

STATE OF MICHIGAN
COURT OF APPEALS

DALE ABRONOWITZ,

Plaintiff-Appellant,

v

UAW LOCAL 2256, UAW REGION 1-C, and
CITY OF LANSING,

Defendants-Appellees.

UNPUBLISHED
February 24, 2009

No. 283197
Ingham Circuit Court
LC No. 07-000748-NZ

Before: Donofrio, P.J., and K. F. Kelly and Beckering, JJ.

PER CURIAM.

Plaintiff, proceeding in propria persona, appeals as of right from a circuit court order granting defendants' motions for summary disposition with respect to plaintiff's complaint alleging claims for breach of a collective bargaining agreement by his employer, the City of Lansing, and breach of the duty of fair representation by the union defendants. Because plaintiff failed to exhaust administrative remedies and failed to assert correction of such failure by amendment, we affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

The trial court granted summary disposition because plaintiff failed to exhaust his internal union remedies before filing suit. We review the trial court's decision de novo. *Murad v Professional & Admin Union Local 1979*, 239 Mich App 538, 541, 547; 609 NW2d 588 (2000). Summary disposition may be granted under MCR 2.116(C)(10) when "there is no genuine issue of material fact, and the moving party is entitled to judgment . . . as a matter of law."

Plaintiff does not dispute the accuracy of the trial court's statement that exhaustion of internal union remedies is a threshold requirement for filing suit. He relies on *Vaca v Sipes*, 386 US 171; 87 S Ct 903; 17 L Ed 2d 842 (1967), but that decision addresses a different, albeit related issue, specifically breach of the duty of fair representation as an excuse for failure to exhaust remedies provided in a collective bargaining agreement. Although plaintiff discusses the perceived injustices in his treatment, he neglects to address the applicable legal standard for excusing exhaustion of internal union remedies. Even if we were to interpret his references to "animus" as an assertion of "hostility" that may excuse exhaustion of internal union remedies under *Murad, supra*, plaintiff failed to allege or present evidence of hostility permeating every step of the internal appeals process as necessary to excuse exhaustion. See *Hammer v Int'l*

Union, United Auto, Aerospace & Agricultural Implement Workers of America, 178 F3d 856, 859 (CA 7, 1999). Thus, summary disposition of plaintiff's claims was appropriate.

Additionally, the trial court's failure to address plaintiff's request to amend his complaint does not warrant relief on appeal. As in *Manuel v Gill*, 270 Mich App 355, 382; 716 NW2d 291 (2006), aff'd in part and rev'd in part on other grounds, 481 Mich 637 (2008), plaintiff did not specify how he intended to amend his complaint or what an amendment would accomplish. Although he asserts on appeal that an amended complaint "would add even more grievous acts of discrimination against him by the Union(s) and by the City which have occurred *since* the appellant's filing of his original complaint," such an amendment would not correct the deficiency that was the basis of the trial court's grant of summary disposition, i.e., failure to exhaust internal union remedies. Where an amendment would be futile, a trial court's failure to specify its reason for denying a motion to amend does not require reversal. *Sharp v City of Lansing*, 238 Mich App 515, 522-523; 606 NW2d 424 (1999), aff'd in part and rev'd in part on other grounds, 464 Mich 792 (2001).

Affirmed.

/s/ Pat M. Donofrio
/s/ Kirsten Frank Kelly
/s/ Jane M. Beckering