

Volume: I of I
Pages: 1-28

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
Docket No. 2481CV00148

* * * * *

COMMONWEALTH EMPLOYMENT
RELATIONS BOARD,
Plaintiff,

v.

NEWTON TEACHERS ASSOCIATION and
MICHAEL ZILLES, IN HIS
OFFICIAL CAPACITY,
Defendants

* * * * *

BEFORE THE HONORABLE CHRISTOPHER BARRY-SMITH

Woburn, Massachusetts

Room 710

January 19, 2024

Lisa Cimmino

Approved Court Transcriber

APPEARANCES

For the Commonwealth Employment Relations Board: Massachusetts Department of Labor Relations 2 Ave de Lafayette Lafayette City Center Boston, Massachusetts 02111 By: Lan Kantany, Esq.

For Michael Zilles, in his Official Capacity and Newton Teachers Association: Massachusetts Teachers Association 2 Heritage Drive, 8th Floor Quincy, Massachusetts 02171 By: Richard A. Mullane, Esq. Laurie R. Houle, Esq.

For Other Interested Party Newton School Committee: Valerio Dominello and Hillman, LLC One University Ave., Suite 300B Westwood, Massachusetts 02090 By: Jennifer King, Esq.

1 (Court called to order.) 2 (3:47 p.m.) 3 THE COURT: Good afternoon. 4 THE CLERK: Good afternoon, Your Honor. Your Honor, we 5 have parties here on Docket Number 2481CV00148, Commonwealth 6 Employment Relations Board vs. Newton Teachers Association, et 7 al. If the parties could please stand and identify yourself 8 for the court and the record, starting with the plaintiff. 9 MS. KANTANY: Good afternoon, Your Honor. Lan Kantany on 10 behalf of the Commonwealth Employment Relations Board. 11 THE COURT: Good afternoon. 12 MS. KING: Good afternoon, Your Honor. Jennifer King for 13 Plaintiff/Intervener Newton School Committee. 14 THE COURT: Good afternoon. 15 MS. HOULE: Good afternoon, Your Honor. Laurie Houle for 16 the Newton Teachers Association and Mr. Michael Zilles. 17 THE COURT: Good afternoon. 18 MR. MULLANE: Good afternoon, Your Honor. Richard 19 Mullane, also here for the Newton Teachers Association and Mr. 20 Zilles. 21 THE COURT: Good afternoon. All right. I have not 22 handled one of these teacher strike cases. Some of my 23 colleagues have. So let me ask the Employment Relations Board 24 exactly what you're asking me to do, and then I'll see what the 25 defendants' perspective -- hold it, before I do that, Newton

1 School Committee's Motion to Intervene, I only know that in 2 some recent cases, these have been allowed. Is there any 3 objection to this from any party? 4 MS. HOULE: Yes, Your Honor, if I may. As you can 5 probably glean from the papers, it is the Commonwealth 6 Employment Relations Board, the CERB, that is charged with 7 enforcing Section 9A. To the extent that there is interest of 8 the School Committee, they are in align, aligned with the CERB. 9 There's obvious- -- there's no intervention as a matter of 10 right. 11 To the extent that there's discretionary intervention 12 allowed, I know that there's been some cases cited where it has 13 been allowed. There's also some cases, I just want to make you 14 aware of that, where it's -- they've noted why the now-CERB, 15 previously the Labor Relations Commission, had the expertise 16 and the impartial agency to enforce this. It puts a nice sort 17 of buffer between the parties who are engaged in a very 18 obviously highly-visible dispute at the moment. 19 So we believe that the CERB is perfectly able to represent 20 all interests in this party. So to keep that buffer and to not 21 sort of bog down the record and get too many parties involve, 22 which can also just complicate things, we think that the 23 intervention should be denied. Thank you. 24 THE COURT: Okay. And if I read this motion correctly, 25 and I'm not going to predict how this case is going to go, but

