

civil conspiracy designed to cause her to resign or be removed from her position on the School Board. She also alleges that Mr. Gantt and the Board of Trustees of School District 5 defamed her, by publishing that she was a resident of Lexington County, rather than Richland County from where she was elected. She further argues in her brief and during the motion hearing that Mr. Gantt and the Board acted in such a way as to create an innuendo or inference that she was engaging in misconduct or an illegal act or that she had been aware that she did not live in Richland County, but had acted deceptively to seek and obtain a Richland County seat on the School Board. Mrs. Murphy sought this seat on the School Board on two occasions.

During late 2012, the South Carolina Office of Research and Statistics (the "Office") discovered in a routine examination that Mrs. Murphy lived in Lexington County rather than Richland County, which was the seat to which she had been elected. Mr. Bowers was the Director of the Office at that time. The Office notified Mr. Gantt of this concern. Mr. Gantt consulted counsel for the School District. Under the guidance of the School District's attorneys, a request was made with the Office for a formal determination of Mrs. Murphy's residency. The Office formally determined that Mrs. Murphy lived in Lexington County. Mr. Gantt again sought the advice of counsel for the District, who created a process designed to fully afford Mrs. Murphy due process on the issue. This resulted in two separate proceedings where Mrs. Murphy and her attorneys had the opportunity to appear and present whatever evidence she had supporting the fact that she resided in Richland County and challenging and refuting the methods and finding of the Office. The first proceeding was a hearing before the Hon. Thomas Cooper, serving as a special referee. Judge Cooper heard the issues and issued a report and recommendation to the Board. His findings were that Mrs. Murphy lived in Lexington County and was legally ineligible to serve on the Board as an elected representative of Richland County.

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After his report and recommendation, a second hearing took place before the Board. Again, Mrs. Murphy was provided an opportunity to present evidence in opposition to the findings of the Office and its methods of making those findings. At the conclusion of this process, the Board found that Mrs. Murphy lived in Lexington County and was, therefore, ineligible to serve on the School Board as a Richland County representative. She was removed from the School Board as her residence disqualified her from holding a Richland County seat. She appealed the Board's decision to the Circuit Court, which affirmed the decision of the School Board. She later sought reconsideration from the Circuit Court which upheld its earlier decision. Her counsel informed the Court that they have filed a notice of appeal of the Circuit Court's findings.

After the Circuit Court upheld the School Board's decision, Mrs. Murphy filed this suit which alleges, *inter alia*, causes of action against Bobby Bowers and Robert Gantt for civil conspiracy and causes of action against Robert Gantt and the School Board for defamation. Mrs. Murphy alleges that Mr. Gantt and Mr. Bowers, who she admits were both acting in their official capacities, somehow engaged in a conspiracy to harm her by having her removed from the School Board. Mrs. Murphy also alleges that Mr. Gantt and the School Board defamed her by questioning her qualifications to serve on the School Board based upon the fact that she did not reside in the county from which she was elected.

Defendant Bowers moved to dismiss the case for failure to state a claim. All three defendants moved for summary judgment on multiple grounds alleging, *inter alia*, that there were no material questions of fact in dispute from which Mrs. Murphy could have a valid cause of action against any of them.

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II. STANDARD FOR SUMMARY JUDGMENT

Summary judgment is appropriate when there is no genuine issue of material fact such that the moving party is entitled to prevail as a matter of law. Rule 56(c), SCRPC; *Fleming v. Rose*, 350 S.C. 488, 493, 567 S.E.2d 857, 860 (2002). "In determining whether any triable issues of fact exist, the court must view the evidence and all reasonable inferences that may be drawn from the evidence in the light most favorable to the non-moving party." *David v. McLeod Reg'l Med. Ctr.*, 367 S.C. 242, 247, 626 S.E.2d 1, 3 (2006). The purpose of summary judgment is to "expedite the disposition of cases which do not require the services of a fact finder." *Dawkins v. Fields*, 354 S.C. 58, 69, 580 S.E.2d 433, 438 (2003). When plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted. *Pye v. Aycock*, 325 S.C. 426, 480 S.E.2d 455 (Ct. App. 1997).

