

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Mark R. Scirocco/061192013
SCIROCCO LAW, PC
143 Washington Street
Morristown, NJ 07960
(973) 691-1188
Mark@sciroccoesq.com
Attorney for Plaintiff Nicolo Giangrasso

Nicolo Giangrasso,	Case No.
Plaintiff,	
v.	
United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, Local 9; and Hamilton Township Board of Education, Mercer County,	Complaint
Defendants.	

Plaintiff Nicolo Giangrasso, with a post office address of 130 Concord Avenue, Trenton, NJ, hereby alleges as follows:

1. Government employees have a First Amendment right not to be compelled to join a union or pay any dues or fees to that union as a condition of their public employment.

2. Plaintiff Nicolo Giangrasso is employed by Defendant Hamilton Township Board of Education, Mercer County (the "School District"). He submitted a written resignation of his membership to Defendant United Association of Journeymen and

Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, Local 9 (“UA Local 9”) and a request that dues deductions cease. UA Local 9 refused his request, contending that Mr. Giangrasso was required to pay money to the union as a condition of his employment, and the School District has continued to withhold union dues from his paycheck.

3. The continued withholding of union dues and fees from Mr. Giangrasso’s wages by UA Local 9 and the School District violates his First Amendment rights.

Parties

4. Plaintiff Nicolo Giangrasso is a plumber employed by the School District. Mr. Giangrasso resides in Trenton, NJ.

5. Defendant UA Local 9 is a labor union that is the exclusive bargaining representative for a unit of employees, including plumbers like Mr. Giangrasso, of the Hamilton Township School District. UA Local 9’s offices are located at 2 Iron Ore Road, Englishtown, New Jersey 07726.

6. Defendant Hamilton Township Board of Education, Mercer County operates the Hamilton Township School District, a public school district and public employer in Hamilton, New Jersey. The Board’s offices are located at 90 Park Avenue, Hamilton, New Jersey 08690.

Jurisdiction and Venue

7. This case raises claims under the First and Fourteenth Amendments of the United States Constitution and 42 U.S.C. § 1983. The Court has subject-matter jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. § 1343.

8. Venue is proper because a substantial portion of the events giving rise to the claims occurred in the District of New Jersey. 28 U.S.C. § 1391(b)(2).

Facts

9. Mr. Giangrasso began employment with the Hamilton Township School District in August 2013. Around that time, he signed a union membership agreement and dues checkoff authorization.

10. Mr. Giangrasso is a public employee. He has an employment contract with the School District. He receives state pension and health benefits through the School District.

11. The School District withholds union dues from Mr. Giangrasso's paychecks on behalf of UA Local 9 pursuant to N.J. Stat. Ann. § 52:14-15.9e.

12. In June 2018, the Supreme Court issued its landmark decision in *Janus v. AFSCME*, which recognized that the First Amendment protects public employees' right to choose whether to join or financially support a union. 585 U.S. 878 (2018). The Court held that public employers may not deduct union dues or fees from an employee's wages unless the employee "affirmatively consents" to waive that First Amendment right. *Id.* at 930.

13. After learning of his rights under *Janus*, Mr. Giangrasso sent letters to UA Local 9 and the School District requesting to withdraw his union membership and stop dues deductions.

14. In response, UA Local 9 sent Mr. Giangrasso a letter denying his request, asserting that *Janus* (and the First Amendment) does not apply, and that Mr. Giangrasso is required to pay dues to the union as a condition of his employment.

