

**SUPERIOR COURT OF CONNECTICUT**  
**Complex Litigation Docket at Hartford**

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS,  
LOCAL 825,

Plaintiff,

v.

UNIFORMED PROFESSIONAL FIRE FIGHTERS  
ASSOCIATION OF CONNECTICUT, INC.,

Defendant.

Case No. X07-HHD-CV-18-6101218-S

**PLAINTIFF'S REPLY TO  
DEFENDANT'S OPPOSITION TO  
PLAINTIFF'S MOTION FOR  
PARTIAL SUMMARY JUDGMENT**

February 11, 2019

AND NOW comes Plaintiff International Association of Fire Fighters, Local 825 ("Local 825"), by and through its undersigned attorneys, and hereby respectfully replies to the Memorandum in Opposition to Plaintiff's Motion for Partial Summary Judgment ("Opposition") filed by Defendant Uniformed Professional Fire Fighters Association of Connecticut, Inc. ("UPFFA") on January 28, 2019, Doc. No. 145.00. For the reasons set forth herein, Plaintiff's Motion for Partial Summary Judgment should be granted.

**ARGUMENT**

**I. UPFFA FAILED TO PROVIDE EVIDENCE DEMONSTRATING DISPUTED MATERIAL FACTS AS TO COUNT I (LOCAL 825'S DISAFFILIATION)**

UPFFA's Opposition failed to establish any genuine issue of material fact as to Local 825's disaffiliation from UPFFA. UPFFA's complete failure to provide an instance of material facts at issue in its Opposition only confirms that the only thing left for this Court to do is to determine questions of law relevant to Local 825's Motion for Partial Summary Judgment.

In Connecticut, once the moving party has submitted evidence in support of its motion for summary judgment, the opposing party bears the burden to present evidence that demonstrates the

existence of some disputed factual issue. *Bartha v. Waterbury House Wrecking Co.*, 190 Conn. 8, 12–13 (1993); *see also Ferri v. Powell-Ferri*, 317 Conn. 223, 228 (2015) (“It is not enough, however, for the opposing party merely to assert the existence of such a disputed issue. Mere assertions of fact . . . are insufficient to establish the existence of a material fact and, therefore, cannot refute evidence properly presented to the court under Practice Book § [17-45].” (quoting *Ramirez v. Health Net of Northeast, Inc.*, 285 Conn. 1, 11 (2008))).

In its Opposition, UPFFA argues that one factual dispute remains. But the supposed issue of “fact” is actually a question of law: whether “the Constitution and By-Laws of the IAFF contain a provision which requires a local union to conduct a vote of its membership before it can disaffiliate from a state union.”<sup>1</sup> UPFFA’s Opp’n 3.

As a question of law, it is for this Court to determine whether the procedural requirements in article XIV, section 11<sup>2</sup>, which relate to a local’s *voluntary forfeiture of a charter*, require some type of compliance by Local 825 in order to disaffiliate from UPFFA. As such, UPFFA has failed to carry its burden to provide specific evidence of a disputed issue of material fact and, importantly, has failed to refute any of Local 825’s evidence that it has presented to this Court in support of its Motion for Partial Summary Judgment.

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<sup>1</sup> The words “affiliate” and “disaffiliate” appear nowhere in article XIV, section 11 of IAFF’s Constitution and By-Laws. Said provision is entitled “Voluntary Forfeiture of State and Provincial Charter by a Local Union,” UPFFA Opp’n Ex. B, at art. XIV, § 11, and describes the procedure by which a local union *forfeits a charter*, which is not at issue in this case.

<sup>2</sup> UPFFA attached as Exhibit B to its Opposition what it believes to be relevant portions of IAFF’s Constitution and By-Laws. Local 825 notes for the record, though, that the version of IAFF’s Constitution and By-Laws attached to UPFFA’s Opposition would not have been in effect when Local 825 disaffiliated on January 4, 2016, as it is dated August 2018. With that noted, Local 825 will agree that article XIV, section 11 referred to in UPFFA’s Opposition and Exhibit B thereto, appears to be substantively the same, if not identical to article XIV, section 11 of the relevant IAFF Constitution and By-Laws, dated August 2016.

