

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

-----X	
ANNE E. HARHAY,	:
	:
Plaintiff,	:
	:
v.	: Civ. No. 3:00CV00365 (AWT)
	:
MAURICE W. BLANCHETTE, WILLIAM	:
R. HARFORD, GARY J. BLANCHETTE,	:
CYNTHIA A. HEIDARI, DONALD WEEKES,	:
KENNETH J. BRENNAN, SUSAN J.	:
LUGINBUHL, JOHN O'SHAUGHNESSY,	:
WENDY J. CIPARELLI, RICHARD	:
CURREY, BOARD OF EDUCATION OF THE	:
TOWN OF ELLINGTON, and RICHARD	:
E. PACKMAN,	:
	:
Defendants.	:
	:
-----X	

ENDORSEMENT ORDER

The defendants' Motion for Judgment as a Matter of Law/Supplemental Motion for Summary Judgment (Doc. No. 25) is hereby DENIED, and the defendants' Supplemental Motion for Summary Judgment (Doc. No. 39) is also hereby DENIED.

As an initial matter, the court notes that parties may not as a matter of right file successive motions for summary judgment. When the court denied the defendants' first motion for summary judgment with respect to the First Count, it did so based on the arguments and supporting papers submitted by the parties in connection with that motion. The defendants, as the moving party, had the initial burden of establishing that there

were no genuine issues of material fact and that the undisputed facts showed that they were entitled to judgment as a matter of law, and the court concluded that "the defendants have not established that the plaintiff failed to exhaust available administrative remedies." Ruling on Mot. for Summ. J. (Doc. No. 19 at 10). The defendants did not seek or obtain permission to file successive motions for summary judgment, and their success on their interlocutory appeal did not create a right for them to do so. Thus, their motions should be denied for this reason alone.

Nonetheless, it is noteworthy that, in their fourth motion for summary judgment, the defendants raise a new point in support of their argument that the plaintiff failed to exhaust administrative remedies, i.e. that the plaintiff did not bring a claim against her union for a breach of the duty of fair representation. The defendants cite to certain decisions by the Connecticut Appellate Court in support of their position. See Stosuy v. Stamford, 65 Conn. App. 221, 223 (2001); Saccardi v. Bd. of Educ., 45 Conn. App. 712, 722 (1997). Both of those cases make reference to terms of the collective bargaining agreement involved in the case. The plaintiff does not attempt, in her opposition, to distinguish those cases or to show how the collective bargaining agreement in this case is different from the collective bargaining agreements in those cases, and neither

party has submitted to the court a copy of the pertinent provisions of the collective bargaining agreement involved in this case. In light of the foregoing, the court is issuing an order declining to exercise jurisdiction over the state law claim in the First Count.

It is so ordered.

Dated this 31st day of March 2006, at Hartford,
Connecticut.

/s/Alvin W. Thompson

Alvin W. Thompson
United States District Judge