JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. SACV 13-676-JLS (CWx) Date: December 5, 2013
Title: Rebecca Friedrichs, et al. v. California Teachers Ass'n, et al.

Present: **Honorable JOSEPHINE L. STATON, UNITED STATES DISTRICT JUDGE**

Terry Guerrero	N/A
Deputy Clerk	Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF:	ATTORNEYS PRESENT FOR DEFENDANT:
Not Present	Not Present

PROCEEDINGS: (IN CHAMBERS) ORDER GRANTING MOTION FOR JUDGMENT ON THE PLEADINGS (DOC. 81) AND VACATING MOTION FOR PRELIMINARY INJUNCTION (DOC. 71)

Before the Court is Plaintiffs' Motion for Judgment on the Pleadings, requesting that judgment be entered in favor of Defendants. (Mot., Doc. 81, "Motion".) Defendants filed an opposition, and Plaintiffs replied. (Def. Opp'n, Doc. 90; Reply, Doc. 91.) Following an order of certification made pursuant to Federal Rule of Civil Procedure 5.1(b) and 28 U.S.C. § 2403(b), the Government intervened and, on November 25, 2013, filed a response to the Motion. (Docs. 94, 102; Gov't Opp'n., Doc. 104.) Having reviewed the papers and taken the matter under submission, the Court GRANTS Plaintiffs' Motion and enters judgment on the pleadings in favor of Defendants. Plaintiffs' pending Motion for Preliminary Injunction is VACATED as moot. (Doc. 71.)[1]

I. Background

Under California law, a union is allowed to become the exclusive bargaining representative for public school employees in a bargaining unit such as a public school district by submitting proof that a majority of employees in the unit wish to be represented by the union. Cal. Gov't. Code § 3544(a). Once a union becomes the

[1] Plaintiffs and Defendants stipulated that the Motion for Preliminary Injunction "should be vacated if the Court enters judgment on the pleadings." (Doc. 88 at 1-2.)

exclusive bargaining representative within a district, it may establish an "agency-shop" arrangement with that district, whereby all employees "shall, as a condition of continued employment, be required either to join the recognized employee organization or pay the fair share service fee." *Id*. § 3546(a). This "agency fee" is usually the same amount as the union dues. (Compl., Doc. 1 ¶ 52.)[2]

California law limits the use of agency fees to activities "germane" to collective bargaining. *Id*. § 3546(b). Each year, unions must estimate the portion of expenses that do not fall into this category for the coming year, based on the non-chargeable portion of a recent year's fee. Regs. of Cal. Pub. Emp't. Relations Bd. § 32992(b)(1). After the union has made this determination, it must send a notice to all non-members setting forth both the agency fee and the non-chargeable portions of the fee. Cal. Gov't. Code § 3546(a); Regs. of Cal. Pub. Emp't Relations Bd. § 32992(a). If non-members do not wish to pay the non-chargeable portions of the fee—i.e., the portions of the fee going to activities not "germane" to collective bargaining—they must notify the union after receipt of the notice. Regs. of Cal. Pub. Emp't. Relations Bd. § 32993. Non-members who provide this notification receive a rebate or fee-reduction for that year. Cal. Gov't Code § 3546(a).

Plaintiffs are (1) public school teachers who have resigned their union membership and object to paying the non-chargeable portion of their agency fee each year, and (2) the Christian Educators Association International, a non-profit religious organization "specifically serving Christians working in public schools." (Compl. ¶¶ 11-20.) Defendants are (1) local unions for the districts in which the individual plaintiffs are employed as teachers and the superintendents of those local unions, (2) the National Education Association, and (3) the California Teachers Association. (*Id*. ¶¶ 22-23, 34-44.)

