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16 DISTRICT COURT
17 CLARK COUNTY, NEVADA

18 CLARK COUNTY SCHOOL DISTRICT,
19
20 Plaintiff,

Case No. A-23-874996-C
Dept. No. 8

20 v.

**EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION ON
ORDER SHORTENING TIME**

21 CLARK COUNTY EDUCATION
22 ASSOCIATION; MARIE NEISESS, in her
23 capacity as President of the Clark County
24 Education Association; JAMES FRAZEE, in his
25 capacity as Vice President of the Clark County
26 Education Association; JOHN VELLARDITA, in
27 his capacity as Executive Director of the Clark
28 County Education Association; and DOES 1-10,
inclusive,

HEARING REQUESTED

Defendants.

1 CLARK COUNTY SCHOOL DISTRICT, (“the District” or “CCSD”), through its counsel,
2 seeks immediate injunctive relief under NRS 288.705(2) to stop the continuance of a strike by
3 licensed educators represented by the Clark County Education Association (“CCEA”).¹ Between
4 September 1, 2023, and September 8, 2023, CCEA and the licensed educators it represents have
5 forced the closure of three Clark County schools and severely disrupted the operations of two others
6 through a targeted and coordinated rolling-sickout strike. The absentee level at the affected schools
7 is unprecedented, and these mass sickouts have left students, parents, staff, and administrators
8 scrambling to ensure students’ wellbeing. While mass absences by CCEA educators affected one
9 school per day through most of the week, their actions on September 8 caused two school closures.
10 It defies logic to suggest that these mass absences constitute anything but the type of concerted,
11 pretextual absences that NRS 288.074(2) plainly defines as a strike. And if Defendant Vellardita’s
12 threats leading up to the current strike are to be believed, the situation will only continue unless the
13 Court enjoins these clearly illegal work actions. The Court must intervene to halt the irreparable
14 harm that the ongoing strike is causing.

15 Defendants must be enjoined to cease this strike and disavow the illegal actions of CCEA
16 educators. On August 1, 2023, the District first sought emergency injunctive relief based on
17 Defendants’ credible threats that they would strike unless they received a contract that they found
18 acceptable. After hearing the motion on August 22, 2023, the Court denied that request with the
19 caveat that “[s]hould additional actions by the Defendants result in further evidence of a strike or
20 threat of strike in violation of NRS 288 *et seq.*, Plaintiff may move for a hearing on order shortening
21 time to be heard within one judicial day.” Nevertheless, Defendants and educators across Clark
22 County have brazenly initiated a strike in direct violation of NRS 288.705(2) and NRS 288.074,
23 despite the Court’s clear admonition that it would not tolerate a strike. This is exactly the type of
24 strike that the Legislature passed NRS 288.700 to prevent and halt, and the Court now has more
25

26
27 ¹ The District supports this motion with the declarations of Ethan D. Thomas, Esq., which is
28 attached hereto as Exhibit 1, Deputy Superintendent Brenda Larsen-Mitchell, which is attached as
Exhibit 2, Employee Management Relations Director Mollie Hall, which is attached as Exhibit 3,
and Deputy Chief Human Resources Officer Marynet Bernazar, which is attached as Exhibit 4.

1 than enough evidence to issue an immediate injunction to stop the irreparable harm the strike is
2 causing.

3 This strike is the culmination of Defendants’ months-long campaign to pressure the District
4 into more favorable bargaining terms by credibly threatening that there would be no school without
5 a contract. But Defendants have miscalculated. As the Court is aware, once a strike occurs, the
6 District lacks discretion to seek an injunction to stop the strike from continuing and must petition
7 the Court for such relief. Likewise, if a strike has already commenced, the Court lacks discretion
8 to enter an injunction and “*shall* enjoin the continuance . . . of such strike.” NRS 288.705(2)
9 (emphasis added). Although Defendants will likely (and unconvincingly) attempt to evade
10 accountability for this strike, they cannot escape that it has followed their playbook, which Mr.
11 Vellardita threatened to unleash since June. It is simply not believable that Defendants would
12 threaten targeted work actions for months and have no involvement when those work actions come
13 to pass through their own members’ conduct. Indeed, Defendants cannot “lead a horse to water”
14 and feign surprise when it drinks. Moreover, Defendants’ abject failure to discourage or halt the
15 clearly illegal strike betrays any lackluster excuse they may offer that they have not directed the
16 actions of their striking members.

17 Defendants’ actions have caused and will continue to cause the exact irreparable harm that
18 the Legislature intended to prevent through NRS 288.700. The District, students, and families in
19 Clark County will continue to suffer unless the Court enjoins the continuance of these strikes.
20 Accordingly, the Court must immediately enjoin Defendants and the educators they represent from
21 striking in any way and compel them to discourage and disavow further actions in violation of NRS
22 288.700 *et seq.* to all bargaining unit members.

23 **MEMORANDUM OF POINTS AND AUTHORITIES REGARDING ORDER**

24 **SHORTENING TIME**

25 EDCR 2.26 provides for ex parte relief to shorten time.

26 Ex parte motions to shorten time may not be granted except upon an unsworn
27 declaration under penalty of perjury or affidavit of counsel or a self-represented
28 litigant describing the circumstances claimed to constitute good cause and justify
shortening of time. If a motion to shorten time is granted, it must be served upon all
parties promptly. An order that shortens the notice of a hearing to less than 14 days

1 may not be served by mail. In no event may the notice of the hearing of a motion be
2 shortened to less than 1 day.

3 EDCR 2.26. In addition, the Court expressly invited the District to renew its request for injunctive
4 relief if “additional actions by the Defendants result in further evidence of a strike or threat of
5 strike.” See Order Denying P.’s Mot. for TRO at 3, attached as Exhibit 5.

6 As demonstrated by the Declaration of Ethan D. Thomas, Esq., good cause exists, which
7 justifies an Order Shortening Time concerning the hearing of the Motion. This case involves actions
8 by Defendants and CCEA educators that constitute a strike under NRS 288.074(1)–(3) and
9 Defendants’ accountability for those actions. The current strike sweeping Clark County schools
10 comes on the heels of a months-long campaign by Defendants that there would be a strike unless
11 the District capitulated to CCEA’s bargaining demands. Defendants’ credible threats to strike
12 caused the commencement of an illegal strike, and under NRS 288.705(1), the District is *required*
13 to seek injunctive relief to prevent the severe irreparable harm to students and families that even
14 one day of a strike causes.

15 If this matter is heard in the ordinary course, the strike will continue without recourse, which
16 will continue to significantly and irreparably harm the District and the safety, health, well-being,
17 and education rights of children in Clark County. Accordingly, the District respectfully requests
18 that the time for a hearing date be shortened to one day in accordance with the Court’s August 25,
19 2023, Order.

20 **DECLARATION OF ETHAN D. THOMAS, ESQ.**

21 I, Ethan D. Thomas, declare under penalty of perjury under the law of the State of Nevada
22 that the following assertions in this declaration are true and correct and based on my personal
23 knowledge unless otherwise stated.

24 1. I am a Shareholder with the firm Littler Mendelson, P.C., and counsel for the
25 Plaintiff in the above-captioned case. I make this declaration in support of Plaintiff’s Emergency
26 Motion for Temporary Restraining Order and Preliminary Injunction on Order Shortening Time.

27 2. The District brought its first Emergency Motion for Temporary Restraining Order
28 and Preliminary Injunction on Order Shortening Time on August 1, 2023. The issue at the center

1 of the District’s first Motion was Defendants’ threats to commence an unlawful teacher strike on
2 or soon after August 26, 2023.

3 3. The District brought its first Motion in good faith based on a reasonable belief that
4 Defendants’ public statements and other relevant evidence constituted legitimate threats to
5 commence a strike under NRS 288.074 and NRS 288.705 on or shortly after August 26, 2023.

6 4. On August 22, 2023, the Court denied the District’s first Motion for injunctive relief.
7 In its August 25, 2023, written order, the Court held that “[a]lthough the Court is concerned about
8 certain statements made by the Defendants, at this point in time, the Court finds that it has
9 insufficient evidence that a strike will occur within the meaning of the statute.” Exhibit 5, Order
10 Denying P.’s Mot. for TRO at 3. Nevertheless, the Court invited the District to renew its Motion
11 and agreed to hear argument on a renewed motion within one judicial day “[s]hould additional
12 actions by the Defendants result in further evidence of a strike or threat of strike.” *Id.*

13 5. On Friday September 1, 2023, the District first became aware of what appeared to
14 be concentrated absenteeism at Southeast Career Technical Academy, a Clark County High School
15 (SECTA). The absentee rate at SECTA far exceeded the normal absentee rate, but the school was
16 able to facilitate classes without having to close the school.

17 6. On Tuesday September 5, 2023, the District learned that twenty nine of thirty-three
18 licensed personnel called out sick at James Gibson Elementary School. The mass absences—
19 constituting more than 87% of all licensed educators—forced a complete school closure just
20 minutes before school was to begin that day.

21 7. On Wednesday September 6, 2023, CCEA educators targeted Mario C. & Joanne
22 Monaco Middle School. That day, thirty seven of fifty-four licensed personnel called out sick.
23 This represented approximately 69% of all licensed personnel. Fortunately, administrators, staff,
24 and the teachers who reported to work were able to alter class schedules to avoid a complete school
25 closure. Regardless, the mass absences substantially disrupted the operations of the school and
26 impacted the educational efficiency of the students.

27 8. On Friday September 8, 2023, C.T. Sewell Elementary School and Linda Rankin
28 Givens Elementary School were targeted for mass sickouts. The sickouts caused both schools to

1 completely cancel classes. At Sewell Elementary, twenty nine of forty licensed personnel called
2 out sick, which is 72% of its licensed personnel. At Givens Elementary, twenty six of forty
3 licensed personnel (65%) called out sick.

4 9. These rolling sickouts are escalating, and there is no indication that they will cease
5 absent court intervention and injunctive relief.

6 10. Based on my review of this matter, if the Court hears this Motion on a shortened
7 schedule, it is likely it will be able to issue an order to stop the continuance of these actions, which
8 constitute a strike under NRS 288.074. However, if the matter is heard in the ordinary course, the
9 continued strike will continue significantly and irreparably harming the District and the safety,
10 health, well-being, and educational rights of children in the State of Nevada.

11 11. This application is made in good faith.

12 12. The District respectfully requests that the Court set the Motion for hearing on the
13 earliest available date the Court’s calendar permits, and if possible, within one judicial day as
14 directed by the Court’s August 25, 2023, Order.

15
16 I declare under penalty of perjury that the foregoing is true and correct.

17 Dated this 11th day of September 2023.

18 
19 _____
20 Ethan D. Thomas, Esq.

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1 **ORDER SHORTENING TIME**

2 Plaintiff having filed a request to shorten time and good cause appearing,

3 IT IS HEREBY ORDERED that the Defendants will have up to and including
4 _____, 2023 to file and serve their Opposition. Plaintiff will have up to and
5 including _____, 2023 to file a Reply in Support of the Motion.

6 IT IS FURTHER ORDERED that the EMERGENCY MOTION FOR TEMPORARY
7 RESTRAINING ORDER AND PRELIMINARY INJUNCTION shall be heard on shortened time
8 on the ____ day of _____, 2023 at ____ m. before the above-entitled Court.

9 IT IS SO ORDERED.

10 Dated: _____

11 _____
12 DISTRICT COURT JUDGE

13 Respectfully Submitted by:

14 

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1 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR**
2 **TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

3 **I. INTRODUCTION**

4 Neither this lawsuit nor the Court’s stated concerns that Defendants’ public statements
5 plausibly constituted threats to violate Nevada’s anti-strike statute have stopped Defendants and
6 CCEA educators from commencing an illegal strike. Unfortunately, students, parents, and the
7 District are now suffering the consequences of Defendants’ reckless and illegal campaign to strike
8 until their bargaining demands are met. Defendants have made good on their promises that there
9 will be no school without a new contract. Make no mistake, the concerted sickouts are illegal under
10 any interpretation of NRS 288.074, but Defendants, and a portion of their dues-paying
11 membership,² simply do not care. Unless the Court acts to stop this strike from continuing, Clark
12 County students, their families, and the District will continue to suffer irreparable harm. Thus, the
13 Court must utilize NRS 288.700’s statutory framework to immediately enjoin the continuation of
14 this rolling strike.

