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CLERK OF SUPERIOR COURT
SUPERIOR COURT OF N.J.
MERCER COUNTY
RECEIVED AND FILED

JAN 22 2013

ROBERT MURPHY, :
 :
 Plaintiff, :
 :
 v. :
 :
 MERCER COUNTY TECHNICAL :
 SCHOOLS BOARD OF EDUCATION, :
 :
 Defendant. :
 :
 SUPERIOR COURT OF NEW JERSEY
 LAW DIVISION
 MERCER COUNTY
 Docket No. L-179-13
 Civil Action
 COMPLAINT IN LIEU OF PREROGATIVE WRIT

Plaintiff, ROBERT MURPHY, residing at 173 Crosswicks-Chesterfield Road,
Chesterfield, New Jersey, says:

NATURE OF ACTION

1. This is an action in lieu of prerogative writs pursuant to *New Jersey Court Rule 4:69-1, et seq.*

PARTIES

2. Plaintiff Robert Murphy resides at 173 Crosswicks-Chesterfield Road, Chesterfield, NJ. He is the past president of the Mercer County Vocational Education Association.
3. Defendant Mercer County Technical Schools Board of Education, a public instrumentality, has its offices at 1085 Old Trenton Road, Trenton, Mercer County, New Jersey 08690.

JURISDICTION AND VENUE

4. This court has jurisdiction to decide Plaintiff's claim pursuant to its power as a court of general jurisdiction and the provisions of R. 4:69-1, et seq.

5. Venue is proper in Mercer County pursuant to R. 4:3-2 because Mercer is the county in which the cause of action arose.

FACTUAL ALLEGATIONS

6. By way of correspondence dated December 7, 2012, Defendant informed Plaintiff that he would be required to contact Superintendent Kimberly Schneider in writing to receive prior permission before entering onto any Board premises or Board-sponsored event (Exhibit A hereto).
7. In the December 7, 2012, correspondence, the Board informed Plaintiff that if he did not comply with its directive, he would be considered trespassing in violation of *N.J.S.A. 2C:18-3*, would be immediately escorted off the premises, and subject to possible criminal charges.
8. Board Policy 9150, *School Visitors*, provides, in relevant part:

The Board of Education welcomes and encourages visits to school by parent(s) or legal guardian(s), other adult residents of the community, and interested educators.

....

Visitors shall be required to register their presence in the school. No staff member shall transact business with or permit the continuing presence in the school of a visitor who has not been duly registered.

(Exhibit B hereto).

9. Board Regulation R9150, *School Visitors*, provides in relevant part:

1. Every visitor is required to register in the school office.

2. A notice will be prominently posted at each entrance to the school building, advising visitors to report to the school office before advancing to any other part of the school. Additional signs should be posted in the lobby of each building to advise

visitors not to proceed without registering in the school office.

3. The Principal will maintain a logbook in the main office of the school. Each visitor shall enter his/her name and the purpose of his/her visit in the logbook....

(Exhibit C hereto).

10. Nowhere in either Policy 9150 or R9150 is it required that a potential visitor to a Board campus obtain written permission from the Superintendent prior to visiting.
11. Defendant's action herein is an attempt to intimidate Plaintiff as former President of the Mercer County Vocational Education Association.
12. Defendant's action herein is an attempt to intimidate the current members of the Mercer County Vocational Education Association.

CAUSES OF ACTION

Count One

Violation of N.J. Const. Art. I, para. 6

13. Plaintiff repeats and realleges paragraphs 1 through 12 as though more fully set forth herein.
14. Defendant's action in requiring Plaintiff to receive written permission prior to visiting Board premises violates Plaintiff's right to free speech in violation of Article I, paragraph 6 of the New Jersey Constitution.
15. Defendant's violation has no remedy at law.

WHEREFORE, Plaintiff respectfully requests that the Court issue the following relief:

1) Enjoining and restraining Defendant from requiring Plaintiff to obtain written permission from the Superintendent prior to visiting any Board campus or Board event; and 2) for such other and further relief as the court deems just and proper.

