

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

7
8 KARLENE K. PETITT,

9 Plaintiff,

10 v.

11 AIR LINE PILOTS ASSOCIATION,

12 Defendant.

NO. C20-1093RSL

ORDER GRANTING
DEFENDANT'S MOTION TO
DISMISS

13
14
15 This matter comes before the Court on “Defendant Air Line Pilot Association’s Motion to
16 Dismiss Amended Complaint.” Dkt. # 14. Plaintiff alleges that the Air Line Pilot Association
17 (“ALPA”) breached the duty of fair representation it owed her as a union member under the
18 Railway Labor Act. Plaintiff asserts, among other things, that ALPA (a) failed to represent her at
19 an October 15, 2019, hearing in which it sided with the airline in opposing plaintiff’s grievance
20 and (b) allowed language to be incorporated into the arbitrator’s decision that prejudiced her
21 AIR 21 whistleblower claim. Plaintiff further alleges that, but for ALPA’s breach of the duty of
22 fair representation (“DFR”), she “would never have been forced into a psychiatric evaluation for
23 reporting safety [violations], if so, she would have only have lost a month of her career, not two
24 years, she would have had her AIR 21 ruling by May 1, 2020, and would not have had to face
25 extensive attorney bills to save her career and defend against Delta’s frivolous motion based
26
27

28 ORDER GRANTING DEFENDANT’S
MOTION TO DISMISS - 1

1 upon the Wallin[] January 27, 2020 ruling.” Dkt. # 4 at ¶ 164. Defendant seeks dismissal of all
2 of plaintiff’s claims on the ground that the alleged facts do not state a breach of the duty of fair
3 representation claim for which monetary damages can be granted.

4
5 In the context of a motion to dismiss, the Court’s review is generally limited to the
6 contents of the complaint. *Campanelli v. Bockrath*, 100 F.3d 1476, 1479 (9th Cir. 1996).
7 Nevertheless, Ninth Circuit authority allows the Court to consider documents referenced
8 extensively in the complaint, documents that form the basis of plaintiff’s claim, and matters of
9 judicial notice when determining whether the allegations of the complaint state a claim upon
10 which relief can be granted under Fed. R. Civ. P. 12(b)(6). *U.S. v. Ritchie*, 342 F.3d 903, 908-09
11 (9th Cir. 2003). The collective bargaining agreement and the record of the relevant grievance
12 and arbitration proceedings are referenced in the complaint, form the basis of plaintiff’s claims,
13 and have been cited by both parties in their memoranda. The Court will therefore consider these
14 documents in determining whether plaintiff has stated a viable cause of action.
15

16 The question for the Court on a motion to dismiss is whether the facts alleged in the
17 complaint sufficiently state a “plausible” ground for relief. *Bell Atl. Corp. v. Twombly*, 550 U.S.
18 544, 570 (2007).
19

20 A claim is facially plausible when the plaintiff pleads factual content that allows
21 the court to draw the reasonable inference that the defendant is liable for the
22 misconduct alleged. Plausibility requires pleading facts, as opposed to conclusory
23 allegations or the formulaic recitation of elements of a cause of action, and must
24 rise above the mere conceivability or possibility of unlawful conduct that entitles
25 the pleader to relief. Factual allegations must be enough to raise a right to relief
26 above the speculative level. Where a complaint pleads facts that are merely
27 consistent with a defendant’s liability, it stops short of the line between possibility
28 and plausibility of entitlement to relief. Nor is it enough that the complaint is
factually neutral; rather, it must be factually suggestive.

1 *Somers v. Apple, Inc.*, 729 F.3d 953, 959-60 (9th Cir. 2013) (internal quotation marks and
2 citations omitted). All well-pleaded factual allegations are presumed to be true, with all
3 reasonable inferences drawn in favor of the non-moving party. *In re Fitness Holdings Int’l, Inc.*,
4 714 F.3d 1141, 1144-45 (9th Cir. 2013). If the complaint fails to state a cognizable legal theory
5 or fails to provide sufficient facts to support a claim, dismissal is appropriate. *Shroyer v. New*
6 *Cingular Wireless Servs., Inc.*, 622 F.3d 1035, 1041 (9th Cir. 2010).

