

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

MATTHEW KRAWCZYK,

Plaintiff,

v.

NEW YORK STATE UNITED TEACHERS; SOLVAY
TEACHERS ASSOCIATION; BOARD OF EDUCATION
OF THE SOLVAY UNION FREE SCHOOL DISTRICT;
SOLVAY UNION FREE SCHOOL DISTRICT; and JAY
TINKLEPAUGH, in his official capacity as
Superintendent of the Solvay Union Free School
District,

Defendants.

Case No. 5:21-CV-0635 (GTS/ML)

Hon. Glenn T. Suddaby and Magistrate Judge
Miroslav Lovric

COMPLAINT

AND NOW comes Plaintiff Matthew Krawczyk, by and through his undersigned attorneys, and states the following claims for relief against Defendant New York State United Teachers (“NYSUT”) and Defendant Solvay Teachers Association (“STA”) (collectively referred to as “Defendant Unions”), the Board of Education of the Solvay Union Free School District (“Board”), Solvay Union Free School District (“District”), and Jay Tinklepaugh, in his official capacity as Superintendent of the Solvay Union Free School District. Plaintiff alleges as follows:

SUMMARY OF THE CASE

1. This is a civil rights action pursuant to 42 U.S.C. § 1983 for declaratory, injunctive, and monetary relief to redress the ongoing deprivation of Plaintiff’s rights, privileges, and/or immunities under the First and Fourteenth Amendments of the United States Constitution. This deprivation is caused by Defendants’ contracts, policies, and practices, under color of state law, including the state’s Public Employees’ Fair Employment Act, N.Y. Civ. Serv. Law, Article 14 (the “Taylor Law”), under which Defendants have and continue to have union dues or fees seized from

Plaintiff's wages even though he is a nonmember public employee who objects to financially supporting Defendant Unions.

2. The United States Supreme Court has held that the First Amendment of the United States Constitution prohibits the government and unions from compelling nonmember public employees to pay dues or fees to a union as a condition of employment. *See Janus v. AFSCME, Council 31*, 138 S. Ct. 2448, 2486 (2018). Defendants are violating Plaintiff's constitutional rights by deducting payments of union dues or fees from his wages without his consent.

3. Despite Plaintiff's acknowledged resignation from union membership, Defendants have continued to seize and to accept union dues or fees from Plaintiff's wages as a condition of employment even though Plaintiff is a nonmember.

4. Defendants' concerted conduct violates Plaintiff's First and Fourteenth Amendment rights to free association, self-organization, assembly, petition, and freedoms of speech, thought, and conscience.

5. Additionally, Defendants have acted in concert, by and through their agents and officials, to deduct and to accept union dues or fees from Plaintiff's wages without providing him any meaningful notice or opportunity to object to the ongoing deductions, the process by which the money is withheld, or the ways in which his money is used. These omissions violate Plaintiff's Fourteenth Amendment right to due process.

6. Because Defendants continue to deduct union dues or fees from Plaintiff's wages in violation of his constitutional rights, Plaintiff seeks injunctive and declaratory relief against all Defendants, as well as compensatory and nominal damages, and attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

JURISDICTION AND VENUE

7. This action arises under the Constitution and laws of the United States of America, including the Federal Civil Rights Act of 1871, 42 U.S.C. § 1983, to redress the deprivation, under color of state law, of Plaintiff's rights, privileges, and immunities under the United States Constitution, particularly the First and Fourteenth Amendments thereto, as well as 42 U.S.C. § 1988.

8. This Court has jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. § 1331—because his claims arise under the United States Constitution—and 28 U.S.C. § 1343—because he seeks relief under 42 U.S.C. § 1983.

9. This action is an actual controversy in which Plaintiff seeks a declaration of his rights under the United States Constitution. Pursuant to 28 U.S.C. §§ 2201 and 2202, this Court may declare plaintiffs' rights and grant further necessary and proper relief, including injunctive relief, under Federal Rule of Civil Procedure 65.

