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OCT 22 2015

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM THE COURT OF COMMON PLEAS

Honorable G. Thomas Cooper, Jr.

Circuit Court Case No.: 2007-CP-40-03365

Appellant Case No. 2014-001373

Edward Mims, by and through his legal guardian, Margaret Mims,
Appellant

vs.

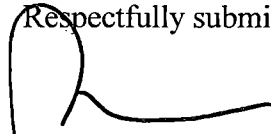
Babcock Center, Inc., Judy Johnson, the South Carolina Department of Disabilities and Special Needs, Kathi Lacy and Stan Butkus,
Respondents.

MOTION FOR CHANGE OF CAPTION,
AND TO DISMISS RESPONDENTS BABCOCK CENTER, INC. AND JUDY JOHNSON

Edward James Mims died March 7, 2015. (Exhibit 1) On July 9, 2015, Laura M. Cole was appointed Personal Representative of his Estate. (Exhibit 2) On September 22, 2015, the Richland County Probate Court issued an Order Approving Settlement Agreement for the claim of the Estate of Edward James Mims against the Babcock Center and Judy Johnson. (Exhibit 3) Consequently, The Estate of Edward James Mims respectfully requests that the Court change the caption of the case to "Estate of Edward James Mims, Laura M. Cole, Personal Representative, Appellant, v. the South Carolina Department of Disabilities and Special Needs, Kathi Lacy, and Stan Butkus, Respondents."

October 19, 2015

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'PLH', written over a horizontal line.

Patricia Logan Harrison
611 Holly Street
Columbia, SC 29205
803-256-2017, plh.cola@att.net

Attorney for Appellant

Exhibit 1

DEATH CERTIFICATION

STATE FILE NUMBER: 139-15-009312

DECEDENT'S NAME: *EDWARD JAMES MIMS*

AKA's: NA

ARMED FORCES: NO

DATE OF BIRTH: DECEMBER 09, 1971

TYPE OF PLACE OF DEATH: DECEDENT'S HOME

NAME AND ADDRESS OF PLACE OF DEATH: 3301 ROSEWOOD DRIVE, COLUMBIA, SC 292095

PLACE OF DISPOSITION: CRESCENT HILL MEMORIAL GARDENS

DISPOSITION LOCATION: COLUMBIA, SOUTH CAROLINA

METHOD OF DISPOSITION: BURIAL

DECEDENT'S RESIDENCE: 3301 ROSEWOOD DRIVE, COLUMBIA, RICHLAND COUNTY, SC, 29205

PLACE OF BIRTH: SOUTH CAROLINA

SURVIVING SPOUSE'S NAME: NA

FATHER'S NAME: ROY EDWARD MIMS

MOTHER'S NAME PRIOR TO FIRST MARRIAGE: MARGARET GUNTER

INFORMANT'S NAME: MARGARET MIMS

MAILING ADDRESS: 3301 ROSEWOOD DRIVE, COLUMBIA, SC, 29205

FUNERAL HOME: DUNBAR FUNERAL HOME - DEVINE ST., 3926 DEVINE ST., COLUMBIA, SC, 29205

FUNERAL DIRECTOR: JAMES K. MOBLEY JR

EMBALMER'S NAME: MARTIN R CORLEY

ACTUAL OR PRESUMED DATE OF DEATH: MARCH 07, 2015

ACTUAL OR PRESUMED TIME OF DEATH: 1045

CAUSE OF DEATH - PART I:

DYSPHAGIA

CEREBRAL PALSY

SEX: MALE

SOCIAL SECURITY NUMBER: 249-21-4011

AGE: 43 YEARS

COUNTY OF DEATH: RICHLAND

MARITAL STATUS: NEVER MARRIED

RELATIONSHIP: MOTHER

LICENSE NUMBER: 3533

LICENSE NUMBER: 2655

MANNER OF DEATH: NATURAL

OTHER SIGNIFICANT CONDITIONS - PART II:

NA

CORONER CONTACTED? NO

DATE OF INJURY: NA

PLACE OF INJURY: NA

LOCATION OF INJURY: NA

HOW THE INJURY OCCURRED:

