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Court of Common Pleas

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By: SUBODH CHANDRA 0069233

Confirmation Nbr. 1073739

DR. JEFFREY GRAHAM

CV 17 880671

vs.

Judge: PAMELA A. BARKER

PARMA CITY SCHOOL DISTRICT SCHOOL BOARD,
ET AL.

Pages Filed: 16

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

Dr. Jeffrey Graham
823 Woodhaven Dr.
Cuyahoga Falls, Ohio 44223

Plaintiff,

vs.

Parma City School District School Board
5311 Longwood Ave.
Parma, OH 44134

President John Tenerowicz (in his official and
personal capacities)
Parma City School District School Board
5311 Longwood Ave.
Parma, OH 44134
7515 Sary St.
Parma, OH 44134

Superintendent Carl H. Hilling (in his official
and personal capacities)
5311 Longwood Ave.
Parma, OH 44134
4422 Ridgewood Dr.
Parma, OH 44134

Karen S. Dendorfer (in her official and
personal capacities)
Parma City School District School Board
5311 Longwood Ave.
Parma, OH 44134
7238 Greenleaf Ave.
Parma, OH 44130

Kathleen A. Petro (in her official and personal
capacities)
1181 E. Sprague Rd.
Seven Hills, OH 44131

Case No.

Judge

Lynn Halloran (in her official and personal capacities)
9462 Ackley Rd.
Parma Heights, OH 44130

Treasurer David Crowley (in his official and personal capacities)
Parma City School District School Board
5311 Longwood Ave.
Parma, OH 44134
7790 Lime Ln.
Parma, OH 44129

Communications Consultant Ray Sposet (in his official and personal capacities)
Parma City School District School Board
5311 Longwood Ave.
Parma, OH 44134
18175 Trailside Pl. Unit 4
Strongsville, OH 44136

Defendants

COMPLAINT WITH JURY DEMAND

NATURE OF ACTION

1. This is a civil action under state law for defamation and use of a false writing.
2. Plaintiff Dr. Jeffrey Graham was the superintendent of Parma City School District (PCSD) from 2010 to 2015, at which time he left on his own volition to become superintendent of Lorain City School District. Before he arrived in Parma, the Ohio Department of Education had recently placed the district in its fiscal-caution program. During his tenure, Dr. Graham helped guide the district to sound financial health and he oversaw a successful consolidation program, which eased the district's financial burden. Under his leadership, the district also

modernized its technology program, developed a cutting-edge STEM program, and finally met its requirements to serve disabled students under the Americans with Disabilities Act.

3. On May 24, 2016, the School Board and Superintendent Carl Hilling, sent a letter to Parma City School District's staff, parents, and community that contained false and defamatory statements about Dr. Grahams' achievements. According to the letter, the signatories felt that it was their "responsibility and obligation to share the following information regarding the state of our school district." The rest of the letter was riddled with defamatory false statements and misleading facts about Dr. Graham and former treasurer Dan Bowman. Kathleen A. Petro, Lynn Halloran, Karen S. Dendorfer, Rosemary C. Gulick, John Tenerowicz, and Carl Hilling signed the letter. Treasurer David Crowley and Communications Consultant Ray Sposet, upon information and belief, actively participated in misleading the public by researching and drafting the letter. Defendants made defamatory statements knowing the statements were false and with reckless disregard for the truth.

4. Defendants' defamatory acts and omissions were a direct and proximate cause of Dr. Graham's damages.

PARTIES

5. Plaintiff Dr. Jeff Graham is a former Superintendent of Parma City School District.

6. Defendant John Tenerowicz is the current president of the Parma City School District School Board. Before he became president in 2016, Tenerowicz served as a member of the school board. He is sued in his official and personal capacity.

7. Defendant Carl Hilling is the current Superintendent of the Parma City School District School Board. He is sued in his official and personal capacity.

8. Defendants Karen S. Dendorfer, Kathleen A. Petro, Lynn Halloran, are all current or former members of the Parma City School District School Board who signed the May 24, 2016

letter. They are sued in their official and personal capacity.

9. Defendants David Crowley and Ray Sposet work for the Parma City School District School Board. Crowley is the current Treasurer, and Sposet is the current Communications Consultant. Upon information and belief, they helped the superintendent and school board draft the May 24, 2016 letter to the Parma community. They are sued in their official and personal capacities.

