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| <p>JEREMY LI, <i>on behalf of himself and all others similarly situated,</i></p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>RUTGERS COUNCIL OF AAUP-AFT CHAPTERS (RUAAUP), RUTGERS ADJUNCT FACULTY UNION (PTLFC-AAUP-AFT, Local 6324), BIOMEDICAL AND HEALTH SCIENCES OF NEW JERSEY COUNCIL OF AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS CHAPTERS (AAUP-BHSNJ), NEW JERSEY AFL-CIO, NEW JERSEY AMERICAN FEDERATION OF TEACHERS (AFT), AMERICAN FEDERATION OF TEACHERS (AFT), AND THE AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS (AAUP)</p> <p style="text-align: center;">Defendants.</p> | <p>SUPERIOR COURT OF NEW JERSEY<br/>LAW DIVISION – MIDDLESEX COUNTY</p> <p>Docket No.</p> <p style="text-align: center;">Civil Action</p> <p style="text-align: center;"><b><u>COMPLAINT AND JURY DEMAND</u></b></p> |
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**INTRODUCTION**

1. Strikes by public employees in New Jersey are illegal. *State v. Int’l Fedn. of Prof’l & Tech. Eng’rs, Local 195*, 169 N.J. 505, 537 (2001) (“employees do not have the right to

strike in the public sector”); *N.J. Tpk. Auth. v. AFSCME, Council 73*, 150 N.J. 331, 344 (1997) (“strikes by public employees [are] unlawful”); *Office & Prof. Employees Int’l Union Local 32, AFL-CIO v. Camden Cty. Mun. Utilities Auth.*, 362 N.J. Super. 432, 438 (App. Div. 2003) (“employees do not have the right to strike in the public sector”); *Franklin Tp. Bd. of Educ. v. Quakertown Educ. Ass’n*, 274 N.J. Super. 47, 54 (App. Div. 1994) (“Public employees do not have a right to strike in New Jersey.”).<sup>1</sup>

2. The Rutgers faculty unions were aware that public employee strikes are illegal in New Jersey, but in Spring 2023 they chose to strike anyway.

3. The Rutgers faculty unions were aware that strikes would cancel classes, causing students to miss out on the education they had paid for. In fact, that was the key for them to gain the leverage they wanted at the bargaining table. So they chose to strike in spite of the damage they knew it would do to students’ educations.

4. The Rutgers faculty unions were given substantial assistance in their illegal strike

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<sup>1</sup> *Accord In re State*, 114 N.J. 316, 325 (1989) (“all public employees bargain without a right to strike”); *Passaic Township Bd. of Educ. v. Passaic Township Educ. Ass’n*, 222 N.J. Super. 298, 301 (App. Div. 1987) (“public employees do not have the right to strike”); *I.B.T., Local No. 863 v. Seaboard Farms*, 214 N.J. Super. 425, 428 (App. Div. 1986); *James v. Camden Cty. Council Number 10 of New Jersey Civil Service Asso.*, 188 N.J. Super. 251, 259 (Chan. Div. 1982) (“Public employees may not strike.”); *New Jersey State Policemen’s Benevolent Ass’n v. Irvington*, 80 N.J. 271, 288 (1979) (“public employees have never possessed a right, constitutional or otherwise, to strike or engage in work stoppages”); *Teaneck v. Firemen’s Mut. Benevolent Asso.*, 158 N.J. Super. 131, 135 (App. 1978); *In re Hoboken Teachers’ Asso.*, 147 N.J. Super. 240, 248 (App. Div. 1977); *Bd. of Educ. v. Asbury Park Educ. Asso.*, 145 N.J. Super. 495, 509 (Chan. Div. 1976); *In re Fair Lawn Educ. Ass’n*, 63 N.J. 112, 116 (1973) (“the settled rule that such strikes are illegal”); *In re Education Asso. of Passaic, Inc.*, 117 N.J. Super. 255, 261 (App. 1971); *Union Beach Bd. of Educ. v. N.J.E.A.*, 53 N.J. 29, 32, 46-48 (1968); *In re Buehrer*, 50 N.J. 501, 505 (1967); *Delaware River & Bay Auth. v. Int’l Org., M., M. & P.*, 45 N.J. 138, 142 (1965) (“Strikes by public employees are prohibited in our State”); *New Jersey Turnpike Auth. v. AFSCME*, 83 N.J. Super. 389, 399 (Chan. Div. 1964); *Donevero v. Jersey City Incinerator Auth.*, 75 N.J. Super. 217, 224 (Law Div. 1962), *rev’d on other grounds by McAleer v. Jersey City Incinerator Auth.*, 79 N.J. Super. 142 (App. Div. 1963).

by state and national unions.

5. This class action is a simple, straightforward way to provide justice, accountability, and compensation for the 67,000 students who were denied a week of the education they paid for because these unions chose to undertake a selfish and illegal strike.

### **JURISDICTION & VENUE**

6. The Law Division of Superior Court has general subject-matter jurisdiction over cases seeking monetary damages in excess of \$10,000. N.J. Const., Art. VI 3, 2; R. 4:3-1(a).

7. The courts of New Jersey have personal jurisdiction over non-residents to the fullest extent possible under the Due Process Clause of the Fourteenth Amendment. *See* R. 4:4-4.

8. Venue is appropriate in Middlesex County pursuant to R. 4:3-2(a)

### **PARTIES**

#### *Plaintiff*

9. Jeremy Li is a junior at Rutgers University.
10. He was enrolled at Rutgers last year during the strike.
11. He is a commuter student at the New Brunswick campus.
12. He pays in-state tuition as a New Jersey resident.

#### *Defendants*

##### *The Rutgers University AAUP (RUAAUP)*

13. The Rutgers Council of AAUP-AFT Chapters is the exclusive representative for several bargaining units at Rutgers University.

14. It goes by the shorthand name Rutgers University AAUP or RUAAUP.<sup>2</sup>

15. The RUAAUP is an unincorporated association that has more than seven members.

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<sup>2</sup> <https://www.aaup.org/article/rutgers-university-aaup-aft#.Ze8v0ezMITU>

See NJ Rev Stat § 2A:64-1.

16. It is affiliated with both the national AAUP and the national American Federation of Teachers (AFT).

17. The RUAAUP represents approximately 5,000 employees: full-time faculty, graduate workers, postdoctoral associates and Educational Opportunity Fund (EOF) counselors.

18. Its EIN (federal tax identification number) is 22-2956199.

*The AAUP-BHSNJ*

19. The Biomedical and Health Sciences of New Jersey Council of American Association of University Professors Chapters is exclusive representative for several bargaining units at Rutgers University.

20. It goes by the shorthand AAUP- BHSNJ.

21. It is affiliated with the national AAUP.

22. The AAUP-BHSNJ is an unincorporated association that has more than seven members. See NJ Rev Stat § 2A:64-1.

23. It represents faculty and librarians employed in the New Jersey Medical School, Rutgers; Robert Wood Johnson Medical School, Rutgers; School of Dental Medicine, Rutgers; School of Nursing, Rutgers; School of Public Health, Rutgers; School of Health Professions, Rutgers; and University Libraries, Rutgers.

24. It represents approximately 1500 employees.

25. Its EIN is 23-7377433.

*The Rutgers Adjunct Faculty Union (RAFU)*

26. The Part Time Lecturer Faculty Chapter Rutgers AAUP is the exclusive representative for part-time adjunct faculty at Rutgers.

27. It goes by the name Rutgers Adjunct Faculty Union.
28. It is affiliated with the national AAUP and national AFT.
29. It represents over 3,000 adjunct faculty at Rutgers.
30. The RAFU is an unincorporated association that has more than seven members.

See NJ Rev Stat § 2A:64-1.

31. Its EIN is 22-2937103.

*The New Jersey AFL-CIO*

32. The New Jersey AFL-CIO is statewide umbrella group of labor unions collectively representing over 1 million members of its associated unions.<sup>3</sup>

33. The New Jersey AFL-CIO is an unincorporated association that has more than seven members. See NJ Rev Stat § 2A:64-1.

34. Its EIN is 22-1153990.

*The American Federation of Teachers New Jersey (AFTNJ)*

35. AFT New Jersey represents 30,000-plus PreK-12 and higher education workers.

36. It is the state's largest higher education union.

37. It goes by the abbreviation AFTNJ.

38. Its affiliates include the RUAAUP and the RAFU.

39. It is the New Jersey chapter of the national AFT.

40. It is an unincorporated association that has more than seven members. See NJ Rev Stat § 2A:64-1.

41. Its EIN is 22-1532363.

*The American Federation of Teachers (AFT)*

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<sup>3</sup> <https://njafclcio.org/about/>

42. The American Federation of Teachers is a national labor union.

43. The AFT represents 1.72 million members in more than 3,000 local affiliates nationwide.

44. The AFT is a member union of the AFL-CIO.

45. It is an unincorporated association that has more than seven members. *See* NJ Rev Stat § 2A:64-1.

46. Its EIN is 36-0725240.

*The American Association of University Professors (AAUP)*

47. The AAUP is a nonprofit membership association of faculty and other academic professionals.

48. The AAUP has about 45,000 members nationwide.

49. The AAUP is affiliated with the AFT.

50. It is an unincorporated association that has more than seven members. *See* NJ Rev Stat § 2A:64-1.

51. Its EIN is 80-0320904.

52. Relevant to all of the foregoing defendant organizations, the individual members of an unincorporated association in New Jersey are personally liable if a judgment exceeds the assets of the association if they ratified or participated in the unlawful misconduct. *See Buteas v. Raritan Lodge #61 F. & A.M.*, 248 N.J. Super. 351, 359 (App. Div. 1991).

**FACTUAL ALLEGATIONS**

***The 2019 Planned Strike***

53. April 2023 was not the first time that RUAAUP contemplated breaking the law with an illegal strike.

54. On March 19, 2019, Politico reported: “The bargaining unit representing full-time faculty and graduate employees at Rutgers University [RUAAUP] has its members’ blessing to call a strike if contract negotiations aren’t successful, union leaders said Tuesday. Eighty-eight percent of its members voted to authorize union leaders to call a strike...”

55. The Politico story quoted David Hughes, vice-president of Rutgers AAUP-AFT and the bargaining committee chair at the time: “Faculty are not eager to strike. We recognize and want to minimize any disruption to Rutgers students. However, even if we have to strike, the benefits for higher education and students at Rutgers will be much greater than the short-term cancellation of any classes.”

