

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

2010 CP 40-01740

PAUL DENMAN,)
)
PLAINTIFF)

RULE TO SHOW CAUSE

VS.)

CITY OF COLUMBIA, CITY)
COUNCIL OF THE CITY OF)
COLUMBIA, CITY OF)
COLUMBIA ELECTION COM-)
MISSION, AND RICHLAND)
COUNTY ELECTION COM-)
MISSION,)
)
DEFENDANTS)

FILED
RICHLAND COUNTY
2010 MAR 15 AM 11:42
JEANETTE W. HEBBRIDE
C.C.P. & G.S.

TO: DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY REQUIRED to show cause, if any you can, why you should not be restrained and enjoined from conducting a special election on April 6, 2010 to fill the vacancy in district 2 on the City of Columbia City Council.

A hearing will be held before JAMES R. BARBER III in Courtroom 23 of the Richland County Judicial Center at 9:30 o'clock A.m. on March 18, 2010.

Columbia, South Carolina
March 18, 2010

James R. Barber III
JAMES R. BARBER, III
Chief Judge for Administrative Purposes
Fifth Judicial Circuit

STATE OF SOUTH CAROLINA)

THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND)

PAUL DENMAN,)

Civil Action No.: 2010 CP 4001740

Plaintiff,)

v.)

SUMMONS

CITY OF COLUMBIA, CITY)
COUNCIL OF THE CITY OF)
COLUMBIA, CITY OF COLUMBIA)
ELECTION COMMISSION, AND)
RICHLAND COUNTY ELECTION)
COMMISSION,)

Defendants.)

JEANETTE W. McBRIDE
C.C.P. & G.S.

2010 MAR 15 AM 10:57

FILED

TO: DEFENDANT(S) LISTED ABOVE:

YOU ARE HEREBY SUMMONED and required to answer the complaint in this action, a copy of which is hereby served upon you, and to serve a copy of your Answer to the said complaint on subscriber hereto at his office at 3710 Landmark Drive, Suite 400 Columbia, South Carolina 29204, within thirty (30) days after service hereof, exclusive of the day of such service; and if you fail to answer the complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the complaint.



Jay Bender
BAKER, RAVENEL & BENDER, L.L.P.
3710 Landmark Drive, Suite 400
P.O. Box 8057
Columbia, South Carolina 29202
(803) 799-9091
Attorneys for Plaintiff

Columbia, South Carolina

March 15, 2010

7. Plaintiff is informed and believes that defendant the Richland County Election Commission is de facto the entity that conducts elections for the City of Columbia.

8. A vacancy exists on Columbia City Council for the district 2 council seat as a consequence of the resignation of the holder of that office on or about March 9, 2010.

9. Plaintiff is informed and believes that defendant City Council acted on or about March 10, 2010 to set April 6, 2010 as the date for a special election to fill the vacancy in the district 2 council seat.

10. Plaintiff is informed and believes that defendants, individually or jointly, will conduct a special election on April 6, 2010 in response to the action of defendant City Council on or about March 10, 2010.

11. Plaintiff is informed and believes that the action taken by defendant City Council to establish April 6, 2010 as the date for a special election to fill the district 2 vacancy is ultra vires in that it is in conflict with the notice provisions for elections under section 7-13-35 of the South Carolina Code of Laws and section 6-4 of the Code of Ordinances for the City of Columbia.

12. Plaintiff is further informed and believes that section 5-7-200(b) of the South Carolina Code of Laws neither requires nor allows a special election to be held in the absence of compliance with the notice provisions of the Code of Laws and the Code of Ordinances of the City of Columbia.

13. Plaintiff, upon learning of the resignation of the council member from council district 2, contemplated becoming a candidate for the position, but believes the action of defendant City Council precludes him from engaging in a meaningful campaign by compressing the filing period for the office and accelerating the election campaign period

to deny him a realistic opportunity to organize and conduct a campaign with enough resources to effectively communicate with the electors of district 2.

14. Further, plaintiff is informed and believes that even if he were not a candidate for the office, the decision of defendant City Council to schedule a special election on April 6, 2010 deprives him of an opportunity to evaluate those candidates who do choose to campaign for the office thereby diminishing his opportunity to make an informed choice among those candidates who offer for the position.

15. Plaintiff is informed and believes that he will suffer irreparable injury as either a candidate or a voter, and that he has no adequate remedy at law if the special election is held on April 6, 2010.

16. Plaintiff is informed and believes that his rights as either a candidate or voter can be protected only if defendants are restrained and enjoined from conducting a special election for the district 2 city council seat on April 6, 2010.

17. Plaintiff is informed and believes that this court should issue its Rule requiring defendants to show cause, if any they can, why they should not be restrained and enjoined from conducting a special election on April 6, 2010 in violation of the notice requirements of state law and city ordinances.

18. Plaintiff is informed and believes that defendants should be restrained and enjoined from conducting any special election for the district 2 council seat until such time as they have complied with the notice requirements of state law and city ordinances.

WHEREFORE, plaintiff prays that this court issue it Rule requiring defendants to show cause, if any they can, why they should not be restrained and enjoined from conducting a special election for council district 2 on April 6, 2010; that defendants be

restrained and enjoined from conducting a special election for council district 2 until such time as they have complied with the notice requirements of state law and city ordinances; together with such other relief as may be appropriate.

Columbia, South Carolina

March 15, 2010



Jay Bender
BAKER, RAVENEL & BENDER, LLP
Post Office Box 8057
3710 Landmark Dr. Suite 400
Columbia, South Carolina 29202
803.799.9091
ATTORNEYS FOR PLAINTIFF

#4