15 Defendants have already attempted in the media, and will surely continue to feign ignorance
16 of these sickouts and hide behind a contrived veil of manufactured deniability. But Defendants
17 cannot credibly deny their direct planning, endorsement, and encouragement of the strike, which
18 they have threatened for months. Indeed, Defendants—and Mr. Vellardita in particular—
19 painstakingly created the playbook for this exact scenario through constant messaging to the public
20 and their members that they would strike unless they receive a contract that they find acceptable.
21 And even if Defendants did not expressly coordinate these sickouts themselves, the actions of their
22 striking bargaining unit members across Clark County were an imminently foreseeable
23 consequence of Defendants’ campaign. Further, Defendants’ clear refusal to condemn, disavow,
24 or discourage its members from actively violating the law speaks volumes about their involvement.
25 If nothing else, Defendants’ failure to instruct its members to cease violating the statute has
26 impliedly authorized and ratified this illegal strike.

27 ² For clarity, CCEA is the exclusive bargaining agent for Clark County educators under NRS
28 288.133. As such, CCEA represents all licensed educators in Clark County public schools,
regardless of whether they are dues-paying members of CCEA. In other words, all licensed
educators in Clark County public schools are members of the CCEA bargaining unit.

1 Defendants leave the Court no choice but to immediately enjoin the continuance of a strike
2 under NRS 288.074, including any “concerted . . . [a]bsence from work by [its members] . . . upon
3 any pretext or excuse, such as illness, which is not founded in fact.” NRS 288.074(2). In addition,
4 the Court must enjoin Defendants to immediately instruct its members to cease all work actions
5 constituting a strike under NRS 288.074. Absent such Court intervention, Defendants will continue
6 their tacit approval of the strike, which will continue to cause school closures on a rolling basis,
7 resulting in incalculable harm to the District and its students.

8 II. BACKGROUND

9 a. The Threats

10 The District outlined Defendants’ threats to strike unless the District capitulated to the
11 union’s bargaining demands at length in its prior briefing.³ Defendants’ threats are even more
12 damning now in light of the concerted strike activity sweeping through Clark County schools.
13 When taken as a whole, Defendants’ threats, plus the rolling sickout, leaves little doubt that
14 Defendants have caused an illegal strike to occur in violation of NRS 288.074. Since at least June
15 17, 2023, Defendants have regularly broadcasted to the District and the public their intent to
16 promote and engage in work actions amounting to a strike. The thrust of Defendants’ threats has
17 always been: if there is no contract, there will be no school. Mr. Vellardita in particular expressed
18 this sentiment in several press conferences and interviews, including on July 12, 2023, threatening
19 “*there’s not going to be a school year without a contract.*”⁴

20 The threat of “no contract, no school” became Defendants’ plan of action once it was blessed
21 by CCEA membership. This became apparent in CCEA’s July 29, 2023, press conference, which
22 followed a CCEA membership meeting.⁵ During the press conference, Mr. Vellardita outlined
23 CCEA’s plan to selectively target schools for strike activities. At that point, the purpose of the
24 threatened activities was to exert pressure on the District to come to an agreement on a new contract

25 ³ See P.’s Emergency Mot. for Temporary Restraining Order 6–8; P.’s Reply in Support of its
26 Emergency Mot. for Temporary Restraining Order 6–13; and P.’s Opposition to Defendants’
27 Special Mot. to Dismiss 4–7, 18–20. The District incorporates those filings by reference herein.

⁴ See Kevin Wall Radio, July 12, 2023 – Hour 1 Part 1, at 18:35–19:00, 27:18–27:49, attached
hereto as Exhibit 6 and provided to the Court by separate storage device (emphasis added).

⁵ See CCEA press conference after emergency meeting (July 29, 2023), attached hereto as Exhibit
7 and provided to the Court by separate storage device.

1 before August 26, 2023. However, Mr. Vellardita was clear that if there was no contract before
2 August 26, there would be undefined “work actions” that would target specific members of the
3 Board of Trustees. He stated:

4 If we do not have an agreement with the School District by August 26, our
5 organization and our members will be taking a vote to engage in work actions and
6 *those work actions that we will have to take will not be district wide initially; they*
7 *will be what we call “selective management” We will target a Trustee’s district at*
8 *a time . . . where if we don’t have a contract by then, it could very well be that those*
9 *schools are the schools that engage in a work action.*⁶

10 Although Mr. Vellardita refused to explain the scope of these work actions or whether they
11 amounted to a strike, he expressly confirmed the existing plan of action that there would be no
12 school without a new contract.

13 So on June 17th over 2,000 educators, members of CCEA gathered and they took a
14 position that if there was no contract in place, *there would be no school year*
15 *. . . . Today we affirm that course of action* and essentially said that if there is no
16 contract in place by August 26th, we will have another membership meeting and
17 decide, in that meeting, the course of action we’ll take on whether or not there will
18 be schools.⁷

19 Unfortunately, the District and the public now know that Mr. Vellardita’s threatened work actions
20 included (at least) rolling strikes and school closures.

21 The District is informed and believes that prior to CCEA’s July 29 press conference,
22 Defendants specifically presented and instructed CCEA membership on a potential action that could
23 be taken nearly identical to the rolling sickouts that have recently swept through Clark County. The
24 District is in possession of an image provided to the District depicting what appears to be a
25 PowerPoint slide shown in a CCEA membership meeting.⁸ The image suggests that Defendants
26 presented CCEA membership with the option of engaging it “Rolling School Outs,” which is

27 ⁶ *Id.* at 21:30–22:31.

28 ⁷ *Id.* at 23:53–24:17.

⁸ *See* Exhibit 8. Exhibit 8 was provided to the District by a third party weeks after CCEA’s July 29 meeting occurred. CCSD representatives were not in attendance at the meeting on July 29 and therefore cannot authenticate if it accurately reflects a slide shown to CCEA membership that day (or in some other membership meeting). The District has concluded that Defendants are the parties best able to authenticate the image, given that they were present at the July 29 meeting (or other recent membership meetings) and could testify as to the image’s authenticity or inauthenticity. In any event, if Defendants contest the image’s authenticity, the District invites them to declare under oath that the image does not accurately reflect the PowerPoint slides used in the July 29 meeting or another recent membership meeting. The District intends to conduct discovery related to the image and CCEA’s communications and PowerPoint presentations as the case proceeds.

1 contrary to Defendants’ representations that they have not encouraged membership to engage in an
2 illegal strike. The image itself appears to show CCEA members, wearing their blue union-branded
3 CCEA t-shirts, evaluating a PowerPoint slide titled “Rolling School Outs.”⁹ The slide included
4 three bullet points: (1) Selective Engagement; (2) One Trustee District at a time; and (3) Selective
5 Sick Outs.¹⁰ The photo appears to represent (at least) CCEA’s consideration of selective sickouts,
6 despite their patent illegality and Defendants’ representations to the Court that they have not
7 threatened to strike. Admittedly, the District is currently unable to independently authenticate this
8 image. However, should Defendants contest the authenticity of the image, the District invites them
9 to declare under oath that the PowerPoint slide in question was not included in a presentation CCEA
10 leadership gave to its members as the image appears to show, and the District intends to pursue
11 discovery related to the same.

12 The District’s belief as to the authenticity of the image, which will be the subject of future
13 discovery, is bolstered and corroborated by Mr. Vellardita’s public statements in the press
14 conference immediately following the membership meeting on July 29. Mr. Vellardita’s threats in
15 the press conference track the three parts of the PowerPoint slide almost verbatim. Mr. Vellardita
16 warned: if there is no contract by August 26, CCEA would engage in (1) “*selective*” work actions
17 that (2) would be *targeted to each Trustee’s district*.¹¹ Further, Mr. Vellardita’s threats and the
18 contents of the PowerPoint slide mirror the current rolling sickouts almost identically. CCEA
19 educators have (1) selectively (2) targeted individual Trustees’ districts with (3) rolling sickouts.
20 Mr. Vellardita’s threats concerning the scope of these concerted “Rolling School Outs” is also
21 concerning. Mr. Vellardita specifically threatened that “work actions that we will have to take will
22 not be district wide, *initially*.”¹² Implicit in the threat is that the scope of CCEA’s work actions
23 could expand from targeting a single Trustee to district-wide, which would cause unprecedented
24 harm.

26 ⁹ *Id.*

27 ¹⁰ *Id.*

28 ¹¹ See CCEA press conference after emergency meeting, at 21:30–23:53 (July 29, 2023), attached hereto as Exhibit 7 and provided to the Court by separate storage device (emphasis added).

¹² *Id.*

1 We now know that these so-called work actions were actually “Rolling School Outs” that
2 have caused three school closures in five days and substantially interrupted instruction at other
3 schools. And true to Mr. Vellardita’s threats, although the rolling strike targeted one Trustee’s
4 district per day “initially,” on Friday September 8, two different Trustees’ districts were targeted.
5 Mr. Vellardita’s past threats offer little hope that these actions are not escalating.

6 **b. The Strike: “Rolling School Outs”**

7 The strike began on Friday September 1, 2023, and has continued almost every day since.
8 In the 24 hours leading up to the opening bell at Southeast Career Technical Academy (SECTA),
9 nearly half of all licensed personnel called out of work.¹³ In total, 44/105 licensed personnel called
10 out. In the data immediately available after the absences, the vast majority of absent personnel used
11 sick leave to explain their absences.¹⁴ 27 of the 44 absentees at SECTA were CCEA members,¹⁵
12 although an individual educator’s membership in the union does not affect the legality of these
13 concerted actions.¹⁶ Making matters worse, only 8 of the 44 absent educators requested a substitute
14 teacher through the necessary channels, making it all but certain that the school would be severely
15 short-staffed on September 1.¹⁷ Fortunately, this mass sickout did not force the closure of
16 SECTA.¹⁸ However, the licensed personnel, staff, and administration who reported to work were
17 forced to significantly alter operations to ensure the wellbeing of over 2,000 students in attendance.
18 These alterations caused substantial interruption to SECTA’s operations, including canceling or
19 combining classes, changing class schedules, and staging large groups of students, who could not
20 attend their normal classes, in the gymnasium and other common areas.

21
22 ¹³ See Declaration of Marynet Bernazar ¶ 6, attached hereto as Exhibit 4.

23 ¹⁴ *Id.* ¶ 7.

24 ¹⁵ *Id.*

25 ¹⁶ As more fully discussed below, an individual teacher’s membership in the union is irrelevant
26 for purposes of NRS 288.700. CCEA is the exclusive bargaining agent for all Clark County
27 educators (*see* NRS 288.133), and non-union educators are still part of the bargaining unit and
28 receive the benefit of the contract the CCEA negotiates on their behalf. In addition, the
percentage of educators that are CCEA dues-paying members who have called out sick during
these targeted school outs has been around 50%. This percentage roughly aligns with the overall
percentage of Clark County educators who are dues-paying members of CCEA, which is
currently approximately 57%. *See* Decl. of Marynet Bernazar ¶ 4, attached hereto as Exhibit 4.

¹⁷ Decl. of Marynet Bernazar ¶ 7, attached hereto as Exhibit 4.

¹⁸ *See id.* ¶ 7.