56. NJ.com reported at the time (March 2019): “About 88 percent of Rutgers faculty union members voted last month to authorize union leaders to call a historic strike, if necessary. The union had already printed ‘Strike’ signs and begun training faculty on how to walk picket lines. Professors and other faculty would have cancelled classes and stopped all research on the New Brunswick-Piscataway, Newark and Camden campuses if a strike was called. They also would have asked part-time adjunct professors, who are not in their bargaining unit, to honor picket lines and not teach classes.”<sup>4</sup>

57. NorthJersey.com also reported in March 2019: “What would a strike mean for students? In a word, disruption. ‘Classes will stop,’ [RUAAUP president] Kumar said. ‘There will be pickets outside the buildings. We will ask people, including our staff and students, to honor those picket lines.’ Professors and teaching assistants have been preparing students for the possibility of a strike over the last few weeks, she said. . . . The union would ask faculty and

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<sup>4</sup> <https://www.nj.com/news/2019/04/no-rutgers-strike-faculty-reaches-last-minute-deal-with-university.html>

graduate assistants not only to cancel classes, but also to ‘discontinue departmental service work during the days of the strike,’ as well as to stop ‘all non-essential research work,’ according to the union’s website.”<sup>5</sup>

58. NorthJersey.com’s story continues: “The state constitution and the state Employer-Employee Relations Act are ‘silent’ on the issue of strikes, according to the union’s website. But courts in New Jersey have ‘ruled that walkouts by public employees are unlawful,’ according to the union’s website.”

59. The strike did not occur because the RUAAUP and Rutgers settled at the last minute.

### ***The Lead Up to the 2023 Strike***

60. On November 29, 2022, the Rutgers unions announced a rally on December 6, 2022. In a press release, the RAFU leader was quoted: “Enough is enough. It’s time to increase the pressure.”<sup>6</sup>

61. On February 22, 2023, the RUAAUP encouraged its members in a “Members News” bulletin to take the “2023 Strike Pledge.” It also invited them to a “Freedom School featuring participants in the strike wave in higher ed on Wednesday, March 1, at 7 p.m.” It also announced that the previous day, February 21, the RUAAUP leadership had decided to hold a strike authorization vote.<sup>7</sup>

62. On February 28, 2023, the same day as the “Take Back Rutgers” rally, Rutgers

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<sup>5</sup> <https://www.northjersey.com/story/news/new-jersey/2019/04/11/rutgers-university-faculty-strike-heres-what-we-know/3387580002/>

<sup>6</sup> <https://rutgersaaup.org/rutgers-unions-to-rally-for-fair-contracts-on-december-6/>

<sup>7</sup> <https://rutgersaaup.org/strike-authorization-vote-will-begin-tuesday-february-28/>



AAUP-AFT and the Rutgers Adjunct Faculty Union publicly launched a strike authorization vote.<sup>8</sup>

63. At the February 28, 2023, rally, people held signs saying “We R Strike Ready”<sup>9</sup>

64. On March 3, in response to the call for a strike vote, the student newspaper the Daily Targum ran an editorial saying:<sup>10</sup>

*This idea of a potential strike has stirred many concerns among the student body. For example, on Saturday, there was a technological malfunction that caused students to be temporarily unenrolled from their courses on Canvas.*

*While a University-wide email explained that this error was due to technical difficulties and unrelated to union activity, social media threads contemplated if Canvas classes disappearing had anything to do with a potential strike from Rutgers staff.*

*An Instagram post from the Rutgers AAUP-AFT said, "We definitely did not cause Canvas to go down." In addition to this, the organization released a statement that said, "We would never risk harming our students like this. And, we would never start any kind of work stoppage action without announcing it to students first."*

*While these sentiments attempt to quell student anxieties over a possible strike, it is still reasonable to consider how a strike would affect students on campus.*

*In a study from the International Journal of Educational Development, it was found that on average, students who had experienced more labor strikes during their academic career scored lower on math and reading examinations.*

*Regardless of well-placed intentions, strikes inevitably have a negative impact on academic*

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<sup>8</sup> <https://www.insidernj.com/press-release/unions-representing-rutgers-educators-launch-vote-on-strike-authorization/>

<sup>9</sup> <https://twitter.com/AFTNJ/status/1630659977068027907>

<sup>10</sup> <https://dailytargum.com/article/2023/03/editorial-how-would-potential-aaup-aft-strike-affect-students>

*performance. This should be a major concern for Rutgers as supporting its student's education should be its main priority.*

*Depending on the length of a strike, students could miss multiple days or weeks of instruction, meaning significant content could be cut from the curriculum. Diminished lesson plans and altered timelines could have a dangerous ripple effect.*

*If students are in introductory-level classes and need to retain the content for upper-level classes, they will not have the foundation to effectively do so if their curriculum is cut.*

*This could put students in an alarming state of anxiety. Will teachers be able to respond to emails? When will they be able to grade essays and exams? What does this mean for clubs or organizations that they may run? How long will all this last?*

*As young people continue to grapple with these academic concerns and inevitable burnout, adding a strike to the mix could likely exacerbate these issues.*

65. The editorial closed, "Educator strikes inevitably hurt students."

66. The academic journal article referenced in the article is Luz Karime Abadía Alvarado, Silvia C. Gómez Soler, Juanita Cifuentes González, *The effect of teacher strikes on academic achievement: Evidence from Colombia*, 82 Int'l J. of Educational Development 102369 (2021).

67. Shortly thereafter, on March 6, 2023, University President Jonathan Holloway sent an update to the university community on labor negotiations: "The administration has already met with our union negotiating teams 100 times."<sup>11</sup>

68. He continued: "Last week, the administration presented to our unions a new proposal for compensation that represents an increase of 10.75% over four years—a proposal that

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<sup>11</sup> <https://www.rutgers.edu/president/update-on-labor-negotiations>

is consistent with the most recent four-year contract, negotiated in 2019. . . . In addition, the university has proposed payment of a one-time lump-sum equal to 1% of base salary payable in FY ‘23.’”<sup>12</sup>

69. On March 10, RUAAUP and RAFU released the results of the strike votes: “Some 94 percent of Rutgers AAUP-AFT and Rutgers Adjunct Faculty Union members voted ‘yes’ in a 10-day email ballot asking if they would empower union leadership bodies to call a strike if they think one is necessary to achieve the unions’ goals for new labor agreements.”<sup>13</sup>

70. A pre-strike FAQ from RUAAUP issued March 13 specified what was included in the strike:

## What work at Rutgers would a strike stop?

- Teaching a Rutgers course in a classroom, lab, or other space, on Zoom or asynchronously online.
- Issuing tests, exams, or other assignments for the purpose of assessment .
- Grading or submitting grades through REGIS and/or Canvas, and using Canvas or any other Rutgers software for any reason beyond communicating with students about the status of the strike.
- Teaching another instructor's course or grading their students' assignments.
- Holding events or conferences on campus or off-campus Rutgers events.
- Holding office hours online or in person.
- Attending meetings related to Rutgers' administrative work, teaching, and official duties.
- Filing Rutgers reports and completing university compliance and professional training requirements.

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71. Another strike FAQ stated: “What is the point of a strike? Put simply, to show

<sup>12</sup> <https://www.rutgers.edu/president/update-on-labor-negotiations>

<sup>13</sup> <https://rutgersaaup.org/rutgers-educators-vote-94-percent-to-authorize-first-ever-strike/>

<sup>14</sup> <https://rutgersaaup.org/2023-strike-faq/#StopWork>

management and the public that the university cannot function without our labor and to demonstrate that our teaching, research, administrative work, and service are essential to Rutgers' basic ability to operate.”<sup>15</sup>

72. Another strike FAQ showed the union's attitude toward honesty: “Will we be paid during a strike? In general, universities have not withheld pay during higher ed strikes. They have a hard time understanding which individuals are or are not striking, and we wouldn't help them figure that out.”<sup>16</sup>

73. Another strike FAQ showed RUAAP's decision that, in its judgment, the inconvenience of a strike to students was worth the long-term benefits to the union: “Would a strike harm our students? No. Strikes are effective because they are disruptive, and disruption inevitably causes short-term inconvenience. But the harm to students from our not striking may be far greater than short-term inconvenience.”<sup>17</sup>

74. On March 21, President Holloway sent an update to students: “Yesterday, we made an offer on compensation to the faculty unions that exceeds the offer that the unions agreed to four years ago, during the last round of contract negotiations.”

75. He continued, “It is well-established that strikes by public employees are unlawful in New Jersey. This activity includes work stoppages and work slowdowns, among other things. We hope that the courts would not have to be called upon to halt to an unlawful strike. No one wants that, nor does anyone want faculty or others to go without pay during an illegal strike. Most important, no one wants to disrupt the academic progress of more than 67,000 Rutgers students.”<sup>18</sup>

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<sup>15</sup> <https://rutgersaaup.org/2023-strike-faq/#Point>

<sup>16</sup> <https://rutgersaaup.org/2023-strike-faq/#PaidDuring>

<sup>17</sup> <https://rutgersaaup.org/2023-strike-faq/#Students>

<sup>18</sup> <https://www.rutgers.edu/president/update-on-labor-negotiations-as-you-return-from-spring-break>

76. On March 21, following the strike votes by RUAAUP and RAFU, President Holloway wrote to faculty and staff: “Although the leadership of the unions has represented that the result of the vote authorizes them to call a strike, the courts have ruled that strikes by public employees are unlawful in New Jersey. I am hopeful that an unlawful strike or job action will not be called.”

77. He continued, “[W]e have just made offers on compensation to the faculty unions that exceed the wage increases overwhelmingly approved by those unions in their last contracts. These new proposals include an 11.5% increase over the next four years, with the first year’s 3% increase retroactive to July 1, 2022, plus a 2% lump sum salary payment paid out during the first two years of the contract.”<sup>19</sup>

78. In response to Holloway’s message, the three unions wrote their members: “We stand by the FAQs, which have been reviewed by our attorneys, who are experts in labor law. In some, but not all, instances in the past, New Jersey state courts have issued injunctions requiring public employees to end a strike and return to work. But in all of those cases, the workers still won new contracts. In 2018, public school teachers in a number of states where public worker strikes were actually illegal, including West Virginia, Arizona, and Oklahoma, went on strike. In none of these cases was there an attempt to enforce laws in those states against the many thousands of educators who participated.”<sup>20</sup>

79. In other words, the unions knew they were defying New Jersey law, but they had seen other unions do it and get away with it, so they decided to proceed with an illegal act because they calculated the chances of getting what they wanted and not getting slapped with an injunction

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<sup>19</sup> <https://www.rutgers.edu/president/second-update-on-labor-negotiations>

<sup>20</sup> <https://rutgersaaup.org/president-holloways-misleading-update-on-negotiations-here-are-the-facts-about-striking/>

were good.