## II. **ARTICLE XIV, SECTION 11'S CHARTER FORFEITURE PROCEDURAL REQUIREMENTS DO NOT APPLY TO LOCAL 825'S DISAFFILIATION FROM UPFFA**

UPFFA is also wrong as a matter of law. Failing to convince this Court during the temporary injunction hearing that article XII, section 2 of IAFF's Constitution and By-Laws<sup>3</sup> applies to Local 825's disaffiliation from UPFFA, the state union has tried a new tact and relies on a different, but equally irrelevant, provision of IAFF's Constitution and By-Laws. But the newly proffered IAFF Constitution and By-Laws provision, article XIV, section 11, entitled "Voluntary Forfeiture of State and Provincial Charter by a Local Union," deals exclusively with the forfeiture of a charter and never mentions affiliation or disaffiliation by a local, just like article XII, section 2. *See* UPFFA's Opp'n 3, Ex. B, at art. XIV, § 11. Thus, just as this Court recognized in its Memorandum concerning article XII, section 2, Mem. of Decision 3, Dec. 10, 2018, the newly proffered provision has nothing to say about Local 825's disaffiliation.

### a. **Article XIV, section 11 clearly and unambiguously applies only to local unions' voluntary forfeiture of a charter and not disaffiliation.**

On its face, article XIV, section 11 of IAFF's Constitution and By-Laws applies only to an instance in which a local union is forfeiting a "charter." In Connecticut, "[w]hen the language of a contract is clear and unambiguous, the intent of a contract is a matter of law." *Fairfax Properties, Inc. v. Lyons*, 72 Conn. App. 426, 438 (2002). "Where . . . there is clear and definitive contract language, the scope and meaning of that language is not a question of fact but a question of law." *Id.* at 438–39 (quoting *Alco Standard Corp. v. Charnas*, 56 Conn. App. 568, 571 (2000)).

Unlike UPFFA's policy manual, which addresses a local's change in affiliation status, article XIV, section 11 never mentions a local's disaffiliation or any other change to affiliation status. As

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<sup>3</sup> This provision is entitled "Voluntary Forfeiture of Charters and Dissolution of Local Unions or Other Subordinate Bodies."

such, the clear, commonsense interpretation of article XIV, section 11 is that it relates to a local trying to forfeit a charter and has nothing to do with the disaffiliation process of a local union.

UPFFA attached to its Opposition an affidavit from IAFF's general president, Harold Schaitberger. In his affidavit, Mr. Schaitberger quotes the language of article XIV, section 11, and offers his opinion that said provision "requires, among other things, a local union to conduct a referendum vote of its membership before it can disaffiliate from an [*sic*] state association affiliated with the IAFF." However, Mr. Schaitberger's assessment conveniently ignores that nowhere in that provision are the words "affiliate" or "disaffiliate," and the provision's text is limited to only a local's *forfeiture* of a *charter*. Mr. Schaitberger's subjective perception of the meaning of article XIV, section 11 cannot create ambiguity concerning the meaning of the provision; rather, the ambiguity, if any, must emanate from the language itself. *See Greene v. City of Waterbury*, 126 Conn. App. 746, 751 (2011). UPFFA has failed to show any ambiguity in the language of article XIV, section 11 of IAFF's Constitution and By-Laws and cannot do so given the very clear and explicit language of that provision.

To agree with Mr. Schaitberger's subjective assessment that IAFF's Constitution and By-Laws address Local 825's disaffiliation, this Court would have to reject the plain and unambiguous language of the provision. Such a decision, however, would run contrary to principles of contract law instructing that "[w]here the language of the contract is clear and unambiguous, the contract is to be given effect according to its terms." *Stack v. Hartford Distributors, Inc.*, 179 Conn. App. 22, 29 (2017) (quoting *State v. Philip Morris, Inc.*, 279 Conn. 785, 796–97 (2006)). "[T]he intent of the parties is to be ascertained by a fair and reasonable construction of the written words and . . . the language used must be accorded its common, natural, and ordinary meaning and usage where it can be sensibly applied to the subject matter of the contract." *Id.* "[T]he mere fact that the parties advance different interpretations of the language in question does not necessitate a conclusion that the

language is ambiguous.” *Cruz v. Visual Perceptions, LLC*, 311 Conn. 93, 103 (2014) (quoting *United Illuminating Co. v. Wisvest-Connecticut, LLC*, 259 Conn. 665, 670 (2002)).

Despite what UPFFA may wish to accomplish by now citing article XIV, section 11 in its Opposition, that provision controls nothing more than a local’s charter forfeiture, and any other reading would expand the reach of the provision well beyond its text.