8 Having considered the Amended Complaint and the memoranda, declarations, and
9 exhibits submitted by the parties, and drawing all reasonable inferences in favor of plaintiff, the
10 Court finds as follows:

11 **A. Limitations Period**

12 The Amended Complaint contains a “History of Events” dating back to 2011. Dkt. # 4 at
13 ¶¶ 9-153. The only events and actions that arguably fall within the six-month limitations period
14 for a DFR claim relate to the October 2019 arbitration and the resulting award. *See West v.*
15 *Conrail*, 481 U.S. 35, 37-38 (1987); *DelCostello v. Int’l Bhd. of Teamsters*, 462 U.S. 151, 155
16 (1983). Plaintiff is barred from pursuing a DFR claim arising from events occurring prior to the
17 October 2019 arbitration. There is no indication that plaintiff was unaware of the earlier events
18 (such as ALPA’s alleged mishandling of Grievance 16-11), and a time-barred claim is not
19 revived simply because plaintiff later learns of additional impacts of the underlying events.

20 **B. Duty of Fair Representation**

21 The United States Supreme Court has long recognized that a labor organization has a
22 statutory duty of fair representation that requires it “to serve the interests of all members without
23 hostility or discrimination toward any, to exercise its discretion with complete good faith and
24 honesty, and to avoid arbitrary conduct.” *Vaca v. Sipes*, 386 U.S. 171, 177 (1967). *See also*

1 *Steele v. Louisville & Nashville R. Co.*, 323 U.S. 192, 203 (1944). Plaintiff alleges that ALPA
2 violated this duty in two respects: (1) by failing to object to certain statements made by Delta
3 during an October 2019 arbitration and (2) by failing to prevent the inclusion of unnecessary
4 (and potentially prejudicial) statements in the arbitration award. Each allegation is considered
5 below.

7 **1. Failure to Object**

8 In his preliminary letter brief and during his initial statements at the arbitration, Delta's
9 counsel, Jeffrey D. Wall, requested "that all proceedings of this Board be conducted on the
10 record, including preliminaries and housekeeping matters that would typically be done off the
11 record, as well as any side bars between the Board, counsel, handling of objections, and other
12 procedural matters as we move forward." Dkt. # 15 at 77-78. After addressing a number of
13 issues including the scope of the arbitration, admission of evidence, the timeliness of the
14 grievances, the substantive arbitrability of the issues presented, and the facts underlying the
15 grievances, the arbitrator noted that he had "a number of impressions" but had not yet had an
16 opportunity to discuss them with the rest of the Systems Board Members. Dkt. # 15 at 116.

17 While the arbitrator did not think the Board would have those discussions on the record, he gave
18 Delta's counsel an opportunity to explain his initial request that all proceedings be recorded. In
19 response, Delta's counsel stated:

22 This proceeding here, in the view of Delta Air Lines, is not a proceeding in which
23 the Association and Delta are necessarily opposing parties. First Officer Petitt has
24 repeatedly criticized, and I would suggest even defamed representatives of the
25 Association, including representatives of the national organization for ALPA, local
26 counsel for ALPA, and other ALPA representatives, including what's known as
27 AMAS, of ALPA Aeromedical.

1 Ms. Petitt has also seen fit to personally attack representatives of Delta , and has
2 made false statements that question both the ethics and the conduct of Delta
3 representatives, including myself and other attorneys, agents, medical
4 professionals involved in this process.

5 I would suggest the Association refrains from saying this to the Board, and so I
6 will say it. It is our belief that the Association is in grave jeopardy in this
7 proceeding of a duty of fair representation claim to be made by Ms. Petitt. She has
8 employed her own counsel at various stages of this process, has used this process
9 publicly, very publicly, to attack Delta Air Lines, its reputation, and certain
officers and other former employees of Delta Air Lines.

10 Dkt. # 15 at 116-17. Delta’s counsel urged the arbitration panel to conduct the proceedings with
11 the utmost transparency, recording all deliberations that occurred during the hearing so that Ms.
12 Petitt would be fully informed and there would be a complete record on review. *Id.* at 118. The
13 arbitrator then requested a ten minute break in the proceedings to “sit here and think about things
14 for a while.” *Id.* He promised not to discuss what he had heard with other Board Members and
15 invited them to leave the hearing room. *Id.* at 118-19.

