

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Commons Pleas

J.C. Nicholson Jr., Circuit Court Judge

Case No. 2009-CP-10-2604

State Farm Insurance Companies, Petitioner,

v.

Marvin Lee Robertson, Daniel Parks, individually, and as Father and GAL for Joseph I. P., and Joseph I. P., individually, and by and through His GAL, Defendants, Of Whom

Daniel Parks, individually, and as Father and GAL for Joseph I. P., and Joseph I. P., individually, and by and through His GAL are,
..... Respondents.

**PETITION FOR WRIT OF MANDAMUS
OR IN THE ALTERNATIVE
MOTION FOR RELIEF PURSUANT TO RULE 411**

Petitioner, State Farm Insurance Companies (hereafter "Petitioner"), requires the aid of the Supreme Court to address a matter falling, in part, under Rule 411 of South Carolina Appellate Court Rules. A Declaratory Judgment Action was appealed¹ on November 18, 2013, following the reversal of Judge Nicholson's Order of April 9, 2013, in favor of State Farm Insurance Companies, rendering judgment in

¹ See Appellate Case No. 2013- 002518

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favor of Respondents Daniel Parks, individually, and as Father and GAL for Joseph P, and Joseph P., individually and by and through his GAL (hereafter "Respondents"). This Order subsequently reversed the judgment from a bar of any possible additional payments from State Farm Insurance Companies and its insured to Respondent Joseph I. P, a minor. Now there is a question of whether additional money may be available in this matter for the Respondents.

The father of the minor applied to the to the Lawyers Fund for Client Protection (hereafter "Lawyers Fund"), which was established by the South Carolina Supreme Court, and administered by the South Carolina Bar through a Committee. The Fund is codified under Rule 411, SCACR, under subsection four, which covers the practice of law and lawyer discipline.

The only information that has been made available to Petitioner is that the father applied and received the maximum of forty thousand and 00/100 dollars (\$40,000.00) of the seventy-five thousand and 00/100 dollars (\$75,000.00) stolen by Attorney Robertson. *In re Robertson* 383 S.C. 140, 143, 678 S.E.2d 440, 442 (2009). Due to confidentiality rules governing the Lawyers Fund, Petitioner does not have the information to respond to demands to resolve the case, and is missing information needed to prepare its appeal.

Petitioner does not know if the money paid by the Lawyers Fund is protected by any Order from any Court regarding a Guardian's duties to protect the funds for the minor. In addition, pursuant to Rule 411(d)(3), SCACR, the Supreme Court has given the Lawyer's Fund power to force collection of monies not only from the offending attorney, but also other persons and entities. The enforcement is within

the sole discretion of the Committee as empowered by the Supreme Court in Rule 411(c)(2), SCACR (stating the Committee is authorized to prescribe rules of procedure for the management of its funds and affairs...and for the subrogation or assignment to the South Carolina Bar of all rights of any reimbursed applicant, provided all rules prescribed shall be subject to approval by the Supreme Court.).

Due to the payment by the Fund, this case falls into the Supreme Court's exclusive jurisdiction, at least on this issue. To ensure that the matter is correctly resolved, short of a remand to the district court to enter judgment once again in favor of State Farm Insurance Companies, Petitioner needs the aid of this Court.


For these reasons, Petitioner requests the Court to issue an Order, directing the holder of records of the Lawyers Fund to release records regarding the Parks' application with appropriate instructions to use them only as needed in this case and to return all copies. In addition, Petitioner asks this Court to consider whether it would take jurisdiction over the case from the Court of Appeals since it involves matters under its sole jurisdiction.

Respectfully submitted,

March 11, 2014

Other Counsel of Record:

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Daniel Parks, individually, and as Father and GAL for Joseph I. P., and
Joseph I. P., individually, and by and through His GAL are,
..... Respondents.

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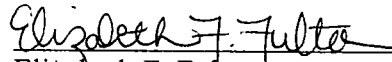
I certify that I have served the foregoing **PETITION FOR WRIT OF MANDAMUS OR IN THE ALTERNATIVE MOTION FOR RELIEF PURSUANT TO RULE 411** on Daniel Parks, individually, and as Father and GAL for Joseph I. P., and Joseph I. P., individually, and by and through His GAL, by depositing a copy of it in the United States Mail, postage prepaid, on March 11, 2014, addressed to their attorneys of record, Stephen L. Brown and Catherine H. Chase, Young Clement Rivers, LLP, P.O. Box 993, Charleston SC 29402.

[SIGNATURE PAGE TO FOLLOW]

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RECEIVED**

MAR 13 2014

SC Court of Appeals



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