80. On March 29, the RUAAP, RAFU, and AAUP-BHSNJ put out a joint press release saying, “Members are fed up and determined to do whatever it takes” and “Our members are out of patience.” The release specifically noted all three unions had held strike authorization votes: “Three unions represented at the press conference have voted to authorize strikes if necessary to win fair contracts.”

81. On March 31, the RUAAP and RAFU announced the creation of a joint “Strike and Solidarity Fund” and appealed for donations: “The right to strike is essential to preserving and winning rights at the bargaining table, and strike funds are essential in our exercise of that right. A merged fund demonstrates that we are a united faculty and provides an easy way for others to express solidarity from afar.”<sup>21</sup>

82. On April 3, President Holloway wrote the entire University community: “There has been significant movement toward agreement in the past few days, and we are cautiously optimistic that a strike or other job action will not be called by our faculty unions. Our students have already had to navigate all the disruptions that the COVID pandemic caused, and I am deeply committed to minimizing any further disruptions on the path toward the degrees they are pursuing. Our students and their academic progress are everyone’s top priority.”

83. He continued, “Among the things we have offered as part of the faculty union negotiations are enhanced compensation programs that would increase salaries across-the-board for full-time faculty and TAs/GAs by 12 percent by July 1, 2025. Additionally, we have proposed 3 percent in lump-sum payments to all the faculty unions to be paid out over the first two years of the new contract.”

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<sup>21</sup> <https://rutgersaaup.org/donate-now-to-the-merged-strike-solidarity-fund/>

84. He continued, “To be clear, if a strike were to be called, the university would have no choice but to make every legal effort to ensure that any job action does not affect our students’ academic progress.”<sup>22</sup>

85. In a message to their members on April 7, the three Rutgers unions acknowledged that “[i]n some instances, courts have issued injunctions against striking public employees. If we are forced to strike, President Holloway has stated that the administration will quickly petition a court for an injunction. Please be advised that if this happens, it would signal the start, and not the end, of a legal process. . . . Our lawyers will oppose the granting of any injunction. If a judge should grant one, and we decide to continue the strike, the university would have to return to court to seek penalties for violation of the injunction. If an injunction is issued, it is possible that all of us will receive communications from the university, telling us to return to work. However, you should not be intimidated and should wait for guidance from union leadership about any legal actions. This process could take several days. We don’t know and cannot guarantee the outcome of such a legal process. What we do know is that the university seems prepared to do its best to scare us into giving up our fundamental right to withhold our labor in pursuit of a fair and just contract. Unless you hear otherwise from union leadership, if we have started a strike, we will remain on strike throughout this process.”<sup>23</sup>

86. In other words, the three unions told their members: If a judge orders us to return to work, we will remain on strike. If a judge orders individual professors to return to work, they should listen to the union not the judge and keep striking.

87. On April 9, President Holloway wrote the University community regarding the

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<sup>22</sup> <https://www.rutgers.edu/president/third-update-on-labor-negotiations>

<sup>23</sup> <https://rutgersaaup.org/know-your-rights-the-law-and-our-right-to-strike/>

strike called to begin the next day, April 10: “the leadership of our faculty/academic unions have called for a strike at Rutgers, beginning on Monday morning, April 10, 2023. To say that this is deeply disappointing would be an understatement, especially given that just two days ago, both sides agreed in good faith to the appointment of a mediator to help us reach agreements.”<sup>24</sup>

### *The 2023 Strike*

88. On April 9, the three Rutgers unions called the strike. “Last night, the leadership bodies of our three unions met jointly and voted to begin a strike to achieve a fair contract for ALL of us. TODAY at 9 a.m., we ask you to join the picket lines and refuse to conduct teaching, research, and other business as usual at Rutgers.

89. In the same message, the three Rutgers unions coached their members on how to undermine enforcement of a potential injunction: “We’ve learned that management may attempt to enlist department Chairs, Undergraduate Directors, department staff, and others to report striking workers. The only plausible reason for this would be to try to withhold pay, cancel our health insurance, hold us in contempt of a possible court order, or otherwise retaliate against us. . . . No one should comply with any attempt by the central administration to gather information about who is on strike.”

90. The strike manual from the three unions laid out the complete shutdown of educational activity. In addition to the same FAQ quoted above, the manual further explains, “During a strike, we will not be teaching on Canvas. Using your Canvas course site for instruction or moving your in-person class to any online modality is crossing the picket line! In practical terms, that means no one should record, upload, or release new lectures or content to their Canvas course sites during the time we are on strike. However, we recommend that materials already open

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<sup>24</sup> <https://www.rutgers.edu/president/regarding-the-faculty-unions-strike>



on your Canvas course site prior to the start of a strike remain open. What do I do about grades in the event of a strike? In the event of a strike, faculty should stop submitting grades through REGIS and/or Canvas. Make sure that any automatically graded assignments are removed or unpublished, and that any auto-grader is turned off.”

91. The strike manual included suggested messages to students and suggested out-of-office messages for university email addresses.

92. The strike manual also recommended an FAQ linked from the RAFU website that included: “And the truth is, we have to disrupt management’s indifference and delay tactics. The best way to do that is to withhold our labor during the school year. If we wait until summer to strike, management will simply shrug and say, ‘Who cares?’”<sup>25</sup>

93. In other words, the unions intentionally timed the strike to create the maximum disruption for students to gain the maximum leverage at the bargaining table.

94. On April 10, 2023, President Holloway wrote the University community: “The Governor also asked me personally to delay taking legal action asking the courts to order strikers back to work. I agreed to the Governor’s important request while it appears that progress can be made. Obviously, if there is no movement towards an agreement, we will have no choice but to take legal action to assure the continued academic progress of our students and prevent irreparable harm. This is especially important for the thousands of students who are finishing their academic careers at Rutgers and are only a few weeks away from earning their degrees.”<sup>26</sup>

95. Politico reported on April 10, 2023, that New Jersey Governor Phil Murphy was “so confident he told Rutgers leaders not to take legal action against the striking workers despite

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<sup>25</sup> <https://rutgers-ptlfc.org/student-strike-faq/>

<sup>26</sup> <https://www.rutgers.edu/president/first-update-on-strike-and-negotiations>

the school's contention the work stoppage is illegal. . . . Murphy would not directly answer questions about whether he would allow the state to take legal action to halt the strike, saying only, "I hope it doesn't come to that." But a spokesperson for Rutgers said the governor had already told school leaders to hold off on doing so. 'The Governor ... asked us to delay taking legal action asking the courts to order strikers back to work so that no further irreparable harm is caused to our students and to their continued academic progress,' the spokesperson, Dory Devlin, said in a statement to POLITICO. 'We agreed to his request to refrain from seeking an injunction while it appears that progress can be made.' The legality of a strike from higher education workers at the state's flagship public university has been a matter of dispute. Rutgers has maintained that it's illegal for workers to strike, saying in an online FAQ that 'New Jersey courts consistently and expressly have held that strikes by New Jersey public employees are illegal.' Unions have insisted that there are no laws explicitly prohibiting their right to strike."<sup>27</sup>

96. On April 11, 2023, the Rutgers unions sent out an update to their members: "Day Two of our strike, and it will be beautiful weather for a picket line! To win a transformative contract, we need ALL members who can to come out and join us."<sup>28</sup>

97. On April 12, 2023, the Rutgers unions sent out an update to their members: "Our picket lines grew stronger and longer yesterday, thanks not only to our members but the growing support we have from our students and communities. Today can be even bigger and better! Join us on the line."<sup>29</sup>

98. On April 14, 2023, the Rutgers unions sent out an update to their members: "We

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<sup>27</sup> <https://www.politico.com/news/2023/04/10/phil-murphy-intervened-to-keep-rutgers-strike-from-going-to-court-00091243>

<sup>28</sup> <https://rutgersaaup.org/come-out-to-the-picket-line-today-response-to-president-holloway/>

<sup>29</sup> <https://rutgersaaup.org/this-strike-is-for-our-students-our-communities-and-ourselves/>

thank you for your incredible spirit and energy on the picket lines this week. Please get some rest tonight!”

99. On April 15, 2023, the Rutgers unions sent out an update to their members: “The leadership bodies of our three unions have voted to accept a framework for new contracts and to suspend our strike and return to work immediately.”<sup>30</sup>

100. The update continued, “Our historic strike got us to this point. And let us be clear, a suspension of our strike is not a cancellation. If we do not secure the gains we need on the open issues through bargaining in the coming days, we can and will resume our work stoppage. We also will continue putting significant pressure on the Rutgers administration to meet our needs, starting with informational pickets next week.”

101. The update continued, “The agreements we secured in this framework are a testament to all the workers, students, and community members who organized, talked to colleagues and friends, walked the picket lines, and marched in New Brunswick, Newark, and Camden. Our coalition’s commitment, energy, and values powered our unprecedented work stoppage—the largest in New Jersey public-sector history.”

102. During the course of the strike, campuses were dead: “What numerous faculty did, however, was to respect the strike by either cancelling classes or moving them online. This was critical to the strike’s success. Classroom buildings were, by and large, empty, and the campuses became educational dead zones for the entire week of the strike.”<sup>31</sup>

103. On April 15, President Holloway wrote again concerning resolution of the strike through a framework for a deal: “Most important, closure on this framework will allow our 67,000

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<sup>30</sup> <https://rutgersaaup.org/we-have-an-agreement-come-to-a-zoom-update-today-at-12pm/>

<sup>31</sup> <https://brooklynrail.org/2023/06/field-notes/The-New-Old-Unionism-The-Strike-Campaign-at-Rutgers-University>

students to resume their studies and pursue their academic degrees. Nothing we do is as important as living up to the expectations that our students and their families have of us to be fully supportive of them and nurturing of their academic ambitions and dreams.”<sup>32</sup>

104. He continued, “As I have seen in the e-mail messages I have received, this has been a difficult time for many students.”

105. On April 17, 2023, the three Rutgers unions wrote their members: “We will return to our classrooms, labs, and libraries today proud of the gains we have made—but ready and willing to keep fighting until we win a fair contract for ALL.”<sup>33</sup>

106. The update continued, “**We have only suspended the strike, not canceled it. If we don’t win what we need on these open issues, we can and will continue with the work stoppage.**” (bold original)

107. The update closed, “We only got as far as we have so far because of the power of our strike last week. We thank all of you who gave your spirit and energy to that incredible action.”

