

April 12, 2016

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VIA E-MAIL

William Bethke, Esq.
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RE: *McDaniel v. South Jeffco Montessori Charter School, Inc.*,
Jefferson County District Court Case No. 2016CV30561

Dear Mr. Bethke:

As you know, this firm represents Alex and Joanne McDaniel, whose daughters, Aurora and BellaNova, attended Montessori Peaks Academy until last year. Last week, the McDaniels filed a lawsuit in Jefferson County District Court against South Jeffco Montessori Charter School, Inc. d/b/a/ Montessori Peaks Academy ("MPA"), Case No. 2016CV30561, alleging violations of the Colorado Open Meetings Law and seeking a declaratory judgment regarding section 22-32-108, C.R.S. A copy of the McDaniels' Complaint is enclosed.

Please let me know whether you will accept and waive service of the Complaint on behalf of MPA. A Waiver and Acceptance of Service is also enclosed should MPA agree. Should it not, please let me know as soon as possible so we may promptly serve MPA.

The McDaniels believe that this matter may be susceptible to expedited summary judgment briefing on a stipulated record. I am certain that our clients have differing views regarding the McDaniels' experiences with MPA, in general, but there may be a narrower set of facts immediately material to the McDaniels' legal claims that are undisputed. If we can agree upon such facts it may be possible to resolve this matter more quickly and cost-effectively. Please let me know if MPA would be willing to explore a stipulated record and briefing schedule.

The McDaniels and my firm have considered your earlier threat (in your December 31, 2015 letter to me) to seek sanctions for the filing of this action. We have determined that any such motion would be meritless. I am confident that the McDaniels' claims are well grounded in fact, are warranted by existing law or a good faith argument for the extension or modification of existing law, and are not interposed for any improper purpose. Your client may well have a different view of the merit of the McDaniels' claims, but this difference in perspective alone cannot support a motion for attorneys' fees or other sanctions.

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main 303.223.1100

William Bethke, Esq.
April 12, 2016
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Please feel free to contact me should you have any questions about this matter.

Regards,

A handwritten signature in black ink, appearing to read "Chris Murray", with a long horizontal flourish extending to the right.

Christopher O. Murray

Enclosures

cc. Alex and Joanne McDaniel

DISTRICT COURT, JEFFERSON COUNTY, COLORADO 100 Jefferson County Parkway Golden, Colorado 80401 Phone: 720-772-2500	DATE FILED: April 5, 2016 1:54 PM FILING ID: 41D39533B746D CASE NUMBER: 2016CV30561 <p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Plaintiff: ALEX MCDANIEL, an individual, and JOANNE MCDANIEL, an individual,</p> <p>v.</p> <p>Defendant: SOUTH JEFFCO MONTESSORI CHARTER SCHOOL, INC. d/b/a MONTESSORI PEAKS ACADEMY, a Colorado nonprofit corporation</p>	
Attorneys for Plaintiffs: Alex and Joanne McDaniel Christopher O. Murray, Colo. Atty. Reg. No. 39340 Patrick B. Hall, Colo. Atty. Reg. No. 45317 BROWNSTEIN HYATT FARBER SCHRECK, LLP 410 Seventeenth Street, Suite 2200 Denver, CO 80202 Telephone: 303.223.1100; Fax: 303.223.1111 E-mail: cmurray@bhfs.com; phall@bhfs.com	Case Number: Division:
DISTRICT COURT CIVIL (CV) CASE COVER SHEET FOR INITIAL PLEADING OF COMPLAINT, COUNTERCLAIM, CROSS-CLAIM OR THIRD PARTY COMPLAINT	

1. This cover sheet shall be filed with each pleading containing an initial claim for relief in every district court civil (CV) case, and shall be served on all parties along with the pleading. It shall not be filed in Domestic Relations (DR), Probate (PR), Water (CW), Juvenile (JA, JR, JD, JV), or Mental Health (MH) cases. Failure to file this cover sheet is not a jurisdictional defect in the pleading but may result in a clerk's show cause order requiring its filing.

2. Check one of the following:

This case is governed by C.R.C.P. 16.1 because:

- The case is not a class action, domestic relations case, mental health case, probate case, water law case, forcible entry and detainer, C.R.C.P. 106, C.R.C.P. 120, or other similar expedited proceeding; *AND*
- A monetary judgment over \$100,000 is not sought by any party against any other single party. This amount includes attorney fees, penalties, and punitive damages; it excludes interest and costs, as well as the value of any equitable relief sought.

This case is not governed by C.R.C.P. 16.1 because (check ALL boxes that apply):

The case is a class action, domestic relations case, juvenile case, mental health case, probate case, water law case, forcible entry and detainer, Rule 106, Rule 120, or other similar expedited proceeding.

A monetary judgment over \$100,000 is sought by any party against any other single party. This amount includes attorney fees, penalties, and punitive damages; it excludes interest and costs, as well as the value of any equitable relief sought.

Another party has previously indicated in a Case Cover Sheet that the simplified procedure under C.R.C.P. 16.1 does not apply to the case.

