

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

DAN SICKMAN, et al.	:	CIVIL ACTION
	:	
	:	
	:	
v.	:	
	:	
	:	
COMMUNICATIONS WORKERS OF	:	
AMERICA, LOCAL 13000, et al.	:	NO. 99-5582

MEMORANDUM

Padova, J. **September , 2000**

Before the Court are Plaintiffs’ Motion for Judgment on the Pleadings and Defendants’ Motion to Join Additional Parties. For the reasons that follow, the Court will grant Plaintiffs’ Motion and dismiss the counterclaim with prejudice. This disposition renders Defendants’ Motion to Join Additional Parties moot.

I. Procedural History

On November 10, 1999, Plaintiff Dan Sickman (“Sickman”), along with class representatives Steve P. Gramiak, Jr. and Edward P. Murray, filed a Complaint and Motion for Injunctive Relief against Defendants Communications Workers of America, Local 13000 (“Local 13000,” “Local,” or “Union”) and the individual members of the union’s election committee (“Election Committee”) purportedly on behalf of himself and the class of Union members who signed petitions nominating Sickman as a candidate for Local secretary-treasurer in the Union’s 1999 general officer election pursuant to Title I of the Labor-Management Reporting and Disclosure Act (“LMRDA”), 29 U.S.C.

§ 411, and section 301 of the Labor-Management Relations Act, 29 U.S.C. § 185.¹ Plaintiffs claimed that Defendants violated their rights under Title I to vote and nominate candidates by refusing to place Sickman's name on the ballot. Plaintiffs requested entry of an order directing Defendants to list Sickman as a candidate for the office of Local secretary-treasurer on the election ballot and enjoining them from taking any action to remove him from the ballot.

On November 12, 1999, the parties entered into a Consent Order based on Plaintiffs' Motion for Injunctive Relief under which Defendants took the proper administrative and clerical actions to ensure that the election could proceed in a timely fashion with Sickman listed as a candidate on the ballot. Following a hearing, the Court granted Plaintiffs' Motion by Order dated and directed the Election Committee to place Sickman on the ballot. Sickman ultimately lost the election, obtaining only 14% of the overall vote.

Defendants subsequently appealed the Court's Order granting Plaintiff's Motion for Injunctive Relief. The case was placed in civil suspense on April 5, 2000, pending issuance of the appellate decision. On August 4, 2000, the United States Court of Appeals for the Third Circuit affirmed the Court's Memorandum and Order in an unreported opinion.

II. Legal Standard

Federal Rule of Civil Procedure 12(c) allows a party to move for judgment on the pleadings “[a]fter the pleadings are closed but within such time as not to delay the trial.” Fed. R. Civ. P. 12(c). Under Rule 12(c), the court cannot grant judgment on the pleadings “unless the movant clearly establishes that no material issue of fact remains to be resolved and that he is entitled to judgment

¹Plaintiffs also filed a Motion to Recuse that the court denied by Order on November 17, 1999.

as a matter of law.” Kruzits v. Okuma Machine Tool, Inc., 40 F.3d 52, 54 (3d Cir. 1994)(quoting Society Hill Civic Assoc. v. Harris, 632 F.2d 1045, 1054 (3d Cir. 1980)).

III. Discussion

Defendants’ Answer asserts a counterclaim alleging that Sickman, along with Joseph Gallagher (“Gallagher”), former candidate for Local President, and Elizabeth Denn (“Denn”), former candidate for Vice-President², accepted unlawful contributions in aid of their candidacies in violation of Title IV of the LMRDA, 29 U.S.C. §481(g). Defendants theorize that such conduct infringed the Union members’ Title I rights to nominate and express opinions about candidates.³

Plaintiffs now seek dismissal of Defendants’ counterclaim. Plaintiffs argue that the Court lacks subject matter jurisdiction over Defendants’ counterclaim since Title IV of the LMRDA, not Title I, prohibits receipt of employer funds and courts lack jurisdiction to decide issues arising under Title IV. Even if the counterclaim raises Title I issues, Plaintiffs contend that the Court lacks jurisdiction because the election is over. The Court agrees.

While Title I provides union members with equal rights to vote and nominate candidates, Title IV of the LMRDA regulates the procedural conduct of elections for union officers, including

²Denn and Gallagher were Sickman’s running-mates during the election. Defendants also move to join Denn and Gallagher as Defendants to the counterclaim.

³Defendants’ Answer states:

In accepting these contributions and the attendant advantages arising from such unlawful contributions, Daniel Sickman infringed the Title I rights of fellow [Union] members . . . “to nominate candidates” and “to express . . . views, arguments, or opinions” regarding such candidates, as other members were significantly and materially limited by the proscriptions set forth in the statute.

(Answer at 15 ¶ 8).

methods of campaign financing. 29 U.S.C. §§ 411(a), 481 (1994); Local No. 82, Furniture and Piano Moving, Furniture Store Drivers, Helpers, Warehousemen and Packers v. Crowley, 467 U.S. 526, 539 (1984). Whereas plaintiffs may sue in federal court to vindicate rights guaranteed under Title I, Title IV contains its own set of comprehensive administrative procedures to enforce its standards that first requires grievants to exhaust internal union remedies before filing a complaint with the Secretary of Labor. 29 U.S.C. § 482(a) (1994); Crowley, 467 U.S. at 536. The Secretary of Labor must then investigate the complaint and retains sole power to bring a civil action against the union to set aside the election and direct and supervise a new election. 29 U.S.C. § 482(b) (1994); Trbovich v. Mine Workers, 404 U.S. 528, 531 (1972). Courts otherwise lack subject matter jurisdiction over issues arising under Title IV, regardless of whether the action is initiated before or after the election. Kraska v. United Mine Workers of America, 686 F.2d 202, 205-6 (3d Cir. 1982). Clearly, Defendants' allegations that Sickman accepted unlawful contributions in support of his candidacy directly implicate Title IV, notwithstanding Defendants' creative attempt to characterize the wrongful acceptance of contributions as constituting an issue of discrimination under Title I. The Court, therefore, lacks jurisdiction to determine whether Sickman accepted employer contributions in violation of Title IV.

The Court rejects Defendants' argument that the Court need not address the merits of whether Sickman actually accepted any unlawful contributions, but rather simply enjoin any potential future acceptance of such contributions as violating Title I.⁴ To obtain injunctive relief, a movant must demonstrate the existence of an irreparable harm that is not speculative. Adams v. Freedom Forge

⁴Defendants request the Court permanently enjoin Sickman from accepting unlawful contributions in aid of his candidacy for Local 13000 office. (Answer at 17).

Corp., 204 F.3d 475, 488 (3d Cir. 2000); Council of Alternative Political Parties v. Hooks, 121 F.3d 876, 879 (3d Cir. 1997). Any determination of irreparable harm would be unduly speculative without a concurrent determination that the defending party likely engaged in the allegedly wrongful conduct.

Even if Defendants' counterclaim raises Title I issues, the Court would nonetheless lack subject matter jurisdiction. Title IV also contains an exclusivity provision that bars Title I relief once an election has been completed. Crowley, 467 U.S. at 541. The election in this case concluded by December, 1999. Even relief under Title I, therefore, is foreclosed.

For the foregoing reasons, the Court concludes that subject matter jurisdiction over Defendants' counterclaim is lacking. The Court, therefore, grants Plaintiffs' Motion and dismisses the counterclaim with prejudice. Accordingly, Defendant's Motion to Join Additional Parties is moot. An appropriate Order follows.