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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

FRANCISCO MOLINA,

Plaintiff,

v.

PENNSYLVANIA SOCIAL SERVICE UNION,
SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 668, et al..

Defendants.

CASE NO.: 1:19-cv-00019-YK

**DEFENDANT SEIU LOCAL 668'S
ANSWER TO PLAINTIFF'S FIRST
AMENDED COMPLAINT**

Complaint Filed: Jan. 7, 2019
Trial Date: Not set
Judge: Yvette Kane

ANSWER OF DEFENDANT SEIU LOCAL 668

Defendant SEIU Local 668 (“Defendant”) hereby submits its Answer to the First Amended Complaint filed by Plaintiff in the above-captioned action. Except as expressly admitted below, all allegations are denied.

1. Defendant admits that Plaintiff’s Complaint seeks the relief described in Paragraph 1, but denies that Plaintiff is entitled to such relief and otherwise denies the allegations in Paragraph 1.

2. The allegations of Paragraph 2 state legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 2.

3. The first sentence of Paragraph 3 contains legal conclusions to which no response is required. Defendant denies the remaining allegations of Paragraph 3.

4. Defendant denies that Mr. Molina’s authorization of dues deductions was invalid and denies that Defendants continue to deduct union dues from Mr. Molina’s wages. Defendant admits that Plaintiff’s First Amended Complaint seeks compensatory and nominal damages, but otherwise denies the allegations in Paragraph 4.

JURISDICTION AND VENUE

5. Defendant admits that Plaintiff seeks relief under 42 U.S.C. §§ 1983, 1988 and 28 U.S.C. §§ 2201, 2201, but denies that Plaintiff is entitled to relief.

6. The allegations of Paragraph 6 state legal conclusions to which no response is required. To the extent a response is required, Defendant admits that Plaintiff seeks relief under 28 U.S.C. §§ 2201, 2201, but denies that Plaintiff’s claims for prospective relief and for retrospective relief with respect to post-resignation dues deductions present an actual controversy, and denies that this Court has subject matter jurisdiction over those claims in Plaintiff’s First Amended Complaint.

7. Defendant admits that it is domiciled in Dauphin County. Defendant admits that a substantial part of the events giving rise to this action occurred in this judicial district. The

remaining allegations of Paragraph 7 state legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of Paragraph 7.

PARTIES

8. Defendant lacks sufficient knowledge or information to admit or deny the allegation as to where Plaintiff resides, and on that basis denies such allegation. Defendant admits the remaining allegations of Paragraph 8.

9. Defendant admits the allegations of Paragraph 9.

10. Defendant admits that Stephen Catanese is the President of PSSU. Defendant denies that Mr. Catanese is a proper defendant to this action.

11. The first sentence of Paragraph 11, and the first clause of second sentence of Paragraph 11, state legal conclusions to which no response is required. Defendant admits that Lehigh County approved by ordinance the CBA setting forth Mr. Molina's terms and conditions of employment, and that Exhibit A is an accurate copy of the CBA in effect until December 31, 2018.

FACTUAL ALLEGATIONS

12. Defendant admits it entered into a CBA with Lehigh County establishing certain terms and conditions of Mr. Molina's employment. Defendant denies that it did so under color of state law, or acting in concert with Lehigh County. Defendant denies that the provisions set forth in the CBA necessarily reflect policies or practices applied to Mr. Molina.

13. Defendant admits the allegations in Paragraph 13.

14. Defendant admits that PSSU and Lehigh County may enforce the terms and conditions of the CBA with respect to the other party during the terms of the agreement. Defendant denies that the provisions set forth in the CBA necessarily reflect policies or practices applied to Mr. Molina.

15. The CBA is a written document that speaks for itself, such that no further response is required. To the extent Plaintiff alleges that Defendant applied the terms of the Article to Plaintiff, Defendant denies those allegations.