1 in prior cases, when injunctions are ordered and a strike 2 continues and then we move into the sanctions area -- and I 3 think one of the things Newton is saying is, they're the person 4 in the best position to tell me the harms and the like if we 5 were to reach that point of assessing sanctions. Are you 6 saying I should wait until we reach that point to consider 7 their point of view? 8 MS. HOULE: Your Honor, I think that there's already 9 information in the record from the administrative agency level, 10 the decision that was issued by the CERB, and again, I think 11 that CERB is perfectly capable of conveying that information. 12 And to the extent that the School Committee will allege some 13 harm through this, then I think that that -- the process is 14 such that the sanctions, if we get to that point, and we're all 15 hoping we don't, from the court are really the motivating 16 factor, the coercive factor, as the terminology is used, to get 17 the Newton Teachers Association back in the schoolroom. So I 18 think it's just, again, like I said, just adding layers that 19 are unnecessary. 20 THE COURT: Okay. Let me just -- I do want to get to the 21 main event, but let me just hear from the School Committee in 22 this regard. 23 Am I reading this correctly that the real point that you 24 want to be sure to have an impact is if this goes forward and 25 we have to assess the harm to Newton, or is today's hearing

Page 6

1 important also for the School Committee to be involved?
 2 MS. KING: Today's hearing is important as well in the
 3 fact that this all proceeds from the fact that the School
 4 Committee initiated this process by filing a petition with the
 5 CERB. So by way of procedural posture, it is important that we
 6 be permitted to intervene in terms of today and understanding,
 7 again, the administrative record; to the extent there is any
 8 sort of questions or thoughts on that and how that process went
 9 forward, that is a component that it is important for us to be
 10 involved in for today's hearing as well, and again, sharing
 11 with sister counsel's opinion that, you know, we certainly
 12 don't want this to move to the sanction stage.
 13 However, it is important to note that the appeals court
 14 has recognized for decades that public employers have a really
 15 unique and appropriate posture as targets of illegal strikes
 16 with direct interest in the outcome of these board enforcement
 17 actions.
 18 So again, as much as we certainly hope we don't have to
 19 enter that stage, at this point there is no prejudice to the
 20 parties for us to intervene. Again, if we get to that sanction
 21 stage, you know, it is appropriate for us to be involved as
 22 that party. We would provide relevant information. You know,
 23 other superior courts have permitted other school committees in
 24 board enforcement actions to be involved in similar matters.
 25 And I think another important piece is, back in 1981 there

Page 8

1 motion to intervene.
 2 And let's move on to the injunctive relief that the CERB
 3 is seeking today. So because I haven't handled one of these
 4 before, could you just explain to me technically what you're
 5 asking me to do? Is it enforce the administrative decision, or
 6 how would you put it? Is this court order separate after I
 7 make my own determinations or just enforcing the order that's
 8 already of record?
 9 MS. KANTANY: I think it can be both, and in the past,
 10 there -- it has been worded differently by the judges, whether
 11 it's an enforcement proceeding of the Board's orders, but also,
 12 the judge can also -- the Fall River case, the Court noted that
 13 the superior court judge can make their own independent
 14 findings that a strike occurred or is about to occur, in
 15 violation of Chapter 150E, Section 9A. And it's up to your
 16 judgment whether or not the evidence is there to either -- to
 17 essentially affirm the Board's decision and/or to independently
 18 find that there is a strike that is occurring or about to
 19 occur.
 20 THE COURT: All right. And if, using either of those
 21 avenues, I say -- I determine there is a strike, what exactly
 22 are you asking me to do? Is that what's the -- all of the
 23 prayer for relief, or at this juncture, are you just asking for
 24 the one that says stop the strike?
 25 MS. KANTANY: All of the prayer for relief under paragraph

