

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Kim Murphy,

Plaintiff(s)

vs.

Richland-Lexington School District 5 Board
of Trustees, Robert Gantt, and Bobby Merle
Bowers, in their individual capacities

Defendant(s)

Submitted By: J. Lewis Cromer & Ashley C. Story
Address: 1522 Lady Street, Columbia, SC 29201

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2014-CP - 40- 46666

SC Bar #: 1470 & 100578

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NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☒ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☒ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|--|
| Contracts
<input type="checkbox"/> Constructions (100)
<input type="checkbox"/> Debt Collection (110)
<input type="checkbox"/> Employment (120)
<input type="checkbox"/> General (130)
<input type="checkbox"/> Breach of Contract (140)
<input type="checkbox"/> Other (199) | Torts - Professional Malpractice
<input type="checkbox"/> Dental Malpractice (200)
<input type="checkbox"/> Legal Malpractice (210)
<input type="checkbox"/> Medical Malpractice (220)
Previous Notice of Intent Case #
20 -CP- -
<input type="checkbox"/> Notice/ File Med Mal (230)
<input type="checkbox"/> Other (299) | Torts - Personal Injury
<input type="checkbox"/> Assault/Slander/Libel (300)
<input type="checkbox"/> Conversion (310)
<input type="checkbox"/> Motor Vehicle Accident (320)
<input type="checkbox"/> Premises Liability (330)
<input type="checkbox"/> Products Liability (340)
<input type="checkbox"/> Personal Injury (350)
<input type="checkbox"/> Wrongful Death (360)
<input checked="" type="checkbox"/> Other (399) Defamation per se, civil conspiracy, etc. | Real Property
<input type="checkbox"/> Claim & Delivery (400)
<input type="checkbox"/> Condemnation (410)
<input type="checkbox"/> Foreclosure (420)
<input type="checkbox"/> Mechanic's Lien (430)
<input type="checkbox"/> Partition (440)
<input type="checkbox"/> Possession (450)
<input type="checkbox"/> Building Code Violation (460)
<input type="checkbox"/> Other (499) |
| Inmate Petitions
<input type="checkbox"/> PCR (500)
<input type="checkbox"/> Mandamus (520)
<input type="checkbox"/> Habeas Corpus (530)
<input type="checkbox"/> Other (599) | Administrative Law/Relief
<input type="checkbox"/> Reinstate Drv. License (800)
<input type="checkbox"/> Judicial Review (810)
<input type="checkbox"/> Relief (820)
<input type="checkbox"/> Permanent Injunction (830)
<input type="checkbox"/> Forfeiture-Petition (840)
<input type="checkbox"/> Forfeiture-Consent Order (850)
<input type="checkbox"/> Other (899) | Judgments/Settlements
<input type="checkbox"/> Death Settlement (700)
<input type="checkbox"/> Foreign Judgment (710)
<input type="checkbox"/> Magistrate's Judgment (720)
<input type="checkbox"/> Minor Settlement (730)
<input type="checkbox"/> Transcript Judgment (740)
<input type="checkbox"/> Lis Pendens (750)
<input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760)
<input type="checkbox"/> Confession of Judgment (770)
<input type="checkbox"/> Petition for Workers Compensation Settlement Approval (780)
<input type="checkbox"/> Other (799) | Appeals
<input type="checkbox"/> Arbitration (900)
<input type="checkbox"/> Magistrate-Civil (910)
<input type="checkbox"/> Magistrate-Criminal (920)
<input type="checkbox"/> Municipal (930)
<input type="checkbox"/> Probate Court (940)
<input type="checkbox"/> SCDOT (950)
<input type="checkbox"/> Worker's Comp (960)
<input type="checkbox"/> Zoning Board (970)
<input type="checkbox"/> Public Service Comm. (990)
<input type="checkbox"/> Employment Security Comm (991)
<input type="checkbox"/> Other (999) |
| Special/Complex /Other
<input type="checkbox"/> Environmental (600)
<input type="checkbox"/> Automobile Arb. (610)
<input type="checkbox"/> Medical (620)
<input type="checkbox"/> Other (699) | <input type="checkbox"/> Pharmaceuticals (630)
<input type="checkbox"/> Unfair Trade Practices (640)
<input type="checkbox"/> Out-of State Depositions (650)
<input type="checkbox"/> Motion to Quash Subpoena in an Out-of-County Action (660)
<input type="checkbox"/> Sexual Predator (510) | | |

