

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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Appeal from Richland County  
G. Thomas Cooper, Jr., Circuit Court Judge  
Circuit Court Case No. 2007-CP-40-03365  
Appellate Case No. 2014-001373

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Estate of Edward James Mims, Laura M. Cole,  
Personal Representative,  
Appellant,

v.

The South Carolina Department of Disabilities and  
Special Needs, Kathy Lacy, and Stan Butkus,  
Respondents.

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SC Court of Appeals

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**MOTION OF PROTECTION AND ADVOCACY FOR PEOPLE WITH  
DISABILITIES, INC., THE NATIONAL ACADEMY OF ELDER LAW  
ATTORNEYS, AND THE SOUTH CAROLINA CHAPTER OF THE  
NATIONAL ACADEMY OF ELDER LAW ATTORNEYS FOR LEAVE TO  
FILE AN AMICI CURIAE BRIEF IN SUPPORT OF APPELLANT**

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Pursuant to Rule 213, SCACR, Protection and Advocacy for People with Disabilities, Inc., the National Academy of Elder Law Attorneys, and the South Carolina chapter of the National Academy of Elder Law Attorneys move for permission to file an amici curiae brief in support of the Appellant in the above-referenced matter. The brief addresses the statute of limitations for disabled persons with a guardian under South Carolina law, and requests publication of this Court's Opinion of November 8, 2017. As permitted by Rule 213, SCACR, the amici curiae brief is being filed conditionally along with this motion. According to Rule 213, SCACR, the motion for leave to file should identify the interest of the applicant and shall state the reasons why an amici curiae brief is desirable.

1. The amici curiae are interested in this case for several reasons.

Protection and Advocacy for People with Disabilities, Inc. (P&A) is a statewide, nonprofit advocacy organization whose purpose is to promote the legal, civil, and human rights of people with disabilities.<sup>1</sup> The State of South Carolina has designated P&A to serve as the federally-mandated Protection and Advocacy System for South Carolina. S.C. Code Ann. § 43-33-310 to 43-33-400 (1976 & Supp. 2013). As such, P&A is authorized by federal and state law to enforce the civil rights of people with disabilities and is specifically charged with protecting and advocating for the rights of people with developmental disabilities, such as Mr. Mims. Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §§ 15001 to 15009. Under state law, P&A has the power and the duty to advocate for the rights of people with disabilities by "pursuing legal, administrative, and other appropriate remedies." S.C. Code Ann. § 43-33-350(1) (Supp. 2013). P&A assists individuals with disabilities who experience discrimination as a result of a disability, who suffer abuse or neglect, or who are illegally denied needed services by a program or agency. The goals of P&A include increasing public knowledge about the rights of people with disabilities and participating in litigation affecting the legal rights and status of people with disabilities. One of P&A's primary goals is reducing incidents of abuse and neglect of people with disabilities. P&A has participated as amicus curiae in cases before South Carolina appellate courts and the United States District Court for the District of South Carolina. *E.g.*, *Singleton v. State*, 313 S.C. 75, 437 S.E.2d 53 (1993); *Stogsdill v. S.C. Dep't of Health & Human Servs.*, 410 S.C. 273, 763 S.E.2d 638 (Ct. App. 2014); *Clemson Univ. v. Speth*, 344 S.C. 310, 543 S.E.2d 572 (Ct. App. 2001).

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<sup>1</sup> More information about P&A and the organization's work is available at <https://www.pandasc.org/>.

The above-referenced case was brought by an individual with developmental disabilities who suffered abuse and neglect while receiving services from the Department of Disabilities and Special Needs (DDSN). As such, the allegations fall squarely within P&A's authority as designated by statute. P&A often provides services to clients of DDSN, including legal representation, and expects to face similar questions regarding the application of the statute of limitations to similarly situated individuals in the future.

South Carolina Chapter of the National Academy of Elder Law Attorneys (SCNAELA) is a state chapter of the National Academy of Elder Law Attorneys (NAELA).<sup>2</sup> NAELA is an education and advocacy organization. Members of SCNAELA are South Carolina attorneys who practice in the area of elder law, which includes advocacy for people who are elderly and people who are disabled. A priority of NAELA is to educate and assist attorneys in providing advocacy, guidance and services to enhance the lives of people as they age as well as individuals with special needs. NAELA has, as the organization has evolved, an increasing emphasis on institutional, as well as individual, advocacy for people with disabilities, regardless of age, with particular emphasis on access to government benefits and services that are essential to achieving as much dignity and independence as possible.

2. An amici curiae brief is desirable in this case.

An amici curiae brief is desirable as it would enable P&A, NAELA and SCNAELA to share information with the Court that is specific to individuals who are likely to find themselves wards of guardians in South Carolina. The brief would also help the Court understand the wide-reaching implications of its decision beyond the case of the appellant in this matter.

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<sup>2</sup> Additional information regarding the activities of NAELA and SCNAELA is available at <https://www.naela.org/>.

THEREFORE, the undersigned requests that the Court grant amici leave to file an amici curiae brief in support of the Petitioner in the above-referenced matter.

Respectfully submitted,

PROTECTION AND ADVOCACY FOR  
PEOPLE WITH DISABILITIES, INC.

BY: 

Kathleen A. Warthen

SC Bar # 72601

Protection and Advocacy for People  
With Disabilities, Inc.

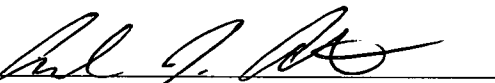
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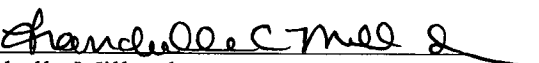
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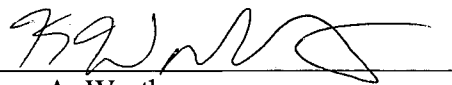
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CERTIFICATE OF COMPLIANCE WITH RULE 211(b)

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The undersigned certifies that the Brief of Amici Curiae complies with Rule 211 (b), SCACR, to the extent possible in the context of an Amicus Curiae Brief on a limited question of law.

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PEOPLE WITH DISABILITIES, INC.

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Advocacy for People with Disabilities, Inc.

Columbia, South Carolina  
December 15, 2017

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CERTIFICATE OF SERVICE

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This is to certify that the undersigned has this date filed and served a copy of Motion for Leave to File an Amici Curiae Brief and Amici Curiae Brief upon counsels of record for the Respondents by depositing a copy of these documents in the United States Mail, postage prepaid, on the 15<sup>th</sup> day of December, 2017 addressed as follow:

Kenneth P. Woodington, Esq.  
Davidson & Lindemann, P.A.  
1611 Devonshire Drive  
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