

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FRANCISCO MOLINA,	:	
Plaintiff,	:	No. 19-0019
vs.	:	
PENNSYLVANIA SOCIAL SERVICE UNION,	:	Judge Yvette Kane
ET AL.,	:	
Defendants.	:	

**DEFENDANT LEHIGH COUNTY'S ANSWER AND AFFIRMATIVE DEFENSES TO
PLAINTIFF'S FIRST AMENDED COMPLAINT**

1. No response required.
2. The allegation in this paragraph is a conclusion of law to which no response is required. To the extent an answer is required, the allegation is denied and strict proof thereof is demanded.
3. The allegation in this paragraph is a conclusion of law to which no response is required. To the extent an answer is required, the allegation is denied and strict proof thereof is demanded.
4. The allegation in this paragraph is a conclusion of law to which no response is required. To the extent an answer is required, the allegation is denied and strict proof thereof is demanded.
5. The allegation in this paragraph is a conclusion of law to which no response is required. To the extent an answer is required, the allegation is denied and strict proof thereof is demanded.
6. The allegation in this paragraph is a conclusion of law to which no response is required. To the extent an answer is required, the allegation is denied and strict proof thereof is demanded.

7. The allegation in this paragraph is a conclusion of law to which no response is required. To the extent an answer is required, the allegation is denied and strict proof thereof is demanded.
8. It is admitted only that Plaintiff is an adult individual who was dismissed from his position as a Social Services Aide 3 with Lehigh County. The remaining allegations are conclusions of law to which no response is required. To the extent that an answer is required, the allegations are denied and strict proof thereof is demanded.
9. The allegation in this paragraph is a conclusion of law to which no response is required. To the extent an answer is required, the allegation is denied and strict proof thereof is demanded.
10. No response required.
11. The allegation in this paragraph is a conclusion of law to which no response is required. To the extent an answer is required, the allegation is denied and strict proof thereof is demanded.
12. It is admitted only that Lehigh County and PSSU entered into the CBA attached to the First Amended Complaint.
13. Denied. The terms and conditions of the CBA speak for themselves.
14. The allegation in this paragraph amounts to speculation that is denied and strict proof thereof is demanded.
15. Denied. The terms and conditions of the CBA speak for themselves.
16. Denied. The terms and conditions of the CBA speak for themselves.
17. Denied. The terms and conditions of the CBA speak for themselves.
18. Denied. The terms and conditions of the CBA speak for themselves.

19. The Answering Defendant is without knowledge or information sufficient enough to formulate a belief as to the truth of the allegation in this paragraph. The allegation is denied and, if relevant, strict proof thereof is demanded.
20. The Answering Defendant is without knowledge or information sufficient enough to formulate a belief as to the truth of the allegation in this paragraph. The allegation is denied and, if relevant, strict proof thereof is demanded.
21. The Answering Defendant is without knowledge or information sufficient enough to formulate a belief as to the truth of the allegation in this paragraph. The allegation is denied and, if relevant, strict proof thereof is demanded.
22. The Answering Defendant is without knowledge or information sufficient enough to formulate a belief as to the truth of the allegation in this paragraph. The allegation is denied and, if relevant, strict proof thereof is demanded.
23. The Answering Defendant is without knowledge or information sufficient enough to formulate a belief as to the truth of the allegation in this paragraph. The allegation is denied and, if relevant, strict proof thereof is demanded.
24. The Answering Defendant is without knowledge or information sufficient enough to formulate a belief as to the truth of the allegation in this paragraph. The allegation is denied and, if relevant, strict proof thereof is demanded.
25. The Answering Defendant is without knowledge or information sufficient enough to formulate a belief as to the truth of the allegation in this paragraph. The allegation is denied and, if relevant, strict proof thereof is demanded. By way of further response, the implication that PSSU maintained an obligation to advise its members of rights that they may or may not have under the First Amendment is a conclusion of law to which no

response is required. To the extent an answer is required, the allegation is denied and strict proof thereof is demanded.

26. The Answering Defendant is without knowledge or information sufficient enough to formulate a belief as to the truth of the allegation in this paragraph. The allegation is denied and, if relevant, strict proof thereof is demanded. By way of further response, the implication that PSSU maintained an obligation to advise its members of rights that they may or may not have under the First Amendment is a conclusion of law to which no response is required. To the extent an answer is required, the allegation is denied and strict proof thereof is demanded.