108. On April 18, 2023, the three Rutgers unions wrote their members: “We have lots more planned for this week, including a picket of the Board of Governors meeting planned for Thursday, April 20—save the date and plan to be there at 11:30 a.m. to send a message that our strike is suspended, not ended—and we will keep fighting for the contract we deserve.”<sup>34</sup>

109. On April 19, 2023, the three Rutgers unions wrote their members: “We’ve made it clear that we can and will continue the work stoppage if we don’t win the gains we need on our open issues. Everyone knows next week is the last week of classes, and no one wants to go on

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<sup>32</sup> <https://www.rutgers.edu/president/we-have-agreed-to-a-framework-on-new-contracts>

<sup>33</sup> <https://rutgersaaup.org/returning-to-classes-proud-of-what-weve-won-but-ready-to-keep-fighting/>

<sup>34</sup> <https://rutgersaaup.org/were-marching-to-show-that-bhsnj-needs-action-in-bargaining/>

strike. But the administration is forcing us to take action with its continued delays. Most of the Governors probably weren't on campus during last week's strike. Let's give them a taste of our joyous, determined picket lines!"<sup>35</sup>

110. On April 30, 2023, the three Rutgers unions circulated the final tentative agreements for ratification, saying, "We're proud of what we achieved by going on strike and joining together for the Rutgers we and our students deserve."<sup>36</sup>

***The Substantial Assistance of and Coordination with the New Jersey AFL-CIO***

111. The NJ AFL-CIO sent out a "Solidarity Alert" asking people to attend the December 6, contract rally.<sup>37</sup>

112. The New Jersey AFL-CIO's legislative director spoke out at the December 6, 2022, contract rally.<sup>38 39</sup>

113. On December 7, the New Jersey AFL-CIO tweeted, "Yesterday, we stood together with our brothers and sisters who work at Rutgers University to fight for a fair contract. They are fed up with working under an expired contract and demand that Rutgers negotiate with them in good faith!"<sup>40</sup>

114. Around this time, the NJ AFL-CIO also put out a statement in support of the Rutgers unions.<sup>41</sup>

115. On February 7, the NJ AFL-CIO tweeted an invitation to the February 28 rally:

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<sup>35</sup> <https://rutgersaaup.org/hey-bog-times-up-fair-contract-now-picket-thursday-at-1130-am/>

<sup>36</sup> <https://rutgersaaup.org/we-have-a-tentative-agreement-heres-what-happens-next/>

<sup>37</sup> <https://twitter.com/NJAFLCIO/status/1599811937373913088>

<sup>38</sup> <https://aftnj.org/topics/news/higher-education/2022/solidarity-aplenty-in-new-brunswick-as-rutgers-unions-rally-for-fair-contracts/>

<sup>39</sup> <https://twitter.com/AFTNJ/status/1600216994275504129>

<sup>40</sup> <https://twitter.com/NJAFLCIO/status/1600573357107294210>

<sup>41</sup> <https://njaflcio.org/new-jersey-state-afl-cio-stands-with-rutgers-unions-in-fight-for-fair-contract/>

“15,000 of our union siblings at Rutgers have worked without a contract for months. Join Rutgers AAUP/@AFTNJ, @hpaeaft, and @CWA Local 1031 for a day of action to demand the Rutgers Board of Governors and administration negotiate with us for a fair contract now!”<sup>42</sup>

116. On February 15, the NJ AFL-CIO tweeted another invitation to the February 28 rally: “Our union siblings at @ruaaup, @hpaeaft & @CWA Local 1031 are fed up with the Rutgers Board of Governors and administration’s refusal to negotiate a new contract in good faith. We need YOU to join us for a Day of Action and demand that Rutgers come back to the bargaining table!”<sup>43</sup>

117. Finally, on February 27, the NJ AFL-CIO tweeted a third time with an invitation to the February 28 rally, saying, “We need YOU to stand with our sisters and brothers at Rutgers University and put pressure on management to sit down at the bargaining table and negotiate a new contract!”<sup>44</sup>

118. The New Jersey AFL-CIO legislative director spoke at the RUAAUP rally on February 28, 2023.<sup>45 46 47</sup>

119. On or about April 9, 2023, the NJ AFL-CIO sent an alert out to its members concerning the Rutgers strike saying in part: “The New Jersey State AFL-CIO stands in 100% support for these workers and will stand side by side with them on the picket line. We urge anyone concerned about respect and dignity for workers – including our elected officials at all levels of government, to please join us. We urge all workers – union and non-union alike, and the entire

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<sup>42</sup> <https://twitter.com/NJAFLCIO/status/1623048963120320513>

<sup>43</sup> <https://twitter.com/NJAFLCIO/status/1625842370486079490>

<sup>44</sup> <https://twitter.com/NJAFLCIO/status/1630191016228667393>

<sup>45</sup> <https://www.insidernj.com/press-release/new-jersey-state-afl-cio-stands-with-rutgers-unions-in-fight-for-fair-contract/>

<sup>46</sup> <https://aftnj.org/topics/news/aftnj-news/2023/hundreds-gather-for-take-back-rutgers-rally-on-newark-campus-2/>

<sup>47</sup> <https://twitter.com/AFTNJ/status/1630659977068027907>

Rutgers' Community, to join our brothers and sisters in their fight for respect, job security, affordable health care and fair compensation. From faculty to maintenance workers, to service workers, to security, to parcel delivery: Lets show Rutgers what solidarity looks like! We urge every Central Labor Council, Building Trades Council and local unions to stand together and send a strong message to the Rutgers' Administration that 'an injury to one is an injury to all.'" The statement, signed by President Charles Wowkanech and Secretary-Treasurer Laurel Brennan, included information on sites for the three picket lines.<sup>48</sup>

120. The New Jersey Monitor reported on April 12, 2023, that "Members of the New Jersey State AFL-CIO and the Union of Rutgers Administrators-American Federation of Teachers, Local 1766, which represents 2,500 administrative workers, joined Rutgers faculty on the picket line this week."<sup>49</sup>

121. A striking RUAAUP member wrote, "The strike has the support of the local and state AFL-CIO, whose leaders joined us on the picket lines on Monday."<sup>50</sup>

122. On April 10, 2023, Wowkanech was one of the labor leaders at the New Brunswick rally.<sup>51</sup>

123. On April 10, 2023, NJ.com reported: "'We just think it's outrageous that the president of the university cares more about sporting programs and the football stadium than the quality of education,' said Charles Wowkanech, President of the New Jersey AFL-CIO. '(President Jonathan Holloway) and his cronies have taken care of themselves, giving themselves raises. I

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<sup>48</sup> <https://www.aft-local-1796.org/higherednews/>

<sup>49</sup> <https://newjerseymonitor.com/2023/04/12/rutgers-strike-forces-union-loving-governor-onto-tightrope-of-competing-interests/>

<sup>50</sup> <https://www.peoplesworld.org/article/striking-rutgers-history-professor-the-administration-thinks-academic-workers-dont-matter/>

<sup>51</sup> <https://www.politico.com/news/2023/04/10/phil-murphy-intervened-to-keep-rutgers-strike-from-going-to-court-00091243>

think he should resign.”<sup>52</sup>

124. In a news interview on April 10, Wowkanech was described: “Charles Wowkanech, president of the state AFL-CIO, chanted alongside union members on College Avenue this morning. He said construction would halt at the Zimmerli Art Museum today, and teamsters will not cross the picket line. ‘We just think it’s outrageous that the president of the university cares more about sporting programs and the football stadium than the quality of education,’ Wowkanech said.”<sup>53</sup>

125. On April 11, 2023, CBS News reported, “‘We are not going away or backing down until we get a decent raise,’ said Charlie Wowkanech, president of the N.J. AFL-CIO.”<sup>54</sup>

126. In another interview on April 12, Wowkanech spoke to NBC4 New York calling for President Holloway to resign. The national AFL-CIO tweeted the interview with the comment: “Yup, you heard that right: @NJAFLECIO President Charlie Wowkanech was out on the @ruaaup picket line today with a clear message to @RutgersU President Jonathan Holloway: It might be time for you to go.”

127. On April 13, 2023, the national AFL-CIO reported a statement from the NJ AFL-CIO leadership, President Charles Wowkanech and Secretary-Treasurer Laurel Brennan: “The New Jersey State AFL-CIO, along with our brothers and sisters, community allies and elected officials, are out in record numbers on the picket line showing their support. We will continue to stand on the right side of history and demand that the Rutgers’ Administration pay the faculty and

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<sup>52</sup> <https://www.nj.com/education/2023/04/rutgers-strike-sends-professors-to-picket-lines-chanting-ru-listening-we-are-picketing.html>

<sup>53</sup> <https://www.nj.com/education/2023/04/rutgers-strike-update-union-university-leaders-to-meet-today-with-gov-murphy-as-negotiations-resume.html>

<sup>54</sup> <https://www.cbsnews.com/newyork/news/as-rutgers-enters-day-2-of-strike-president-says-pickers-should-not-disrupt-classes/>



staff what they are truly worth. We demand they stop the stalling tactics of, ‘we don’t have the money’ while they are giving excessive raises and salaries to a chosen few as recently as this year. The union members are fighting for items, including equal pay for equal work, a living wage for graduate workers, job security and access to decent healthcare. These are just a few of the issues that are on the table, however; Rutgers’ offer doesn’t even come close to salaries or benefits negotiated by faculty at other universities. Rutgers’ Administration anti-union behavior, headed by President [Jonathan] Holloway, is not only insulting to the members who work at Rutgers but to all of us who live and work in New Jersey. We demand that Rutgers engage in real good faith negotiations with substance and settle with the union on a fair and decent contract.”<sup>55</sup>

128. Wowkanech was one of the union leaders in regular contact with Governor Murphy concerning the continuation of the strike.<sup>56</sup>

129. Shortly after the strike was suspended, the NJ AFL-CIO sent out an alert to its members: “Although the picket lines have temporarily come down and the strike has been suspended, the union movement must continue to shine a light on several outstanding labor issues that need to be addressed by Rutgers University.” It called for them to join two rallies at Rutgers, on April 20 and 25.<sup>57</sup>

130. Wowkanech wrote in praise of the Rutgers strike in his September 3, 2023, labor day op-ed column: “Remember the strikers this Labor Day”.<sup>58</sup>

***The Substantial Assistance of and Coordination with the AAUP***

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<sup>55</sup> <https://aflcio.org/2023/4/13/service-solidarity-spotlight-new-jersey-state-afl-cio-stands-striking-rutgers-workers>

<sup>56</sup> <https://www.wsws.org/en/articles/2023/04/12/rutg-a12.html>

<sup>57</sup> <https://njafclcio.org/solidarity-alert-rutgers-employees-continue-to-mobilize-join-us-at-two-events-on-campus/>

