

**IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO**

AMY GONZALEZ, individually and on
behalf of her minor child, A.G.
c/o John T. Pfleiderer, Esq.
190 N. Union Street, Suite 201
Akron, OH 44304

CASE NO.:

JUDGE:

and

COMPLAINT

ANDREA GROSS, individually and on
behalf of her minor child, M.G.
c/o John T. Pfleiderer, Esq.
190 N. Union. Street, Suite 201
Akron, OH 44304

Plaintiffs,

-vs.-

THE COLUMBUS ACADEMY
c/o CT Corporation System
4400 Easton Commons Way, Suite 125
Columbus, OH 43219

and

MELISSA SODERBERG, individually and
in her official capacity as Headmaster of The
Columbus Academy
638 Fairway Boulevard
Whitehall, OH 43213

and

JOHN DOES (1-10)
Addresses Unknown

Defendants.

Now come Plaintiffs Amy Gonzalez, individually and on behalf of her minor child, A.G., and Andrea Gross, individually and on behalf of her minor child, M.G., and for their claims for relief against Defendants The Columbus Academy; Melissa Soderberg, individually and in her official capacity as Headmaster of The Columbus Academy; and John Does (1-10), state as follows:

THE PARTIES, VENUE, AND JURISDICTION

1. Plaintiff Amy Gonzalez (“Ms. Gonzalez”) and her minor child, A.G., are individuals domiciled in Franklin County, Ohio.
2. Plaintiff Andrea Gross (“Ms. Gross”) and her minor child, M.G., are individuals domiciled in Franklin County, Ohio.
3. Plaintiffs Andrea Gross and her minor child, M.G., and Amy Gonzalez and her minor child, A.G., shall be collectively referred to as “Plaintiffs” herein.
4. Plaintiffs Ms. Gonzalez and Ms. Gross shall be collectively referred to as the “Parent Plaintiffs” herein.
5. Plaintiffs A.G. and M.G. shall be collectively referred to as the “Child Plaintiffs” herein.
6. Defendant The Columbus Academy (the “Academy”) is an Ohio not for profit corporation with its principal place of business in Franklin County, Ohio. The Academy is registered with the Internal Revenue Service and holds 501(c)(3) status.
7. Defendant Melissa Soderberg (“Ms. Soderberg”) is an individual domiciled in Franklin County, Ohio. At all relevant times, Ms. Soderberg was the Headmaster of the Academy.
8. Defendants John Does 1-10 are all presently unknown individuals, in their individual and/or official capacity. These defendants’ domiciles are unknown at this time.

9. Venue is proper in the Franklin County Court of Common Pleas under Civ. R. 3(C)(1), (2), (3), and/or (6).
10. The Franklin County Court of Common Pleas has subject matter jurisdiction over the claims pled herein.

FACTS

11. Minor children A.G. and M.G., for most or all of their academic careers, were students of the Academy, up until the circumstances pled herein.
12. Ms. Gonzalez and Ms. Gross, for most or all of A.G. and M.G.'s academic careers, were volunteers for the Academy.
13. A.G. and M.G. were enrolled in the Academy for the 2020-2021 academic year.
14. Upon enrollment, Plaintiffs were given access to the Academy's student handbook containing the Academy's code of conduct and/or policies and procedures for students enrolled at the Academy for the 2020-2021 academic year.
15. Now, and at all relevant times herein, the Academy held itself out as a learning institution of exceptional quality.
16. Now, and at all relevant times herein, the Academy held itself out to be an institution focused on diversity, inclusion, equity, and justice.
17. Now, and at all relevant times herein, the Academy held itself out to be an institution focused on making children effective learners, self-aware, and healthy.
18. Now, and at all relevant times herein, the Academy held itself out to be an institution focused on wellness as the centerpiece of students' lives – physically, emotionally and intellectually.

19. During the time their children were students at the Academy, Ms. Gonzalez and Ms. Gross were involved with numerous groups and functions within the school, including but not limited to CA Alumni Spouses; Co-Chairpersons of the Annual Fund Committee; Executive Board Member of the Parent's Association of Columbus Academy ("PACA"); Room Parent; Second Grade Parent; Fourth Grade Parent; Tenth Grade Parent; Lower School Head Parent; Chairperson and Co-Founder of the Hispanic Outreach for Latino Awareness (also referred to as "HOLA"); participants in "Celebrate the Arts" program, volunteer for annual book fair(s); Charlie David Dinner volunteer(s); Viking Corner volunteer(s); Fifth Grade Basketball Coach; Fifth and Sixth Grade Lacrosse Coaches; Lower School Costume Committee; Chairperson for Hispanic Heritage Month events; chosen participants in community Cultural Conversations; participants in teacher appreciation activities; and Lower School Carnival.
20. A.G., and M.G., were exemplary students throughout their academic career with the Academy.