15. On May 2, 2024, counsel for Mr. Giangrasso sent a letter to UA Local 9 requesting that UA Local 9 cease its dues deduction. *See Exhibit A.*

16. Counsel for UA Local 9 responded via letter on May 10, 2024, refusing to stop deductions, asserting that "the deductions of which you speak are not the dues addressed in *Janus*, [but] assessments" and that "it cannot reasonably be alleged that Mr. Giangrasso's First Amendment rights under *Janus* are implicated by such

assessments deducted by his employer.” Counsel also attempted to distinguish *Janus* by stating that its relationship with the School District “is analogous to that of employment agency vendor and customer.” **Exhibit B.**

17. No representative of UA Local 9 has ever indicated to Mr. Giangrasso that his request to stop the withholding of union dues from his paycheck was untimely, did not meet the requirements under the dues deduction authorization he signed, or that it was otherwise insufficient under N.J. Stat. Ann. § 52:14-15.9e. Rather, at all times, UA Local 9 has maintained that Mr. Giangrasso *must pay union dues as a condition of his employment.*

18. The School District has continued to take dues from Mr. Giangrasso’s wages on behalf of the union to this day.

Cause of Action

UA Local 9 and the School District violated Mr. Giangrasso’s First Amendment rights by withholding union dues from his wages as a condition of his employment

19. The allegations contained in all preceding paragraphs are incorporated herein by reference.

20. The First Amendment prohibits a public employer and union from requiring an employee to pay union dues or other money to a union as a condition of employment. Public employers and unions may not collect union dues or fees from a public employee’s wages unless the employee “affirmatively consents” to waive his First Amendment right not to financially support the union. *Janus*, 585 U.S. at 930.

21. Mr. Giangrasso is employed by the School District, yet he has been prohibited from stopping the withholding of union dues from his paycheck after he resigned his union membership by AU Local 9, who has insisted that union dues are a condition of his employment. The School District has continued to withhold dues from Mr. Giangrasso’s paycheck despite his union membership resignation.

24. By continuing to deduct and collect union dues from Mr. Giangrasso's wages regardless of his affirmative consent, Defendants, under color of state law, have violated and continue to violate Mr. Giangrasso's First Amendment rights.

Prayer for Relief

Plaintiff Nicolo Giangrasso respectfully requests that this Court:

- a. Declare that Defendants' deduction of union dues and fees from Mr. Giangrasso's wages as a condition of his employment violates his First Amendment rights;
- b. Enjoin UA Local 9 and the School District from deducting or collecting union dues and fees from Plaintiff's wages;
- c. Award damages against UA Local 9 for all dues and fees collected from Plaintiff since he resigned his union membership and requested to stop paying union dues;
- d. Award Plaintiff his costs and attorneys' fees under 42 U.S.C. § 1988; and
- e. Award any further relief to which Plaintiff may be entitled.

Dated: August 1, 2024

Respectfully submitted,

/s/ Mark. R. Scirocco

Jeffrey M. Schwab
(IL Bar. No. 6290710)*
Liberty Justice Center
13341 W. U.S. Highway 290
Building 2
Austin, TX 78737
512-481-4400
jschwab@libertyjusticecenter.org

Mark R. Scirocco/061192013
SCIROCCO LAW, PC
143 Washington Street
Morristown, NJ 07960
973-691-1188
Mark@Sciroccoesq.com

Attorneys for Plaintiff

*motion for admission *pro hac vice* to be submitted

Giangrasso v. UA Local 9 et al.
Complaint

Exhibit A



May 2, 2024

Via email

Michael K. Maloney
Business Manager, Secretary-Treasurer:
Plumbers and Pipefitters UA Local 9
2 Iron Ore Rd @ Route 33
Englishtown, NJ 07726
mmaloney@ualocal9.org

Dear Mr. Maloney:

This firm represents Nicolo Giangrasso, a plumber employed by Hamilton Township School District, who is in the bargaining unit represented by UA Local 9.

Despite clearly being a public employee, shortly after beginning his employment, Mr. Giangrasso was told by representatives of UA Local 9 that he was required to join UA Local 9 and pay union dues.

Subsequently, Mr. Giangrasso learned that he has a First Amendment right not to be forced to join or pay money to a union as a condition of his employment with a public entity, such as Hamilton Township School District. When he submitted a written request to discontinue his union membership and union dues, he was told that the First Amendment, and specifically *Janus v. AFSCME*, did not apply because UA Local 9 is a private sector union. UA Local 9 refused to honor Mr. Giangrasso's request.