NOTE: In any case to which C.R.C.P. 16.1 does not apply, the parties may elect to use the simplified procedure by separately filing a Stipulation to be governed by the rule within 49 days of the at-issue date. See C.R.C.P. 16.1(3). In any case to which C.R.C.P. 16.1 applies, the parties may opt out of the rule by separately filing a Notice to Elect Exclusion (JDF 602) within 35 days of the at-issue date. See C.R.C.P. 16.1(d).

A Stipulation or Notice with respect to C.R.C.P. 16.1 has been separately filed with the Court, indicating:

C.R.C.P. 16.1 applies to this case.

C.R.C.P. 16.1 does not apply to this case.

3. This party makes a **Jury Demand** at this time and pays the requisite fee. See C.R.C.P. 38. (Checking this box is optional.)

Date: April 5, 2016

s/ Christopher O. Murray
Christopher O. Murray, #39340

DISTRICT COURT, JEFFERSON COUNTY, COLORADO 100 Jefferson County Parkway Golden, Colorado 80401 Phone: 720-772-2500	DATE FILED: April 5, 2016 1:54 PM FILING ID: 41D39533B746D CASE NUMBER: 2016CV30561
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Attorneys for Plaintiffs: Christopher O. Murray, Colo. Atty. Reg. No. 39340 Patrick B. Hall, Colo. Atty. Reg. No. 45317 BROWNSTEIN HYATT FARBER SCHRECK, LLP 410 Seventeenth Street, Suite 2200 Denver, Colorado 80202-4432 Telephone: 303.223.1100 E-mails: cmurray@bhfs.com, phall@bhfs.com	Case Number: Division:
COMPLAINT AND JURY DEMAND	

Plaintiffs Alex and Joanne McDaniel (“Plaintiffs” or the “McDaniels”), by and through their attorneys, Brownstein Hyatt Farber Schreck, LLP, submit their Complaint as follows:

SUMMARY OF THE CASE

1. In 2015, the Board of Directors and Principal of Montessori Peaks Academy, a charter school in the Jefferson County School District, conspired to drive the McDaniels’ two young daughters out of the school after the McDaniels started asking questions about the school’s administration. Defendant’s retaliatory conduct included sending letters to all parents intended to discredit the McDaniels, denying the McDaniels access to any information regarding their daughters’ education, and intimidating Mr. McDaniel with security guards at a routine Board meeting. All of this because the McDaniels sought documents and asked questions about the way the Board was running the school; in particular the Board’s improper use of executive sessions. Although the McDaniels have repeatedly attempted to obtain this information through normal channels, the Board has stymied them at every turn, compelling them to bring this lawsuit to obtain information that never should have been shielded from the public. In doing so, they ask for an interpretation of the Colorado Revised Statutes that would subject meetings of Defendant’s Board of Directors to the requirements of other public boards

of education. With this lawsuit, the McDaniels simply seek what any concerned parents deserve: transparency regarding decisions affecting their children's education.

PARTIES, JURISDICTION, AND VENUE

2. Plaintiff Alex McDaniel is an individual residing in Littleton, Colorado. Mr. McDaniel is husband of Plaintiff Joanne McDaniel and the father of the couple's two daughters, Aurora and BellaNova, ages twelve and ten.

3. Plaintiff Joanne McDaniel is an individual residing in Littleton, Colorado. Mrs. McDaniel is the wife of Mr. McDaniel, and the mother of Aurora and BellaNova.

4. Upon information and belief, Defendant South Jeffco Montessori Charter School, Inc. d/b/a Montessori Peak Academy ("MPA") is a Colorado nonprofit corporation with its principal place of business at 9904 West Capri Avenue, Littleton, Colorado 80123. MPA is a public charter school in the Jefferson County School District.

5. The Court has personal jurisdiction over MPA because MPA is incorporated under the laws of Colorado and has its principal place of business in Colorado; because MPA uses and possesses real property in Colorado; and because the acts complained of took place in Colorado.

6. Venue is proper pursuant to Colorado Rule of Civil Procedure 98(c) because MPA resides in this District.

GENERAL ALLEGATIONS

B. The McDaniels Children Thrive at MPA, but the School Environment Begins to Change.

7. In 2009, the McDaniels' daughter, Aurora, turned six and was ready to start first grade.

8. After researching the many options available to Aurora, the McDaniels chose to enroll her at MPA.

9. As a charter school, MPA is organized as a Colorado nonprofit corporation governed by a board of directors.

10. MPA provides programs for children from preschool age three through sixth grade.

11. On information in belief, MPA's enrollment for the 2009-2010 school year was approximately 457 students. The enrollment in the 2014-2015 school year rose to approximately 550 students.

12. On information and belief, MPA employed approximately 64 staff members and administrators in the 2009-2010 school year. In the 2014-2015 school year, the staff grew to approximately 80.

13. The McDaniels were attracted to MPA by, among other things, its mission statement: to achieve high standards of individual excellence by guiding the whole student through an exceptional learning experience based on the educational philosophy of Maria Montessori.

