

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 12-7020

September Term, 2012

1:11-cv-00768-BJR

Filed On: November 1, 2012

Keisha Long,

Appellant

v.

Safeway, Inc. and United Food & Commercial
Workers Union Local 400,

Appellees

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLUMBIA**

BEFORE: Henderson, Rogers, and Tatel, Circuit Judges

J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the briefs filed by the parties. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

ORDERED AND ADJUDGED that the district court's order filed February 3, 2012, be affirmed. Appellant has failed to state a claim against appellees. See Fed. R. Civ. P. 12(b)(6). Appellant has failed to state a claim against the Union for breach of the duty of fair representation because appellant has not alleged conduct on the part of the Union "so far outside a 'wide range of reasonableness' . . . as to be irrational." Air Line Pilots Ass'n, Int'l v. O'Neill, 499 U.S. 65, 67 (1991) (citation omitted). Because appellant has failed to state a claim of breach of the duty of fair representation against the Union, she has also failed to state a claim against appellee Safeway, Inc. for breach of the collective bargaining agreement. See DelCostello v. Int'l Brotherhood of Teamsters, 462 U.S. 151, 165 (1983).

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Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/

Jennifer M. Clark

Deputy Clerk