Count Two
Violation of N.J. Const. Art I, para. 18

16. Plaintiff repeats and realleges paragraphs 1 through 15 as though more fully set forth herein.
17. Defendant's action in requiring Plaintiff to receive written permission prior to visiting Board premises violates Plaintiff's right to assembly in violation of Article I, paragraph 18 of the New Jersey Constitution.
18. Defendant's violation has no remedy at law.

WHEREFORE, Plaintiff respectfully requests the following relief: 1) Issuance of an injunction restraining Defendant public entity from requiring Plaintiff to obtain advance written permission prior to visiting the Mercer County Technical Schools campus; and 2) for such other and further relief as the court deems just and proper.

CERTIFICATION PURSUANT TO R. 4:5-1

I hereby certify that there is no other action pending in any court or arbitration proceeding, or any action or arbitration proceeding contemplated of which the within matter is part and that no other parties are known at this time.

MELLK O'NEILL
Attorneys for Plaintiff

By: 

Arnold M. Melk

Date: January 18, 2013

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Attorneys for Plaintiff Robert Murphy

ROBERT MURPHY,	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION – MERCER COUNTY
	:	
Plaintiff,	:	Docket No. MER-L-179-13
v.	:	
	:	Civil Action
MERCER COUNTY TECHNICAL	:	
SCHOOLS BOARD OF	:	
EDUCATION, and	:	
KIMBERLY SCHNEIDER,	:	
	:	
Defendants.	:	

SETTLEMENT AGREEMENT

For the consideration and upon the terms set forth herein, this Settlement Agreement (hereinafter "Agreement") is made by and between Plaintiff Robert Murphy ("Plaintiff") and Defendants Mercer County Technical Schools Board of Education (the "Board") and Kimberly Schneider (referred to hereinafter collectively as "Defendants"), in order to resolve and settle the above-captioned lawsuit (hereinafter the "Lawsuit").

1: Acknowledgement of Defendants. Defendants hereby acknowledge and agree that, except as may be expressly provided herein, Plaintiff possesses and may exercise without limitation or infringement all of the rights, privileges, and benefits as are possessed and enjoyed by unencumbered private citizens of New Jersey appertaining to the properties, facilities, events and services of the Board, including but not limited to the right of access thereto, subject to applicable law, regulation and Board Policies, Regulations and Procedures.

2: Acknowledgement by Plaintiff. Plaintiff hereby acknowledges and agrees that, in exercising his rights to the properties, facilities, events and services of the Board, he is obligated to follow all applicable laws, regulations, Board Policies, Regulations, and procedures of the

Board, including but not limited to Board Policy 9150 and Board Regulation 9150, as well as the terms and conditions as are set forth herein.

3: Notice of Visitation by Plaintiff. At least one (1) business day prior to his entering, accessing, or visiting the properties or facilities of the Board, Plaintiff shall send an email to the Board's designees, with email addresses at: [1] nswirsky@mcts.edu and [2] cmckenna@mcts.edu notifying, Defendants in advance of his intention to enter, access, or visit the properties or facilities of the Board, and to generally state the purpose of such entry, access, or visit. Plaintiff shall not be required to obtain any response to his email or approval of his entry, access, or visit prior to same. Plaintiff acknowledges and agrees that the Board may elect to change the above listed contact email addresses from time to time as maybe necessary. In that event, Plaintiff will be provided with advance written notification from the Board of the new contact email addresses.

4: Exceptions to Notice. The requirements of paragraph three (3) of this Agreement are inapplicable to any entry, access, or visit by Plaintiff to the properties or facilities of the Board under the following circumstances:

- a. Plaintiff's attendance at any open public meeting;
- b. Plaintiff's attendance at any duly organized meeting of the Mercer County Vocational Education Association (the "Association");
- c. Plaintiff's meeting with any officer of the Association undertaken for the purpose of addressing official Association affairs or business;
- d. Plaintiff's attendance at any open public event, including but not limited to a sporting event; job fair; symposium; festival; or concert.