27. The Answering Defendant is without knowledge or information sufficient enough to formulate a belief as to the truth of the allegation in this paragraph. The allegation is denied and, if relevant, strict proof thereof is demanded. By way of further response, the implication that PSSU maintained an obligation to advise its members of rights that they may or may not have under the First Amendment is a conclusion of law to which no response is required. To the extent an answer is required, the allegation is denied and strict proof thereof is demanded.

28. Admitted.

29. Admitted.

30. The Answering Defendant is without knowledge or information sufficient enough to formulate a belief as to the truth of the allegation in this paragraph. The allegation is denied and, if relevant, strict proof thereof is demanded.

31. The Answering Defendant is without knowledge or information sufficient enough to formulate a belief as to the truth of the allegation in this paragraph. The allegation is denied and, if relevant, strict proof thereof is demanded.
32. Admitted.
33. Admitted.
34. The Answering Defendant is without knowledge or information sufficient enough to formulate a belief as to the truth of the allegation in this paragraph. The allegation is denied and, if relevant, strict proof thereof is demanded.
35. The Answering Defendant is without knowledge or information sufficient enough to formulate a belief as to the truth of the allegation in this paragraph. The allegation is denied and, if relevant, strict proof thereof is demanded.
36. Admitted in part and denied in part. On or around August 10, 2018, Judith Johnston received a letter from PSSU notifying her that the County should discontinue dues deductions for Plaintiff. On August 14, 2018, the County dismissed Plaintiff from his position with the County. Because Plaintiff was terminated shortly after PSSU had notified the County that Plaintiff's dues deductions should end, the County was not able to complete the dues deduction termination process until after Plaintiff had been terminated.
37. The Answering Defendant is without knowledge or information sufficient enough to formulate a belief as to the truth of the allegation in this paragraph. The allegation is denied and, if relevant, strict proof thereof is demanded.
38. Denied. Lehigh County had no legal obligation to advise Plaintiff that his resignation as a member of PSSU had or had not been accepted.

39. The Answering Defendant is without knowledge or information sufficient enough to formulate a belief as to the truth of the allegation in this paragraph. The allegation is denied and, if relevant, strict proof thereof is demanded.
40. The Answering Defendant is without knowledge or information sufficient enough to formulate a belief as to the truth of the allegation in this paragraph. The allegation is denied and, if relevant, strict proof thereof is demanded.
41. Denied. Under Article 3.2 of the CBA, Lehigh County deducts membership dues only from employees who have voluntarily executed a written dues deduction authorization. Because PSSU notified Lehigh County in August 2018 that Plaintiff had rescinded his dues deduction authorization, if Plaintiff were to regain his employment or otherwise become employed by Lehigh County in the future, Lehigh County would not deduct union dues from Plaintiff's pay unless he chose to execute a new dues deduction authorization.
42. No response required.

COUNT ONE

43.—50. Count One has been dismissed. Therefore, no response to the allegations in Count One is required.

COUNT TWO

51. Lehigh County's responses in the preceding paragraphs are incorporated herein by this reference as if set forth in full.
52. The allegation in this paragraph is a conclusion of law to which no response is required. To the extent an answer is required, the allegation is denied and strict proof thereof is demanded.

53. Plaintiff's claim for post-resignation dues has been dismissed. Plaintiff's claim that he is entitled to reimbursement of his pre-resignation dues as a result of Lehigh County's deprivation of his constitutional rights is a conclusion of law to which no response is required. To the extent an answer is required, the allegation is denied and strict proof thereof is demanded. By way of further response, the deduction of dues from Plaintiff's pay was in accordance with the terms and conditions of the CBA, in compliance with PERA, and pursuant to Plaintiff's informed authorization and consent.
54. The allegation in this paragraph is a conclusion of law to which no response is required. To the extent an answer is required, the allegation is denied and strict proof thereof is demanded.
55. The allegation in this paragraph is a conclusion of law to which no response is required. To the extent an answer is required, the allegation is denied and strict proof thereof is demanded. By way of further response, Plaintiff's claim for post-resignation dues has been dismissed.
56. The allegations in this paragraph are conclusions of law to which no response is required. To the extent an answer is required, the allegation is denied and strict proof thereof is demanded.