14. The McDaniels were pleased with Aurora's experience at MPA, so when their younger daughter, BellaNova, became kindergarten age in 2011, they enrolled her at MPA, as well.

15. The McDaniels were actively engaged with their daughters' education: they attended every parent-teacher conference, participated in science fairs and reading challenges, chaperoned field trips, and took part in talent shows. Mrs. McDaniel even volunteered in their daughters' classrooms.

16. At the end of 2014, however, the McDaniels' experience with MPA began to change.

17. In December 2014, the McDaniels family took their daughters on a one-week vacation to California.

18. At the time, Aurora was in Ms. Shannon Aasheim's sixth grade class, and BellaNova was in Ms. Jacqueline Cartwright-Mills' third-grade class.

19. On information and belief, in the beginning of 2015, Ms. Aasheim was also a voting member of the MPA Board of Directors (the "Board").

20. On information and belief, in April 2015, Ms. Cartwright-Mills replaced Ms. Aasheim on the Board.

21. The week the children returned to school, there was a spelling exam in Ms. Aasheim's class.

22. Per MPA policy, which adopted the Jefferson County School District's Conduct Code describing the makeup work policy, because Aurora had been out of school for one week, she was entitled to additional time to prepare for the exam—an extra two days for every day she was absent.

23. Contrary to communication attempts and that policy, however, Ms. Aasheim required Aurora to take the exam as scheduled.

24. Upset with Teacher/Board Member Ms. Aasheim's noncompliance with school and district policies and its unfair impact on Aurora's ability to prepare for the exam, Mrs. McDaniel discussed the matter with Ms. Aasheim, who dismissed her concerns. Mrs. McDaniel accordingly raised the issue with MPA Principal Charlotta "Char" Weaver.

25. During Mrs. McDaniel's December 15, 2014 meeting with Principal Weaver, Principal Weaver declared that MPA does not follow the Jefferson County Conduct Code as it relates to makeup work, despite the reference to that code on MPA's approved absence form. The meeting was extremely hostile and left Mrs. McDaniel feeling unsafe to meet with Principal Weaver and Ms. Aasheim alone again.

26. Although Mrs. McDaniel's complaint was professional and respectful, that day, Ms. Aasheim asked Mrs. McDaniel to stop volunteering in Aurora's class.

27. The McDaniels made multiple additional attempts to address the strange and hostile behavior from both Teacher/Board Member Ms. Aasheim and Principal Weaver, but were rebuffed.

28. In the weeks following this incident, the McDaniel family noticed that the school environment had changed for them, with a clear sense that staff and administration had begun using exclusionary tactics to make them feel unwelcomed.

29. The McDaniels reported the situation to the MPA Board, requesting intervention from Principal Weaver's supervisors, and participated in two phone interviews with MPA Board Officers Scott Cromwell and Shiloh Sword-Dougherty (then Board President and Vice-President, respectively).

C. The February 17, 2015 Board Meeting.

30. A regularly scheduled meeting of the MPA Board was set for February 17, 2015 (the "February 17 Meeting").

31. On or about February 14, Mr. Cromwell sent the McDaniels an invitation to an executive session scheduled for the February 17 MPA Board meeting, with a subject titled "Personnel Matter CRS 24-6-402 4(f), Review Classroom Volunteering Conflict."

32. Mr. McDaniel responded to the invitation with concerns that the subject was incorrect, clarifying that the meeting should also include discussion of "unprofessional conduct, the creation of a hostile environment, violation of the code of conduct, defamation of character, and the integrity of at least one of our educators."

33. Mr. Cromwell later informed Mr. McDaniel that the subject of the executive session did not matter—they only needed to put something down so they could conduct the executive session, and then they could talk about whatever they needed to discuss. This made the McDaniels feel very uneasy.

34. On information and belief, the Board did not post a public agenda for the February 17 Meeting until after the meeting, on approximately February 20, 2015.

35. The agenda for the February 17 Meeting listed four purported executive sessions, items 7 through 10:

7. Executive Session: Personnel Matter 24-6-402 4(f), Discuss MPA Waiver to the Jeffco Board Policy GBEA, Staff Conflict of Interest for Montessori Peaks Academy
8. Executive Session: Personnel Matter CRS 24-6-402 4(f), Review Classroom Volunteering Conflict
9. Executive Session: Investigation CRS 24-6-402 4(d)
10. Executive Session: Investigation CRS 24-6-402 4(d)

36. The MPA Board did not post minutes from the February 17 Meeting until approximately March 18, 2015.

37. Those minutes provide scant details, if any, regarding the four purported executive sessions:

First Purported Executive Session (Agenda Item No. 7)

38. The February 17 Meeting minutes indicate that the Board entertained and unanimously passed a motion to enter into the first purported executive session (Agenda Item No. 7).

39. The minutes do not indicate, however, that the Board took a roll call vote to approve the motion.

40. On information and belief, the Board did not take a roll call vote to approve the motion to enter into the first purported executive session of the February 17 Meeting.

