

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

PHILLIP GALLANT, )  
 )  
 Plaintiff )  
 )  
 v. ) Civil No. 95-0218-B  
 )  
 LOCAL S/6 IUMSWA/IAMAW, et al., )  
 )  
 Defendants )

***RECOMMENDED DECISION***

This action arises out of Plaintiff's termination from employment with Defendant Bath Iron Works ["BIW"] in 1994. It is what is known as a "hybrid" action brought under section 301 of the Labor Management Relations Act, 29 U.S.C. § 185. This means simply that Plaintiff has sued his former employer under section 301, in conjunction with a breach of the duty of fair representation claim against the Union. *Graham v. Bay State Gas Co.*, 779 F.2d 93, 94 (1st Cir. 1985).

On January 22, 1996, this Court affirmed the undersigned's recommendation that the Union's Motion for Summary Judgment be granted for Plaintiff's failure to file this action within the limitations period provided in the Labor Management Relations Act, 29 U.S.C. § 160(b). That statute of limitations applies equally to Plaintiff's claims against his employer, who now moves for summary judgment. *Graham*, 779 F.2d at 94. Accordingly, for the reasons set forth in the Recommended Decision relating to the Union's Motion for Summary Judgment, (Docket No. 10), I hereby recommend Defendant Bath Iron Works' Motion for Summary Judgment be GRANTED.

NOTICE

A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) (1988) for which *de novo* review by the district court is sought, together with a supporting memorandum, within ten (10) days of being served with a copy thereof. A responsive memorandum shall be filed within ten (10) days after the filing of the objection.

Failure to file a timely objection shall constitute a waiver of the right to *de novo* review by the district court and to appeal the district court's order.

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Eugene W. Beaulieu  
United States Magistrate Judge

Dated in Bangor, Maine on March 6, 1996.