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VIA JEDS and HAND DELIVERY

Honorable Mark A. Tronccone, P.J. Ch.
Ocean County Court- Chancery Court
118 Washington Street,
Toms River, New Jersey 08753

**Re: Manasquan Board of Education v. New Jersey State
Interscholastic Athletic Association, et. als**

**Docket Number: OCN-C-
Order to Show Cause With Temporary Restraints**

Dear Judge Tronccone:

I. Introduction and Background

We represent the Manasquan Board of Education in the above matter which is an Order to Show Cause seeking to temporarily enjoin the New Jersey State Interscholastic Athletic Association (“NJSIAA” or “Association”) from conducting the Boy’s Varsity Group 2 State Championship Game currently scheduled to take place this Saturday, March 9, 2024 between Camden High School and Arts High School (Newark).

On March 5, Manasquan High School played Camden High School in the semifinal game. Manasquan won the game on a buzzer beater, 47 to 46. The official with the clearest view properly called the shot good, the game concluded, and at least two of the three game officials left the court. Thereafter, the referees came back onto the court, with one referee apparently and improperly overturning the referee who got the call right. The basket was declared no good for time expiring and Camden High School was improperly declared the winner, 46-45.

The next day, on March 6, the game officials and the NJSIAA issued statements stating that the original call was correct and Manasquan High School should have been declared the winner. Despite Manasquan having filed an immediate appeal with the NJSIAA, it refused to enforce its own By Laws and Rules and properly declare Manasquan the winner of the game and advance to the championship. Instead it has scheduled the championship game for Saturday, March 9 between Camden High School (the in fact loser of the semifinal game) and Arts High School (Newark).

If the championship game is not put on hold pending this Court's review of this matter, irreparable harm and injustice will result because Manasquan High School will not get the opportunity to play in the championship game, having rightfully won the semifinal game. This travesty has caused immense heartbreak to the players, coaches, fans and indeed the entire Manasquan school community. Beyond that, there is real harm to the players because playing in a state championship game can have a substantial impact on their recruiting and scholarship prospects. Plaintiff is also likely to prevail on this issue because, among other things, NJSIAA now admits Manasquan in fact won the game and one official having incorrectly overturned the other after the game ended and officials left the court violated NJSIAA's own Bylaws and Rules.

For these reasons this Court should grant this Order to Show cause with temporary restraints enjoining this championship game until the court makes the final decision in this matter. Under *N.J.S.A. 18A:11-3* this Court has explicit Authority to pass on issues involving the NJSIAA, including for failure to adhere to its own internal Bylaws and Rules.

II. Everyone Agrees The Original Call on the Court was Correct and NJSIAA Violated its Own Rules in Failing to Declare Manasquan the Winner

The facts of this matter are undisputed and truncated as follows: during the final second of a championship series high school basketball game between Manasquan and Camden High Schools, Manasquan made a final throw on goal and an official correctly counted the basket as beating the buzzer with approximately half a second remaining. (*Exhibit A: Press Release*)(*Exhibit B: Photographs from Video*). When the clock hit zero, Manasquan was ahead 47-46 according to the official scorekeeper. (*Exhibit B: Photographs from Video*). This goal was called by Jerome Starr. Mr. Starr then met at half court with the two other officials David Niven and Kevin Torress. During such meeting, Mr. Torres acknowledged regulation was over and stated (incorrectly) that from his view the shooter still had the ball in his hands. (*Exhibit C: Torres Statement*). Mr. Starr then waived off the basket based on Mr. Torress' inaccurate assertion. (*Exhibit D: Starr Statement*) Mr. Torres has since acknowledged his incorrect call and states the basket "should've counted." (*Exhibit C: Torres Statement*). New Jersey Interscholastic Athletic Association ("NJSIAA") acknowledges this incorrect call but states they are not going to overturn the improper secondary ruling. (*Exhibit A: Press Release*). The Plaintiff attempted to appeal this decision by internal process but such appeal was denied. (*Exhibit G: Appeal Denial Email*). By doing so, NJSIAA has violated their own Constitution and Bylaws as well as the rules of basketball.