The Child Plaintiffs are Subjected to Non-Inclusive Treatment and Closed Intellectual Discussion

21. Plaintiffs do not dispute that private education institutions are allowed to reasonably enact and carry out politically biased viewpoints.¹
22. However, in its marketing materials and representations to parents and potential students, the Academy held itself out to be an inclusive and accepting environment for students as a whole. This was not presented as meaning inclusive only to students with viewpoints in alignment with the staff of the Academy.

¹ This statement should not be interpreted to mean IRS designated 501(c)(3) exempt entities may operate with political bias.

23. Further, the Academy openly held itself out to be a 501(c)(3) exempt organization, which implicitly means that it does not act politically or with political bias.
24. The Academy did not disclose to parents prior to payment of tens of thousands of dollars that there would be increasing politically charged activities and rhetoric at the school which universally leaned (sometimes strongly) to the political left.
25. Instead of honoring its promise to parents (its customers) to be an inclusive and constructive educational environment, the Academy veered into a politically biased curriculum at the behest of the highest levels of the institution. This was a material misrepresentation and a failure to deliver the promised service of an inclusive and intellectually open environment.
26. Instances of political bias and pressure exerted upon students during the 2020-2021 academic year are extensive. Some examples:
- a. One teacher stated, regarding a political issue, that “there is only one side.”
 - b. One teacher stated, on the first day of class, that he would not communicate with any student who supported President Trump.
 - c. One teacher stated that Republicans do not like to help poor and homeless people.
 - d. Politically charged issues were regularly taught and discussed in the classroom without opposing viewpoints presented or solicited.
 - e. In approximately January 2021, a group of school officials, including but not limited to the Upper School Dean of Students, the Special Assistant to the Head of School for Student Outreach, and the Director of Diversity and Community Life, took part in a “walkout” as an act of civil disobedience. The “walkout” was deemed a “Tribute to MLK” and organized by the Academy. Faculty encouraged students

to participate. Students who arrived late were shouted at as racists by other students with faculty acquiescence.

27. The Academy also failed to be inclusive of all races of students.

28. Ms. Gonzalez's minor child, A.G., is a Latina.

29. The Academy did not afford equal (or similar) levels of inclusiveness to Latinos as other groups of person, specifically African Americans, despite being a protected classes of persons. Some examples:

- a. The Academy offered an emergency pandemic fund exclusively for use by African American students.
- b. The Academy coordinated numerous activities to celebrate Black History Month, while offering substantially fewer activities for Hispanic Heritage Month.
- c. Activities involving racial pride were skewed away from Latinos. By way of example, students participated in a project where they would dress up as historical figures. There was only one Latina option- Justice Sotomayor. A.G., a Latina, was assigned to Coretta Scott King
- d. Latinos made up a disproportionately small percentage of the student-body (2%) and held few leadership roles within the school.

30. Stories of these and other instances circled around between parents and students. Students, including A.G. and M.G., could not express their viewpoints or discuss non-aligned opinions on Academy premises without reasonable fear of ridicule and ostracization by students and staff. This hindered A.G. and M.G.'s academic experience and was materially different that the experience offered and sold to the Parent Plaintiffs by the Academy.

31. Plaintiffs reiterate that if a private school holds itself out as politically progressive or centered around a certain race or heritage, that is okay, and some do. But that school cannot claim it is a purveyor of an inclusive, diverse, and accepting experience, in the context of a consumer transaction, without providing an inclusive, diverse, or accepting experience. Inclusive and diverse and accepting means what it means. Parents who spend large sums of money to provide their children with a rigorous, diverse, open-minded, and intellectual experience, should not hear from their child that he or she is afraid to share what they think in the classroom.

32. The Parent Plaintiffs repeatedly had meetings with various Academy administrators. Nothing was done to address the Parent Plaintiffs' concerns.

The Parent Plaintiffs Pen an Open Letter Detailing Their Concerns

33. In January 2021, the Parent Plaintiffs wrote a letter detailing their concerns at the Academy (the "Open Letter"). A true and accurate copy of the Open Letter & Appendix is attached at **Exhibit 1**.

