

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA**

MEGAN M. JAMES; WILLIAM A. LESTER;)
ANGELA PEASE, individually and on behalf)
Of others similarly situated,)
)
Plaintiffs,)

Case No. 2:19-cv-53

v.)

SERVICE EMPLOYEES INTERNATIONAL)
UNION, LOCAL 668; STEVE CATANESE,)
in his official capacity as President of Service)
Employees International Union, Local 668;)
COMMONWEALTH OF PENNSYLVANIA,)
DEPARTMENT OF LABOR AND INDUSTRY;)
W. GERARD OLEKSIK, in his official capacity)
as Secretary of Pennsylvania Department of Labor)
and Industry; THOMAS W. WOLF, in his official)
capacity as Governor of the Commonwealth)
of Pennsylvania; MICHAEL NEWSOME, in his)
official capacity as Secretary of the Pennsylvania)
Office of Administration; ANNA MARIA KIEHL,)
in her official capacities as Chief Accounting)
Officer for the Commonwealth of Pennsylvania)
and Deputy Secretary of the Office of Comptroller)
Operations,)
)
Defendants.)

District Judge Bissoon

Electronically Filed

ANSWER

AND NOW, come Defendants, Commonwealth of Pennsylvania, Department of Labor and Industry, W. Gerard Oleksiak, in his official capacity as Secretary of Pennsylvania Department of Labor and Industry, Thomas W. Wolf, in his official capacity as Governor of the Commonwealth of Pennsylvania, Michael Newsome, in his official capacity as Secretary of the Pennsylvania Office of Administration, Anna Maria Kiehl, in her official capacities as Chief Accounting Officer for the Commonwealth of Pennsylvania and Deputy Secretary of the Office of Comptroller (“Commonwealth Defendants”), by their attorneys Yana L. Warshafsky, Deputy Attorney General, Civil Litigation, and Nancy A. Walker, Chief Deputy Attorney General, Fair Labor

Section, and respectfully submit the following Answer:

FIRST AFFIRMATIVE DEFENSE

ANSWER

SUMMARY OF THE CASE

1. The allegations of Paragraph 1 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 1.

2. The allegations of Paragraph 2 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 2.

3. The allegations of Paragraph 3 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 3.

4. Commonwealth Defendants deny that they continue to deduct union dues or the equivalent thereof from Plaintiffs' wages. The remaining averments in Paragraph 4 are conclusions of law with regard to the damages sought, to which no response is required. To the extent an answer is necessary, the Commonwealth Defendants deny that Plaintiff are entitled to any damages.

JURISDICTION AND VENUE

5. The allegations of Paragraph 5 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 5.

6. The allegations of Paragraph 6 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 6.

7. The allegations of Paragraph 7 state conclusions of law that do not require a response.

To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 7.

8. Commonwealth Defendants admit that venue is proper in this judicial district, however the remaining allegations of Paragraph 8 set forth a legal conclusion that does not require a response.

PARTIES

9. Commonwealth Defendants lack sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 9 regarding Plaintiff's status with Local 668 and, therefore, deny that allegation. The remaining allegations of Paragraph 9 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 9.

10. Commonwealth Defendants lack sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 10 regarding Plaintiff's status with Local 668 and, therefore, deny that allegation. The remaining allegations of Paragraph 10 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 10.

11. Commonwealth Defendants lack sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 11 regarding Plaintiff's status with Local 668 and, therefore, deny that allegation. The remaining allegations of Paragraph 11 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 11.

12. Commonwealth Defendants admit the allegations set forth in Paragraph 12.

13. Commonwealth Defendants admit that Steve Catanese is the President of Local 668; however, the remaining allegations of Paragraph 13 set forth a legal conclusion that does not require a response.

14. Commonwealth Defendants admit the allegations set forth in Paragraph 14.

15. Commonwealth Defendants admit the allegations set forth in Paragraph 15.

16. Commonwealth Defendants admit the allegations set forth in Paragraph 16.

17. Commonwealth Defendants admit the allegations set forth in Paragraph 17.

18. Commonwealth Defendants admit that Anna Maria Kiehl is the Chief Accounting Officer for the Commonwealth of Pennsylvania and Deputy Secretary for the Office of Comptroller and performs all attendant duties.

CLASS ACTION ALLEGATIONS

19. Commonwealth Defendants admit that Plaintiffs' Complaint purports to state allegations on behalf of a class of individuals but deny that a class action can be properly maintained and further deny the allegations set forth in Paragraph 19.

20. The allegations of Paragraph 20 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 20.

21. The allegations of Paragraph 21 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 21.

22. The allegations of Paragraph 22 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 22.

23. The allegations of Paragraph 23 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 23.

24. The allegations of Paragraph 24 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 24.

25. The allegations of Paragraph 25 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 25.

26. The allegations of Paragraph 26 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 26.

27. The allegations of Paragraph 27 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 27.

28. The allegations of Paragraph 28 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 28.

29. Commonwealth Defendants lack sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 29, and therefore deny the allegations.

30. Commonwealth Defendants admit that the United States District Court for the Western District of Pennsylvania is a proper venue for this action. However, the remainder of the allegations set forth in Paragraph 30 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth therein.