The party seeking summary judgment has the initial responsibility of demonstrating the absence of a genuine issue of material fact. With respect to an issue upon which the non-moving party bears the burden of proof, as in this case, this initial responsibility "may be discharged by 'showing' - that is, pointing out to the district court - that there is an absence of evidence to support the nonmoving party's case." *Celotex Corporation v. Catrett*, 477 U.S. 317, 325, 106 S.Ct. 2548, 2554, 91 L.Ed.2d 265, 275 (1986). The moving party need not support its motion with affidavits or other similar materials negating the opponent's claim.

Once the moving party carries its initial burden, the opposing party must, under Rule 56(e), "do more than simply show that there is some metaphysical doubt as to the material facts" but "must come forward with 'specific facts showing that there is a genuine issue for trial.'" *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-87, 106 S.Ct. 1348, 1356, 89 L.Ed.2d 538, 552 (1986) (emphasis in original). The opposing party must "go beyond the

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pleadings and by . . . affidavits, or by the 'depositions, answers to interrogatories, and admissions on file,' designate 'specific facts showing that there is a genuine issue for trial.'" *Celotex*, 477 U.S. at 324, 106 S.Ct. at 2553.

[T]he plain language of Rule 56(c) mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial. *Celotex*, 477 U.S. at 322, 106 S.Ct. at 2552, 91 L.Ed.2d at 273.

Accordingly, once Defendant shows the absence of proof on an essential fact of Plaintiff's case, Plaintiff has the burden of presenting evidence of that fact to the Court. If Plaintiff fails to present any competent, admissible evidence that will prove that fact, Defendant is entitled to summary judgment.

III. DISCUSSION

A. Mr. Bowers' Motions to Dismiss and for Summary Judgment

The Plaintiff's claim against Defendant Bobby Bowers is her second cause of action sounding in civil conspiracy. *See* Complaint, pp. 6-8, ¶¶26-31.

A civil conspiracy is a combination of two or more persons joining for the purpose of injuring and causing special damage to the plaintiff. *McMillan v. Oconee Mem'l Hosp., Inc.*, 367 S.C. 559, 564, 626 S.E.2d 884, 886 (2006). Civil conspiracy consists of three elements: 1) a combination of two or more persons, 2) for the purpose of injuring the Plaintiff, 3) which causes the Plaintiff special damage. *Vaught v. Waites*, 300 S.C. 201, 208, 387 S.E.2d 91, 95 (Ct. App. 1989). *Cf.*, *Hackworth v. Greywood at Hammett, LLC*, 385 S.C. 110, 117, 682 S.E.2d 871, 875

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(Ct. App. 2009) (If a Plaintiff merely repeats the damages from another claim instead of specifically listing special damages as part of their civil conspiracy claim, their conspiracy claim should be dismissed). It is essential that a plaintiff prove all of these elements in order to recover. *Lyon v. Sinclair Refining Co.*, 189 S.C. 136, 200 S.E. 78 (1938). "[I]n order to establish a conspiracy, evidence, direct or circumstantial, must be produced from which a party may reasonably infer the joint assent of the minds of two or more parties to the prosecution of the unlawful enterprise." *Island Car Wash, Inc. v. Norris*, 292 S.C. 595, 601, 358 S.E.2d 150, 153 (Ct. App. 1987); accord. *Cowburn v Leventis*, 366 S.C. 20, 49, 619 S.E.2d 437, 453 (Ct. App. 2005).