34. The Parents Plaintiffs requested Jonathan Kass and Erich Hunker allow them to read the Open Letter to the Academy's Board.

35. Messrs. Kass and Hunker denied such request.

36. On February 4, 2021, the Parent Plaintiffs sent a letter about their concerns to the Academy Board.

37. The Open Letter highlighted four primary areas of concern:

- a. Intimidation and bullying of students based on their political beliefs;
- b. Leadership lacking open-mindedness, impartiality, and inclusivity, leading to the marginalization of certain groups;

- c. A lack of transparency among the leadership; and
 - d. Structural flaws that lead to accountability issues, further exacerbating problems
- (a)-(c).

38. Importantly, the Appendix of the Open Letter expressed concern about Academy spending decisions and requested a full financial audit of the Academy. Exhibit 1 - Appendix, p. 11.

39. The Open Letter supported the Academy's community and a plain reading of the same shows a genuine concern for the wellbeing of the students and the institution.

The Academy initiates a retaliation campaign against Plaintiffs.

40. On February 5, 2021, one or more recipients of the Open Letter forwarded carefully selected excerpts of the Open Letter to various members of the Academy community.

41. The sender of the excerpts is unknown to Plaintiffs; however, upon information and belief, the sender was Ms. Soderberg.

42. The excerpts were chosen and arranged in such a way as to paint the Parent Plaintiffs in a negative light as racists and subject them to scrutiny, intimidation, harassment, and bullying.

43. Academy faculty and administration appropriated inflammatory rhetoric and launched a coordinated effort to discredit Plaintiffs by labeling them as "anti-Black" and "bat-shit crazy Republicans."

44. After the Parent Plaintiffs discovered that only specific out of context fragments of the Open Letter had been shared, the Parent Plaintiffs decided to publish and/or share the complete version of the Open Letter and Appendix, on the internet.

45. On February 7, 2021, Ms. Soderberg held a meeting to discuss the Open Letter.

46. At this meeting, Ms. Soderberg labeled the Parent Plaintiffs as against the Academy and created an aggressive us-and-them relationship between Plaintiffs and the Academy administration and faculty.
47. After back and forth between the parties, a video call was scheduled for February 17, 2021.
48. On the video call, various people affiliated with the Academy were present, including Jonathan Kass, George Skestos, Victor Thorne, Sandy Doyle-Ahern, and Ms. Soderberg.
49. Multiple topics were discussed, including recurring themes of racism, bullying, and political bias and pressuring of students.
50. The parties also discussed the structure of the Academy as an entity and the process and procedure for voting and perpetuation of various boards.
51. After the February 17, 2021, meeting, the Academy, acknowledging issues at the school, sent a community-wide email outlining the areas where Academy leadership would supposedly make changes to address the concerns raised in the Open Letter & Appendix.
52. However, no change occurred at the Academy to bring it in line with what it had represented itself to be.
53. Tensions continued to rise as discussions between the Parent Plaintiffs and the Academy continued.
54. In an effort to harass and intimidate Plaintiffs, the Academy's head of Security, Mr. Tim Williams, filed a false police report against the Parent Plaintiffs with the Gahanna Police Department.
55. Furthering the Academy's efforts to harass and intimidate Plaintiffs, Mr. Williams falsely and publicly claimed that the Parent Plaintiffs' statements on a podcast constituted an "indirect threat against the Academy and its personnel."

56. Furthering the Academy's efforts to harass and intimidate Plaintiffs, the Academy notified its entire eight hundred plus organization that the Federal Bureau of Investigation had been alerted to the alleged (and non-existent) threat posed by the Parent Plaintiffs to the Academy.
57. Upon information and belief, no report was ever made to the FBI, and this notification was done to harass and intimidate Plaintiffs.
58. During the meeting when faculty was told the FBI had been alerted, the environment was such that one of the Academy's faculty members raised his/her hand and asked if the Child Plaintiffs should be treated differently. Another member of faculty stated, "it sounds like we have a mole."
59. During the same meeting, the Academy falsely portrayed the Parent Plaintiffs as violent and racist. This furthered the Academy's attempt to harass and intimidate Plaintiffs by cutting off any potential support from within the organization.
60. At the beginning of 2021, the Parent Plaintiffs and other parents and stakeholders of the Academy formed the Pro CA Coalition.
61. On May 19, 2021, John Wourinen, the Academy's Director of Admissions and Tuition Assistance, entered into a Pro CA Coalition Zoom meeting without authorization.
62. Upon joining the Zoom meeting, Mr. Wourinen began writing down the names of the other participants on the call.
63. The legality of Mr. Wourinen's actions was suspect; however, the real intent, again, was to harass and intimidate Plaintiffs and the other members of the Pro CA Coalition.
64. At this meeting, the Parent Plaintiffs discussed an upcoming meeting with the Ohio Attorney General to discuss financial misappropriations and 501(c)(3) violations. The

Parent Plaintiffs also discussed the possibility of placing tuition funds into an escrow account until the issues were clarified.

