

THE STATE OF SOUTH CAROLINA

In The South Carolina Supreme Court

Appellate Case No. 2019-002089

Appeal from Richland County
Court of Common Pleas
Robert E. Hood, Circuit Court Judge

RECEIVED

MAR 06 2020

S.C. SUPREME COURT

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

v.

The South Carolina Department of Disabilities
and Special Needs, Kathi Lacy, and Stan Butkus,
and

Henry D. McMaster, in his capacities as Governor
of the State of South Carolina and Chair of the
State Fiscal Accountability Authority,
Respondents.

APPENDIX VOLUME II

PETITION FOR WRIT OF *CERTIORARI*, *MAMDAMUS* OR *SUPERSEDEAS*

Patricia Logan Harrison
47 Rosemond Road
Cleveland, South Carolina
803 360 5555
pharrison@loganharrisonlaw.com

The South Carolina Court of Appeals

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

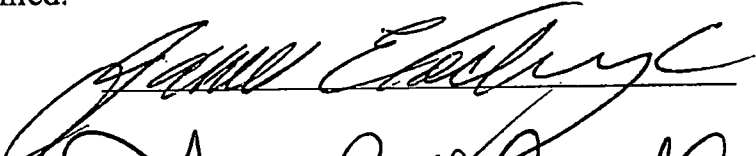
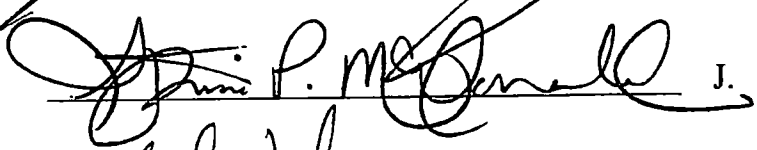
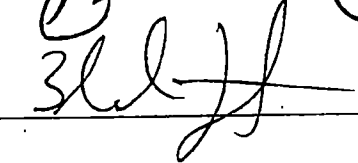
v.

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

Appellate Case No. 2019-001552

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

 J.
 J.
 J.

Columbia, South Carolina

cc:

Patricia Logan Harrison, Esquire
Robert Clyde Childs, III, Esquire

FILED

February 5, 2020

Kenneth P. Woodington, Esquire
Daniel Clifton Plyler, Esquire

The South Carolina Court of Appeals

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

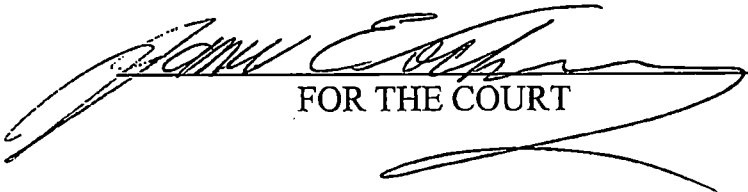
v.

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

Appellate Case No. 2019-001552

ORDER

After careful consideration, the motion to dismiss is granted because the underlying orders on appeal are not immediately appealable. *See ex parte Whetstone*, 289 S.C. 580, 347 S.E.2d 881 (1986); *Waddell v. Kahdy*, 309 S.C. 1, 419 S.E.2d 783 (1992) The remittitur will be sent as required by Rule 221(b), SCACR.



FOR THE COURT

Columbia, South Carolina

cc:

Patricia Logan Harrison, Esquire
Robert Clyde Childs, III, Esquire
Kenneth P. Woodington, Esquire
Daniel Clifton Plyler, Esquire

FILED

December 5, 2019

152
90840

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

Robert E. Hood, Circuit Court Judge

Case No. 07-CP-40-3365

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.

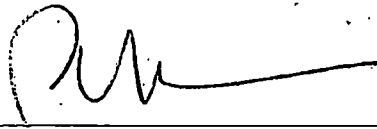
RECEIVED

SEP 12 2019

SC Court of Appeals

NOTICE OF APPEAL

Laura M. Cole, in her capacity as Personal Representative of the Estate of Edward Mims appeals the order of the Honorable Robert E. Hood dated September 5, 2019. Appellant received written notice of entry of this order on September 5, 2019.
September 9, 2019



Patricia Logan Harrison
47 Rosemond Road
Cleveland, South Carolina 29635
(803) 360-5555
pharrison@loganharrisonlaw.com

Robert C. Childs, III
Childs Law Firm, LLC
2100 Poinsett Hwy, Suite D
Greenville, South Carolina 29609
(864) 242-9997
Fax (864) 242-9914
Robert@LawyerChilds.com

ATTORNEYS FOR THE PLAINTIFF

Other Counsel of Record:
Kenneth Woodington, Esq.
Daniel Plyler, Esq.
Davidson, Wren and Plyler
Post Office Box 8568
Columbia, South Carolina 29202-8568
(803) 806-8222

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
	)	
Estate of Edward James Mims,	)	
Laura M. Cole, Personal Representative,	)	Civil Action No. 07-CP-40-3365
	)	
Plaintiff,	)	
	)	ORDER
v.	)	
	)	
The South Carolina Department of	)	
Disabilities and Special Needs,	)	
Kathi Lacy and Stanley Butkus,	)	
	)	
Defendants.	)	
_____	)	

This matter comes before the Court upon a motion for reconsideration filed by Plaintiff. Specifically, Plaintiff's counsel filed a motion for reconsideration on August 30, 2019, asking the undersigned to reconsider the rulings in his August 22, 2019 Order. For the reasons set forth herein, Plaintiff's motion is **DENIED**.

The August 22, 2019 Order addressed two motions. Specifically, that Order denied Plaintiff's "Motion for Protective Order and Other Relief," which was filed by Plaintiff on June 17, 2019, as well as Plaintiff's "supplement" to that motion, which was filed by Plaintiff July 8, 2019. The August 22, 2019 Order also granted Defendants' "Motion to Compel Discovery and for Extension of Scheduling Order Deadlines," which was filed by Defendants on May 30, 2019.

As was stated in the August 22, 2019 Order, the Court held a hearing, on July 30, 2019, on Plaintiff's "Motion for Protective Order and Other Relief" and Defendants' "Motion to Compel Discovery and for Extension of Scheduling Order Deadlines." At that hearing the Court heard and considered the arguments from all parties with regards to both motions, and subsequently the Court decided to deny Plaintiff's motion in its entirety, and to grant Defendants' motion. Plaintiff's counsel

subsequently filed a “Motion to Reconsider, Alter or Amend,” and Plaintiff states said motion is based on Rules 52 and 59(e), SCRCP. Plaintiff proceeds to alleged that the August 22, 2019 Order “did not address all of the issues and arguments raised by the Estate.” *See*, Motion at pg. 2.

The undersigned has carefully and fully reviewed the Motion to Reconsider, Alter or Amend and hereby **DENIES** that motion. First, the Court is not required to set forth, on interlocutory Orders, specific findings of fact and/or conclusions of law. The August 22, 2019 Order is not a final Order or Judgment, and therefore Rules 52 and 59(e), SCRCP are not applicable to that Order. Therefore, for that reason alone, Plaintiff’s motion can be, and hereby is, **DENIED**.

Furthermore, to the extent Plaintiff is asking the Court to reconsider its ruling contained in the August 22, 2019 Order, the Court finds Plaintiff has failed to make the requisite showing for why the Court should reconsider, alter or amend its ruling. The Court’s August 22, 2019 Order makes it clear the Court considered all arguments made by Plaintiff’s counsel in Plaintiff’s written submissions, as well as at the oral argument on the motions in question. Having heard and considered those arguments, the Court decided to deny, in its entirety, Plaintiff’s “Motion for Protective Order and Other Relief.” Additionally, the Court decided to grant, in its entirety, Defendants’ “Motion to Compel Discovery and for Extension of Scheduling Order Deadlines.” The Court reiterates said rulings, with the following *caveat*.

Due to the delay in moving discovery forward in this case caused by Plaintiff’s filing of the herein denied motion for reconsideration, the Court hereby Orders that the Scheduling Order in this matter shall be further modified as follows:

1. Discovery in this case shall conclude 90 days after the date this Order is signed and filed.
2. The witnesses must respond to Defendants’ subpoenas within 15 days of this Order.

AND IT IS SO ORDERED.

The Honorable Robert E. Hood
Judge, Fifth Judicial Circuit

Columbia, South Carolina

September _____, 2019



Richland Common Pleas

Case Caption: Margaret Mims , plaintiff, et al vs Babcock Center Inc , defendant,
et al
Case Number: 2007CP4003365
Type: Order/Other

So Ordered

s/ R.E. Hood #2164

Electronically signed on 2019-09-05 15:36:56 page 4 of 4

THE STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS

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

v.

The South Carolina Department of Disabilities
and Special Needs, Kathi Lacy, and Stan Butkus,
Petitioners.

Civil Action Number 07-CP-40-3365

Plaintiff's Motion to Reconsider, Alter or Amend
Order dated August 22, 2019

YOU WILL PLEASE TAKE NOTICE THAT the Estate of Edward Mims, by and through its undersigned counsel, hereby moves the Court for an order pursuant to SCRCR Rule 59(e) reconsidering, altering, or amending the Court's Order issued on August 22, 2019 and requests a hearing on this motion. That order granted Defendants' motion to extend the time for discovery, directed witnesses to respond to subpoenas within 15 days of the order. It denied Plaintiffs' June 17, 2019 and July 8 motions (1) for a protective order, pursuant to Rule 26(c) of the South Carolina Rules of Civil Procedure, (2) for an order requiring Defendants to pay the fees and costs of depositions of expert witnesses, including for time spent preparing to testify in depositions; (3) for an order requiring participation of the Chairman of the South Carolina Department of Disabilities and Special Needs and the individual defendants to attend the mandatory mediation; and (4) for an order prohibiting Defendants from retaliating against the witnesses.

This motion is made pursuant to S.C.R.C.P. Rules 52 and 59, and it is supported by the South Carolina Rules of Civil Procedure, the common law of this State, and such legal memoranda and arguments as Plaintiffs' counsel may present to the Court at or prior to a hearing on this motion. In accordance with S.C.R.C.P. Rule 11, counsel for Plaintiffs assert that they have consulted with opposing counsel in an attempt to resolve this matter.

Pursuant to SCRCF Rules 52 and 59, Plaintiff moves this Court to reconsider, alter, or amend its Order of August 22, 2019 for the reasons set forth below.

A. The Order did not address all of the issues and arguments raised by the Estate.

The Order should be reconsidered, altered, or amended because the Court did not address all of the issues and arguments raised in Plaintiffs' motions, at the hearing and in the affidavits of nonparties, including the following issues and arguments:

1. Defendants had ample opportunity by discovery in the action to obtain the information sought prior to the deadline of May 31, 2019 and the subpoenas constituted an improper violation of the May 31, 2019 discovery deadline. This lawsuit was filed in 2007 and Defendants took only two depositions during the first eleven years. All of the witnesses except one were identified more than a decade ago. On the second remand from the appellate Courts, this Court granted multiple extensions at the request of Defendants, allowing Defendants more than sufficient time to take depositions and to discover documents that were requested after the close of discovery. The order did not contain facts and conclusions of law addressing why an additional ninety days of discovery should be allowed under the circumstances set forth in Plaintiffs' motions.
2. Defendants' counsel failed to take reasonable steps to avoid imposing undue burden or expense on persons who are not parties to the action. Plaintiffs refer to the affidavits

signed by the witnesses previously filed in this action, which are incorporated herein by reference. The order did not address the issues raised in these affidavits, including whether responding to the subpoenas imposed an undue burden. The order did not set forth facts and conclusions of law on this issue.

3. The order did not address the undue burden on the Plaintiff, who has limited funds to purchase depositions of dozens of witnesses called after remand, and even more sought after the close of discovery. The order did not set forth facts and conclusions of law on this issue
4. The subpoenas and this Court's August 22, 2019 order failed to allow reasonable time for compliance and subject witnesses to undue burden. See affidavits. The subpoenas require non-parties to spend an excessive amount of time attempting to locate records, some from more than ten years ago. The order did not address issues raised by the non-party witnesses in their affidavits as to the time required to comply with the subpoenas or set forth conclusions of law on this issue.
5. Some of the discovery sought is obtainable from some other sources that are more convenient, less burdensome, or less expensive. The order did not address the issue raised by Plaintiffs that many of the records requested are already contained in the record or are in the possession of DDSN and/or its employees, agents and Commissioners, or the expense of complying with Defendants' subpoenas. The order did not set forth facts or conclusions of law on this issue.
6. The burden and expense to the non-party witnesses outweighs the likely benefit, and the Court failed to take into account the needs of the case, and the parties' respective resources. The Court failed to take into account the seemingly unlimited resources of the

state to pay for discovery, that Defendants' counsel is being paid on an hourly basis to extend this litigation and the extremely limited resources available to the Plaintiff. Just one example is the requirement in subpoenas that the witness produce "*by chapter and page,*" a list of all "articles, treatises, texts, technical bulletins, professional guidelines, periodicals and papers" and "a complete list of literature" that support their opinions, a task that the witnesses reported would take weeks, if not months to prepare. The order did not set forth facts or conclusions of law on this issue.