10. Venue is proper in this Court under 28 U.S.C. § 1391(b) because one or more defendants are domiciled in, and operate or do significant business in, this judicial district, and a substantial part of the events giving rise to the claims in this action occurred in this judicial district.

PARTIES

11. Plaintiff Matthew Krawczyk is, and was at all times relevant hereto, a “public employee” within the meaning of the Taylor Law. *See* N.Y. Civ. Serv. Law § 201.7. Plaintiff is employed by the District as a teacher at Solvay High School, in a bargaining unit represented exclusively for purposes of collective bargaining by STA. Plaintiff was a member of Defendant Unions, but is no longer a member of said Defendant Unions since the date of his resignation.

12. Defendant NYSUT is an “employee organization” within the meaning of the Taylor Law. *See* N.Y. Civ. Serv. Law § 201.5. NYSUT maintains a place of business at 800 Troy-

Schenectady Road, Latham, New York 12110 and conducts its business and operations throughout the State of New York, including in the Northern District of New York.

13. Defendant STA is an “employee organization” within the meaning of the Taylor Law, *see* N.Y. Civ. Serv. Law § 201.5, and is a local affiliate of NYSUT. Pursuant to the collective bargaining agreement (“CBA”) between STA and the Board, STA represents Plaintiff exclusively for purposes of collective bargaining. STA maintains a place of business at 600 Gertrude Avenue, Solvay, New York 13209 and conducts its business and operations throughout the State of New York, including the Northern District of New York.

14. Defendant Board is subject to and operates pursuant to the CBA that governs the terms and conditions of Plaintiff’s employment. The Board maintains a place of business at 299 Bury Drive, Syracuse, New York 13209.

15. Defendant District is Plaintiff’s employer and subject to the CBA, and it processes union dues deductions for Defendant Unions from Plaintiff’s wages pursuant to the CBA and/or other agreements with Defendant Unions. The District maintains a place of business at 299 Bury Drive, Syracuse, New York 13209.

16. Defendant Tinklepaugh is the Superintendent of the District and is a signatory to the CBA, and entered into the CBA on behalf of the District and the Board. He is sued in his official capacity.

FACTUAL ALLEGATIONS

17. Acting in concert under color of state law, STA and the Board have entered into the CBA that controls the terms and conditions of Plaintiff’s employment. Relevant portions of the CBA are attached hereto as “Exhibit A” and incorporated by reference herein.

18. Article II of the CBA provides that the Board recognizes STA “as the exclusive bargaining agent of all certified personnel included in the teaching unit.” This bargaining unit encompasses Plaintiff’s teacher position. Ex. A, Art. II.A.

19. The CBA provides that the District will deduct union dues from the wages of members of Defendant Unions.

20. State law requires Plaintiff’s employer, the District, to extend to Defendant Unions the right to dues deductions from the wages of its employees.

21. Specifically, the Taylor Law provides that “[a] public employer shall extend to an employee organization certified or recognized pursuant to this article the following rights: . . . (b) to membership dues deduction, upon presentation of dues deduction authorization cards signed by individual employees. . . .” N.Y. Civ. Serv. Law § 208.1.

22. The Taylor Law also provides that “[t]he right to such membership dues deduction shall remain in full force and effect until: (i) an individual employee revokes membership in the employee organization in writing in accordance with the terms of the signed authorization.” N.Y. Civ. Serv. Law § 208.1.

23. Plaintiff became a union member after beginning his public employment as a teacher for the District in or about 2009.

24. Plaintiff resigned his union membership on September 23, 2020, by letters mailed to NYSUT and the District.

25. In the same aforementioned letters in which he resigned from Defendant Unions, Plaintiff also sought to end union dues deductions from his wages.

26. Upon information and belief, STA held a vote regarding Plaintiff’s resignation shortly after receiving Plaintiff’s resignation letter in or about October 2020.

27. Upon information and belief, STA's Executive Committee voted unanimously to accept Plaintiff's resignation from Defendant Unions.