41. The minutes provide the following description of the first purported executive session:

Executive Session: Personnel Matter 24-6-402 4(f), Discuss MPA Waiver to the Jeffco Board Policy GBEA, Staff Conflict of Interest for Montessori Peaks Academy

Steve motioned to move into Executive Session' Kyle seconded. The motion passed unanimously.

A review of the MPA Waiver to the Jeffco Board Policy GBEA, Staff Conflict of Interest for Montessori Peaks Academy shows that Dave Weaver's review is to be completed by someone other than Char. Maureen moved to add an addendum to the MPA Waiver to the Jeffco Board Policy GBEA, Staff Conflict of Interest for Montessori Peaks Academy - to name a position to supervise and evaluate Dave Weaver. The requirements of the position are to be determined by the Administrator. Melisse seconded the motion. The motion passed by unanimous vote.

42. The minutes do not indicate the topics discussed or the amount of time spent discussing each topic.

43. On information and belief, this session was electronically recorded as required by the Colorado Open Meetings Law (the "COML"), sections 24-6-401 and -402, C.R.S.

Second Purported Executive Session (Agenda Item No. 8)

44. The minutes do not indicate that the Board entertained and passed a motion to enter into the second purported executive session (Agenda Item No. 8), which concerned the McDaniels.

45. On information and belief, the Board did not take a roll call vote to approve the motion to enter into the second purported executive session of the February 17 Meeting.

46. The minutes do not indicate the topics discussed or the amount of time spent discussing each topic.

47. On information and belief, this session was electronically recorded as required by the COML.

Third Purported Executive Session (Agenda Item No. 9)

48. The minutes do not indicate that the Board entertained and passed a motion to enter into the third purported executive session (Agenda Item No. 9).

49. On information and belief, the Board did not take a roll call vote to approve the motion to enter into the third purported executive session of the February 17 Meeting.

50. The minutes only provide the following description of the third purported executive session:

Executive Session: Investigation CRS 24-6-402 4(d)

The investigation of the incident is concluded and resolved. The Administrator handled and resolved the incident appropriately. No further action or discussion is needed.

51. The minutes do not indicate the topics discussed or the amount of time spent discussing each topic.

52. On information and belief, this session was electronically recorded as required by the COML.

53. Believing that this session concerned an investigation into Principal Weaver, the McDaniels emailed Scott Cromwell and incoming Board President Shiloh Sword-Dougherty on or about March 2, 2015 to inquire into the status of this investigation.

54. In response, Ms. Sword-Dougherty informed the McDaniels that the “investigation” was merely fact finding and seeking information; did not concern an investigation in the sense of a “criminal investigation”; and that the Board was not “investigating” Principal Weaver.

55. In fact, in a letter sent to MPA parents dated March 2, 2015, the Board indicated that nothing discussed at the February 17 Meeting related to “safety, security, criminal or financial concerns.”

56. The minutes indicate that the fourth planned executive session (item number 10) was “Postponed until further notice.”

57. At the February 17 Meeting the McDaniels found the room packed with staff members and almost no parents. The atmosphere was charged, and people were very upset. The McDaniels describe the meeting as very uncomfortable, with teachers demanding to be heard, and one after another they stood and read letters in support of Principal Weaver.

58. The McDaniels noted that many teachers would whisper and look at them, clearly indicating they were being discussed. The McDaniels addressed this with the Board, but the Board dismissed their concerns, telling the McDaniels that they were just being hyper aware.

59. During the purported executive session involving the McDaniels, the McDaniels observed the influence that Principal Weaver and Board Member/Teacher Shannon Aasheim held. It was also apparent that additional dynamics were at play as several other Board members were strangely silent and appeared to fall unquestioningly in line with the Principal. These board members turned out to be employed, or their spouses employed, directly by Principal Weaver.

D. MPA Retaliates Against the McDaniels, Forcing Them to Withdraw Aurora and BellaNova from MPA.

60. Following the February 17 Meeting, the McDaniels attempted to obtain information about what occurred during the February 17 purported executive sessions, in particular the third purported executive session, which appeared to concern an investigation concerning Principal Weaver.

61. Around this time, Board President Scott Cromwell stepped down. In correspondence with Mr. Cromwell regarding the reasons behind his decision, Mr. Cromwell referenced efforts to reduce conflicts of interest on the Board. Troubled by this reference, the McDaniels also began asking questions about these conflicts.

62. For voicing their legitimate concerns about the administration of MPA and the Board’s conflicts of interest, the Board and Principal Weaver took multiple retaliatory actions against the McDaniels and their daughters.

MPA Teachers Malign the McDaniels to Other Parents

63. In March 2015, Judy Faulder, the teacher of one of BellaNova's schoolmates, informed the child's parents that they were not receiving accurate or truthful information from the McDaniels.

64. Ms. Faulder made this statement in a parent-teacher conference called after Ms. Faulder accused the child of "glaring" at Ms. Aasheim, supposedly because the child was friends with BellaNova.