7. The subpoenas sought discovery stored electronically that is not reasonably accessible because of undue burden and cost and did not require Defendants to pay the cost for attempting to access those records, some of which likely have been destroyed. For example, Mullis informed the Court that these records were not only previously provided to DDSN, but also that they were so old that they are in a format that would require a computer expert to attempt to recover. Bagnal informed the Court that her professional standards only require her to retain records for seven years, and that records requested have been destroyed. In addition, both of these witnesses stated in their affidavits that their reports were provided to the Court or DDSN. Because responses to the subpoenas would require review of more than a decade of records, many of which are not readily accessible, the subpoenas are not only untimely, but they are unduly burdensome. Plaintiffs relies upon all of the affidavits provided regarding the undue burden and costs of complying with the Court's order. The order did not set forth facts or conclusions of law on this issue.
8. Plaintiffs argued that Defendants served the subpoenas out of time for the purpose of delay and the Court did not address the issue of delay in this now twelve year old case,

including the fact that Edward Mims died during the court of litigation of this case and that Mrs. Mims is eighty years old and is in poor health. The order did not set forth facts or conclusions of law on this issue.

Payment of Fees and Expenses

The August 22, 2019 order did not address Plaintiff's issue of payment of fees and expenses to be incurred by the non-party witnesses in preparing for and attending any depositions agreed to or allowed by order of the Court. The Court did not address Plaintiff's request for an order requiring Defendants to pay fees and costs incurred by expert witnesses fees for time spent traveling to, attending and preparing for depositions, and that travel costs be paid prior to their depositions being taken. The order did not set forth facts or conclusions of law on this issue.

Request for Order Mandating Attendance at Mediation

Plaintiffs respectfully request reconsideration of the order denying Plaintiffs' request that the Chairperson of the South Carolina Disabilities and Special Needs Commission attend mediation and that the members of the Commission be informed about the mediation. The order did not address South Carolina ADR Rule 6, which requires all attorneys to "fairly and objectively inform their clients about mediation and arbitration" Rule 6(a). The order did not address Rule 6(b), which requires the following persons to "physically attend a mediation settlement conference unless otherwise agreed to by the mediator and all parties or as ordered or approved by the Chief Judge for Administrative Purposes of the circuit:

- (1) The mediator;
- (2) All individual parties; or an officer, director or employee having full authority to settle the claim for a corporate party; or **in the case of a governmental agency, a representative of that agency with full**

- authority to negotiate on behalf of the agency and recommend a settlement to the appropriate decision-making body of the agency;**
- (3) The party's counsel of record, if any; **and**
 - (4) For any insured party against whom a claim is made, **a representative of the insurance carrier** who is not the carrier's outside counsel and who has full authority to settle the claim.

Plaintiffs believe that this Rule demonstrates that **both** the IRF and a representative of DDSN must attend the mediation. Paragraph 2 requires a representative of the agency to attend mediation who has full authority to negotiate settlement, and separate Paragraph 4 requires attendance of an IRF representative with authority to settle. This Rule clearly requires both the agency and the IRF to attend the mediation. Only the governing board of DDSN has authority to approve a settlement. Plaintiffs call the attention of the Court to the fact that after the recent resignation of two DDSN Commissioners, only three Commissioners of the seven members required by statute remain in office. The order did not address the issue raised by Plaintiffs that, historically, DDSN Commissioners have not even been informed prior to mediation conferences or given the opportunity to attend. Former DDSN Commissioner, Deborah McPherson stated in her sworn statement that "As a Commissioner of DDSN, we were never allowed to vote on whether to continue litigation or settle cases and when we attempted to obtain information about cases, we were instructed that we were interfering with management."

Request for Protection from Retaliation

The order did not address the issue raised by two former Commissioners and a provider of Medicaid services who expressed legitimate concerns about the need for protection from retaliation by the Defendants. Former DDSN Commissioner McPherson expressed concern in her affidavit that witnesses are "reluctant to advocate or testify for clients because of the history of retaliation, particularly retaliation by Kathi Lacy." She reported that "providers are also

fearful, so that it is difficult to locate witnesses” and that Defendants’ law firm has a history of causing “years-long delays.” The order did not set forth facts or conclusions of law on this issue.

Conclusion

For the reasons set forth in Plaintiffs’ motions, those contained in the witnesses’ affidavits and those argued at the hearing, the Court should reconsider its opinion, deny Defendants’ motion and grant Plaintiff’s motion. Plaintiff requests a hearing on this motion.

Respectfully Submitted,

s/Patricia Logan Harrison
Patricia Logan Harrison
47 Rosemond Road
Cleveland, South Carolina 29635
(803) 360-5555
pharrison@loganharrisonlaw.com

Robert C. Childs, III
Childs Law Firm, LLC
2100 Poinsett Hwy, Suite D
Greenville, South Carolina 29609
(864) 242-9997
Fax (864) 242-9914
Robert@LawyerChilds.com

ATTORNEYS FOR THE PLAINTIFF

August 30, 2019

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
Estate of Edward James Mims,	)	
Laura M. Cole, Personal Representative,	)	Civil Action No. 07-CP-40-3365
	)	
Plaintiff,	)	
	)	
v.	)	ORDER
	)	
The South Carolina Department of	)	
Disabilities and Special Needs,	)	
Kathi Lacy and Stanley Butkus,	)	
	)	
Defendants.	)	
_____	)	

This case came before the Court for a hearing on July 30, 2019 regarding two motions. On May 30, 2019, Defendants filed a Motion to Compel Discovery and for Extension of Scheduling Order Deadlines. On June 17, Plaintiff filed a Motion for Protective Order and for Other Relief. After hearing argument from both sides, the Court GRANTS Defendants' motion and DENIES Plaintiff's motion as follows:

1. Defendants' Motion to Extend Scheduling Order Deadlines by 90 days is GRANTED. This will necessarily remove this case from the September 3, 2019 trial roster. Discovery in this case shall conclude 90 days after the date of this Order.
2. Mediation shall occur within 30 days after the close of discovery.
3. If the case is not resolved through mediation, the parties are instructed to contact the Chief Administrative Judge for the purpose of scheduling a date certain trial date.
4. Plaintiff's Motion for Protective Order regarding the document subpoenas is DENIED The witnesses must respond to the subpoenas within 15 days of this Order.
5. Finally, Plaintiff's motion to have certain DDSN officials present at mediation is DENIED.

AND IT IS SO ORDERED.

The Honorable Robert E. Hood
Judge, Fifth Judicial Circuit

Columbia, South Carolina

August _____, 2019



Richland Common Pleas

Case Caption: Margaret Mims , plaintiff, et al vs Babcock Center Inc , defendant,
et al
Case Number: 2007CP4003365
Type: Order/Scheduling Order

So Ordered

s/ R.E. Hood #2164

Electronically signed on 2019-08-21 15:40:03 page 3 of 3

***** IMPORTANT NOTICE - READ THIS INFORMATION *****

NOTICE OF ELECTRONIC FILING [NEF]

-

A filing has been submitted to the court RE: 2007CP4003365

Official File Stamp: 07-08-2019 11:44:55 AM

Court: CIRCUIT COURT

Common Pleas

Richland

Case Caption: Margaret Mims , plaintiff, et al vs Babcock Center
Inc , defendant, et al

Document(s) Submitted: Motion/Supplement

- Exhibit/Filing of Exhibits

Filed by or on behalf of: Robert Clyde Childs, III

This notice was automatically generated by the Court's auto-notification system.

-

The following people were served electronically:

Daniel Clifton Plyler for Stanley Butkus, South
Carolina Dept of Health and Human Services

William H. Davidson, II for Stanley Butkus

Robert Clyde Childs, III for Margaret Mims et al

Leslie A. Cotter, Jr.

Kenneth P. Woodington for Stanley Butkus, South
Carolina Dept of Health and Human Services

Patricia Logan Harrison for Margaret Mims et al

The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:

Susan Dowling

Sue Slater

Craig Stoxen

Tonya Bradford

Certificate of Electronic Notification

Recipients

Leslie Cotter - Notification transmitted on 07-08-2019 11:45:42 AM.

William Davidson - Notification transmitted on 07-08-2019 11:45:42 AM.

Robert Childs - Notification transmitted on 07-08-2019 11:45:42 AM.

Daniel Plyler - Notification transmitted on 07-08-2019 11:45:42 AM.

Patricia Harrison - Notification transmitted on 07-08-2019 11:45:42 AM.

Kenneth Woodington - Notification transmitted on 07-08-2019 11:45:42 AM.

THE STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS

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

v.

The South Carolina Department of Disabilities
and Special Needs, Kathi Lacy, and Stan Butkus,
Petitioners.

Civil Action Number 07-CP-40-3365

Plaintiff's Supplement to Motion for Protective Order
and Other Relief

I. Statement of the Issues

Plaintiffs hereby supplement their Motion for a Protective Order and other relief. Plaintiffs moved on June 17, 2019 for a protective order pursuant to Rule 26(c) of the South Carolina Rules of Civil Procedure and an order requiring Defendants to pay the fees and costs of depositions of expert witnesses and time spent preparing to testify in depositions. Plaintiffs also requested an order requiring the participation of the Chairman of the South Carolina Department of Disabilities and Special Needs and the individual defendants to attend the mandatory mediation. Plaintiffs also seek payment of legal fees and costs associated with this motion.

II. Supplemental History

During discovery, Defendants deposed only three of the hybrid witnesses named in this case. After the close of discovery, which had already been extended multiple times by request of

Defendants, Defendants' counsel served defective and burdensome subpoenas upon Plaintiffs' expert and hybrid expert witnesses, including two of the witnesses who had already been deposed. These subpoenas would require weeks to gather the information requested and they were served on nonparties nearly a month after the close of discovery.

Plaintiffs have voluntarily offered to make the expert witnesses not previously deposed available for a deposition conditioned upon an agreement that Defendants will pay the fees for time spent preparing for and attending the depositions, as required by the South Carolina Rules of Civil Procedure. Defendants have either ignored this offer or have refused to discuss the payment of fees of the expert witnesses. Defendants have still not paid the fees incurred by one expert (Richard Magner) for attending his deposition.

On or about June 25, 2019, Defendants' counsel caused four of the expert or hybrid witnesses to be personally served with burdensome subpoenas, while still refusing to pay the costs of gathering records or preparing for depositions. Affidavits of three of these witnesses (who have already been deposed) are attached as Exhibit 1, Exhibit 2 and Exhibit 3.

IV. Request for a Protective Order

Defendants have violated Rule 45(c)(1) which requires them to "take reasonable steps to avoid imposing undue burden or expense" on a nonparty. That Rule authorizes the court to enforce this duty and to impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

Plaintiffs have asked this Court to quash these subpoenas because they failed to allow reasonable time for compliance, they have subjected nonparties to undue burden and Defendants have refused to pay the fees of expert witnesses to comply with the subpoenas. Plaintiffs restate

and incorporate by reference their June 17, 2019 motion for a protective order quashing all subpoenas sent after the May 31, 2019 deadline for discovery.

Plaintiffs respectfully request that the Court quash the subpoenas and order Defendants to pay the legal fees and costs associated with these motions. Plaintiffs request an order prohibiting Defendants from attempting to exclude expert witnesses who were disclosed but were not deposed by Defendants' counsel prior to the discovery deadline.

V. Request for Order Requiring Defendants to Pay Fees and Costs of Expert Witnesses

Plaintiffs also restate their motion requesting an order paying the fees of experts and hybrid experts pursuant to Rule 26(4)(C).

Respectfully submitted,

s/Robert C. Childs, III
Robert C. Childs, III, #1218
Childs Law Firm, LLC
2100 Poinsett Hwy, Suite D
Greenville, South Carolina 29609
(864) 242-9997
Fax (864) 242-9914
Robert@LawyerChilds.com

s/Patricia Logan Harrison
47 Rosemond Road
Cleveland, South Carolina 29635
(803) 360-5555
pharrison@loganharrisonlaw.com

ATTORNEYS FOR THE PLAINTIFF

July 8, 2019

THE STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS

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

v.

The South Carolina Department of Disabilities
and Special Needs, Kathi Lacy, and Stan Butkus,
Petitioners.