1 On Monday September 4, schools were closed in observance of Labor Day. However, on
2 Tuesday September 5, CCEA continued the concerted sickouts at James Gibson Elementary School.
3 Within 24 hours of the start of school, 29 of 33 licensed personnel—which equates to 87% of
4 *Gibson’s licensed educators*—called out, including 15 CCEA members.¹⁹ According to the data
5 immediately available following the absences, nearly all of the absent educators coded their absence
6 as a sick day, and nearly every absence was disclosed or requested on September 4 or later. Unlike
7 SECTA, which was able to limp through the school day on September 1, Gibson had no choice but
8 to cancel school entirely.²⁰ The cancelation had far-reaching consequences. Parents, who were
9 informed shortly before the start of classes that their students could not be dropped off, were forced
10 to make alternative child-care arrangements, and community partners were forced to spring into
11 action to assist with childcare. Fortunately, the City of Henderson opened the Silver Springs
12 Recreation Center for parents to drop off affected students in an attempt to alleviate the harm that
13 the sickout caused.²¹

14 On Wednesday, September 6, 2023, CCEA educators targeted Mario C. & Joanne Monaco
15 Middle School. 37 of 54 licensed educators—69% of all Monaco licensed educators—were
16 absent.²² Of the 37 total absences, 29 were CCEA members.²³ Like Gibson Elementary, the great
17 majority of absences were coded as sick leave, and only two absences were requested or approved
18 more than 24 hours in advance.²⁴ Fortunately, Monaco was not forced to cancel classes.²⁵
19 However, like SECTA, the excessive absences forced the remaining educators, administrators, and
20 staff to drastically alter students’ schedules and severely interrupted school operations.²⁶

21 CCEA’s concerted sickouts escalated on Friday September 8, forcing the closure of both
22 C.T. Sewell Elementary School and Linda Rankin Givens Elementary School. At Sewell, 29 of 40
23

24 ¹⁹ *Id.* ¶ 8.

25 ²⁰ *Id.* ¶ 9.

26 ²¹ See Caitlin Lilly, C.C. McCandles, and Joe Vigil, *CCSD ‘concerned’ after Henderson school cancels classes due to teach, staff shortage*, Fox5 Vegas (Sep. 5, 2023), attached as Exhibit 9.

27 ²² Decl. of Marynet Bernazar ¶ 10, attached as Exhibit 4.

28 ²³ *Id.*

²⁴ *Id.* ¶ 11.

²⁵ *Id.*

²⁶ Decl. of Brenda Larsen-Mitchell ¶ 9, attached as Exhibit 2.

1 licensed personnel—72% of all Sewell licensed educators—were absent.²⁷ Of the 29 total absences,
2 12 were CCEA members.²⁸ At Givens, 26 of 40 licensed personnel—65% of Givens’s licensed
3 educators—were absent.²⁹ Of the 26 total absences, 14 were CCEA members.³⁰ Like Gibson
4 Elementary, the Sewell and Givens cancelations sent ripples throughout the communities
5 embracing the schools. Parents were forced to arrange alternate childcare, students were forced
6 home from school, and local community centers stepped in to help parents without childcare
7 options.³¹

8 These rolling sickouts are consistent with CCEA’s threats and apparent plan following the
9 July 29 member meeting, including threatening individual Trustees’ districts one at a time. The
10 first two rolling sickouts targeted Trustee Cavazos’s district (SECTA and Gibson). After that,
11 Trustee Zamora’s district was targeted (Monaco). Then, the targeting escalated to two Trustees in
12 one day: Trustee Brooks (Givens) and Trustee Guzman (Sewell). There is no telling how severely
13 the targeting will escalate in the coming days. But if we are to believe Mr. Vellardita’s threats,
14 there is a distinct possibility that these “Rolling School Outs” could soon become “district wide.”³²
15 An injunction is the only mechanism that will halt the continuance—and escalation—of this illegal
16 public-employee strike, and the Court must issue the District’s requested relief to prevent further
17 irreparable harm.

18 III. LEGAL ARGUMENT

19 a. CCEA’s Actions Amount to a Strike under any of NRS 288.074’s Definitions 20 and Must be Enjoined under NRS 288.705

21 The landscape of this action has seismically shifted since the District first sought injunctive
22 relief on August 1, 2023. Whereas the District initially sought to enjoin the *commencement* of a
23 strike under NRS 288.705, the illegal strike has now occurred, and only an injunction will stop it
24 from continuing. In the hearing on the District’s initial motion, the Court expressed concern about

25 ²⁷ Decl. of Marynet Bernazar ¶ 12, attached as Exhibit 4.

26 ²⁸ *Id.*

27 ²⁹ *Id.* ¶ 14.

28 ³⁰ *Id.*

³¹ Tiffany Lane, *School Canceled at C.T. Sewell & Givens Elementary Schools due to more teacher absences*, 3 News (Sep. 8, 2023), attached as Exhibit 10.

³² See CCEA press conference after emergency meeting, at 21:30–23:53 (July 29, 2023), attached hereto as Exhibit 7 and provided to the Court by separate storage device (emphasis added).

1 Defendants' threats but determined that it did not have enough evidence *at that time* that a strike
2 "will occur" unless enjoined.³³ Here, however, the Court need not wade into the apparent grey area
3 of whether Defendants' threats to strike adequately conveyed a specific date by which they would
4 engage in a strike. The District has demonstrated that a rolling strike in the form of concerted
5 sickouts has occurred. These sickouts are as transparent as they are illegal. And the Court should
6 not hesitate to issue an order immediately stopping this strike from continuing.

7 It is the public policy of the State of Nevada that strikes against CCSD, and all other state
8 or local government employers, are illegal. *See* NRS 288.700. The Nevada Legislature enacted
9 this statute in 1969, in response to the last teacher strike that occurred in Nevada. In so doing, the
10 State explicitly declared that strikes against CCSD so disrupt the essential and incomparable
11 services that the District provides to Clark County's students, that they are illegal and government
12 employers needed recourse to prevent the same. Indeed, public-teacher strikes create irreparable
13 injury to the health, safety, and welfare of the people of Nevada. *See* NRS 288.700(1)(a). Moreover,
14 the continuity of CCSD's services is essential, and their disruption is incompatible with the
15 responsibility of the State. *See* NRS 288.700(1)(b).

16 Public employers must seek injunctive relief to stop a strike that has already commenced.
17 NRS 288.705(1). And the universe of actions that constitute a strike under the statute is broad.
18 NRS 288.074 sets forth three examples of what constitutes a "strike" under the statute. Prongs one
19 and two contemplate actions by public employees, and prong three contemplates specific actions
20 of the labor organization. Actions arising from any of the three prongs will satisfy NRS 288.074's
21 standard and constitute a strike under the statute. The rolling sickouts sweeping Clark County
22 constitute a strike under all three prongs. Under NRS 288.074, a "strike" is any concerted:

- 23 1. Stoppage of work, slowdown or interruption of operations by employees of the
24 State of Nevada or local government employees;
- 25 2. Absence from work by employees of the State of Nevada or local government
26 employees upon any pretext or excuse, such as illness, which is not founded in fact;
27 or
- 28 3. Interruption of the operations of the State of Nevada or any local government
employee by any employee organization or labor organization.

³³ *See* Order, Exhibit 5 at 3.

1 CCEA’s rolling sickouts are “concerted” action as required by the statute. An activity is
2 “concerted” if it involves “employees who have joined together in order to achieve common goals.”
3 *Moreno v. Utiliquest, LLC*, 29 F.4th 567, 576 (9th Cir. 2022) (citation omitted). There is no
4 requirement that a labor organization direct coordinated activity for the activity to be “concerted”
5 under NRS 288.074. *See id.*; *Koch Supplies, Inc. v. NLRB*, 646 F.2d 1257, 1259 (8th Cir. 1981)
6 (“concerted activities” need not occur in a union setting); *NLRB v. Chelsea Labs., Inc.*, 825 F.2d
7 680, 683 (2d Cir. 1987) (concerted activity may occur without union involvement because it merely
8 requires employees to act together “for mutual aid”). Here, Defendants have clearly approved and
9 ratified educators’ illegal strike activity. However, the Court may still find that the rolling sickouts
10 constitute a strike under NRS 288.074 regardless of Defendants’ express coordination of these
11 actions.

12 Defendants have clearly authorized and ratified these rolling strikes. The only conceivable
13 reason for these mass absences is to create undue (and illegal) leverage at the bargaining table. The
14 parties are scheduled to resume negotiations on Monday September 11. It is not a mere coincidence
15 that these rolling sickouts began the week before negotiations resume. Further, it defies logic and
16 common sense to believe that licensed teachers at three different schools happened to fall ill the
17 same day as their colleagues, such that the school was forced to close. And if there were any doubt
18 as to the concerted nature of CCEA educator’s sickouts, several educators have conceded that these
19 activities were coordinated. For example, following the closure of Gibson Elementary, the District
20 began conducting investigatory interviews to determine whether absent personnel properly
21 exercised the sick-leave policy.³⁴ During the interviews, several educators objected to answering
22 questions (as directed by their union representative) on the basis that their actions constituted
23 “concerted activity.”³⁵ This tacit admission solidifies what was already clear: these sickouts are
24 coordinated by CCEA educators and are pretextual absences under the statute.

25 In additional, albeit anecdotal examples, CCEA members are acknowledging that the mass
26 teacher absences are mere pretext for asserting leverage in the bargaining negotiations. In a recent

27
28 ³⁴ *See* Decl. of Mollie Hall ¶¶ 3–5, attached as Exhibit 3.

³⁵ *Id.* ¶ 5.

1 Tik Tok post, CCEA member, Kelly Edgar, whose Tik Tok handle is “@onefedupteacher,” all but
2 conceded that the mass teacher absences are concerted and pretextual, stating that she “[has] it on
3 good authority that [teachers are] just taking matters into their own hands . . . and have said ‘enough
4 is enough.’”³⁶ Though she claims that CCEA has not endorsed the sickouts,³⁷ her comments leave
5 little doubt that (a) teachers have coordinated the use of their sick leave and (b) the use of such sick
6 leave is a pretext for drawing attention to and gaining leverage for the ongoing negotiations. Other
7 Clark County teachers have also admitted that these sickouts are directly intended to increase
8 bargaining leverage. “Some of us feel that the only way to get through to [Superintendent] Dr. Jara
9 and his trustees is if instruction is interrupted. To gain some sort of positive change, there’s got to
10 be some sacrifices in order for that change to happen.”³⁸ Indeed, these “en masse sick calls . . . are
11 coordinated and could keep happening until the district acquiesces to the [CCEA] demands.”³⁹
12 There is no question that these sickouts are coordinated and concerted for purposes of NRS 288.074.

13 Furthermore, these rolling sickouts obviously constitute a strike under prong two of NRS
14 288.074. A strike is any concerted absence from work “upon any pretext or excuse, *such as illness,*
15 *which is not founded in fact.*” NRS 288.074(2) (emphasis added). That definition perfectly
16 describes the sickouts that have occurred here. The pretext of illness for each of these teachers’
17 absences is plain to see. And as before, the District is not the only entity that can see the clear intent
18 of those using sick leave. Media outlets have recognized that “for the teachers who intentionally
19 called out of work, they are strikes, and they are illegal.”⁴⁰ That same article laments the position
20 that CCEA and Mr. Vellardita have forced teachers into, stating that “*Vellardita and the CCEA*
21 *have left thousands of public school teachers, who want simply to be fairly compensated for their*

22 ³⁶ See Tik Tok, @onefedupteacher at 00:35, attached as Exhibit 11, and provided to the Court via
23 alternative storage device.

24 ³⁷ The manner in which Ms. Edgar and others have gone out of their way to disclaim CCEA’s
25 direct involvement in these sickouts suggests that they have been instructed to avoid linking this
26 strike to CCEA. This self-serving rhetoric, however, is belied by the constant threats by Mr.
27 Vellardita and is bolstered by CCEA’s PowerPoint presentation that outlined the exact “Rolling
28 School Outs” that are now happening on the ground. It is simply not believable that CCEA and
29 Defendants have not directed or, at least, ratified, this conduct.