Defendant Bowers initially argues that Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action against him upon which relief can be granted, relying upon SCRCF Rule 12(b)(6) and S.C. Code Ann. §15-78-70 of the South Carolina Tort Claims Act, asserting that Bowers should not be named individually as a Defendant unless the Plaintiff alleged that Bowers acted outside his official duties, with actual fraud, actual malice, intent to harm, or a crime of moral turpitude, which are the five exceptions set forth in §15-78-70. However, Bowers conceded at oral argument that the requisite elements for civil conspiracy include an intent to harm; and since the sole cause of action against Bowers includes an allegation meeting one of the five exceptions, Defendant's argument for 12(b)(6) dismissal fails.

Bowers further argues that, for summary judgment purposes, there is no genuine issue of material fact. At all times relevant to the matters alleged in the Complaint, Bowers acted within the course and scope of his official duties as Director of Mapping Services for the South Carolina Revenue and Financial Affairs Office, in good faith and without conduct constituting actual fraud, actual malice, intent to harm, or a crime of moral turpitude. Bowers had no specific intent

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or purpose to injure the Plaintiff, and the Plaintiff has no evidence establishing the requisite elements of her civil conspiracy claim against Bowers.

Having considered the material submitted by Plaintiff in opposition to Bowers' Motion for Summary Judgment, I find and conclude that there is no genuine issue of material fact but that Bowers had no prior relationship or alliance with Defendant Robert Gantt for purposes of conspiring against Plaintiff, and that there is no evidence of prior conflict or animus between Bowers and Plaintiff that could reasonably be interpreted as leading to an intent to harm Plaintiff. I further find and conclude that there is no evidence that Plaintiff has suffered special damages which she attributes to a civil conspiracy, which is a requisite element of the cause of action. Finally, I further find and conclude from the un-contradicted deposition testimony of Will Roberts and Alan-Jon Zupan, both of whom worked for Bowers' agency and actually did the work resulting in the finding that Plaintiff resided in Lexington County, which finding was only published by Bowers as the Director of the agency, that Roberts and Zupan did their work correctly, with no one instructing them to do anything in the process improperly or with a particular end result in mind.

I, therefore, find and conclude that Defendant Bobby Bowers' Motion for Summary Judgment should be granted, and Plaintiff's claim against him dismissed with prejudice.

B. Mr. Gantt's Motion for Summary Judgment

Plaintiff's claims against Defendant Robert Gantt are included in her first cause of action for defamation, *see* Complaint, pp. 5-6, ¶¶19-25, and her second cause of action alleging civil conspiracy involving Robert Gantt and Bobby Bowers, *see* Complaint, pp. 6-8, ¶¶26-31.

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i. Plaintiff's Claim for Civil Conspiracy against Robert Gantt

Mr. Gantt moves for summary judgment on multiple grounds, including that Plaintiff is unable to adduce evidence sufficient to create a genuine issue of material fact such that a trier of fact might conclude that he was engaged in a civil conspiracy with Mr. Bowers as a matter of law and that the Plaintiff has no evidence establishing the requisite elements of her civil conspiracy claim against Gantt. Gantt further argues that each of his activities in this case was undertaken solely in his capacity as the School Board Chairman and that he cannot be liable as a result of the fact that he was acting in his official capacity. He points out that Plaintiff has been unable to identify any action on his part that was done outside his role as School Board Chairman.

The elements of civil conspiracy and discussion, *supra*, in relation to Bowers' motion are equally applicable as it relates to Mr. Gantt. Moreover, it is significant that neither Mrs. Murphy, nor any other witness, has offered any evidence whatsoever that Mr. Gantt and Mr. Bowers engaged in any conduct except for the proper exercise of their legitimate public positions in the handling of the determination of the location of her residence. Moreover, their own uncontradicted testimonies clearly indicate that they had no relationship, no mutual desire or even any reason to act jointly to cause her harm.