<sup>58</sup> <https://www.nj.com/opinion/2023/09/union-leader-wowkanech-remember-the-strikers-this-labor-day-opinion.html>

131. Prior to the strike, AAUP President Irene Mulvey was a “featured speaker” at the December 6, 2022, rally.<sup>59</sup>

132. On March 27, 2023, AAUP tweeted: “‘The flurry of campus organizing is only going to continue as college staff & faculty ramp up their fight for better pay & benefits.’ Strikes Loom at Rutgers, UM, Cal State System 🍪🍪🍪🍪🍪 #AcademicTwitter”<sup>60</sup> with a link to a Forbes story.<sup>61</sup>

133. On April 3, 2023, AAUP tweeted: “Rutgers @ruaaup & @ruaaup\_ptl could strike any time — blowback over school president’s claim it would be unlawful: #1u”<sup>62</sup> with a link to an WNYC story entitled “Rutgers could strike any time — blowback over school president’s claim it would be unlawful”<sup>63</sup>

134. AAUP President Irene Mulvey retweeted the AAUP tweet on April 3 with the message, “Great NPR piece here when you have a minute to listen, but FIND TIME NOW to read and sign the letter below to @RutgersU President. #solidarity #allin #strikeready”<sup>64</sup>

135. On April 10, 2023, AAUP tweeted: “RIGHT NOW: AAUP president Irene Mulvey out on the picket line today supporting @ruaaup & @ruaaup\_ptl’s historic strike alongside @RutgersU students demanding justice at their institution. #RUonStrike #FairContractNow”

136. According to a Politico on April 10, “union members rallied at Rutgers campuses across the state in New Brunswick, Camden and Newark. The New Brunswick strike included

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<sup>59</sup> <https://rutgersaaup.org/rutgers-unions-to-rally-for-fair-contracts-on-december-6/>

<sup>60</sup> <https://twitter.com/AAUP/status/1640384688735830017>

<sup>61</sup> <https://www.forbes.com/sites/michaeltietzel/2023/03/25/strikes-loom-at-rutgers-university-of-michigan-cal-state-system/?sh=e7160b14ce03>

<sup>62</sup> <https://twitter.com/AAUP/status/1642906825921114119>

<sup>63</sup> <https://www.wnyc.org/story/rutgers-could-strike-any-time-blowback-over-school-presidents-claim-it-would-be-unlawful/>

<sup>64</sup> <https://twitter.com/imulvey/status/1642910289262682112>

labor leaders ranging from State AFL-CIO president Charles Wowkanech, the Communications Workers of America’s New Jersey affiliate and national American Association of University Professors president Irene Mulvey, who described Rutgers management was ‘stalling and foot-dragging.’”<sup>65</sup>

137. On April 10, 2023, AAUP tweeted: “NO CONTRACT, NO PEACE!!! @ruaaup @ruaaup\_ptl #FairContractNow #RUonStrike Support Rutgers unions strike fund here: [https://rafup.betterworld.org/donate?fbclid=PAAaYYp\\_EpUF2XKv28cKZJMp-Yu01TkD1aQVrjk80lYTelGhS\\_zJsourcVHWk](https://rafup.betterworld.org/donate?fbclid=PAAaYYp_EpUF2XKv28cKZJMp-Yu01TkD1aQVrjk80lYTelGhS_zJsourcVHWk)”<sup>66</sup>

138. On April 11, 2023, AAUP President Irene Mulvey tweeted, “ ‘Hey, Ho-o-lloway\*, I want to kno-o-ow...if you’ll raise my pay.’ \*Rutgers President Jonathan Holloway @ruaaup @AAUP @AFTunion”<sup>67</sup>

139. On April 21, 2023, after the strike settled, the Rutgers AAUP tweeted, “We agreed to suspend not \*cancel\* our strike. If the University doesn’t steps-up to bargain in good faith for ALL of our constituencies they may have a lot more to deal with than they did last week. Monday @union1766 will finish their strike pledge vote.” To which, from her individual account, AAUP President Irene Mulvey replied, “This foot-dragging by @RutgersU is infuriating. Also, incomprehensible-the amazing #solidarity that forced Rutgers to grind to a halt earlier this month will only grow stronger! The goal is to lift up the neediest & most vulnerable. @ruaaup wont’ quit until that’s accomplished.”<sup>68</sup>

140. Mulvey was one of the union leaders in regular contact with Governor Murphy

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<sup>65</sup> <https://www.politico.com/news/2023/04/10/phil-murphy-intervened-to-keep-rutgers-strike-from-going-to-court-00091243>

<sup>66</sup> <https://twitter.com/AAUP/status/1645478505184886784>

<sup>67</sup> <https://twitter.com/imulvey/status/1645893046888701954>

<sup>68</sup> <https://twitter.com/imulvey/status/1649410723469041669>

concerning the continuation of the strike.<sup>69</sup>

141. In the Spring 2023 issue of *Academe*, the magazine of the AAUP, the group reported, “After a historic five-day strike that began on April 10, nine thousand faculty members from three unions at Rutgers University voted to accept a framework for new contracts and return to work immediately.” The story reported “wins” earned by the strike and credited the strike with prompting “the vital progress the unions have made on core issues during this contract campaign.”<sup>70</sup>

142. On September 2, 2023, AAUP tweeted, “Last March’s Rutgers picket line is what the Labor Movement is all about! By joining forces, we’re securing a better life for all workers. @RUAAUP @RUAAUP\_PTL @AFTNJ @AFTunion #Solidarity”<sup>71</sup>

143. After the strike, on October 4, 2023, AAUP posted a podcast “AAUP Presents” with AAUP-Rutgers president. The show description on AAUP’s website reads, “In this episode, we discuss the unprecedented strike earlier this year at Rutgers University with Todd Wolfson, the president of Rutgers AAUP-AFT. Of the strike and their common good model of organizing, he had this to say: ‘For 50 years, I’d say public universities have been on the defensive.’ Now, he said, ‘I think we turned the tables and we moved the ball perceptively in the other direction.’”<sup>72</sup>

***The Substantial Assistance of and Coordination with the AFTNJ***

144. The AFTNJ president helped lead the February 23, 2023, pre-strike rally.<sup>73</sup>

145. On April 5, 2023, AFTNJ president Donna Chiera made a video threatening a strike

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<sup>69</sup> <https://www.wsws.org/en/articles/2023/04/12/rutg-a12.html>

<sup>70</sup> <https://www.aaup.org/article/rutgers-faculty-unions-suspend-strike-after-progress-core-issues>

<sup>71</sup> <https://twitter.com/AAUP/status/1698001419364622380>

<sup>72</sup> <https://www.aaup.org/news/our-podcast-aaup-presents>

<sup>73</sup> <https://aftnj.org/topics/news/aftnj-news/2023/hundreds-gather-for-take-back-rutgers-rally-on-newark-campus-2/>

and promising support for Rutgers’ unions if they strike. “Next week, if Rutgers unions go on the strike, I will be there at the picket line.” The video was posed with a tweet: “‘I will be there at the picket line.’ — AFTNJ President Donna M. Chiera, in solidarity with @ruaaup and @ruaaup\_ptl, speaking today from Rutgers University’s Newark campus. @AFTunion @rweingarten @NJAFLCIO”<sup>74</sup>

146. On April 10, 2023, AFTNJ president Donna Chiera spoke at a rally for strikers.<sup>75</sup>

147. In the course of her remarks, “At the strike’s first rally on April 10, Donna Chiera, President of the New Jersey AFT, illustrated the power of organized labor by referring to the pressures they exerted which resulted in the resignations of previous anti-labor Rutgers presidents from office. First McCormick, then Barchi. Next up: Holloway. This is well and good and earned wild applause.”<sup>76</sup>

148. On April 10, 2023, AFTNJ tweeted in support of the strikers.<sup>77</sup>

149. On April 10, 2023, AFTNJ put out a press release in support of the strikers.<sup>78</sup>

150. On April 10, 2023, AFTNJ tweeted a link to support the strike fund: “One day longer, one day (Jersey) stronger. 🙌 #Solidarity with Rutgers faculty as they fight for the university students deserve & fair contracts for all. If you’re able, please donate to their strike fund: <https://rafup.betterworld.org/donate> #RUonStrike @RUAAUP @RUAAUP\_PTL”<sup>79</sup>

151. On April 11, 2023, AFTNJ tweeted in support of the strikers.<sup>80</sup>

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<sup>74</sup> <https://twitter.com/AFTNJ/status/1643702747445751813>

<sup>75</sup> <https://twitter.com/AFTNJ/status/1645491439881658372>

<sup>76</sup> <https://socialistrevolution.org/lessons-of-the-rutgers-strike/>

<sup>77</sup> <https://twitter.com/AFTNJ/status/1645486804672421894>

<sup>78</sup> <https://www.insidernj.com/press-release/hpae-aft-nj-solidarity-statements-on-rutgers-faculty-strike/>

<sup>79</sup> <https://twitter.com/AFTNJ/status/1645421408502132738>

<sup>80</sup> <https://twitter.com/AFTNJ/status/1645849201786474500>

152. On April 12, 2023, AFTJNJ tweeted in support of the strikers.<sup>81</sup>

153. On April 12, 2023, AFTNJ tweeted pictures of its members on the picket line.<sup>82</sup>

154. On April 12, 2023, AFTNJ tweeted pictures of its president speaking with media in support of the strike.<sup>83</sup>

155. On April 12, 2023, AFTNJ's president was back out on the picket line.<sup>84</sup>

156. After the strike ended, on April 23, AFTNJ tweeted a threat from RUAAUP to resume the strike if the University backtracked.<sup>85</sup>

157. Considering the possible strike at the New Jersey Institute of Technology, AFTNJ's president said, "I think the actions taken last week by the [Rutgers faculty unions] made [our other higher education] members and leaders say, 'We shouldn't be afraid to strike if we need to strike.'" <sup>86</sup>

***The Substantial Assistance of and Coordination with the AFT***

158. AFT national Secretary-Treasurer Fedrick C. Ingram traveled from Florida to speak at the February 28, 2023, pre-strike rally. At the rally he said: "I just came by to let you know that AFT is going to be with you. AFT is not only here: We've got your back, we've got your front, we've got your side ... And the last thing I'll tell you: Stay together. This is going to be a hard fight."