Civil Action Number 07-CP-40-3365

EXHIBIT 1

Second Affidavit of Deborah McPherson

OBJECTIONS OF DEBORAH McPHERSON

I was personally served with the attached subpoena, directing me to provide records in the case of *Cole v. DDSN et. al.* by July 8, 2019. I am not a party to this lawsuit and I object to the subpoena on the following grounds and any other relevant grounds that may be provided to the Court by counsel for the Estate of Edward Mims:

1. I am the primary caregiver of my adult daughter who has intellectual disabilities, who requires around-the-clock supervision, and responding to the subpoena is unduly burdensome.
2. I base these statements on my personal experience as a former Commissioner of DDSN (serving 2010-2014) and, before my service on the governing board of the agency, working for 6 ½ years in the director's office.
3. I previously attended a deposition on February 22, 2019 in this case and I responded to all of the questions asked by Mr. Plyler for several hours, without being compensated for my time or the time spent in preparation for my deposition.
4. I attempted to respectfully answer Mr. Plyler's questions thoroughly during that deposition, but I felt that his questioning rose to the level of harassment when he did not get the answers he wanted.
5. I found it quite offensive that Mr. Plyler repeatedly challenged my commitment as an advocate for persons who have disabilities because I resigned as a member of the board of directors of the Babcock Center after the director refused to report the rape of an elderly client by a much younger housemate.
6. I provided Mr. Plyler with all of the information he requested during that deposition regarding my education and professional background and the information he now demands is redundant.
7. He had the opportunity to obtain any other information he requested during my deposition.
8. Although I was identified as a witness many years ago, before my appointment to the Commission, DDSN never made any attempt to obtain the information they now demand.
9. Indeed, as Commissioners, we were kept in the dark about litigation and when the Davidson firm did meet with Commissioners to review legislation, we were not provided with an accurate assessment of cases, based on my later knowledge of how the cases were resolved by the Courts.
10. It is common knowledge in the disability community in South Carolina that this law firm will drag out cases and try to starve out plaintiffs by driving up litigation costs and

- delaying trials, forcing families to give up or to settle for less than the case is worth.
11. As a Commissioner of DDSN, we were never allowed to vote on whether to continue litigation or to settle cases and when we attempted to obtain information about cases, we were instructed that we were interfering with management.
12. I know from personal experience talking with providers of DDSN services that they are reluctant to advocate or to testify for clients because of the history of retaliation, particularly retaliation by Kathi Lacy.
13. Families fear that DDSN will reduce or terminate their services if they challenge actions taken by DDSN, and they know that their providers are also fearful, so that it is difficult to locate witnesses.
14. It is difficult enough already for plaintiffs to locate witnesses who have personal knowledge about the operation of DDSN programs, not only because of their limited financial circumstances and the years-long delays caused by this law firm, but also because of the history of retaliation against persons who testify or provide affidavits in legal cases.
15. It is also common knowledge in the disability community of families and providers of DDSN services that individuals and providers who testify for and advocate for persons who have filed litigation against DDSN have been subjected to retaliation.
16. Forcing witnesses who are professionals to dig through decades of records without compensation would make it even harder for persons who have been injured in DDSN programs to be willing to testify.
17. Very few attorneys in South Carolina have been willing to take cases against DDSN because of the unreasonable and protracted litigation tactics of this law firm.
18. Much of the information demanded in the subpoena is in the possession of DDSN and/or its officers and/or Commissioners and the information can be obtained from those persons.
19. Any communications I had with DDSN Commissioners or employees of the agency, including emails, are in the possession of the agency and those records can be more readily retrieved by the agency's paid IT staff.
20. Responding to the subpoena would require me to go through more than twelve years of paper and computer records in storage and those records are not readily available.
21. The information requested by Defendants' counsel is not reasonably accessible because of undue burden or cost and DDSN has not agreed to pay for my time or the cost of locating and duplicating those records.

22. The information requested is obtainable from other sources that are more convenient, less burdensome and less expensive.
23. The burden and expense of the proposed discovery outweighs the likely benefit.
24. I am requesting protection of the Court from this unduly burdensome subpoena which was served after the close of discovery.
25. I am also requesting, for myself and my family, protection from retaliation for testifying.

Respectfully submitted,


Deborah McPherson

June 27, 2019

THE STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS

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

v.

The South Carolina Department of Disabilities
and Special Needs, Kathi Lacy, and Stan Butkus,
Petitioners.

Civil Action Number 07-CP-40-3365

Exhibit 2

Second Affidavit of Lennie Mullis

OBJECTIONS OF LENNIE MULLIS

A process server delivered the attached subpoena to my house on June 25, 2019, directing me to provide records in the case of *Cole v. DDSN et. al* by July 8, 2019. I agreed to testify in this lawsuit, but I am not a party to that lawsuit. I object to the subpoena on the following grounds and any other relevant grounds that may be provided to the Court by counsel for the Estate of Edward Mims:

1. The three page subpoena requests information going back more than fifteen years and would require many, many hours to respond and would take time away from the clients I serve.
2. I answered all of the questions asked by Defendants' counsel about my education and experience when I attended my deposition in this case and the questions in the subpoena are redundant to the information I have already provided.
3. I provided behavior support services to Edward Mims many years ago and all of my billing records and service notes should be in the possession of DDSN, which has IT staff that should be able to more readily locate those documents.
4. After I provided an affidavit in this case and testified in other cases, DDSN terminated my certification as a provider of behavior support services and twice the South Carolina Administrative Law Court ruled that their actions were arbitrary and capricious and in violation of my due process rights.
5. The second time DDSN terminated my certification, DDSN notified all of my clients that they could no longer use my services, despite the fact that I filed a timely appeal that by federal law prohibited them from doing that.
6. After I provided affidavits and advocacy in one case in Spartanburg County, DDSN quit paying me to provide services to that individual for nearly two years.
7. In that case, the case manager who testified for and advocated for that same client called me and told me that she was being threatened by DDSN and she suddenly moved out of state, without notice to dozens of clients she had served for many years, which was very much out of character for her.
8. DDSN, and particularly Stan Butkus and Kathi Lacy have historically retaliated against providers and families who have advocated in court proceedings for DDSN clients who have appealed decisions of the agencies or have filed lawsuits against the agencies.
9. This makes it very difficult for persons who sue DDSN to locate witnesses willing to participate in legal proceedings against the agency or its officials, because providers are fearful of retaliation, and that fear is with good reason.
10. I am the owner of a business and responding to the subpoena is unduly burdensome and it

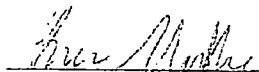
would require me to go through records dealing not only with this case, but with other cases that were closed years ago.

11. Defendants' counsel has not offered to pay me for my time gathering the information they demand that I produce or for the cost of production of those old records.
12. The only records I have in my file on Edward Mims consist of (1) electronic records of my work with him from the time when he was removed from Kensington, when I was appointed by the probate court, (2) the report I prepared for the court and (3) an affidavit I signed many years ago related to this case.
13. In order to produce the electronic records dating back to the discharge of Edward Mims would require my computer specialist to attempt to locate records stored on an old computer in a format I do not currently use.
14. This lawsuit was filed in 2007 and I was identified as a witness many years ago, but DDSN failed to take my deposition until 2019 or make any attempt to obtain documents during discovery when the records they request were more readily available.
15. It is my understanding that Plaintiffs' counsel has already provided my report I filed with the Probate Court and the affidavit I signed, which describes my experience of being denied access to Edward at Kensington three times, despite presenting a court order to examine Edward.
16. I believe that this subpoena has again been issued for the purpose of delay, annoyance and harassment and in an attempt to obstruct the Estate's ability to present evidence at trial by wearing down witnesses and driving up the cost of litigation.
17. Defendants have not agreed to pay me for my time or even for the costs related to retrieving electronic records more than a decade old and it is my understanding that they have informed Plaintiffs' counsel that they have indicated that they do not intend to pay the cost of experts responding to their subpoenas.
18. Much of the information requested is in the possession of DDSN and/or its officers and/or Commissioners and the information can more readily be obtained from those persons.
19. The information requested by Defendants' counsel is not reasonably accessible because of undue burden or cost, which Defendants have not agreed to pay.
20. The information requested is obtainable from other sources that are more convenient, less burdensome and less expensive.
21. The burden and expense of the proposed discovery outweighs the likely benefit.
22. Defendants had an opportunity to obtain any information they needed when they required

me to attend a deposition prior to the close of discovery.

23. In my experience, this is typical of this law firm and DDSN to harass witnesses and to delay proceedings, with no regard to the consequences to families, witnesses or plaintiff's counsel.
24. My opinions in this case are based on more than thirty years working as a professional serving persons with developmental disabilities and the demand that I produce, "*by chapter and page*," a list of all "articles, treatises, texts, technical bulletins, professional guidelines, periodicals and papers" and "a complete list of literature" supporting my findings is unreasonable, as it would take weeks, if not months to review an list that literature.
25. An example of the burdensome nature of this subpoena is question 11 which demands that I produce a "complete list" of documents including "letters, notes, reviewers comments that in any way assess, review, evaluate, critique or criticize" any of my "published or unpublished studies, research, reports and other works."
26. Responding to that question would take weeks, if not months of time to review all of my studies, research, reports and other works.
27. For the reasons stated above and those contained in Plaintiffs' motions. I object to the subpoenas that were served upon me.
28. I am willing to testify in this case, but I request protection of the Court from the unreasonable demands of these subpoenas and I also request the Court's protection from retaliation.

Respectfully submitted,


Lennie Mullis

June 27, 2019

THE STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS

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

v.

The South Carolina Department of Disabilities
and Special Needs, Kathi Lacy, and Stan Butkus,
Petitioners.

Civil Action Number 07-CP-40-3365

EXHIBIT 3

Second Affidavit of Katherine Bagnal, MSW, CMC, NCG

OBJECTIONS OF MARY KATHERINE BAGNAL, MSW, CMC, NCG

I was personally served with a subpoena on June 24, 2019, directing me to provide records in the case of *Cole v. DDSN et. al.* I am not a party to this lawsuit and I object to the subpoena on the following grounds and any other relevant grounds that may be provided to the Court by counsel for the Estate of Edward Mims:

1. I am the owner of a business and responding to the subpoena is unduly burdensome and DDSN has not agreed to pay for my time preparing for a deposition or responding to their subpoena that was served after the deadline for discovery.
2. I served as a Commissioner of DDSN from 2005 until 2009, when I was succeeded by Deborah McPherson.
3. Prior to my appointment to the governing board of DDSN, I was appointed by the Probate Court as a Visitor in the guardianship proceedings for Edward Mims that Mrs. Mims filed in the Richland County Probate Court and I filed a report with that Court, which is contained in the Record on Appeal.
4. Other than that report, which has already been provided to DDSN, I did not maintain a file or notes on Edward Mims, and any information I had related to Edward Mims are described in that report.
5. Much of the information demanded in the subpoena is in the possession of DDSN and/or its officers and/or Commissioners and the information can be obtained from those persons.
6. Responding to the subpoena would require me to spend many hours attempting to locate records from fourteen years ago which are not readily available and likely have been destroyed. I am only required to save records for seven years.
7. The information requested by Defendants' counsel is not reasonably accessible because of undue burden or cost and DDSN has not agreed to pay my hourly rate to prepare for a deposition or to attend a deposition.
8. The information requested is obtainable from other sources that are more convenient, less burdensome and less expensive.
9. Defendants' counsel has not offered to pay me for my time gathering the information they demand that I produce or for the cost of production of those old records.
10. I was identified as a witness many years ago, but DDSN failed to take my deposition or to request any information from me until after discovery was closed.
11. My opinions in this case are based on more than three decades working as a professional

serving elderly and disabled persons, and producing "*by chapter and page*," a list of all "articles, treatises, texts, technical bulletins, professional guidelines, periodicals and papers" and "a complete list of literature" that support my findings would take weeks, if not months to prepare and list that literature.

12. An example of the burdensome nature of this subpoena is the demand that I produce a "complete list" of documents including "letters, notes, reviewers comments that in any way assess, review, evaluate, critique or criticize" any of my "published or unpublished studies, research, reports and other works" that I may rely upon at trial.
13. Responding to that question would again take weeks, if not months of my time to review all of my studies, research, reports and other works which I might rely upon in responding to questions at trial about this case.
14. The burden and expense of the proposed discovery outweighs the likely benefit and any information I have regarding services provided to Edward Mims are contained in my report to the Court.
15. Information about the administration of DDSN programs during my tenure on the Commission is readily available to DDSN in the audits conducted by DHHS, USC School of Public Health, Carolina Medical Review and the South Carolina Legislative Audit Counsel, which have been provided to DDSN.
16. I object to the subpoena and I support plaintiff's motion to quash.
17. I respectfully request protection from the court not only from the undue burden of responding to the subpoena, but I also request an order prohibiting DDSN or its officials or former officials from retaliating against me for testifying in this case.
18. My hourly rate for preparation time is \$250 per hour and appearance time in court or at a deposition is \$300 per hour. A retainer of \$5,000 is expected if I am required to gather the documents required by the subpoena.

Respectfully submitted,


Mary Katherine Bagnal, MSW, CMC, NCG
Senior Matters CEO

July 6, 2019

From: Patricia Logan Harrison
Sent: Friday, May 31, 2019 2:06 PM
To: kwoodington@dml-law. com; Daniel C. Plyler; Patricia Logan Harrison; Robert Childs
Subject: FW: Mims revisions

Gentlemen, we previously agreed to extend the deadline for discovery until May 31 and attended multiple depositions. We spoke with our client after you requested another extension and she would not agree to a general extension of the deadline. She informs us that Mrs. Mims' health is not good and that she is anxious to move forward.

