

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) FIFTH JUDICIAL CIRCUIT

CHRISTOPHER PARKER; GERE B.) C.A. No.: 2022-CP-40-_____
FULTON; IAN WHATLEY; and)
MICHAEL BROWN,)

Plaintiffs,)

vs.)

SUMMONS

HENRY McMASTER, in His Capacity as)
Governor of the State of South Carolina;)
RICHARD ECKSTROM, in His Capacity)
as Comptroller General for the State of)
South Carolina; CURTIS M. LOFTIS)
JR., in His Capacity as Treasurer for the)
State of South Carolina; and MOLLY)
SPEARMAN, in Her Capacity as)
Superintendent of Education for the State of)
South Carolina,)

Defendants.)

TO THE DEFENDANTS ABOVE-NAMED:

You are hereby summoned and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to said Complaint to the undersigned counsel at his office, 16 Wellington Avenue, Greenville, SC 29609, within sixty (60) days after service hereof, exclusive of the day of such service. If you fail to answer the Complaint within the time aforesaid, Plaintiffs will apply to the Court for the relief demanded therein, and judgment by default may be rendered against you for the relief demanded in the Complaint.

Respectfully submitted,

s/ Steven Edward Buckingham

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* Application for *pro hac vice* admission
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September 20, 2022
Greenville, South Carolina

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CHRISTOPHER PARKER; GERE B.) C.A. No.: 2022-CP-40-_____
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COMPLAINT

HENRY McMASTER, in His Capacity as)
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RICHARD ECKSTROM, in His Capacity)
as Comptroller General for the State of)
South Carolina; **CURTIS M. LOFTIS)**
JR., in His Capacity as Treasurer for the)
State of South Carolina; and **MOLLY)**
SPEARMAN, in Her Capacity as)
Superintendent of Education for the State of)
South Carolina,)

Defendants.)

COME NOW the above-identified Plaintiffs, each citizens and taxpayers of the State of South Carolina, and, complaining of the Defendants, would respectfully show unto this Honorable Court as follows:

INTRODUCTION

1. The South Carolina Constitution prohibits public funds to be used to directly benefit any private educational institution. S.C. Const. Art. XI, § 4. Additionally, the South Carolina Constitution contains an Establishment Clause that mirrors the First Amendment of the United States Constitution, which prohibits the General Assembly from making any “law respecting an establishment of religion.” S.C. Const. Art. I, § 2.

2. The South Carolina budget for 2022–23 includes an appropriation for \$1.5 million to Christian Learning Centers of Greenville County. This appropriation directly contravenes the

South Carolina Constitution and, for this reason, is a matter of public interest requiring a temporary restraining order and an injunction to prevent authorization and disbursement, and to allow a hearing on the merits for a declaratory judgment.

JURISDICTION & VENUE

3. This action arises under South Carolina law, specifically, the South Carolina Constitution, Article XI, § 4, and Article I, § 2.

4. This Court, the Richland County Court of Common Pleas, has jurisdiction as a court of record pursuant to S.C. Code § 15-53-20 *et seq.* and pursuant to S.C. Code § 15-77-50 for an action affecting State officials.

5. Venue is appropriate with this Court as a court of record pursuant to S.C. Code § 15-53-20 *et seq.* and pursuant to S.C. Code § 15-77-50 for an action affecting State officials.

PARTIES

6. Plaintiff Christopher Parker is a South Carolina taxpayer and a Greenville County resident.

7. Plaintiff Gere B. Fulton is a South Carolina taxpayer and a Richland County resident.

8. Plaintiff Ian Whatley is a South Carolina taxpayer and a Greenville County resident.

9. Plaintiff Michael Brown is a South Carolina taxpayer and Richland County resident.

10. Defendant Henry McMaster is Governor of the State of South Carolina.

11. The Governor is the “supreme executive authority” of the State. S.C. Const, Art. IV, § 1. He “shall take care that the laws be faithfully executed.” *Id.*, § 15.

