

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS

SUPERIOR COURT

COMMONWEALTH EMPLOYMENT
RELATIONS BOARD

Plaintiff

and

NEWTON SCHOOL COMMITTEE

Plaintiff-Intervenor

v.

NEWTON TEACHERS ASSOCIATION and
MICHAEL ZILLES, in his official capacity,
Defendants.

CIVIL ACTION NO. 2481CV00148

RECEIVED
1/22/2024

VERIFIED COMPLAINT FOR CIVIL CONTEMPT

The Plaintiff, the Commonwealth Employment Relations Board (“Plaintiff” or “Board”) and the Newton School Committee (“School Committee” or “Intervenor”) hereby file this Verified Complaint for Civil Contempt in the above-captioned matter pursuant to Mass. R. Civ. Proc. Rule 65.3. The Board and the School Committee allege as follows:

1. On January 19, 2024, the Superior Court for Middlesex County (Barry-Smith, J.) issued a Preliminary Injunction Order pursuant to G.L. c. 150E, s. 9A(b) and Mass. R. Civ. P. 65(a), attached hereto as Exhibit A, in the above-captioned matter, ordering among other things the following:

1. The NTA, its officers and employees it represents, and Michael Zilles, in his official capacity, shall immediately cease and desist from engaging or threatening to engage in a strike or work stoppage, slowdown or other withholding of services, and the employees shall immediately return to their assigned work locations on January 22, 2024.

2. The NTA, its officers, and the employees it represents, and Zilles, in his official capacity, shall immediately cease and desist from inducing, encouraging, or condoning this strike, or work stoppage, or other withholding of services, either directly or through surrogates. The NTA shall not permit its officers to encourage, condone, or induce this strike, work stoppage, slowdown, or other withholding of services.

3. The NTA and its officers shall publicly state by 3:00 p.m. on Sunday, January 21, 2024 that (1) the strike is cancelled and there will be no continued strike action; and (2) engaging in, planning, inducing, encouraging and condoning a strike, work stoppage, slowdown, or other withholding of services is illegal and must therefore cease, and its members must return to work immediately. The NTA and its officers shall notify all employees the NTA represents of said statements immediately upon receipt of the Court's Order, using all of its usual means of communicating with its bargaining unit members including, but not limited to, posting the statements on its website, Facebook page and/or any social media it regularly uses to communicate with its membership.

4. The NTA and its officers shall provide a copy of the Court's order, and the Board's Ruling, to all employees that the NTA represents immediately upon receipt of the Court's order, using all of its usual means of communicating with its bargaining unit members including, but not limited to, on its website, Facebook page and/or any other social media it uses to regularly communicate with its membership.

5. The Defendant will request [sic] the status of the compliance to the Plaintiff by 9:00 a.m. on January 22, 2024 and if Plaintiff seeks a hearing it will contact the Court thereafter for a hearing to occur on Monday January 22, at noon.

2. Counsel for defendants agreed to service of the Injunction on behalf of defendants.

3. Upon information and belief, the NTA, its officers, the employees it represents, Michael Zilles ("Zilles") in his official capacity (collectively "Defendants") continued to strike on Monday, January 22, 2024, and continued to induce, encourage and condone the strike, in violation of paragraph a. and b. of the Injunction, by failing to report for their assigned work locations at Newton Public Schools on January 22, 2024, or requesting leave for that day, and/or

picketing during their regularly scheduled work day on January 22, 2024. *See Affidavit of Superintendent Nolin*, attached as Exhibit 1 to the memorandum; NTA's January 22, 2024 Report of Compliance to the Board, attached as Exhibit 15 to the memorandum.

4. Upon information and belief, Defendants failed to publicly state by 3:00 p.m. on January 21, 2024 that: (1) the strike is cancelled and there will be no continued strike action; and (2) engaging in, planning, inducing, encouraging, and condoning a strike, work stoppage, slowdown or other withholding of services is illegal and must therefore cease, and its members must return to work immediately. *See Affidavit of Superintendent Nolin*, attached as Exhibit 1 to the memorandum; NTA's January 22, 2024 Report of Compliance to the Board, attached as Exhibit 15 to the memorandum.

WHEREFORE, the Plaintiffs request:

1. That this Court issue a Summons and Order of Notice and order the Defendants to show cause why they should not be held in contempt;
2. That this Court find that the Defendants are in contempt of this Court's January 19, 2024 Preliminary Injunction and impose specific sanctions to coerce compliance with this Court's Order;
3. Compensatory fines;
4. Attorneys' fees and costs; and
5. That this Court grant such other and further relief as it deems just and proper.

Dated: January 22, 2024

COMMONWEALTH EMPLOYMENT
RELATIONS BOARD

By its attorney,

/s/Lan T. Kantany

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Chief Counsel
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Tel: (413) 784-1282
Lan.Kantany@mass.gov

NEWTON SCHOOL COMMITTEE

By its attorney,

/s/Jennifer F. King

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Suite 300B
Westwood, MA 02090
(617) 862-2005
Jennifer.King@VDHBoston.com

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the above document on counsel for the Defendants, Laurie Houle and Richard Mullane, in the above-captioned matter on January 22, 2024 by e-mail at lhoule@massteacher.org and rmullane@massteacher.org.