65. As stated above, the Plaintiff Parents had been heavily involved in the Academy for many years. Their work with the Academy indisputably comprised a large portion of their lives.

66. The actions of the Academy and those of its affiliates, as directed by the Academy, had an extreme impact on the wellbeing of Plaintiffs. The Academy falsely accused the Parent Plaintiffs of being dangerous to the health and wellbeing of the entire Academy community and destroyed their reputations with many of the people they had spent years working and learning with.

67. On June 11, 2023, the Academy arranged for the hand delivery of a letter notifying the Parent Plaintiffs that their children were expelled from the Academy and that the existing contract was canceled. By this time, A.G. and M.G. had attended the Academy for seven years each.

Ms. Gonzales and Ms. Gross uncover suspect financial activity at the Academy.

68. The Parent Plaintiffs were disturbed by the intense reaction of the Academy and its affiliates to the Open Letter. On its face, it was a letter of genuine concern regarding interpersonal practices at the school and the misallocation of financial resources. Their concern, combined with the Academy's refusal to provide a funding audit, led the Parent Plaintiffs to decide to retain a C.P.A. to perform a forensic audit of the Academy's public financial filings.

69. The Parent Plaintiffs retained Charles P. Kroll, C.P.A. (Ret'd) and Elizabeth E. Tremblay, a research analyst, to perform the audit.

70. In their analysis, Mr. Kroll and Ms. Tremblay relied on The Columbus Academy Form 990, The Parents' Association of Columbus Academy Form 990, and The Columbus Academy Defined Contribution Retirement Plan Form 5500.

71. The Academy received Emergency Assistance to Non-Public Schools (“EANS”) funding for the 2020-2021 academic year.

72. Mr. Kroll and Ms. Tremblay generated a forensic accounting review of the Academy’s public filings. Parent Plaintiffs used the report to file IRS Form 13909 and complaint. A true and accurate copy of this report is attached as **Exhibit 2** (the “Report”).

73. The Report made the following conclusions:

- a. The Academy’s failed to properly disclose on Form 990, Schedule J and Schedule L-- nor properly disclose to the entire Board of Trustees -- at least \$350,000 in tax-deferred bonuses paid to the Ms. Soderberg, disguised as “relocation” and “educational” loans. Alleged Violations (1) and (2)
- b. The Academy failed to properly disclose on Form 990 -- nor properly disclose to the entire Board of Trustees -- the retention of the former Head of School. Alleged Violation (3)
- c. The Academy falsely and deceptively underreported on Form 990 of current Officers, Directors, Trustees and Key Employees compensation. Alleged Violation (4)
- d. The Academy’s failed to properly disclose on Form 990 (prior to tax year 2019) multi-million-dollar construction-related independent contractor payments to the President Jonathan Kass’ family-owned construction business. Alleged Violation (5)

- e. The Academy failed to properly disclose on Form 990 the correct number of employees and a wasting of non-profit assets in violation of Section 501(c)(3) with respect to the hiring of 3.1 employees for every new student enrolled. Alleged Violation (6)
 - f. The Academy's wasted non-profit assets in violation of Section 501(c)(3) as evidenced by the waiving of the one-year service requirement for Retirement Plan eligibility and 94.7% increase in the value of the Academy's Retirement Plan under the current Ms. Soderberg. Alleged Violation (7)
 - g. The Academy wasted non-profit assets in violation of Section 501(c)(3) due to gross financial management incompetence and a breach of fiduciary responsibilities. Alleged Violation (8)
 - h. The Academy failed to properly disclose on Form 990 -- nor properly disclose to the entire Board of Trustees -- \$37.8 million in no-bid construction contracts awarded to the President Jonathan Kass's family-owned construction business. Alleged Violation (9)
 - i. The Academy's failed multiple times to file a complete and accurate Form 990 with the IRS and to provide a copy of its Audited Financial Statements in response to numerous requests.
74. Upon information and belief, the Academy's vicious treatment of the Parent Plaintiffs, and by relation, their children, including improperly invoking governmental investigative agencies, disseminating false information, and engaging in a coordinated effort to destroy their reputations in the community, was retaliation to prevent any further inquiry into the

financial wrongdoing of the Academy and personal benefit of the Defendants and other Academy personnel.

