

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-10522
Summary Calendar

ORALIA ESCAMILLA,

Plaintiff-Appellant,

versus

UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION
AFL-CIO CLC LOCAL # 514T; ETHICON INC,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 6:01-CV-11-C

November 22, 2002

Before DAVIS, WIENER and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Oralia Escamilla appeals from the granting of summary judgment denying her claims against her union and her employer. When contesting summary judgment, the non-movant must offer specific facts showing a genuine contest more than conclusional allegations, unsubstantiated assertions, or only a scintilla of evidence. Little v. Liquid Air Corp., 37 F.3d 1069, 1075 (5th Cir. 1994) (en banc). The nature of plaintiff's case makes the

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

showing of a union breach a prerequisite for recovery against both the union and the employer. DelCostello v. International Bhd. Of Teamsters, 462 U.S. 151, 165 (1983). A union breach of fair representation must be shown by "substantial evidence". Amalgamated Ass'n of Street, Elec. Ry. and Motor Coach Employees v. Lockridge, 403 U.S. 274, 299 (1971) (internal citation and quotation omitted). Because Escamilla fails to offer substantial evidence of the union breach, both of her claims must fail. Accordingly, we AFFIRM the district court's decision.

AFFIRMED.