We will, under the conditions set forth herein, agree to extend the time for you to depose the experts we currently intend to use, so long as we agree that this will not delay the deadline for mandated mediation or delay the trial. In order to extend the deadline for those experts, we will need for you to agree to making arrangements ahead of their depositions to pay their expenses and the costs required by the Rules.

We will supplement today the responses as you recently requested, for the experts we intend to use. We learned this week that Ms. Hoover checked with the Nursing Board and that they will not allow her to testify. After the murder of her son, she dropped her license as an RN. We will identify in our supplemental response we'll send you later today the RN we intend to present in her place.

Thank you for your cooperation in this matter.

Trisha and Robbie

From: Daniel C. Plyler
Sent: Friday, June 14, 2019 9:54 AM
To: Patricia Logan Harrison; Kenneth P. Woodington; Robert Childs
Subject: RE: Mims expert fees

Patricia:

Our subpoenas to your "experts" are standard practice. They simply ask that these experts, which you identified as witnesses in this case, provide their file on this matter. This should not be an overly time-consuming exercise. Simply put, if they truly are "experts" prepared to offer opinions in this case, they should have a file on this case, which should include all the materials they have reviewed for this case, their fee agreement and/or fee schedule, all correspondence regarding this case, etc.

If you can point to any authority that states we are required to "pay" your experts for the simple task of responding to a subpoena for information regarding this case, then please provide it and we will review it and make a decision, but I have a difficult time fathoming why this should be a difficult task. Furthermore, I do not believe you have standing to try and quash these subpoenas, nor am I certain that any such motion would be timely at this point, but feel free to do what you believe is best. I will state that if we do not receive adequate responses in a timely manner we will be filing rule to show cause as to each "expert" that fails to timely respond, and will be asking that these "experts" be excluded from the trial of this matter.

Sincerely,

Daniel C. Plyler

DAVIDSON, WREN & PLYLER, PA
 1611 Devonshire Drive, Second Floor
 Post Office Box 8568
 Columbia, South Carolina 29202-8568
 Office: 803-806-8222
 Facsimile: 803-806-8855
 Mobile: 803-331-3328

dplyler@dml-law.com

CONFIDENTIALITY NOTICE: This email is covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510-2521, and is legally privileged. This email (and any associated files) contains confidential and/or legally privileged information from the law firm of Davidson, Wren & Plyler, P.A., intended solely for the use of the individual(s) named in this email. If you are not the intended recipient, you are notified that any disclosure, copying, distribution, or the taking of any action based or in reliance upon the contents of this email (and any associated files) is strictly prohibited. If you have received this email in error, please destroy this email and notify our office via reply email.

From: Patricia Logan Harrison [mailto:pharrison@loganharrisonlaw.com]
Sent: Thursday, June 13, 2019 11:19 PM
To: Kenneth P. Woodington; Daniel C. Plyler; Robert Childs; Patricia Logan Harrison
Subject: RE: Mims expert fees

Ken and Daniel, I've not heard from you regarding making arrangements for payment of expert witness fees. We'll be filing a motion to quash and would like to schedule a meeting to discuss this issue.

Thanks.

T

Sent from Mail for Windows 10

From: Patricia Logan Harrison
Sent: Sunday, June 9, 2019 9:57:35 PM
To: kwoodington@dml-law.com; Daniel C. Plyler; Patricia Logan Harrison; Robert Childs
Subject: Mims expert fees

Ken and Daniel, we need to make arrangements for payment to expert witnesses. They are spending considerable time locating the information you requested. Given the passage of time and the difficulty finding old records, they need additional time to respond.

I'll be getting their rates to you once we get the Kobe JA and brief filed on Tuesday.

In the meantime, they are requesting an additional 10 days to respond. Please advise.

Thanks.

Trisha

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
	)	
Laura M. Cole, as Personal Representative	)	
Of The Estate of Edward Mims,	)	C.A. No.: 2007-CP-40-3365
Plaintiff,	)	
	)	
v.	)	PLAINTIFF'S MOTION
	)	FOR PROTECTIVE ORDER AND
	)	OTHER RELIEF
The South Carolina Department of	)	
Disabilities and Special Needs, Kathi Lacy,	)	
and Stan Butkus,	)	
Defendants.	)	

TO: DEFENDANTS ABOVE NAMED BY AND THROUGH THEIR ATTORNEY;

I. STATEMENT OF ISSUES

Plaintiffs move for a protective order pursuant to Rule 26(c) of the South Carolina Rules of Civil Procedure and an order requiring Defendants to pay the fees and costs of depositions of expert witnesses and time spent preparing to testify in depositions. Plaintiffs also request an order requiring the participation of the Chairman of the South Carolina Department of Disabilities and Special Needs and the individual defendants to attend the mandatory mediation. Plaintiffs also seek payment of legal fees and costs associated with this motion.

II. PROCEDURAL HISTORY

The deadline set by this Court for discovery in this case was May 31, 2019, and that deadline has been repeatedly extended upon the requests of Defendants' counsel. On June 3, 2019, three days after the deadline for discovery, counsel for Defendants mailed five subpoenas "for records" to five of the Plaintiffs' witnesses, instructing the witnesses that responses must be provided by June 17.

Exhibit 1.

In addition to being served out of time, none of the witnesses were personally served, as required by Rule 45(b) which provides:

(b) Service.

(1) A subpoena may be served by any person who is not a party and is not less than 18 years of age. Service of a subpoena upon a person named therein shall be made in the same manner prescribed for service of a summons and complaint in Rule 4(d) or (j).

The subpoenas served upon Lennie Mullis, Jacquelyn Abney and Sandra Ray were also not issued from the court in the county in which those non-parties reside, as required by Rule 45.

III. BACKGROUND

This lawsuit was filed in 2007 and an amended complaint was filed in 2008. Defendants moved for dismissal, claiming that Mims' amended complaint was not timely served. This Court originally denied that motion, but then dismissed Mims' lawsuit on the grounds of untimely service after a hearing on the motion to reconsider. *Mims ex rel. Mims v. Babcock Ctr., Inc.*, 399 S.C. 341, 343-44, 732 S.E.2d 395, 396 (2012). Mims appealed the dismissal, and the South Carolina Supreme Court found the amended complaint was timely served. *Id.* On remand, Defendants moved for summary judgment, which was granted by this Court. One of the grounds argued by Defendants was again that the complaint was not timely filed.

The South Carolina Court of Appeals reversed and remanded Mims's case for trial. *Estate of Mims v. S.C. Dep't of Disabilities & Special Needs*, 422 S.C. 388 (Nov. 8, 2017). During these protracted proceedings, Edward Mims died and his Estate was substituted. The Court of Appeals issued a substituted opinion on February 21, 2018, remanding for trial Mims' claims for violation of Section 1983 and his tort claims for negligence/gross negligence. *Id.* The South Carolina Supreme Court denied Defendants' petition requesting *certiorari* on August 3, 2018.

During the first ten years of this litigation, Defendants took only two depositions. On September 28, 2018, Defendants moved for a continuance, informing the Court that they intended to take 40 additional depositions. Over the objections of the Plaintiff, the deadline to complete discovery was extended for ninety days. Then, on December 6, 2018, Defendants sought another extension of the deadline for discovery, and the deadline for completion of discovery was extended until March 1, 2019. Defendants took numerous depositions, including the depositions of Lennie Mullis and Deborah McPherson. The deadline was yet again extended to May 31, 2019.

At the start of the trial in another case involving DDSN, on May 6, 2019, counsel for the DDSN Defendants caused witnesses (who were parties in that case) to be excluded, because they were not personally served.

On May 30, 2019, Defendants sought yet again to extend the deadline for discovery, but the personal representative for the Estate of Edward Mims objected to further delay and did not consent to another extension of the discovery deadline. *Exhibit 2*. Instead, Plaintiffs' counsel agreed to very limited discovery, allowing only the taking of depositions of several expert or hybrid experts who had not been previously deposed. This agreement was conditioned upon Defendants agreeing to make arrangements prior to the depositions being taken to pay the deponents' fees and costs, as provided in Rule 26(b)(4) and that the mandated mediation and trial not be delayed by the taking of those depositions. Defendants' counsel objected paying the fees of those expert witnesses. *Exhibit 3*. Plaintiffs did not agree to extend time for discovery for any other purpose or under any other conditions.

Three days after the deadline for discovery had passed, Defendants' counsel mailed subpoenas to five witnesses. Two of these witnesses had already been deposed. *Exhibit 1*. The

service of these subpoenas did not comply with the requirements for service on non-parties as set forth in Rule 45.

IV. REQUEST FOR A PROTECTIVE ORDER

None of the persons who received a subpoena are parties to this action. A person who is not a party may be compelled to produce documents only as provided in Rule 45 of the South Carolina Rules of Civil Procedure. That rule requires at Rule 45(c)(1) that:

A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

The Court may quash a subpoena for production or inspection directed to a non-party if it fails to allow reasonable time for compliance; or subjects a person to undue burden. Plaintiffs hereby move for a protective order quashing the subpoenas sent after the May 31, 2019 deadline for discovery. Grounds for this motion include:

1. That the subpoenas were served after the repeatedly extended deadline for discovery;
2. That the subpoenas were not served upon the expert witnesses by personal service;
3. That the subpoenas are burdensome;
4. Some of the discovery sought is obtainable from some other source that is more convenient, less burdensome, or less expensive;
5. Defendants have had ample opportunity by discovery in the action to obtain the information sought prior to the deadline of May 31;
6. The burden and expense to the witnesses outweighs the likely benefit, taking into account the needs of the case, and the parties' respective resources;

7. The subpoenas seek discovery stored electronically that is not reasonably accessible because of undue burden and cost;
8. Defendants failed to comply with the rule regarding service in the county of the witness as required by Rule 45(b)(1);
9. Responses to the subpoenas would require review of more than a decade of records, many of which are not readily accessible;
10. Defendants served the subpoenas out of time for the purpose of delay.

Plaintiffs respectfully request that the Court quash the subpoenas and order Defendants to pay the legal fees and costs associated with this motion. Plaintiffs request an order prohibiting Defendants from attempting to exclude expert witnesses who were disclosed, but were not deposed by Defendants' counsel prior to the discovery deadline.

V. REQUEST FOR ORDER REQUIRING DEFENDANTS TO PAY FEES AND COSTS OF EXPERT WITNESSES

Plaintiffs voluntarily agreed to produce several expert witnesses to be deposed (but did not agree to production of records as set forth in the subpoenas), despite Defendant's counsel failing to depose these persons prior to the discovery deadline. This agreement was conditioned, however, upon Defendants agreeing ahead of time to pay the fees and costs of the expert witnesses, as required by Rule 26(4)(C). The Note to this Rule makes clear that the party seeking discovery must pay these costs and fees: "The discovering party is specifically made responsible for reasonable fees and expenses incurred in traveling to this state, as well as time spent responding to the discovery." Instead, Defendants' counsel argued that they were not responsible for paying the experts' fees for preparing for and attending depositions, which is in clear violation of those rules. *Exhibit 3*.

Rule 45(c)(3)(B)(iii) provides that if a subpoena:

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and *assures that the person to whom the subpoena is addressed will be reasonably compensated*, the court may order appearance or production only upon specified conditions.

In *James v. S.C. DOE*, 393S.C. 440, 449 (Ct. App. 2011), the South Carolina Court of Appeals interpreted Rule 26 to require that the expert witness be paid for both time and expenses he “spent in travel and in responding to discovery” ...

Plaintiffs request an order requiring Defendants to pay fees and costs incurred by expert witnesses’ fees for time spent traveling to, attending and preparing for depositions, and that travel costs be paid prior to their depositions being taken.

VI. REQUEST FOR AN ORDER MANDATING ATTENDANCE AT MEDIATION

Plaintiffs respectfully request an order requiring the Chairperson of the South Carolina Disabilities and Special Needs Commission to attend mediation and for the members of the Commission to be informed about the mediation. South Carolina ADR Rule 6 requires all attorneys to “fairly and objectively inform their clients about mediation and arbitration.” Rule 6(a). The following persons are required by Rule 6(b) to “physically attend a mediation settlement conference unless otherwise agreed to by the mediator and all parties or as ordered or approved by the Chief Judge for Administrative Purposes of the circuit:

- (1) The mediator;
- (2) All individual parties; or an officer, director or employee having full authority to settle the claim for a corporate party; or **in the case of a governmental agency, a**

representative of that agency with full authority to negotiate on behalf of the agency and recommend a settlement to the appropriate decision-making body of the agency;

- (3) The party's counsel of record, if any; **and**
- (4) For any insured party against whom a claim is made, **a representative of the insurance carrier** who is not the carrier's outside counsel and who has full authority to settle the claim.