**b. Because Local 825 has no UPFFA charter, article XIV, section 11 of IAFF’s Constitution and By-Laws does not control the terms of Local 825’s disaffiliation from UPFFA.**

UPFFA’s reliance on article XIV, section 11 of IAFF’s Constitution and By-Laws is misplaced. As established above, that provision only controls the circumstances in which a local is attempting to forfeit its charter. Such a scenario is not before this Court. The issue before this Court in Local 825’s Motion for Partial Summary Judgement is disaffiliation from UPFFA, which has nothing to do with the forfeiture of a charter.

It was unequivocally established through deposition and hearing testimony that UPFFA never issued a charter to Local 825. Common sense dictates that it is absurd to require Local 825 to follow charter forfeiture rules when all it did was disaffiliate from a state association and had no charter to forfeit even if it wanted to. It is the equivalent of trying to fit a square peg into a round hole. The subject of article XIV, section 11 (local charter forfeiture) simply does not match Local 825’s action (disaffiliation).

In fact, UPFFA’s Secretary Louis DeMici stated several times during his deposition that UPFFA did not issue a charter to Local 825. *See* Dep. of Louis DeMici 21:14–15 (“[We] don’t issue a charter to an individual local.”), 134:17–19 (“We don’t produce charters.”), Sept. 12, 2018. Relevant portions of said deposition are attached hereto as “Exhibit A,” and incorporated herein by reference. Patrick J. Egan, Local 825’s president when Local 825 decided to pay legislative only dues to UPFFA in or around 2006, stated during his deposition that UPFFA did not provide Local 825 a

charter when Local 825 began paying UPFFA legislative only dues. *See* Dep. of Patrick J. Egan 14:1–5, Oct. 12, 2018. Relevant portions of said deposition are attached hereto as “Exhibit B,” and incorporated herein by reference. Frank Ricci, current president of Local 825, stated in his testimony during the hearing on the motion of temporary injunction that it was his understanding and the union’s position that Local 825 never received a charter from UPFFA. Hr’g Tr. 13–14, Nov. 29, 2018. The testimony at the hearing by then Local 825 vice president Mark Vendetto was that he was either an executive board member or an officer of Local 825 since Local 825 decided to pay legislative only dues to UPFFA, and at no time was Local 825 a charter member of UPFFA. Hr’g Tr. 81–82, Nov. 29, 2018.

During a colloquy with this Court, UPFFA’s attorney admitted that UPFFA stipulated that it does not issue charters to locals, and this Court confirmed that it was a fact to which the parties had stipulated.

ATTY. MONTAGNINI: Your Honor, this concerns -- the subject matter -- there’s a couple statements. The first one is that the UPFFA does not issue charters to locals.

ATTY. VALENTINO: Which we’ve already stipulated to.

ATTY. MONTAGNINI: I’m not sure that’s correct, your Honor.

THE COURT: I think it was stipulated --

ATTY. VALENTINO: We did stipulate to that.

THE COURT: -- there was not a charter issued to the New Haven organization. But it equally can be stipulated that they don’t issue charters to locals. So it doesn’t issue charters to locals. That’s actually stipulated. So what else?

Hr’g Tr. 92, Nov. 29, 2018. UPFFA has not offered any evidence that Local 825 was issued a UPFFA charter; indeed, by all accounts, just the opposite is true—Local 825 was not a charter member of UPFFA when it disaffiliated on January 4, 2016.

Furthermore, during oral argument at the temporary injunction hearing, UPFFA’s attorney admitted not only that UPFFA does not issue charters to local unions but that Local 825 had no charter from UPFFA that Local 825 would have been able to forfeit.

THE COURT:

...

But in terms of language, contract language, I’m supposed to pick this thing up and read it. And if it is obvious to me on its face, it’s plain, it’s unambiguous, you just read it and it says what it says, that’s what I’m supposed to do. So my -- the problem is is that when you read the substance of this thing defined as forfeiture of a charter, that doesn’t apply here, you’d agree. Right?

ATTY. VALENTINO: I would agree, your Honor.

*THE COURT: There’s no charter to forfeit from the state.*

*ATTY. VALENTINO: That’s correct.*

THE COURT: So then the question is a dissolution of any local union.

How can I get around what that means?

ATTY. VALENTINO: Your Honor, again, I would just point out the fact that perhaps if we were in California, maybe the state unions are issuing charters to local unions. And that’s just not the case in Connecticut.

Hr’g Tr. 58–59, Dec. 6, 2018 (emphasis added). It would stand to reason that if the “forfeiture of a charter” language of IAFF’s Constitution and By-Laws article XII, section 2 at issue in the above exchange did not apply in the instant case, neither should the nearly identical “forfeiture of charter” language in article XIV, section 11.