10. Defendant Parma City School District School Board is a board of education organized under R.C. 3311 and R.C. 3313 located in Cuyahoga County, Ohio. The board employs or formerly employed the defendants listed above.

JURISDICTION AND VENUE

11. This Court has jurisdiction over this controversy, and venue is appropriately lodged here, as all acts and omissions complained of occurred in this County; although Plaintiff Dr. Jeff Graham resides in Summit County, all Defendants are believed to reside in this County or did so reside at the time such acts and omissions occurred.

FACTUAL BACKGROUND

Dr. Jeff Graham's career as Parma City School District's Superintendent

12. In 2010, Dr. Jeff Graham began his service as the superintendent of the Parma City School District. When he arrived in Parma, the District was shambles. The District faced a \$3.7 million deficit for the 2011 school year and voters had rejected a school-funding levy seven times in the years before his arrival. And by late 2010, it was clear that the District had too many buildings for its declining enrollment.

13. Dr. Graham immediately embarked on a program to bring the District back to fiscal health. His first order of business was convincing voters to pass a school levy. After months of campaigning by Dr. Graham and board members, Parma residents passed a 10-year operating

levy for \$6.9 million on May 3, 2011. The levy, however, only funded the District's basic operating expenses, and so Dr. Graham still had to find other means to save money.

14. On April 20, 2011, at 7 p.m., Dr. Graham outlined a cost-saving plan for consolidating the district's buildings for the school board at special meeting session. Dr. Graham recommended that the board consider moving the eighth-grade classes from the middle schools to the high schools, and then use the middle-school buildings to house fifth through seventh grades, and the elementary schools for K-4th grades. By adopting this plan, the district could close four-to-five elementary schools. After further study, the board decided to close four elementary schools: Hanna Elementary School, Lt. Col. John Glenn Elementary School, Pearl Road Elementary School and State Road Elementary School. According to research initiated by Dr. Jeff Graham, closing elementary schools was preferable to closing the high schools, which would have cost more money than it saved.

15. At the December 12, 2011 board meeting, the school board adopted resolution 2011-12-531, which approved Dr. Graham's recommendation to consolidate the school district through redistricting students and closing elementary schools. Sean Nicklos, Karen Dendorfer, and Rosemary Gulick voted for the plan. Kathleen Petro and Leo Palaibis voted against the plan.

16. The consolidation plan's first year of implementation was the 2012-2013 school year; and it resulted in immediate cost-savings for the district. Dr. Graham presented the savings to the board during informal meetings and conversations. And on May 1, 2013, the school board reviewed and approved the "Assumptions for Fiscal Forecast for FY 2013 and projection FY 2014," to be filed with the Ohio Department of Education. Under line "3.010 Personnel Services" of the fiscal assumptions, the document states that consolidation resulted in the district saving \$1,170,491 by eliminating administration and support-staff positions.

17. Dr. Graham shared the consolidation savings with the board again in October 2014, in preparation for fiscal-year 2015. After having had more time to analyze and assess the consolidation program, Dr. Graham and then-Treasurer Dan Bowman found that closing four elementary schools resulted in the district annually saving \$1,864,755. The board approved these numbers on October 20, 2014 and voted to include them with their fiscal assumptions that the board submitted to the Ohio Department of Education.

Dr. Graham implements a three-phase technology plan

18. Having helped steer the district back to financial security, Dr. Graham then turned towards improving the district's digital infrastructure. At the top of his list was retrofitting the district's classrooms with new technology options for students and teachers. Working with Director of Technology, Jane Graber, Dr. Graham set out to revolutionize the students' interaction with technology by making sure that every student could learn on a state-of-the-art device.

19. Dr. Graham and Ms. Graber eventually created a three-phase technology plan: In phase I, the District would retrofit its buildings with up-to-date internet infrastructure. In phase II, each teacher would receive an Apple Macbook and professional-development training, while the District also added a projector and AppleTV to every classroom. And finally, in phase III the District would implement a one-to-one program so that every student could have access to an Apple device from kindergarten to 12th grade.

20. On March 11, 2013, Jane Graber gave a presentation to the board on the District's technology strategy. Ms. Graber stated that in addition to using settlement money from a recent lawsuit, the District needed to identify grant opportunities to fund technology. The first phase of the technology plan was introduced to the board on the same day and included upgrades to the District's wide-area-network services, web-hosting services, WIFI, and the purchase of VOIP

services. The school board—then made up of Petro, Leo Palaibis, Dendorfer, Gulick, and Sean Nicklos—unanimously voted to approve phase I of the plan.