5: No contact with Lori Perlow. Plaintiff agrees that he will have no contact or other interaction with Board employee Lori Perlow when he is present on the properties or facilities of the Board. For purposes of this Agreement, "contact or other interaction" shall not include the mere presence of Plaintiff in or at any the properties, facilities, events and services of the Board at the same time or location as Lori Perlow.

6: **Dismissal of Lawsuit.** Within fifteen (15) days of the mutual execution of this Agreement, and the approval of same by the Board, Plaintiff shall dismiss the Lawsuit, with prejudice. All parties shall bear their own costs and fees in connection therewith.

7: **Mutual Release of Claims.** In exchange for the acknowledgements; agreements; and consideration set forth in this Agreement, the parties hereby release, relinquish, discharge and dismiss with respect to and as against one another and their respective officers; employees; agents, representatives, predecessors, insurers indemnitors, successors, and from all claims, demands, causes of action, damages, costs, expenses, accounts, contracts, agreements, promises, compensation and all other liabilities of any kind or nature whatsoever, direct or indirect, known or unknown, which the parties may have had as against each other at any time, whether asserted in the above-captioned Lawsuit or not, based upon any act, event or omission occurring up to and including the date of the mutual execution of this Agreement including, but not limited to, any claims arising from the allegations made by Plaintiff in the Lawsuit. This release includes, but is not limited to, any claim that was asserted or could have been asserted by the parties under any Federal and/or state statute, regulation and/or common law, including, but not limited to any potential claim relating to the following (along with any amendments thereto):

- Sections 1981 through 1988 of Title 42 of the United States Code;
- The Americans with Disabilities' Act of 1990;
- The Family & Medical Leave Act of 1993;
- The New Jersey Law Against Discrimination;
- The New Jersey Family Leave Act;
- Any other federal, state or local, civil or human rights law or any other local, state or federal law, regulation or ordinance, any provision of any federal state constitution, any public policy, contract, tort or common law, or any losses, injuries or damages (including back pay, front pay, liquidated, compensatory or punitive damages, attorneys' fees and litigation costs);

- The Federal and New Jersey Constitution;
- Breach of promise, misrepresentation, negligence, fraud, estoppel, defamation, infliction of emotional distress, assault, battery, false imprisonment violation of public policy, or infliction of emotional distress;
- Breach of express or implied contract, quantum meruit, unjust enrichment, or any similar claim;
- The Fair Labor Standards Act, 29 U.S.C. § 201 et. seq.;
- The New Jersey Wage Payment Law, N.J.S.A. 34:11-4.1 et seq.;
- The Age Discrimination in Employment Act of 1967;
- The Americans With Disabilities Act of 1990;
- The Civil Rights Act of 1964 (Title VII);
- The Civil Rights Act of 1991;
- The Consumer Protection Act of 1968;
- The Employee Polygraph Protection Act of 1988;
- The Employee Retirement Income Security Act of 1974 (ERISA);
- The Equal Pay Act of 1963;
- Executive Order 11246;
- The Fair Credit Reporting Act;
- The Family and Medical Leave Act Of 1993;
- The Immigration Reform and Control Act of 1986;
- The National Labor Relations Acts;

