

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

CLARENCE BROWN, :  
 :  
 Plaintiff, :  
 :  
 v. : No. 3:03CV2193 (DJS)  
 :  
 HANDY & HARMAN and UNITED :  
 STEELWORKERS OF AMERICA LOCAL :  
 7201, :  
 :  
 Defendants. :

MEMORANDUM OF DECISION AND ORDER

\_\_\_\_\_Plaintiff, Clarence Brown, brings this action against Handy & Harman and the United Steelworkers of America Local 7201 alleging various causes of action relating to the termination of his employment three months before his thirtieth year of service. Defendant the United Steelworkers of America Local 7201 ("the Union") has filed a motion to dismiss (dkt. # 21) Count Six of the Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. For the reasons set forth herein, the Union's motion is **GRANTED**.

**I. BACKGROUND**

Brown began working with Handy & Harman on March 13, 1973. His tenure as an employee ended on December 13, 2002, when his job was eliminated and he was terminated. When Brown's employment ended, he was three months shy of reaching thirty years of service, which, had he reached this mark, would have enhanced his retirement benefits. Brown alleges that Handy &

Harman terminated his employment as a result of unlawful discrimination, and that the Union breached its duty to fairly represent him by failing to secure the pension benefits he did not receive and by failing to place him in a position that survived the layoffs at Handy & Harman.

## II. DISCUSSION

The Union contends that Brown's claim that the Union breached its duty to fairly represent Brown is time-barred.

### A. STANDARD

When considering a Rule 12(b)(6) motion to dismiss, the court accepts as true all factual allegations in the complaint and draws inferences from these allegations in the light most favorable to the plaintiff. See Scheuer v. Rhodes, 416 U.S. 232, 236 (1974); Bernheim v. Litt, 79 F.3d 318, 321 (2d Cir. 1996). Dismissal is warranted only if, under any set of facts that the plaintiff can prove consistent with the allegations, it is clear that no relief can be granted. See Hishon v. King & Spaulding, 467 U.S. 69, 73 (1984); Cooper v. Parsky, 140 F.3d 433, 440 (2d Cir. 1998). "The issue on a motion to dismiss is not whether the plaintiff will prevail, but whether the plaintiff is entitled to offer evidence to support his or her claims." United States v. Yale New Haven Hosp., 727 F. Supp. 784, 786 (D. Conn. 1990) (citing Scheuer, 416 U.S. at 232). In its review of a motion to dismiss, the court may consider "only the facts alleged in the

pleadings, documents attached as exhibits or incorporated by reference in the pleadings and matters of which judicial notice may be taken." Samuels v. Air Transport Local 504, 992 F.2d 12, 15 (2d Cir. 1993).

#### B. STATUTE OF LIMITATIONS

Brown's claim that the Union breached its duty to fairly represent Brown is time-barred. The Supreme Court has described a union's duty to fairly represents its members as follows:

The duty of fair representation exists because it is the policy of the National Labor Relations Act to allow a single labor organization to represent collectively the interests of all employees within a unit, thereby depriving individuals in the unit of the ability to bargain individually or to select a minority union as their representative. In such a system, if individual employees are not to be deprived of all effective means of protecting their own interests, it must be the duty of the representative organization "to serve the interests of all members without hostility or discrimination toward any, to exercise its discretion with complete good faith and honesty, and to avoid arbitrary conduct."

DelCostello v. International Broth. of Teamsters, 462 U.S. 151, 165 n.14 (1983) (quoting Vaca v. Sipes, 386 U.S. 171, 177 (1967)). In the opinion deciding that same case, the Supreme Court held that the applicable statute of limitations for these claims is the six-month limitations period set forth in 29 U.S.C. § 160(b). DelCostello, 462 U.S. at 171. Because the Union must have breached its duty to Brown before December 13, 2002, which is the date Brown's employment was terminated, and he filed his complaint on November 11, 2003, his fair representation claim

against the Union is time-barred.

### III. CONCLUSION

For the above reasons, the United Steelworkers of America Local 7201's motion to dismiss (dkt. # 21) is **GRANTED**. Count Six of the Complaint is **DISMISSED** with prejudice.

So ordered this 11th day of March, 2005.

/s/DJS

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DOMINIC J. SQUATRITO  
UNITED STATES DISTRICT JUDGE