159. On March 22, 2023, AFT President Randi Weingarten tweeted, "Solidarity with

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<sup>81</sup> <https://twitter.com/AFTNJ/status/1646241782764822528>

<sup>82</sup> <https://twitter.com/AFTNJ/status/1646231213374308378>

<sup>83</sup> <https://twitter.com/AFTNJ/status/1646225959308214272>

<sup>84</sup> <https://aftnj.org/topics/news/higher-education/2023/historic-strike-by-rutgers-faculty-unions-shakes-up-university-stirs-legislators%EF%BF%BC/>

<sup>85</sup> <https://twitter.com/AFTNJ/status/1649412232256552966>

<sup>86</sup> <https://aftnj.org/topics/news/higher-education/2023/with-labor-unrest-at-njit-chiera-talks-rutgers-strikes-influence-need-for-higher-ed-commissioner/>

Rutgers faculty as they fight for a fair contract. #WeRStrikeReady @RUAAUP @RUAAUP\_PTL @AFTNJ”<sup>87</sup> She linked to a post by RUAAUP leader Rebecca Givan with a news story about the threat by RUAAUP and RAFU to strike.<sup>88</sup>

160. On March 10, 2023, AFT President Randi Weingarten tweeted, “Rutgers faculty has worked for over a year with no contract. With 94% of members voting YES, they have decided to strike. We stand with them as they fight for the Rutgers students deserve. #WeRStrikeReady @ruaaup @ruaaup\_ptl @aftnj”<sup>89</sup>

161. On April 6, 2023, AFT President Randi Weingarten tweeted, “Great message from my @AFTNJ sister @DChieraM on why she’s standing with Rutgers faculty as they fight for a fair contract. #WeRStrikeReady @RUAAUP & @RUAAUP\_PTL”<sup>90</sup> The tweet linked back to the Chiera tweet promising to stand on the picket lines in support of the strike.

162. On April 9, 2023, Dr. Julia Schmid, director of higher education for AFT, tweeted, “Solidarity with the academic workers at Rutgers. @AAUP @AFTUnion @AFTHigherEd” with a linked tweet from RUAAUP announcing its strike.<sup>91</sup>

163. On April 10, 2023, AFT posted a story on its website that began: “The strike that began April 10 at Rutgers University is groundbreaking. For one thing, it’s the first time since its founding in 1766 that faculty at Rutgers have gone on strike. For another, demands include not only fair pay but also equity, diversity and justice in the community. And finally, this strike is one of the largest of its kind in the history of higher education, involving three unions representing

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<sup>87</sup> <https://twitter.com/rweingarten/status/1638733233440342025>

<sup>88</sup> <https://www.fastcompany.com/90868530/graduate-student-unions-temple-duke-rutgers>

<sup>89</sup> <https://twitter.com/rweingarten/status/1634326083154718728>

<sup>90</sup> <https://twitter.com/rweingarten/status/1644123775330582529>

<sup>91</sup> <https://twitter.com/JulieMSchmid/status/1645245877274005505>

9,000 professors, part-time lecturers and graduate workers at a school serving 67,000 students.”<sup>92</sup>

164. On April 17, 2023, when the strike was suspended, AFT put out a statement from Weingarten, saying the new contract “exemplifies the simple, but powerful, idea at the core of the labor movement: by standing together workers can achieve what would be impossible alone. Theirs was a long, difficult road, but the Rutgers faculty and grads never wavered and never lost faith. After organizing and protesting and picketing and bargaining over clear demands for dignity at work, job security and gender equity, they prevailed. . . . I am so proud of them and know their fight will inspire higher education professionals across the country to fight and win their own battles to improve their lives—and the lives of others—in the streets and at the bargaining table.”<sup>93</sup>

165. On September 1, 2023, AFT tweeted: “Last March, in a first for the university, Rutgers University workers walked out on strike. Their solidarity paid off: The new contract includes raises for all faculty, job security, professional development, & more. @RUAAUP @RUAAUP\_PTL @AFTNJ”<sup>94</sup>

166. AFT’s website highlights the Rutgers strike as one of the six examples nationwide of AFT chapters fighting and winning: “The work our teams across the country are doing at the bargaining table is having a real impact on issues far beyond pay and benefits.”<sup>95</sup>

***The Impact on the Plaintiff and the Plaintiff Class***

167. Plaintiff Jeremy Li pays in-state tuition to attend Rutgers.

168. Jeremy was enrolled at Rutgers last spring and took classes at the New Brunswick

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<sup>92</sup> <https://www.aft.org/news/rutgers-faculty-and-staff-launch-historic-strike>

<sup>93</sup> <https://www.aft.org/press-release/afts-weingarten-tentative-union-agreement-rutgers-faculty-and-grads>

<sup>94</sup> <https://twitter.com/AFTUnion/status/1697685759426531635>

<sup>95</sup> <https://www.aft.org/we-care-we-fight-we-show-we-vote-and-we-save-lives-and-our-democracy>



campus.

169. Jeremy is a commuter student.

170. In-state tuition and fees this year for a commuter is \$17,239 per academic year (fall and spring semester).

171. Tuition was very similar last year (2022-23).

172. For this tuition, students are enrolled in 28 weeks of class each academic year.

173. That means for each week of school, Jeremy pays approximately \$615.

174. For the spring semester, Jeremy paid for 14 weeks of school, but only received 13 weeks of education due to the strike.

175. During the strikes, no in-person classes were held and many regularly scheduled classes were cancelled. The entire business school building during one of those days during the strike was almost completely empty.

176. As a commuter student, the uncertainty of having to commute or not definitely created challenges for Jeremy due to the unpredictability of classes and the strike during that time.

177. Also given that students were going into finals season, he was unsure about whether exams would happen on time, which created anxiety for him as a student.

178. Though Jeremy personally did not experience trouble getting around campus due to the picket lines because he was a commuter, many of his classmates reported having trouble making it places due to the pickets.

179. Jeremy's experience of lost learning, academic anxiety, and emotional distress is typical of the student class according to academic research on faculty strikes.

180. "In a strike by faculty or teaching assistants, the biggest victim is usually the

students. They are caught in a tug-of-war between the administration and the striking party, and this can result in a variety of hardships for students.” C.M. Wickens, *The academic and psychosocial impact of labor unions and strikes on university campuses*, a chapter in M. E. Poulsen (Ed.), *Higher education: Teaching, internationalization and student issues* (pp. 107-133). Hauppauge, NY: Nova Science Publishers (2011).

181. “For students who lived on campus, but worked off campus, lengthy delays in crossing the picket lines every day took a serious toll. Other on-campus residents felt like prisoners. Overall, students reported feeling abandoned, powerless, and demoralized. During the course of the 1997 faculty strike, there was significant uncertainty and anxiety concerning the potential academic and economic implications of the dispute for students.” *Id.*

182. “[S]tudents who reported high levels of anger also reported high levels of anxiety, and these anxiety levels increased with greater disruption of students’ plans for graduation, future studies, travel, and employment.” *Id.*

183. “It is evident from the available literature that the overall psychosocial impact of a university labor dispute on students has generally been negative.” *Id.*

184. “Students reported a significant impact of strike-related stress on their academic performance, and expressed concern that the strike had resulted in a decline in the quality of their education through cancelled classes and tutorials or lost academic support from teaching and laboratory assistants.” Christine M. Wickens, et al., *Understanding the Student Experience of a University Labour Strike: Identifying Strategies to Counter Negative Impact*, Higher Education Quality Council of Ontario (2016).<sup>96</sup>

185. “Approximately three quarters of students reported experiencing at least moderate

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<sup>96</sup> [https://heqco.ca/wp-content/uploads/2020/03/HEQCO-Formatted\\_-CAMH.pdf](https://heqco.ca/wp-content/uploads/2020/03/HEQCO-Formatted_-CAMH.pdf)

stress, anxiety and worry (i.e., ‘angst’) concerning the impact of the strike on their grades and the quality of their education. Large numbers of students also reported experiencing at least moderate angst concerning the impact of the strike on finances, future studies, current and future employment and travel plans. Psychological distress was also very high. More than two thirds of students at both universities reported feeling uncertainty about whether or not to keep up with their studies during the strike and a significant proportion of students reported general laziness and a disruption to their good study habits. Approximately 85% of students from both universities indicated that they had learned less than they should have in a course as a result of the strike.” *Id.*

186. Studies also document that university students feel demonstrable increases in stress, bitterness, and anger because of a faculty strike. E.R. Greenglass, et al., *Stressful Effects of a University Faculty Strike on Students: Implications for Coping*, *Interchange* 33, 261–279 (2002).<sup>97</sup>

187. “Results indicate the students did not feel improvement in their education would be an outcome of the dispute, but felt considerable academic and economic hardship and did not feel the faculty union or administration had students’ best interests in mind.” J. Paul Grayson, *The Strike from the Students’ Viewpoint*, Institute for Social Research, York University (1997).<sup>98</sup>

188. “The surveys confirm that students faced academic and economic hardship both during and after the strike.” J. Paul Grayson, *Student Hardship and Support for a Faculty Strike*, *Research in Higher Education* 40, 589–611 (1999).<sup>99</sup>

189. “Results indicated that the labor dispute significantly affected students, interrupting their academic and career progress, worsening their financial situations, and increasing their recreational and social activities.” C.M. Wickens, et al., *Student stress and coping following a*

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<sup>97</sup> <https://doi.org/10.1023/A:1020993302071>

<sup>98</sup> <https://eric.ed.gov/?id=ED406954>

<sup>99</sup> <https://link.springer.com/article/10.1023/A:1018752628732#citeas>

*university strike in Canada*, 31 J. of Collective Negotiations, 1 (2006).

190. In sum, the Plaintiff and Plaintiff class experienced at least three kinds of harm: the failure to receive the services they purchased with their tuition, the degradation of their overall academic experience and the learning loss of being behind that semester, and the emotional anxiety of uncertainty, confusion, and frustration, especially near finals.

191. The damages were foreseeable. Indeed, the unions knew and said as much. And they went forward anyway because in their view they knew best, and the damages to the students were worth it to them to achieve leverage at the collective bargaining table.

### **REQUEST FOR CLASS CERTIFICATION**

192. “One or more members of a class may sue or be sued as representative parties on behalf of all only if (1) the class is so numerous that joinder of all members is impracticable, (2) there are questions of law or fact common to the class, (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class, and (4) the representative parties will fairly and adequately protect the interests of the class.” *Lee v. Carter-Reed Co., L.L.C.*, 203 N.J. 496, 504 (2010).

193. “Under Rule 4:32-1(b)(3), the trial court must understand and analyze the claimed defenses, relevant facts, and applicable substantive law in determining whether a class action: 1) presents common issues of fact and law that predominate over individual ones, 2) is a superior means of achieving efficient and just results, and 3) is manageable.” *Lee v. Carter-Reed Co., L.L.C.*, 203 N.J. 496, 504 (2010).

