

CL-25-2281-B

NO.

CYNTHIA GUTIERREZ,
Plaintiff

V.

PHARR-SAN JUAN-ALAMO SCHOOL
BOARD OF TRUSTEES DIANA SERNA,
CARLOS VILLEGAS, AND YOLANDA
CASTILLO, Defendants

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IN THE COUNTY COURT

AT LAW NUMBER

HIDALGO COUNTY, TEXAS

ORIGINAL PETITION AND REQUEST FOR INJUNCTIVE RELIEF AND
TEMPORARY RESTRAINING ORDER

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES CYNTHIA GUTIERREZ, Plaintiff complaining of and about PSJA School Board of Trustee President Diana Serna, Trustee Yolanda Castillo, Trustee Carlos Villegas, hereinafter called Defendants, and for causes of action shows unto the Court the following:

I. DISCOVERY CONTROL PLAN LEVEL

Discovery in this case is intended to be conducted under level 2 of rule 109 of the Texas Rules of Civil Procedure

II. PARTIES AND SERVICE

This suit is brought by Cynthia Gutierrez, Plaintiff. The last three numbers of Plaintiff's driver's license number are 710.

Defendant Diana Serna, as PSJA School Board President, may be served by service wherever she may be found or by serving the Superintendent, Dr. Alejandro Elias at 601 E. Kelly Ave., Pharr, TX 78577 or wherever he may be found.

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Defendant Diana Serna, as PSJA School Board President, may be served by service wherever she may be found or by serving the Superintendent, Dr. Alejandro Elias at 601 E. Kelly Ave., Pharr, TX 78577 or wherever he may be found.

Defendant School Board Trustee Yolanda Castillo, may be served wherever she may be found or by serving the Superintendent, Dr. Alejandro Elias at 601 E. Kelly Ave., Pharr, TX 78577 or wherever he may be found.

Defendant School Board Trustee Carlos Villegas, may be served wherever he may be found or by serving the Superintendent, Dr. Alejandro Elias at 601 E. Kelly Ave., Pharr, TX 78577 or wherever he may be found.

III. JURISDICTION AND VENUE

The subject matter in controversy is within the jurisdictional limits of this court.

This court has personal jurisdiction herein because Defendants conduct local government business in the State of Texas.

Venue in Hidalgo County is proper in this case because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in this county.

IV. FACTS

Plaintiff, Cynthia Gutierrez currently serves as a member of the PSJA School Board of Trustees, place 7. In accordance with her ethical duties as citizen and Board Member, Dra. Gutierrez has voiced concerns with the bidding process for insurance contracts for the school district. For raising her voice she has been the target of harassment in efforts to suppress her voice. The School Board revised their policy manual in February 2025 to include sections for

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censure of board members. **(Exhibit A)**. This new policy regarding censure is vague and purports to allow the censure of School Board members if their “actions repeatedly violate Board expectations or significantly interfere with the Board’s ability to govern effectively . . .”

The School Board has now called a meeting for noon on May 27, 2025. The sole item on the agenda is discussion and vote on the censure of Plaintiff, Cynthia Gutierrez. There have been no warnings regarding any allegedly problematic behavior of Plaintiff. None of Plaintiff’s actions have been brought to her attention as a violation of Board expectations or as interfering with the Board’s ability to govern effectively. Said vote and discussion is merely another act of harassment against Plaintiff with the goal of silencing her and her valid concerns and damaging her reputation. Said actions have caused Plaintiff damages in the form of mental anguish, economic damages and out of pocket expenses. Supporting facts are set out further in the affidavit of Cynthia Gutierrez, attached hereto as **Exhibit B**.

V. CAUSES OF ACTION

1. DECARATORY JUDGMENT

The Censure clause in the current school board policy is unconstitutionally vague. The following phrases are vague, ill defined, and ambiguous: “Board’s standards of conduct”, “behavior that detracts from the orderly operation of the Board”, “expectations of board members standards of behavior.” This language is impermissibly vague, ambiguous, invites abuse for political and self-interested ends. As such the Court should find that the censure clause should be stricken.

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2. BREACH OF FIDUCIARY DUTY

The School Board's actions in attempting to vote on whether to censure Plaintiff, is a waste of the school board's time and resources. School Board members have a duty to act in the best interest of the school district. Holding a meeting for the sole purpose of harassing a school board member through a baseless censure is a breach of that duty.

3. VIOLATION OF ARTICLE 1, SECTION 8 OF THE TEXAS CONSTITUTION

The School Board's actions in calling for a meeting and on the agenda discussion about the censure of Plaintiff is done with the intention to curtail Plaintiff's liberty of speech under the Texas Constitution. As such Defendant's actions are in violation of the Texas Constitution.

VI. DAMAGES

Due to the Defendants' conduct as set out above in the facts section and the Causes of Action, Plaintiff has suffered damages including economic and actual damages as follows:

- a. Economic damages
- b. Mental anguish, past and future
- c. Out-of-pocket expenses

REQUEST FOR TEMPORARY RESTRAINING ORDER

Plaintiff requests the Court to dispense with the issuance of a bond, and Plaintiff requests that Defendants be temporarily restrained immediately, without hearing, and after notice and hearing be temporarily enjoined, pending the further order of this Court, from:

1. Holding a vote or publicly discussing the censure of Plaintiff
2. Threatening or harassing Plaintiff in person or in any other manner, including by telephone or another electronic voice transmission, video chat, in writing, or electronic

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messaging, to take unlawful action against any person, intending by this action to annoy or alarm Plaintiff.

Attorney's Fees, Expenses, Costs, and Interest

It was necessary for Plaintiff to secure the services of Samuel Reyes, a licensed attorney, to prepare and prosecute this suit. For services rendered in connection with this suit, judgment for attorney's fees, expenses, and costs through trial and appeal should be granted against Defendants and in favor of Plaintiff for the use and benefit of Plaintiff's attorney and be ordered paid directly to Plaintiff's attorney, who may enforce the judgment in the attorney's own name. Plaintiff requests postjudgment interest as allowed by law.

Prayer

Plaintiff prays that citation and notice issue as required by law and that the Court grant the relief requested herein and all other relief to which Plaintiff may be entitled.

Plaintiff prays for general relief.

PLAINTIFF DEMANDS A JURY TRIAL

LAW OFFICE OF SAMUEL REYES PLLC

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Samuel Reyes

State Bar No. 24062961
Attorney for Plaintiff

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Alba Valencia-Lozano on behalf of Samuel Reyes

Bar No. 24062961

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Envelope ID: 101260353

Filing Code Description: Petition

Filing Description: Original Petition and Request for Injunctive Relief and Temporary Restraining Order

Status as of 5/27/2025 9:52 AM CST

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