The 2023-2024 NJSIAA Constitution, Bylaws, Rules, and Regulations makes clear the administration "shares these convictions:...rules promote fair play...properly trained officials/judges enhance interscholastic competition." (*Exhibit E: NJSIAA Constitution*). To that end, Article II: Objectives states that it is the objective of NJSIAA "to promote uniformity in the arrangement and control of contests." (*Id.* at 22). NJSIAA further binds themselves to "good sportsmanship, respect for rules, respect for others, and fair play, are basically the motives through which an interscholastic athletic program is justified and defended." (*Id.* at 52). The rules for basketball state that "Rules: National Federation edition of the Basketball Rules of the United States and Canada shall govern *all* NJSIAA games." (*Id.* at 73). Despite this, the association breaks and warps rules to promote an invalid call, which is not allowed per their own rules, to promote unfair play.

The National Federation or National Federation of State High School Associations (“NFHS”) creates the rules which NJSIAA are to enforce. Under Rule 5: Scoring and Timing Regulations the NJSIAA is to enforce specific rules such as:

SECTION 1 GOAL

ART. 1...A goal is made when a live ball enters the basket from above and remains in or passes through...

(*Exhibit H: NFHS Rulebook* at 131). This is not a subjective call which an official can choose to ignore.

Moreover, under Section 10 Correctable Errors:

Art. 1 ... Officials may correct an error if a rule is inadvertently set aside and results in:

E. Erroneously counting or canceling a score

Art. 2... In order to correct any of the officials’ errors listed in Article 1, such error must be recognized by an official no later than during the first dead ball after the clock has properly stated.

Art. 3...If in article 1e the error is made while the clock is running and the ball dead, it must be recognized by an official before the second live ball.

(*Id.* at 54). As such, if the original call was in error, which it was not, there is no timeframe under the rules to reverse such a call. The only time such reversal is allowed is when a “state association permits game officials to use a replay monitor to determine if a scored goal at the expiration of time in the fourth quarter should be counted.” (*Id.* at 44). Nothing in the rules allows for the overturning of a “0:00 on the game clock” other than such replay which NJSIAA has decided not to use, as such there is no rule allowing for the overturning of the goal once the clock struck 0:00.

The rules state a high school age game to be four quarters of eight minutes with timed intermissions. (*Id.* at 135). Once these quarters are played the game is concluded, nothing in the rules states anything the game be extended past such times to make new decisions—such as the improper one made in this matter.

Finally under the rules, jurisdiction concludes when all officials leave the court, which NJSIAA admits. (*Id.* at 44). It is clear from the pictures, videos and we expect from witnesses, all officials were outside the confines in the playing area as they were clearly in the out of bounds area with their backs to the playing area. (*Exhibit F: Picture of All Officials Off Court*). Indeed there is no question the official who incorrectly overturned the other had left the court and came back on to make the wrong call. At such time Manasquan was the winning team as per the rules. (*Exhibit H: NFHS Rulebook* at 133). As such the final score should be enforced as per the Rules.

To be clear, this is not a case involving a dispute with the ruling of any kind of discretionary disputed call from an official. Rather, there is no dispute it was the wrong call, and it was made

after the correct call had been made and the game ended. In fact, according to the only logical reading of NJSIAA's own rules, the official who made the after-the-fact wrong call had left the playing field and thus no longer had the jurisdiction to disrupt the correct one. We are not questioning any kind of discretionary referee call here. Rather this case involves a dispute that NJSIAA is ignoring their own rules and constitution to arbitrarily and capriciously enforce rules as to allow for them to decide the match against what they bound themselves to in their bylaws. If such an organization was truly promoted to fair play and sportsmanship, the winning team should be the team advancing to the championship game. This is just fundamental fairness.