NA

AUTOPSY PERFORMED? NO

TIME OF INJURY: NA

AUTOPSY AVAILABLE? NA

INJURY AT WORK? NA

CERTIFIER NAME AND TITLE: MD AYE PHYU AUNG

CERTIFIER'S ADDRESS: NA

DATE FILED: MARCH 18, 2015

DATE OF ISSUANCE: MARCH 18, 2015

SPECIAL INSTRUCTIONS:

NA

LICENSE NUMBER: 34638

SC04287173

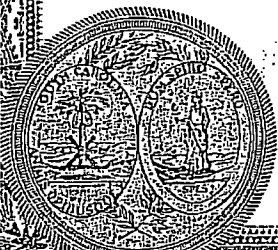
This is a true certification of the facts on file in the Division of Vital Records, SC Department of Health and Environmental Control.

Catherine Templeton
Catherine Templeton
Director and State Registrar

Barbara E. Derrick
Barbara E. Derrick
Assistant State Registrar

This copy is not valid unless prepared on an engraved border displaying the state seal and issuing agency logo.

Revision Date: 09/10/2014



STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

PROBATE COURT

IN THE MATTER OF: EDWARD JAMES MIMS

CASE NUMBER: 2015 ES40 00977

CERTIFICATE OF APPOINTMENT AS PERSONAL REPRESENTATIVE

This is to certify that

LAURA M. COLE

is the duly qualified **PERSONAL REPRESENTATIVE**

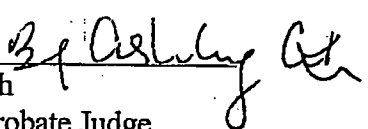
in the above matter and that this appointment, having been executed on the 9th day of July, 2015, is now in full force and effect, including authorization to receive all monies, income, principal, interest & dividends of and belonging to said estate.

RESTRICTIONS:

Only those imposed by law.

Executed this 9th day of July, 2015.

Amy W. McCulloch


Amy W. McCulloch
Richland County Probate Judge

Do not accept a copy of this certificate without the raised seal of the Probate Court.

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE PROBATE COURT
CASE NO.: 2015-ES-40-00977

LAURA M. COLE, as Personal Representative)
of the ESTATE OF EDWARD JAMES MIMS,)

Petitioner,)

v.)

JUDY JOHNSON, Individually and as the)
the Director of Babcock Center; and)
THE BABCOCK CENTER, INC.,)

Repondents.)

AMY W. HICKLSON
PROBATE JUDGE
RICHLAND COUNTY, S.C.

2015 SEP 22 PM 5:29

FILED

ORDER APPROVING SETTLEMENT AGREEMENT

THIS MATTER COMES BEFORE THE COURT upon the filing of a Petition to Approve Settlement ("Petition") by Laura M. Cole, as Personal Representative of the Estate of Edward James Mims ("Personal Representative"). The Petition requested that this Court schedule a hearing to approve the settlement of a claim of the Estate of Edward James Mims ("Estate") against the Babcock Center and Judy Johnson. The Petition further provides that the Personal Representative has agreed to settle all claims against the Babcock Center and Judy Johnson for the sum of \$100,000.00.

By way of background, the lawsuit between Petitioner, the Babcock Center, and Judy Johnson, and others not parties to the proposed settlement agreement before the Court was filed in 2007 for multiple causes of action arising from the alleged mistreatment and neglect in care for the Decedent while he was being cared for at the Babcock Center. The action was dismissed by the Richland County Court of Common Pleas. An appeal was filed in the South Carolina Court of Appeals and the case was transferred to the South Carolina Supreme Court. The

Supreme Court reversed the lower court decision and remanded the case for a trial. On remand, the Circuit Court granted the defendants' motion for summary judgment and an appeal of the dismissal is pending in the South Carolina Court of Appeal.

The Release and Settlement Agreement was fully executed by the Personal Representative, Margaret Mims, and Judy Johnson on August 31, 2015, and the document was filed with this Court on September 2, 2015. The Release and Settlement Agreement released the Babcock Center and Judy Johnson from any liability in the injuries which were sustained by the Decedent; however, the Babcock Center and Judy Johnson admitted no fault in any of the claims and allegations pending against them in the action on appeal in the South Carolina Court of Appeals.

