

UWY-CV11- 6010994-S

SUPERIOR COURT

MARIA PEREIRA  
BOBBY SIMMONS,  
*PLAINTIFFS*

J.D. OF WATERBURY

V.

AT WATERBURY

STATE BOARD OF EDUCATION  
GEORGE COLEMAN  
BILL FINCH  
JOHN RAMOS  
BARBARA BELLINGER  
LETICIA COLON  
DELORES FULLER  
NEREYDA ROBLES  
THOMAS CUNNINGHAM  
THOMAS MULLIGAN,  
ROBERT TREFRY,  
KENNETH MOALES, JR.,  
MICHELLE BLACK SMITH-TOMPKINS,  
DAVID NORTON,  
JACQUELINE KELLEHER,  
JUDITH BANKOWSKI  
HERNAN ILLINGWORTH,  
*DEFENDANTS*

AUGUST 17, 2011

**SECOND AMENDED COMPLAINT**

1. When, in the course of human events, it becomes necessary for one group of duly elected public officials to bring to light the corrupt bands which have connected them with another, and to expose the shadowy usurpations of the peoples' rights by a cabal of petty tyrants and corporate private interests with no regard for the rule of law or the votes of the People, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to an action such as this: an action to remedy violations of the Plaintiffs' civil rights to Due Process, Home Rule, and Free Suffrage under Article First, §8,

Article Sixth, §4, and Article Tenth, §1 of the Connecticut State Constitution, and related Connecticut General Statutes.

2. The Plaintiff Maria Pereira, a duly-elected member of the Bridgeport Board of Education with two years left in her term of office, was at all times relevant to this complaint, and remains, a resident of the State of Connecticut and a voter of the city of Bridgeport with a child who attends the Bridgeport Public Schools.

3. The Plaintiff Bobby Simmons, a duly-elected member of the Bridgeport Board of Education with two years left in his term of office, was at all times relevant to this complaint, and remains, a resident of the state of Connecticut and a voter of the city of Bridgeport.

4. The Defendant State Board of Education (hereinafter referred to as the "State Board") is the statutorily created body endowed with the powers and duties of generally supervising and controlling the educational interests of the State.

5. The Defendant George Coleman (hereinafter referred to as "Coleman") was at all times relevant to this complaint, and remains, a member of the State Board and the Acting Commissioner of the State Department of Education, the administrative arm of the State Board.

6. The Defendant Bill Finch (hereinafter referred to as "Finch") was at all times relevant to this complaint, and remains, the Mayor of the City of Bridgeport

7. The Defendant John Ramos (hereinafter referred to as "Ramos") was at all times relevant to this complaint, and remains, the Superintendent of Schools for the Bridgeport Board of Education.

8. The Defendant Barbara Bellinger (hereinafter referred to as "Bellinger") was at all times relevant to this complaint the President of the Bridgeport Board of Education.

9. The Defendant Leticia Colon (hereinafter referred to as "Colon") was at all times relevant to this complaint the Vice-President of the Bridgeport Board of Education.

10. The Defendant Delores Fuller (hereinafter referred to as "Fuller") was at all times relevant to this complaint the secretary of the Bridgeport Board of Education.

11. The Defendant Nereyda Robles (hereinafter referred to as "Robles") was at all times relevant to this complaint a member of the Bridgeport Board of Education.

12. The Defendant Thomas Cunningham (hereinafter referred to as "Cunningham") was at all times relevant to this complaint a member of the Bridgeport Board of Education.

13. The Defendant Thomas Mulligan (hereinafter referred to as "Mulligan") was at all times relevant to this complaint a member of the Bridgeport Board of Education.

14. The Defendant Robert Trefry (hereinafter referred to as "Trefry") is, as of August 8, 2011, an appointed member of the reconstituted Bridgeport Board of Education per the actions of Coleman and the State Board.

15. The Defendant Kenneth Moales, Jr. (hereinafter referred to as "Moales") is, as of August 8, 2011, an appointed member of the reconstituted Bridgeport Board of Education per the actions of Coleman and the State Board.