Page 7

1 was a -- the predecessor agency, Labor Relations Commission, in
 2 a Fall River Education Association case that -- the appeals
 3 court there, they summarized the lower court's analysis in how
 4 they reached the sanctions and the finds, and they actually
 5 spoke about the lower court's frustration with the fact that
 6 the School Committee apparently withdrew from the matter, and
 7 it made it really difficult for the Labor Relations Commission
 8 and for the court to make appropriate assertions as to fines
 9 in certain matters.
 10 So, again, there really is no prejudice to the parties at
 11 this juncture going forward, and again, it would be consistent
 12 with longstanding precedent for the School Committee to
 13 intervene in this proceeding.
 14 THE COURT: Okay. And does the CERB have a position on
 15 the intervention?
 16 MS. KANTANY: Yes, Your Honor, we believe that the School
 17 Committee should be able to intervene in this matter. They're
 18 integral to the Board's case and evidence that we may have to
 19 provide to the court, so --
 20 THE COURT: All right. I think I understand the
 21 distinction between the CERB enforcing its decision and the
 22 role that the School Committee itself might play, but I think
 23 there's value in having them here. So I have discretion to
 24 allow it. I don't know that it's automatic, but I have
 25 discretion, and I'll exercise that discretion to allow the

Page 9

1 one, "After wherefore the Board requests the Court to order the
 2 following." And this is similar to other preliminary
 3 injunction requests that we have made in other cases, and
 4 actually, my sister counsel and I and the School Committee had
 5 a discussion about a possible preliminary injunction and
 6 agreed, because as you may see in the papers, there's really no
 7 dispute that there is a strike occurring, and I think my sister
 8 counsel can confirm that. And that's -- it's in violation of
 9 Chapter 150E, Section 9A. There's no dispute about that --
 10 THE COURT: Are there any circumstance --
 11 MS. KANTANY: -- view --
 12 THE COURT: Are there any circumstances where a public
 13 teachers union is permitted to strike, or is it just as simple
 14 as that, the law says --
 15 MS. KANTANY: Our under- --
 16 THE COURT: -- there's no such thing?
 17 MS. KANTANY: There are no exemptions under the statute or
 18 exceptions under the statute nor are there any court cases that
 19 have held that public employees may strike, as far as we're
 20 aware, certainly no recent cases. And so we did, I think,
 21 jointly, if I understand our conversation correctly, propose to
 22 amend paragraph 1C to where it begins with, "The NTA and its
 23 officers shall publicly state, by 3:00 p.m. on Sunday, January
 24 21st," amend that timeline.
 25 THE COURT: Okay.

1 MS. KANTANY: And then for paragraph E, delete that
 2 portion and state that, "The NTA" -- and this is similar
 3 language that the parties agreed to in the Andover School
 4 Committee -- Andover school strike that occurred in November.
 5 "The NTA will report in writing to the Board and School
 6 Committee of its compliance by 9:00 a.m. on January 22nd, 2024.
 7 If the NTA and Zilles has not submitted a report of its
 8 compliance or if there is a dispute as to compliance, the
 9 parties agree to appear in court at 2:00 p.m. on January 22,
 10 2024 on a motion for contempt hearing."

11 And other than those portions, I think the NTA and Mr.
 12 Zilles are in agreement with the remaining portions of the
 13 preliminary injunction request.

14 THE COURT: Oh. Well, maybe that's an important place to
 15 stop and talk to the Teachers Association. It does appear to
 16 me, from what I'm reading, that there is a strike, not to
 17 mention what I hear on the news when I drive around. Is that
 18 in dispute?

19 MS. HOULE: No, Your Honor, that is not in dispute. I do
 20 want to, you know, to note that I think that the -- first when
 21 you asked the CERB's counsel here what the ask is and the
 22 remedy, I think the focus should be on, there is a decision
 23 that CERB, the administrative agency charged with enforcing the
 24 statute, has put out.

25 I think to keep things simple, that we are here to -- on

1 the motion to enforce that, affirm and enforce that would be
 2 the posture that I would presume we're operating under. I
 3 think that everybody in the room and the people that we
 4 represent all really have a focus on getting back to the
 5 bargaining table and to getting our teachers back in school and
 6 the kids back in school.

7 So to that end, while I could sit here and quibble with,
 8 you know, what I would consider an over-broad statement of the
 9 harm and it being somewhat speculative at points in time, I do
 10 understand that there is a statute here that my client
 11 currently is in violation of.

