

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, CIVIL PART
MERCER COUNTY, NEW JERSEY
DOCKET NO. MER-L-002025-25
APP. DIV. NO. A-002052-25-T1

MARIE DUPONT AND ANN MARIE :

POCKLEMBO, :

Plaintiffs, :

v. :

NEW JERSEY EDUCATION :

ASSOCIATION AND SEAN M. :

SPILLER, AS FORMER :

PRESIDENT OF NEW JERSEY :

EDUCATION ASSOCIATION, :

Defendants. :

TRANSCRIPT

OF

JUDGE'S DECISION

PLACE: Mercer County Courthouse
175 S. Broad Street
Trenton, NJ 08608

DATE: February 9, 2026

BEFORE :

THE HONORABLE DOUGLAS H. HURD, J.S.C.

TRANSCRIPT ORDERED BY :

RICHARD A. FRIEDMAN, ESQ. (Zazzali, P.C.)

KAREN D. KEEBLER, AOC #384
AUTOMATED TRANSCRIPTION SERVICES
P.O. Box 1582
Laurel Springs, New Jersey
(856) 784-4276
autotranscripts@comcast.net

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I N D E X
2/9/2026

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The Court - Findings

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(Proceeding begins at 3:50 p.m.)

THE COURT: Okay. This case is docketed in Mercer County Law Division, 2025-25.

On December 18, 2025, this Court signed Defendant's order to show cause, scheduling oral argument for February 5th, 2026.

Prior to the return date, opposition and reply briefs were filed. Oral argument on the order to show cause was, in fact, held on February 5, 2026.

The moving parties to the order to show cause are Defendants, New Jersey Education Association and Sean Spiller as the former president of the NJEA.

All counsel provided the Court with excellent written submissions, and the oral argument was thorough, professional and focused.

With all due respect to the Defendant's position, the Court will enter an order denying the order to show cause based on the following analysis.

The proposed final order submitted with both orders to show cause seeks relief under N.J.S.A. 2A:53A-49 et. seq., commonly known as the Anti-SLAPP statute. The Court will refer to the statute as the "Act" in this decision.

Defendant's contend that the anti-SLAPP statute applies and seeks to have the complaint

The Court - Findings

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1 dismissed with prejudice and for an award of reasonable
2 attorney's fees and costs pursuant to New Jersey
3 statute 2A:53A-58.

4 Defendants contend that this lawsuit is a
5 strategic lawsuit against public participation, also
6 known as a SLAPP, S-L-A-P-P, because it is meritless
7 and targets Defendant's first amendment activity, which
8 they contend is a threat to free expression.

9 Defendant's seek to dismiss the complaint
10 under the Anti-SLAPP statute, which became effective in
11 New Jersey on October 7, 2023. The Act is formerly
12 known as the Uniform Public Expression Protection Act,
13 and is designed to neutralize the chilling effect of
14 litigation, implicating a Defendant's protected
15 expression.

16 New Jersey statute 2A:53A-59 states that the
17 law should be broadly construed and applied to protect
18 the exercise of the right of freedom of speech.

19 The statute provides that a Defendant may
20 file an application for an order to show cause with the
21 Court to dismiss the cause of action or part of the
22 cause of action, and then the Court is instructed by
23 the statute to hear the order to show cause as
24 expeditiously as possible.

25 In ruling on an order to show cause, the

The Court - Findings

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1 Court may consider the pleadings, the order to show
2 cause application and supporting certifications,
3 briefs, any reply or response to the order to show
4 cause, and any evidence that could be considered in
5 ruling on a motion for summary judgment.

6 New Jersey statute 2A:53A-55 states that in
7 ruling on an order to show cause, the Court shall
8 dismiss with prejudice a cause of action or part of a
9 cause of action if the moving party establishes that
10 this Act applies and the responding party fails to
11 establish that this Act does not apply. And 3, either,
12 A, the respondent party fails to establish a prima
13 facie case as to each essential element of any cause of
14 action in the complaint; or B, the moving party
15 establishes that, (I) the responding party failed to
16 state a cause of action upon which relief can be
17 granted or, 2, there is no genuine issue as to any
18 material fact, and the moving party is entitled to
19 judgment as a matter of law on the cause of action and
20 report of the cause of action. And the Court there is,
21 obviously, quoting from the statute.

22 So the statutory language as cited above sets
23 forth a two-step process. All parties agree to that.
24 Because Defendants have not established, however, that
25 the first step applies, this Court will not address the

The Court - Findings

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1 second step.

2 The first step, as noted above, is satisfied
3 if the moving parties establish that the Anti-SLAPP
4 statute applies and the non-moving party fails to
5 establish that the statute does not apply.

6 The relevant part of the statute states at
7 Section 50B(3) that the Act applies to a cause of
8 action asserted in a civil action against a person
9 based on the person's exercise and the right of freedom
10 of speech guaranteed by the U.S. and State
11 constitutions on a matter of public concern.