Having considered the material submitted by Plaintiff in opposition to Gantt's Motion for Summary Judgment on Plaintiff's civil conspiracy claims against him, I find and conclude that there is no genuine issue of material fact that Gantt had a prior relationship or alliance with Defendant Bobby Merle Bowers for purposes of conspiring against Plaintiff. I also find that Plaintiff cannot proffer any evidence of any combination between Mr. Gantt and Mr. Bowers for the purpose of injuring her. She has

failed to produce any evidence that there was communication between them other than a single telephone conversation, a meeting where they were present with counsel for the School District and members of Mr. Bowers' staff, and the official letter asking for a determination and the determination letter. There is nothing in these interactions from which a fact finder, as a matter of law, could even circumstantially conclude that they engaged in an alliance or combination for the purpose of causing injury to Plaintiff. Likewise, there is no evidence that Bowers and Gantt acted in any way with an animus or intent to harm Plaintiff or that Plaintiff has suffered special damages which she attributes to a civil conspiracy, all being the requisite elements of the cause of action.

Thus, she is unable to offer anything that creates even a circumstantial inference necessary to survive summary judgment as to any element of her cause of action for civil conspiracy against Mr. Gantt. I, therefore, find and conclude that Defendant Robert Gantt's Motion for Summary Judgment on Plaintiff's civil conspiracy cause of action should be granted, and Plaintiff's claim against him dismissed with prejudice.

ii. Plaintiff's Claim for Defamation against Robert Gantt

Mr. Gantt moves for summary judgment on multiple grounds, including that there is no material question of fact from which a trier of fact could conclude as a matter of law that Gantt made a false statement about Plaintiff with the knowledge of its falsity or with reckless disregard for its truth. He further asserts that his statements were made in his capacity as School Board Chairman and that, as such, they were subject to a qualified privilege.

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1. Plaintiff is unable to establish that Robert Gantt had actual Constitutional Malice in regard to any statement that he made as a matter of law.

The parties agree that Plaintiff is a public official. A public official is one who has a governmental role and whose "position in government has such apparent importance that the public has an independent interest in the qualifications and performance of the person who holds it." *Rosenblatt v. Baer*, 383 U.S. 75, 86, 86 S.Ct. 669, 15 L.Ed.2d 597 (1966). Such interest must go "beyond the general public interest in the qualifications and performance of all government employees." *Id.* "An individual who decides to seek governmental office must accept certain necessary consequences of that involvement in public affairs. He runs the risk of closer public scrutiny than might otherwise be the case." *Gertz v. Robert Welch, Inc.*, 418 U.S. 322, 344, 94 S.Ct. 2997, 3009, 41 L.Ed.2d 789, 808 (1974). For a public official, "society's interest . . . is not strictly limited to the formal discharge of official duties," but "extends to 'anything which might touch on an official's fitness for office.'" *Id.* at 344-45 (quoting *Garrison v. Louisiana*, 379 U.S. 64, 77, 85 S. Ct. 209, 13 L. Ed. 2d 125 (1964)). Here, whether or not Plaintiff is legally qualified to serve the citizens of Richland County if she lives in Lexington County fundamentally touches on her fitness for office. It is a matter of significant concern and statements about her residence and the qualifications emanating therefrom enjoy the highest level of constitutional protection.

Because she is a public official, Plaintiff has the burden to "prove by clear and convincing evidence" the Defendant made the statement with actual malice, which means "with the knowledge of its falsity or with reckless disregard for its truth." *Elder v. Gaffney Ledger*, 341 S.C. 108, 114, 533 S.E.2d 899, 902 (S.C. 2000) (citing *New York Times Co. v. Sullivan*, 376 U.S. 254, 279-80, 84 S.Ct. 710, 726, 11 L.Ed.2d 686, 706 (1964)). The courts have held not only that: A "reckless disregard: for the truth . . . requires more than a departure from reasonably prudent

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conduct. There must be sufficient evidence to permit the conclusion that the defendant in fact entertained serious doubts as to the truth of his publication.” *St. Amant v. Thompson*, 390 U.S. 727, 731, 88 S.Ct. 1323, 1325, 20 L.Ed.2d 262, 267 (1968). There must be evidence the defendant had a “high degree of awareness . . . of probable falsity.” *Garrison v. Louisiana*, 379 U.S. 64, 74 85 S.Ct. 209, 216, 13 L.Ed.2d 125, 133 (1964).