21. When the District prepared to enter into the technology plan's second phase in spring 2013, Dr. Graham began circulating a document demonstrating how the district's general fund, a recent settlement from a lawsuit, and federal grants could fund phase II. Early in 2013, Dr. Graham and Ms. Graber met with the Finance and Business committees to share their technology plan and to modify it based on the committees' input. Importantly, they noted that because the technology was leased from Apple, it should be viewed in the budget as an operating expense, rather than a capital expense.

22. The board approved the technology plan's second phase to purchase Apple products for teachers on June 10, 2013, after finding additional grant funds.

23. In 2014, it was time for the board to approve the third phase of the District's technology plan. At their August 8, 2014 meeting, board members debated the cost of Apple's one-to-one program. Treasurer Dan Bowman gave a presentation on the new Apple lease plan and a representative from Apple sat in the audience, in case board members had any questions. Mr. Bowman outlined that the lease would last for three years, beginning with two separate payments for kindergarten through 7th-grade devices, and then for 8th-grade through 12th-grade devices. Mr. Bowman stated that the devices would be paid for through the remaining \$900,000 of Vory's settlement funds, as well as a \$2.35 million tax-increment funding (TIF) from the Shoppes of Parma development. Despite these funding sources, as board Member Rosemary Gulick insinuated, paying for new technology would require general-fund money. Gulick can be seen in a video recording of the meeting reminding other members that "we are talking about spending \$9 million here, and I believe all of our board members are very responsible."

24. The board voted to approve phase III of the technology plan on August 14, 2014.

Dr. Graham Starts an Innovative STEM Program

25. Before Dr. Graham's tenure as Superintendent, Parma's schools lacked a dedicated STEM program. To help prepare students for careers in STEM, Dr. Graham helped develop an elementary-school program that would be focused on project-based learning in math and sciences. In 2013, the District launched this program at Pleasant Valley Elementary School for students in kindergarten through fifth grade. Parents and students alike raved about the program.

26. As a result, Dr. Graham sought to expand the program so that more students could be included. In February 2014, Dr. Graham gave a presentation to various committees and board members in which he outlined a plan to turn Pleasant Valley elementary school into a full STEM school by adding one grade per year into the program, until the school had both an elementary- and middle-school STEM program. This plan also ensured that students with disabilities, who at that time did not have full access to the program, could also participate in Pleasant Valley's STEM program. This information was shared with each board member including Petro, Halloran, Tenerowicz, Gulick, and Dendorfer. But during an informal conversation, Gulick informed Dr. Graham that the board would not support his plan to expand the district's STEM program.

27. Due to the board's response, Dr. Graham placed his STEM-expansion program on temporary hold.

Before Leaving Parma for Lorain City School District, Dr. Graham Left Parma City School District in Sound Financial Health

28. Before he left for Lorain, Dr. Graham helped ensure that the District was in strong financial shape. In the fall 2013, the District passed a renewal levy. As the board previously discussed in their public meetings, this money would only help the district stay financially solvent

until 2017. Since the 2011 levy passage, Dr. Graham repeatedly stated to board members that the District would be financially secure through 2017, when the District would need to pass a new money levy to pay its bills in 2018. He repeated this assertion in public to the *Sun News* in an interview on August 5, 2013. Dr. Graham and Treasurer Bowman also made sure to warn the board about a revenue shortfall beginning in 2014, when the district would spend more than it received. Dr. Graham and Treasurer Bowman included that prediction in the Fiscal Assumptions approved by the board in May 2013. The prediction states that starting in FY 2014, “the district will be spending more than it receives in revenue” but that “negative number is manageable.”

29. On May 27, 2014, then-Treasurer Dan Bowman gave a presentation where he outlined the precarious situation in which the district would find itself in a few years:

“The forecast—the bottom line—is [that we are] still on target for 2017. We still have a positive balance in 2017, it is not quite where I would like it to be for cash-flow purposes and financial responsibility, but it is there. The forecast does show us obviously needing the renewal that would be on the ballot in 2017, for the next fixed-sum levy that is coming due. And it does show the need for a new money levy to be passed, to help balance 2018.”

30. As Mr. Bowman predicted, the district passed Issue 118, a renewal levy, on November 8, 2016 to help the district’s finances in fiscal-year 2018.