The practice of Defendants' counsel has been to have counsel and only a representative of the Insurance Reserve Fund attend the mediation. In the past, DDSN Commissioners (the governing board of DDSN) have not even been informed prior to mediation conferences or given the opportunity to attend. Rule 6 clearly indicates that both a representative of the Insurance Reserve Fund and a representative of [DDSN] with full authority to negotiate on behalf of the agency and *recommend a settlement to the appropriate decision-making body of the agency must attend the mediation conference.*

VII. MOTION FOR LEGAL FEES AND COSTS

In addition to fees and costs incurred by the expert witnesses, Rule 26(4)(C) provides that upon motion, the Court may require a party seeking discovery to pay "a fair portion of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert." This case was brought to enforce Mims' rights under the Civil Rights Act and his counsel is also entitled to payment pursuant to 42 U.S.C. 1988. *Doe v. Kidd III*, 656 F. App'x 643, 658 (4th Cir. 2016), *cert. denied*, 137 S. Ct. 638, 196 L. Ed. 2d 520 (2017). Plaintiff requests an order requiring Defendants to pay legal fees and costs associated with these subpoenas, the depositions of experts and this motion.

Respectfully submitted,

s/Robert C. Childs, III
Robert C. Childs, III, #1218
Childs Law Firm, LLC
2100 Poinsett Hwy, Suite D
Greenville, South Carolina 29609
(864) 242-9997
Fax (864) 242-9914
Robert@LawyerChilds.com

s/Patricia Logan Harrison
Patricia Logan Harrison
47 Rosemond Road
Cleveland, South Carolina 29635
(803) 360-5555
pharrison@loganharrisonlaw.com

Attorneys for the Plaintiff

Date: June 17, 2019

DAVIDSON, WREN & PLYLER, P.A.

ATTORNEYS AND COUNSELLORS AT LAW

William H. Davidson, II
Michael B. Wren
Daniel C. Plyler

1611 Devonshire Drive, Second Floor (29204)
Post Office Box 8568
Columbia, South Carolina 29202-8568
Telephone: (803) 806-8222
Facsimile: (803) 806-8855

David A. DeMasters
Brandon M. Briggs

Of Counsel
Kenneth P. Woodington

June 3, 2019

Writer's Email: dplyler@dml-law.com

Jacquelyn Abney, R.N.
525 Lockner Road
Columbia, South Carolina 29212

RE: Estate of Edward James Mims, Laura M. Cole, Personal Representative v. The South Carolina Department of Disabilities and Special Needs, Kathi Lacy, and Stan Butkus
Civil Action Number: 2007-CP-40-3365
Date of Incident: January 4, 1999
Claim Number: 44654
Our File Number: 104.7785

Dear Ms. Abney:

Please find enclosed herewith and served upon you a subpoena with regard to the above referenced matter. Please note that this is a subpoena for your records only, and that you are not required to appear personally. As stated in the subpoena, the documents should be sent to my attention by Monday, June 17, 2019.

If you have any questions, or if you have any problems complying with this subpoena, please contact me. Thank you very much for your assistance.

Very truly yours,

DAVIDSON, WREN & PLYLER, P.A.



Daniel C. Plyler

DCP/mss
Enclosure

cc: Patricia L. Harrison, Esquire
Robert C. Childs, III, Esquire

ELECTRONICALLY FILED - 2019 Jun 17 1:58 PM - RICHLAND - COMMON PLEAS - CASE#2007CP4003365

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF RICHLAND

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

v.

SUBPOENA IN A CIVIL CASE

The South Carolina Department of Disabilities and
Special Needs, Kathi Lacy, and Stanley Butkus,
Defendants.

Case Number: 2007-CP-40-03365

Pending in Richland County

TO: Jacquelyn Abney, R.N.

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME , AM

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION:

DATE AND TIME

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects:

See attachment.

PLACE

Davidson, Wren & Plyler, P.A.
ATTN: Daniel C. Plyler, Esquire
Post Office Box 8568
Columbia, South Carolina 29202-8568

DATE AND TIME

Monday, June 17, 2019 by 5:00 PM

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME , AM

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature

06/03/19

Daniel C. Plyler, Esquire

Date

Print Name

Indicate if Attorney for Plaintiff or Defendant
Attorney's Address and Telephone Number :
Counsel for Defendants

Davidson, Wren, & Plyler, P.A. P.O. Box 8568, Columbia, South Carolina 29202 T: 803-806-8222

PROOF OF SERVICE

SERVED	DATE June 3, 2019	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL ☐ YES ☒ NO AMOUNT \$ 0
	PLACE 525 Lockner Road, Columbia, SC 29212	
SERVED ON Jacquelyn Abney, R.N.	MANNER OF SERVICE U.S. Mail, First Class Postage Pre-Paid	
SERVED BY Melissa S. Segear	TITLE Paralegal	

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 6/3/19

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection and copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- (i) fails to allow reasonable time for compliance; or
- (ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- (iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) If a subpoena:

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties In Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

Subpoena Attachment

1. Your most recent Curriculum Vitae and publications list.
2. All correspondence, memoranda, articles, notes, reports, e-mails or other computer messages including attachments, computer simulations, computer generated data, studies, tests, test results, charts, graphs, or other documents or written material that you have received from or sent to any person, including attorneys, relating to this case and to any opinions rendered to the Plaintiff, Plaintiff's counsel or other representatives in this case.
3. Notes, memoranda or other written documentation of telephone conversations, which you have had with Plaintiff, Plaintiff's counsel, other witnesses, other experts, or any other individuals with whom you have consulted relating to or regarding your opinions concerning this case.
4. Notes made by you in reviewing or analyzing materials and preparing your evaluation or opinions for this case. This would include any written research or memoranda of written or oral reports reviewed.
5. All drafts of reports and final reports, which contain your opinions in this matter, including computer drafts that are not hard copies.
6. A complete list of all written materials, notes, memoranda, tests, test results, examinations or other materials reviewed by you in preparation of your opinion.
7. A complete list of any and all documents including all articles, treatises, texts, technical bulletins, professional guidelines, periodicals or papers which support your findings, conclusions, opinions, or testimony or that you rely on as a basis for your findings, conclusions, opinions or testimony. For every text or periodical cited, please denote the chapter and page where the information is located that supports your opinion.
8. Your entire file with respect to the subject matter of this litigation compiled in connection with work done by you, your organization or at the request of Plaintiff or Plaintiff's counsel, including items not specifically listed above.
9. A complete list of all literature that you have reviewed which provided you with information upon which you rely for your opinion in this case.
10. Any and all documents which refer to, relate to, or evidence your billings or the time, you or others have spent on this case.
11. A complete list of any and all documents including, but not limited to, letters, notes, reviewers comments, that in any way assess, review, evaluate, critique or criticize any of your published or unpublished studies, research, reports or other works.
12. Any and all documentation relating to analysis done for this case or material relied on in this case which have not been requested.

13. If any of the documents or items requested above have been destroyed, please produce a schedule identifying:
 - a. each such document or item destroyed;
 - b. the date of destruction;
 - c. the reason for destruction; and
 - d. the person(s) or entity(ies) that might have the item or a copy of the document(s) destroyed.
14. If any of the documents or items requested above are no longer in your possession and have been transmitted, conveyed or tendered to another person or entity, please produce a schedule identifying:
 - a. each such document or item;
 - b. the date of each such conveyance, transmittal or tender;
 - c. the name(s) of each such person(s) or entity(ies) to which the document or item was transmitted, conveyed or tendered; and
 - d. the reason for each such conveyance, transmittal or tender.
15. All photographs, films, videotapes, and any other visual representations generated for the purposes of this case.
16. A complete list of all physical evidence used, analyzed or otherwise acquired for this case.
17. Time sheets or other records which will show the amount of time devoted to all aspects of your work on this matter and which identifies the nature of the work done and the dates on which such work was performed.
18. All statements which have been sent to Plaintiff or Plaintiff's counsel for services rendered and for costs incurred in connection with your work on this matter.
19. The current balance of fees and expenses incurred (whether billed or unbilled) to date in connection with your work on this matter.
20. A list of all cases in which you have been retained, given depositions, or provided trial testimony during the last five (5) years, including the name of the person or firm who retained you, whether Plaintiff or Defendant, the attorneys you worked with, the subject matter of the lawsuit, summary of your opinion, your area of testimony, the outcome of the case and your fee for the case. Included in this response should be your role in the litigation, i.e., consultation, testimony by deposition or testimony at trial, etc.
21. A complete list of each article, pamphlet, book, book chapter, or other document upon which you have read and determined does not support any of the expert opinions you have in this case.

22. All exhibits which you plan to discuss or use at trial.
23. Provide the fee agreement for this case and any other cases where you were named as an expert by Attorney Patricia Harrison

DAVIDSON, WREN & PLYLER, P.A.

ATTORNEYS AND COUNSELLORS AT LAW

William H. Davidson, II
Michael B. Wren
Daniel C. Plyler

1611 Devonshire Drive, Second Floor (29204)
Post Office Box 8568
Columbia, South Carolina 29202-8568
Telephone: (803) 806-8222
Facsimile: (803) 806-8855

David A. DeMasters
Brandon M. Briggs

Of Counsel
Kenneth P. Woodington

June 3, 2019

Writer's Email: dplyler@dml-law.com

Sandra Ray, Ph.D.
120 Killian Point Circle
Chapin, South Carolina 29036

RE: Estate of Edward James Mims, Laura M. Cole, Personal Representative v. The South
Carolina Department of Disabilities and Special Needs, Kathi Lacy, and Stan Butkus
Civil Action Number: 2007-CP-40-3365
Date of Incident: January 4, 1999
Claim Number: 44654
Our File Number: 104.7785

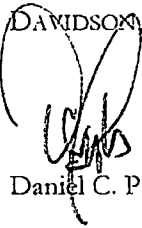
Dear Dr. Ray:

Please find enclosed herewith and served upon you a subpoena with regard to the above
referenced matter. Please note that this is a subpoena for your records only, and that you are not
required to appear personally. As stated in the subpoena, the documents should be sent to my
attention by Monday, June 17, 2019.

If you have any questions, or if you have any problems complying with this subpoena, please
contact me. Thank you very much for your assistance.

Very truly yours,

DAVIDSON, WREN & PLYLER, P.A.



Daniel C. Plyler

DCP/mss
Enclosure

cc: Patricia L. Harrison, Esquire
Robert C. Childs, III, Esquire

ELECTRONICALLY FILED - 2019 Jun 17 1:57 PM - RICHLAND - COMMON PLEAS - CASE#2007CP4003365

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF RICHLAND

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

v.

SUBPOENA IN A CIVIL CASE

The South Carolina Department of Disabilities and
Special Needs, Kathi Lacy, and Stanley Butkus,
Defendants.

Case Number: 2007-CP-40-03365

Pending in Richland County

TO: Sandra Ray, Ph.D.

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME , AM

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION:	DATE AND TIME

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects:

See attachment.

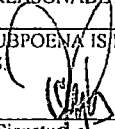
PLACE Davidson, Wren & Plyler, P.A. ATTN: Daniel C. Plyler, Esquire Post Office Box 8568 Columbia, South Carolina 29202-8568	DATE AND TIME Monday, June 17, 2019 by 5:00 PM

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME , AM

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

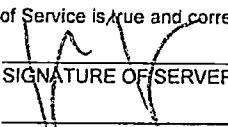
 Attorney/Issuing Officer's Signature Indicate if Attorney for Plaintiff or Defendant Attorney's Address and Telephone Number : Counsel for Defendants	06/03/19 Date	Daniel C. Plyler, Esquire Print Name
Davidson, Wren, & Plyler, P.A. P.O. Box 8568, Columbia, South Carolina 29202 T: 803-806-8222		

PROOF OF SERVICE

SERVED	DATE June 3, 2019 PLACE 120 Killian Point Circle, Chapin, SC 29036	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL ☐ YES ☒ NO AMOUNT \$
SERVED ON Sandra Ray, Ph.D.	MANNER OF SERVICE U.S. Mail, First Class Postage Pre-Paid	
SERVED BY Melissa S. Segear	TITLE Paralegal	

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 6/3/19 

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection and copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- (i) fails to allow reasonable time for compliance; or
- (ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- (iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) If a subpoena:

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

Subpoena Attachment

1. Your most recent Curriculum Vitae and publications list.
2. All correspondence, memoranda, articles, notes, reports, e-mails or other computer messages including attachments, computer simulations, computer generated data, studies, tests, test results, charts, graphs, or other documents or written material that you have received from or sent to any person, including attorneys, relating to this case and to any opinions rendered to the Plaintiff, Plaintiff's counsel or other representatives in this case.
3. Notes, memoranda or other written documentation of telephone conversations, which you have had with Plaintiff, Plaintiff's counsel, other witnesses, other experts, or any other individuals with whom you have consulted relating to or regarding your opinions concerning this case.
4. Notes made by you in reviewing or analyzing materials and preparing your evaluation or opinions for this case. This would include any written research or memoranda of written or oral reports reviewed.
5. All drafts of reports and final reports, which contain your opinions in this matter, including computer drafts that are not hard copies.
6. A complete list of all written materials, notes, memoranda, tests, test results, examinations or other materials reviewed by you in preparation of your opinion.
7. A complete list of any and all documents including all articles, treatises, texts, technical bulletins, professional guidelines, periodicals or papers which support your findings, conclusions, opinions, or testimony or that you rely on as a basis for your findings, conclusions, opinions or testimony. For every text or periodical cited, please denote the chapter and page where the information is located that supports your opinion.
8. Your entire file with respect to the subject matter of this litigation compiled in connection with work done by you, your organization or at the request of Plaintiff or Plaintiff's counsel, including items not specifically listed above.
9. A complete list of all literature that you have reviewed which provided you with information upon which you rely for your opinion in this case.
10. Any and all documents which refer to, relate to, or evidence your billings or the time, you or others have spent on this case.
11. A complete list of any and all documents including, but not limited to, letters, notes, reviewers comments, that in any way assess, review, evaluate, critique or criticize any of your published or unpublished studies, research, reports or other works.
12. Any and all documentation relating to analysis done for this case or material relied on in this case which have not been requested.