12 The focus in this analysis, obviously, is the
13 Plaintiff's complaint. The Plaintiffs in this case are
14 Marie DuPont and Ann Pocklembo; both public school
15 teachers, according to the complaint. The Defendants
16 are moving parties in this case, and they are the NJEA
17 and its former president, Sean Spiller.

18 The complaint has 3 counts; Count 1 for
19 breach of contract, Count 2 for negligent misrepres-
20 entation, and Count 3 for breach of fiduciary duty.
21 All 3 counts apply to the NJEA, and only Count 3
22 applies to Mr. Spiller.

23 The complaint spans 16 pages and 114
24 paragraphs. This Court has read through the complaint
25 multiple times to make this threshold determination as

The Court - Findings

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1 to whether the Act applies or not.

2 Plaintiffs point to various paragraphs to
3 support their position that the Act does not apply, and
4 Defendants point to other paragraphs of the complaint
5 to support their position that the Act does apply.

6 What is important to the Court is a full
7 reading of the complaint in its entirety to inform its
8 analysis. And what is clear, and actually becomes even
9 more clear the more one reads the complaint, is that
10 this case is not based on Defendant's first amendment
11 rights.

12 The key language in the statute is the phrase
13 that the cause of action asserted must be "based upon"
14 -- that's the key language there -- "the exercise of
15 the right of freedom of speech." There's no binding
16 authority interpreting this phrase in this context.

17 The Court is aware that the Act contains
18 language substantially identical to statutes in other
19 States and agrees with Defendants that the other
20 jurisdictions' interpretation of the statute can be
21 persuasive to this Court; however, all counsel do
22 acknowledge that those interpretations are not binding
23 on this Court, and that this Court, in the first
24 instance, must be guided by the New Jersey statutory
25 language at issue.

The Court - Findings

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1 A full reading of the complaint leads to the
2 inescapable conclusion that the Plaintiff's claims are
3 based on the Defendant's alleged misuse of general
4 union membership dues to make its contributions to the
5 Garden State Ford Pack in breach of contract, in breach
6 of fiduciary duty, and as a misrepresentation as set
7 forth in Counts 1, 2 and 3.

8 This lawsuit does not target Defendant's
9 first amendment activity as claimed by the
10 Defendants. Plaintiffs are correct that these three
11 Counts "arise out of Defendant's breach of the very
12 limitations and commitments to which it choose to bind
13 itself."

14 The focus here is on the Defendant's alleged
15 activity, and it is important to point out that these
16 are only allegations in a complaint at this point. The
17 Court has no comment, of course, about the ultimate
18 merits of the allegations in the complaint. But
19 focusing on the Defendant's alleged activities is
20 key, and this focus shows that the complaint is based
21 on Defendant's alleged misuse and mis-allocation of
22 certain membership dues monies. This all allegedly
23 preceded any claimed political first amendment
24 speech.

25 And as to the Defendant Mr. Spiller, the

The Court - Decision

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1 cause of action in the third count is clearly based on
2 the allegation that Mr. Spiller used NJEA-derived
3 monies in a self-dealing, unauthorized manner.

4 Once again, the focus is on Defendant's
5 activities. And as to Mr. Spiller, that alleged
6 activity is not protected speech, but rather that Mr.
7 Spiller allegedly dealt with NJEA monies in an
8 unauthorized manner that constitutes self-dealing.

9 The result of this analysis in conclusion, on
10 the first step, is that the Act does not apply as to
11 both Defendants. Further analysis under step 2 of the
12 act is not necessary since both steps or requirements
13 must meet -- must be met to grant the relief requested
14 in the orders. The orders to show cause must,
15 therefore, be denied.

16 As I said, the Court's focus here is on the
17 order to show cause and the claimed relief under the
18 Act.

19 Defendants do not have a Rule 4:6-2 motion
20 before the Court, and so the Court did not undertake
21 that analysis. But, of course, the Court is aware that
22 the arguments made by Defendants in step 2 of this
23 analysis under the Act, could be repackaged and refiled
24 as part of a motion to dismiss.

25 So for those reasons, the order -- the orders

denying the order to show cause will be uploaded to eCourts.

(Matter concluded at 4:00 p.m.)

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C E R T I F I C A T I O N

I, Karen D. Keebler, the assigned transcriber, do hereby certify that the foregoing transcript of proceedings heard in the Mercer County Superior Court on 2/9/2026, Court Smart Index No. 3:49:55 to 4:00:45, is prepared in full compliance with the current Transcript Format for Judicial Proceedings and is a true and accurate compressed transcript of the proceedings as recorded.

/s/ Karen D. Keebler
Karen D. Keebler

AD/T
AOC No. 384
4-2-2026

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Agency

Date

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