The School Board defames Dr. Graham

31. On May 24, 2016 school-board members Kathleen A. Petro, Lynn Halloran, Karen S. Dendorfer, Rosemary Gulick, John Tenerowicz, and Superintendent Carl Hilling sent a letter to staff, parents, and the community informing them of recent developments in the district. Upon

information and belief, Treasurer David Crowley and Ray Sposet helped draft the letter. Among other allegations, the letter states that:

“Unfortunately, we have found that our former Treasurer and Superintendent never tracked the expenditures and/or savings from the consolidation, as directed. Even though the Board, taxpayers, parents, and staff were told the 8-12 consolidation would save \$11.2 million dollars, at this time, we are not sure what savings occurred, if any, and fear that the consolidation may have cost us money.”

32. But as stated above, Dr. Graham and then-Treasurer Dan Bowman had repeatedly reported to the board how much the district had saved through consolidation. Furthermore, this information was “tracked” and reported in the board’s own approved fiscal assumptions that it sent to the Ohio Department of Education.

33. The letter states that Dr. Graham failed to account for the cost of technology:

“We, and taxpayers were told by our former Superintendent, former Treasurer and former Director of Technology that the revenue from the lawsuit settlement, and from the TIF (tax money from the Shoppes of Parma) paid for the student and staff computer devices. That was only partially true. Although those dollars did help to offset the cost, the district’s general fund has spent \$6,000,000, and we still have a contract with Apple that we must abide by as well as other expenditures to support their use.”

34. But the board was not misled about the source of technology funding, or the fact that the general fund would have to cover parts of payments for Apple devices. The board debated these issues at their August 8, 2014 meeting.

35. The letter states that Dr. Graham failed to plan for the STEM program:

“Our STEM school has become popular with parents and students...Unfortunately, our former Superintendent did not have a set plan for the STEM program.”

36. But as noted above, in 2014, Dr. Graham presented a plan to turn Pleasant Valley Elementary School into a full STEM school and then add other schools to the program. It was the board, however, that stated that it would not support the recommendation.

37. And finally, the letter alleges that Dr. Graham’s actions during his tenure destroyed the district’s finances:

“The lack of consolidation savings, the 1-to-1 technology costs, the over estimating [sic] of revenues and underestimating of expenditures has [sic] had a devastating impact on our district's financial picture.”

38. But as noted above, Dr. Graham helped usher in a period of fiscal responsibility in Parma, which included helping the district pass its first new levy after seven failed attempts.

39. He was also upfront about the challenges that faced the district, stating that on their current trajectory the District by 2017 would need to think about a new revenue source.

40. The Ohio Department of Education (ODE) echoed Dan Bowman’s forecast in a letter to Karen Dendorfer on November 30, 2016, on which Superintendent Carl Hilling and Treasurer David Crowley were cc-ed. In the letter, ODE’s fiscal consultant Bob Foss, stated that on July 21, 2016, the Department requested that the District prepare a proposal to address a deficit beginning in 2017. On October 28, 2016, the district submitted their proposal, which included savings through cuts to personnel and purchased services. After Parma citizens passed a renewal levy in 2016, however, Mr. Foss pointed out that “a deficit is currently not forecasted until FY2019, [and] the district has an opportunity to discuss future plans and determine which

actions will best address those future deficits.” Mr. Foss’s letter tells a different story of the District’s financial health than the board’s May 24, 2016 letter defaming Dr. Graham, and reveals that Defendants knew, and at a minimum had reckless disregard for the truth, regarding the fact that the district was not in a catastrophic financial position.

CLAIM 1

DEFAMATION UNDER OHIO LAW (AGAINST ALL DEFENDANTS, AND AGAINST THE INDIVIDUAL DEFENDANTS IN BOTH THEIR OFFICIAL AND PERSONAL CAPACITIES)

41. Dr. Graham incorporates all previous allegations.

42. Defendants published and distributed the letter about Dr. Graham’s tenure as Parma’s superintendent knowing that the allegations within in it were false or with reckless disregard as to whether the statements in the letter were true.

43. As a direct and proximate result of their defamatory statements, which the school board endorsed and adopted as its own official statement, Dr. Graham has suffered and will continue to suffer damages for which Defendants are liable, including, but not limited to, harm to his reputation, emotional distress, humiliation, embarrassment, and economic opportunities.