65. After the McDaniels met with Principal Weaver to discuss why Ms. Faulder was discussing them with other parents in their official parent teacher conference, Principal Weaver refused to speak further with the McDaniels regarding the incident, and told them to get an attorney.

Principal Weaver Restricts the McDaniels' Access to Basic Information, in Violation of MPA and Jeffco School Policy

66. Principal Weaver took multiple steps to deprive the McDaniels of information relating to their daughters' education.

67. First, in March 2015, Principal Weaver cancelled a March 20 parent-teacher conference concerning Aurora.

68. Principal Weaver denied evidence that Aurora's teacher did not grade her work or provide feedback on her assignments.

69. Each MPA family had a family-specific access code to the MPA building. Principal Weaver went as far as disabling the McDaniels' access code to the MPA building so that the McDaniels could not attempt to speak with Aurora's teacher on that date. Principal Weaver did not reinstate the McDaniels' door code for nearly a month.

70. In April 2015, Principal Weaver and the MPA Board of Directors went a step further, informing the McDaniels that they were not allowed to meet with MPA staff without pre-scheduling the meeting and having a Board member present.

71. Compounding this restriction, Principal Weaver and the MPA Board of Directors stated that only Principal Weaver could request for a Board member to be present at such meetings, effectively giving her absolute control over whether and when the McDaniels could meet with MPA staff.

72. When asked to reconsider this policy, Principal Weaver stated, "I will not recant my mandate that any meeting between you and a MPA staff member must have a board member present."

73. Principal Weaver also clarified that the cancellation of the McDaniels' March 20 parent-teacher conference was not a one-off event, but that, as a general matter, "Shannon Aasheim will not be having a parent conference with you."

74. Principal Weaver later denied the McDaniels customary reports on Aurora's academic performance for the second semester of the 2014-2015 school year.

75. These actions were not only hostile and counterproductive, but in fact violated specific policies of the MPA and Jeffco Public Schools.

76. In particular, the MPA Policy Manual requires the school to "provide systems for teachers, parents, and community members to receive timely, cost-effective, targeted, or individualized communication. MPA recognizes that parents are responsible for working in partnership with other members of the school community to support, encourage and participate in their child's learning, and MPA will work in partnership with parents and the school community to ensure that all students thrive." Contrary to this policy, Principal Weaver, with the assistance of the MPA Board, worked to cut off the McDaniels from all communications and cut them out of the school community.

77. Principal Weaver's actions also violated Jeffco Policy KE-R, which provides, "Parents or guardians who have complaints about matters other than discrimination and harassment should contact the school principal or designee and discuss the grievance. . . . The school principal will arrange a conference as soon as practicable with the complainant and the teacher or other persons." Here, Principal Weaver not only cancelled scheduled conferences, but installed rigid rules designed to prevent further conferences.

The McDaniel Children Are Singled Out for Having Cell Phones

78. On April 7, 2015, MPA staff disciplined Aurora and BellaNova for having cell phones and confiscated the phones, contrary to school policy stating that students can possess cell phones.

Ms. Cartwright-Mills Searches BellaNova's Backpack

79. On April 13, 2015, BellaNova watched her teacher, Ms. Cartwright-Mills, search through her backpack, removing items and going through each pocket.

80. Ms. Cartwright-Mills denied that she searched BellaNova's bag.

The Board Imposes an Arbitrary Meeting Rule Targeted at the McDaniels

81. At the Board meeting held on April 21, 2015, the Board prohibited Mr. McDaniel from using teacher, staff, or Director names when publicly addressing the Board. The Board used this rule to cut short his comments at the meeting.

82. This rule was only directed at Mr. McDaniel, as the Board did not prevent subsequent speakers from using names.

The Board Places Security Guards on Mr. McDaniel, Purportedly Out of Concern that He Brought a Gun to a Board Meeting

83. Also at the April 21 meeting, the Board hired two security guards to flank and follow Mr. McDaniel for the duration of the meeting.

84. The Board now claims that it placed security on Mr. McDaniel because it thought he was carrying a firearm, an incredible and inflammatory allegation that is entirely untrue.

The Board Refuses to Answer the McDaniels' Questions

85. On May 14, 2015, Mr. McDaniel requested from Principal Weaver and President Sword-Dougherty information regarding the three purported executive sessions conducted at the February 17 Meeting.

86. In response, Ms. Sword-Dougherty informed Mr. McDaniel that she was treating his simple question as a request under the Colorado Open Records Act ("CORA").

87. Mr. McDaniel explained that his questions were not intended as a CORA request.

88. On May 19, 2015, the Board's attorney responded to Mr. McDaniel's "non-CORA questions" as follows:

[N]o response from us is required and none will be provided. Case law under CORA has clearly established that public bodies are not required to expend their resources developing new documents or information upon request. Furthermore, there is no general right of a member of the public to interrogate public bodies. I'm sure you will understand that if every agency of the government had to answer every question posed by every person who wished to inquire, no actual business of government would get done.

89. While this reasoning might hold true for large governmental agencies receiving requests from general members of the public, the McDaniels were shocked that a charter school would wield it against concerned parents.