12 So in the interest of the efficiency of everybody involved
 13 and knowing there's been some history with the CERB on these
 14 prior teacher strikes, we did have a conversation before coming
 15 in here, and I appreciated the cooperation of sister counsel on
 16 the other side there to see if we could come up with a
 17 compromise where I would rather not have our client under an
 18 injunction, but when we see the writing on the wall, we want to
 19 make it such that the parties have the opportunity.

20 So just to explain why these modifications, we think, are
 21 necessary are, you know, it's Friday, it's the end of the day.
 22 School is not back in session until Monday. There's no
 23 withholding of services, in violation of Section 9A, until
 24 Monday. They're in mediation imminently.

25 The NTA and Mr. Zilles have expressed their commitment to

1 continue bargaining in good faith until they get a resolution,
 2 and I think if we can just give them that little space,
 3 hopefully, over the weekend to get some good, solid work done,
 4 maybe we can avoid being back here on Monday.

5 THE COURT: Okay. Well, that sounds like a worthy goal to
 6 me. So it sounds like we're talking about the details of what
 7 an injunction should look like, based on what everyone has said
 8 so far. And I'm going to short-circuit the discussion about C
 9 for this reason. It seems to me that A and B are most
 10 important, and then the difference with C doesn't actually
 11 relate to this case as much as my general approach to
 12 preliminary injunctions. It's an affirmative injunction that
 13 says precisely how the teachers have to carry that out, and I'm
 14 just generally not inclined to do that.

15 I hope that A and B are understood and followed and
 16 there's no continued strike. When we get into the details of
 17 C, I'm actually inclined to instead just require the substance
 18 of D, which is, they have to provide notice to all their
 19 members in a reasonable form that this injunction has issued.
 20 Instead of giving deadlines, because we know the next business
 21 day when this could make a difference to students and citizens
 22 of Newton is Monday, so I'm just going to do A, B and D, and
 23 I'm not going to presume there's going to be a violation, but I
 24 will ask for notice from the plaintiff if you're looking for a
 25 hearing on Monday. You know, I'm not going to presume we need

1 a hearing Monday, but I can tell you all that I'm available in
 2 both the morning and the afternoon, what, I think on the
 3 afternoon -- morning might be better.

4 But my point is, you can tell us Monday morning what the
 5 status is, and we'll have a hearing on Monday if it's necessary
 6 just to try to be as -- I just want to limit my injunction to
 7 an injunction saying that you can't do this, and I'm going to
 8 take out some of the details unless someone persuades me that
 9 there really needs to be a deadline other than Monday, which
 10 would be the next day of harm, and I presume you'll be here
 11 looking for sanctions if it's not resolved.

12 MS. KANTANY: Yes, Your Honor, I do think that C is
 13 important for two reasons. One is, there needs to be some
 14 affirmative action by the union to tell its members that the
 15 strike is over. Otherwise there is nothing that is requiring
 16 the association to tell its members to stop striking. And the
 17 Boston Teachers Union case and the Fall River case -- Fall
 18 River is the SJC decision, the Boston Teachers Union case is an
 19 appeals court decision which expressly approved, actually, more
 20 broad affirmative obligations. It approved language in the
 21 preliminary injunction that said that the union must disavow
 22 the strike. Here, per many conversations with the union about
 23 their dislike of the word avow, we tried to make it as specific
 24 as possible so that the --
 25 (Phone ringing.)

1 MS. KANTANY: Oh, I'm so sorry, Your Honor, that's my --
2 so that the -- let me just make sure this doesn't snooze. I'm
3 so sorry. So that the purpose of -- is to -- and I've lost
4 track of --

5 THE COURT: Well, I think I get the gist, and I guess what
6 I'm thinking is, even if I'm, in the normal course, not
7 inclined to do affirmative injunctions, here, because there's a
8 law and it's not really up to me, I'm just enforcing the law,
9 it's in that context that having a more emphatic statement by
10 the end of the -- by Sunday afternoon is reasonable, even if I
11 don't usually do it in cases. I usually don't have a law
12 that's on-point.