194. “[T]he class action rule should be construed liberally in a case involving allegations of consumer fraud.” *In re Cadillac V8-6-4 Class Action*, 93 N.J. 412, 435 (1983) (citing *Riley v. New Rapids Carpet Center*, 61 N.J. 218, 228 (1972) (in a consumer fraud case, “a court should be

slow to hold that a suit may not proceed as a class action”).

195. The class is too numerous to join individually; approximately 67,000 Rutgers students were affected by the strike.

196. The questions of law are common to the entire class: did the strike constitute tortious activity by the Rutgers unions, and did the state and national unions substantially assist the Rutgers unions in their tortious behavior?

197. The questions of fact are also common to the entire class: did each class member pay tuition (or have tuition paid on their behalf) for a semester that was shortchanged?

198. The claims and defenses are typical across the entire class.

199. The Plaintiff is an adequate and appropriate representative of the class, and has no conflict of interest with the class.

200. The Plaintiff has hired experienced counsel as class counsel.

201. The questions of law and fact predominate over any individual attribute of any class member.

202. The class action is a superior method for resolving this matter, rather than having thousands of individual claims. Moreover, the class is appropriate here because many students may lack the courage to sue the unions to which their professors belong against a strike in which their professors participated for fear of retaliation.

203. The class action in this instance is manageable. The facts are straightforward. The unions cannot deny their actions, which are all a matter of public record. The class can be contacted through directory information available from Rutgers, which may be disclosed under the federal educational rights and privacy act (FERPA).

**PLEA FOR PUNITIVE DAMAGES**

204. New Jersey allows punitive damages when a defendant acts with “actual malice” or “a wanton and willful disregard of persons who foreseeably might be harmed by those acts or omissions.” N.J. Stat. 2A:15-5.12

205. The court then considers “(1) The likelihood, at the relevant time, that serious harm would arise from the defendant’s conduct; (2) The defendant’s awareness of [or] reckless disregard of the likelihood that the serious harm at issue would arise from the defendant’s conduct; (3) The conduct of the defendant upon learning that its initial conduct would likely cause harm; and (4) The duration of the conduct or any concealment of it by the defendant.”

206. If the court concludes that punitive damages are appropriate, the court then considers “(1) All relevant evidence relating to the factors set forth in subsection b. of this section; (2) The profitability of the misconduct to the defendant; (3) When the misconduct was terminated; and (4) The financial condition of the defendant.”

207. Punitive damages are appropriate in this instance.

208. The Defendants knew that their strike would cause the cancellation of classes for the Plaintiff Class: that was the entire point of the strike.

209. The Defendants did not have to learn about the harm they were causing: they knew about it ahead of time and included it in their calculations. Indeed, the harm they cause is the very pressure they need to force leverage at the bargaining table.

210. The Defendants persisted in their illegal misconduct for an entire week.

211. The misconduct was profitable to the Defendants. As a result of the strike, the unions achieved several breakthroughs at the bargaining table that were not possible previously:

212. Indeed, the profitability of the misconduct is the point of the strike.

213. In its Fiscal Year 2021, the most recent publicly available, the RUAUP had revenues of \$3.4 million and assets of \$3.2 million.<sup>100</sup>

214. In its Fiscal Year 2021, the most recent publicly available, the RAFU had revenues of \$240,000 and assets of \$290,000.<sup>101</sup>

215. In its Fiscal Year 2021, the most recent publicly available, the BHSNJ-AAUP had revenues of \$745,000 and assets of \$790,000.<sup>102</sup>

216. In its Fiscal Year 2022, the most recent publicly available, the NJ AFL-CIO reported revenues of \$1.4 million and assets of \$7.7 million.<sup>103</sup>

217. In its Fiscal Year 2023, the most recent publicly available, the AFTNJ reported revenues of \$1.3 million and assets of \$3.1 million.<sup>104</sup>

218. In its Fiscal Year 2022, the most recent publicly available, the AAUP (national) reported revenues of \$10.3 million and assets of \$17.1 million.<sup>105</sup>

219. In its Fiscal Year 2022, the most recent publicly available, the AFT (national) reported revenues of \$205.1 million and assets of \$140.1 million.<sup>106</sup>

### COUNTS

Plaintiff and plaintiff class hereby reiterate and reassert all allegations set forth above as if fully and separately stated and set forth in each of the counts listed below.

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<sup>100</sup> <https://www.causeiq.com/organizations/rutgers-council-of-aaup-chapters-aft,222956199/>

<sup>101</sup> <https://projects.propublica.org/nonprofits/organizations/222937103>

<sup>102</sup> <https://www.causeiq.com/organizations/biomedical-and-health-sciences-of-nj-council-of-aa,237377433/>

<sup>103</sup> <https://www.causeiq.com/organizations/afl-cio-new-jersey-state-afl-cio,221153990/>

<sup>104</sup> <https://www.causeiq.com/organizations/american-federation-of-teachers-aft-new-jersey,221532363/>

<sup>105</sup> <https://www.causeiq.com/organizations/american-association-of-university-professors,800320904/>

<sup>106</sup> <https://www.causeiq.com/organizations/american-federation-of-teachers-parent-organizatio,360725240/>

**Count I: Illegal strike**

220. A strike by public employees is illegal at common law, and the victims of a strike can recover their damages from the strikers. *Franklin Tp. Bd. of Educ. v. Quakertown Educ. Ass'n*, 274 N.J. Super. 47, 55 (App. Div. 1994) (“The board is not without remedy to recover legitimately-incurred strike-related costs. The school board has a right to recover such damages from its striking employees because they flow from the breach of the duty not to strike.”). *Accord Passaic Township Bd. of Educ. v. Passaic Township Educ. Ass'n*, 222 N.J. Super. 298, 305 (App. Div. 1987).

221. The damages to the plaintiff and plaintiff class that flowed from the breach of the unions’ duty is outlined above: denial of education services paid for, learning loss, and emotional distress.

**Count II: Negligence**

222. To show negligence, a plaintiff must establish: “(1) a duty of care, (2) a breach of that duty, (3) actual and proximate causation, and (4) damages.” *Jersey Cent. Power & Light Co. v. Melcar Util. Co.*, 212 N.J. 576, 594 (2013).

223. At minimum, there is a “the general common law duty of care resulting in tort liability for its breach,” which is the care an ordinary person in such circumstances would exercise to avoid injury to the person or property of others. *State v. Lisa*, 391 N.J. Super. 556, 584 (App. Div. 2007).

224. Professors and university administrators also have a specific duty of care to their students. *See Kerton v. Hudson Cty.*, 2020 N.J. Super. Unpub. LEXIS 962, \*12 (App. Div. May 20, 2020).

225. There is a public policy against illegal strikes which also justifies finding a duty. *See James v. Arms Technology, Inc.*, 359 N.J. Super. 291, 322 (App. Div. 2003) (public interest



weighs in favor of finding a duty).

226. Because the unions, the professors and staff they represent, the students, and the university all exist within the same university community, there is a relationship between the students and the unions more direct than just the relation of members of the same general public. *See id.* at 324 (duty exists where parties are in a “special relationship.”).

227. Even if the students were considered as the general public, a duty exists where “the defendant was in a position to know or have reason to know, from past experience,” the general public would be harmed. *See id.* Here the unions did know from public news reports in advance of the strike in 2019 and 2023 that students would be harmed.

228. At minimum, ordinary care is not intentionally defying the law.

229. At minimum, ordinary care is not engaging in an act you know will cause another harm, but you believe that harm to another is worth it because of the benefit the act will bring you.

230. The illegal strike was a breach of ordinary care.

231. The illegal strike was the proximate and actual cause of the cancellation of classes.

232. The illegal strike was the proximate and actual cause of the students’ emotional distress.

233. The illegal strike was the proximate and actual cause of the students’ learning loss.

234. The students were damaged by cancellation of classes they had paid for.

235. The students were damaged by losing learning from those classes and from the overall frustration of the educational plan for the semester.

236. The students were damaged by the emotional distress of cancelled classes.

### ***Count III: Tortious Interference with Contract***

237. New Jersey follows the Restatement (Second) for its definition of tortious

interference with contract: “One who intentionally and improperly interferes with the performance of a contract (except a contract to marry) between another and a third person by inducing or otherwise causing the third person not to perform the contract, is subject to liability to the other for the pecuniary loss resulting to the other from the failure of the third person to perform the contract.” *Nostrame v. Santiago*, 213 N.J. 109, 122 (2013).

238. Quasi-contracts are a constructive contract or type of contract recognized by the court to preserve reason and equity. *Callano v. Oakwood Park Homes Corp.*, 91 N.J. Super. 105, 108 (App. Div. 1966). *Accord Bergen Cty. Sewer Auth. v. Bergenfield*, 142 N.J. Super. 438, 456 (App. Div. 1976); *Cevdet Aksüt Ve Oğullari Koll. Sti v. Cavusoglu*, 2015 U.S. Dist. LEXIS 90859, \*26 (D.N.J. July 14, 2015) (applying N.J. law).

239. New Jersey courts have characterized the university-student relation as a quasi-contract. *Beukas v. Board of Trustees of Fairleigh Dickinson Univ.*, 255 N.J. Super. 552, 565 (Law Div. 1991), *aff’d o.b.*, 255 N.J. Super. 420 (App.Div.1992).

240. Causes of action in the family of quasi-contract exist where, as here, an express contract does not govern. *Norcom Research, LLC v. Net2Phone Global Servs., LLC*, 2021 U.S. Dist. LEXIS 57977, \*20 (D.N.J. March 26, 2021) (applying N.J. law).

241. Here, Rutgers had a quasi-contract with the students. The students paid tuition. They expected to receive an education. Rutgers issued a schedule for the semester that provided 14 weeks of education. Society expects them to receive that education. Rutgers wanted to deliver them that education. However, Rutgers’ desire to deliver the education was interrupted when the unions undertook their illegal strike.

242. The illegal strike interfered with the constructive contract between Rutgers and its students. It prevented Rutgers from delivering the educational services it had promised and

students had paid for.

***Count IV: Breach of Contract by AAUP-BHSNJ***

243. To establish a breach of contract claim, a plaintiff must prove “first, that the parties entered into a contract containing certain terms; second, that plaintiffs did what the contract required them to do; third, that defendants did not do what the contract required them to do, defined as a breach of the contract; and fourth, that defendants’ breach, or failure to do what the contract required, caused a loss to the plaintiffs.” *Globe Motor Co. v. Igdaley*, 225 N.J. 469, 482 (2016).

