

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Submitted July 14, 2026*

Decided July 14, 2026

Before

MICHAEL B. BRENNAN, *Chief Judge*

KENNETH F. RIPPLE, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

No. 25-1941

PETE R. SZMURLO,
Plaintiff-Appellant,

v.

TK ELEVATOR CORPORATION, et al.,
Defendants-Appellees.

Appeal from the United States District
Court for the Northern District of
Illinois, Eastern Division.

No. 24 C 09900

John J. Tharp, Jr.,
Judge.

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

ORDER

After Pete Szmurlo brought state tort law claims in state court against his former employer and union, the defendants removed the case based on the Labor Management Relations Act (LMRA). The district court later denied Szmurlo's motions to remand and eventually dismissed the complaint for failure to state a claim. We affirm.

Szmurlo used to work as an apprentice elevator mechanic for TK Elevator Corporation. Under the collective-bargaining agreement that governed Szmurlo's employment, TK Elevator had to send written warnings for unsatisfactory performance to both the employee and a representative of the union (International Union of Elevator Constructors Local 2).¹

In July 2023, TK Elevator did just that, according to notices and termination letters that Szmurlo attached to his complaint. (We take as true the facts alleged in his complaint and the exhibits attached to it, drawing reasonable inferences in his favor. *See Mack v. Resurgent Cap. Servs., L.P.*, 70 F.4th 395, 405 (7th Cir. 2023).) Citing Szmurlo's persistent tardiness, inadequate work product, and inability to take direction, the company sent Szmurlo and the union a letter warning him that he would be fired without immediate improvement. Three days later, the repair manager at TK Elevator fired Szmurlo—and notified his union—because he had failed to improve and missed two additional days of work. Szmurlo alleged that TK Elevator then updated his performance forms to show that he had issues with tardiness, taking direction, and a bad attitude. Szmurlo alleged further that TK Elevator echoed these statements at a hearing before the union. And he alleged that TK Elevator shared those performance forms with his former colleagues.

Around the same time, TK Elevator made similar criticisms of Szmurlo in a report that it filed with the Occupational Safety and Health Administration (OSHA). Szmurlo had complained to OSHA, alleging that mechanics at TK Elevator were not

¹ Szmurlo did not attach to his complaint a copy of the CBA, but he attached multiple letters from TK Elevator that cited provisions from the CBA. "A district court may consider documents attached to a motion to dismiss if the documents are referenced in the plaintiffs' complaint and are central to the claim." *Dean v. Nat'l Prod. Workers Union Severance Tr. Plan*, 46 F.4th 535, 543 (7th Cir. 2022). Because Szmurlo's complaint referred to the CBA and required the district court to interpret it, the court did not err in considering it without converting the motions to dismiss to motions for summary judgment.

installing clips according to the manufacturer's instructions. OSHA launched an investigation and invited TK Elevator to respond to the allegations. In its response, TK Elevator explained that Szmurlo was not fired for his report to OSHA but "for repeated tardiness, absences, and failure to follow direction."

In August 2024, Szmurlo sued TK Elevator, the union, and others in Illinois state court for defamation and intentional infliction of emotional distress.² He alleged that TK Elevator's repeated allegations of poor performance—to both the union and OSHA—were untrue, defamatory, and severely distressing.

In October 2024, the defendants removed the case to federal court on grounds that Szmurlo's claims were preempted by § 301(a) of the LMRA. Section 301 of the LMRA grants jurisdiction to federal courts to enforce collective bargaining agreements. *See* 29 U.S.C. § 185(a).

One month later, Szmurlo moved to remand the case to state court, arguing that the district court lacked subject matter jurisdiction over his state-law claims. The district court agreed with the defendants and denied the motion, deeming Szmurlo's claims preempted by the LMRA because they substantially depended on an analysis of the CBA. Regarding the defamation claim, the court explained the CBA would dictate whether TK Elevator had a legal duty to provide the union with the allegedly defamatory statements. As for the claim of intentional infliction of emotional distress, the court explained that a determination whether the defendants' conduct was "extreme and outrageous" may also depend on the meaning of the CBA. Szmurlo filed multiple motions further seeking remand, and the district court denied them all.