13 MS. KANTANY: And I just want to add, part of it is also
14 -- the second part is for preparation purposes. So we had a
15 time of 10:00 a.m. on Saturday, but with -- in speaking with my
16 sister counsel, we moved it to 3:00 p.m. on Sunday, so that
17 really it's to allow the School Committee to -- and the
18 community of Newton to prepare on Monday, if there is going to
19 be a strike on Monday, they can plan. So if it hasn't been
20 called off by 3:00 p.m. on Sunday, the writing's on the wall.

21 THE COURT: Okay. And I'm guessing, since you've tinkered
22 with the language of C, this is something close to standard
23 practice in these types of injunctions?

24 MS. HOULE: We've been, Your Honor, sort of building on
25 things that have happened in the past. But I would like to

1 just speak briefly to the point that you made, because it does
2 actually resonate with me, but I am mindful of the challenge to
3 the district about having enough notice to be able to give
4 proper notice to the parents in the community on whether
5 there's going to be school in session on Monday. But the
6 parties are perfectly capable and have frequently done that on
7 their own, and as -- I'm sure part of the reason the School
8 Committee wants to intervene is, they also want to be able to
9 get damages from the School -- from the NTA.

10 So there will be this communication and these decisions
11 made at the table where I am sure the School Committee say, if
12 we don't have a deal by this time, we have to cancel class.
13 And then therefore, that would be part of the harm that they
14 would be seeking restitution from, from the union if they're
15 not able to resolve that at the table.

16 I honestly believe that paragraph C that you're
17 referencing is rather redundant and that the key is really D
18 and that if we are reporting back on Monday and have that all
19 -- that process sort of set up and ready to go, then that is
20 more sufficient, but obviously we will abide by whatever the
21 Court decides.

22 THE COURT: Okay. So if I do some version of C, did I
23 hear you say that the new proposal is 3:00 p.m. on Sunday? Did
24 I get that right?

25 MS. HOULE: Correct, Your Honor.

1 THE COURT: All right. So I understand the -- this is
2 kind of strange, right? There's a law that says exactly what
3 you can and can't do, and yet there's a strike. And you're
4 saying even though it's crystal clear that they're not allowed
5 to strike, we want to know if they continue or not, because
6 there's all sorts of other things that need to happen, like
7 planning in the City of Newton and buses and all that kind of
8 stuff.

9 So I understand. I'm going to do a version of C, but I
10 think I'm going to make it a little more -- it's going to be
11 about notice to Newton of the current position, compliance or
12 not, with this order, something like that, but -- so that you
13 have your time.

14 And so given the time, here's what I'd like to do. You
15 don't have an order for me, right? I just have the prayer for
16 relief?

17 MS. KANTANY: No, Your Honor, but I do think the portion
18 to the members announcing that the strike is over is important.
19 If it's announcement just to the School Committee, the School
20 Committee -- I mean --

21 THE COURT: Yeah, I guess --

22 MS. KANTANY: -- the members aren't going to --

23 THE COURT: I guess I meant -- I meant notice to Newton
24 and the members, yeah. You have to say what the position is at
25 the deadline, which is 3:00 p.m. Sunday. I'm just --

1 MS. KANTANY: Thank you, Your Honor.

2 THE COURT: I'm not -- I won't tinker too much with the
3 language. I'm just trying to -- I understand why it's there.
4 I'm just trying to -- we're supposed to limit what's necessary
5 to achieve the lawful objective, so that's what I'm thinking.

6 MS. HOULE: And I would just point out that if there is a
7 resolution or a cease, a cessation of the strike, clearly, with
8 or without an order, the NTA is going to be and is in constant
9 communication with its members. If the strike is ceasing for
10 whatever reason it is ceasing -- is that even a word? It's
11 late on Friday, sorry -- you know, that is just part and
12 parcel. It's a practicality. We don't need an order for that.
13 That's just going to be part of the logistics.