13. If any of the documents or items requested above have been destroyed, please produce a schedule identifying:

- a. each such document or item destroyed;
- b. the date of destruction;
- c. the reason for destruction; and
- d. the person(s) or entity(ies) that might have the item or a copy of the document(s) destroyed.

14. If any of the documents or items requested above are no longer in your possession and have been transmitted, conveyed or tendered to another person or entity, please produce a schedule identifying:

- a. each such document or item;
- b. the date of each such conveyance, transmittal or tender;
- c. the name(s) of each such person(s) or entity(ies) to which the document or item was transmitted, conveyed or tendered; and
- d. the reason for each such conveyance, transmittal or tender.

15. All photographs, films, videotapes, and any other visual representations generated for the purposes of this case.

16. A complete list of all physical evidence used, analyzed or otherwise acquired for this case.

17. Time sheets or other records which will show the amount of time devoted to all aspects of your work on this matter and which identifies the nature of the work done and the dates on which such work was performed.

18. All statements which have been sent to Plaintiff or Plaintiff's counsel for services rendered and for costs incurred in connection with your work on this matter.

19. The current balance of fees and expenses incurred (whether billed or unbilled) to date in connection with your work on this matter.

20. A list of all cases in which you have been retained, given depositions, or provided trial testimony during the last five (5) years, including the name of the person or firm who retained you, whether Plaintiff or Defendant, the attorneys you worked with, the subject matter of the lawsuit, summary of your opinion, your area of testimony, the outcome of the case and your fee for the case. Included in this response should be your role in the litigation, i.e., consultation, testimony by deposition or testimony at trial, etc.

21. A complete list of each article, pamphlet, book, book chapter, or other document upon which you have read and determined does not support any of the expert opinions you have in this case.

ETRONICALLY FILED - 2019 Jun 17 1:57 PM - RICHLAND - COMMON PLEAS - CASE#2007CP4003365

22. All exhibits which you plan to discuss or use at trial.
23. Provide the fee agreement for this case and any other cases where you were named as an expert by Attorney Patricia Harrison

DAVIDSON, WREN & PLYLER, P.A.

ATTORNEYS AND COUNSELLORS AT LAW

William H. Davidson, II
Michael B. Wren
Daniel C. Plyler

1611 Devonshire Drive, Second Floor (29204)
Post Office Box 8568
Columbia, South Carolina 29202-8568
Telephone: (803) 806-8222
Facsimile: (803) 806-8855

David A. DeMasters
Brandon M. Briggs

Of Counsel
Kenneth P. Woodington

June 3, 2019

Writer's Email: dplyler@dml-law.com

Deborah McPherson
304 Valley Springs Road
Columbia, South Carolina 29223

RE: Estate of Edward James Mims, Laura M. Cole, Personal Representative v. The South Carolina Department of Disabilities and Special Needs, Kathi Lacy, and Stan Butkus
Civil Action Number: 2007-CP-40-3365
Date of Incident: January 4, 1999
Claim Number: 44654
Our File Number: 104.7785

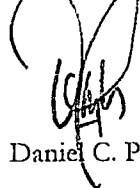
Dear Ms. McPherson:

Please find enclosed herewith and served upon you a subpoena with regard to the above referenced matter. Please note that this is a subpoena for your records only, and that you are not required to appear personally. As stated in the subpoena, the documents should be sent to my attention by Monday, June 17, 2019.

If you have any questions, or if you have any problems complying with this subpoena, please contact me. Thank you very much for your assistance.

Very truly yours,

DAVIDSON, WREN & PLYLER, P.A.



Daniel C. Plyler

DCP/mss
Enclosure

cc: Patricia L. Harrison, Esquire
Robert C. Childs, III, Esquire

ELECTRONICALLY FILED - 2019 Jun 17 1:57 PM - RICHLAND - COMMON PLEAS - CASE#2007CP4003365

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF RICHLAND

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

v.

SUBPOENA IN A CIVIL CASE

The South Carolina Department of Disabilities and
Special Needs, Kathi Lacy, and Stanley Butkus,
Defendants.

Case Number: 2007-CP-40-03365

Pending in Richland County

TO: Deborah McPherson

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME , AM

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION:	DATE AND TIME

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects:

See attachment.

PLACE Davidson, Wren & Plyler, P.A. ATTN: Daniel C. Plyler, Esquire Post Office Box 8568 Columbia, South Carolina 29202-8568	DATE AND TIME Monday, June 17, 2019 by 5:00 PM

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME , AM

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature Indicate if Attorney for Plaintiff or Defendant Attorney's Address and Telephone Number : Counsel for Defendants	06/03/19 Date	Daniel C. Plyler, Esquire Print Name
Davidson, Wren, & Plyler, P.A. P.O. Box 8568, Columbia, South Carolina 29202 T: 803-806-8222		

PROOF OF SERVICE

SERVED	DATE June 3, 2019	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL ☐ YES ☒ NO AMOUNT \$
	PLACE 304 Valley Springs Road, Columbia, SC 29223	
SERVED ON	Deborah McPherson	MANNER OF SERVICE U.S. Mail, First Class Postage Pre-Paid
SERVED BY	Melissa S. Segear	TITLE Paralegal

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 6/3/19

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

- (1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.
- (2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.
- (B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.
- (3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:
- (i) fails to allow reasonable time for compliance; or
 - (ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
 - (iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
 - (iv) subjects a person to undue burden.
- (B) If a subpoena:
- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
 - (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
 - (iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

- (1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
- (B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.
- (C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.
- (D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 28(b)(6)(B). The court may specify conditions for the discovery.
- (2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.
- (B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

SCCA 254 (05/2015)

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

Subpoena Attachment

1. Your most recent Curriculum Vitae and publications list.
2. All correspondence, memoranda, articles, notes, reports, e-mails or other computer messages including attachments, computer simulations, computer generated data, studies, tests, test results, charts, graphs, or other documents or written material that you have received from or sent to any person, including attorneys, relating to this case and to any opinions rendered to the Plaintiff, Plaintiff's counsel or other representatives in this case.
3. Notes, memoranda or other written documentation of telephone conversations, which you have had with Plaintiff, Plaintiff's counsel, other witnesses, other experts, or any other individuals with whom you have consulted relating to or regarding your opinions concerning this case.
4. Notes made by you in reviewing or analyzing materials and preparing your evaluation or opinions for this case. This would include any written research or memoranda of written or oral reports reviewed.
5. All drafts of reports and final reports, which contain your opinions in this matter, including computer drafts that are not hard copies.
6. A complete list of all written materials, notes, memoranda, tests, test results, examinations or other materials reviewed by you in preparation of your opinion.
7. A complete list of any and all documents including all articles, treatises, texts, technical bulletins, professional guidelines, periodicals or papers which support your findings, conclusions, opinions, or testimony or that you rely on as a basis for your findings, conclusions, opinions or testimony. For every text or periodical cited, please denote the chapter and page where the information is located that supports your opinion.
8. Your entire file with respect to the subject matter of this litigation compiled in connection with work done by you, your organization or at the request of Plaintiff or Plaintiff's counsel, including items not specifically listed above.
9. A complete list of all literature that you have reviewed which provided you with information upon which you rely for your opinion in this case.
10. Any and all documents which refer to, relate to, or evidence your billings or the time, you or others have spent on this case.
11. A complete list of any and all documents including, but not limited to, letters, notes, reviewers comments, that in any way assess, review, evaluate, critique or criticize any of your published or unpublished studies, research, reports or other works.
12. Any and all documentation relating to analysis done for this case or material relied on in this case which have not been requested.

13. If any of the documents or items requested above have been destroyed, please produce a schedule identifying:
 - a. each such document or item destroyed;
 - b. the date of destruction;
 - c. the reason for destruction; and
 - d. the person(s) or entity(ies) that might have the item or a copy of the document(s) destroyed.
14. If any of the documents or items requested above are no longer in your possession and have been transmitted, conveyed or tendered to another person or entity, please produce a schedule identifying:
 - a. each such document or item;
 - b. the date of each such conveyance, transmittal or tender;
 - c. the name(s) of each such person(s) or entity(ies) to which the document or item was transmitted, conveyed or tendered; and
 - d. the reason for each such conveyance, transmittal or tender.
15. All photographs, films, videotapes, and any other visual representations generated for the purposes of this case.
16. A complete list of all physical evidence used, analyzed or otherwise acquired for this case.
17. Time sheets or other records which will show the amount of time devoted to all aspects of your work on this matter and which identifies the nature of the work done and the dates on which such work was performed.
18. All statements which have been sent to Plaintiff or Plaintiff's counsel for services rendered and for costs incurred in connection with your work on this matter.
19. The current balance of fees and expenses incurred (whether billed or unbilled) to date in connection with your work on this matter.
20. A list of all cases in which you have been retained, given depositions, or provided trial testimony during the last five (5) years, including the name of the person or firm who retained you, whether Plaintiff or Defendant, the attorneys you worked with, the subject matter of the lawsuit, summary of your opinion, your area of testimony, the outcome of the case and your fee for the case. Included in this response should be your role in the litigation, i.e., consultation, testimony by deposition or testimony at trial, etc.
21. A complete list of each article, pamphlet, book, book chapter, or other document upon which you have read and determined does not support any of the expert opinions you have in this case.

22. All exhibits which you plan to discuss or use at trial.
23. Provide the fee agreement for this case and any other cases where you were named as an expert by Attorney Patricia Harrison

DAVIDSON, WREN & PLYLER, P.A.

ATTORNEYS AND COUNSELLORS AT LAW

William H. Davidson, II
Michael B. Wren
Daniel C. Plyler

1611 Devonshire Drive, Second Floor (29204)
Post Office Box 8568
Columbia, South Carolina 29202-8568
Telephone: (803) 806-8222
Facsimile: (803) 806-8855

David A. DeMasters
Brandon M. Briggs

Of Counsel
Kenneth P. Woodington

June 3, 2019

Writer's Email: dplyler@dml-law.com

Mary Katherine Bagnal
Senior Matters
3710 Landmark Drive, Suite 109
Columbia, South Carolina 29204

RE: Estate of Edward James Mims, Laura M. Cole, Personal Representative v. The South Carolina Department of Disabilities and Special Needs, Kathi Lacy, and Stan Butkus
Civil Action Number: 2007-CP-40-3365
Date of Incident: January 4, 1999
Claim Number: 44654
Our File Number: 104.7785

Dear Ms. Bagnal:

Please find enclosed herewith and served upon you a subpoena with regard to the above referenced matter. Please note that this is a subpoena for your records only, and that you are not required to appear personally. As stated in the subpoena, the documents should be sent to my attention by Monday, June 17, 2019.

If you have any questions, or if you have any problems complying with this subpoena, please contact me. Thank you very much for your assistance.

Very truly yours,

DAVIDSON, WREN & PLYLER, P.A.



Daniel C. Plyler

DCP/mss

Enclosure

cc: Patricia L. Harrison, Esquire
Robert C. Childs, III, Esquire

ELECTRONICALLY FILED - 2019 Jun 17 1:57 PM - RICHLAND - COMMON PLEAS - CASE#2007CP4003365

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF RICHLAND

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

v.

SUBPOENA IN A CIVIL CASE

The South Carolina Department of Disabilities and
Special Needs, Kathi Lacy, and Stanley Butkus,
Defendants.

Case Number: 2007-CP-40-03365

Pending in Richland County

TO: Mary Katherine Bagnal

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME , AM

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION:	DATE AND TIME

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects:

See attachment.