In any event, because it has been clearly established that Local 825 had no charter to forfeit, and that Local 825 was actually disaffiliating, not forfeiting a charter, the procedures and requirements of article XIV, section 11 are completely irrelevant to Local 825’s disaffiliation from UPFFA, and, thus, are not controlling.



**CERTIFICATE OF SERVICE**

I certify that on February 11, 2019, a copy of the foregoing *Plaintiff's Reply to Defendant's Opposition to Plaintiff's Motion for Partial Summary Judgment* was or will be mailed via USPS First-Class

Mail to the below counsel of record:

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Dated: February 11, 2019

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*Attorney for Plaintiff, International Association of Fire Fighters,  
Local 825*

# **Exhibit A**

SUPERIOR COURT  
JUDICIAL DISTRICT OF NEW HAVEN  
at New Haven

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INTERNATIONAL ASSOCIATION OF \*  
FIRE FIGHTERS, LOCAL 825, \*  
Plaintiff, \*

VS.

\* NNH-CV-18-6078502

UNIFORMED PROFESSIONAL, FIRE \*  
FIGHTERS ASSOCIATION OF \*  
CONNECTICUT, INC., \*  
Defendant. \*

\* \* \* \* \*

Hamden, CT  
September 12, 2018  
1:04 p.m.

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DEPOSITION OF LOUIS DeMICI

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1 says -- titled "International Association of  
2 Firefighters."

3 Q. Does it use the term "charter"?

4 A. I believe so. I'd have to look at it again.

5 Q. So it's your testimony that, in fact, this  
6 document that you say is titled "Charter" is responsive  
7 to Request No. 1 on that schedule?

8 A. Yes.

9 Q. A copy -- I'll read this No. 1, "A copy of  
10 any and all Uniformed Professional Firefighters  
11 Association of Connecticut (hereinafter UPFFA) charters  
12 issued by UPFFA to International Association of  
13 Firefighters, Local 825." Is that correct?

14 A. We don't issue a charter to an individual  
15 local.

16 Q. You do not issue a charter to local  
17 organizations like Local 825?

18 A. No, the International does that.

19 Q. The International --

20 A. Association of Firefighters.

21 Q. Okay. What is it that the International  
22 Association of Firefighters does?

23 A. When a firefighter group is organized and  
24 becomes sanctioned or affiliated, the IAFF, which is  
25 the International Association of Firefighters, issues a

1 A. Were they ever provided the UPFFA charter?

2 Q. Yes. We talked earlier about the UPFFA's  
3 charter. It's this color photo that's marked  
4 Plaintiff's Exhibit No. B.

5 A. No. That's the one that we were given.

6 Q. Right. That is not Local 825's charter?

7 A. I believe Local 825 has a separate charter  
8 from the International.

9 Q. From the International?

10 A. Yeah.

11 Q. Okay. They never received any other documents  
12 from UPFFA at that time?

13 A. Such as -- can you be more specific in your  
14 question?

15 Q. One of the things that we asked for was a  
16 charter that's provided --

17 A. We don't produce charters. We provide the  
18 constitution and bylaws and the policy manual to all  
19 our affiliates.

20 Q. Okay. I want to show you another email that  
21 comes from your AOL account to your AOL account. Let's  
22 mark this one as Exhibit O?

23 MS. VALENTINO: P, I believe?

24 MR. OSBORNE: P.

25 (Whereupon, Plaintiff's Exhibit P was marked

# **Exhibit B**



1 Q Okay. So once Local 825 decided to pay  
2 legislative only dues, however that happened to come  
3 about, the UPFFA didn't then give you a UPFFA  
4 charter, correct?

5 A Not that I'm aware of, no.

6 Q Okay. Is part of the legislative only  
7 commitment by UPFFA that they will represent those  
8 legislative only affiliates on legislative matters?

9 A I couldn't recall specifically what their  
10 bylaws reference with regard to legislative  
11 membership, so that would be difficult for me to  
12 answer.

13 Q Was it your understanding, though, that as  
14 Local 825 would be legislative only members, that  
15 UPFFA would represent them on legislative matters?

16 A It was my understanding that they would  
17 represent the fire service; specifically, you know,  
18 organized labor in the fire service on legislative  
19 matters, yes.

20 Q Which Local 825 is obviously a part of?

21 A Yes. We're a labor organization, yes.

22 MR. McGRATH: All right. Can we go  
23 off the record for five minutes?

24 (Short Recess).

25