/s/ Lan T. Kantany

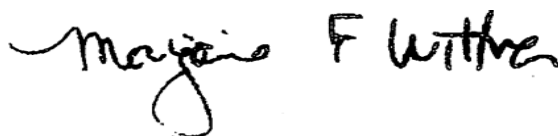
Lan T. Kantany, Esq.

VERIFICATION

The undersigned, being duly sworn, says that I am one of the Plaintiffs in the above-entitled action and that the foregoing Complaint is true to my own knowledge, except as to those matters therein alleged upon information and belief and as to those matters I believe to be true.


Signed under the penalties of perjury.

COMMONWEALTH OF MASSACHUSETTS
COMMONWEALTH EMPLOYMENT
RELATIONS BOARD

A handwritten signature in black ink that reads "Marjorie F Wittner". The signature is written in a cursive style with a large, looped initial 'M'.

Marjorie F. Wittner, Chair
2 Avenue de Lafayette
Boston, MA 02114
(617) 626-3178

Exhibit A

ORDER FOR PRELIMINARY INJUNCTION (Mass. R. Civ. P. 65)	DOCKET NUMBER 2481CV00148	Trial Court of Massachusetts The Superior Court 
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CASE NAME: Commonwealth Employment Relations Board vs. Newton Teachers Association et al	Michael A. Sullivan, Clerk of Court Middlesex County
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PARTY(S) WHO IS SUBJECT TO THIS ORDER FOR PRELIMINARY INJUNCTION : Newton Teachers Association Michael Zilles, in his Official Capacity Newton School Committe	COURT NAME & ADDRESS Middlesex County Superior Court - Woburn 200 Trade Center Woburn, MA 01801
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Upon the application of

Plaintiff: Commonwealth Employment Relations Board

this action came before Hon. Christopher K Barry-Smith, J., presiding, and upon actual notice to the parties as required by Mass. R. Civ. P. 65, and after a hearing and consideration thereof;

It is ORDERED and ADJUDGED:

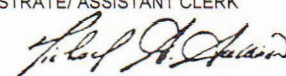
That the party(s) named above and their officers, agents, servants, employees, attorneys and counselors, and upon those persons in active concert or participation with them, and each and every one of them are:

After hearing, the relief prayed for in Complaint A through H is entered as a Preliminary Injunction, based on the agreed fact that a strike has commenced this day 1/19/24 in the City of Newton Sub paragraphs A - H are entered as modified with edits.

a. **The NTA, its officers, and employees, and Michael Zilles, in his official capacity, shall immediately cease and desist from engaging or threatening to engage in this strike or work stoppage, slowdown or other withholding of services, and the employees shall immediately return to their assigned work locations on January 22, 2024.**

b. **The NTA, its officers, and the employees it represents, and Michael Zilles, in his official capacity, shall immediately cease and desist from inducing, encouraging, or condoning this strike, work stoppage, or other withholding of services, either directly or through surrogates. The NTA shall not permit its officers to encourage, condone, or induce this strike, work stoppage, slowdown, or other withholding of services.**

c. **The NTA and its officers shall publicly state by 3:00 p.m. on Sunday, January 21, 2024 that: (1) the strike is cancelled and there will be no continued strike action; (2) engaging in, planning, inducing, encouraging, and condoning a strike, work stoppage, slowdown, or other withholding of services, is illegal and must therefore cease, and its members must return to work immediately. The NTA and its officers shall notify all employees the NTA represents of said statements immediately upon receipt of the Court's order, using all of its usual means of communicating with its bargaining unit members including, but not limited to, posting the statements on its website, Facebook page and/or any other social media it uses to regularly communicate with its membership.**

DATE ISSUED 01/19/2024	ASSOCIATE JUSTICE Hon. Christopher K Barry-Smith	CLERK MAGISTRATE/ ASSISTANT CLERK X 	SESSION PHONE# (781)939-2745
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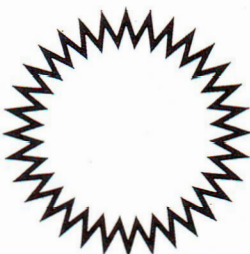
2481cv00148

- d. The NTA and its officers shall provide a copy of the Court's order, and the Board's Ruling, to all employees the NTA represents immediately upon receipt of the Court's order, using all of its usual means of communicating with its bargaining unit members including, but not limited to, on its website, Facebook page and/or any other social media it uses to regularly communicate with its membership.
- e. The Defendant will request the status of the compliance to the Plaintiff by 9:00 am on January 22, 2024 and if Plaintiff seeks a hearing it will contact the Court thereafter for a hearing to occur on Monday January 22, at noon.
- f. The NTA and the School Committee shall immediately continue negotiations to resolution or impasse over the issues that separate them and utilize the procedures for resolving disputes provided in their collective bargaining agreements and M.G.L. c. 150E.
- g. The NTA and the School Committee shall bargain in good faith for a successor collective bargaining agreement and participate in mediation before a mediator assigned by the DLR to bargain over the issues that separate them.
- h. The NTA and its officers shall appear as required by the Board for a proceeding to determine compliance with this order and the Board's Ruling.

MIDDLESEX, SS.

Commonwealth of Massachusetts

SUPERIOR COURT DEPARTMENT OF THE TRIAL COURT



In testimony that the foregoing is a true copy on file and of record made by photographic process, I hereunto set my hand and affix the seal of said Superior Court this 19th day of January 2024.

Dina Roberts Kyle

Deputy Assistant Clerk