Plaintiffs claim that "[b]y requiring Plaintiffs to make any financial contributions in support of any union, California's agency shop arrangement violates their rights to free speech and association under the First and Fourteenth Amendments to the United States Constitution," and that "[b]y requiring Plaintiffs to undergo 'opt out' procedures to avoid

[2] When ruling on a motion for judgment on the pleadings, the Court accepts as true the factual allegations in the complaint. *Fleming v. Pickard*, 581 F.3d 922, 925 (9th Cir. 2009).

making financial contributions in support of 'non-chargeable' union expenditures, California's agency-shop arrangement violates their rights to free speech and association under the First and Fourteenth Amendments to the United States Constitution." (*Id*. ¶¶ 89, 92.)

Plaintiffs move for judgment on the pleadings, but in Defendants' favor. Although Plaintiffs are not clear on whether they are asking the Court to grant or deny their Motion, Plaintiffs are clear that they are asking the Court to enter judgment in favor of Defendants. (*Compare* Mot. at 1 ("Plaintiffs concede that this Court should deny their Motion and, instead, grant judgment on the pleadings to Defendants" (emphasis removed)) *with* Proposed Order, Doc. 81-1 at 1 (requesting that the Motion be "GRANTED in favor of Defendants.").) Accordingly, the Court construes the Motion such that granting the Motion would allow judgment to be entered in favor of Defendants.

II. Legal *Standard*

"After the pleadings are closed—but early enough not to delay trial—a party may move for judgment on the pleadings." Fed. R. Civ. P. 12(c). Motions for judgment on the pleadings are governed by the same standards applicable to Rule 12(b)(6) motions to dismiss. *Cafasso v. General Dynamics C4 Systems*, 637 F.3d 1047, 1054, n. 4 (9th Cir. 2011). The Court "must accept all factual allegations in the complaint as true and construe them in the light most favorable to the non-moving party." *Fleming v. Pickard*, 581 F.3d 922, 925 (9th Cir. 2009). "Judgment on the pleadings is proper when the moving party clearly establishes on the face of the pleadings that no material issue of fact remains to be resolved and that it is entitled to judgment as a matter of law." *Hal Roach Studios v. Richard Feiner & Co.*, 896 F.2d 1542, 1550 (9th Cir. 1989).

III. Discussion

Plaintiffs urge the Court to enter judgment on the pleadings in favor of Defendants, contending that Plaintiffs' claims are "presently foreclosed by" *Abood v. Detroit Board of Education*, 431 U.S. 209 (1977) and *Mitchell v. Los Angeles Unified*

School District, 963 F.2d 258 (9th Cir. 1992). (Mot. at 2.)[3] In *Abood*, the Supreme Court upheld the constitutional validity of compelling employees to support a particular collective bargaining representative and rejected the notion that the only funds from nonunion members that a union constitutionally could use for political or ideological causes were those funds that the nonunion members affirmatively consented to pay. 431 U.S. at 222, 225,235-36. The *Mitchell* court, following *Abood*, held that the First Amendment did not require an "opt in" procedure for nonunion members to pay fees equal to the full amount of union dues under an agency shop arrangement. *See* 963 F.2d at 260-62 (citing and discussing the "long line of Supreme Court cases" that support the constitutional validity of an opt-out system based on a nonmember's expressed objection). The parties do not dispute that *Abood* and *Mitchell* foreclose Plaintiffs' claims, and the Court agrees that these decisions are controlling. (*See* Mot. at 2; Def. Opp'n at 14; Gov't Opp'n at 4-5, 9.)

Accordingly, the Court grants Plaintiffs' Motion and enters judgment on the pleadings in favor of Defendants.

IV. Conclusion

For the foregoing reasons, Plaintiffs' Motion for Judgment on the Pleadings is GRANTED. Judgment is entered in favor of Defendants. Plaintiffs' Motion for Preliminary Injunction is VACATED as moot.

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[3] Plaintiffs' ultimate aim—and thus their request for judgment on the pleadings in favor of Defendants—is to have these precedents overturned on appeal. (*See* Mot. at 9; *see also* Motion for Preliminary Injunction, Doc. 71 at 1.)