

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

|                              |   |                 |
|------------------------------|---|-----------------|
| EQUAL EMPLOYMENT OPPORTUNITY | : | CIVIL ACTION    |
| COMMISSION, et al.           | : |                 |
|                              | : |                 |
| vs.                          | : | NO. 05-CV-03389 |
|                              | : |                 |
| CONECTIV, et al.             | : |                 |

**O R D E R**

AND NOW, this 23<sup>rd</sup> day of July, 2007, it is hereby ORDERED that the Motions of Defendants Ironworkers Local Union 36 and International Brotherhood of Electrical Workers Local 375 for Reconsideration (Documents #138 and 139) are GRANTED.<sup>1</sup>

The cross- motion of the Defendant Matrix Services Industrial Contractors for summary judgment {Doc. #92} is DENIED.

The cross-motion of the Defendant Conectiv for summary judgment {Doc. #97} is DENIED.

BY THE COURT:

S/THOMAS M. GOLDEN  
THOMAS M. GOLDEN, J.

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<sup>1</sup> Individual Plaintiffs James Slater and Keith Riddick allege that they were subject to racial harassment while they were working at a construction site controlled by Defendant Conectiv in Bethlehem, Pennsylvania. The harassment allegedly consisted of racial graffiti on bathroom walls, racial jokes and derogatory racial statements. Slater and Riddick have asserted claims against their respective labor unions for violations of Title VII and 42 U.S.C. § 1981. They have also asserted a claim for intentional infliction of emotional distress. A labor union may only be held liable under Title VII if the Union itself instigated or actively supported the discriminatory acts, or if it refuses to process grievances either because of the race of the member filing the grievance or the content of the grievance concerns allegations of racial discrimination. Anjelino v. New York Times, 200 F.3d 73, 95-96 (3d Cir. 1999); EEOC v. Pipefitters Association Local No. 597, 334 F.3d 656 (7<sup>th</sup> Cir. 2003); Thorn v. Amalgamated Transit Union, 305 F.3d 826 (8<sup>th</sup> Cir. 2002). Labor unions do not have an affirmative duty to investigate and take steps to remedy employer discrimination. Id. Upon further review of the record, the Court finds that there is no evidence that either Union instigated or actively supported the alleged discriminatory acts or refused to process a grievance on behalf of Slater or Riddick because of their race. Indeed there is no evidence in the record that either Slater or Riddick even filed a grievance with their respective Unions or complained to a union official. At best, the record reveals the Unions engaged in non-actionable passive acquiescence of the alleged racial harassment. Accordingly, the Union Defendants are entitled to judgment as a matter of law.