14 THE COURT: Yeah. I just have one more question, and that
15 was -- it was -- this is one of my reservations about having a
16 multi-part injunction if it wasn't necessary. If the strike
17 doesn't end and we're here discussing sanctions or damages next
18 week, or whatever the right term is, I don't know if it's
19 sanctions or damages, but in my view, it's one violation,
20 whether there's a six-paragraph injunction or a one-paragraph
21 injunction. I just want to make sure that I'm not going to --
22 we think it's X amount of money for violating paragraph A and
23 -- you know what I mean? Because if that were the case, I
24 would make it all one -- you know, a very -- a more concise
25 injunction. But am I correct that it's sort of however many

Page 18

1 paragraphs there are to my order, this is one -- this would be
 2 one violation?
 3 MS. KANTANY: That's how we see it. I mean, it's been
 4 broken into multiple paragraphs, I think for ease of reference,
 5 and --
 6 THE COURT: That's fine. I assume that it's -- I'm not
 7 going to get sort of a multi-pronged approach to sanctions or
 8 damages because there's a multi-pronged injunction. That's
 9 all. I have a feeling this was a case in -- this was an issue
 10 -- or compliance with specific terms and how many violations
 11 occurred I recall was an issue with respect to Watertown, but
 12 it wasn't my case and maybe I'm misrecollecting, so --
 13 MS. KANTANY: Yes, Your Honor, I -- you decided a case --
 14 THE COURT: That's what I mean --
 15 MS. KANTANY: -- in Woburn --
 16 THE COURT: -- so that was one of -- that's part of my --
 17 MS. KANTANY: Right, yeah.
 18 THE COURT: -- reluctance to having all the details is if
 19 it forms a basis for some relief if I perceive it's not
 20 necessary.
 21 MS. HOULE: Sure.
 22 THE COURT: You'll just -- you all will know that I view
 23 this as one --
 24 MS. HOULE: Yes.
 25 THE COURT: -- compliance or not compliance --

Page 20

1 THE COURT: Yeah.
 2 MS. KING: As well from -- as from -- as well as --
 3 THE COURT: Okay.
 4 MS. KING: -- from the School Committee, yes.
 5 THE COURT: All right. And it does say good faith, so
 6 there you go, that's a requirement. All right. Here's what
 7 I'm going to do, given the hour. And by the way, I know you
 8 wanted this hearing at 2:00. I was at a business meeting, so
 9 thanks for your patience today. Given the hour, I'm going to
 10 adopt subparagraphs A, B, C, D, E, F, G and H, and I'm going to
 11 slightly modify paragraph C, but I've heard you and I'm only
 12 going to slightly modify it if I do. So let me do that right
 13 now. Go ahead.
 14 MS. KING: Just to be brief, Your Honor, if permissible
 15 and solely because a great amount of the communication that
 16 goes to NTA members and also to the Newton School Committee is
 17 through social media, the School Committee would just ask that,
 18 to some extent, that language remain. There is a lot of
 19 dependency on those pages, so we would just ask that that
 20 communication stay in. Again, that is sort of the direct
 21 source for a lot of families, how they find out this
 22 information --
 23 THE COURT: Okay.
 24 MS. KING: -- before getting a message, so --
 25 THE COURT: Okay. That's why -- I've decided -- I've

Page 19

1 MS. HOULE: Yes.
 2 THE COURT: -- when we get to next week --
 3 MS. HOULE: And we --
 4 THE COURT: -- regardless of --
 5 MS. HOULE: Yes.
 6 THE COURT: -- how detailed this is.
 7 MS. HOULE: We appreciate that, Your Honor, and I just
 8 want to note from the NTA's perspective what's in paragraphs F
 9 and G, which are really -- it's language more I think on an
 10 order that captures both the NTA and the School Committee just
 11 to make sure and it's reinforced that both parties are
 12 obligated to continue working and negotiating in good faith so
 13 that we're ensuring that both parties are coming to the table
 14 at the same time forthwith with the sincere intention of
 15 reaching a resolution.
 16 THE COURT: Well, it certainly says the NTA and the School
 17 Committee, and now the School Committee is an intervening
 18 party, so whatever obligations are on the NTA, they're on the
 19 School Committee, too, as far as I can read this.
 20 MS. HOULE: Appreciate that, Your Honor.
 21 THE COURT: And both sides are okay with this? This is
 22 another affirmative injunction? You're both okay with having
 23 this be part of it?
 24 MS. HOULE: Yes, Your Honor.
 25 MS. KANTANY: Yeah.