WHEREFORE, Defendant County of Lehigh requests that Plaintiffs' claim be dismissed, with prejudice, and that Plaintiffs be ordered to pay counsel fees and costs.

COUNT THREE

57. Lehigh County's responses in the preceding paragraphs are incorporated herein by this reference as if set forth in full.

58. The allegation in this paragraph is a conclusion of law to which no response is required. To the extent an answer is required, the allegation is denied and strict proof thereof is demanded.
59. The allegation in this paragraph is a conclusion of law to which no response is required. To the extent an answer is required, the allegation is denied and strict proof thereof is demanded.
60. The allegation in this paragraph is a conclusion of law to which no response is required. To the extent an answer is required, the allegation is denied and strict proof thereof is demanded.
61. The allegation in this paragraph is a conclusion of law to which no response is required. To the extent an answer is required, the allegation is denied and strict proof thereof is demanded.
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63. The allegation in this paragraph is a conclusion of law to which no response is required. To the extent an answer is required, the allegation is denied and strict proof thereof is demanded.
64. The allegation in this paragraph is a conclusion of law to which no response is required. To the extent an answer is required, the allegation is denied and strict proof thereof is demanded.
65. The allegation in this paragraph is a conclusion of law to which no response is required. To the extent an answer is required, the allegation is denied and strict proof thereof is

demanded. By way of further response, Lehigh County had no legal obligation to advise Plaintiff that his resignation as a member of PSSU had or had not been accepted.

66. The allegations in this paragraph are conclusions of law to which no response is required. To the extent an answer is required, the allegation is denied and strict proof thereof is demanded.

67. The allegation in this paragraph is a conclusion of law to which no response is required. To the extent an answer is required, the allegation is denied and strict proof thereof is demanded.

WHEREFORE, Defendant County of Lehigh requests that Plaintiffs' claim be dismissed, with prejudice, and that Plaintiffs be ordered to pay counsel fees and costs.

AFFIRMATIVE DEFENSES

68. Lehigh County's responses in the preceding paragraphs are incorporated herein by this reference as if set forth in full.

69. Plaintiff has failed to state any claim upon which relief may be granted.

70. Plaintiff's claims are barred in whole or in part by the applicable Statute of Limitations.

71. Plaintiff has suffered no cognizable injuries or damages.

72. To the extent that Plaintiff has suffered cognizable injuries or damages, such injuries or damages were caused or contributed to by Plaintiff's own actions and/or the actions of other individuals or entities over whom Lehigh County exercises no control.

73. Plaintiff has failed to make reasonable and diligent efforts to mitigate their damages, if any, and Defendants are entitled to an offset to the extent of any such failure to mitigate.

74. Lehigh County asserts all defenses, immunities and limitations available to it under the Civil Rights Act of 1871, as amended.

75. Plaintiff is not entitled to recover pre-resignation membership dues. In October 2006, Plaintiff signed an application for membership in PSSU and signed a written authorization for Lehigh County to deduct union membership dues from his paycheck and transmit those dues to PSSU. Plaintiff remained a dues-paying member of PSSU until he submitted his letter of resignation and Lehigh County and PSSU had sufficient time to process Plaintiff's resignation and terminate the deduction of membership dues from Plaintiff's paycheck.
76. Lehigh County maintained no affirmative obligation to notify Plaintiff of the right to object to associating with or subsidizing the speech of PSSU.
77. Lehigh County maintained no affirmative obligation to notify Plaintiff of the right to object to the seizure of his funds or a defined process for asserting an objection to the seizure of his funds.
78. Lehigh County processed Plaintiff's letter of resignation in full compliance with the terms and conditions of the CBA.

WHEREFORE, Defendant County of Lehigh requests that Plaintiffs' claim be dismissed, with prejudice, and that Plaintiffs be ordered to pay counsel fees and costs.

RESPECTFULLY SUBMITTED:

[Thomas M. Caffrey](#)

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FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FRANCISCO MOLINA,	:	
	:	
Plaintiff,	:	NO. 19-00019
	:	
v.	:	
	:	
PA SOCIAL SERVICE UNION, ET AL.,	:	
	:	
Defendants.	:	

CERTIFICATE OF SERVICE

I certify that on September 10, 2019, I served a copy of Defendant Lehigh County’s Answer and Affirmative Defenses to Plaintiff’s First Amended Complaint on the following individuals via the ECF System:

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