³⁸ Mike Allen, *CCSD teacher: Sick days are coordinated, but not through union*, Fox5 (Sep. 8,
2023), attached as Exhibit 12.

³⁹ *Id.*

⁴⁰ See Editorial, *Reckless gamesmanship of teachers union not endearing to community*, LV Sun
(Sept. 7, 2023), attached as Exhibit 13.

1 hard work, isolated from their allies *and pressured to engage in illegal tactics.*”⁴¹ If these rolling
2 sickouts do not constitute pretextual absences on a basis not founded in fact, it is difficult to see
3 what could ever meet that standard.

4 In addition to violating NRS 288.074(2), this strike also violates prongs one and three of the
5 statute. The definition of strike also extends to any concerted:

6 (1) Stoppage of work, slowdown or interruption of operations by employees of the
7 State of Nevada or local government employees; . . . [or]

8 (3) Interruption of the operations of the State of Nevada or any local government
9 employer by any employee organization or labor organization.

10 NRS 288.074(1), (3). There can be no question that these sickouts have caused a “[s]toppage of
11 work, slowdown, or interruption” of District operations at the affected schools. But a single school
12 closure also sends ripples throughout the District and causes widespread disruption to its operations
13 as a whole. A complete school closure is especially harmful because the services the District
14 provides “cannot be duplicated from other sources” and “their disruption [is] incompatible with the
15 responsibility of the State to its people.” NRS 288.700(1)(a)–(b). Thus, this strike implicates NRS
16 288.074(1) under any interpretation of that definition. Further, the District has outlined Defendants’
17 campaign to bring this strike to fruition and the interruption in District operations that has resulted
18 from that campaign. Defendants set the stage for these illegal actions over the course of several
19 months. They appear to have trained CCEA educators on how to implement Rolling School Outs
20 and have consistently threatened such actions in public statements. Defendants have, therefore,
21 coordinated, guided, and encouraged educators to substantially interrupt the District’s operations
22 under NRS 288.074(3). Defendants cannot escape the fact that they have interrupted District
23 operations just as the educators who have called out sick according to Defendants’ plan. Each of
24 NRS 288.074’s potential prongs are satisfied here.

25 The District has presented irrefutable evidence that CCEA has initiated a strike as defined
26 in NRS 288.074. Thus, NRS 288.705 mandates the Court issue injunctive relief to stop it from
27 continuing.

28 ⁴¹ *Id.* (emphasis added).

1 **b. Temporary Restraining Order and Preliminary Injunction Standard**

2 In this matter, the District seeks a TRO with notice. There is no specific rule for the issuance
3 of a TRO with notice, however, NRCP 65(b) authorizes the issuance of a TRO without notice
4 where:

- 5 (1) It clearly appears from specific facts shown by affidavit or by verified complaint that
6 immediate and irreparable injury, loss, or damage will result to the applicant before the
7 adverse party or that party’s attorney can be heard in opposition, and
8 (2) The applicant’s attorney certifies to the court in writing the efforts, if any, which have
9 been made to give notice and the reasons supporting the claim that notice should not be
10 required.

11 NRCP 65(b). The facts set forth in this Memorandum (with supporting affidavits) satisfy the first
12 requirement. The second requirement regarding efforts to provide notice is satisfied by the
13 “Certification of Plaintiff’s Counsel Regarding Notice” attached to this Memorandum.

14 In this case, a TRO is necessary to prevent the continuance of an illegal strike. The Court
15 must enjoin CCEA and the educators it represents from “any concerted [a]bsence from work
16 . . . upon any pretext or excuse, such as illness, which is not founded in fact” as well as the other
17 definitions of strike under the statute. *See* NRS 288.074. In addition, the Court must enjoin
18 Defendants to stop this strike from continuing and to disavow, condemn, and discourage any further
19 strike actions prohibited by NRS 288.074. In addition, given Defendants’ willingness to flout NRS
20 288.700 and create irreparable harm to Clark County students, families, and the District, the Court
21 should also issue a preliminary injunction to preserve the status quo past the initial TRO period. As
22 long as the parties’ labor negotiations remain unsettled, the risk of strike and harm remains and is
23 imminent.

24 **c. The Criteria for Injunctive Relief Exists**

25 The District seeks injunctive relief under NRS 288.705. Through NRS 288.700, the
26 Legislature declared as a matter of public policy that strikes against the District are illegal and create
27 irreparable harm by virtue of the fact that the District’s services are of such nature that they cannot
28 be duplicated and are essential to the health, safety, and welfare of the people of the State. NRS

1 288.700(1). Moreover, the disruption of the District’s services as a result of an unlawful strike is
2 incompatible with the responsibility of the State to its people. NRS 288.700(1). Accordingly, NRS
3 288.705(2) affords no discretion to the Court: when it finds an illegal strike has commenced, the
4 Court must enjoin its continuance.

5 It is abundantly clear that the District has satisfied the requirements for injunctive relief set
6 forth by Rule 65 of the Nevada Rules of Civil Procedure. A preliminary injunction to preserve, or
7 in this case to restore, the status quo is available upon a showing by the moving party that there
8 exists a reasonable probability of success on the merits and that the Defendant’s conduct, if allowed
9 to continue, will result in irreparable harm for which compensatory damage is an inadequate
10 remedy. *Dixon v. Thatcher*, 103 Nev. 414, 415-16 (1987); *see also* NRS 33.010; NRCP 65. The
11 court also weighs the potential hardship to the parties as well as the public interest. *Univ. & Cmty.*
12 *College Sys. Of Nev. v. Nevadans for Sound Gov’t*, 120 Nev. 712, 721 (2004). The District has
13 satisfied each requirement.

14 **i. It is Probable the District Will Succeed on the Merits**

15 There is no question that an illegal strike has occurred and will continue to occur without
16 Court intervention. There is similarly no question that Defendants and CCEA educators have
17 openly acknowledged the illegality of their actions. And still, Defendants and CCEA educators
18 commenced an illegal strike that bears a striking resemblance to Mr. Vellardita’s threatened plan
19 of action to strike unless Defendants received the contract they desired. Their strike must be
20 stopped.

21 Defendants will likely argue that they cannot be held accountable for the actions of all
22 CCEA educators because Defendants purportedly did not command CCEA members or non-
23 members to strike. Defendants are as wrong factually as they are legally. The text and structure of
24 NRS 288 authorizes the Court to enjoin labor organizations whose bargaining unit violates NRS
25 288.700 by illegally striking. CCEA is the *exclusive bargaining agent* for Clark County teachers.
26 *See* NRS 288.133.⁴² In that role, CCEA is the “exclusive representative of all [Clark County

27 ⁴² *See also* Representation of CCEA, attached hereto as Exhibit 14, and found at <https://new.cceanv.org/representation> (last visited Sep. 9, 2023) (“CCEA is the only exclusive bargaining agent
28 for the 18,000 licensed Professionals in Clark County School District”).

1 teachers] for the purposes of collective bargaining.” *Id.* Defendants cannot plausibly argue that
2 CCEA may represent 18,000 teachers’ bargaining interests while also disclaiming those same
3 employees’ concerted activities taken to further their position in the negotiations. Such an argument
4 would be inconsistent with the purpose of designating an exclusive bargaining agent and the overall
5 structure of NRS 288.

6 NRS 288.700–NRS 288.715 only functions if the Court can enjoin labor organizations after
7 the commencement of a strike. Notably, NRS 288’s express authorization to enjoin the continuance
8 of a strike does not distinguish between strikes ordered by labor organizations and so-called wildcat
9 strikes initiated by union members. To the contrary, the statute states “*if a strike occurs,*” (by the
10 union or those it represents) the Court may issue an injunction. NRS 288.705. There is no
11 requirement that Plaintiff prove at this juncture that the strike was explicitly ordered by Defendants.
12 The Court may enjoin Defendants as long as a strike “occurs.” Defendants ironically relied on this
13 point in their opposition to the District’s initial request for injunctive relief. There, they argued that
14 the District’s request was premature because (1) it was based solely on Defendants’ speech and
15 (2) CCEA could not act unless it was through a vote (action) of their members.⁴³ It is now clear
16 that their members and non-members have implemented the playbook that Defendants created for
17 them throughout their months-long campaign to strike. And Defendants cannot have it both ways.
18 A union either acts through its members as they argued before or it does not. Either way,
19 Defendants are responsible for this strike, and NRS 288 empowers the Court to enjoin them from
20 continuing to strike.

21 Further, the punishment provisions for violating an order enjoining such a strike also
22 contemplate holding a union responsible for any public-employee strike. NRS 288.710 sets forth
23 the punishment for labor organizations and employees who continue to strike in violation of the
24 Court’s order enjoining the strike. The provision reads:

- 25 1. If a strike is commenced or continued in violation of an order issued pursuant
26 to NRS 288.705, the court may:

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28 ⁴³ See, e.g., D.s’ Oppo. to P.’s Emergency Mot. for TRO at 6.

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(a) Punish each employee organization or labor organization guilty of such violation by a fine of not more than \$50,000 against each employee organization or labor organization for each day of continued violation.

(b) Punish any officer of an employee organization or labor organization who is wholly or partly responsible for such violation by a fine of not more than \$1,000 for each day of continued violation, or by imprisonment as provided in NRS 22.110.

(c) Punish any employee of the State or of a local government employer who participates in such strike by ordering the dismissal or suspension of such employee.

2. Any of the penalties enumerated in subsection 1 may be applied alternatively or cumulatively, in the discretion of the court.

NRS 288.710. Under the statute, the Court may punish the union, the union’s officers, or the government employees if they violate the Court’s injunction. However, like before, the statute authorizes the punishment without differentiating who violated the order. As long as a “strike is commenced or continued in violation of an order” the Court may impose sanctions against the union, its officers (even if only partly responsible for such a violation), or its members at the Court’s discretion. *Id.* This makes sense practically. If the Court were required to issue an individual injunction against each public employee who engaged in an illegal strike, it would allow the non-enjoined employees to continue to strike until the employer could bring a separate legal action against each employee who is absent from work. This makes no practical sense given the purpose of the statute.

This case is no exception. If Defendants could skirt an injunction under NRS 288 in this case merely because they ***claim*** not to have explicitly authorized this strike, it would lead to predictably absurd results that violently clash with the statute’s purpose and the Legislature’s intent. CCEA is the exclusive bargaining agent to approximately 18,000 public-school teachers in Clark County (whether dues paying members or not). If Defendants are not enjoined, the District would presumably be expected to obtain an injunction against each striking employee and then wait until that particular employee violated the order to seek relief under NRS 288.710. Meanwhile, 18,000 other teachers could strike with impunity until the District brought additional legal actions against each of them. This inane interpretation of NRS 288 would eviscerate the District’s ability to seek

1 swift and decisive relief from public-employee strikes, which the Legislature has deemed vitally
2 important. Indeed, NRS 288 only functions if the Court can efficiently stop public-employee strikes
3 by enjoining the labor organization whose members are violating the law and who would
4 presumably be inclined to do everything it could in its efforts to prevent the strike from continuing
5 in order to avoid the remedies afforded in the statute for noncompliance.

6 Nevertheless, the Court need not get bogged down in the structure of NRS 288 to hold
7 Defendants accountable for the rolling sickouts sweeping Clark County. Defendants plainly caused
8 this strike to happen and are responsible for the harm that is it causing every day. Defendants
9 forecasted this plan of action to strike unless CCEA received the contract it wanted for weeks
10 leading up to the rolling sickouts. It is now crystal clear that Defendants' threats were credible and
11 that they are directly responsible for the actions of CCEA members and others who have engaged
12 in this rolling sickout. No principle in law or equity excuses Defendants from the damage they
13 have caused, and they must be enjoined.