244. Rutgers and AAUP-BHSNJ entered a collective bargaining agreement (CBA) that covered from July 1, 2018, to July 31, 2022.<sup>107</sup>

245. It provided, “Neither the Association nor any individual represented by it will engage in or support any strike, work stoppage, slowdown, or other job action and will not support or condone any such job action.” Art. XXXI.

246. The 2018-22 CBA also provided “[t]he Agreement shall automatically be renewed from year to year thereafter” unless modified by the parties. Art. XVII.

247. Rutgers entered into a new, single/unified CBA on May 1, 2023, between Rutgers and the RUAAP and the BHSNJ-AAUP.<sup>108</sup>

248. That new CBA specified: “Article XXXI -- No Strike or Lockout: Maintain current contract language.” This provision is among the “Legacy AAUP-BHSNJ Articles to be included in the 2022-2026 CNA.” Thus, it “only appl[ies] to legacy BHSNJ unit members.”

249. The new CBA was made retroactive from July 31, 2022, to June 30, 2026.

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<sup>107</sup> <https://laborrelations.rutgers.edu/sites/default/files/document/Final.AAUP-BHSNJ%20Contract%207-1-2018%20through%207-31-2022.9-1-2023.pdf>

<sup>108</sup> <https://aaupbhsnj.org/wp-content/uploads/2023/05/5-1-2023-Full-time-Faculty-TA-GA-MOA-Part-1-pp-1-73.pdf>

250. The 2018-22 CBA recognized at the beginning that its three purposes were to “provide a high quality educational program, to encourage the development of new knowledge through research, and to provide service to the larger community and that this Agreement is intended to contribute to the fulfillment of those responsibilities.”

251. The students who were to receive the high-quality educational program are the intended third-party beneficiaries of the agreement. *See Vazquez v. Rider Univ.*, 2023 N.J. Super. Unpub. LEXIS 1092, \*43 (App. Div. 2023) (allowing students to proceed with breach of contract claims as third-party beneficiaries of merger agreement between institutions of higher education).

252. The AAUP-BHSNJ breached the no-strike provision of the CBA by going on strike.

***Count V: Consumer Fraud Act***

253. The New Jersey Consumer Fraud Act provides, “The act, use or employment by any person of any commercial practice that is unconscionable or abusive . . . in connection with the sale or advertisement of any merchandise or real estate . . . is declared to be an unlawful practice.” N.J. Stat. § 56:8-2.

254. “The term ‘merchandise’” includes “services” “offered, directly or indirectly to the public for sale.” N.J. Stat. § 56:8-1(c).

255. A Rutgers education is a service offered to the public for sale, and for which the plaintiff class paid tuition. *See Harnish v. Widener Univ. Sch. of Law*, 2013 U.S. Dist. LEXIS 64104 (D.N.J. Apr. 30, 2013).

256. A university is an actor in commerce when it offers a service for sale to the public. *Id. Accord Suarez v. Eastern Intern. College*, 428 N.J. Super. 10 (App.Div. 2012), *certif. denied*, 213 N.J. 57 (N.J. 2013).

257. A third-party beneficiary to a commercial transaction may sue for a violation of the

Consumer Fraud Act. *Port Liberte Homeowners Ass'n v. Sordoni Const. Co.*, 393 N.J. Super. 492, 501 (App. Div. 2007), *certif. denied*, 192 N.J. 479 (2007).

258. Engaging in an illegal strike is an unconscionable and abusive commercial practice.

259. A strike at a university is undertaken in connection with the sale of services offered to the public because it denies students as consumers the product they paid tuition for.

260. The student class suffered an ascertainable loss, namely the value of the tuition they paid for the education they were shortchanged (in a semester of 14 class weeks, 1/14th of their tuition for that semester). *Miller v. American Family Publishers*, 284 N.J. Super. 67, 88 (Chan. Div. 1995) (“[F]or their money, they received something less than, and different from, what they reasonably expected in view of defendant’s presentations. That is all that is required to establish ‘ascertainable loss.’”). *See Harnish*, 931 F. Supp. 2d at 653 (payment of university tuition for a lesser education than the one promised an ascertainable loss).

261. The Defendants’ illegal strike was the proximate cause of the students’ losses.

262. Since the Defendants’ acts were unlawful, the Court must award treble damages and attorneys’ fees. N.J. Stat. § 56:8-19. *See Cox v. Sears Roebuck & Co.*, 138 N.J. 2, 24 (1994) (“an award of treble damages and attorneys’ fees is mandatory under N.J.S.A. 56:8-19 if a consumer-fraud plaintiff proves both an unlawful practice under the Act and an ascertainable loss.”).

#### ***Count VI: Civil Conspiracy***

263. “In New Jersey, a civil conspiracy is a combination of two or more persons acting in concert to commit an unlawful act, or to commit a lawful act by unlawful means, the principal element of which is an agreement between the parties to inflict a wrong against or injury upon another, and an overt act that results in damage.” *Banco Popular N. Am. v. Gandi*, 184 N.J. 161,

177 (2005).

264. “It is enough for liability if you understand the general objectives of the scheme, accept them, and agree, either explicitly or implicitly, to do your part to further them.” *Id.*

265. The torts of illegal strike, negligence, and tortious interference with contract, the consumer fraud, and the breach of contract are all unlawful acts.

266. The NJ AFL-CIO, AFTNJ, AFT, and AAUP acted in concert and agreement with the RUAAP, AAUP-BHSNJ, and RAFU to commit the unlawful acts by supporting, encouraging, and coordinating with the tortfeasors.

267. The NJ AFL-CIO, AFTNJ, AFT, and AAUP understood the general objectives of the strike, accepted them, and each played a part in furthering them, as detailed above.

268. The overt tortious acts resulted in damage to the student class, as detailed above.

***Count VII: Aiding and Abetting Tortious Activity***

269. Aiding and abetting is a tort in itself where the plaintiff can show “(1) the party whom the defendant aids must perform a wrongful act that causes an injury; (2) the defendant must be generally aware of his role as part of an overall illegal or tortious activity at the time that he provides the assistance; (3) the defendant must knowingly and substantially assist the principal violation.” *State, Dep’t of Treasury, Div. of Inv. ex rel. McCormac v. Qwest Communications Intern., Inc.*, 387 N.J. Super. 469, 483-85 (App. Div. 2006).

270. The RUAAP, RAFU, and AAUP-BHSNJ committed the torts of illegal strikes, negligence, and tortious interference with contract. AAUP-BHSNJ also committed a breach of contract.

271. The NJ AFL-CIO, AFTNJ, AFT, and AAUP aided-and-abetted the other Defendants’ torts through their actions outlined above, including speaking at rallies, bringing other

members to rallies, speaking to news media, speaking to elected officials, organizing on social media, and directing donations to the strike fund. These actions constituted knowing and substantial assistance to the other Defendants' torts.

**PRAYER FOR RELIEF**

272. Certify the Plaintiff Class.

273. Declare the April 2023 strike was illegal.

274. Find the RUAAUP, AAUP-BHSNJ, and RAFU committed the torts of illegal strike, negligence, and tortious interference with contract.

275. Find the RUAAUP, AAUP-BHSNJ, and RAFU committed an abusive and unconscionable act in relation to the commercial services purchased by the plaintiff and plaintiff class as consumers.

276. Declare the April 2023 strike breached AAUP-BHSNJ's contractual obligations.

277. Find the NJ AFL-CIO, AFTNJ, AFT, and AAUP aided-and-abetted and engaged in a civil conspiracy through their substantial support of and assistance to the strike.

278. Find all Defendants jointly and severally liable.

279. Find all Defendants' officers who ratified or participated in the strike or attended or spoke at strike-related events are personally liable if the Defendants' assets are insufficient to cover the awards.

280. Award the plaintiff and plaintiff class actual damages.

281. Award the plaintiff and plaintiff class punitive damages.

282. Award the plaintiff and plaintiff class treble damages under the Consumer Fraud Act.

283. Award the plaintiff's counsel attorneys' fees.

**JURY DEMAND**

Plaintiff requests a trial by jury as to all matters at issue in this complaint.

Dated: March 15, 2024

*Mark R. Scirocco*

MARK R. SCIROCCO

**CERTIFICATION PURSUANT TO RULE 4:5-1**

I, MARK R. SCIROCCO, certify that:

1) I am an attorney at law of the State of New Jersey, attorney for the Plaintiff Jeremy Li, on behalf of himself and all others similarly situated.

2) Upon information and belief, the matter in controversy is not the subject of any other action pending in any Court or of a pending arbitration proceeding. At this time, the Plaintiff knows of no other defendant who should be joined in the action, but reserves the right to do so should same become appropriate. Plaintiff's requests as to the certification of the Plaintiff class are detailed in the above complaint. Plaintiff reserves the right to amend or otherwise update this certification as facts are revealed during discovery.

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

Dated: March 15, 2024

*Mark R. Scirocco*

MARK R. SCIROCCO



# Civil Case Information Statement

## Case Details: MIDDLESEX | Civil Part Docket# L-001700-24

**Case Caption:** LI JEREMY VS RUAAUP

**Case Initiation Date:** 03/15/2024

**Attorney Name:** MARK ROBERT SCIROCCO

**Firm Name:** SCIROCCO LAW, P.C.

**Address:** 143 WASHINGTON ST

MORRISTOWN NJ 07960

**Phone:** 9736911188

**Name of Party:** PLAINTIFF : LI, JEREMY

**Name of Defendant's Primary Insurance Company**

(if known): Unknown

**Case Type:** TORT-OTHER

**Document Type:** Complaint with Jury Demand

**Jury Demand:** YES - 6 JURORS

**Is this a professional malpractice case?** NO

**Related cases pending:** NO

**If yes, list docket numbers:**

**Do you anticipate adding any parties (arising out of same transaction or occurrence)?** NO

**Does this case involve claims related to COVID-19?** NO

**Are sexual abuse claims alleged by: JEREMY LI?** NO

## THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

**Do parties have a current, past, or recurrent relationship?** NO

**If yes, is that relationship:**

**Does the statute governing this case provide for payment of fees by the losing party?** NO

**Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:**

**Do you or your client need any disability accommodations?** NO

**If yes, please identify the requested accommodation:**

**Will an interpreter be needed?** NO

**If yes, for what language:**

**Please check off each applicable category: Putative Class Action?** YES **Title 59?** NO **Consumer Fraud?** YES **Medical Debt Claim?** NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule* 1:38-7(b)

03/15/2024

Dated

/s/ MARK ROBERT SCIROCCO

Signed