PLACE Davidson, Wren & Plyler, P.A. ATTN: Daniel C. Plyler, Esquire Post Office Box 8568 Columbia, South Carolina 29202-8568	DATE AND TIME Monday, June 17, 2019 by 5:00 PM

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME , AM

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature Indicate if Attorney for Plaintiff or Defendant Attorney's Address and Telephone Number : Counsel for Defendants	06/03/19 Date	Daniel C. Plyler, Esquire Print Name
Davidson, Wren, & Plyler, P.A. P.O. Box 8568, Columbia, South Carolina 29202 T: 803-806-8222		

PROOF OF SERVICE

SERVED	DATE June 3, 2019	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL ☐ YES ☒ NO AMOUNT \$
	PLACE Senior Matters, 3710 Landmark Drive, Suite 109, Columbia, SC 29204	
SERVED ON Mary Katherine Bagnal	MANNER OF SERVICE U.S. Mail, First Class Postage Pre-Paid	
SERVED BY Melissa S. Segear	TITLE Paralegal	

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 6/3/19

[Signature]
SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection and copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- (i) fails to allow reasonable time for compliance; or
- (ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- (iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) If a subpoena:

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

Subpoena Attachment

1. Your most recent Curriculum Vitae and publications list.
2. All correspondence, memoranda, articles, notes, reports, e-mails or other computer messages including attachments, computer simulations, computer generated data, studies, tests, test results, charts, graphs, or other documents or written material that you have received from or sent to any person, including attorneys, relating to this case and to any opinions rendered to the Plaintiff, Plaintiff's counsel or other representatives in this case.
3. Notes, memoranda or other written documentation of telephone conversations, which you have had with Plaintiff, Plaintiff's counsel, other witnesses, other experts, or any other individuals with whom you have consulted relating to or regarding your opinions concerning this case.
4. Notes made by you in reviewing or analyzing materials and preparing your evaluation or opinions for this case. This would include any written research or memoranda of written or oral reports reviewed.
5. All drafts of reports and final reports, which contain your opinions in this matter, including computer drafts that are not hard copies.
6. A complete list of all written materials, notes, memoranda, tests, test results, examinations or other materials reviewed by you in preparation of your opinion.
7. A complete list of any and all documents including all articles, treatises, texts, technical bulletins, professional guidelines, periodicals or papers which support your findings, conclusions, opinions, or testimony or that you rely on as a basis for your findings, conclusions, opinions or testimony. For every text or periodical cited, please denote the chapter and page where the information is located that supports your opinion.
8. Your entire file with respect to the subject matter of this litigation compiled in connection with work done by you, your organization or at the request of Plaintiff or Plaintiff's counsel, including items not specifically listed above.
9. A complete list of all literature that you have reviewed which provided you with information upon which you rely for your opinion in this case.
10. Any and all documents which refer to, relate to, or evidence your billings or the time, you or others have spent on this case.
11. A complete list of any and all documents including, but not limited to, letters, notes, reviewers comments, that in any way assess, review, evaluate, critique or criticize any of your published or unpublished studies, research, reports or other works.
12. Any and all documentation relating to analysis done for this case or material relied on in this case which have not been requested.

13. If any of the documents or items requested above have been destroyed, please produce a schedule identifying:
 - a. each such document or item destroyed;
 - b. the date of destruction;
 - c. the reason for destruction; and
 - d. the person(s) or entity(ies) that might have the item or a copy of the document(s) destroyed.
14. If any of the documents or items requested above are no longer in your possession and have been transmitted, conveyed or tendered to another person or entity, please produce a schedule identifying:
 - a. each such document or item;
 - b. the date of each such conveyance, transmittal or tender;
 - c. the name(s) of each such person(s) or entity(ies) to which the document or item was transmitted, conveyed or tendered; and
 - d. the reason for each such conveyance, transmittal or tender.
15. All photographs, films, videotapes, and any other visual representations generated for the purposes of this case.
16. A complete list of all physical evidence used, analyzed or otherwise acquired for this case.
17. Time sheets or other records which will show the amount of time devoted to all aspects of your work on this matter and which identifies the nature of the work done and the dates on which such work was performed.
18. All statements which have been sent to Plaintiff or Plaintiff's counsel for services rendered and for costs incurred in connection with your work on this matter.
19. The current balance of fees and expenses incurred (whether billed or unbilled) to date in connection with your work on this matter.
20. A list of all cases in which you have been retained, given depositions, or provided trial testimony during the last five (5) years, including the name of the person or firm who retained you, whether Plaintiff or Defendant, the attorneys you worked with, the subject matter of the lawsuit, summary of your opinion, your area of testimony, the outcome of the case and your fee for the case. Included in this response should be your role in the litigation, i.e., consultation, testimony by deposition or testimony at trial, etc.
21. A complete list of each article, pamphlet, book, book chapter, or other document upon which you have read and determined does not support any of the expert opinions you have in this case.

22. All exhibits which you plan to discuss or use at trial.
23. Provide the fee agreement for this case and any other cases where you were named as an expert by Attorney Patricia Harrison

DAVIDSON, WREN & PLYLER, P.A.

ATTORNEYS AND COUNSELLORS AT LAW

William H. Davidson, II
Michael B. Wren
Daniel C. Plyler

1611 Devonshire Drive, Second Floor (29204)
Post Office Box 8568
Columbia, South Carolina 29202-8568
Telephone: (803) 806-8222
Facsimile: (803) 806-8855

David A. DeMasters
Brandon M. Briggs

Of Counsel
Kenneth P. Woodington

June 3, 2019

Writer's Email: dplyler@dml-law.com

Lennie Mullis
1002 Lofty Pines
Columbia, South Carolina 29212

RE: Estate of Edward James Mims, Laura M. Cole, Personal Representative v. The South
Carolina Department of Disabilities and Special Needs, Kathi Lacy, and Stan Butkus
Civil Action Number: 2007-CP-40-3365
Date of Incident: January 4, 1999
Claim Number: 44654
Our File Number: 104.7785

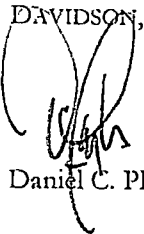
Dear Ms. Mullis:

Please find enclosed herewith and served upon you a subpoena with regard to the above referenced matter. Please note that this is a subpoena for your records only, and that you are not required to appear personally. As stated in the subpoena, the documents should be sent to my attention by Monday, June 17, 2019.

If you have any questions, or if you have any problems complying with this subpoena, please contact me. Thank you very much for your assistance.

Very truly yours,

DAVIDSON, WREN & PLYLER, P.A.


Daniel C. Plyler

DCP/mss
Enclosure

cc: Patricia L. Harrison, Esquire
Robert C. Childs, III, Esquire

ELECTRONICALLY FILED - 2019 Jun 17 1:57 PM - RICHLAND - COMMON PLEAS - CASE#2007CP4003365

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF RICHLAND

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

v.

SUBPOENA IN A CIVIL CASE

The South Carolina Department of Disabilities and
Special Needs, Kathi Lacy, and Stanley Butkus,
Defendants.

Case Number: 2007-CP-40-03365

Pending in Richland County

TO: Lennis Mullis

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME , AM

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION:	DATE AND TIME

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects:

See attachment.

PLACE Davidson, Wren & Plyler, P.A. ATTN: Daniel C. Plyler, Esquire Post Office Box 8568 Columbia, South Carolina 29202-8568	DATE AND TIME Monday, June 17, 2019 by 5:00 PM

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME , AM

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature Indicate if Attorney for Plaintiff or Defendant Attorney's Address and Telephone Number: Counsel for Defendants	06/03/19 Date	Daniel C. Plyler, Esquire Print Name
Davidson, Wren, & Plyler, P.A. P.O. Box 8568, Columbia, South Carolina 29202 T: 803-806-8222		

PROOF OF SERVICE

SERVED	DATE June 3, 2019	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL ☐ YES ☒ NO AMOUNT \$
	PLACE 1002 Lofty Pines, Columbia, South Carolina 29212	
SERVED ON Lennie Mullis	MANNER OF SERVICE U.S. Mail, First Class Postage Pre-Paid	
SERVED BY Melissa S. Segear	TITLE Paralegal	

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 6/3/19

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection and copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- (i) fails to allow reasonable time for compliance; or
- (ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- (iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) If a subpoena:

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

Subpoena Attachment

1. Your most recent Curriculum Vitae and publications list.
2. All correspondence, memoranda, articles, notes, reports, e-mails or other computer messages including attachments, computer simulations, computer generated data, studies, tests, test results, charts, graphs, or other documents or written material that you have received from or sent to any person, including attorneys, relating to this case and to any opinions rendered to the Plaintiff, Plaintiff's counsel or other representatives in this case.
3. Notes, memoranda or other written documentation of telephone conversations, which you have had with Plaintiff, Plaintiff's counsel, other witnesses, other experts, or any other individuals with whom you have consulted relating to or regarding your opinions concerning this case.
4. Notes made by you in reviewing or analyzing materials and preparing your evaluation or opinions for this case. This would include any written research or memoranda of written or oral reports reviewed.
5. All drafts of reports and final reports, which contain your opinions in this matter, including computer drafts that are not hard copies.
6. A complete list of all written materials, notes, memoranda, tests, test results, examinations or other materials reviewed by you in preparation of your opinion.
7. A complete list of any and all documents including all articles, treatises, texts, technical bulletins, professional guidelines, periodicals or papers which support your findings, conclusions, opinions, or testimony or that you rely on as a basis for your findings, conclusions, opinions or testimony. For every text or periodical cited, please denote the chapter and page where the information is located that supports your opinion.
8. Your entire file with respect to the subject matter of this litigation compiled in connection with work done by you, your organization or at the request of Plaintiff or Plaintiff's counsel, including items not specifically listed above.
9. A complete list of all literature that you have reviewed which provided you with information upon which you rely for your opinion in this case.
10. Any and all documents which refer to, relate to, or evidence your billings or the time, you or others have spent on this case.
11. A complete list of any and all documents including, but not limited to, letters, notes, reviewers comments, that in any way assess, review, evaluate, critique or criticize any of your published or unpublished studies, research, reports or other works.
12. Any and all documentation relating to analysis done for this case or material relied on in this case which have not been requested.

13. If any of the documents or items requested above have been destroyed, please produce a schedule identifying:
 - a. each such document or item destroyed;
 - b. the date of destruction;
 - c. the reason for destruction; and
 - d. the person(s) or entity(ies) that might have the item or a copy of the document(s) destroyed.
14. If any of the documents or items requested above are no longer in your possession and have been transmitted, conveyed or tendered to another person or entity, please produce a schedule identifying:
 - a. each such document or item;
 - b. the date of each such conveyance, transmittal or tender;
 - c. the name(s) of each such person(s) or entity(ies) to which the document or item was transmitted, conveyed or tendered; and
 - d. the reason for each such conveyance, transmittal or tender.
15. All photographs, films, videotapes, and any other visual representations generated for the purposes of this case.
16. A complete list of all physical evidence used, analyzed or otherwise acquired for this case.
17. Time sheets or other records which will show the amount of time devoted to all aspects of your work on this matter and which identifies the nature of the work done and the dates on which such work was performed.
18. All statements which have been sent to Plaintiff or Plaintiff's counsel for services rendered and for costs incurred in connection with your work on this matter.
19. The current balance of fees and expenses incurred (whether billed or unbilled) to date in connection with your work on this matter.
20. A list of all cases in which you have been retained, given depositions, or provided trial testimony during the last five (5) years, including the name of the person or firm who retained you, whether Plaintiff or Defendant, the attorneys you worked with, the subject matter of the lawsuit, summary of your opinion, your area of testimony, the outcome of the case and your fee for the case. Included in this response should be your role in the litigation, i.e., consultation, testimony by deposition or testimony at trial, etc.
21. A complete list of each article, pamphlet, book, book chapter, or other document upon which you have read and determined does not support any of the expert opinions you have in this case.

22. All exhibits which you plan to discuss or use at trial.
23. Provide the fee agreement for this case and any other cases where you were named as an expert by Attorney Patricia Harrison

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
	)	
Laura Cole as personal representative of	)	
estate of Edward Mims,	)	Civil Action No. 07-CP-40-3365
	)	
Plaintiff,	)	
	)	
v.	)	DEFENDANTS' MOTION TO COMPEL
	)	DISCOVERY
The South Carolina Department of	)	AND FOR EXTENSION OF SCHEDULING
Disabilities and Special Needs,	)	ORDER DEADLINES
Kathi Lacy and Stanley Butkus,	)	
	)	
Defendants.	)	
	)	
	)	

STATEMENT

All Defendants (The South Carolina Department of Disabilities and Special Needs, Kathi Lacy and Stanley Butkus), hereby move to compel discovery, specifically, to compel Plaintiff to provide full and complete responses to the "expert interrogatory" portion of these Defendants' Second Interrogatories and Requests for Production of Documents, which were served on August 13, 2018. Those interrogatories are in Interrogatory 1(k) of the requests, which are attached hereto. Pages 1 and 31-48 of Plaintiffs' most recent responses are also attached.

Defendants also move to have the deadlines set forth in the Scheduling Order dated March 22, 2019, extended by at least 90 days in order for the necessary expert depositions to be taken after the expert interrogatories have been answered.

Defendants previously moved to compel responses to the August 13, 2018 discovery requests on December 14, 2018. That motion was scheduled to be heard on March 12, 2019. A few days before that, Plaintiffs' counsel served supplemental responses that resolved some of Defendants' concerns, but did not provide much in the way of answers to the "expert interrogatory"

portion of the Interrogatories. The parties discussed the situation a day or two before the scheduled hearing. It was agreed that Defendants would withdraw their motion without prejudice, and that in exchange for that agreement, Plaintiffs would supply more complete responses to those requests within 30 days of the phone conversations, which occurred on March 10th or 11th of this year. In the meantime, the parties agreed on, and Judge Jocelyn Newman signed, a Scheduling Order dated March 22, 2019, which provided among other things that "Discovery shall be completed on or before May 31, 2019. The parties by consent can extend this deadline up to thirty (30) days."