14 **ii. The District Has Suffered, and Will Continue to Suffer, Irreparable**
15 **Harm if the Court Does Not Issue a TRO and Enjoin the Continuation**
16 **of this Strike**

17 The Legislature has declared that an illegal strike causes irreparable harm as a matter of
18 public policy because the services provided by the District are of such a nature that they are not and
19 cannot be duplicated from other sources and are essential to the health, safety and welfare of the
20 people of the State of Nevada. Moreover, the Legislature has declared that the continuity of the
21 District's services is essential, and their disruption is incompatible with the responsibility of the
22 State to its people. NRS 288.700.

23 Strikes at even one school seriously impede the District's ability to provide meaningful
24 instruction and cause a complete breakdown in education.⁴⁴ Moreover, school closures tend to
25 harm the most vulnerable of Clark County's students, which exacerbates the harm these rolling
26 sickouts cause.⁴⁵ In addition, a strike interferes with the District's ability to comply with the legal
27 and contractual mandate that it provide 180 days of instruction each year. NRS 388.090. Indeed,

28 ⁴⁴ See Decl. of Brenda Larsen-Mitchell at ¶¶ 7–8, 10, attached as Exhibit 2.

⁴⁵ *Id.* ¶ 8.

1 the schools that have suffered a complete shutdown due to Defendants’ conduct will have exhausted
2 a portion of the extra instruction time built into the District’s academic calendar. Should another
3 sickout or unrelated school closure occur at the affected schools, they will be in jeopardy of not
4 satisfying the minimum number of instructional days without adding additional instructional days
5 to the end of the year.

6 Further, illegal conduct and even conduct that causes a party to violate the law establishes
7 irreparable harm. *See e.g., Board of Educ. Of the Middletown Enlarged City School Dist. v.*
8 *Douglas*, 2006 WL 6851993 (N.Y. Sup. Ct. July 7, 2006) (conduct that effectively forces a party to
9 violate the law constitutes irreparable harm in and of itself). In that same vein, a strike of indefinite
10 duration puts students’ futures at risk as it has the potential to impact grades and graduation, which
11 could disrupt the college admissions process and scholarships, irreparably harming the futures of
12 our students.

13 In addition to impeding the education rights of Clark County children, a strike poses severe
14 risk to their health and safety, particularly the health and safety of special needs students.⁴⁶ These
15 rolling strikes also impede the District’s ability to comply with and fully implement students’
16 Individualized Education Programs (“IEPs”) that are mandated by Federal law, creating increased
17 exposure to liability, in addition to harming the students. Finally, these rolling sickouts have taken
18 a toll on parents and communities who must alter childcare plans and/or step in to ensure that
19 children who otherwise would be in school have adequate supervision. The number of parents who
20 were forced to miss work or alter their schedule as a result of these rolling strikes is unknown, but
21 it clearly contributes to the harm that Defendants’ actions have caused.

22 In sum, no adequate remedy exists at law for this violation by Defendants, since any
23 pecuniary loss would be impossible to fully ascertain and, in any case, pecuniary compensation
24 alone would not provide adequate relief for the deprivation of rights and the potential for health and
25 safety risks. This recognition of irreparable harm is codified by the Legislature within NRS
26 288.700–.705.

28 ⁴⁶ *Id.* ¶ 8.

1 **PROOF OF SERVICE**

2 I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the
3 within action. My business address is 3960 Howard Hughes Parkway, Suite 300, Las Vegas,
4 Nevada, 89169-5937. On September 11, 2023, I served the within document(s):

5 **EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND**
6 **PRELIMINARY INJUNCTION ON ORDER SHORTENING TIME**

- 7 By **E-mail** by e-mailing a copy of the document(s) listed above to the person(s) at the
8 email addresses below
- 9 Via **Hand Delivery** – A USB-Drive containing all the documents, videos, interviews,
and other audiovisual files referenced by Plaintiff herein. (Delivered to Dept. 8)

10 Bradley Schragger, Esq.
11 Daniel Bravo, Esq.
12 BRAVO SCHRAGER, LLP
13 6675 South Tenaya Way, Suite 200
14 Las Vegas, Nevada 89113
E-mail: bradley@bravoschrager.com
daniel@bravoschrager.com

15 I declare under penalty of perjury that the foregoing is true and correct. Executed on
16 September 11, 2023, at Las Vegas, Nevada.

17
18 */s/ Joanne Conti*
19 _____
Joanne Conti

20 4892-7700-6462.2 / 026133-1028

EXHIBIT 1

EXHIBIT 1

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*Attorneys for Plaintiff
Clark County School District*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

CLARK COUNTY SCHOOL DISTRICT,
Plaintiff,

vs.

CLARK COUNTY EDUCATION
ASSOCIATION; MARIE NEISESS, in her
capacity as President of the Clark County
Education Association; JAMES FRAZEE,
in his capacity as Vice President of the
Clark County Education Association;
JOHN VELLARDITA, in his capacity as
Executive Director of the Clark County
Education Association; and DOES 1-10,
inclusive,

Defendants.

Case No.: A-23-874996-C

Dept. No.:8

**DECLARATION OF ETHAN D. THOMAS,
ESQ. IN SUPPORT OF PLAINTIFF'S
MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION ON
ORDER SHORTENING TIME**

1 I, Ethan D. Thomas, Esq., declare under penalty of perjury as follows:

2 1. I am an attorney admitted to practice law in the State of Nevada. I am a Shareholder
3 with the law firm of Littler Mendelson, P.C. This firm represents Plaintiff, Clark County School
4 District, in this action. This declaration shall serve as Exhibit 1 in support of Clark County School
5 District's Motion for Temporary Restraining Order and Preliminary Injunction on Order Shortening
6 Time.

7 2. Attached to the Motion as Exhibit 2 is a true and correct copy of the Declaration of
8 Deputy Superintendent Brenda Larsen-Mitchell.

9 3. Attached to the Motion as Exhibit 3 is a true and correct copy of the Declaration of
10 Employee-Management Relations Director Mollie Hall.

11 4. Attached to the Motion as Exhibit 4 is a true and correct copy of the Declaration of
12 Deputy Chief Human Resources Officer Marynet Bernazar.

13 5. Attached to the Motion as Exhibit 5 is a true and correct copy of the Court's August
14 25, 2023, Order Denying Plaintiff's Motion for Temporary Restraining Order and Preliminary
15 Injunction on Order Shortening Time.

16 6. Attached to the Motion as Exhibit 6 is a true and correct copy of a radio interview
17 between Defendant John Vellardita and Kevin Wall on July 12, 2023. An audio version of this
18 interview was submitted to the Court by external storage device (USB drive) on September 11, 2023.

19 7. Attached to the Motion as Exhibit 7 is a true and correct copy of a CCEA Press
20 Conference on July 29, 2023. An audiovisual version of this press conference was submitted to the
21 Court by external storage device (USB drive) on September 11, 2023.

22 8. Attached to the Motion as Exhibit 8 is an image that appears to show CCEA members
23 considering a PowerPoint slide titled "Rolling School Outs" at CCEA's in a membership meeting.
24 CCSD representatives do not attend CCEA membership meetings, and cannot independently
25 authenticate if this image accurately reflects a PowerPoint slide shown to CCEA members on July 29,
26 2023 (or in some other membership meeting).

27 9. Attached to the Motion as Exhibit 9 is a true and correct copy of Caitlin Lilly, C.C.
28 McCandles, and Joe Vigil, *CCSD 'concerned' after Henderson school cancels classes due to teacher,*

2.

1 *staff shortage.*

2 10. Attached to the Motion as Exhibit 10 is a true and correct copy of Tiffany Lane, *School*
3 *Canceled at C.T. Sewell & Givens Elementary Schools due to more teacher absences.*

4 11. Attached to the Motion as Exhibit 11 is a true and correct copy of a Tik Tok video
5 posted by CCEA member Kelly Edgar, whose Tik Tok handle is “@onefedupteacher.” An audiovisual
6 version of this post was submitted to the Court by external storage device (USB drive) on September
7 11, 2023.

8 12. Attached to the Motion as Exhibit 12 is a true and correct copy of Mike Allen, *CCSD*
9 *teacher: Sick days are coordinated, but not through union.*

10 13. Attached to the Motion as Exhibit 13 is a true and correct copy of *Reckless*
11 *gamesmanship of teachers union not endearing to community.*

12 14. Attached to the Motion as Exhibit 14 is a true and correct copy of a screenshot of
13 CCEA’s website titled Representation of CCEA, which is available at [https://new.ccea-](https://new.ccea-nv.org/representation)
14 [nv.org/representation](https://new.ccea-nv.org/representation) and was last visited on September 11, 2023.

15 15. Attached to the Motion as Exhibit 15 is a true and correct copy of the District’s
16 Proposed Temporary Restraining Order.

17 16. I do hereby swear under penalty under the laws of the United States and the State of
18 Nevada that the foregoing assertions are true and correct to the best of my knowledge.

19
20 Dated: September 11, 2023

21 Respectfully submitted,

22
23 

24 _____
25 ETHAN D. THOMAS, ESQ.

26
27 4886-0412-1983.1 / 026133-1028

EXHIBIT 2

EXHIBIT 2

1 **DECL**
2 ETHAN D. THOMAS, ESQ.
3 Nevada Bar No. 12874
4 ANDREW S. CLARK, ESQ.
5 Nevada Bar No. 14854
6 LITTLER MENDELSON, P.C.
7 3960 Howard Hughes Parkway
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9 Las Vegas, Nevada 89169.5937
10 Telephone: 702.862.8800
11 Fax No.: 702.862.8811
12 Email: edthomas@littler.com
13 Email: asclark@littler.com

9 CRYSTAL J. HERRERA, ESQ.
10 Nevada Bar No. 12396
11 OFFICE OF THE GENERAL COUNSEL
12 CLARK COUNTY SCHOOL DISTRICT
13 5100 West Sahara Avenue
14 Las Vegas, Nevada 89146
15 Phone: (702) 799-5373
16 Email: herrec4@nv.ccsd.net

14 *Attorneys for Plaintiff*
15 *Clark County School District*

16 **DISTRICT COURT**
17 **CLARK COUNTY, NEVADA**

19 CLARK COUNTY SCHOOL DISTRICT,
20 Plaintiff,

21 vs.

22 CLARK COUNTY EDUCATION
23 ASSOCIATION; MARIE NEISESS, in her
24 capacity as President of the Clark County
25 Education Association; JAMES FRAZEE,
26 in his capacity as Vice President of the
27 Clark County Education Association;
28 JOHN VELLARDITA, in his capacity as
Executive Director of the Clark County
Education Association; and DOES 1-10,
inclusive,

Defendants.

Case No.: A-23-874996-C

Dept. No.:8

**DECLARATION OF BRENDA LARSEN-
MITCHELL IN SUPPORT OF CLARK
COUNTY SCHOOL DISTRICT'S
EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION ON
ORDER SHORTENING TIME**

1 I, Brenda Larsen-Mitchell, hereby declare as follows:

2 1. I am the Deputy Superintendent for the Teaching and Learning Unit for the Clark
3 County School District (the “District”). I personally know of the matters stated herein and if called to
4 testify, could do so competently.

5 2. I have been employed by the District for approximately 30 years and have held the
6 position of Deputy Superintendent since July 2020. In this role I am responsible for supervising three
7 units within the District, which work directly with curriculum, instruction, and assessment. These units
8 include the Academic Unit; College, Career, Equity, and School Choice Unit; and Health and Student
9 Services. I also directly supervise four Region Superintendents.

10 3. Prior to serving as Deputy Superintendent, I was the Chief Academic Officer, from
11 September 2018–July 2020. I have also served in the following roles throughout my career with the
12 District, including Academic Manager/School Associate Superintendent, the Executive Director of the
13 Curriculum and Professional Development Division, Principal, Assistant Principal, Dean of Students,
14 Mathematics Teacher, and Special Education Teacher. Based on my current and former roles with the
15 District, I have personal knowledge of day-to-day school operations.

16 4. The District currently consists of approximately 360 schools and serves approximately
17 292,000 students.