16. Paragraph 16 contains legal conclusions to which no response is required. Those legal conclusions include characterizing statutes that speak for themselves and to which Defendant respectfully refers the Court.

17. Paragraph 17 contains legal conclusions to which no response is required. Those conclusions include characterizing statutes that speak for themselves and to which Defendant respectfully refers the Court. Defendant otherwise denies the allegations of Paragraph 17.

18. The CBA is a written document that speaks for itself, such that no further response is required.

19. Defendant denies the allegations of Paragraph 19.

20. Defendant denies the allegations of Paragraph 20.

21. Defendant denies the allegations of Paragraph 21.

22. Defendant admits that on or about January 10, 2018, SEIU Local 668 held a general membership meeting for Mr. Molina's bargaining unit and otherwise denies the allegations of Paragraph 22.

23. Defendant admits that at the membership meeting held on or about January 10, 2018, SEIU Local 668 requested that members sign new membership cards, and that Exhibit B contains an accurate copy of the Membership Application distributed at the meeting. The remaining allegations of Paragraph 23 characterize a written document that speaks for itself, such that no response is required.

24. Defendant denies the allegations in Paragraph 24.

25. Paragraph 25 contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 25.

26. Paragraph 26 contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 26.

27. Defendant admits that Mr. Molina did not sign a membership card on or about January 10, 2018. Defendant denies the remaining allegations in Paragraph 27.

28. Defendant lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 28, and on that basis denies such allegations.

29. Defendant lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 28, and on that basis denies such allegations.

30. Defendant admits the allegations in Paragraph 30.

31. Defendant admits the allegations in Paragraph 31.

32. Defendant admits the allegations in Paragraph 32.

33. Defendant admits that a shop steward for SEIU Local 668 filed a timely grievance on Plaintiff's behalf challenging his termination pursuant to the CBA's grievance resolution procedures. Defendant admits that it has filed a notice with Lehigh County preserving its right to arbitrate this grievance. Defendant otherwise denies the remaining allegations in paragraph 33.

34. Defendant denies the allegations in Paragraph 34.

35. Defendant admits that on or about December 5, 2018, Mr. Molina received a letter and a purported membership card from SEIU Local 668 as a result of a clerical error. Defendant denies that it considered Mr. Molina a member at that time or that Mr. Molina was entitled to membership benefits or to attend union meetings.

36. Defendant admits that Mr. Molina had dues deducted from his wages from June 23, 2018 through August 17, 2018. Defendant refunded these dues to Mr. Molina in their entirety in January 2019. Defendant denies the remaining allegations in Paragraph 36.

37. Defendant admits that SEIU Local 668 received dues deducted from Mr. Molina's wages from June 23, 2018, through August 17, 2018. Defendant refunded these dues to Mr. Molina in their entirety in January 2019. Defendant denies the remaining allegations in Paragraph 37.

38. Defendant denies the allegations in Paragraph 38.

39. Defendant admits the allegations in Paragraph 39.

40. Defendant denies the allegations in Paragraph 40. Defendant does not concede, however, that it ever lacked legal authority to receive dues deducted from Plaintiff's wages.

41. Defendant admits that SEIU Local 668 received dues deducted from Mr. Molina's wages from June 23, 2018, through August 17, 2018. Defendant refunded these dues to Molina in their entirety in January 2019. Defendant denies the remaining allegations in Paragraph 41.

42. Paragraph 42 contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 42. Defendant lacks sufficient information or knowledge as to the remaining allegations regarding Mr. Molina's subjective beliefs in Paragraph 42, and on that basis denies such allegations.

CLAIMS FOR RELIEF

COUNT ONE

(Violation of 42 U.S.C. § 1983 and
the Constitution of the United States)

43. Defendant incorporates by reference its responses to the allegations contained in the preceding paragraphs as if fully set forth herein.

44. Paragraph 44 contains legal conclusions to which no response is required. To the extent a response is required, Defendant admits the allegations of Paragraph 44.