17 When the hearing reconvened, the arbitrator offered “a series of thoughts, perhaps
18 impressions, perhaps inclinations, perhaps leanings, and perhaps tendencies, based on what
19 [he’d] heard thus far.” *Id.* at 119. In his estimation, the claims asserted in two prior grievances
20 had been finally resolved and were not subject to arbitration, the new evidence discovered in the
21 separate AIR 21 whistleblower proceeding was simply additional support for the claims that
22 were finally resolved in the two prior grievances, Ms. Petitt was on inquiry notice of all of her
23 claims more than 120-days before the grievances were filed, and the arbitration panel did not
24 have jurisdiction to hear or decide any of the claims asserted in the AIR 21 whistleblower
25 proceeding. *Id.* at 119-26. ALPA, through attorney Jeffrey Loesel, requested another break in the
26 proceeding. *Id.* at 119-26. ALPA, through attorney Jeffrey Loesel, requested another break in the
27 proceeding. *Id.* at 119-26. ALPA, through attorney Jeffrey Loesel, requested another break in the

1 proceedings in order to talk with Ms. Petitt, then argued that, even if there were areas of overlap
2 between the withdrawn grievances and those currently at issue, the arbitration panel needed to
3 hear all of the evidence before determining which claims were precluded and which were
4 sufficiently separable to be decided on the merits in the arbitration.. *Id.* at 126-27. The arbitrator
5 invited ALPA to show how the claims presented in the current matter differed from that which
6 was involved in Ms. Petitt’s earlier grievances. *Id.* at 128-29.

8 Mr. Loesel then proceeded to discuss the claims at issue in the arbitration, attempting to
9 show that some of the claims had never been raised before and that others, while having some
10 overlap with prior grievances, were actually distinct violations of the collective bargaining
11 agreement that were unknown to Ms. Petitt prior to November 2018. *Id.* at 130-32; 135-38; 141-
12 45. When the arbitrator expressed skepticism that any remedy was available for the new
13 violations alleged, ALPA pushed back, identifying a number of adverse consequences Ms. Petitt
14 suffered as a result of the violations and the delay in resolving the underlying Section 15 process.
15 *Id.* at 132-35; 145-47. Delta, addressing the delay issue, represented that it had sought to
16 expedite resolution of the various grievances, but that “at every juncture, First Officer Petitt
17 refused, and declined, and manipulated the process to avoid arbitration of her claims.” *Id.* at 138.
18 ALPA again pushed back, showing instances where Delta’s delay in responding prevented
19 grievances from moving forward toward adjudication. *Id.* at 139-40.

22 Despite Mr. Loesel’s efforts, the arbitrator remained unconvinced. *Id.* at 147-48. After
23 another brief recess to consult with Ms. Petitt, counsel again requested that he be permitted to
24 put on evidence so that the arbitration panel had a clear understanding of the full scope of the
25 issues in the various grievances. *Id.* at 149. The arbitration panel met in executive session and
26 determined that the hearing should be recessed until the issues related to arbitrability were
27

1 decided: evidence on the merits of the grievances would not be taken unless and until the panel
2 determined that one or more issues were arbitrable. *Id.* at 152. At ALPA’s request, Ms. Petitt
3 was given the opportunity to address the arbitration panel and provide context for her various
4 grievances. *Id.* at 153-65. The proceeding was then adjourned.

5
6 Plaintiff alleges in the Amended Complaint that Delta counsel’s statement that the
7 arbitration “is not a proceeding in which the Association and Delta are necessarily opposing
8 parties” constituted a representation that Delta and ALPA jointly opposed her grievances and led
9 to the arbitrator’s unfavorable rulings on the issues of timeliness and arbitrability. Dkt. # 4 at
10 ¶ 163. She also argues that because ALPA did not object to or correct Delta’s representations
11 regarding (a) ALPA’s interactions with Ms. Petitt and (b) ALPA’s fear of a DFR claim, the
12 arbitrator was convinced of the truth of the statements. As evidence, Ms. Petitt asserts that the
13 arbitrator immediately took a recess to reflect on the fact that “both parties were on the same
14 side,” then refused to hear testimony and ruled against her on arbitrability. Dkt. # 19 at 13 and
15 16. Ms. Petitt also argues that ALPA breached its duty of fair representation by failing to object
16 to Delta’s assertion that any delays in the arbitration process were caused by Ms. Petitt. Dkt. # 15
17 at 138.
18
19

20 The record does not raise a plausible inference that the failure to object to the offending
21 statements breached ALPA’s duty of fair representation.