Submitting Party Signature:

Ashley C. Story

Date: July 28, 2014

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCF, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Civil Action No.: 2014-CP-40-

Kim Murphy ,

Plaintiff,

v.

Richland-Lexington School District 5 Board of
Trustees, Robert Gantt, and Bobby Merle
Bowers, in their individual capacities,

Defendants.

**COMPLAINT
(Jury Trial Demanded)**

RICHLAND COUNTY
2014 JUL 23 PM 1:54
C.C.P. 2014

Plaintiff complaining of the Defendants respectfully alleges as follows:

PARTIES & JURISDICTION

1. Plaintiff, Kim Murphy, is a resident and citizen of Richland County, South Carolina. At all times relevant to this matter, she represented Richland and Lexington Counties on the Defendant Board before she was unlawfully removed by said Defendant.

2. Defendant Richland-Lexington School District 5 Board of Trustees ("Board") is the governing body of Richland-Lexington District Five Schools and is located within Richland and Lexington Counties, South Carolina. The Board is governed by a total of seven Board members, four of which represent Lexington County and three represent Richland County. All Board members are popularly elected.

3. Defendant Robert Gantt (hereinafter "Gantt") served as Chairman and later Vice-Chairman of the Defendant Board at all times relevant to this matter and is a resident and is a citizen of Richland County.

4. Defendant Bobby Merle Bowers (hereinafter “Bowers”) served as the Director of Budget and Control Board’s Office of Research and Statistics at all times relevant to this matter and, upon information and belief, is a citizen of Lexington County.

5. This action arises out of the common and statutory law of South Carolina.

6. The Parties have sufficient connections to Richland County, South Carolina; the events at issue occurred therein, and jurisdiction is proper.

FACTUAL ALLEGATIONS

7. Plaintiff is a member of the Defendant Board and served District Five Schools as an exceptional and diligent Board member since her election in 2010. During her tenure on the Board, Plaintiff was outspoken and fervently represented the citizens of Richland County.

8. Gantt’s aversion to Plaintiff’s presence on the Board was well known prior to the contention concerning her residency and was shared by several other Board members. Plaintiff was knowingly outspoken against a multitude of procurement violations carried out by Gantt and other Board members. Upon information and belief, on several multi-million dollar projects, Gantt would intentionally select a contractor with whom he had an established relationship rather than award the contract to the lowest bid. Additionally, Gantt violated various procurement and Board policies – about which, Plaintiff was forthright and opposed.

9. During her tenure on the Board, Plaintiff was constantly berated and attacked by speakers during the public comment period, one such speaker included a student of the district, whose verbal attack of Plaintiff was recorded and later uploaded to the Internet on a public website, accessible to millions of people. Such speakers were supported and even encouraged by Gantt, other Board members, and those attending the meeting. These attacks far exceeded the threshold of typical or acceptable criticism of public figures. Gantt and other Board members, motivated to

protect their own personal agendas and to silence Plaintiff's outspoken ways, conspired together to allow such attacks to continue, encouraged the same, and would even prevent Plaintiff from speaking and would consistently interrupt her for the same purpose of silencing her.

10. In late October 2012 or sometime prior, Gantt, as Chairman of the Defendant Board, received allegations that the totality of Plaintiff's residence may not be located in Richland County. Gantt did not act immediately, but instead he intentionally waited two entire months before making any inquiries into such allegations and used that time to plot a scheme against Plaintiff with others.

