

EMPLOYEE SUES FOR UNION TO REPRESENT HER IN LAWSUIT AGAINST EMPLOYER



A woman brought charges against her employer, but her return trips to court were not because she was suing her boss, but on account of the lawsuit that she had filed against her union for refusing to represent her in the case. The woman's union, the Office and Professional Employees International Union (OPEIU), informed her in June 2007 that it would not continue to pursue her complaint against the employer. The woman countered with a suit alleging employment discrimination violating the California Fair Employment and Housing Act. She asserted that the OPEIU had "failed and refused to fairly, properly, fully, adequately or accurately provide her with quality representation in her claims against her employer" and "denied her representation and discriminated against her because of her race... and her disability." She had originally filed state law claims, which would be a civil action, but the case was removed to a federal district court pursuant to the Labor Management Relations Act (or the Taft-Hartley Act), which stipulates that any action dealing with contracts between an employee and a labor organization is a federal matter. In this case, the court found that the charges against the



union were closely related to the terms of the labor contract.

The woman referred to prior cases to support her claim against the union, but the court was not swayed, as the cases she cited were ones in which employers had been sued, not unions. Consequently, the other cases had no link to rights associated with the collective bargaining agreement (a summary of the union's duties to its members) and could not be used as examples to validate her argument. The district court further noted that the claim against OPEIU was not filed in a timely manner. The woman did not file the suit until March 2009, nearly two years after the union told her that it would no longer represent her with regard to the action. The statute of limitations for such a claim is only six months. In response, she believed that she was entitled to equitable tolling, which would essentially waive the statute of limitations, because she had made considerable effort to resolve the dispute and avoid litigation. She had indeed filed with the Department of Fair Employment and Housing (DFEH), but she had received a right-to-sue letter from the DFEH in March 2008. Even taking the later date into consideration, she had bypassed the statute of limitations. Having rejected the plaintiff's citations of previous cases and further denying her equitable tolling for the statute of limitations, the district court deemed the claim untimely and granted summary judgment in favor of the union. The woman appealed the decision. The U.S. Court of Appeals for the Ninth Circuit reviewed the case and agreed with the district court on all counts. As a result, the appeals court affirmed the grant of summary judgment.