Our State Supreme Court has further held that “Whether the evidence is sufficient to support a finding of actual malice is a question of law.” *Elder, supra* at 341 S.C. at 113, 533 S.E.2d at 901-902.

So, unlike a traditional libel or slander case where the defendant has the burden of proving the truth of the matter asserted, here, the Plaintiff has the burden of proving not only that the statements about which she complains were false, but that Mr. Gantt doubted the truth of his words or had a high degree of awareness that his statements were false. She must meet this burden of proof not by a mere preponderance of the evidence, but, rather, by clear and convincing evidence.

A person makes a defamatory statement if the statement tends to harm the reputation of another as to lower him in the estimation of the community or deter third persons from associating or dealing with him. *Fountain v. First Reliance Bank*, 398 S.C. 434, 730 S.E.2d 305 (S.C. 2012) (quoting *Fleming v. Rose*, 350 S.C. 488, 567 S.E.2d 857, 860 (S.C. 2002)). The tort of defamation, therefore, permits a plaintiff to recover for injury to his or her reputation as the result of the defendant's communications to others of a false message about the plaintiff. *Erickson v. Jones St. Publishers, L.L.C.*, 368 S.C. 444, 629 S.E.2d 653, 664 (2006). A plaintiff must prove the following four elements to state a claim for defamation: (1) a false and defamatory statement was made; (2) the unprivileged publication was made to a third party; (3)

the publisher was at fault; and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication. *Id.*, 629 S.E.2d at 664.

Mrs. Murphy is unable, as a matter of law, to sustain her burden of proof as it relates to Mr. Gantt. She cannot point to a false statement, an unprivileged utterance or any words that Mr. Gantt made that might tend to lower her in the estimation of the community. Furthermore, it is evident that any statements made by Mr. Gantt regarding Mrs. Murphy's residency were made with reliance on the findings of the Office within the State of South Carolina charged with making such determinations. With that reliance, it is impossible as a matter of law for Plaintiff to meet a burden of demonstrating that Mr. Gantt doubted the truth of his words or had a high degree of awareness that his statements were false. The efficacy of Mr. Gantt's conclusions has been bolstered by the fact that the Circuit Court for this Judicial Circuit has found that Mrs. Murphy resides in Lexington County. To survive this Motion for Summary Judgment, Plaintiff must point to evidence in the record from which the Court might infer that she is able to establish this set of facts. A review of the materials submitted by Plaintiff and the arguments of her counsel reveals that she is unable to meet this burden. Plaintiff cannot, as a matter of law, establish constitutional malice in this case. Mr. Gantt is entitled to summary judgment on her claim on that basis alone.

2. Plaintiff is unable to establish that Robert Gantt made any statement from which a finder of fact could determine that she might recover for defamation per se.

Plaintiff argues that words in statements made by Gantt to the effect that "he hoped she would do the right thing and resign" are somehow defamation *per se* also fail as a matter of law. Slander, which is involved here, "is actionable *per se* when the defendant's alleged defamatory statements charge the plaintiff with one of five types of acts or characteristics: (1) commission of

a crime of moral turpitude; (2) contraction of a loathsome disease; (3) adultery; (4) unchastity; or (5) unfitness in one's business or profession." *Goodwin v. Kennedy*, 347 S.C. 30, 552 S.E.2d 319, 322-23 (S.C. App. 2001). Mrs. Murphy's contentions in this realm somehow center around her desire to equate a statement reflecting that she is not qualified to serve on the School Board based upon her residency, with some criticism of the idea that she is, therefore, unfit in her business or profession. However, when asked specifically, "Has any board member (which includes Gantt) ever accused you of being unfit in your profession, in conjunction with this – this residency issue," she responded: "I can't recall at this time." She is, likewise, unable to point to any other statement that even hints, to a reasonable person, that she has been the victim of words that might constitute *per se* defamation.