18 5. I understand that since on or about July 29, 2023, the Clark County Education
19 Association (CCEA) has threatened to take work actions during the 2023–2024 school year if a new
20 negotiated agreement is not reached between the District and CCEA.

21 6. On Tuesday, September 5, 2023, the District canceled school at James I. Gibson
22 Elementary School in Henderson, Nevada, due to an unexpected number of licensed personnel absent
23 from school. On Friday, September 8, 2023, the District canceled school at C. T. Sewell Elementary
24 School in Henderson, Nevada and Linda Rankin Givens Elementary School in Las Vegas, Nevada,
25 due to unexpected numbers of licensed personnel absent from the schools.

26 7. Due to the lack of licensed personnel at the schools and an insufficient pool of substitute
27 teachers, the schools were unable to provide classroom coverage to ensure student and staff safety.

28

1 Students lost a full day of instruction, which impacts the learning outcomes of students. Students also
2 lost meal services provided at the school for both breakfast and lunch.

3 8. As prescribed in the Individuals with Disabilities Education Act (IDEA), students with
4 disabilities are entitled to a free appropriate public education and special education and related services
5 in alignment with each student's Individualized Education Program (IEP). Students with disabilities
6 did not receive the required education and related services as prescribed in their IEP. Moreover,
7 students who are English language learners (ELL) did not receive the necessary instruction and
8 opportunities for language acquisition to be successful in their learning.

9 9. On Wednesday, September 6, 2023, an unexpected number of licensed personnel were
10 absent from Mario C. and JoAnne Monaco Middle School in Las Vegas, Nevada. The school was able
11 to create a schedule to provide coverage for students to remain at school; however, due to the limited
12 number of educators at the school, students were organized into large groups in the gymnasium and
13 rotated throughout classrooms. This made it difficult to supervise, monitor, and provide effective
14 instruction for students in the large groups in the gymnasium. The primary focus of educators was to
15 maintain order and promote school safety, instead of providing high-quality instruction.

16 10. The District cannot fully evaluate the instructional and educational impacts of these
17 unexpected numbers of licensed personnel absences resulting in school cancellations and schools
18 creating schedules to cover large groupings of students for student and staff safety. However, students
19 lost learning opportunities to promote their educational success.

20 I do hereby swear under penalty under the laws of the United States and the State of Nevada
21 that the foregoing assertions are true and correct to the best of my knowledge.

22 Dated: September 11, 2023

23
24 Respectfully submitted,

25 

26 BRENDA LARSEN-MITCHELL

27 4892-2402-7263.1 / 026133-1028

EXHIBIT 3

EXHIBIT 3

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I, Mollie Hall, declare under penalty of perjury as follows:

1. I am employed by Clark County School District as a Director III in the District’s Employee-Management Relations Department. In my capacity as a Director, I perform various employee-management relations functions. One of those responsibilities is conducting and/or assisting with employee disciplinary investigations. I have personal knowledge of the factual statements made herein, except where otherwise noted. And should I be asked to testify as to the contents of this Declaration, I could do so truthfully.

2. I submit this Declaration in support of the District’s Emergency Motion for Temporary Restraining Order and Preliminary Injunction (the “Motion”).

3. On or about September 6, 2023 I began assisting with an investigation related to the unusually high absences of licensed educators at Mario C. & Joanne Monaco Middle School (“Monaco”) and various other schools starting on September 1. The absences caused school operations and instruction at Monaco to be interrupted on September 6. The absences have also forced three other schools to be closed for a day and led to the interruption of operations at another school.

4. On September 7, Monaco began noticing investigatory interviews with licensed educators at Monaco to determine whether absent personnel properly exercised sick-leave under the applicable policy. The investigatory interviews began taking place on September 8.

5. During the interviews conducted on September 8, several licensed educators objected to answering questions (at times directed by their union representative) about whether the absences were coordinated in some way. They objected claiming the questions related to “concerted activity.” Several other individuals interviewed on September 8 also refused to answer questions about the reasons for their absence on the purported basis of it being protected via the Health Insurance Portability and Accountability Act (HIPAA) and responding with “no comment.”

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6. I do hereby swear under penalty under the laws of the United States and the State of Nevada that the foregoing assertions are true and correct to the best of my knowledge.

Dated: September 11, 2023

Respectfully submitted,



Mollie Hall

EXHIBIT 4

EXHIBIT 4

1 I, Marynet Bernazar, declare under penalty of perjury as follows:

2 1. I am employed by Clark County School District, the Plaintiff in this matter, as a Deputy
3 Chief Human Resources Officer. In my capacity as Deputy, I am familiar with the District's records
4 and record-keeping procedures. In specific, I am familiar with the District's record-keeping processes
5 regarding personnel absences at District school. I have personal knowledge of the factual statements
6 made herein, except where otherwise noted. And should I be asked to testify as to the contents of this
7 Declaration, I could do so truthfully.

8 2. I submit this Declaration in support of the District's Emergency Motion for Temporary
9 Restraining Order and Preliminary Injunction (the "Motion"). In connection with the preparation of
10 the District's Motion, I reviewed the statistical absence data for five Clark County schools that
11 experienced higher than normal absenteeism rates among licensed personnel between September 1,
12 2023, and September 8, 2023.

13 3. In addition to reviewing the statistical absence data, I also reviewed the District's
14 internal substitute-request system, SmartFind Express, to determine the number of absent personnel
15 who requested a substitute teacher.

16 4. I also reviewed the percentage of absent personnel who are currently dues-paying
17 members of CCEA. Although the percentage of CCEA dues-paying members fluctuates by school
18 and throughout the District as a whole, the overall current percentage is estimated at 57%.

19 5. Overall, the statistical absence data far exceeded typical absence rates for District
20 schools.

21 6. I first evaluated the statistical absentee data for Southeast Career Technical Academy
22 (SECTA), a high school in Clark County. SECTA experienced increased absenteeism on Friday
23 September 1, 2023. In total, 44 of 105 licensed personnel were absent. Of the 44 total absences, 27
24 were members of CCEA.

25 7. According to the data immediately available to the District after the absences, at least
26 39 of the 44 licensed educators used sick leave to explain their absence, and 37 of the 44 the absences
27 were requested on August 31 or September 1. Only 8 of the 44 absent licensed personnel requested a
28 substitute teacher through the SmartFind Express system. Despite the 44 absences, SECTA did not
2.

1 cancel classes on September 1, and instead altered instruction to account for the absence of 42% of its
2 licensed personnel.

3 8. I also evaluated the statistical absentee data for James Gibson Elementary School in
4 Clark County. Gibson Elementary experienced increased absenteeism on Tuesday September 5, 2023.
5 In total, 29 of 33 licensed personnel were absent, which equates to 87% of Gibson’s licensed
6 personnel. Of the 29 total absences, 15 were CCEA members.

7 9. Nearly all 29 absent personnel coded their absence as a “sick” day. Additionally, all
8 29 absences were requested on or after September 4, 2023—within 24 hours of the school day. Due
9 to the high number of teacher absences, Gibson was forced to cancel school on September 5, 2023.

10 10. I also evaluated the statistical absentee data for Mario C. & Joanne Monaco Middle
11 School in Clark County. Monaco Middle School experienced increased absenteeism on Wednesday
12 September 6, 2023. In total, 37 of 54 licensed personnel were absent, which equates to 69% of
13 Monaco’s licensed personnel. Of the 37 total absences, 29 were CCEA members.

14 11. All 37 absent personnel coded their absence as a “sick” day. And 35 of the 37 absences
15 were requested on or after September 5, 2023—within 24 hours of the school day. Monaco Middle
16 School did not cancel classes on September 6, and instead altered instruction to account for the absence
17 of 69% of its licensed personnel.

18 12. I also evaluated the statistical absentee data for C.T. Sewell Elementary School in Clark
19 County. Sewell Elementary experienced increased absenteeism on Friday September 8, 2023. In total,
20 29 of 40 licensed personnel were absent, which equates to 72% of all Sewell’s licensed personnel. Of
21 the 29 total absences, 12 were CCEA members.

22 13. 28 of the absent personnel at C.T. Sewell Elementary coded their absence as a “sick”
23 day. And 28 of the 29 absences were requested on or after September 7, 2023—within 24 hours of
24 the school day. Due to the high number teacher absences, Sewell was forced to cancel school on
25 September 8, 2023.

26 14. I also evaluated the statistical absentee data for Linda Rankin Givens Elementary
27 School in Clark County. Givens Elementary experienced increased absenteeism on Friday September
28 8, 2023. In total 26 of 40 licensed personnel were absent, which equates to 65% of all Givens’s

1 licensed personnel. Of the 26 total absences, 14 were CCEA members.

2 15. Nearly every absent educator at Givens Elementary coded their absences as a “sick”
3 day, and nearly every absence was requested on September 8, 2023—the same school day. Due to the
4 high number of teacher absences, Givens was forced to cancel school on September 8, 2023.

5 I do hereby swear under penalty under the laws of the United States and the State of Nevada
6 that the foregoing assertions are true and correct to the best of my knowledge.

7 Dated: September 11, 2023

8 Respectfully submitted,

9
10 

11 MARYNET BERNAZAR

EXHIBIT 5

EXHIBIT 5

1 **ORDR**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 CLARK COUNTY SCHOOL DISTRICT;

7 Plaintiff,

8 vs.

CASE NO: A-23-874996-C

9 CLARK COUNTY EDUCATION
10 ASSOCIATION; MARIE NEISESS, in her
11 capacity as President of the Clark County
12 Education Association; JAMES FRAZEE, in
13 his capacity as Vice President of the Clark
14 County Education Association; JOHN
VELLARDITA, in his capacity as Executive
Director of the Clark County Education
Association; and DOES 1-10, inclusive,

15 Defendants.

DEPT NO: 8

**ORDER DENYING PLAINTIFF
CLARK COUNTY SCHOOL
DISTRICT'S EMERGENCY
MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

16
17 On August 1, 2023, Plaintiff CLARK COUNTY SCHOOL DISTRICT (“the District” or
18 “Plaintiff”) filed an Emergency Motion for Temporary Restraining Order and Preliminary
19 Injunction on Order Shortening Time (“Motion”) seeking to enjoin Defendants CLARK COUNTY
20 EDUCATION ASSOCIATION, MARIE NEISESS, JAMES FRAZEE, and JOHN
21 VELLARDITA (collectively, “CCEA” or “Defendants”) from striking against the District, and
22 mandating that CCEA communicate to its members not to engage in any such work stoppage. On
23 August 8, Defendants filed an Opposition to the Motion. On August 15, Plaintiff filed a Reply in
24 support of the Motion.

25
26 On August 22, 2023, the Court heard oral argument from counsel. Ethan D. Thomas, Esq.
27 and Andrew S. Clark, Esq. of Littler Mendelson, P.C. and Crystal J. Herrera, Esq. from the Office
28

1 of the General Counsel for the District appeared on behalf of Plaintiff. Bradley S. Schrager, Esq.
2 of Bravo Schrager LLP appeared on behalf of Defendants. Having considered the Motion and
3 related briefs, all pleadings and papers on file, and argument of counsel, the Court **DENIES** the
4 Emergency Motion for Temporary Restraining Order and Preliminary Injunction, consistent with
5 the following:

6 NRS 288.705 states as follows:

7 1. If a strike occurs against the State or a local government employer, the State
8 or local government employer shall, and if a strike is threatened against the
9 State or a local government employer, the State or local government employer
10 may, apply to a court of competent jurisdiction to enjoin such strike. The
11 application shall set forth the facts constituting the strike or threat to strike.

