1387. Taylor has sufficiently alleged such a claim here—at least for pleading purposes.

18 In sum, Taylor has sufficiently alleged violations of section 501 in all of his claims except
19 for Claims Three, Four, Five, and Twelve. To the extent that these four claims arise under section
20 501, they are DISMISSED without leave to amend. The other claims may proceed as pleaded.

21 **II. LMRDA SECTION 101 CLAIMS**

22 Title I of the LMRDA “provides union members with an exhaustive ‘Bill of Rights’
23 enforceable in federal courts.” *Local No. 82 v. Crowley*, 467 U.S. 526, 536 (1984). Generally,
24 that “Bill of Rights” “is designed to guarantee every union member equal rights to vote and
25 otherwise participate in union decisions, freedom from unreasonable restrictions on speech and
26 assembly, and protection from improper discipline.” *Id.* (citation omitted).

27 Section 101(a)(1) guarantees union members
28 equal rights and privileges within such organization to nominate candidates, to vote

1 in elections or referendums of the labor organization, to attend membership
2 meetings, and to participate in the deliberations and voting upon the business of
such meetings, subject to reasonable rules and regulations in such organization’s
constitution and bylaws.

3 29 U.S.C. § 411(a)(1). Section 101(a)(2) provides “the right to meet and assemble freely with
4 other members; and to express any views, arguments, or opinions; and to express at meetings of
5 the labor organizations his views, upon candidates in an election of the labor organization or upon
6 any business properly before the meeting.” *Id.* § 411(a)(2).

7 Taylor asserts violations of Title I in Claims Two and Six through Twelve.¹ *See* SAC ¶¶
8 96-156. Because the SAC does not specify whether Taylor brings those claims under sections
9 (a)(1) or (a)(2), I will evaluate them under both.

10 **A. Section 101(a)(1)**

11 “Section 101(a)(1) is an anti-discrimination provision, pure and simple.” *Ackley v. W.*
12 *Conf. of Teamsters*, 958 F.2d 1463, 1473 (9th Cir. 1992). To state a claim under this section, “a
13 union member must allege a denial of rights accorded to other members.” *Id.* Section 101(a)(1)
14 “is not a substantive grant of voting rights . . . [r]ather, the provision requires *equal* voting rights;
15 it requires that rights given to some members must be given to all, subject only to reasonable rules
16 or regulations.” *Sergeant v. Inlandboatmen’s Union of the Pac.*, 346 F.3d 1196, 1201 (9th Cir.
17 2003); *see also Fox v. Bakery, Confectionery, Tobacco Workers & Grain Millers Int’l Union, Loc.*
18 *No. 24, AFL-CIO*, No. C-08-05737-WHA, 2010 WL 682458, at *11 (N.D. Cal. Feb. 24, 2010)
19 (granting summary judgment because of a “complete absence of evidence that plaintiff was treated
20 differently with respect to his membership rights than his fellow union officers and members”).

21 The defendants argue that Taylor does not allege that they discriminated against him “in
22 any way,” particularly regarding the elections that he takes issue with. MTD at 16:3-5. They
23 focus on his allegations regarding notice, none of which, they argue, “state that any defendant
24

25 ¹ The defendants argue that these claims, along with those asserted under sections 301 and 302 of
26 the LMRA, must be dismissed because they “exceed[] the scope of allowable amendment” under
27 my previous Order dismissing the FAC. MTD at 8:7-8. They construe my prior Order too
28 narrowly. At that point, all Taylor had alleged were section 501 claims, so my Order focused on
the deficiencies that needed to be addressed for those claims to proceed. *See* Second MTD Order
at 8:8-14. Although I stated the specific allegations that Taylor needed to include on amendment
for those claims to survive, I did not limit any amendment solely to those allegations. *See id.*

1 specifically treated Taylor differently than other rank and file members.” *Id.* at 16:5-8.

2 The defendants are correct. The election-related claims—Claims Seven, Eight, Nine, Ten,
3 and Eleven—allege a series of wrongdoing, including that certain defendants failed to provide the
4 membership with adequate notice of the elections and what was being voted on. *See* SAC ¶¶ 127-
5 151. But Taylor’s allegations relate to the membership as a whole; he does not allege that he was
6 denied rights accorded to other union members. *See id.*

7 The same is true for Claims Two and Twelve. It is not clear how Taylor ties these claim—
8 which focus on the alleged failure to respond to the motion for an audit and the “backfilling” of
9 the pension fund—to the rights articulated in section 101(a)(1). *See id.* ¶¶ 101-107, 152-156.
10 Regardless, he does not allege that in refusing to carry out the motion or by backfilling the fund,
11 union officials denied him any rights accorded to other members. Instead, he alleges improprieties
12 that affected the union membership as a whole.