A review of the materials submitted by Plaintiff and the arguments of her counsel relating to her claim of *per se* defamation reveals that she is unable, as a matter of law, to demonstrate a statement attributable to Robert Gantt which would provide evidence that she has a basis to recover against him for defamation *per se*. Mr. Gantt is, likewise, entitled to summary judgment on her claim on that basis alone.

3. Robert Gantt's statements as board chair are privileged.

A communication made in good faith on any subject matter in which the person communicating has an interest or duty is qualifiedly privileged if made to a person with a corresponding interest or duty even though it contains matter which, without this privilege, would be actionable. *Constant v. Spartanburg Steel Prods., Inc.*, 316 S.C. 86, 447 S.E.2d 194 (1994); *Prentiss v. Nationwide Mut. Ins. Co.*, 256 S.C. 141, 181 S.E.2d 325 (1971). Communications between officers and employees of a corporation are qualifiedly privileged if made in good faith and in the usual course of business. *Conwell v. Spur Oil Co.*, 240 S.C. 170,

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125 S.E.2d 270 (1962). The communications about which Plaintiff complains all occurred during a Board meeting and in Mr. Gantt's acting as Chair to conduct the Board's business. His correspondence about this matter and his statements to the public were prepared by the District's lawyers. He made them believing not only in their factual accuracy, but also having been assured that they were apropos to complete the business of the Board.

Moreover, Plaintiff is unable to demonstrate any statement made which goes beyond what a reasonable school board chair, in a similar situation, acting under the advice of counsel should publish. There is no evidence of defamation or unnecessary defamation of Plaintiff to overcome the qualified privilege attached to these communications. There is no evidence that Mr. Gantt "wandered beyond the scope of the occasion." See, e.g. *Woodward v. South Carolina Farm Bureau Ins. Co.*, 277 S.C. 29, 282 S.E.2d 599 (1981).

Mrs. Murphy has been unable to point to any statement made by Mr. Gantt outside of the purview of a School Board meeting or his duties as Chairman of the School Board. There is no fact, allegation or evidence that Mr. Gantt published any statement except in his capacity as Chair of the School Board. In essence, any statement that he published is, therefore, a statement of the Board and his statements were made in light not only of the necessary fact that as Chair he had a duty to communicate with the Board, but also in light of the fact that the Board must conduct its business in public.

A review of the materials submitted by Plaintiff and the arguments of her counsel relating to Mr. Gantt's assertion of a qualified privilege reveals that she is unable, as a matter of law, to demonstrate a statement attributable to Robert Gantt which would ordinarily be actionable, much less when considered in light of his qualified privilege. Mr. Gantt is entitled to summary judgment on her claim on that basis, as well.

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I, therefore, find and conclude that Defendant Robert Gantt's Motion for Summary Judgment on Plaintiff's defamation claim should be granted, and Plaintiff's claim against him dismissed with prejudice.

Having found that Robert Gantt is entitled to Summary Judgment on each of Plaintiff's claims against him, all of Plaintiff's claims against him should be dismissed with prejudice.

C. School Board's Motion for Summary Judgment

Plaintiff's sole claim against the Richland Lexington School District 5 Board of Trustees is for defamation, see Complaint, pp. 5-6, ¶¶19-25.

The Board moves for summary judgment on grounds similar to Defendant Gantt. The Board contends that the Plaintiff has failed to prove the utterance or publication of a defamatory statement or innuendo, has failed to offer evidence of the falsity of any statement made and has failed to offer evidence of defamation *per se*. The Board's motion as to those matters is granted for the reasons stated above.

The Board also moves for summary judgment on the additional ground that it is immune from suit in an action alleging actual malice. The Board contends that it cannot be sued for defamation by Plaintiff because as a public figure, Plaintiff must prove actual malice, and the Board is immune from suit in an action asserting actual malice. The Court agrees and grants summary judgment to the Board.