12 2. If the court finds that an illegal strike has occurred or unless enjoined will
13 occur, it shall enjoin the continuance or commencement of such strike. The
14 provisions of N.R.C.P. 65 and of the other Nevada Rules of Civil Procedure
15 apply generally to proceedings under this section, but the court shall not require
16 security of the State or of any local government employer.
17

18 NRS 288.705.

19 “Strike” as used in NRS Chapter 288 is further defined by NRS 288.074 as:

20 1. Stoppage of work, slowdown or interruption of operations by employees of
21 the State of Nevada or local government employees;

22 2. Absence from work by employees of the State of Nevada or local
23 government employees upon any pretext or excuse, such as illness, which is not
24 founded in fact; or
25

26 3. Interruption of the operations of the State of Nevada or any local
27 government employer by any employee organization or labor organization.
28

1 NRS 288.074.

2 For the Court to issue an injunction pursuant to NRS 288.705, it must find that a strike
3 against the State or a local government employer has occurred or unless enjoined **will** occur.
4 Although the Court is concerned about certain statements made by the Defendants, at this point in
5 time, the Court finds that it has insufficient evidence that a strike will occur within the meaning of
6 the statute, and therefore cannot issue the requested injunction. Should additional actions by the
7 Defendants result in further evidence of a strike or threat of strike in violation of NRS 288 *et seq.*,
8 Plaintiff may move for a hearing on order shortening time to be heard within one judicial day.
9
10 **BASED ON THE FOREGOING**, the Court **ORDERS** that Plaintiff's Emergency Motion for
11 Temporary Restraining Order and Preliminary Injunction is **DENIED**.

12
13
14
15 Dated this 25th day of August, 2023

16 
17

18 **873 B2C 5E1C 904D**
19 **Jessica K. Peterson**
20 **District Court Judge**

21 **AFFIRMATION**
22 Pursuant to NRS 239B.030
23 The undersigned does hereby affirm that the
24 preceding Order filed in District Court case number
25 A874996 **DOES NOT** contain the social security
26 number of any person.
27 /s/ Jessica K Peterson
28

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Clark County School District,
7 Plaintiff(s)

CASE NO: A-23-874996-C

8 vs.

DEPT. NO. Department 8

9 Clark County Education
10 Association, Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Order was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 8/25/2023

16 Ethan Thomas edthomas@littler.com

17 Crystal Herrera herrec4@nv.ccsd.net

18 Elsa Pena penaec@nv.ccsd.net

19 Joanne Conti jconti@littler.com

20 Maribel Rodriguez mrodriguez@littler.com

21 Andrew Clark asclark@littler.com

22 Jenny Sharpe jsharpe@littler.com

23 Dannielle Fresquez dannielle@bravoschrager.com

24 Bradley Schrager bradley@bravoschrager.com

25 Daniel Bravo daniel@bravoschrager.com

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From: no-reply@efilingmail.tylertech.cloud
To: [Sharpe, Jenny](#)
Subject: Notification of Service for Case: A-23-874996-C, Clark County School District, Plaintiff(s)vs. Clark County Education Association, Defendant(s) for filing Service Only, Envelope Number: 12379753
Date: Friday, August 25, 2023 7:32:28 PM

[EXTERNAL E-MAIL]

Notification of Service



Case Number: A-23-874996-C
Case Style: Clark County School District, Plaintiff(s)vs. Clark County Education Association, Defendant(s)
Envelope Number: 12379753

This is a notification of service for the filing listed. Please click the link below to retrieve the submitted document.

Filing Details	
Case Number	A-23-874996-C
Case Style	Clark County School District, Plaintiff(s)vs. Clark County Education Association, Defendant(s)
Date/Time Submitted	8/25/2023 7:31 PM PST
Filing Type	Service Only
Filing Description	Order
Filed By	DC EFile Service
	Clark County School District: Ethan Thomas (edthomas@littler.com) Crystal Herrera (herrec4@nv.ccsd.net) Elsa Pena (penaec@nv.ccsd.net) Joanne Conti (jconti@littler.com) Maribel Rodriguez (mrodriguez@littler.com) Andrew Clark (asclark@littler.com)

Service Contacts

Jenny Sharpe (jsharpel@littler.com)

Other Service Contacts not associated with a party on the case:

Dannielle Fresquez (dannielle@bravoschrager.com)

Clark County Education Association:

Bradley Schrager (bradley@bravoschrager.com)

Daniel Bravo (daniel@bravoschrager.com)

Marie Neisess:

Bradley Schrager (bradley@bravoschrager.com)

Daniel Bravo (daniel@bravoschrager.com)

James Frazee:

Bradley Schrager (bradley@bravoschrager.com)

Daniel Bravo (daniel@bravoschrager.com)

John Vellardita:

Bradley Schrager (bradley@bravoschrager.com)

Daniel Bravo (daniel@bravoschrager.com)

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EXHIBIT 6

EXHIBIT 6

Kevin Wall Radio Interview with John Vellardita

EXHIBIT 7

EXHIBIT 7

CCEA Press Conference After Emergency
Meeting July 29, 2023

EXHIBIT 8

EXHIBIT 8

Rolling School Outs

- Selective Engagement
- One Trustee District at a time
- Selective Sick Outs


CCEA

EXHIBIT 9

EXHIBIT 9

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CCSD 'concerned' after Henderson school cancels classes due to teacher, staff shortage



Some parents with children at Gibson say it would have been helpful to be notified sooner on Tuesday that classes were canceled.

By [Caitlin Lilly](#), [C.C. McCandless](#) and [Joe Vigil](#)

Published: Sep. 5, 2023 at 8:43 AM PDT



UPDATE: On Tuesday afternoon, the Clark County School District issued a statement regarding the cancelation of classes:

We are concerned about the licensed personnel attendance rate and the disruption to students' education at Gibson Elementary School today. We reiterate that CCSD students should not be used as bargaining leverage by CCEA or its members.

CCSD thanks the City of Henderson for showing up for kids and opening the Silver Springs Recreation Center for our Gibson Elementary School families.

— Clark County School District, September 5

FOX5 asked CCEA if absent staff and teachers at the school was a work action and if the teacher's union knew anything about teachers and staff calling out absent.

"We have no knowledge of what you're inquiring about. Nor is what you are describing associated in any way with CCEA actions now or in the future," said Keenan Korth with CCEA.

ADVERTISEMENT

Some parents with children at Gibson say it would have been helpful to be notified sooner on Tuesday that classes were canceled.

"As we're buckling them into their car seat we got the email. I think it was 7:36 or something," said parent Adrienne Babbitt.

Some parents wondered if the incident had something to do with ongoing contract negotiations between the school district and teacher's union.

"I don't really get into that a whole lot, but I mean, I hope they can get it worked out. Otherwise, it's just going to snowball from here. We don't want that," said parent Markee Bodily.

ADVERTISEMENT

LAS VEGAS, Nev. (FOX5) - An elementary school in Henderson canceled classes on Tuesday due to a shortage of teachers and staff.

Gibson Elementary School principal Jill Keith made the announcement in a letter to parents on Tuesday. Keith advised in her note that she would provide families with an update on Wednesday's classes.

A copy of the note can be read below:

Good Morning, Gibson Elementary School Parents and Families,

ADVERTISEMENT

This is Principal Jill Keith.

We are canceling school today at Gibson Elementary School. Please do not send your children to campus today, Tuesday, September 5th.

There are an unexpected number of licensed staff/teachers absent from school today and we have made the difficult decision to not have school today.

We appreciate your understanding and apologize for the inconvenience. I will send you a message later today to provide additional information regarding classes for tomorrow.





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Thank you.

The City of Henderson quickly opened the Silver Springs Recreation Center for Gibson parents to drop off their kids after hearing classes were canceled. The center is located across the street from Gibson Elementary School.

The rec center says it will be ready to accept children on Wednesday if school is canceled again. The hours are 7 a.m. until 6 p.m.

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EXHIBIT 10

EXHIBIT 10

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School canceled at C.T. Sewell & Givens Elementary Schools due to more teacher absences

by Tiffany Lane & News 3 Staff

Fri, September 8th 2023, 8:50 AM PDT



The Clark County School District headquarters on Sahara Avenue (File: KSNV)



LAS \ School was canceled Friday at two 101° 101° 100° "an unexpected number of teacher absences" according to messages sent to parents and families.



One of the schools, Givens Elementary in Summerlin.

School officials also confirmed that school was also canceled at C.T. Sewell Elementary School in Henderson for the same reason.

Clark County School District officials tell News 3 there is nothing they are aware of in recent history of a school "closing due to lack of staffing."

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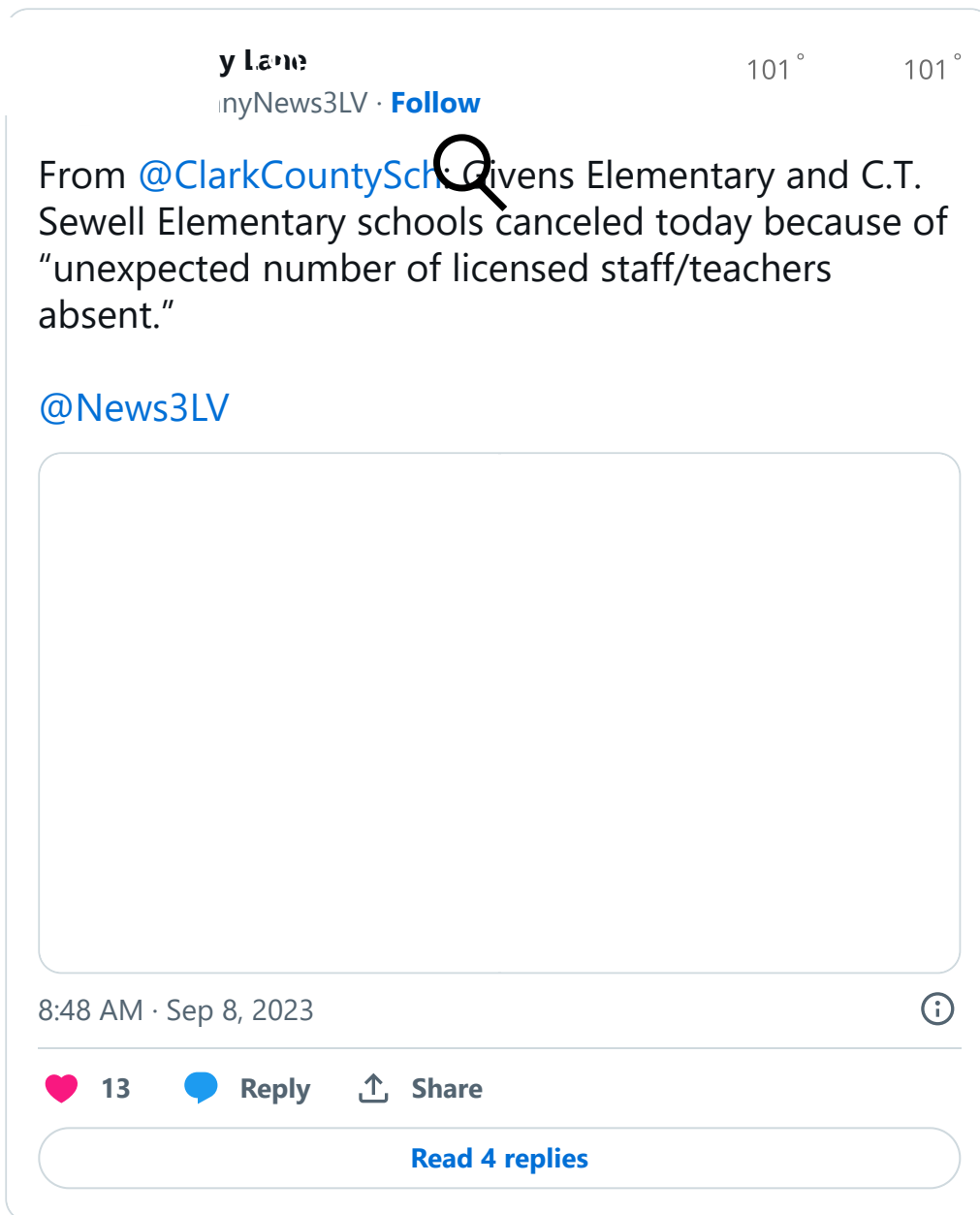
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Officer suspended after viral video shows him kissing woman at park near school



These are the latest Clark County public schools to deal with an unexpected number of absences in recent days.