13 Claim Six is similarly flawed, although it is a closer call. Taylor alleges that Williams,
14 Robles, Bigelow, Collins, Northam, and McBride have—by, among other things, blocking his
15 “speech, views, arguments, and opinions at union meetings,” engaging in conduct “designed to
16 suppress the members, including me, in exercising their rights under the IUPAT constitution and
17 the LMRDA,” and dissuading members “from exercising their rights”—“infringed the rights of
18 myself and the members to attend membership meetings [and] participate in deliberations” in
19 violation of the LMRDA. *Id.* ¶ 125. The specific allegations focus on the purported treatment of
20 Taylor at meetings, including that he was interrupted, shouted at, and discouraged from speaking.
21 *Id.* ¶ 55-58. But Taylor does not specifically allege that he was denied any rights accorded to
22 other members. Instead, he frames this claim more broadly, alleging that these actions had a
23 “chilling effect on all members” and “harmed not only my rights but every union member’s right
24 to speech and assembly.” *See, e.g., id.* at ¶¶ 56-57; *see also* ¶ 125 (alleging that the named
25 defendants “infringed the rights of myself and the members”).

26 Because Taylor has not alleged that he was denied rights accorded to other union members,
27 he has not stated a plausible claim arising under section 101(a)(1).
28

B. Section 101(a)(2)

“To state a cause of action for a violation of section 101(a)(2), a union member must allege facts showing that: (1) he or she exercised the right to oppose union policies; (2) he or she was subjected to retaliatory action; and (3) the retaliatory action was a direct result of his or her decision to express disagreement with the union’s leadership.” *Casumpang v. Int’l Longshoremen’s & Warehousemen’s Union, Loc. 142*, 269 F.3d 1042, 1058 (9th Cir. 2001) (citation and internal modifications omitted). Section 609 of the LMRDA prohibits a union and its officials from fining, suspending, expelling, or otherwise disciplining a member for “exercising any right to which he is entitled under the provisions of this chapter.” 29 U.S.C. § 529.

The problem with any claims arising under section 101(a)(2) is that Taylor does not sufficiently allege that he was subjected to retaliatory action as a result of his decision to express his disagreement with the union’s leadership. The SAC alleges that McBride and Northam interrupted Taylor and shouted as he spoke during a February 3, 2022, union meeting. SAC ¶ 56. It further alleges that these “spontaneous statements . . . demonstrate clearly the obvious fact that this was intentional intimidation and retaliation for this suit.” *Id.* ¶ 58. But the SAC does not allege that the union or its officers took any disciplinary action against Taylor as a result nor that it denied him the opportunity to speak at the meetings. *See generally* SAC. At most, Taylor alleges that he was interrupted—and he does not offer any authority showing that this constitutes retaliatory action as required to state a claim under section 101(a)(2). In addition, his allegation that he has been “the target of retaliation in other ways by persons named and unnamed here” is too vague and conclusory to suffice. *See id.* ¶ 59. Without sufficiently alleging that he was subjected to retaliatory action, his claims cannot proceed under section 101(a)(2).

To the extent that Taylor’s claims are pleaded under section 101(a)(1) or (a)(2) of the LMDRA, they are DISMISSED without leave to amend.

III. LMRA SECTION 301 CLAIMS

Under section 301 of the LMRA, “[s]uits for violation of contracts between an employer and a labor organization representing employees in an industry affecting commerce . . . or between any such labor organizations, may be brought in any district court of the United States having

1 jurisdiction of the parties,” regardless of the amount in controversy or citizenship of the parties.
2 29 U.S.C. § 185(a). A breach of a union’s collective bargaining contract falls within section 301.
3 *Atkinson v. Sinclair Refining Co.*, 370 U.S. 238, 247 (1962).

4 Taylor asserts three claims under section 301 of the LMRA: Claims Three, Four, and Five.
5 SAC ¶¶ 109, 114, 118. Williams, Robles, and Bigelow are named in all three claims; Northam in
6 Claims Four and Five. *Id.* These claims arise from the named defendants’ alleged violations of
7 Local 510’s collective bargaining agreement, primarily by including the \$1.13 for the terminated
8 training trust, inaccurately reporting training under the agreement with the state, and by assigning
9 apprentices to Freeman Expositions. *See id.* ¶¶ 108-122.

10 The defendants argue that a section 301 claim can only be brought against the union itself,
11 not the individual defendants. MTD at 18:9-17. They contend that because Taylor asserts the
12 claims against Williams, Robles, Bigelow, and Northam, and makes no specific allegations of
13 wrongdoing by the IUPAT itself that fall under section 301’s purview, the claims arising under
14 section 301 should be dismissed. *See id.* at 18:9-27.

15 The defendants somewhat overstate the law when it comes to the individual defendants.
16 They cite two cases—*Atkinson* and *Evangelista v. Inlandboatmen’s Union of Pacific*, 777 F.2d
17 1390, 1400 (9th Cir. 1985)—for the proposition that section 301 claims cannot be brought against
18 individual union officers. *Id.* at 18:9-17. But those cases (and others relying on them) state only
19 that individual union officers cannot be sued for *damages* under section 301. *See Atkinson*, 370
20 U.S. at 249 (“[W]e hold that when a union is liable for damages for violation of the no-strike
21 clause, its officers and members are not liable for these damages.”); *see also Service Emp. Int’l*
22 *Union v. Nat’l Union of Healthcare Workers*, 598 F.3d 1061, 1070 (9th Cir. 2010) (“[I]n *Atkinson*
23 . . . the Court held that section 301(a) does not authorize a damages action against individual union
24 members when their union is liable for violating . . . a collective bargaining agreement.”); *see also*
25 29 U.S.C. § 185(b) (“Any money judgment against a labor organization . . . shall be enforceable
26 only against the organization as an entity . . . and shall not be enforceable against any individual
27 member or his assets.”). The Ninth Circuit has held that section 301(a) permits suits seeking
28 injunctive relief against individual union officers. *Service Emp.*, 598 F.3d at 1072.

