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MONTCLAIR KIDS FIRST,

Plaintiff,

vs.

SEAN SPILLER,

Defendant.

**SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION: ESSEX COUNTY  
DOCKET NO.:**

**A Civil Action**

**VERIFIED COMPLAINT AND JURY DEMAND**

Plaintiff Montclair Kids First ("MKF"), by and through its undersigned counsel, by way of Verified Complaint against Defendant Sean Spiller, Member of the Montclair Board of School Estimate, states as follows:

**PARTIES**

1. Plaintiff Montclair Kids First is a coalition of Montclair parents and community members committed to ensuring that all children in Montclair receive a world-class education.
2. Defendant Sean Spiller is a member of the Montclair Board of School Estimate, which adopts the Township's annual school budget. Spiller is also an employee of both the New Jersey Educational Association and the Wayne Education Association, labor unions representing school staff throughout New Jersey and in Wayne Township, respectively.

### VENUE

3. Venue is proper in Essex County pursuant to R. 4:3-2(a)(3) because the causes of action arose here and Spiller is an official and resident of this County.

### FACTS

4. Spiller is the Secretary-Treasurer of the NJEA, a labor union representing teachers and other school employees throughout New Jersey. The NJEA pays Spiller for his services and, as Secretary-Treasurer, he is an officer of the NJEA and the association's third-most senior official.

5. The NJEA is explicit that its core purpose is "to protect the rights, benefits, and interests of members." *See NJEA's Mission Vision and Goals, available at <http://www.njea.org/about/who-we-are/mission>* (last visited March 13, 2015). The NJEA states that "member advocacy" is among its primary goals, including the commitment "to preserve and improve the economic interests, working conditions, job security and pensions" of its members. As an NJEA officer, Spiller is responsible for leading the organization in achieving its purposes.

6. The NJEA's local organization in Montclair is the Montclair Education Association ("MEA"), which represents 1100 school employees who work for Montclair Public Schools ("MPS"). The NJEA requires affiliates like the MEA to adopt the NJEA's standards governing local organizations. The standards require affiliates to adopt the NJEA's core purposes, including the foundational obligation to advocate for the economic interests of members. *See Certification of Shavar D. Jeffries, Esq., Exh A* (hereafter "Exh. \_\_ to Jeffries Cert.").

7. As the NJEA's local affiliate, the NJEA provides the MEA with wide-ranging supports to facilitate their joint mission of advocating for the labor interests of Montclair's school employees. The NJEA, for example, handled collective-bargaining negotiations for the MEA concerning the current labor

agreement between MEA and MPS. Exh. B to Jeffries Cert.

8. As a senior official of the NJEA, Spiller has publicly communicated the NJEA's position on a wide-range of topics affecting local school budgets, ranging from the NJEA's position on health-and-benefits expenses, Exh. C to Jeffries Cert, to the NJEA's position on the state budget in general and education spending in particular, Exh. D to Jeffries Cert. More broadly, the NJEA has an organizational position on the gamut of issues faced by officials overseeing schools—from standardized testing to technology investment to the outsourcing of various functions. As Secretary-Treasurer, Spiller among other things is responsible for advancing the NJEA's policy priorities.

9. In 2012, Spiller, also a Montclair Township Councilor, was appointed to the Township's BSE. Spiller still serves on the BSE today.

10. While in most districts in New Jersey a local elected school board reviews and adopts the school budget, in Type I districts like Montclair, where the Mayor appoints school-board members, a separate public body, the BSE, makes the final decision on the school budget.

11. The BSE is composed of the Township's mayor, two school-board members, and two members of the Town council. Spiller serves on the BSE as an appointed member from the Council.

12. The large majority of the Montclair school budget concerns personnel expenses associated with the MEA. See Exh. E to Jeffries Cert. The MEA, in addition, has priorities each year about the investments it thinks the district should make, and communicates those positions to BSE members and to the public at large.

13. On March 4, 2015, MKF served on the Montclair Town Council and on Spiller a complaint seeking Spiller's removal from the BSE, raising conflicts of interests under both local and state law.

14. The March 4 Complaint argued that both town ordinance and state law do not permit a public official from participating in a public act involving that official's financial or personal interest. MKF's complaint contended that as a senior, paid NJEA executive, with an explicit responsibility to advocate for the specific interests of the NJEA, including the 1100 members of the NJEA's local Montclair affiliate, Spiller could not also legally discharge his duties to Montclair residents as a BSE member to impartially appropriate funds as part of the school-budgeting process.