III. This Court has Explicit Statutory Authority to Pass on the Fairness of NJSIAA's Actions

The NJSIAA is an independent voluntary association of the boards of education of local school districts as well as private schools who have elected to join the association for the coordination and regulation of athletic programs in conjunction with other school districts. The rules and regulations are promulgated by the Athletic Association and the school district. The local school district becomes subject to its constitution, bylaws, rules and regulations by joining a voluntary association. It is a confederation by which local school boards agree to become bound by the rules and regulations of the voluntary association for the orderly regulation of their athletic programs. Since the Athletic Association is a private organization, its rules and regulations are not the subject to the Administrative Procedure Act concerning rulemaking. *See, e.g., B.C. ex rel. C.C. v. Bd. of Educ.*, 220 N.J. Super. 214, 234 (App. Div. 1987).

The approval of the Athletic Association's regulations by the Commissioner of Education as required by *N.J.S.A.* 18A:11-3 is not an adoption of those rules and regulations so as to require them to be promulgated under the Administrative Procedure Act. The purpose of requiring approval by the Commissioner of the rules and regulations of the Athletic Association and requiring an annual report is to ensure that "the legislative intent in granting authority to boards of education to join such associations is faithfully being executed." *Statement of Governor Byrne on Senate Bill 789 2d OCR (N.J.S.A. 18A:11-3)*, remanding the initial bill for suggested changes. The purpose of *N.J.S.A.* 18A:11-3 as stated by the Assembly Education Committee in its statement to Assembly No. 1349 states that the purpose of the bill is "to grant to the Department of Education the authority to *oversee* the policies and regulations of these associations" (emphasis supplied) and "generally to monitor the implementation of this bill." *See, B.C. ex rel. C.C., supra*, 220 N.J. at 234-235.

The actions of the NJSIAA are subject to review by New Jersey Courts. *See, e.g., Griles v. N.J. State Interscholastic Ath. Ass'n*, 2020 N.J. Super. Unpub. LEXIS 966 (App. Div. May 21, 2020) (reviewing NJSIAA's determination as to whether high school violated recruitment rules); *Bd. of Educ. v. N.J. State Interscholastic Ath. Ass'n*, 2012 N.J. Super. Unpub. LEXIS 2384 (App. Div. Oct. 23, 2012) (reviewing NJSIAA's decision not to allow baseball players a fifth year of eligibility); *N.J.S.A.* 18A:11-3.

In reviewing decisions made by the NJSIAA, the court's overriding concern is determining what is fair. In *Bd. of Educ. v. N.J. State Interscholastic Ath. Ass'n*, 2015 N.J. Super. Unpub. LEXIS 811 (App. Div. Apr. 10, 2015) the court addressed the issue of whether the NJSIAA was within its right to enhance punishments handed down against a North Bergen high school that improperly

recruited out of district students. *Id.* at *3. In finding that the high school violated recruiting rules, the court held:

The violations of the rules governing the recruitment of student-athletes gave North Bergen's football team an unfair competitive advantage in the championship game played against Montclair's football team. Although the student-athletes on both teams may have played the game within the rules governing the sport, the adult coach responsible for the management of North Bergen's team improperly and intentionally manipulated the makeup of his team to the detriment of Montclair's team. We all know this is *cheating*.

Montclair's football team was cheated of the opportunity to play a fair game to determine which team truly deserved to be crowned champions in 2011. Montclair correctly asked the NJSIAA Executive Committee not to confer the championship title to its team because the game cannot be replayed. However, the integrity of the sport demands that North Bergen's football team forfeit the title of champion. Ironically, Coach Ascolese cheated his team as well; due to his ill-conceived scheme, his players were cheated of the opportunity to learn the most valuable lesson of competitive sports: maximum effort in an even playing field.

Id. at *18-19.

Here, as set forth above, what is fair and in line with preserving the integrity of the game, is to enforce the correct call initially made: that Manasquan's basket was good and the game was over, with Manasquan the winner.

