

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 17 2018

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

DAVID STECKBECK; STEVEN ALBA;  
ROBERT BLEDSOE,

Plaintiffs-Appellants,

v.

BARTENDERS UNION LOCAL 165,

Defendant-Appellee.

No. 16-16923

D.C. No.

2:14-cv-00323-RFB-CWH

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Nevada  
Richard F. Boulware II, District Judge, Presiding

Submitted December 6, 2017\*\*  
San Francisco, California

Before: SCHROEDER and GOULD\*\*\*, Circuit Judges, and ELLIS,\*\*\*\* District

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

\*\*\* This case was submitted to a panel that included Judge Kozinski, who recently retired. Following Judge Kozinski's retirement, Judge Gould was drawn by lot to replace him. Ninth Circuit General Order 3.2.h. Judge Gould has read the briefs and reviewed the record.

\*\*\*\* The Honorable Sara Lee Ellis, United States District Judge for the Northern District of Illinois, sitting by designation.

Judge.

In order to prevail, appellants must show that the union's "conduct in dismissing their grievance was arbitrary, discriminatory or in bad faith." Stevens v. Moore Business Forms, Inc., 18 F.3d 1443, 1447 (9th Cir. 1994). Such a decision by the union "is arbitrary only if it lacks a rational basis." Id. Local 165's decision not to investigate appellants' grievance was rational because the grievance stemmed from facts Local 165 already knew. The union had an ample basis for assessing appellants' grievance and simply chose not to "brood over it." Peters v. Burlington N. R.R. Co., 931 F.2d 534, 540 (9th Cir. 1990), as amended on denial of reh'g (Apr. 23, 1991). Appellants have also not offered any evidence of bad faith on the part of Local 165. See Stevens, 18 F.3d at 1448.

**AFFIRMED.**