31. Commonwealth Defendants deny that this action can be maintained as a class action. Commonwealth Defendants lack sufficient knowledge or information to admit or deny the remaining allegations set forth in Paragraph 31, and therefore deny them.

32. The allegations of Paragraph 32 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 32.

FACTUAL ALLEGATIONS

33. Commonwealth Defendants admit that they entered into a collective bargaining agreement (“CBA”) with Local 668 establishing certain terms and conditions of employment. However, the remainder of the allegations set forth in Paragraph 33 state conclusions of law that do not require a response. To the extent that a response is required, the CBA is a written document that speaks for itself and Commonwealth Defendants deny the remainder of the allegations set forth therein.

34. Commonwealth Defendants admit the allegation set forth in Paragraph 34.

35. The CBA is a written document that speaks for itself, and requires no further response. However, the remainder of the allegations set forth in Paragraph 35 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth therein.

36. The allegations of Paragraph 36 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 36.

37. The allegations of Paragraph 37 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 37.

38. The CBA is a written document that speaks for itself, and requires no further response.

39. Commonwealth Defendants lack the knowledge and information sufficient to form a belief about the truth of the allegations set forth in Paragraph 39. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 39.

40. Commonwealth Defendants lack the knowledge and information sufficient to form a belief about the truth of the allegations set forth in Paragraph 40. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 40.

41. Commonwealth Defendants lack the knowledge and information sufficient to form a belief about the truth of the allegations set forth in Paragraph 41. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 41

42. Commonwealth Defendants lack the knowledge and information sufficient to form a belief about the truth of the allegations set forth in Paragraph 42. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 42

43. Commonwealth Defendants lack the knowledge and information sufficient to form a belief about the truth of the allegations set forth in Paragraph 43. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 43.

44. Commonwealth Defendants admits that letters are attached to the Complaint as “Exhibit B.” Commonwealth Defendants lack the knowledge and information sufficient to form a belief about the truth of the allegations set forth in Paragraph 44. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 44.

45. Commonwealth Defendant Kiehl denies that she has continued to deduct union dues from Plaintiffs’ dues since on or about July 22, 2018.

46. The allegations set forth in Paragraph 46 pertain to another party to this action, and therefore, no responsive pleading is required by Commonwealth Defendants. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 46.

47. The allegations set forth in Paragraph 47 pertain to another party to this action, and therefore, no responsive pleading is required by Commonwealth Defendants. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 47.

48. Commonwealth Defendant Kiehl denies that the Office of the Comptroller has continued to deduct dues from Plaintiffs since February 1, 2019. Commonwealth Defendants deny the remaining allegations set forth in Paragraph 48.

49. The allegations of Paragraph 49 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 49.

CLAIMS FOR RELIEF—COUNT 1

50. Commonwealth Defendants incorporate by reference their responses to the allegations contained in the preceding paragraphs as if fully set forth herein.

51. The allegations of Paragraph 51 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 51.

52. The allegations of Paragraph 52 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 52.

53. The allegations of Paragraph 53 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 53.

54. The allegations of Paragraph 54 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 54.

55. The allegations of Paragraph 55 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 55.

56. The allegations of Paragraph 56 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 56.

57. The allegations of Paragraph 57, including subparts a-d, state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 57.

58. The allegations of Paragraph 58 state conclusions of law that do not require a response. To the extent that a response is required, Commonwealth Defendants deny the allegations set forth in Paragraph 58.

WHEREFORE, Commonwealth Defendants respectfully submit that Plaintiffs are not entitled to any damages and Commonwealth Defendants demand judgment in their favor and against Plaintiffs.

AFFIRMATIVE DEFENSES OF THE COMMONWEALTH DEFENDANTS

SECOND AFFIRMATIVE DEFENSE

Plaintiffs' claims are moot as Commonwealth Defendants do not deduct union dues from Plaintiffs.

THIRD AFFIRMATIVE DEFENSE

Commonwealth Defendants acted in good faith based upon the law in effect at all relevant times.

FOURTH AFFIRMATIVE DEFENSE

Commonwealth Defendants are entitled to qualified immunity.

FIFTH AFFIRMATIVE DEFENSE

Commonwealth Defendants' conduct, at all relevant times, conformed with state statutes, regulations, and controlling precedent from state courts, U.S. Court of Appeals for the Third Circuit, and U.S. Supreme Court.

SIXTH AFFIRMATIVE DEFENSE

Commonwealth Defendants acted without malice.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs are estopped from bringing this action as they affirmatively, willingly and knowingly joined Local 668.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs have waived the right to bring this action as they affirmatively, willingly and knowingly joined Local 668.

NINTH AFFIRMATIVE DEFENSE

Plaintiffs' claim for monetary relief is barred because such relief would constitute unjust enrichment.

TENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred because they consented to the challenged action by affirmatively, willingly and knowingly joining Local 668.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by the statute of limitations to the extent they seek relief for actions outside the applicable limitations period.

Commonwealth Defendants reserve the right to amend their Answer to assert additional affirmative defenses based upon further investigation and discovery.

WHEREFORE, Commonwealth Defendants respectfully request that this Honorable Court deny Plaintiffs' requested relief and enter judgment in favor of Commonwealth Defendants, award Commonwealth Defendants costs and attorneys' fees, and award Commonwealth Defendants other relief as is appropriate.

Dated: March 29, 2019

Respectfully Submitted,

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