Class was canceled on Tuesday at Gibson Elementary in Henderson. Several classes had to be covered at Southeast Career and Technical Academy on Friday last week and **at Monaco Middle School** on Wednesday.

Some parents have speculated that the absences are the result of the ongoing contract negotiations between the Clark County School District and Clark County Education Association.

Givens parent Arielle Morasco is one of those people.

"I be
napp pening everywhere," she said.

101°

101°

100°

She blames the district and says she wants more for teachers.

"I would love to see them compensated fairly," said Morasco. "They work so hard, they do so many extra hours outside of what they're required. And I just think it's time that teachers be treated the way that they deserve."

John Vellardita, president of the CCEA, denied the union had any involvement in absences when speaking with News 3 earlier this week.

He said the union does not encourage any "sick outs."

The union and CCSD are expected to meet on Monday and Tuesday to continue talks. There is no school on Monday for students, as it is a scheduled staff development day.

Several city recreation centers have stepped in to help families scrambling to find someone to help watch their children when schools have canceled.

Veterans Memorial Community Center provided Givens families a place to drop off their children for a small fee.

It is about five minutes away from the school. Because the center provided a resource for working families during COVID and also during the summer every year, it was an easy task to adjust Friday morning.

They had 30 children use their center.

 **JOIN THE CONVERSATION (1)**

"So certainly we had some some parents in here who are a little bit panicked," said Joyce Barrow-Henderson, recreation supervisor with the city of Las Vegas. "And again, you're here for that. This is what we do. It was important for our staff to let them know that everything was going to be okay that we had them. We'll be here till six go ahead and go to work. We got the kids, the kids were ready to rock and roll."

EXHIBIT 11

EXHIBIT 11

Tik Tok, @onefedupteacher

EXHIBIT 12

EXHIBIT 12

ADVERTISEMENT

CCSD teacher: Sick days are coordinated, but not through union



CCSD teacher: Sick days are coordinated, but not through union

By [Mike Allen](#)

Published: Sep. 8, 2023 at 10:10 PM PDT



LAS VEGAS, Nev. (FOX5) - A CCSD teacher tells FOX5 [the recent en masse sick calls](#) at certain district schools are coordinated and could keep happening until the district acquiesces to the Clark County Education Association's demands.

"Some of us feel that the only way to get through to Dr. Jara and his trustees is if instruction is interrupted," the teacher said on the condition of anonymity. "To gain some sort of positive change, there's got to be some sacrifices in order for that change to happen."

Some local parents, like Andrea Brai, a parent of an autistic son whose classes at Sewell Elementary School were canceled Friday, say that sacrifice is affecting her and her child.



Brai understands why teachers are upset, but does not agree with their method of protest.

“The students’ needs and well-being need to come first,” she said. “I’m sorry, when you become a teacher you should go into this profession with that in mind. It is not like they went into this not knowing what the pay was.”

The teacher who talked anonymously with FOX5 says her paychecks are smaller now than they were last year, though, thanks to an increase in pension contributions. She adds that times are getting dire for some of her colleagues.

“They sell their plasma,” she said. “They’re Uber drivers after work. Our music teacher at my school – she’s an usher down on the strip as a second job.”

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This is a special education teacher with students similar to Brai’s son, and she knows what a disruption to their daily routine would do to them if she called out.

“Even though I want to participate, and I probably will, the first and foremost thing I think of is my students,” she said. “If I were to do that, I would probably give my students a heads-up to get them prepared.”

The teacher says this protest won’t be possible without the support of parents like Brai, and asks for their support during this already-tumultuous school year.

“Ride the wave with us, be patient, and do what you can to help support us,” she pleaded. “Because we’re the ones supporting your students.”

FOX5 reached out to CCSD about the cancellations and was told the district does not comment on personnel matters.

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EXHIBIT 13

EXHIBIT 13

EDITORIAL:

Reckless gamesmanship of teachers union not endearing to community

Thursday, Sept. 7, 2023 | 2 a.m.

We are at a time when record gains can be achieved for public school teachers as both political and public determination to improve education and teacher pay are sky high. All of that appears at risk because of reckless behavior by the leadership of the largest teachers union and their apparent determination to turn the public against teachers.

It's a tragedy unfolding before our eyes and the teachers of Clark County should take notice.

The Clark County Education Association's (CCEA) leadership, Executive Director John Vellardita and the CCEA executive board, aren't fighting for the teachers they're supposed to represent. They're gambling with their members' livelihoods, playing a high-stakes game of poker with their members' money and futures.

It's understandable that many teachers haven't noticed or accepted this reality yet. After all, most teachers are too busy getting the school year started and doing everything they can to serve our children to notice that their own union leadership has gone off the rails.

Teachers already have one of the most difficult jobs in our society.

They assume short-term responsibility for the safety and well-being of our children five days a week while simultaneously assuming long-term responsibility for our children's education and future opportunities. And unlike so many private schools, public schools serve any child, regardless of their physical or mental status, identity or family income.

It's not like society has made it any easier for them either. Our teachers are overworked, underpaid, underappreciated and too often disrespected by the parents of the very children to whom they devote their lives. In recent years, the extremist fringe of the nation's political right wing has even launched coordinated attacks accusing teachers of being pedophiles and groomers for nothing more than being respectful of a child's identity.

If all that weren't enough, now they must deal with union bosses who are more interested in serving their own interests than those of the teachers they're supposed to represent.

Vellardita and the CCEA have left thousands of public schoolteachers, who want simply to be fairly compensated for their hard work, isolated from their allies and pressured to engage in illegal tactics.

Consider that CCEA's failed leadership has already alienated their members from two of the largest education-oriented unions in the county: the Clark County Association of School Administrators and Professional-Technical Employees, and the Education Support Employees Association.

Both unions issued statements recently accusing CCEA leadership of making "false, misleading and disparaging public statements meant to divide educators, support professionals and administrators instead of working toward our common goal of educating students." Instead of issuing a statement of support for their fellow workers, both unions were forced to "respectfully request that the CCEA rhetoric, intended to denigrate CCEA members and CCSD bargaining groups, immediately come to an end."

This is nothing new for Vellardita, who in past leadership posts in California was credibly replaced by the entire union as "unmanageable." This editorial board is pro-union, but we draw the line at

RAIDERS: Five new Raiders starters to watch — and those they replaced

Vellardita and the executive board supporting him. Our teachers and our community deserve better than this.

And now, with recent “work actions” by teachers at Southeast Career & Technical Academy and Gibson Elementary School in Green Valley, CCEA’s failed leadership is risking alienating parents and imposing penalties on teachers.

On Friday, Southeast Career & Technical Academy was forced to relocate students to larger areas of the campus to receive large-group instruction after “an unexpected number” of teachers were absent.

Then, on Tuesday, classes were canceled at Gibson Elementary School because there weren’t enough teachers to fill all the classrooms.

For Vellardita, these are negotiating tactics that he describes as “work actions.” But for the teachers who intentionally called out of work, they are strikes, and they are illegal.

Under Nevada law, strikes include work stoppages, slowdowns, sickouts and any other substantial interference with operations.

Vellardita and the CCEA board are toying with the lives of already underpaid and underappreciated teachers who may now face fines, dismissal or even jail time.

The courts have already warned CCEA against striking. After denying the Clark County School District’s request for an injunction against strike-organizing activities by CCEA, Judge Jessica Peterson warned both parties that “if something were to happen, the court would entertain on a one-day notice, on an order-shortening time, to get back into court very quickly.”

That’s not an idle threat from a court with a months-long backlog. It’s a promise that Peterson is not playing around and will not waste time taking action against a strike.

But it’s also the sad culmination of bad-faith negotiating tactics by Vellardita and other CCEA leaders.

CCSD appears to want a pay formula that more heavily rewards education, training and experience while CCEA just wants a blanket percentage pay increase irrespective of the accomplishments and dedication of the teacher.

The vast majority of teachers dedicate their lives to their students and are the backbones of building strong communities. They deserve to be rewarded for this dedication and effort.

But for a parent who is forced to watch their child miss out on educational opportunities and instructional days, or even worse, forced to leave their child at home alone due to a lack of immediate child care, the “work actions” appear selfish and greedy. They appear as if teachers are willing to sacrifice students for their own personal financial gain.

For most teachers, nothing could be further from the truth. But appearances matter, as do the impacts of “work actions” on the lives of parents and children. Teachers should demand an end to the strikes and the ouster of those in CCEA’s leadership who organized them.

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EXHIBIT 14

EXHIBIT 14

Become a Member Of The Largest Educator Union In Nevada [Join Today](#)

EXCLUSIVE BARGAINING AGENT

CCEA is the only exclusive bargaining agent for the 18,000 licensed Professionals in Clark County School District. CCEA negotiates and defends your Collective Bargaining Agreement around your compensation, benefits and conditions of employment. No other local union can bargain for you or represent you with the Clark County School District.



Download a copy of Negotiated Agreement between the Clark County School District and the Clark County Education Association [HERE](#)

Member Representation and Protection includes:

- REPRESENTATION IN INVESTIGATORY



EXHIBIT 15

EXHIBIT 15

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24 **DISTRICT COURT**

25 **CLARK COUNTY, NEVADA**

26 CLARK COUNTY SCHOOL DISTRICT,

27 Plaintiff,

28 v.

29 CLARK COUNTY EDUCATION
30 ASSOCIATION; MARIE NEISESS, in her
31 capacity as President of the Clark County
32 Education Association; JAMES FRAZEE, in
33 his capacity as Vice President of the Clark
34 County Education Association; JOHN
35 VELLARDITA, in his capacity as Executive
36 Director of the Clark County Education
37 Association; and DOES 1-10, inclusive,

38 Defendants.

Case No.: A-23-874996-C

Dept. No.: 8

**[PROPOSED] TEMPORARY
RESTRAINING ORDER**

1 This matter comes before the Court on Plaintiff Clark County School District’s (hereinafter
2 the “District” or “CCSD”) Emergency Motion for Temporary Restraining Order and Preliminary
3 Injunction on Order Shortening Time against Defendants Clark County Education Association,
4 Marie Neisess, James Frazee, and John Vellardita (“Defendants”).

5 WHEREUPON, the Court considered the Emergency Motion for Temporary Restraining
6 Order and Preliminary Injunction on Order Shortening Time, the declarations attached thereto, the
7 documents submitted therewith, and other arguments and evidence presented to the Court, the Court
8 hereby orders as follows:

9 The Court finds that a strike has occurred as defined in NRS 288.074. **IT IS HEREBY**
10 **ORDERED** that CCSD’s Emergency Motion for Temporary Restraining Order is GRANTED.

11 IT IS FURTHER ORDERED THAT:

- 12 1. In accordance with NRS 288.705(2), Defendants and the bargaining unit they represent
13 are enjoined and prohibited from continuing the strike and any other actions which
14 amount to a strike, as defined in NRS 288.074;
- 15 2. Defendants are ordered to communicate the terms of this Order with all of the CCEA
16 bargaining unit;
- 17 3. Defendants are ordered to also communicate the potential punishments found in NRS
18 288.710 and NRS 288.715 available for the continuation of a strike in violation of this
19 Court’s Order, with all of the CCEA bargaining unit.

20 IT IS FURTHER ORDERED that this Temporary Restraining Order shall remain in effect
21 until the Motion for Preliminary Injunction on Order Shortening Time can be heard or to a date the
22 Court fixes. Accordingly, this Temporary Restraining Order will remain in effect until:
23 _____, 2023.

24 DATED this ___ day of September, 2023.

25
26 _____
27 DISTRICT COURT JUDGE
28

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Respectfully Submitted by:



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ANDREW S. CLARK, ESQ.
LITTLER MENDELSON, P.C.

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