Page 21

1 decided not to tinker with the details, because you've all
 2 explained why this is the way we do things or this is the way
 3 you do things, so that's fine, but I'm at least going to change
 4 the date, 3:00 on Sunday.
 5 And will that suffice for your all's purposes? You'll get
 6 from Ms. Roberts-Tyler any edits I have to this, and that's the
 7 injunction, okay, it'll be entered on the docket, but, you
 8 know, I know it's 4:15, so that's why I'm making sure you have
 9 what you need once you see my edits --
 10 MS. KANTANY: Yeah, so will we get --
 11 THE COURT: -- which will be in two minutes.
 12 MS. KANTANY: We'll get a copy with your edits of the
 13 order?
 14 THE COURT: Yes.
 15 MS. KANTANY: Okay.
 16 THE COURT: But given the --
 17 MS. HOULE: Does that --
 18 THE COURT: Given the time, I'm going to incorporate --
 19 I'm going to write a margin endorsement that says --
 20 MS. KANTANY: Oh, I see, yes.
 21 THE COURT: -- the relief in A through H is entered as a
 22 preliminary injunction, with any edits reflected on the
 23 paper --
 24 MS. KANTANY: Understood, yes.
 25 THE COURT: -- that's the -- and that's --

Page 22

1 MS. HOULE: Including the edits to paragraph E that we had
 2 talked about?
 3 THE COURT: Yes.
 4 MS. HOULE: Okay, thank you. I just wanted to clarify.
 5 THE COURT: Yes, and I'll even make any edits right now so
 6 you can both take a look and tell me if I've missed something
 7 or messed something up --
 8 MS. HOULE: Thank you.
 9 THE COURT: -- and we'll get that in your hands, but it's
 10 not going to -- I'm not going in to type this up and sign it
 11 and have it docketed. It's going to be docketed from what I do
 12 right here, okay.
 13 MS. KANTANY: Understood, thank you.
 14 THE COURT: With reference to the prayer for relief,
 15 you'll have to explain to your members and everybody else
 16 exactly what that means.
 17 MS. HOULE: It won't be the first order we've seen that's
 18 written that way, Your Honor. Thank you.
 19 THE COURT: All right. Thank you. Give me just a moment
 20 and you can take a look at any edits. Ms. Roberts-Tyler, does
 21 that work for you?
 22 THE CLERK: (Indiscernible -- away from microphone).
 23 THE COURT: Oh, okay. Okay, thanks.
 24 (Pause.)
 25 THE COURT: May I ask you a question? On subparagraph E,

Page 24

1 to -- yeah. Defendant's going to report to the plaintiff by
 2 9:00 a.m. on January 22nd the status of compliance, and then,
 3 as necessary, the plaintiff will request a hearing, which will
 4 occur on January 22nd. Just leave it -- is that okay?
 5 MS. KANTANY: Understood, yes.
 6 MS. HOULE: Thank you.
 7 THE COURT: Okay. Any other details between the two of
 8 you are fine, but that's what will involve me. And Ms.
 9 Roberts-Tyler, if we have a hearing -- if we do need a hearing,
 10 which I hope we don't, but if we do, what's better, noon or
 11 sometime after 2:00 p.m.?
 12 THE CLERK: Noon is fine, Your Honor.
 13 THE COURT: We have a full afternoon list, so if you need
 14 one, let's do our best to have it at noon. Now, I'm not going
 15 to put that in the order, because I'm not going to presume
 16 we're going to need a hearing, but you all should know for your
 17 planning purposes, if you're debating compliance or the like,
 18 decide if you need a hearing so we can do it at noon. Okay?
 19 MS. HOULE: Understood, Your Honor. Thank you.
 20 THE COURT: Okay.
 21 MS. KANTANY: Thank you, Your Honor.
 22 (Pause.)
 23 THE COURT: Okay. I will give you a chance to look at
 24 this, but it's not very complicated. "After hearing, the
 25 relief prayed for in paragraph 1A through H is entered as a