12. Governor McMaster signed the 2022–23 appropriations bill into law.

13. Defendant Richard Eckstrom is Comptroller General for the State of South Carolina.

14. As Comptroller General, and per the website for his office (cg.sc.gov), Mr. Eckstrom is the State's "chief fiscal watchdog," and "supervises state spending." He "examines all payments to ensure they are properly authorized" and then "issues a warrant for each payment to authorize the State Treasurer to release the funds."

15. Per statute, S.C. Code § 11-3-170, after the approval of the annual budget, "monies may be obtained from the State Treasury only by drawing vouchers upon the Comptroller General."

16. Defendant Curtis M. Loftis, Jr. is Treasurer for the State of South Carolina.

17. Per statute, S.C. Code § 11-5-130: Payment of appropriations to state institutions, the Comptroller General issues a warrant to the State Treasurer for the amount budgeted to the institution "and the State Treasurer shall pay the warrant."

18. Defendant Molly Spearman is Superintendent of Education for the State of South Carolina.

19. One duty of the Superintendent of Education is "general supervision over and management of all public school funds." S.C. Code § 59-3-30.

20. Additionally, per statute, S.C. Code § 11-11-160, transfers of appropriations may be approved "by the agency as provided in the annual general appropriations act" so appropriations listed under the Department of Education may be approved by the Superintendent of Education.

FACTS

A. Christian Learning Centers of Greenville County is a private religious educational institution.

21. Christian Learning Centers of Greenville County (“CLC”) is an educational institution that seeks to provide a Christian education to children.

22. CLC is a nonprofit corporation with its registered agent located at 410B Pelham Road, Greenville, South Carolina, 29615.

23. CLC’s Form 990, an annual informational tax form required of certain tax-exempt organizations, for at least the years 2013–2020, declared the organization’s mission: “To provide biblical instruction for public school children at no cost.”

24. On older Form 990s, CLC declared that its primary exempt purpose was “religious education.”

25. CLC’s website (clcofgreenville.org) reiterates this mission by declaring it “exists to provide biblical instruction to school-aged children.”

26. CLC has been providing released-time bible instruction for 25 years to public schools in Greenville County.

27. CLC’s “faculty” is a “group of Christ-centered educators who have a passion for teaching and sharing God’s Word with our youth.”

28. CLC students are encouraged to “[s]pread the news” to others to “ELECT JESUS.”

29. CLC offers “accredited Bible courses” for which high school students can earn school credit with a “transcript” of the coursework.

30. The “curriculum [is] focused on basic Biblical truth.”

31. One offered course is titled “Christianity vs. Cults and Religions.”

32. CLC's "Envision 2020" was a campaign with a goal to provide "Released-Time Christian Education for *every* middle school and *every* high school in Greenville County by the year 2020." (italics in original)

33. CLC plans to build a residential school in Greenville County.

34. CLC CEO Janice Butler sent a proposal for building the "state-of-the-art residential school" to Defendant Governor Henry McMaster in May 2022.

35. CLC posted a press release, dated August 22, 2022, on its website and, on August 23, 2022, on its official Facebook page after the State's final budget included the provision to CLC for "seed funding for a residential school."

36. Also in the press release, CLC's Chairman of the Board discussed the grant for the "school project" and the funding "to get the school established."

B. The South Carolina appropriations bill for 2022–23 includes an appropriation to Christian Learning Centers of Greenville County.

37. State Representatives Mike Burns and John McCravy co-sponsored an earmark appropriation to CLC in the annual appropriations bill for 2022–23.

38. Representative Burns provided information to Defendant Governor McMaster regarding the proposed appropriation, including a project proposal, a federal tax form, and architectural drawings of the proposed CLC school.

39. In the final 2022–23 appropriations plan, in Part IB, item 118.19(B)(78)(h) is an appropriation to "Christian Learning Centers of Greenville County" in the amount of \$1,500,000.