16. The Defendant Michelle Black Smith-Tompkins (hereinafter referred to as "Smith-Tompkins") is, as of August 8, 2011, an appointed member of the reconstituted Bridgeport Board of Education per the actions of Coleman and the State Board.

17. The Defendant David Norton (hereinafter referred to as "Norton") is, as of August 8, 2011, an appointed member of the reconstituted Bridgeport Board of Education per the actions of Coleman and the State Board.

18. The Defendant Jacqueline Kelleher (hereinafter referred to as "Kelleher") is, as of August 8, 2011, an appointed member of the reconstituted Bridgeport Board of Education per the actions of Coleman and the State Board.

19. The Defendant Judith Bankowski (hereinafter referred to as "Bankowski") is, as of August 8, 2011, an appointed member of the reconstituted Bridgeport Board of Education per the actions of Coleman and the State Board.

20. The Defendant Hernan Illingworth (hereinafter referred to as "Illingworth") is, as of August 16, 2011, an appointed member of the reconstituted Bridgeport Board of Education per the actions of Coleman and the State Board.

21. No later than December 2010, the Defendants Bellinger, Ramos, Finch, Coleman, and State Board began to clandestinely concoct a plan to dissolve the Bridgeport Board of Education in violation of the Connecticut State Constitution and General Statutes. The machinations of the plan's development included

unannounced, closed meetings between the Defendants wherein advice, strategy, and political rewards were discussed. The essence of this plan was to pass a resolution whereby the Bridgeport Board of Education would request that the State Board of Education, pursuant to Connecticut General Statutes §10-223e(h), authorize the Commissioner of the State Department of Education to reconstitute the Bridgeport Board by terminating duly elected members in the process of serving their terms and replacing them with unelected appointees serving at the Commissioner's pleasure.

22. In furtherance of this plan, these same Defendants conspired to and did draft such a resolution without the knowledge or input of the Plaintiffs, certain other members of the Bridgeport Board of Education, and other vital, local stakeholders including but not limited to parents and taxpayers of the City of Bridgeport and the Bridgeport School District. The resolution included false and misleading information regarding certain statutorily required prerequisites under C.G.S. §10-223e(h).

23. The resolution also included false and pretextual rationales for its adoption. These rationales included board "dysfunction," and excess of Freedom of Information Act Requests, and failure to pass a budget.

24. The Board voted 8-1 against the 2011-2012 budget at the request of Superintendent John Ramos.

25. The plan, referred to in paragraph 21, was carried out with malice and improper motive and constitutes undue influence from bribery, tumult, and other improper conduct as demonstrated by:

(a) Email correspondence between Allan Taylor and George Coleman on January 19, 2011 in which it is acknowledged that the State Board had not provided any training contemplated by C.G.S. §10-223e;

(b) Email correspondence between Coleman, Taylor, and Pamela Bergin on January 28, 2011 in which it is acknowledged that "the absence of any observations" by SBOE staff regarding effectiveness or accountability "is a potential issue" for a takeover, but given that the "mayor is concerned about the perception and reality of the dysfunction. The short-term political perception of how an increased mayoral role might be regarded by the electorate" militated for finding a way around any potential hurdles, regardless of the letter of the law;

(c) Email correspondence between Taylor and Coleman between January 30 and 31, 2011, in which it is acknowledged by Lol Fearon that those working with Bridgeport for three years "are not aware of the BOE impeding the implementation of the District Improvement Plan... There have been discussions of the lack of resources but nothing aimed at the BOE as a source of interference. My impression, based on a brief conversation with Commissioner McQuillan was that there is some political friction that exists between a block of board members, the mayor and the superintendent. We have not experienced that in the work that the Bureau is engaged in with the District."

(d) Email correspondence between Michael Caldwell, Associate City Attorney, and Daniel Murphy, Agency Legal Director, Division of Legal and Governmental Affairs, in which it is acknowledged that the State's "position on the training provision of Conn. Gen. Stat. 10-223e(h) is that you interpret the

requirement to mean that before the State Board can authorize the commissioner to reconstitute a school board, in addition to the State Board requiring that the local board complete certain training, the local board must have actually undergone that training."