11. In December 2012, two months after hearing 'rumors' regarding Plaintiff's residency, Gantt wrote to his colleague Defendant Bowers of the South Carolina Budget and Control Board, with whom he had an alliance, and requested Bowers to determine whether Plaintiff's status as citizen and resident of Richland County could be called into question for the purpose of ejecting her from the Board altogether on the grounds that she could not represent the Board constituents if she did not live in Richland County.

12. After determining only that Plaintiff's street address is located in Lexington County, Bowers himself or one of his employees visited Plaintiff's 16-acre property and used a simple GPS device to determine at what location the boundary between Lexington and Richland Counties intersects Plaintiff's property. Bowers utterly failed to review or locate the stakes delineating Plaintiff's property, and he failed to complete a thorough geographical survey. Moreover, Bowers failed to establish in what county Plaintiff's residence, not her street address, is located. In fact, to this day, an accurate and true determination of what county Plaintiff *resides* in, has yet to be established.

13. After such a precursory and obviously maliciously perfunctory review, Bowers informed Gantt that he concluded Plaintiff was a citizen of Lexington County. With this information, Gantt had exactly what he believed he needed to finally remove Plaintiff from the Board and silence her completely.

14. Gantt then decided to raise the issue of Plaintiff's residence to the full Board during a regularly scheduled board meeting. Gantt was very aware that the expected media and public attendance at the January 14, 2013, Board meeting would be much higher than average due to the recent controversy surrounding a Chapin High School teacher's actions with the American Flag. Gantt specifically and intentionally, for the purpose of embarrassing and denigrating Plaintiff, chose this highly attended meeting to formally inform the Board of the concerns surrounding Plaintiff's residence via a public statement, which had been planned for months. Before the attending public and the media film crews, Gantt's speech read much like an indictment, concluding with a strong recommendation that Plaintiff 'do the right thing' and resign – thus suggesting to the attending public that any other form of action by Plaintiff would be wrongful, against public interest, and a breach of the trust garnered in Plaintiff by her constituents.

15. Not only did Defendant Gantt utterly fail to notify Plaintiff of said concerns during the three month period prior to announcing the issue to the public, but Gantt also purposely and maliciously denied Plaintiff the opportunity to respond to such allegations following his statement to the attending public and media. When Plaintiff duly and properly asked to respond to the public statement, Gantt ignored her request; rather, Plaintiff was embarrassingly forced to abstain from voting later in the aforementioned meeting to be able to have an opportunity to be heard. Further, Defendant Gantt waited until the day following the January 14th meeting to formally request – via a letter – Plaintiff's response to said allegations.

16. On March 19, 2013, Gantt made a motion to remove Plaintiff from the Board after his public display of animosity towards her in January. Rather than allow Plaintiff to complete her term, truly determine her residency, and require her to campaign for a Lexington County position in the next election, the Board unlawfully voted to remove Plaintiff, effective immediately.

17. As a result of Defendant Board's decision to publicly call into question Plaintiff's residency and fitness to perform the position to which she was elected and the Board's very public removal of Plaintiff, she has been preempted from seeking to be re-elected to her former position. Plaintiff's ability and likelihood of being re-elected to her former position are severely hindered due to the publicity surrounding this issue brought about by the Defendants.

18. Currently, Plaintiff resides in Richland County, and she is still a registered voter of Richland County. Most notably, no special election was ever held to replace Plaintiff on the Board, and since her removal the residents of Richland County have gone without full representation on the Defendant Board.

**FOR A FIRST CAUSE OF ACTION
AGAINST THE DEFENDANT BOARD AND GANTT
(Defamation *Per Se*)**

19. Where not inconsistent herewith, Plaintiff realleges the paragraphs 1-18.

20. The Defendant Board and Gantt have published, orally, in public Board meetings to attendees and through said meeting minutes, in writing, to viewers of such minutes – together and separately – that Plaintiff's residency status is questionable and because her residency is questionable, she is rendered incompetent to perform her duties as an elected Board member and has further harmed the Board and her constituents by occupying her position unlawfully, all of which is untrue and dishonest.