44. The individual Defendants intentionally, wantonly, recklessly, and maliciously defamed Dr. Graham, and thus are liable for punitive or exemplary damages.

CLAIM 2

INTIMIDATION (USING MATERIALLY FALSE OR FRAUDULENT WRITINGS TO ATTEMPT TO INFLUENCE PUBLIC SERVANTS) UNDER OHIO REV. CODE § 2921.03(A) AND (C) (AGAINST ALL DEFENDANTS, AND AGAINST THE INDIVIDUAL DEFENDANTS IN THEIR OFFICIAL AND PERSONAL CAPACITIES)

45. Dr. Graham incorporates all previous allegations.

46. Defendants, with malicious purpose, in bad faith, and/or in a wanton or reckless manner, recorded, and/or used a materially false or fraudulent writing, namely, Defendants’ letter dated

May 24, 2016, in an attempt to influence, intimidate, and/or hinder various public servants in the discharge of such persons' duties.

47. Such writings represented an attempt to influence various public servants in the discharge of their duties, including the mayors and members of Parma, Parma Heights, and Seven Hills city councils, the Ohio Department of Education, and other city officials associated with the school board.

48. The May 24, 2016 letter was intended to pin Parma's fiscal deficit onto Dr. Jeff Graham's leadership, even though Dr. Graham and then-Treasure Dan Bowman warned the district about the upcoming need for a new revenue source in 2013.

49. Defendants are guilty of using a materially false writing under R.C. 2921.03.

50. Under R.C. 2921.03(C), Defendants are liable to Dr. Graham for the injury and loss he has suffered as a result of Defendants' bad-faith or reckless preparation and use of materially false or fraudulent writings, as well as for reasonable attorneys' fees, court costs, and other expenses incurred as a result of prosecuting this civil action.

51. Defendants intentionally, wantonly, recklessly, and maliciously violated Ohio Rev. Code § 2921.03, and accordingly are liable to Dr. Graham for punitive or exemplary damages.

CLAIM 3

CIVIL LIABILITY FOR CRIMINAL ACTS UNDER OHIO REV. CODE § 2307.60(A)(1) (AGAINST ALL DEFENDANTS, AND AGAINST THE INDIVIDUAL DEFENDANTS IN THEIR OFFICIAL AND PERSONAL CAPACITIES)

52. Dr. Graham incorporates all previous allegations.

53. As detailed in the claim above, Defendants on one or more occasions committed the offense of Intimidation under R.C. 2921.03.

54. This offense, i.e. Intimidation under Ohio Rev. Code § 2921.03, is a criminal act under the Ohio law.

55. Dr. Graham suffered injuries as a result of Defendants' violations of this criminal statute.

56. Under Ohio Rev. Code § 2307.60(A)(1), Dr. Graham is entitled to recover, in this civil action, full damages caused by Defendants' commission of these criminal offenses, as well as punitive damages and attorneys' fees.

PRAYER FOR RELIEF

For the reasons stated above, Dr. Graham respectfully requests the following relief from the Court:

- A. Declare that Defendants' acts and conduct constitute violations of Ohio defamation law, Ohio Revised Code §§ 2307.60(A)(1), 2921.03, and any other applicable statutory or common law;
- B. Enter judgment in Dr. Graham's favor on all claims for relief;
- C. Award full compensatory damages including, but not limited to, damages for loss of reputation, including but not limited to, contempt, ridicule, and public hatred; emotional distress, humiliation, embarrassment, and inconvenience that Dr. Graham has suffered and is reasonably certain to suffer in the future;
- D. Award punitive and exemplary damages for the individual Defendants' egregious, willful, and malicious conduct;
- E. Award pre- and post-judgment interest at the highest lawful rate;
- F. Award Dr. Graham his reasonable attorneys' fees (including expert fees) and all other costs of suit;
- G. Award all other relief in law or equity, including injunctive relief, to which Dr. Graham is entitled and that the Court deems equitable, just, or proper.

JURY DEMAND

Dr. Graham demands a trial by jury on all issues within this Complaint.

Respectfully submitted,

/s/ Subodh Chandra

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REQUEST FOR SERVICE

TO THE CLERK:

Please issue the Summons and Complaint and serve the Complaint by certified mail to Defendants listed in the Complaint's caption, making return according to law.

/s/ Subodh Chandra

One of the Attorneys for Plaintiff Dr. Jeffrey Graham