1 The problem is, the injunctive relief that Taylor seeks does not cover the alleged misdeeds
2 underlying the section 301 claims. He seeks audits of the union’s finances, training trust, and
3 pension plan; a nullification and rerunning of the referendums; the distribution to all union
4 members of written notices of their rights; and that “all IUPAT officers, employees, agents, etc.,
5 be enjoined from engaging in activity or actions which violate and/or, in retaliatory behavior
6 and/or intimidation” against IUPAT members engaging in their rights. SAC at 60-62. Even
7 reading the requested relief generously, none of it relates to the alleged violations of the collective
8 bargaining agreements. Taylor has not plausibly stated a claim under section 301 because he has
9 not sought injunctive relief against Williams, Robles, Bigelow, or Northam stemming from their
10 alleged violations of those agreements. Nor has he alleged any violations by the IUPAT itself.
11 *See* SAC ¶¶ 108-122. The section 301 claims are DISMISSED without leave to amend.²

12 **IV. LMRA SECTION 302 CLAIM**

13 Finally, the defendants argue that Claim Five should be dismissed because it appears to
14 assert a claim under section 302 of the LMRA, which the defendants contend is a criminal statute
15 that does not provide Taylor a private cause of action for damages. MTD at 19:13-20:3.

16 Section 302 prohibits employers from paying, lending, or delivering, or agreeing to pay,
17 lend, or deliver, “any money or other thing of value” to union officers or employees “with intent to
18 influence him in respect to any of his actions, decisions, or duties” as a union officer or employee.
19 29 U.S.C. § 186(a)(4). It also declares it unlawful “for any person to request, demand, receive, or
20 accept, or agree to receive or accept, any payment, loan, or delivery of any money or other thing of
21 value prohibited by subsection (a).” *Id.* § 186(b)(1).

22 Although Taylor does not expressly cite section 302 in Claim Five, it does appear, based
23 on the SAC’s language, that he asserts a claim under this section. *See* SAC ¶ 118. The SAC
24 alleges that “it is illegal for a union officer or employee to accept anything of value to directly or
25 indirectly influence other employees, union officers, etc., with respect to their actions, decisions,
26 [and] duties as a labor organization employee or officer.” *Id.*

27 _____
28 ² Because I am dismissing the section 301 claims on these grounds, I need not address the
defendants’ argument that they are time-barred. *See* MTD at 19:1-12.

1 The defendants are correct in that section 302 subjects violators to criminal penalties. *See*
 2 *id.* § 186(d). They are also correct that section 302 does not provide a private cause of action for
 3 damages. *See National Union of Healthcare Workers v. Kaiser Found. Health Plan, Inc.*, No. C-
 4 10-03686-WHA, 2013 WL 1616103, at *3-4 (N.D. Cal. Apr. 15, 2013) (“The private right of
 5 action is limited to claims for injunctive relief.”); *see also Souza v. Trs. of W. Conf. of Teamsters*
 6 *Pension Tr.*, 663 F.2d 942, 945 (9th Cir. 1981). But they overlook the fact that Taylor also seeks
 7 injunctive relief, which would be permitted under section 302.

8 Again, however, the problem is that the injunctive relief Taylor seeks is disconnected from
 9 any alleged violation of section 302. The requested audits, rerunning of the referendums,
 10 notification of rights, and injunction prohibiting IUPAT officers, employees, and agents from
 11 violating members’ rights, or retaliating against or intimidating members does not cover the
 12 section 302-related conduct alleged in Claim Five: that Robles, Bigelow, and Northam received
 13 goods and other things of value from Freeman Expositions. *See* SAC at 61-62, ¶ 119. Taylor does
 14 not appear to seek injunctive relief for the alleged violation of section 302. As that is the only
 15 private right of action permitted, any claim arising under section 302 must be DISMISSED.


CONCLUSION

17 The defendants’ motion is GRANTED in part and DENIED in part. Claims One and Two,
 18 and Six through Eleven may proceed, but only under section 501 of the LMDRA. Claims Three,
 19 Four, Five, and Twelve are DISMISSED in their entirety, without leave to amend. At this point,
 20 Taylor has had sufficient opportunity to state a claim for relief, which he has now done.

21 A Case Management Conference is scheduled for September 27, 2022. The parties must
 22 meet and confer regarding a proposed case schedule, which should be included in their joint Case
 23 Management Statement. That joint statement is due by September 20, 2022.

IT IS SO ORDERED.

Dated: August 29, 2022


 William H. Orrick
 United States District Judge