90. These actions violated Jeffco Policy KE, which states that the "district welcomes constructive criticism of the schools whenever it is motivated by a sincere desire to improve the quality of the educational or management program of the district." Here, MPA immediately treated the McDaniels' queries with hostility and rejected their input.

The Husband of the Board President Attends Class and Stares at BellaNova

91. In April 2015, a man began visiting BellaNova's classroom and spending the majority of his time in the classroom staring at BellaNova.

92. This person turned out to be Ryan Dougherty, the husband of Board President Shiloh Sword-Dougherty.

93. After a week of this bizarre behavior, Mrs. McDaniel went to speak with BellaNova's teacher about what was going on.

94. During this conversation, BellaNova told Ms. Cartwright-Mills that Mr. Dougherty's staring made her uncomfortable.

95. In response, Ms. Cartwright-Mills told nine-year old BellaNova, "Sorry about that. That's too bad."

96. Ms. Cartwright-Mills explained that Mr. Dougherty would be in the classroom "watching."

97. As Mrs. McDaniel began to exit the conversation, Ms. Cartwright-Mills told Mrs. McDaniel that she should "feel free to leave BellaNova at home."

The McDaniels Withdraw Their Daughters

98. As a result of the toxic environment created by the Board and Principal Weaver, the McDaniels arranged to have their daughters do schoolwork from home for the last three weeks of the school year.

99. Even then, the McDaniels were not free from MPA's retaliation, as the take-home work included assignments that had already been completed or were from the wrong grade level. The work was also excessive – over 300 pages in total.

100. MPA did not provide feedback to Aurora and BellaNova on these assignments until two weeks after the school year ended.

E. The May 19, 2015 Board Meeting.

101. On or about May 14, the Board posted the agenda for a regularly scheduled Board meeting to be held on May 19, 2015 (the "May 19 Meeting").

102. Item 12 on the agenda stated:

12. Executive Session

a. CRS 24-6-402(4)(h) – "discussion of individual students where public disclosure would be adversely affect the person or persons involved."

103. On or about June 17, the minutes for the May 19 Meeting were posted.

104. On information and belief, the Board did not take a roll call vote to approve the motion to enter into the May 19 purported executive session.

105. The minutes only provide the following description of the purported executive session:

12. Executive Session: CRS 24-6-402(4)(h). Motion made by Pamela, and second by Melanie.

Motion #2: Upon Motion by Pamela Koshio, seconded by Melanie Escobedo.

“Discussion of an individual student(s) where public disclosure would adversely affect the person or persons involved.”

Motion by Pamela Koshio, second by Melanie Escobedo

Final Resolution: Motion carries

Yea: Pam Koshio, Steve Sandifer, Melanie Escobedo, Scott Cromwell, Shiloh Sword, Jacqueline Cartwright-Mills, Nam Le

Nay: None

Recused: None

Absent: Kevin Bost

After discussion in the Executive Session, no further action will take place or is needed.

106. The minutes do not indicate the topics discussed or the amount of time spent discussing each topic.

107. The following day, the Board issued a letter to the MPA community that did not mention the McDaniels by name, but impugned their credibility and motives .

108. Notably, although the e-mail was addressed to “MPA Parents,” it was not sent to the McDaniels.

109. The letter states, in part:

Now that a family has made public statements, we can address them in a limited manner. It is very unfortunate that untruths have been broadcast about our staff, administration, and board.

* * *

The MPA Board has previously conducted interviews and research regarding these accusation and issues that were mentioned, and found that there were no changes or action needed to be taken. Unfortunately, this situation has not found resolution and this

family is doing all it can to defame our school, the staff, administration and Board.

F. The McDaniels' CORA Requests.

The July 21, 2015 Request

110. Based on the harassing and retaliatory behavior directed at the McDaniel family leading up to the May 19 Meeting, the McDaniels suspect that their daughters, Aurora and BellaNova, were the subject of the May 19 purported executive session.

111. As a result, on July 21, 2015, Mr. McDaniel filed a CORA request with the Board seeking:

Audio recordings/records and minutes for the Montessori Peaks Academy Board of Directors meeting conducted 5/19/2015, including the audio recording and minutes from the invalid executive session included in the minutes as: "Executive Session: CRS 24-6-402(4)(h). Motion #2 – "Discussion of an individual student(s) where public discussion would adversely affect the person or persons involved."

112. On July 23, 2015, the Board responded by e-mail, through its attorney, William Bethke.

113. According to the Board, the executive session was not improper because "any description of the student or the issues would have destroyed confidentiality."

114. Also according to the Board, "executive sessions to discuss students are not recorded, also as provided by statute."

115. Finally, according to the Board, "if there were an executive session recording it would be private, and not subject to disclosure."

116. The Board provided the minutes of the public session of the May 19 Meeting along with an audio recording of the same taken for the purposes of assisting in preparation of minutes, but would not provide any additional information regarding the purported executive session.