(e) Email correspondence between Coleman, Taylor, and Murphy dated February 22, 2011 in which it is acknowledged that "Dan and I are concerned that the two requests can not be done simultaneously and that Section 10-223 expects that these actions be taken sequentially, with the less strenuous action (training) being required to demonstrate ineffectiveness, therefore, triggering the latter action of state mandated local board reorganization. I suggested to him that it would be most beneficial to the SBE if in his resolution the majority of his board declares that they have availed themselves of training, as required in 10-223 and believe, as evidence of the vote, that further engagement in training cannot solve the evident difficulties the make the elected board nonfunctional; they therefore request the SBE to activate the next level of intervention under the statute."

(f) Email correspondence between Taylor and Coleman dated February 22, 2011 in which it is acknowledged that "I also don't understand the resolution- it says both that training won't do any good, and that we should order them to complete the training and move forward with the reconstitution. It is also confusing about why a takeover is needed- if the problem is fiscal, a state reconstitution of the board won't increase the resources available to the board."

(g) Ongoing correspondence between Taylor, Meghan Lowney and Nate Snow beginning on April 15, 2011 and continuing until at least June 22, 2011 in which Lowney writes "Hello Allan- I hope all is well with you. Some months ago we spoke about the conditions in Bridgeport Public Schools and the need for dramatic change. As you well know, we are working behind the scenes now to support a request for state intervention. The Board of Ed Chairperson has officially asked SDE for help though this is not yet public...Nate and I would like your advice about our approach and share some of our thoughts about how to make sure the intervention is short, targeted and successful."; "In the meantime we are still working on a requesting a state intervention. All the plans are the same, but the timeline shifted b/c of the legislative session and so on. We are running out of time. The local BOE will now have to call a special session to consider and pass the resolution as their regular schedule has ended. How many days in advance of a state BOE meeting would an issue have to be presented to be on the agenda? Specifically, for the 7/6 agenda?...I'd like to talk with you and George Coleman about the possibilities and share some insights about the support we've organized in the private sector for this breakthrough work. Should the SDE act to intervene, there is excellent private partnership to be activated."; "But none of us will invest in this current dysfunctional system."; "You know that it's tough to keep a rumor mill down...and the local board chair is basically just sitting on this until she's given the go-ahead from the state ✓"

(h) Email correspondence from Taylor to Coleman dated April 20, 2011 in which Taylor writes "The Zoom foundation, of which Meghan Lowney is the



director, is founded by Steve Mandel, a Greenwich hedge fund billionaire, and as I understand it, it's focused on education in Bridgeport... Please don't share this communication with anyone else."

(i) Email correspondence between Daniel Murphy, Lol Fearon, Coleman, and Alvin Wilson dated June 17, 2011 in which Murphy writes "in short, I need to discuss with you whether the outlined provisions of the statute as highlighted below have been met to allow us to even consider reconstituting the Bridgeport Board. Whether the action itself is prudent or not is another issue, but I need to address with Alvin Wilson whether the statutory benchmarks have been met first."

(j) Handwritten notes of a teleconference held on June 24, 2011 between representatives of the State Board and members of the Mayor's Office—including Lee Bollert, Adam Wood, Mark Anastasi, and Mike Caldwell—in which it was acknowledged that the State had a "concern with respect to request- not seeing any line between Bd problems and accountability issues re 10-223e"; that the three-member minority was more articulate and rational than the incompetent chair; that Taylor himself had attended a meeting and not observed any dysfunction; that the real issue was the lack of strong leadership by the Board Chair; that the parties had to find a way to bootstrap the so-called "dysfunction" to "tie it to failure of bd to implement" the District Improvement Plan despite the lack of any evidence to support that conclusion; and that the overwhelming need to pull off the takeover in a short timeframe was to avoid the "likelihood that the 3

could become the majority” in the upcoming elections where four of the seats not held by the three-member minority would be up for re-election.

(k) And—in a truly Mary Lou Retton-esque display of mental gymnastics and intellectual dishonesty-- Email correspondence from Mark Anastasi to Coleman, Murphy, Bollert, and certain members of the dissolved Bridgeport Board in which he writes “C.G.S. 10-223e does NOT require the State Board to ‘ORDER’ certain training. Rather, the pertinent language of the statute expressly states that the Board ‘REQUIRE’ such training. Therefore, it is certainly arguable under all the facts and circumstances that the state board has in fact ‘required’ the BPT Board to undergo the necessary training—by virtue of taking administrative notice of the training that the local board has already undergone prior to the State action.”