CLAIM ONE

Intentional Infliction of Emotional Distress

75. Plaintiffs incorporate the preceding paragraphs as if fully restated herein.

76. As stated herein, Defendants subjected Plaintiffs to outrageous conduct throughout the end of the 2020-2021 academic year.

77. Such conduct included but was not limited to:

- a. Filing false or misleading report(s) with the local police authorities in order to harass and/or intimidate Plaintiffs;
- b. Filing or claiming to file false or misleading report(s) with the Federal Bureau of Investigation in order to harass and/or intimidate Plaintiffs;
- c. Sending false or misleading communications about the Parent Plaintiffs to members of the Academy community; and
- d. Purposely painting the Parent Plaintiffs in a false light as a physical danger to the Academy community in a purposeful effort to ostracize Plaintiffs from their social relationships.
- e. The Academy purposefully disrupted the Child Plaintiffs emotional bonds to the community.

78. Defendants intended to cause, or Defendants knew or should have known that their actions would result in serious emotional distress for Plaintiffs.

79. Specifically, Defendants caused harm to Plaintiffs' reputation, humiliation, embarrassment, and loss of long-term social relationships.

80. Defendants' conduct was extreme and outrageous.

81. Defendants' actions proximately caused Plaintiffs serious emotional distress which resulted in gastrointestinal distress, loss of sleep, abdominal pain, headaches, and/or loss of appetite.

82. The Academy's designation of the Parent Plaintiffs as racist was utterly unsupported by fact, and it was an insincere appropriation and weaponization of national race issues against Plaintiffs.

83. Such conduct was retaliation against Plaintiffs in response to the Parent Plaintiffs and others affiliated with the Pro CA Coalition inquiring into the finances of the Academy.

CLAIM TWO

Violation of the Ohio Consumer Sales Practices Act
R.C. § 1345.01, *et sec.*

84. Plaintiffs incorporate the preceding paragraphs as if fully restated herein.

85. The Academy is a supplier of educational services within the meaning of "supplier" given under R.C. § 1345.01(C).

86. Prior to expulsion from the Academy, Plaintiffs were consumers of the Academy's educational services within the meaning of "consumer" given under R.C. § 1345.01(D).

87. As stated herein, the Academy engaged in a consumer transaction with Plaintiffs and/or the Parent Plaintiffs within the meaning of "consumer transaction" given under R.C. § 1345.01(A).

88. Regarding such a consumer transaction, the Academy committed numerous deceptive trade practices. including but not limited to:

- a. Representing that the Academy was inclusive of all backgrounds and viewpoints when it was not.

- b. Representing that the education provided by the Academy would include open-minded discussion when it would not.

89. Regarding such a consumer transaction, the Academy committed numerous unconscionable consumer sales acts and/or practices, including but not limited to:

- a. Knowing when it entered the consumer transaction with Plaintiffs, that it would be impossible for the Child Plaintiffs to receive an inclusive educational environment, as promised.
- b. Requiring the Parent Plaintiffs to enter the consumer transaction via a contract which was substantially one-sided in favor the supplier- i.e. allowing the Academy to terminate the agreement for any reason and keep the tuition payment.

90. As a result of the Academy, and other Defendants', acts, as described herein, instead of receiving an inclusive educational environment focused on the health and well-being of all students, Plaintiffs received a politically charged and exclusive educational environment with disparate treatment based on race and political viewpoints.

91. Plaintiffs have been damaged in the amount of their tuition payments for the 2020-2021 academic year, plus their attorney fees and costs. Plaintiffs are also entitled to treble damages under R.C. § 1345.01, *et seq.*

CLAIM THREE
Civil Conspiracy

92. Plaintiffs incorporate the preceding paragraphs as if fully restated herein.
93. Defendants combined their efforts to commit the unlawful actions described herein.
94. Defendants could not have committed the unlawful actions to the same extent acting alone as working together.
95. Defendants' conspiracy resulted in actual damages to Plaintiffs as described in the claims pled above.

WHEREFORE, for their claims for relief, Plaintiffs request compensatory damages in an amount in excess of \$25,000.00, attorney fees, statutory damages, costs, and all other relief the Court may deem necessary and just.

Respectfully submitted,

/s/ Warner D. Mendenhall
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