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and Stephen Catanese*

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA
HARRISBURG DIVISION

FRANCISCO MOLINA,

Plaintiff,

v.

PENNSYLVANIA SOCIAL SERVICE
UNION, SERVICE EMPLOYEES
INTERNATIONAL UNION, LOCAL 668;
STEPHEN CATANESE, in his official
capacity as President of Pennsylvania
Social Service Union, Service Employees
International Union, Local 668; and
LEHIGH COUNTY BOARD OF
COMMISSIONERS,

Defendants.

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

**MOTION TO DISMISS BY
DEFENDANTS SEIU LOCAL 668
AND STEPHEN CATANESE**

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

Defendants Pennsylvania Social Service Union, Service Employees International Union, Local 668 (“Local 668”), and Stephen Catanese (collectively “Union Defendants”) respectfully move this Court to dismiss in part the claims against Local 668 set forth in plaintiff’s First Amended Complaint pursuant to Fed. R. Civ. P. 12(b)(1), and to dismiss the claims against Mr. Catanese set forth in plaintiff’s First Amended Complaint pursuant to Fed. R. Civ. P. 12(b)(6). As explained in the Union Defendants’ accompanying memorandum of points and authorities, plaintiff’s claims for prospective declaratory and injunctive relief should be dismissed for lack of jurisdiction under Rule 12(b)(1) because there is no live controversy with respect to those claims; plaintiff’s claims for retrospective monetary relief must be dismissed for lack of jurisdiction under Rule 12(b)(1) to the extent those claims are premised on Local 668’s alleged receipt of dues following plaintiff’s resignation from the union, because plaintiff has already received all of the relief potentially available on those claims; and plaintiff’s claims against Stephen Catanese should be dismissed under Rule 12(b)(6) because Mr. Catanese is sued solely in his official capacity and plaintiff’s claims against Mr. Catanese are therefore entirely duplicative of plaintiff’s claims against Local 668. The Union Defendants’ motion is based upon this motion; the accompanying memorandum of points and authorities, proposed order, and Declaration of Claudia Lukert; such further pleadings as may be filed in connection with this motion; and the complete files and records of the Court in this matter.

The undersigned counsel certifies, pursuant to Middle District Local Rule 7.1, that the Union Defendants have sought plaintiff’s concurrence in this motion, which has been denied.

Dated: March 4, 2019

Respectfully Submitted,

/s/P. Casey Pitts

P. Casey Pitts (CA262463)

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