45. Paragraph 45 contains legal conclusions to which no response is required. To the extent a response is required, Defendant admits the allegations of Paragraph 45.

46. Paragraph 46 contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of Paragraph 46.

47. Paragraph 47 contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of Paragraph 47.

48. Paragraph 48 contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of Paragraph 48.

49. Paragraph 49 contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of Paragraph 49.

50. Paragraph 50 contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of Paragraph 50.

COUNT TWO

(Violation of 42 U.S.C. § 1983 and
the Constitution of the United States)

51. Defendant incorporates by reference its responses to the allegations contained in the preceding paragraphs as if fully set forth herein.

52. Paragraph 52 contains legal conclusions to which no response is required. To the extent a response is required, Defendant admits the allegations in Paragraph 52.

53. Paragraph 53 contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 53.

54. Paragraph 54 contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 54.

55. Paragraph 55 contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 55.

56. Paragraph 56 contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 56.

57. Paragraph 57 contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 57.

COUNT THREE

(Violation of 42 U.S.C. § 1983 and
the Constitution of the United States)

58. Defendant incorporates by reference its responses to the allegations contained in the preceding paragraphs as if fully set forth herein.

59. Paragraph 59 contains legal conclusions to which no response is required. To the extent a response is required, Defendant admits the allegations in Paragraph 59.

60. Paragraph 60 contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 60.

61. Paragraph 61 contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 61.

62. Paragraph 62 contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 62.

63. Defendant denies the allegations in Paragraph 63.

64. Defendant denies the allegations in Paragraph 64.

65. Defendant denies the allegations in Paragraph 65.

66. Paragraph 66 contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 66.

67. Paragraph 67 contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 67.

PRAYER FOR RELIEF

Plaintiff's Prayer for Relief does not require a response. To the extent the Prayer for Relief, including each and all of its subparagraphs, states any allegations, Defendant denies them. Defendant denies that Plaintiff is entitled to any relief in this case.

FIRST AFFIRMATIVE DEFENSE

Plaintiff's claims are moot because Defendant has processed Plaintiff's resignation request and has refunded to Plaintiff any funds deducted from his wages following his resignation.

SECOND AFFIRMATIVE DEFENSE

Defendant acted in good faith based on the law in effect at the time.

THIRD AFFIRMATIVE DEFENSE

Defendant is entitled to qualified immunity.

FOURTH AFFIRMATIVE DEFENSE

Defendant acted in accordance with state statutes, regulations, and controlling state court, Third Circuit, and U.S. Supreme Court precedent.

FIFTH AFFIRMATIVE DEFENSE

Defendant acted without malice.

SIXTH AFFIRMATIVE DEFENSE

Defendant is entitled to governmental immunity because it acted in cooperation with public officials pursuant to state law.

SEVENTH AFFIRMATIVE DEFENSE

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

EIGHTH AFFIRMATIVE DEFENSE

Plaintiff is estopped from seeking retrospective relief.

NINTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred because he consented to the actions that he challenges.

TENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by laches.

ELEVENTH AFFIRMATIVE DEFENSE

Any relief awarded to Plaintiff must be offset by the benefits he received from representation by Defendant.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the statute of limitations to the extent he seeks relief for actions outside the applicable limitations period.

THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred because Defendant did not engage in "state action" within the meaning of 42 U.S.C. §1983.

ADDITIONAL DEFENSES

Defendant reserves the right to amend its Answer to assert additional affirmative defenses based on further investigation and discovery.

PRAYER

WHEREFORE, Defendant prays that the Court:

1. Deny Plaintiff any relief and enter judgment in favor of Defendant.
2. Award Defendant its costs and attorneys' fees.
3. Award Defendant such other and further relief as is just and proper.

Dated: September 11, 2019

/s/ P. Casey Pitts
P. Casey Pitts (*pro hac vice*)

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