22 “A union breaches its duty of fair representation only if its conduct is arbitrary,
23 discriminatory, or in bad faith.” *Truesdell v. S. Cal. Permanente Med. Group*, 293
24 F.3d 1146, 1153 (9th Cir. 2002). Mere negligence in the handling of a grievance
25 does not breach the duty of fair representation. *See, e.g., Patterson v. Int’l Bhd. of*
26 *Teamsters, Local 959*, 121 F.3d 1345, 1349 (9th Cir. 1997); *Stevens v. Moore Bus.*
27 *Forms, Inc.*, 18 F.3d 1443, 1447 (9th Cir. 1994). The question of whether the
conduct is arbitrary is only relevant if the union’s conduct was procedural or

1 ministerial and did not require the exercise of judgment; otherwise, the employee
2 must show bad faith or discrimination. *See, e.g., Banks v. Bethlehem Steel Corp.*,
3 870 F.2d 1438, 1442 (9th Cir. 1989) (citing *Peterson v. Kennedy*, 771 F.2d 1244,
4 1254 (9th Cir. 1985)).

5 *Velez v. Int'l Longshoremen's & Warehousemen's Union*, 64 Fed. App'x 31, 32-33 (9th Cir.
6 2003). The dichotomy between procedural/ministerial acts and judgments about grievance
7 processing is not absolute, however, but “merely a convenient shortcut for segregating acts of
8 judgment from acts of nonjudgment.” *Peters v. Burlington N. R. Co.*, 914 F.2d 1294, 1300 (9th
9 Cir. 1990). “While some substantive decisions by unions can be undertaken indifferently enough
10 or recklessly enough to result in union liability, unions will not be liable for ‘actual, rational
11 attempts ... to properly interpret a collective bargaining agreement or otherwise handle a
12 grievance.’” *Breda v. Oregon Symphony Ass'n*, 928 F.2d 408, 1991 WL 36336, at *4 (9th Cir.
13 1991) (quoting *Peters*, 914 F.2d at 1300).

14
15 Applying these principles, it is clear that counsel’s in-the-moment decisions not to object
16 to Delta’s statements regarding the need to create a full and complete record of the proceedings
17 or the cause of the delay in the arbitration process involved the exercise of discretion and fall
18 squarely on the “judgment” side of the continuum. There was no set procedure to follow or
19 ministerial duty to perform, counsel’s decisions were well within the range of reasonable
20 conduct given the circumstances, there is no indication that Ms. Petitt identified a problem with
21 the statements or requested that counsel take corrective action,¹ and counsel’s overall conduct
22
23

24
25 ¹ Plaintiff asserts in her opposition memorandum that she “expressed to Loesel her grave concern
26 for the violation of professional ethics inherent in Wall’s opening statement.” Dkt. # 19 at 7. That
27 assertion is unsupported by a declaration or other evidence, and it is unclear what ethics violation is
alleged, how it relates to the claims asserted in this litigation, or what ALPA was supposed to do about
it.

1 during the arbitration reflects a fidelity to his client and her arguments that belies any argument
2 that he was indifferent or reckless. That Ms. Pettitt would have preferred a different, arguably
3 better, response to Delta’s statements does not give rise to an inference that counsel’s decisions
4 were arbitrary under governing Ninth Circuit law. *See Patterson*, 121 F.3d at 1349 (“A union
5 acts arbitrarily only if it shows an “egregious” or “reckless disregard” for the rights of its
6 members. . . . Further, “[w]e have never held that a union has acted in an arbitrary manner where
7 the challenged conduct involved the union’s judgment as to how best to handle a grievance.”)
8 (citations omitted); *Peterson*, 771 F.2d at 1254 (“[A] union’s conduct may not be deemed
9 arbitrary simply because of an error in evaluating the merits of a grievance, in interpreting
10 particular provisions of a collective bargaining agreement, or in presenting the grievance at an
11 arbitration hearing.”). Thus, Ms. Pettitt’s DFR claim related to counsel’s decisions not to object
12 during the arbitration hearing fails as a matter of law unless she has plausibly alleged bad faith
13 or discrimination. *See, e.g., Beck v. United Food & Com. Workers Union, Loc. 99*, 506 F.3d 874,
14 880 (9th Cir. 2007).

17 Plaintiff argues that she has adequately alleged discrimination in paragraphs 29 and 31 of
18 the Amended Complaint and/or through a July 2020 EEOC complaint and October 2020 lawsuit
19 alleging Title VII violations. The conclusory allegations of discriminatory animus in the
20 Amended Complaint are insufficient. In order to show that a union’s actions are discriminatory
21 for purposes of a DFR claim, plaintiff must provide “substantial evidence of discrimination that
22 is intentional, severe, and unrelated to legitimate union objectives.” *Amalgamated Ass’n of St.,*
23 *Elec. Ry. & Motor Coach Emps. v. Lockridge*, 403 U.S. 274, 301 (1971). Both of the instances of
24 discrimination alleged in the Amended Complaint involve events occurring long before the
25 October 2019 arbitration and persons other than attorney Loesel. Neither suggests, much less
26
27