Page 23

1 you know that I'm available for a hearing on Monday. Can I
 2 just say that the parties shall report to the court by 10:00
 3 a.m. Monday the status of compliance with the court's orders,
 4 and if it's no compliance, we'll schedule a hearing? Because
 5 now it says we'll -- now it says the parties will report for a
 6 hearing at 10:00 a.m. You said a change to it, I just can't
 7 remember what it was now.
 8 MS. HOULE: Yes, Your Honor, yeah, I think the change was
 9 to -- we would -- the NTA and Mr. Zilles would report
 10 compliance or state of -- status of compliance to the CERB
 11 by --
 12 MS. KANTANY: By 9:00 --
 13 MS. HOULE: Nine a.m.
 14 MS. KANTANY: -- a.m. on, ahh --
 15 MS. HOULE: Monday.
 16 MS. KANTANY: Monday.
 17 MS. HOULE: Yup.
 18 MS. KANTANY: And if the NTA and Zilles has not submitted
 19 a report of his compliance or if there's a dispute as to
 20 compliance, the parties agree to appear in court at 2:00 p.m.
 21 on Monday on a motion for contempt hearing or -- I know Your
 22 Honor was concerned about the motion for contempt hearing
 23 portion. I believe --
 24 THE COURT: Well, I just want -- I'm just going to -- I'm
 25 just going to -- I'm going to keep the 9:00 a.m. report to you,

Page 25

1 preliminary injunction based upon the agreed fact that a strike
 2 commenced this day, 1/19/2024, in the City of Newton."
 3 Subparagraphs A through H are entered as modified by my
 4 handwritten edits. The only handwritten edits are, in C, I've
 5 changed 10:00 a.m. to 3:00 p.m. and Saturday, January 20 to
 6 Sunday, January 21, and I've just written the following to
 7 replace subparagraph E, "The defendant will report on status of
 8 compliance to the plaintiff by 9:00 a.m. on January 22, 2024,
 9 and if plaintiff seeks a hearing, it will contact the court
 10 thereafter for a hearing to occur on Monday, January 22nd at
 11 noon." Okay?
 12 MS. HOULE: Yes, Your Honor, thank you.
 13 THE COURT: So, I mean, you can take a look at this, but
 14 I'm going to hand it to Ms. Roberts-Tyler, and she'll make sure
 15 it gets docketed. Thank you, Ms. Roberts-Tyler. So I hope I
 16 don't see you on Monday, and good luck. Is there anything else
 17 we need to take up this afternoon? I'm also going to endorse
 18 the motion for intervention as allowed after hearing. Anything
 19 else we need to talk about?
 20 MS. KANTANY: No, Your Honor. Thank you for your time,
 21 especially at this late hour.
 22 MS. HOULE: Yes, thank you, Your Honor.
 23 THE COURT: Thanks for your patience. All right. Thank
 24 you.
 25 MS. HOULE: Appreciate it.

1 THE COURT: Good luck.
 2 MR. MULLANE: Thank you.
 3 MS. KANTANY: Thank you.
 4 MS. HOULE: Thank you.
 5 (Case concluded at 4:24 p.m.)
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The Commonwealth of Massachusetts
 OFFICE OF COURT MANAGEMENT, Transcription Services
 AUDIO ASSESSMENT FORM
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 NAME:
 CASE NAME: Comm. Employment DOCKET 2481CV00148
 Relations Board v. NO.:
 Newton Teachers Assn
 and Michael Zilles
 JUDGE: RECORDING DATE TRANSCRIPT I OF I
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 Barry-Smith
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 13 not financially nor otherwise interested in the outcome of the
 14 action.
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