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**Superior Court Judge Invites School Districts  
To Join Major Discrimination Lawsuit**

*By Paul H. Green, Esq.*

All New Jersey school districts recently received a Notice inviting them to join a lawsuit pending in the Superior Court of New Jersey, Mercer County. The lawsuit was filed in 2018 against the State of New Jersey, the State Board of Education and Commissioner of Education by Latino Action Network, the NAACP New Jersey State Conference and a variety of other plaintiffs. The complaint alleges that the State of New Jersey has been complicit in the creation and persistence of one of the most segregated public school systems in the nation. The New Jersey Charter Schools Association has intervened in the litigation to counter the plaintiffs' contention that charter schools are part of the problem.

This is landmark discrimination litigation that has the potential to have far-reaching impacts on New Jersey's system of public education equal to if not greater than the *Abbott v. Burke* series of litigation over school funding. A key element of the lawsuit is a frontal assault on New Jersey's concept of Home Rule, in which students typically attend schools in the municipalities in which they reside. If successful, the suit could bring that structure to an end.

The litigation is at an early stage and there will be a lengthy period of discovery and procedural wrangling before it gets close to a hearing. Prior settlement discussions between the plaintiffs and the State broke down, and Superior Court Judge Mary Jacobson, who is hearing the case in Trenton, has strongly urged the parties to resume those negotiations.

As part of the early procedural motions, the State, through the office of the New Jersey Attorney General, sought to have the Court dismiss the case for failure to join New Jersey's school districts as indispensable parties, since the litigation may well have enormous impacts on them. While Judge Jacobson ruled she would not do that, she did make clear her concern that no school districts are currently participating in the litigation and indicated more should be done to invite districts to do so. Expressing an interest in hearing the factual background to put the statistics into context, Judge Jacobson directed that all New Jersey school districts be notified of their option to intervene in the litigation.

It is not necessary for any district to participate in the lawsuit, but any district wishing to do so to explain its concerns and have a possible influence on the outcome must file an application to intervene in the case by March 31, 2020. Any board of education interested in exploring intervention should carefully review this matter with its attorney.

For more information on this Legal Alert or related issues, please contact the school law attorneys at Schenck Price.

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