117. In a follow-up letter to the Board, accounting for the possibility that the session might have concerned other students whose privacy they want to protect, the McDaniels simply asked for MPA to stipulate that their family was not the subject of the session.

118. The Board refused.

The July 30, 2015 Request

119. On July 30, 2015, Mr. McDaniel filed a CORA request with the Board seeking:

- All audio recordings, records and minutes for the Montessori Peaks Academy Board of Directors special meeting conducted 4/15/2015
- All audio recordings, records and minutes for the Montessori Peaks Academy Board of Directors meeting conducted 2/17/2015, including the audio recordings and minutes from the invalid executive sessions included in the minutes as:
 - Executive Session: Personnel Matter 24-6-402 4(f), Discuss MPA Waiver to the Jeffco Board Policy GBEA, Staff Conflict of Interest for Montessori Peaks Academy
 - Executive Session: Personnel Matter CRS 24-6-402 4(f), Review Classroom Volunteering Conflict
 - Executive Session: Investigation CRS 24-6-402 4(d)

120. MPA provided draft minutes for the April 15, 2015 special meeting, but denied the remainder of the request in an e-mail dated August 5, 2015.

121. Similar to its response to the McDaniel's July 23 request, the Board stated that the executive session was not invalid because it was described in sufficient detail, and "executive session records are not subject to public inspection."

122. The e-mail also asserted that, with respect to deficient meeting notice, "any attempt to describe the executive session in more detail than was already provided would reveal personnel information in a manner that was personally identifiable, something forbidden by CORA." Not only is this assertion false, but it also refers to the wrong portion of Colorado law—meeting notices are governed by COML, not CORA.

First Claim for Relief (Violations of the Colorado Open Meetings Law – Failure to Sufficiently Identify Executive Sessions)

123. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 122 above.

124. Under the Colorado Open Meetings Law, sections 24-6-401 and -402, C.R.S. (the "COML"), meetings of local public bodies at which any public business is discussed or at which any formal action may be taken are public meetings open to the public at all time.

125. As a narrow exception to the presumption of public meetings, the COML provides that the members of a local public body may discuss certain enumerated matters in

executive session if they cite the specific provision of section 24-6-402(4), C.R.S., authorizing the body to meet in executive session and identify the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized.

126. The Board of MPA is a local public body subject to the COML.

127. The Board's invocation of section 24-6-402(4), C.R.S., in connection with the first and third purported executive sessions of the February 17 Meeting violated the COML.

128. The Board's description of the first purported executive session identified on the agenda for the February 17 Meeting (Agenda Item No. 7) did not comply with the COML because it failed to identify the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized.

129. The Board's description of the third purported executive session identified on the agenda for the February 17 Meeting (Agenda Item No. 9) did not comply with the COML because it failed to identify the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized.

130. The Board's invocation of section 24-6-402(4), C.R.S., in connection with the purported executive session of the May 19 Meeting violated the COML.

131. The Board's description of the purported executive session identified on the agenda for the May 19 Meeting (Agenda Item No. 12) failed to comply with the COML because it failed to identify the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized.

**Second Claim for Relief
(Violations of the Colorado Open Meetings Law –
Use of Executive Session for Improper Purpose)**

132. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 131 above.

133. Under the COML, meetings of local public bodies at which any public business is discussed or at which any formal action may be taken are public meetings open to the public at all time.

134. The COML provides that the members of a local public body may discuss certain enumerated matters in executive session only if they cite the specific provision of section 24-6-402(4), C.R.S., authorizing the body to meet in executive session and identify the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized.

135. The Board of MPA is a local public body subject to the COML.

136. At the February 17 Meeting, the Board invoked section 24-6-402(4)(f) in connection with the first purported executive session (Agenda Item No. 7), described in the agenda as “Personnel Matter 24-6-402 4(f), Discuss MPA Waiver to the Jeffco Board Policy GBEA, Staff Conflict of Interest for Montessori Peaks Academy.”

137. Section 24-6-402(4)(f) allows an executive session to be called for the sole purpose of considering matters concerning personnel matters, except it does not apply to “discussions of personnel policies that do not require the discussion of matters personal to particular employees.”

138. The invocation of section 24-6-402(f) in connection with the third purported executive session at the February 17 Meeting violated the COML because that session did not concern matters authorized by section 24-6-402(4)(f), and concerned matters expressly prohibited by section 24-6-402(4)(f).

139. At the February 17 Meeting, the Board invoked section 24-6-402(4)(d) in connection with the third purported executive session (Agenda Item No. 9), described in the agenda as “Investigation.”

140. Section 24-6-402(4)(d) allows an executive session to be called for the sole purpose of considering matters concerning “[s]pecialized details of security arrangements or investigations, including defenses against terrorism, both domestic and foreign, and including where disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law.”

141. The invocation of section 24-6-402(4)(d) in connection with the third purported executive session at the February 17 Meeting violated the COML because that session did not concern matters authorized by section 24-6-402(4)(d).

**Third Claim for Relief
(Violation of the Colorado Open Meetings Law –
Destruction of Electronic Recordings of Executive Sessions)**

142. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 141 above.