The district court then granted the defendants' motion to dismiss Szmurlo's complaint. *See* FED. R. CIV. P. 12(b)(6). The court concluded that (1) Szmurlo's complaint was untimely as to most of the allegedly defamatory statements; (2) the defendants were shielded by absolute privilege as to the remaining statements; (3) the complaint did not allege "extreme and outrageous" conduct rising to the level of intentional infliction of emotional distress; and (4) regardless, the LMRA barred Szmurlo's claims because the relevant statements were made according to the CBA.

² Because Szmurlo made allegations against only TK Elevator and the union, the district court dismissed the remaining defendants. Szmurlo does not challenge that ruling, so we say nothing further about it.

On appeal, Szmurlo does not engage with the district court's ruling on preemption and instead challenges primarily the district court's denial of his motions to remand. He maintains that his complaint raised no federal claims, only claims of defamation and intentional infliction of emotional distress under Illinois law.

The district court correctly determined that Szmurlo's state tort claims are preempted by § 301 of the LMRA. The Supreme Court has long recognized that Congress, through § 301 of the LMRA, so completely preempted the area of contracts between employers and labor organizers "that any civil complaint raising this select group of claims is necessarily federal in character." *Metro. Life Ins. Co. v. Taylor*, 481 U.S. 58, 63–64 (1987). "[W]hen resolution of a state-law claim is substantially dependent upon analysis of the terms of an agreement made between the parties in a labor contract, the plaintiff's claim is pre-empted by § 301 of the Labor Management Relations Act." *Int'l Bhd. of Elec. Workers, AFL-CIO v. Hechler*, 481 U.S. 851, 852–53 (1987) (citation modified). As the district court explained, Szmurlo's state tort claims depend substantially on the meaning of the CBA. For Szmurlo's defamation claims, the court would have to analyze whether the CBA required TK Elevator to publish its allegedly defamatory statements to the union because publication to a third party is an element of defamation in Illinois. *See Green v. Rogers*, 917 N.E.2d 450, 459 (Ill. 2009). As for the claim of intentional infliction of emotion distress, the court would have to determine whether TK Elevator's conduct was "truly extreme and outrageous," *Schweihs v. Chase Home Fin., LLC*, 77 N.E.3d 50, 62–63 (Ill. 2016), an inquiry that would require comparing the company's conduct with that allowed by the CBA. *Chapple v. Nat'l Starch & Chem. Co. & Oil*, 178 F.3d 501, 508 (7th Cir. 1999).

To the extent Szmurlo challenges the dismissal of his complaint, we also see no error. Most of TK Elevator's allegedly defamatory statements were made outside Illinois's one-year statute of limitations, which starts running at the time of publication. *See Ciolino v. Simon*, 192 N.E.3d 579, 583 (Ill. 2021). The remaining statement—one made to OSHA during an investigation into retaliation—was protected by absolute privilege because it was made during an investigation in a quasi-judicial proceeding. *See Razavi v. Sch. of the Art Inst. of Chi.*, 122 N.E.3d 361, 368–69 (Ill. App. Ct. 2018). And regarding his claim of intentional infliction of emotional distress, Szmurlo did not allege conduct that rose to the level of "extreme and outrageous" as required by Illinois law. *See Schweihs*, 77 N.E.3d at 62–63.

We have reviewed Szmurlo's remaining arguments, including his assertion that trial transcripts had been altered, and none has merit.

We close with a word about sanctions. Szmurlo has filed multiple lawsuits against the defendants in this case. In a separate lawsuit, the district court enjoined Szmurlo from filing any further lawsuits relating to his discharge from TK Elevator against any of the defendants here. *Szmurlo v. TK Elevator Corp.*, No. 25 C 07099, 2025 WL 2467498, at *3–4 (N.D. Ill. Aug. 27, 2025). We now warn Szmurlo that further repetitive and frivolous filings in this court may result in sanctions, including fines that, if unpaid, may result in a bar on filing papers in civil lawsuits in any court within this circuit. *See Support Sys. Int’l, Inc. v. Mack*, 45 F.3d 185, 186 (7th Cir. 1995).

AFFIRMED