15. MKF argued both that Spiller had an actual conflict given Spiller's direct financial and personal interests in the NJEA and the seamlessness of the NJEA's and the MEA's interests, and that Spiller at minimum suffered under the appearance of a conflict given the nature of his business and personal relationships with the NJEA and MEA, and that the law prohibited both actual and apparent conflicts.

16. Because both the State and Township ordinances require disqualification for officials subject to a conflict of interest, MKF requested that Spiller resign from the BSE, or in the alternative for the Council to order his removal, before the BSE votes on the FY 2016 budget, so that the vote would not potentially be nullified by Spiller's unlawful participation. On March 12, 2015, the Town Council denied MKF's complaint. Ex. F to Jeffries Cert.

#### COUNT ONE

#### (Violation of Common Law Conflict of Interest Rules)

17. Under the common law, the public is entitled to have its public officials perform their duties free from financial or personal conflicts.

18. Conflict-of-interest duties at common law prohibit public officials not only from acting while subject to actual conflicts, but also while subject to conflicts that might potentially be perceived by the public.

19. Under the common law, the potential for conflict, rather than proof of actual conflict, requires a public official to disqualify herself from participating on a public matter.

20. The common law thus requires disqualification when an official has a financial or personal interest related to a matter of public business, even if that interest does not in fact influence the official's decision-making.

21. As the NJEA's Secretary-Treasurer, Spiller is employed by the NJEA to advocate for the NJEA's members, including the 1,100 employees of the Montclair Public Schools represented by the NJEA's local affiliate, the MEA. At the same time, the majority of the school budget concerns personnel expenses associated with the MEA, so the work of the BSE invariably concerns the interests of the NJEA and the MEA.

22. Because Spiller's service on the BSE involves his financial or personal interests as a paid, executive officer of the NJEA, his participation on the BSE, at the very least, creates an appearance of a conflict-of-interest, and the common law therefore requires disqualification.

## **COUNT TWO**

### **(Violation of the New Jersey Local Government Ethics Law)**

23. MKF incorporates by reference the above paragraphs as if fully stated here.

24. The LGEL, *N.J.S.A. 40A:9-22* (2015), enacted in 1991, broadly prohibits public officials from engaging in public action when that action triggers even the appearance of a conflict.

25. The statute emphasizes that confidence in public conduct is compromised "whenever the public perceives a conflict" between an official's private interests and public duties. *See N.J.S.A. 40A:9-22.2c.*

26. Among other things, the LGEL 1) prohibits local officials from engaging in any business activity that "is in substantial conflict" with public duties; 2) prohibits local officials from using their position to secure unwarranted advantages for others; 3) prohibits local officials from acting on matters where the official has a financial or personal interest "that might reasonably be expected to impair his objectivity"; and 4) prohibits local officials from undertaking any employment or service, paid or not, that might "prejudice his independence of judgment" in performing public duties. *See N.J.S.A. 40A:9-22.5 (a, c-e).*

27. As the NJEA's Secretary-Treasurer, Spiller is employed by the NJEA to advocate for the NJEA's members, which includes the 1,100 employees of the Montclair Public Schools represented by the NJEA's local affiliate, the MEA. At the same time, the majority of the school budget concerns personnel expenses associated with the MEA, so the work of the BSE invariably concerns the interests of the NJEA and the MEA.

28. Because Spiller's service on the BSE involves his financial or personal interests as a paid, executive officer of the NJEA, his participation on the BSE, at the very least, creates an appearance of a conflict-of-interest relating to his duties to impartially act in the public interest.

29. Spiller's financial and personal interests also create an appearance that, given his role as a senior officer employed by the NJEA, he might use his position to gain unjustifiable advantages for the NJEA or MEA.

30. For these reasons, Spiller's participation on the BSE violates at least four different provisions of the LGEL, any one of which suffices to require his disqualification. *See N.J.S.A. 40A:9-22.5 (a, c-e).*

**COUNT THREE**  
**(Violation of Montclair Ethics Code)**

31. MKF incorporates by reference the above paragraphs as if stated fully here.

32. The Montclair Ethics Code recognizes that the legitimacy of local, democratic government "depend[s] upon the public's confidence in the integrity" of its representatives, and emphasizes further that even the appearance of a conflict between private interests and public duties undermines confidence in representative government. See Montclair Municipal Code § 3-59 (2015), Exh. G to Jeffries Cert.

33. The Ethics Code, therefore, requires municipal officials to disqualify themselves from voting or acting on any matter "involving" the official's financial or personal interests. See Montclair Municipal Code §3-63(a) (2015), Exh. G to Jeffries Cert.

34. The Ethics Code defines the relevant "financial interest" requiring disqualification as any interest producing, directly or indirectly, "a monetary or other material benefit." Montclair Municipal Code § 3-60 (2015), Exh. G to Jeffries Cert.