However, the Supreme Court in *Janus v. ASCME* and other cases involving government employees has been very clear that the First Amendment applies to government employees who may not be compelled to join or pay a union as a condition of their employment. Whether the union representing the bargaining unit of a government employer also represents employees of private-sector entities is irrelevant.

Further, the Supreme Court's decision in *Janus v. AFSCME* made clear that for a government employer to deduct union dues from an employee's payment, that employee must have "clearly and affirmatively" consented to the deduction.

Because Mr. Giangrasso was told that he must join UA Local 9 or lose his government job and subsequently was told that he may not opt out of union membership or dues, he could not have provided clear and affirmative consent. UA Local 9 gave him no choice but to join and pay the union. Thus, the withholding of union dues from his paycheck violated his First Amendment rights under *Janus*.

Therefore, I request that UA Local 9 provide notice to Hamilton Township School District that any union dues or fees shall immediately stop being withheld from Mr. Giangrasso's paycheck. In addition, UA Local 9 must reimburse Mr. Giangrasso for the dues withheld from his paycheck for the last two years.

If you do not comply with this request, Mr. Giangrasso is prepared to pursue litigation both to cease collection of union dues and fees and to recover dues and fees wrongfully taken from him.

I look forward to your prompt response.

Sincerely,

A handwritten signature in black ink, appearing to read 'JSW', with a long horizontal flourish extending to the right.

Jeffrey Schwab
Senior Counsel

Giangrasso v. UA Local 9 et al.
Complaint

Exhibit B

PELETTIERI
RABSTEIN & ALTMAN
ATTORNEYS AT LAW

Main Office: 989 Lenox Drive
Lawrenceville, New Jersey 08648
Mailing Address: CN 5301
Princeton, New Jersey 08543-5301
(609) 520-0900 • Fax (609) 896-1265
Email: pra@pralaw.com
www.pralaw.com

May 10, 2024

Via Regular Mail

Jeffrey Schwab, Senior Counsel
Liberty Justice Center
440 North Wells Street, Suite 200
Chicago, IL 60654

**RE: Plumbers and Pipefitters Local 9
Nicolo Giangrasso**

Dear Mr. Schwab:

The undersigned is counsel for Plumbers and Pipefitters UA Local 9 ("Local 9"). I received your May 2, 2024 letter to Michael Maloney, Local 9's Business Manager.

For the record, there are material factual inaccuracies concerning Mr. Giangrasso in your letter, which inaccuracies I have not corrected herein. Hopefully, however, Mr. Giangrasso told you that prior to his employment by Hamilton Township School District, he was a member of Local 9 for approximately four years before being re-initiated in 2013.

Local 9 is well aware of Janus, the facts of which are materially different from the circumstances of your client. For example, the deductions of which you speak are not the dues addressed in Janus. Rather, here they are assessments, and it cannot reasonably be alleged that Mr. Giangrasso's First Amendment rights under Janus are implicated by such assessments deducted by his employer. Also, the relationship between Local 9 and the School District in Mr.

PELLETTIERI, RABSTEIN & ALTMAN

Jeffrey Schwab, Senior Counsel
May 10, 2024
Page 2

Giangrasso's case is analogous to that of employment agency vendor and customer, which relationship, indisputably, was not addressed by the Supreme Court in Janus.

The situation here not being on all fours with Janus, Local 9 declines to comply with your requests.

If you wish to discuss this matter, please email me at awatson@pralaw.com to schedule a time to speak or call me directly at 609-520-0900.

Very truly yours,
PELLETTIERI, RABSTEIN & ALTMAN



ANDREW L. WATSON, ESQUIRE

ALW:jmj

cc: Michael Maloney, Business Manager, Plumbers and Pipefitters Local 9,
via electronic mail