

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT

_____)
COMMONWEALTH EMPLOYMENT)
RELATIONS BOARD,)
Plaintiff,)
v.)
NEWTON TEACHERS ASSOCIATION)
and MICHAEL ZILLES,)
in his capacity as President of the NTA,)
Defendants.)
_____)

CIVIL ACTION NO.: 2481CV00148

RECEIVED
1/30/2024

DEFENDANTS' OPPOSITION TO THIRD PARTY
EMERGENCY MOTION TO INTERVENE

On January 29, 2024, ten days after the issuance of a preliminary injunction by the Court, the Defendants received a copy of an "Emergency Motion to Intervene" submitted *pro se* by students in the Newton Public School district and their parent. It does not appear that all parties were served with a copy of this motion and therefore this Court should not consider it.

Moreover, this motion should be denied on its merits as a parent and/or students do not have a right to intervene in matters under G.L. c. 150E, § 9A. This question has long been settled. In *Allen v. School Committee of Boston* (396 Mass. 582 (1986)), the Supreme Judicial Court held that private citizens may not obtain injunctive relief against a work stoppage by public sector employees. *Id.* at 586. The Supreme Judicial Court noted that the statutory scheme for obtaining enforcement of orders pertaining to G.L. c. 150E, § 9A lies with the (now) Commonwealth Employment Relations Board ("CERB").¹ It noted there is...

¹ The CERB was formerly known as the Labor Relations Commission.

a logical basis for a policy that permits only the employer, with the involvement of the commission at such time as the employer elects, to initiate the process that might lead to an injunction against a strike when there is no collective bargaining agreement in effect. Intervention by persons who would not be parties to any collective bargaining agreement that might ultimately be worked out could hinder the bargaining process.

Id. at 587.

Furthermore, “Additional parties inevitably result in delay in the proceedings as well as increased complexity.” *Mass. Fed’n of Teachers, AFT, AFL-CIO v. Sch. Comm. of Chelsea*, 409 Mass. 203, 209 (1991). Intervention by third parties could create another forum for confrontation which might lead to further intransigence and hostility on the part of the two parties actually in the bargaining relationship. This could increase the likelihood of a protracted dispute and further disruption of public services, the exact opposite result as was intended by G.L. c. 150E, §9A(b).

Therefore, because there is no right to injunctive relief, and no private right of action to damages against the Defendants under G.L. c. 150E, § 9A, intervention should be denied.²

Respectfully submitted,

/s/ Laurie R. Houle

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Date: January 30, 2024

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² The filer raises the specter of potential claims under the Massachusetts Constitution regarding the right to an adequate education. Any claims regarding constitutional rights would be against a state actor, not a labor organization. And any claims of interference with such rights under G.L. c. 12, § 11H, I (assuming such a viable claim exists) would be separate causes of actions, inappropriate to try to address or remedy through intervention in a matter being decided under G.L. c. 150E, § 9A.

Certificate of Service

I hereby certify that I have this day, January 30, 2024, served the above Opposition on the pro se filer via First Class Mail and on the Chief Counsel for the Department of Labor Relations Board and counsel for the Newton School Committee via e-mail.

/s/ Laurie R. Houle

Laurie R. Houle