

**Catania v Liriano**

2020 NY Slip Op 35519(U)

November 6, 2020

Supreme Court, Bronx County

Docket Number: Index No. 21709/2019E

Judge: Julia I. Rodriguez

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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF THE BRONX

-----X **Index No. 21709/2019E**

Patricia Catania,  
Plaintiff,

-against-

DECISION & ORDER

Mercedes Liriano, William Woodruff,  
Jacinth Scott, Jasmine Dickson,  
Janella Hinds, United Federation of Teachers  
Union,

Defendants.

Present:  
Hon. Julia I. Rodriguez  
Supreme Court Justice

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Recitation, as required by CPLR 2219(a), of the papers considered in review of Defendants William Woodruff, Jacinth Scott and United Federation of Teachers Union (UFT Defendants)' motion to dismiss the amended complaint pursuant to CPLR 3211(a)(7).

<u>Papers Submitted</u>	<u>Numbered</u>
<b>Notice of Motion, Memorandum of Law in Support</b>	<b>1</b>
<b>Pl. Notice of Cross-Motion &amp; Affirmation in Support of Cross-Motion &amp; in Opp. To Motion</b>	<b>2</b>
<b>Memorandum of Law in Support of Cross-Motion</b>	<b>3</b>
<b>Memorandum of Law in Further Support of Motion &amp; in Opposition to Pl. Cross-Motion</b>	<b>4</b>
<b>Pl. Memorandum of Law in Reply</b>	<b>5</b>

In the instant action, plaintiff alleges seventeen causes of action in connection with an alleged conspiracy by defendants to ruin the career of plaintiff, a public school principal, and to cost her the benefit of a high-paying position by, among other things, allegedly planting false stories about her in the media, which stories portrayed plaintiff as a racist, holding raucous rallies and protests at her place of work, and sending "goon squads" to her place of employment to intimidate her.

Defendants William Woodruff, Janella Hinds and United Federation of Teachers Union ("UFT") (collectively "the UFT Defendants") now move for an Order dismissing the complaint pursuant to CPLR 3211(a)(7).

Plaintiff cross-moves for an Order declaring Section 13 of the New York General Associations Law to be unconstitutional under the New York State and/or United States Constitution and/or to be otherwise unlawful as drafted.

In sum, the UFT Defendants contend that the complaint fails to set forth any viable causes of action against the UFT Defendants because: (1) Plaintiff has failed to allege that each member of the UFT ratified the actions alleged in the complaint, which is a required element for any claim of liability against an unincorporated membership organization such as the UFT; (2) many of the statements that form the basis of Plaintiff's causes of action constitute protected union activity; (3) to hold the UFT liable would have a chilling effect on the recognized right to criticize government, the right to mutual aid and to form a union; and (4) none of the UFT Defendants may be sued in their individual capacities.

As an initial matter, the Court declines to entertain Plaintiff's cross-motion seeking declaratory relief as Plaintiff fails to allege a cause of action for declaratory relief in her complaint. In any event, Plaintiff essentially seeks to overturn the Court of Appeals precedent set forth in *Martin v. Curran*, 303 N.Y. 276, 101 N.E.2d 683 (1951), wherein the Court interpreted Section 13 of the General Association Law as precluding a contract or tort action against a labor union or its officers unless the individual liability of every member of the union could be proved. While the Court of Appeals has questioned the "continued utility or wisdom" of the so-called *Martin* rule, it has declined to overrule this precedent finding that "the adoption of a rule that does away with *Martin* is best left to the legislature." *Palladino v. CNY Centro, Inc.*, 23 N.Y.3d 140, 152, 989 N.Y.S.2d 438 (2014).

All of Plaintiff's causes of action against the UFT Defendants sound in either contract or tort. As such, Plaintiff was required to plead that each individual UFT member authorized or ratified the unlawful actions, which she did not, and admittedly could not, do. *Martin v. Curran, supra*. Also, contrary to Plaintiff's contentions, all of the allegations against the individual defendants, William Woodruff and Janella Hinds, involve alleged conduct in their capacity as UFT officers and, therefore, they cannot be held liable to Plaintiff in their individual capacity.

*Duane Reade, Inc. v. Local 338 Retail, Wholesale, Dept. Store, UFCW, AFL-CIO*, 17 A.D.3d 277, 794 N.Y.S.2d 25 (1<sup>st</sup> Dept. 2005).

Based upon the foregoing, the UFT Defendants' motion for an Order dismissing the complaint, pursuant to CPLR 3211(a)(7), is **granted** and it is hereby

ORDERED that the First Amended Complaint is dismissed solely with respect to Defendants William Woodruff, Janella Hinds and United Federation of Teachers Union.

Plaintiff's cross-motion for declaratory relief is **denied**.

The Clerk is directed to enter judgment.

Dated: Bronx, New York  
November 6, 2020

  
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Hon. Julia I. Rodriguez, J.S.C.