28. A member of STA's Executive Committee apprised Plaintiff of the vote results, so Plaintiff believed that his resignation had been accepted and that union dues deductions from his wages for Defendant Unions would cease.

29. On October 9, 2020, STA's President Michael Emmi informed Plaintiff that he had to "leave [Plaintiff] on" as a member of Defendant Unions because Emmi had been "told by NYSUT that [he didn't] have the authority to let [Plaintiff] out."

30. Upon information and belief, NYSUT prevented STA from recognizing Plaintiff's resignation from Defendant Unions.

31. Defendant Unions now claim to have accepted and processed Plaintiff's resignation on September 23, 2020, the date of Plaintiff's resignation.

32. As a nonmember of Defendant Unions, Plaintiff is not receiving union member benefits.

33. Defendants never provided Plaintiff with written notice of his constitutional right as a nonmember to choose not to pay any union dues or fees to Defendant Unions.

34. Defendants never provided Plaintiff with written notice of his constitutional right to due process, including notice and an opportunity to object to how any nonconsensual union dues or fees deducted from his wages are spent.

35. Neither Defendants nor any agent or official thereof asked Plaintiff while a nonmember to agree to pay union dues or fees to Defendant Unions or to otherwise waive any constitutional rights following his resignation.

36. Plaintiff never waived his right not to pay union dues or fees to Defendant Unions when he was not a member of Defendant Unions.

37. Defendants, acting in concert pursuant to the CBA, the Taylor Law, and/or their joint policies and practices, refuse to end union dues deductions from Plaintiff's wages upon his resignation from Defendant Unions.

38. Defendants claim that Plaintiff's membership agreement entitles Defendants to continue deducting financial support for Defendant Unions despite Plaintiff's resignation, revocation of dues deduction authorization, and nonmember status.

39. The membership agreement contains no notice of or request for waiver of any constitutional rights.

40. Defendants, pursuant to the CBA, the Taylor Law, and/or their joint policies and practices, are acting in concert under color of state law to collect, distribute, accept, and/or retain union dues or fees deducted from Plaintiff's wages even though Defendants acknowledge that he is not a member of Defendant Unions as of the date of his September 23, 2020 resignation.

41. Since on or about September 23, 2020, Defendant Unions have continued to take, receive, and/or accept purported union dues or fees from Plaintiff's wages against his will and without his consent.

42. Since on or about September 23, 2020, the District, acting in concert with Defendant Unions, continues to deduct purported union dues or fees from Plaintiff's wages against his will and without his consent.

43. Defendants, acting in concert under color of state law, have not provided Plaintiff meaningful notice or opportunity to object to union dues deductions, the process by which the money is deducted, or the ways in which his money is spent.

44. Upon information and belief, Defendant Unions use the financial support forcibly seized from Plaintiff while he is a nonmember for purposes of political speech and activity, among other purposes to which Plaintiff objects.

45. Plaintiff objects to the compelled association with and financial subsidization of any activities of Defendant Unions and/or their affiliates for any purpose.

CLAIMS FOR RELIEF

COUNT ONE

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

46. Plaintiff re-alleges and incorporates by reference all allegations contained in the foregoing paragraphs of this Complaint as if fully set forth herein.

47. The First Amendment of the United States Constitution protects associational, free speech, and free choice rights, and the Fourteenth Amendment incorporates the protections of the First Amendment against the States.

48. The First Amendment requires that “[n]either an agency fee nor any other payment to the union may be deducted from a nonmember’s wages, nor may any other attempt be made to collect such a payment, unless the employee affirmatively consents to pay.” *Janus*, 138 S. Ct. at 2486.

49. Section 208 of the Taylor Law and the CBA, on their face and/or as applied by Defendants, authorize and/or require Defendants Board, District, and Tinklepaugh, by and through their agents, and Defendant Unions to force public employees to remain union members and/or full dues payers despite their expressed intention to resign union membership and end financial support of a union, in violation of employees’ rights under the First Amendment.