As discussed above, Plaintiff Murphy must allege and prove constitutional actual malice in order to bring a defamation action. Whether the evidence supports a finding of actual malice is a question of law for the court. *Elder, supra* at 533 S.E.2d 901-902.

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Actions against governmental entities such as the Board are governed by the South Carolina Tort Claims Act. Under the SCTCA, a governmental entity is immune from suit for actions involving actual malice:

The governmental entity is not liable for a loss resulting from:

(17) employee conduct outside the scope of his official duties or which constitutes actual fraud, **actual malice**, intent to harm, or a crime involving moral turpitude;

South Carolina Code Ann. § 15-78-60(17) (emphasis added).

A governmental entity is immune from suit for defamation by a public figure when actual malice is an element of the cause of action. Therefore, I grant the Board's motion for summary judgment on this additional ground as well.

The Board also contends that in the event that the Plaintiff intended to claim defamation for the Board's act of removing her from her seat, the Board is entitled to quasi judicial immunity. The Board argues that the Plaintiff cannot appeal the Board's decision and then also sue the Board for making that decision. The TCA also provides that:

The governmental entity is not liable for a loss resulting from:

(1) legislative, judicial, or quasi-judicial action or inaction;

South Carolina Code Ann. § 15-78-60(1) (emphasis added).

It is well settled that School Boards act in a quasi-judicial capacity when holding hearings. *Laws v. Richland County School Dist. No.1*, 270 S.C. 492, 243 S.E.2d 192 (1978); *Calhoun v. Marlboro County School Dist.*, 2004 WL 6334910. Here, the Board referred the matter to a Special Referee for an evidentiary hearing and he issued a report and recommendation. The Board then held a hearing and made and exercised discretion in making a

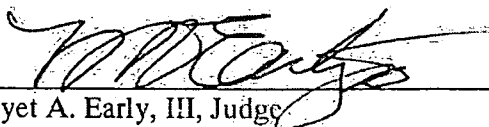
determination based upon that report and recommendation and other evidence offered before the Board. Plaintiff Murphy was invited to participate at both proceedings.

Following the Board's decision, Plaintiff Murphy availed herself of the appellate remedy. She appealed the finding to the circuit court, which affirmed her removal. She has since appealed the circuit court order to the appellate courts. I find that the Board was acting in a quasi-judicial capacity, exercising reason and discretion in the adaptation of a means to an end and therefore the Board is entitled to quasi-judicial immunity for the act of determining that the Plaintiff was a resident of Lexington County and removing her from her seat on the Board. Therefore, summary judgment is granted to the Board with regard to its action of removing the Plaintiff from the Board.

D. CONCLUSION

For the foregoing reasons, the Court grants each of the Defendants' Motions for Summary Judgment. Accordingly, Plaintiff's Complaint is dismissed in its entirety with prejudice.

IT IS SO ORDERED.



Doyet A. Early, III, Judge
Court of Common Pleas
for the Fifth Judicial Circuit

Bamberg, South Carolina

March 8, 2016
April

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STATE OF SOUTH CAROLINA
 COUNTY OF RICHLAND
 IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2014 CP-40-004666

RECEIVED

Kim Murphy

Richland Lexington School District 5 Board
 of

JUN 06 2016

Trustees, Bobby Merle Bowe and Robert
 Gantt

SC Court of Appeals

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or
	<input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRCP; Rule 41(a), SCRCP (Vol. Nonsuit); Rule 43(k), SCRCP (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRCP; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):** Affirmed; Reversed; Remanded; Other

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NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: The Court GRANTS each of the Defendant's Motions for Summary Judgment. Plaintiff's Complaint is dismissed in its entirety with prejudice.

ORDER INFORMATION

This order ends does not end the case.
 Additional Information for the Clerk :

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APR 20 2016

J. LEWIS CROMER & ASSOCIATES, L.L.C.

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

SCRCP Form 4C (03/2013)

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Judge Code

Date