26. In order to avoid any meaningful hearing or public discussion while executing their planned coup, Defendant Fuller caused a Notice of Special Meeting and Agenda of the Bridgeport Board of Education to be filed at eight minutes before the close of business on July 1, 2011, the Friday before the Independence Day holiday. The Notice indicated that the Special Meeting would be held at Cesar Batalla School, 606 Howard Avenue, Bridgeport, CT at 6:00 p.m. on Tuesday, July 5, 2011, the first day back from the Independence Day holiday. The Agenda indicated that the sole purpose of the meeting would be to discuss and vote on two unprecedented and drastic resolutions to the State Board that would allow the State Board to seize control of the Bridgeport Board

of Education and implement the Defendants' planned takeover. No such similar action has ever been undertaken in the State of Connecticut.

27. The Notice, Agenda, and proposed resolutions were delivered to the Plaintiffs and other members of the Bridgeport Board of Education at six p.m., just as the holiday weekend was commencing. Due to pre-planned holiday travel and commitments, the Plaintiffs did not actually see the materials until the morning of Tuesday July 5, 2011.

28. All notions of due process notwithstanding-- and despite the insufficient notice, meaningless hearing at the Special Meeting, and the attempts of the Plaintiffs to postpone any action on the Defendants' resolutions-- Defendants Bellinger, Colon, Fuller, Mulligan, Robles, and Cunningham nonetheless voted to pass the resolutions at the July 5, 2011 meeting, thereby depriving the Plaintiffs of due process of the law.

29. The resolutions as adopted contained false and misleading statements about mandatory training required by C.G.S. §10-223e(c)(2)(M) before the State Board can authorize the action contemplated by the resolutions, namely the reconstitution of the Bridgeport Board of Education. Such required training was never provided, as noted by the Plaintiffs during the Special Meeting, such that the State Board has no authority under §10-223e(h) to take any action to reconstitute the Bridgeport Board of Education.

30. C.G.S. §10-223e(h) also requires, before the State Board or the Commissioner can take any action pursuant to §10-223e(h), the creation and submission of an Action Plan. Such a required plan was never created or

submitted, such that the State Board has no authority under §10-223e(h) to take any action to reconstitute the Bridgeport Board of Education.

31. Despite the obvious and noted defects in the resolutions and the process by which they were adopted, the very next morning, Defendants Bellinger, Mulligan, and Finch raced to Hartford and delivered the resolutions to the State Board of Education at its July 6, 2011 meeting.

32. Despite the testimony of Plaintiff Pereira and the attendance of concerned Bridgeport parents and voters, and without any verification of the information contained in the Bridgeport Board of Education resolutions, the State Board proceeded to authorize Defendant Coleman to reconstitute the Bridgeport Board of Education.

33. By way of written correspondence dated July 14, 2011, Defendant Coleman notified the Bridgeport Board of Education of his intent to reconstitute the Bridgeport Board by appointing members of his own choosing to replace the current members. Defendant Coleman indicated his intention to take such action within a matter of weeks.

#### **VIOLATIONS OF STATE CONSTITUTIONAL RIGHTS**

34. Defendants' actions clearly violated the provisions of C.G.S. §10-223e(h).

35. Defendant Coleman reconstituted the Bridgeport Board of Education by announcing his appointment of Trefry, Moales, Smith-Tompkins, Norton, Kelleher, and Bankowski on August 5, 2011—while this action was pending—and these Defendants were sworn in no later than August 8, 2011.

36. Defendant Coleman further reconstituted the Bridgeport Board of Education by announcing his appointment of Illingworth on August 16, 2011—also while this action was pending.

37. These newly appointed members of the Bridgeport Board of Education have no legal right to hold their offices, and their appointment unlawfully ousted the Plaintiffs from their rightful incumbency on the Board and their clear right to serve out their elected terms.