50. Sections 201 and 208 of the Taylor Law, facially and/or as applied by Defendants, permit Defendants to require public employees to maintain unwilling allegiance to and financial support of an employee organization, such as Defendant Unions, and is, therefore, unconstitutional.

51. Defendants’ actions, taken pursuant to the Taylor Law, the CBA, and their joint policies and practices, under color of state law, impinge on Plaintiff’s exercise of his rights to free

association, self-organization, assembly, petition, and freedoms of speech, thought, and conscience as guaranteed by the First and Fourteenth Amendments of the United States Constitution.

52. The Taylor Law, on its face and/or as applied by Defendants, authorizes Defendants to violate Plaintiff's constitutional rights by deducting union dues or fees from his wages without his consent in violation of the United States Constitution as explained in *Janus*.

53. Because Plaintiff is a nonmember employed in a bargaining unit represented exclusively for collective bargaining by STA, the First Amendment protects him from being forced to financially support or otherwise be associated with Defendant Unions and from having the District deduct nonconsensual financial support for Defendant Unions from Plaintiff's wages.

54. Because Plaintiff is not a member of Defendant Unions, the First Amendment protects him from having nonconsensual financial support deducted from his wages for Defendant Unions.

55. A valid waiver of constitutional rights requires clear and compelling evidence that the putative waiver was voluntary, knowing, and intelligent and that enforcement of the waiver is not against public policy. Defendants bear the burden of proving that these criteria are satisfied.

56. Plaintiff has not waived his constitutional right as a nonmember not to provide financial support via payroll deduction or other method to Defendant Unions.

57. Plaintiff has not waived his constitutional right not to financially support Defendant Unions after he became a nonmember following his resignation of membership in Defendant Unions.

58. Defendant Unions are acting in concert and under color of state law with Defendants Board, District, and Tinklepaugh, by and through their agents, to seize, process, and/or accept deductions of unions dues or fees from Plaintiff's wages.

59. These forced payroll deductions violate Plaintiff's rights protected by the First and Fourteenth Amendments of the United States Constitution as well as 42 U.S.C. § 1983 by forcing him to financially support Defendant Unions' political activities and speech without his consent.

60. The District, by deducting and collecting financial support from Plaintiff via payroll deduction despite Plaintiff's revocation of consent to dues deductions, is depriving Plaintiff of his First Amendment rights to free speech and association as secured against state infringement by the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

61. As a direct result of Defendants' concerted actions, taken pursuant to state law, the CBA, and their joint policies and practices, Plaintiff:

- a. is being prevented from exercising his rights and privileges not to fund and support the agenda, activities, expenses, and speech of a private organization;
- b. is being deprived of his civil rights guaranteed under the Constitution and statutes of the United States; and
- c. is suffering or has suffered monetary damages and other harm.

62. If not enjoined by this Court, Defendants and/or their agents will continue to effect the aforementioned deprivations and abridgments of Plaintiff's constitutional rights, thereby causing him to suffer irreparable harm.

COUNT TWO

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

63. Plaintiff re-alleges and incorporates by reference all allegations contained in the foregoing paragraphs of this Complaint as if fully set forth herein.

64. The Fourteenth Amendment of the United States Constitution guarantees due process to persons facing deprivation of liberty or property by state actors. *See Mathews v. Eldridge*, 424 U.S. 319, 348–49 (1976).

65. Additionally, public-sector unions and public employers have a responsibility to provide procedures that minimize constitutional impingement inherent in compelled association and speech and that facilitate the protection of public employees' rights. *See Chi. Tchr. Union, Loc. No. 1 v. Hudson*, 475 U.S. 292, 307 & n.20 (1986).

66. Defendants have not implemented policies and procedures that are narrowly tailored to reduce the impingement on Plaintiff's constitutional rights, including the constitutionally required procedures and disclosures regarding the use of union dues or fees taken from him as recognized in *Hudson*.