1 raises a plausible inference, that counsel failed to object at the arbitration because of
2 discriminatory animus. Plaintiff cannot fill the gap with allegations of gender discrimination
3 asserted in another case. *See Petitt v. Air Line Pilots Association*, C20-1569RSL. Those
4 allegations are not part of the operative pleading in this case, and plaintiff has not sought to (and
5 in fact declined ALPA’s invitation to) amend this complaint to add allegations in support of a
6 gender discrimination claim.²

8 In order to support a DFR claim based on allegations of bad faith, the allegations must
9 give rise to a plausible inference that the union engaged in “fraud, deceitful action or dishonest
10 conduct.” *Humphrey v. Moore*, 375 U.S. 335, 348 (1964). Plaintiff argues that Loesel’s failure to
11 object to Delta’s statement that the arbitration was “not a proceeding in which the Association
12 and Delta are necessarily opposing parties” effectively conveyed to the arbitrator that both Delta
13 and ALPA opposed her grievances and, considered with “the history of ALPA’s unfavorable
14 treatment of” Ms. Petitt as described in the complaint, gives rise to a plausible inference that
15 ALPA engaged in deceit or dishonesty by conspiring with Delta to defeat its member’s
16 grievances. The Court disagrees. Delta’s comment came in the context of its request that, based
17 on plaintiff’s history of complaints regarding adverse actions/decisions and the persons involved,
18 the arbitration be conducted on the record as much as possible to provide maximum
19 transparency. The statement that ALPA and Delta are not “necessarily opposing parties”
20 involves the request for a full and complete record. It cannot reasonably or plausibly relate to the
21
22
23

24 ² Plaintiff rebuffed ALPA’s invitation to consolidate the two cases, instead declaring that her
25 complaint and response to this motion to dismiss set forth all of the facts necessary to determine the
26 viability of her DFR claim and requesting that this motion be resolved before consolidation is
27 considered. C20-1569RSL (Dkt. # 10 at 2 and 6). Plaintiff’s Title VII claim seeks compensatory and
28 punitive damages arising out of the same conduct at issue here and may proceed regardless of the
outcome of this motion.

1 ultimate the outcome of the arbitration. Other than the request for a comprehensive record,
2 virtually every other aspect of the case was contested. Mr. Loesel, representing plaintiff's
3 interests, presented thorough and focused arguments regarding timeliness and arbitrability in
4 both his initial letter memorandum and at the arbitration hearing. Although plaintiff surmises
5 that the arbitrator understood Delta's statement and Loesel's failure to object as a coded message
6 that the grievances should be rejected, the supposition is unreasonable where the parties spent
7 hours developing written and oral arguments in support of or in opposition to the grievances.
8 There is no indication that the arbitrator thought that ALPA and Delta were on the same side,
9 Mr. Loesel made substantial efforts to counter arguments raised by both Delta and the arbitrator,
10 and plaintiff does not identify any failure in ALPA's representation related to the issues that
11 were ultimately decided against her, namely timeliness and arbitrability. Plaintiff has not
12 plausibly alleged fraud, deceit, or dishonest conduct on the part of ALPA.
13
14

15 **2. Failure to Control or Edit the Language of the Arbitration Award**

16 At the outset of the arbitration proceeding, ALPA made clear that it and Ms. Petitt had
17 concerns about the scope of the issues presented. Ms. Petitt was pursuing a separate AIR 21
18 whistleblower proceeding that challenged Delta's motivation in subjecting Ms. Petitt to a
19 Section 15 procedure for perceived mental health issues. ALPA clarified that the issues
20 presented to the arbitration panel had to do with procedural violations during the Section 15
21 process, not Delta's motivation in initiating the process. Dkt. # 15 at 78. It specifically requested
22 that proposed exhibits related to the AIR 21 issues be excluded and that the inquiry during
23 arbitration be limited to the grievances at issue. *Id.* at 78. Delta concurred. *Id.* at 81.
24
25

26 As discussed above, the arbitration hearing adjourned on October 15, 2019, with the
27 understanding that the arbitration panel would determine whether the grievances at issue were