IV. Injunctive Relief Standard

Preliminary injunctive relief is an equitable remedy granted to prevent "some threatening, irreparable mischief, which should be averted until opportunity is afforded for a full and deliberate investigation of the case." *Crowe v. DeGioia*, 90 N.J. 123 (1982) (quoting *Thompson, Attorney General v. Paterson*, 9 N.J. Eq. 624, 625 (1854)). In determining the appropriateness for preliminary injunctive relief, a court must engage in a "most sensitive exercise of judicial discretion." *Ibid.*

In *Crowe*, the Supreme Court set forth the following requirements for the granting of injunctive relief:

1. irreparable injury will occur unless relief is granted;
2. there exists a reasonable probability of ultimate success on the merits; and
3. the balance of the relative hardships to the parties favors the issuance of the requested relief.

Ibid.

As demonstrated herein, each of the above requirements is satisfied. Accordingly, the entry of an Order imposing temporary restraints is appropriate, indeed critically necessary in this case.

As a general rule, harm is irreparable if it cannot be redressed adequately by monetary damages. *Crowe, supra*, 90 N.J. at 132-33. Monetary damages may be inadequate because of the nature of the injury or the right affected. *Id.* at 133 (citing *Outdoor Sports Corp. v. A.F. of L. Local 23132, AFL*, 6 N.J. 217, 229-30 (1951)). The *Crowe* Court expressly found that the purpose of temporary relief is to maintain the status quo until the final decree is entered. N.J.,90 at 134 (citing *Peters v. Public Service Corp. of N.J.*, 132 N.J.Eq. 500 (Ch. 1942), *aff'd o.b.*, 133 N.J.Eq. 283 (E. & A. 1943)). A party seeking injunctive relief need not show the certainty of success. Rather, a party "must make a preliminary showing of a reasonable probability of ultimate success on the merits." *Crowe, supra*, 90 at 133. This requirement is "tempered by the principle that mere doubt as to the validity of the claim is not an adequate basis for refusing to maintain the status quo." *Crowe*, 90 at 133-34 (citing *Naylor v. Harkins*, 11, 435 (1953)); *Haines v. Burlington County Bridge Comm'n*, 1 N.J. Super. 163, 175 (App. Div. 1949).

Here, (1) the Manasquan Board of Education would suffer irreparable harm in the form that their basketball team would not be allowed to compete in their championship game and the membership school of the association has been irreparably harmed by being denied NJSIAA adhering to their Constitution and Bylaws choosing to arbitrarily and capriciously change rules they swore to abide by. In addition to the right to play in such a game, it also irreparably harms the players scholarships, future athletic prospects, and scouting potential by being denied to play such a game. No amount of money would ever be able to correct for these harms as they have great potential to be wide reaching.

In addition, (2) there exists a reasonable probability of success on the merits. Here it is undisputed the correct call was the first call made in the game and under the rules there were no grounds to overturn such call. NJSIAA binds themselves to their Constitution which is to enforce these rules as written, not to the arbitrary standard they are seeking to do. Rather than enforce the written rules and give Plaintiff the benefit of joining such an organization, for which Plaintiff has been paying annually (*Exhibit NJSIAA Constitution* at 36), that they would enforce such rules and promote fair play. NJSIAA, a private organization, does not have the right to intentionally violate such an agreement between the parties because they declare they can. It is undoubted NJSIAA will attempt to enforce the very same Constitution they cherry pick as to enforce a provision for Plaintiff to pay for all litigation costs should this litigation be dismissed. Such arbitrary and capricious enforcement of an agreement is unjust. NJSIAA has no factual or legal basis for their decision and as such Plaintiff clearly has a reasonable success on the merits of the matter.

Finally, (3) the balance of hardships clearly weighs in favor of Plaintiff. NJSIAA will suffer no hardship if the championship game is played on a different date and time as they do not control any of the venues and can easily hire officials for a game of a different date and time. Juxtaposed, Plaintiff would suffer severe hardship as they would suffer the irreparable harm as stated above and have no recourse.

For all these reasons set forth in this application and all accompanying papers, Plaintiff respectfully requests this Court issue a temporary restraining order against Defendants, enjoining Defendants from proceeding in the manner previously outlined.

Respectfully submitted,
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Cc: All Defendants (Served via Electronic and Hand Delivery)