38. Plaintiffs are likely to prevail upon the merits of their claims of violation of state constitutional rights by the Defendants, including:

- (a) failure to provide meaningful notice of the Special Meeting, in violation of procedural due process;
- (b) failure to provide a meaningful opportunity to be heard at the Special Meeting, in violation of procedural due process;
- (c) taking action to seek dissolution, an action beyond the statutory authority granted to the Defendants and in violation of the Bridgeport Board of Education bylaws;
- (d) unlawful authorization of the Commissioner to reconstitute the Bridgeport Board of Education by terminating duly elected members and replacing them with appointees, thus violating constitutional Home Rule and denying voters free suffrage and the right to elect members of their choosing;
- (e) terminating the Plaintiffs in violation of their substantive due process liberty interest in serving their duly elected term of office

- (f) replacing terminated members with appointees who would serve three year terms that exceed the balance of the terms to be served by the terminated members, thus violating constitutional Home Rule and denying the voters free suffrage and the right to elect members of their choosing by prohibiting them from voting in the regular election;
- (g) replacing terminated members with non-residents of Bridgeport, thus violating constitutional Home Rule and the bylaws of the Bridgeport Board of Education;
- (h) failing to observe the methods and procedures mandated by C.G.S. §10-223e(h) and reliance on inappropriate procedures, for purposes of oppression.

39. Plaintiffs have no other speedy and adequate remedy at law.

40. Plaintiffs will suffer irreparable harm as a result of the reconstitution of the Bridgeport Board of Education by virtue of being effectively disenfranchised in violation of their right to free suffrage and forced to endure the rule of appointed officials, denied their state constitutional right of Home Rule, and denied the right to due process afforded by their liberty interest in serving the balance of their terms of office.

41. A prior application for arguably similar, though not identical, relief has been made and improperly denied, to the harm of the Plaintiffs.

## QUO WARRANTO

42. Paragraphs 1-36 are hereby incorporated as paragraph 37.
43. Plaintiffs are likely to prevail upon their claim of quo warranto in that, by virtue of the toxic combination of (a) the unconstitutionality of C.G.S. §10-223e and (b) their illegal acts in reconstituting the Bridgeport Board of Education, the Defendants have no valid claim to their offices and cannot possibly shoulder their heavy burden to show a complete title to the office in dispute.
44. Plaintiffs have no other speedy and adequate remedy at law.
45. Plaintiffs will suffer irreparable harm as a result of the inability to perform the duties of their public offices, as well as having to undo any actions taken by the false board that could bind the Bridgeport Board of Education or its constituents.
46. A prior application for arguably similar, though not identical, relief has been made and improperly denied, to the harm of the Plaintiffs.

WHEREFORE, the plaintiffs seek relief and damages as follows:

- A. A declaratory ruling that C.G.S. §10-223e(h) is unconstitutional under the Connecticut State Constitution;
- B. A temporary injunction preventing the State Board and Defendant Coleman from taking any further action with regard to the proposed action under C.G.S. §10-223e(h) to reconstitute the Bridgeport Board of Education, including any action purporting to be on behalf of or with the authority of the Bridgeport Board of Education;

- C. A writ of mandamus ordering the Plaintiffs to be restored to their positions as members of the Bridgeport Board of Education;
- D. Injunctive relief enjoining the Defendants from preventing or hindering the Plaintiffs' return to their public offices, or from preventing or hindering them from performing the rights, privileges, powers and duties of said offices;
- C. Compensatory Damages;
- D. Punitive Damages;
- E. Any other damages that the Court deems appropriate under law and equity.

Respectfully submitted,

THE PLAINTIFFS  
MARIA PEREIRA  
BOBBY SIMMONS

BY   
THEIR ATTORNEYS

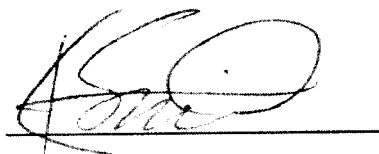
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**CERTIFICATION**

A Copy of the foregoing was sent via electronic mail to all parties of record and was sent out for service by a State Marshal to the newly named Defendants on this 17<sup>th</sup> day of August, 2011.

A handwritten signature in black ink, appearing to read "Kevin Smith", written over a horizontal line.

Kevin Smith, Esq.