143. The COML requires that discussions that occur in an executive session of a local public body, except discussions of individual students, be electronically recorded.

144. The COML requires that such recordings be retained for “at least ninety days after the date of the executive session.”

145. Under the COML, MPA was required to electronically record each of the four purported executive sessions of the February 17 Meeting.

146. The McDaniels began inquiring into what occurred during the February 17 purported executive sessions at least as early as March 2015.

147. The McDaniels filed a CORA request regarding the February 17 purported executive sessions at least as early July 2015. The McDaniels specifically requested audio recordings of the February 17 Meeting.

148. The McDaniels continued to inquire into the February 17 purported executive sessions, doing so as recently as December 2015.

149. Notwithstanding the McDaniel's clear interest in obtaining the electronic recordings of the February 17 purported executive sessions, MPA admits to having deleted them.

150. MPA violated the COML by deleting these electronic recordings while the McDaniels were attempting to obtain them, knowing that the McDaniels wanted them.

Fourth Claim for Relief (Declaratory Judgment)

151. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 150 above.

152. The McDaniels are currently seeking documents from MPA regarding purported executive sessions held at two meetings of the MPA Board.

153. In connection with those requests, the McDaniels assert that those sessions were invalid because they failed to comply with the requirements of section 22-32-108, C.R.S.

154. In response, MPA asserts that section 22-32-108 does not apply to the boards of charter schools.

155. An actual controversy therefore exists between the McDaniels and MPA concerning their legal rights under the Colorado Revised Statutes.

156. This controversy is appropriate for resolution under the Uniform Declaratory Judgments Law (sections 13-51-101 *et seq.*) and C.R.C.P. 57.

157. The McDaniels are entitled to a final determination as to whether the MPA Board, as the board of directors of a charter school, must comply with the meeting requirements of section 22-32-108, C.R.S.

Relief Requested

158. The McDaniels request the following relief in the form of a judgment in their favor and against MPA:

- a. An order directing MPA to release all documents and recordings related to the invalid February 17, 2015 and May 19, 2015 executive sessions pursuant to section 24-6-402(2)(d.5)(I)(C), C.R.S.;

- b. An order voiding any actions taken during the invalid February 17, 2015 and May 19, 2015 executive sessions;
- c. An declaration that the requirements of section 22-32-108, C.R.S., apply to meetings of the Board of MPA, as a Colorado charter school;
- d. Costs and fees, including costs and fees under section 24-6-402(9)(b), C.R.S.; and
- e. Any further relief the Court may deem just and proper.

Jury Trial Demanded

Plaintiffs demand a jury trial for all issues so triable as of right.

Dated April 5, 2016.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By: s/ Christopher O. Murray
Christopher O. Murray, Colo. Atty. Reg. No. 39340
Patrick B. Hall, Colo. Atty. Reg. No. 45317
**Attorneys for Plaintiffs Alex McDaniel and
Joanne McDaniel.**

Plaintiff Address:
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DISTRICT COURT, JEFFERSON COUNTY, COLORADO 100 Jefferson County Parkway Golden, Colorado 80401 Phone: 720-772-2500	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Plaintiffs: ALEX MCDANIEL, an individual, and JOANNE MCDANIEL, an individual,</p> <p>v.</p> <p>Defendant: SOUTH JEFFCO MONTESSORI CHARTER SCHOOL, INC. d/b/a MONTESSORI PEAKS ACADEMY, a Colorado nonprofit corporation.</p>	
Attorneys for Plaintiffs: Christopher O. Murray, Colo. Atty. Reg. No. 39340 Patrick B. Hall, Colo. Atty. Reg. No. 45317 BROWNSTEIN HYATT FARBER SCHRECK, LLP 410 Seventeenth Street, Suite 2200 Denver, Colorado 80202-4432 Telephone: 303.223.1100 E-mails: cmurray@bhfs.com, phall@bhfs.com	Case Number: Division:
<p>· WAIVER AND ACCEPTANCE OF SERVICE</p>	

I, William Bethke, of the law firm of Kutz & Bethke LLC, being of lawful age and duly sworn upon my oath, depose and state that:

1. I am an attorney at law duly admitted to practice in the State of Colorado and Defendant South Jeffco Montessori Charter School, Inc., d/b/a Montessori Peaks Academy ("Defendants") expressly authorize me to act on their behalf concerning the subject matter of this Waiver and Acceptance of Service.

2. I hereby acknowledge receipt of and accept service of the Summons, Complaint and Jury Demand and District Court Civil Cover Sheet directed to Defendants.

3. Defendants waive the necessity for any other service and agree that this Waiver and Acceptance of Service shall have the same force and effect as if said Summons, Complaint and Jury Demand and District Court Civil Cover Sheet had been duly issued, served and returned as provided by law.

4. The date of service and notice of the Complaint is the date of this Waiver and Acceptance of Service.

DATED this _____ day of _____, 2016

KUTZ & BETHKE LLC

William Bethke, Esq.

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