67. Defendants have not provided Plaintiff with notice of or a meaningful opportunity to object to the continued seizure of a portion of his wages via payroll deductions by District or the use of his monies by Defendant Unions.

68. Plaintiff has never waived his due process rights, including his right not to subsidize the speech and activities of Defendant Unions.

69. As a result of Defendants' failure to provide procedural safeguards to protect Plaintiff's due process rights, Plaintiff is now forced to pay fees, even though he is a nonmember of Defendant Unions.

70. As a direct result of Defendants' concerted actions, taken pursuant to state law, their CBA, and their joint policies and practices, Plaintiff:

a. is being prevented from exercising his rights and privileges to disassociate from and no longer support the agenda, activities, speech, and expenses of a private organization that he objects to supporting;

b. is being deprived of his civil rights guaranteed under the Constitution and statutes of the United States and has suffered monetary damages and other harm; and

c. is in imminent danger of suffering irreparable harm, damage, and injury inherent in the violation of First and Fourteenth Amendment rights for which there is no adequate remedy at law.

71. If not enjoined by this Court, Defendants and/or their agents will continue to effect the aforementioned deprivations and abridgments of Plaintiff's constitutional rights, thereby causing him irreparable harm.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court order the following relief:

A. **Declaratory:** A judgment based upon the actual, current, and *bona fide* controversy between the parties as to the legal relations among them, pursuant to 28 U.S.C. § 2201 and Federal Rule of Civil Procedure 57, declaring:

i. that Defendants' actions in forcing Plaintiff, as a nonmember, to provide ongoing financial support to Defendant Unions, and Sections 201 and 208 of the Taylor Law, to the extent they relate to, authorize, and/or require Defendants to do so, on their face and/or as applied, violate the First and Fourteenth Amendments of the United States Constitution;

ii. that any taking of union dues or fees from Plaintiff after his resignation of membership in Defendant Unions and without proper constitutional notice and waiver violates his rights under the First and Fourteenth Amendments of the United States Constitution, and that any provisions in the Taylor Law, the CBA, or any other purported authorizations that allow or require such deductions of union dues or fees are unconstitutional;

iii. or, alternatively, that the First and Fourteenth Amendments require Defendant Unions to provide Plaintiff with constitutionally adequate notice and a

meaningful opportunity to object to the nonconsensual monies being seized from his wages and the purposes for which the monies are used, including the notice and procedures required by *Hudson*.

B. **Injunctive:** A permanent injunction requiring Defendants, their officers, employees, agents, attorneys, and all others acting in concert with them:

i. not to enforce against Plaintiff any provisions in the Taylor Law, the CBA, or any other purported authorizations for deducting dues that require him to provide financial support of Defendant Unions and/or their affiliates after resignation of his union membership without proper constitutional notice and waiver, or to otherwise engage in conduct or enforce any provisions of the Taylor Law or the CBA declared unconstitutional under Part A;

ii. not to collect any money from Plaintiff in the form of union dues or fees through deductions from his wages or any other manner, or otherwise to seek to enforce the terms of any purported authorizations for deducting dues;

iii. or, alternatively, to provide constitutionally adequate notice and procedures regarding the District's payroll deductions of forced financial support for Defendant Unions from Plaintiff's wages.

C. **Monetary:** A judgment against Defendants awarding Plaintiff nominal and compensatory damages for the injuries sustained as a result of Defendants' unlawful interference with and deprivation of his constitutional and civil rights including, but not limited to, the amount of dues deducted from his wages after his resignation of union membership, plus interest thereon, and such amounts as principles of justice and compensation warrant.

D. **Attorneys' Fees and Costs:** A judgment awarding Plaintiff costs and reasonable attorneys' fees under 42 U.S.C. § 1988; and

E. **Other:** Such other and further relief as the Court may deem just and proper.

Respectfully submitted,

Dated: June 2, 2021

s/ Tyler K. Patterson

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*motion for admission *pro hac vice* to be filed