- The Occupational Safety and Health Act of 1970;
- The Older Worker Benefit Protection Act, The Rehabilitation Act of 1973;
- The Uniformed Services Employment and Reemployment Rights Act;
- The Worker Adjustment and Retraining Notification Act of 1988 (WARN);
- New Jersey Statutes Annotated Labor Relations Laws;
- New Jersey Law Against Discrimination;
- New Jersey Statutes Annotated "Voting Rights" Provision;
- New Jersey Statutes Annotated "Reemployment of Military Personnel" Provision;
- New Jersey Statutes Annotated "Polygraph" Provision;
- New Jersey Statutes Annotated "Jury Duty" Provision;
- New Jersey Statutes Annotated "Convictions" Provision;
- New Jersey Statutes Annotated "Lie Detector Tests" Provision;
- New Jersey Statutes Annotated "Medical Coverage Continuation" Provision;
- New Jersey Equal Pay Act;
- New Jersey Family Leave Act;
- New Jersey Statutes Annotated "Whistleblower" Provision;
- New Jersey Handicap Law;
- New Jersey Statutes Annotated Wage and Hour Laws;
- New Jersey Statutes Annotated "Garnishment" Provision;
- New Jersey Statutes Annotated "Tobacco Outside Workplace" Provision;

- New Jersey Statutes Annotated Workers' Compensation "Retaliation" Provision;
- New Jersey Statutes Annotated "Genetic Information" Provision;
- New Jersey Conscientious Employee Protection Act; and, the
- New Jersey Fair Credit Reporting Act.

8: No Admission. The execution of this Agreement and settlement of this Lawsuit does not constitute any admission or acknowledgement by the parties as to the nature, quality, veracity, or demonstrability at trial of the allegations made by either party in connection with the Lawsuit, nor of any wrongful, actionable, or otherwise improper conduct, nor as to the liability of any party. The parties mutually acknowledge that this matter has been litigated and resolved in good faith, and that this Agreement is entered into solely for the purpose of avoiding the time and expense attendant to any further litigation.

9: Entire Agreement. This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all prior agreements relating thereto. There are no other understandings or agreements between or among the parties with respect to the subject matter hereof, except as set forth herein, and as set forth in any other documents executed directly or in connection with this Agreement. No condition or provision of this Agreement may be modified, waived or revised in any way except in writing executed by all parties and referring specifically to this Agreement.

10: Binding Effect. This Agreement and all rights and duties set forth herein shall be binding upon and inure to the benefit of the parties hereto, as well as their respective successors and assigns.

11: Governing Law and Choice of Forum. This Agreement and its interpretation and performance shall be governed by the laws of the State of New Jersey, without giving effect to its conflicts of law rules.

12: Captions. The captions set forth in this Agreement are intended solely for the parties' convenience and ease of reference and are not intended to modify, limit, describe or affect in any way the scope, content or intent of this Agreement.

13: Signature in Counterpart - This Agreement may be executed simultaneously in counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument.


14: Authorization. The signatories to this Agreement acknowledge that they are, in fact, the parties to the Lawsuit or the authorized representative thereof, and that they are authorized to execute this Agreement in settlement of same.

15: Acknowledgments. The parties to this Agreement acknowledge and agree that they have entered into this Agreement and have executed it without duress or coercion, and have done so with the opportunity to consult counsel. The parties specifically acknowledge that they have had all the time to review this Agreement with counsel as may be required by law to make the releases set forth in this Agreement. Each party further acknowledges and agrees that no other party has made representations, warranties, promises or agreements not set forth herein and no party relies in any way upon any representation, warranty, statement of fact or opinion, understanding, disclosure or non-disclosure not set forth herein. In entering into this Agreement and executing it, no party has been induced in any way, except for the consideration, representations, warranties, statements and covenants recited herein, to enter into this Agreement.


16: Construction and Enforcement. The terms of this Agreement are the product of negotiations between the parties, and shall be construed without regard to any presumption or other rule requiring construction against the party causing this Agreement to be drafted.

IT IS SO AGREED

BY PLAINTIFFS


Plaintiff Robert Murphy

Dated: 3/14/14


witness

EDWARD A. CRIDGE

An Attorney-at-Law of New Jersey
NJ Bar ID # 02646-9211


BY DEFENDANTS


Dated: 5/20/14

Defendant Mercer County
Technical Schools Board of Education


By: Albert W. Bell

Title: President


MCTS BOARD SECRETARY, witness


Defendant Kimberly Schneider

Dated: 5/20/2014


MCTS BOARD SECRETARY, witness