35. The Ethics Code defines the "personal interest" requiring disqualification as any interest arising from "close business association," among other things.

36. Spiller's concurrent service as a Member of the BSE and the Secretary-Treasurer of the NJEA constitutes both a financial and personal conflict of interest under the Ethics Code.

37. Defendant's financial interests are implicated by his membership on the BSE because he is employed by the NJEA to advocate for the

NJEA's members, which includes the 1,100 employees of the Montclair Public Schools represented by the MEA.

38. Defendant's personal interests are implicated by his membership on the BSE because the NJEA and MEA are close business associates, as the MEA is NJEA's local affiliate and thus advocates for the NJEA's statewide interests at the local level.

39. The BSE's sole function is to decide matters related to the Montclair Board of Education, and the majority of that budget concerns the financial interests of 1,100 members of an organization with which Defendant is closely associated.

40. Because Spiller's service on the BSE involves his financial or personal interests as a paid, executive officer of the NJEA, his participation on the BSE at minimum creates an appearance of a conflict of interest, and for that reason the Montclair Code of Ethics requires disqualification.

**COUNT FOUR**  
**(New Jersey Civil Rights Act)**

41. The New Jersey Civil Rights Act grants individuals the right to be free of deprivations of their rights secured by the laws of this state.

42. New Jersey statutory and common law grants individuals the right to public service from disinterested government officials.

43. Spiller's service on the BSE even when that service engenders both an actual conflict, and the appearance of a conflict of interest, denies the parent members of MKF of their right to conflict-free, disinterested service, and thus violates the New Jersey Civil Rights Act, N.J.S.A. 10:6-1 *et seq.*



**WHEREFORE**, Plaintiff respectfully requests that the Court enter judgment in favor of Plaintiff and against Defendant, and enter an Order:

- (a) temporarily, preliminarily, and permanently removing Spiller from the BSE, and restraining and enjoining Defendant from any further participation in the activities of the Montclair Board of School Estimate (the "BSE"), including, but not limited to, serving as a Member of the BSE, attending BSE meetings as a Member of the BSE, and participating in BSE votes;
- (b) counsel fees and costs of suit; and
- (c) any other relief as the Court may deem just and equitable.

**DEMAND FOR TRIAL BY JURY**

Plaintiff hereby requests a trial by jury on all triable issues and claims

**DESIGNATION OF TRIAL COUNSEL**

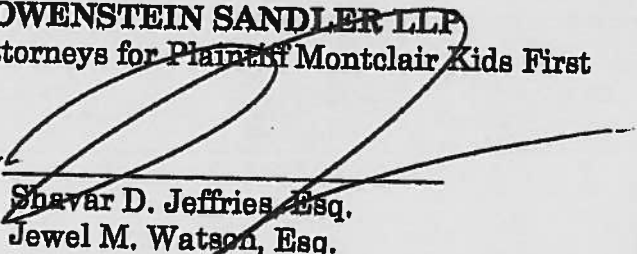
Pursuant to the provisions of R. 4:25-4, Plaintiff hereby designates Shavar D. Jeffries, Esq. as trial counsel in the above-captioned matter.

**CERTIFICATION PURSUANT TO R. 4:5-1**

I certify that the foregoing matter in controversy is not the subject of any pending arbitration or lawsuit nor is any such arbitration proceeding or lawsuit presently contemplated. Additionally, I know of no other parties who should be joined in this matter at this time.

I certify that the foregoing statements made by me are true. I understand that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

**LOWENSTEIN SANDLER LLP**  
Attorneys for Plaintiff Montclair Kids First

By   
Shavar D. Jeffries, Esq.  
Jewel M. Watson, Esq.

Dated: March 13, 2015

**VERIFICATION**

**State of New Jersey        :**

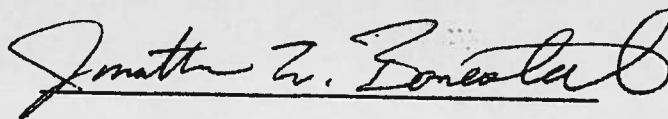
**County of Essex        :**

**I, Jonathan Bonesteel, of full age, hereby attest to the following:**

**1.        I am a member of Montclair Kids First, a coalition of Montclair parents committed to excellence in Montclair's public-school system, which is the plaintiff in the above-captioned matter.**

**2.        Under penalty of perjury, I certify that I have read the within Verified Complaint and affirm that its contents are true and correct to the best of my knowledge and belief.**

**I certify that the foregoing statements made by me are true to the best of my knowledge, information, and belief. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.**



**Jonathan Bonesteel**

**Dated: March 13, 2015**