40. The appropriation to CLC is listed under subsection (78), which is titled "State Department of Education."

41. Expenditures listed under Section 118.19(B) "shall" be disbursed by the State Treasurer by September 30, 2022.

C. The South Carolina appropriations bill for 2022-23 violates the South Carolina Constitution, as well as the rights of all citizens and taxpayers of the State of South Carolina, including Plaintiffs and those who are similarly situated.

42. This Complaint concerns a matter of public interest involving conduct of government entities and expenditure of public funds that requires resolution for future guidance.

43. As a South Carolina taxpayer and Greenville County resident, Plaintiff Parker opposes the use of taxpayer funds for religious instruction.

44. Plaintiff Parker is the parent of students who attend Greenville County Schools.

45. Plaintiff Parker is a secular humanist and wants his children to make their own decisions concerning religion.

46. It is important to Plaintiff Parker as a parent that CLC does not have improper influence on public school students on religious matters.

47. As a parent and Greenville County resident, Plaintiff Parker is familiar with CLC and understands that CLC wishes to evangelize all students who attend Greenville County Schools.

48. Plaintiff Parker opposes CLC's attempts to infiltrate Greenville County Schools. He understands that a financial gift of \$1.5 million from South Carolina will aid CLC in its mission of converting and inculcating students in its version of Christianity.

49. Because of the state's \$1.5 million award to a local Christian education institution, and because he does not identify as an evangelical Christian, Plaintiff Parker feels like an outsider in his community.

50. As a South Carolina taxpayer, Plaintiff Fulton opposes the use of taxpayer funds for religious instruction provided by private educational institutions, including CLC.

51. Plaintiff Fulton is an atheist and disagrees with the CLC's version of evangelical Christianity.

52. Plaintiff Fulton keeps apprised of the state of South Carolina government by regularly reading the news, including through *The State* newspaper.

53. Plaintiff Fulton was terribly offended and bothered when he read in *The State* an article titled, "Christian group got \$1.5M in SC budget for private school."

54. Plaintiff Fulton does not wish for South Carolina to funnel money to religious enterprises, especially private educational institutions like CLC.

55. Plaintiff Fulton believes that South Carolina officials are abusing their positions to fund evangelical Christianity through the CLC gift. As an atheist, this preference makes him feel excluded and like a second class citizen.

56. Plaintiff Fulton is a member of the Freedom From Religion Foundation and supports the separation of state and church, as well as the rights of nonreligious Americans.

57. As a South Carolina taxpayer and Greenville County resident, Plaintiff Whatley opposes the use of taxpayer funds for religious instruction provided by private educational institutions.

58. As a Greenville County resident who had children attend Greenville County Schools, Plaintiff Whatley is familiar with Christian released-time instruction and CLC.

59. Plaintiff Whatley does not wish to subsidize any religious groups that indoctrinate students, including CLC.

60. Plaintiff Whatley identifies as agnostic and would oppose any state funding of religious educational institutions, whether they are Christian, Muslim, or any other religion.

61. Plaintiff Whatley is a Life Member of the Freedom From Religion Foundation and supports the separation of state and church, as well as the rights of nonreligious Americans.

62. Plaintiff Whatley views South Carolina's CLC budget provision as the state identifying a preferred religion and excluding citizens like himself who are not evangelical Christians.

63. As a South Carolina taxpayer, Plaintiff Brown opposes the use of taxpayer funds for religious instruction provided by private educational institutions, including CLC.

64. Plaintiff Brown is a member of the Freedom From Religion Foundation and supports the separation of state and church, as well as the rights of nonreligious Americans.

65. Plaintiff Brown opposes South Carolina giving taxpayer money to religious groups.

66. Plaintiff Brown is familiar with the South Carolina CLC budget provision as he saw it reported in the news.

67. Plaintiff Brown does not wish for South Carolina to funnel money to religious institutions, especially institutions like CLC, which conflict with his personal views on religion.