21. Such publications have been made to District 5 students and employees and members of the surrounding community without justification or privilege.

22. Such publications are false and have been maliciously made by the Defendants with knowledge of their falsehood and with reckless disregard for the truth.

23. Such defamation was by actions as well as words when the Plaintiff's removal was brought about by an incomplete and cursory review of the location of Plaintiff's property. Moreover, the vote to remove Plaintiff just months after this initial survey insinuated that Plaintiff was incompetent to fulfill her term and must be removed immediately because she illegally held the position and was guilty of deceiving and harming those that voted her onto the Board.

24. The defamation alleged here is per se in that Plaintiff has been accused of unfitness in her profession as a Board Member with Defendant Board and further accuses Plaintiff of possibly committing a fraudulent crime to seat herself on the Board when she was elected as a Richland County representative.

25. As a direct and proximate result of the defamation alleged herein, the Defendant Board and Gantt have caused and are liable for severe and continuing injury to the Plaintiff's reputation, diminished likelihood of re-election, humiliation, embarrassment, pain and suffering, and other losses. Further, such conduct was reckless, wanton, and made with mean spirit and intent and the Plaintiff is entitled to punitive damages for the same against the Individual Gantt.

**FOR A SECOND CAUSE OF ACTION AGAINST
DEFENDANTS GANTT AND BOWERS
(CIVIL CONSPIRACY)**

26. Where not inconsistent herewith, Plaintiff realleges paragraphs 1-25.

27. Defendants Bowers, Gantt, and others met at various times and places, schemed, conspired, and planned in secret to make a baseless and shammed determination that Plaintiff is not a of Richland County and thus removed her from the Board. Defendant Gantt met with members of the Defendant Board and Bowers at various times and places and planned to prohibit Plaintiff's effective representation of Richland County by consistently interrupting her, refusing to recognize her to speak, and allowing members of the public to verbally berate her, with the ultimate purpose of harming Plaintiff by having her kicked-off the Board to silence her criticism of Gantt's and other Board Members' personal agendas in making decisions for the District.

28. Such a combination of persons acting, planning, and scheming outside the course and scope of their employment duties to promote their personal interests constitutes an unlawful civil conspiracy for which the Defendants are liable.

29. This conspiracy included defamatory and slanderous statements made about the Plaintiff to the Plaintiff, community members, and other Board members, all of which the Defendants knew were false or which they republished to others with reckless disregard for the truth. Defendant Gantt and other Board Members allowed members of the public, some of which were likely pre-arranged with Defendants, to chastise and attack Plaintiff during Board meetings, and in a one sided and unfair manner refused to allow her to respond to false allegations made against her.

30. Further, this conspiracy included Bowers's actions, which resulted in a baseless and inexact determination that Plaintiff resided in Lexington County that provided Gantt and the Board with unlawful cause to remove her.

31. Such a civil conspiracy on the part of the Defendants, acting as set forth herein, caused Plaintiff special damages including pain, suffering, and emotional distress directly tied to

Plaintiff being blacklisted from Defendant Board, ostracized for her outspoken criticisms that were valid, the loss of her position on Defendant Board, and other intangible damages including loss of reputation linked to her ability to run for and be elected to Defendant Board. Plaintiff requests the costs and attorneys' fees associated with this cause of action. Plaintiff is further entitled to an award of punitive damages against these Defendants for their willful, wanton, and grossly negligent conduct.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for an award and judgment against the Defendant Board and Defendant Gantt for Defamation; Plaintiff also prays for an award and judgment against the Defendants Gantt and Bowers for Civil Conspiracy, and all damages caused thereby, as alleged hereinabove, including punitive damages against the same Individual Defendants in an amount to be determined reasonable by a jury of the Plaintiff's peers. Plaintiff further prays for costs and attorneys' fees against the Individual Defendants for the Civil Conspiracy cause of action.

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July 28, 2014
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