1 timely filed and arbitrable. On or about January 27, 2020, the arbitration panel³ issued an
2 “Opinion and Award” finding that grievance 18-13 was untimely filed and that grievance 19-05
3 was both untimely and substantively barred by the final and binding resolution of grievance 17-
4 14. *Id.* at 193-94. In order to make these rulings, the panel deemed it necessary to “not only
5 consider the two grievances, themselves, but also what influence there may be, if any, resulting
6 from the disposition of two earlier grievances filed by Grievant.” *Id.* at 186. On March 3, 2020,
7 Delta filed a motion in the AIR 21 proceeding arguing that language contained in the arbitration
8 award showed that Delta’s motivation for initiating the Section 15 process had been finally
9 determined in its favor in grievance 16-11, and that Ms. Petitt was therefore collaterally estopped
10 from relitigating that issue. Ms. Petitt apparently alerted the ALPA-appointed panel members of
11 what Delta was trying to do: they subsequently lodged a dissent objecting to the outcome of the
12 arbitration, the “extensive and unnecessary dicta” contained in the order, and the resulting ill-
13 advised interference in the safety culture embedded in the AIR 21 process. *Id.* at 196.
14
15

16 Ms. Petitt asserts a DFR claim against ALPA based on these events, alleging that the two
17 ALPA-appointed members of the arbitration panel “had a duty and obligation to request that the
18 language addressing Delta’s motive underlying the initiation of the Section 15 hearing, which
19 had nothing to do with the grievances before the board and could have a deleterious impact on
20
21

22 ³ The copy of the “Opinion and Award” in the record has two signature pages. Both pages have
23 five signature blocks, one for each member of the arbitration panel, but the first is signed only by the
24 neutral member and Chairman, Gerald E. Wallin. Dkt. # 15 at 194. The second signature page is signed
25 by all five members of the panel, but there is reason to believe that at least the ALPA-appointed
26 members signed after March 3, 2020. Their signature blocks refer to an attached dissent which was
27 written after Delta “attempted to submit a partially-executed version of this decision to the
28 Administrative Law Judge in an attempt to have the Grievant’s AIR21 case dismissed.” *Id.* at 195-96.

1 Petitt's AIR 21 claim, be removed from the ruling. . . . [A]t the very least a written dissent
2 objecting to [the] dictum regarding Delta's motivation should have been made. It was not." Dkt.
3 # 4 at ¶ 158. Plaintiff offers no source for the supposed duty of an ALPA-appointed panel
4 member to advocate for or otherwise favor the union member in arbitrations under the governing
5 collective bargaining agreement or federal labor law. In fact, the agreement makes clear that
6 each panel member, whether appointed by Delta or ALPA, is "free to discharge his duty in an
7 independent manner, without fear that his individual relations with the Company, the
8 Association or their employees may be affected in any manner or by any action taken by him in
9 good faith." Dkt. # 15 at 17. Nor does plaintiff allege or provide any indication that the ALPA-
10 appointed panel members drafted the offending language, realized the use to which Delta would
11 put it, or had the power to alter the "Opinion and Award." When they learned that Delta was
12 attempting to use the award to scuttle plaintiff's separate AIR 21 claim (despite its counsel's
13 agreement that the arbitration should have no impact on the AIR 21 proceeding), they lodged a
14 dissent clearly opposing the inclusion of the unnecessary language and Delta's decision to
15 repudiate its prior agreement. Given the circumstances, plaintiff has failed to raise a plausible
16 inference that ALPA's conduct related to the arbitration award was arbitrary, discriminatory, or
17 in bad faith.
18
19
20
21

22 For all of the foregoing reasons, defendant's motion to dismiss is GRANTED. Plaintiff
23 has not alleged facts that give rise to a plausible inference that ALPA breached its duty of fair
24 representation at the October 2019 arbitration or in the execution of the award. The claims
25 asserted in the Amended Complaint are therefore DISMISSED. Based on plaintiff's submission,
26
27

1 she apparently believes that Mr. Loesel failed to object at the arbitration and that the ALPA-
2 appointed members of the panel failed to champion her cause more aggressively in deliberations
3 because she is a woman, in breach of the union's duty of fair representation. If plaintiff can,
4 consistent with her Rule 11 obligations, amend the complaint to allege facts in support of such a
5 claim, she may, within fourteen days of the date of this Order, file a motion to amend and attach
6 a proposed pleading for the Court's consideration pursuant to LCR 15. Plaintiff's Title VII claim
7 remains pending before the Court under a separate cause number and need not be duplicated
8 here.
9

10
11 Dated this 17th day of May, 2021.

12 

13 Robert S. Lasnik
14 United States District Judge
15
16
17
18
19
20
21
22
23
24
25
26
27