A hearing regarding the Petition requesting approval of the settlement agreement was scheduled for and held on September 14, 2015. All interested parties were notified of the hearing and the following parties were present: Laura Cole, Personal Representative; Margaret Mims, mother of Decedent; Patricia Harrison, attorney for Laura Cole; and Christian Stegmaier, attorney for Babcock Center. The Personal Representative, the Babcock Center, and Judy Johnson requested that this Court approve a settlement by which the Babcock Cock Center will be released from liability in the pending action, and ratify their agreement by way of an Order. At the hearing, the Personal Representative and Margaret Mims both agreed to the amount of the settlement and stated that it was fair given the facts and circumstances.

After review of all filed pleadings and testimony, the Court makes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. This Court has subject matter jurisdiction of this action, pursuant to S.C. Code Ann. § 62-1-302(b).


2. Venue for this action is proper in Richland County, pursuant to S.C. Code Ann. § 62-3-201, 1976, as amended.
3. Laura M. Cole, as Personal Representative of the Estate of Edward James Mims, has standing and authority to pursue this cause of action and to enter into a settlement agreement with regard to the civil action, pursuant to S.C. Code Ann. § 15-51-10, 1976, as amended.
4. The Decedent died intestate on March 7, 2015. Laura M. Cole was appointed to serve as Personal Representative of the Estate on July 9, 2015.
5. At the time of the Decedent's death, his wrongful death beneficiary was Margaret Mims, his mother and the sole beneficiary of his Estate.
6. It is alleged that while receiving care at Babcock Center, Decedent was exposed to harmful elements which resulted in physical and emotional harm.
7. Under the terms of the proposed settlement, the terms of which are fully set forth in a copy of the Release and Settlement Agreement executed by the parties and filed with the Court on September 2, 2015, the Babcock Center and Judy Johnson will be released from all potential claims in exchange for payment in the amount of \$100,000.00, with the Babcock Center and Judy Johnson admitting to no fault in the allegations of injuries sustained by the Decedent while in their care.
8. All interested parties reviewed the settlement statement and indicated their satisfaction with the proposed settlement and distributions.
9. Based upon the above findings, the Court concludes that this settlement is fair, reasonable, and should be approved.



THEREFORE IT IS HEREBY ORDERED THAT:

- A. The settlement described above, and more specifically detailed in the Release and Settlement Agreement executed by the parties and filed with this court on September 2, 2015, which is incorporated herein by reference, shall be approved and is ratified with the execution and filing of this Order.
- B. The Personal Representative shall be authorized to execute all documents necessary to fully release the Babcock Center and Judy Johnson, and to conclude this matter.

IT IS SO ORDERED.


Jacqueline D. Belton, Associate Judge
Richland County Probate Court

September 22, 2015
Columbia, South Carolina

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM THE COURT OF COMMON PLEAS

Honorable G. Thomas Cooper, Jr.
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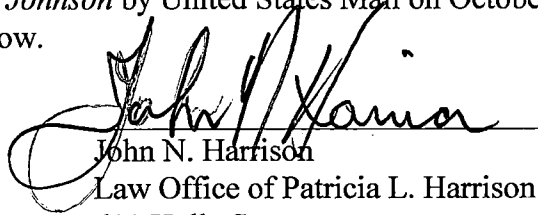
Edward Mims, by and through his legal
guardian, Margaret Mims,
Appellant,

v.

Babcock Center, Inc., Judy Johnson, the
South Carolina Department of Disabilities
and Special Needs, Kathi Lacy and Stan
Butkus,
Respondents.

CERTIFICATE OF SERVICE

I, John N. Harrison, certify that I have served the *Motion for Change of Caption, and to Dismiss Respondents Babcock Center, Inc. and Judy Johnson* by United States Mail on October 19, 2015, to the attorneys at the addresses shown below.


John N. Harrison
Law Office of Patricia L. Harrison
611 Holly Street
Columbia, Sc 29205

Christian Stegmaier, Esq.
Collins & Lacy, P.C.
PO Box 12487
Columbia, SC 29211

Kenneth P. Woodington, Esq.
Davidson & Lindemann, P.A.
PO Box 8568
Columbia, SC 29202-8568