FOR A FIRST CAUSE OF ACTION

(Declaratory & Injunctive Relief—Violation of South Carolina Constitution, Art. XI, § 4)

68. The foregoing averments of this Complaint are incorporated by reference, to the extent such foregoing averments are not inconsistent with those that follow in this specific cause of action.

69. South Carolina Constitution, Article XI, § 4 states: "No money shall be paid from public funds nor shall the credit of the State or any of its political subdivisions be used for the direct benefit of any religious or other private educational institution."

70. When funds are disbursed through the State Treasury, they are public funds within the meaning of S.C. Const. Art. XI, § 4. *Adams v. McMaster*, 432 S.C. 225, 238, 851 S.E.2d 703 (2020).

71. The 2022–23 budget directs the State Treasurer to pay \$1.5 million to CLC.

72. The appropriation is directly benefiting CLC.

73. CLC is a private religious educational institution providing Christian education to schoolchildren.

74. The 2022–23 public funds directed to CLC, under a Department of Education heading, are intended, at least in part, to fund the construction of the physical premises for a religious educational institution, which will then be owned and operated by that same institution.

75. Defendants’ appropriation to CLC directly contravenes the South Carolina Constitution by providing public funds to directly benefit a private religious educational institution.

FOR A SECOND CAUSE OF ACTION
(Declaratory & Injunctive Relief—Violation of South Carolina Constitution, Art. I, § 2)

76. The foregoing averments of this Complaint are incorporated by reference, to the extent such foregoing averments are not inconsistent with those that follow in this specific cause of action.

77. The Establishment Clause in the South Carolina Constitution, within S.C. Const. Art. I, § 2, is virtually identical to the federal Establishment Clause. “The establishment clauses are intended to afford protection against sponsorship, financial support and active involvement of the government in religious activity.” *Hunt v. McNair*, 258 S.C. 97, 103, 187 S.E.2d 645, 648 (1972), *aff’d*, 413 U.S. 734 (1973).

78. Defendants’ actions to fund CLC provide direct financial support to CLC’s religious activities.

79. The appropriation earmarked for CLC is not a generally available government benefit.

80. South Carolina law prohibits public funds to directly benefit *any* private educational institution, religious or otherwise.

81. Defendants' actions actively involve the State in preferentially funding a religious school in violation of the State's Establishment Clause.

FOR A THIRD CAUSE OF ACTION
(Recovery of Attorneys' Fees)

82. The foregoing averments of this Complaint are incorporated by reference, to the extent such foregoing averments are not inconsistent with those that follow in this specific cause of action.

83. S.C. Code § 15-77-300(A) allows a party who is contesting state action to recover reasonable attorneys' fees in the event that the plaintiff is the party who prevails in the action.

84. Accordingly, in the event that Plaintiffs prevail in this matter, then, in addition to any other relief that may be awarded, Plaintiffs respectfully request an award of reimbursement of attorneys' fees under S.C. Code § 15-77-300(A).

REQUEST FOR RELIEF

WHEREFORE, having stated their claims against Defendants, at least as such claims are presently understood, Plaintiffs respectfully request the entry of a judgment and order which provide for the following relief:

- A. A judgment declaring that:
 - i. Defendants' appropriation to CLC, as described above, violates South Carolina Constitution Art. XI, § 4;
 - ii. Defendants' appropriation to CLC, as described above, violates South Carolina Constitution Art. I, § 2;

- B. A permanent injunction enjoining Defendants from providing funds to CLC under Part IB, item 118.19(B)(78)(h) in the 2022–23 budget;
- C. A temporary restraining order to prevent the impending and potentially irreparable injury created by transferring State funds to CLC so that the constitutional injury remains redressable while parties can be served and a hearing on the merits can proceed;
- D. An award of attorneys’ fees in Plaintiffs’ favor under S.C. Code § 15-77-300(A); and,
- E. Such other and further relief as this Honorable Court deems just and proper.

Respectfully submitted,

s/ Steven Edward Buckingham

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