Not long thereafter, all counsel for both sides found themselves heavily engaged in trial preparation in No. 6:16-cv-01174-DCC, *Timpson et al. v. Haley et al.*, which was tried before a jury from May 6 through May 10. The case involved not only the usual level of pretrial preparation for a jury trial of that length, but also a second mediation, four pretrial hearings before the Court in that case, and many filings in advance of the trial, including motions in limine, pretrial briefs, proposed verdict forms and proposed jury instructions.

In light of the strain placed on counsel for both sides by the *Timpson* case, Defendants' counsel did not insist on timely compliance by Plaintiffs' counsel with their agreement to provide more complete answers to the expert interrogatories by the middle of April. After a short break in which to allow all counsel to catch up on other matters, undersigned counsel sent Plaintiffs' counsel an e-mail on May 28, 2019, asking that the expert interrogatories be answered by May 31, and that Plaintiffs' counsel agree to the 30-day extension referenced in the March 22, 2019, Scheduling Order. Plaintiffs' counsel, Patricia Harrison, on May 29, 2019, left a voicemail which stated in effect that she could not remember making an agreement to provide more complete answers, and that she also could not remember what she was supposed to answer. The attached e-mail chain contains the correspondence between counsel on this point as of the time of the filing of the present motion. Because the current discovery deadline runs out on May 31, Defendants have been

constrained to file the present motion.

Plaintiffs' counsel is also asserting the their "client" (actually the beneficiary of the plaintiff estate, and not the Personal Representative, who is the actual client") may oppose the 30-day extension request. Defendants would advise that it took over six months and one motion to compel to get even partially decent answers to their discovery requests, and that the responses to the "expert discovery" are now six weeks overdue. Defendants proceeded to take a number of depositions early this year anyway, only to find out that the two alleged "experts" deposed by them reached their "expert opinions" for the first time in the middle of their depositions. A number of other depositions could not be completed as originally noticed, either because Plaintiffs had not supplied current addresses for the deponents, who could not be located, or to accommodate the schedules of Plaintiffs' counsel.

Under these circumstances, Plaintiffs' continued failure to respond to discovery, failure to comply with, or even remember, their previous agreements in this regard, and refusal to consent to an extension of the Scheduling Order made necessary by their own dilatory conduct, is unconscionable. As a result, Defendants request that the Court grant the present motion to compel complete answers to the "expert interrogatories," and that in addition, the Court extend the discovery and mediation deadlines by at least 90 days, in order to adjust for Plaintiff's obstinate refusal provide discovery responses and honor their agreements.

Respectfully submitted,

DAVIDSON, WREN & PLYLER, P.A.

BY: s/ Kenneth P. Woodington
 WILLIAM H. DAVIDSON, II
 KENNETH P. WOODINGTON
 DANIEL C. PLYLER
 1611 Devonshire Drive, Second Floor
 Post Office Box 8568

Columbia, South Carolina 29202
T: 803-806-8222
F: 803-806-8855
E-Mail: wdavidson@dml-law.com
kwoodington@dml-law.com

ATTORNEYS FOR DEFENDANTS THE SOUTH
CAROLINA DEPARTMENT OF DISABILITIES
AND SPECIAL NEEDS, KATHI LACY AND
STANLEY BUTKUS

Columbia, South Carolina

May 30, 2019

*Laura Cole, as Personal Representative of Estate of Edward Mims v. South Carolina
Department of Disabilities and Special Needs et al.
Civil Action Number: 2007-CP-40-03365*

EXHIBIT 1

Defendants' Motion to Compel

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
Edward Mims, by and through his legal	)	
guardian, Margaret Mims,	)	Civil Action No. 07-CP-40-3365
	)	
Plaintiff,	)	
	)	
v.	)	SECOND INTERROGATORIES AND
	)	REQUESTS FOR PRODUCTION OF THE
Babcock Center, Inc., Judy Johnson, the	)	SOUTH CAROLINA DEPARTMENT OF
South Carolina Department of	)	DISABILITIES AND SPECIAL NEEDS,
Disabilities and Special Needs,	)	KATHI LACY AND STANLEY BUTKUS
Kathi Lacy and Stanley Butkus,	)	
	)	
Defendants.	)	
	)	

INTERROGATORIES

TO: PATRICIA HARRISON, ESQUIRE, ATTORNEY FOR PLAINTIFF

The above Defendants serve the following written Interrogatories upon the Plaintiff to be answered separately and in writing by the Plaintiff within thirty (30) days after the service hereof, pursuant to South Carolina Rules of Civil Procedure, Rule 33:

1. Set forth specifically each alleged injury to Edward Mims for which damages are sought in this action, and for each such alleged injury, provide the following information:
 - a. The precise date and nature of the injury.
 - b. The specific location at which the injury allegedly occurred, including the specific building and the specific location within such building.
 - c. The person or persons who inflicted the injury.
 - d. Whether such person or persons were subordinates of any of the Defendants, and if so, why.

- e. A listing of all documentary evidence, including but not limited to medical records, supporting your claims with regard to such injury.
- f. All facts, including dates of such facts, which you contend constituted actual or constructive knowledge on behalf of any Defendant that a subordinate's conduct was a "pervasive and unreasonable risk" to injury to citizens like the plaintiff.
 - i. For each such incident, specify the Defendant whom you contend had actual or constructive knowledge that a subordinate's conduct was a "pervasive and unreasonable risk" to injury to citizens like the plaintiff.
- g. All facts, including dates of such facts, which you contend constituted deliberate indifference or implied authorization by the supervisor of the conduct that you allege to have been the cause of the injury.
 - i. For each such incident, specify the Defendant whom you contend acted with deliberate indifference or impliedly authorized the conduct that you allege to have been the cause of the injury.
- h. All facts which you contend establish an affirmative causal link between the supervisor's inaction and the constitutional injury suffered by the plaintiff.
 - i. For each such incident, specify the Defendant whose actions you contend has an affirmative causal link to the injury.
- i. The names and addresses of any fact witnesses who will testify regarding the injury, as well as either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or a copy of any written or recorded statements taken from such witnesses.

- j. To the extent not already covered by other Interrogatories herein, the names and addresses of any medical personnel who treated the Plaintiff for each injury and who will testify regarding the injury, as well as either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or a copy of any written or recorded statements taken from such witnesses.
- k. If expert testimony will be offered with respect to a given injury, identify in complete detail each person whom the Plaintiff expects to call as an expert witness at the trial, stating as to each such person, and with respect to each injury,
 - 1. The expert's name, occupation, title, business address, area of specialization, if any, and professional relationship to the Plaintiff.
 - 2. The manner in which such person became familiar with the facts of this case.
 - 3. The subject matter or area in which such person is to testify.
 - 4. The substance of the facts and opinions in which such person is to testify.
 - 5. A summary of the grounds or basis for each opinion and fact.
 - 6. A list of books, treatises, articles, and other works which such person regards as authoritative on the subject matter on which he is expected to testify.
- l. Any actions or omissions by any of the three DDSN Defendants (DDSN, Butkus and Lacy) which you claim to have proximately caused the injury.

The foregoing Interrogatories shall be deemed to continue from the time of service until the trial of the case and any information obtained, whether by the Plaintiff or counsel for the Plaintiff, shall be promptly submitted to the undersigned.

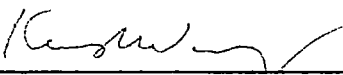
REQUEST FOR PRODUCTION

Pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, Defendant hereby serves the following written requests for production of documents upon Plaintiff, to be answered separately and in writing within thirty (30) days after the service hereof.

1. Copies of any and all documents identified or relied upon in response to Defendant's Second Interrogatories to Plaintiffs, served herewith.
2. Copies of any and all statements given by or on behalf of the Plaintiff, or any witness, whether written or recorded, which relate to the matters complained of in the Amended Complaint.
3. All records, memoranda, notation, written or recorded statements, and any other documents relating to a claim or defense in this matter.
4. Any and all documents, correspondence, emails, and internal memoranda either generated by or received by you relating to a claim or defense in this matter.
5. Copies of any and all photographs and/or other visual aids in possession of Plaintiff or Plaintiff's counsel and relating to a claim or defense in this matter.
6. All exhibits you intend to use at any hearing or at the trial of this case.

7. The series of documents previously referenced by Plaintiff's counsel and which have the prefix "BC."

DAVIDSON, WREN & PLYLER, P.A.

BY: 

WILLIAM H. DAVIDSON, II #425

KENNETH P. WOODINGTON #4741

1611 Devonshire Drive, Second Floor

Post Office Box 8568

Columbia, South Carolina 29202

T: 803-806-8222

F: 803-806-8855

E-Mail: wdavidson@dml-law.com

kwoodington@dml-law.com

ATTORNEYS FOR DEFENDANTS THE SOUTH
CAROLINA DEPARTMENT OF DISABILITIES
AND SPECIAL NEEDS, KATHI LACY AND
STANLEY BUTKUS

Columbia, South Carolina

August 13, 2018

*Laura Cole, as Personal Representative of Estate of Edward Mims v. South Carolina
Department of Disabilities and Special Needs et al.
Civil Action Number: 2007-CP-40-03365*

EXHIBIT 2

Defendants' Motion to Compel

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS**

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

v.

The South Carolina Department of Disabilities
and Special Needs, Kathi Lacy, and Stan Butkus,
Petitioners.

Civil Action Number 07-CP-40-3365

Plaintiff's Supplemental Response to Defendants' Interrogatories

The Plaintiff craved reference to her previous responses served on October 17, 2018 and supplements those as follows;

GENERAL STATEMENT OF DAMAGES

Edward Mims seeks actual and punitive damages under the Tort Claims Act for each and every alleged injury set forth in the attached chronology discovered after May 7, 2001. He seeks damages under 42 U.S.C. 1983 for violations discovered after May 7, 2000. Damages include those suffered due to Defendants' failure to provide proper supervision to protect Mims from assault, battery, sexual assault, and other injuries, failure to properly monitor Mims' condition and treatment needs after initiating involuntary commitment proceedings; failure to discharge Mims to the least restrictive setting under the care of his mother; and damages resulting from the obstruction of the attempts of Mims' mother to establish the guardianship. Occurrences prior to those dates support Mims' claims that Defendants knew of the widespread abusive conduct at Clusters and Kensington and that Defendants knew of and ignored systemic problems.

In support of these claims, Plaintiff relies upon all records contained in the record on appeal, including photographs at R. 0248, the photograph of Mims after he was beaten with a belt and other photographs of Mims. At trial, photographs may be presented to familiarize the jury about Mims' condition and his life.

Evidence will be presented by some of the witnesses listed below.

Plaintiff expects evidence, including that related to the following facts, to be presented to demonstrate negligence, negligent supervision and to support Mims' TCA claims by showing the systemic and longstanding violations of the rights of persons living in Babcock Center and

1. i. Names and addresses of fact witnesses and summary of important facts include:

Judy Johnson

Judy Johnson is the former director of the Babcock Center and she is expected to testify about matters related to abuse, neglect and exploitation of clients, the efforts to prevent Mims and others from being discharged and the knowledge DDSN, Butkus and Lacy had of these matters. Johnson testified that she discussed whether the rape of a former housemate of Mims had to be reported and that Butkus told her she did not need to report the alleged rape. See her testimony in Patricia L. Harrison v. Fireman's Fund Insurance Company and Babcock Center v. U.S.A., hereby disclosed in Plaintiff's Answers to Request to Produce. Other written and recorded statements include testimony in Stogsdill v. DHHS, Babcock Center v. U.S. and depositions in that case, which are available on PACER. No other written or recorded statements have been taken at this time.

Address unknown.

Risley "Rip" Linder

Rip Linder was the director of the Babcock Center from 1993 until circa 2003. Linder is expected to testify about matters related to abuse, neglect and exploitation of Babcock Center clients, matters related to the health and welfare of Mims and other clients and the knowledge Butkus and Lacy had of these matters. Linder is expected also to testify about the high rates of abuse, neglect and exploitation of clients and the number of deaths at the Babcock Center when Mims was at Kensington. No written or recorded statements have been taken at this time.

Covenant Place
Sumter, SC 29150
803 469 7007

James Christian

James Christian served as the representative of DDSN at Babcock Center board meetings and as interim director of Babcock Center around 2003, when Rip Linder's employment as director was terminated. Christian is expected to testify about his knowledge and the knowledge of DDSN, Butkus and Lacy regarding the abuse, neglect and exploitation of Babcock Center clients and other matters related to the involuntary commitment and confinement of Edward Mims. No written or recorded statements have been taken at this time.

715 Maple Street
Columbia, SC 29205
803 799 8149

Barbara Wright

Barbara Wright is the owner of Helping Hands, a day program that served Mims after his discharge from the Babcock Center. She is expected to testify about Mims' condition and behaviors and the standards for protecting the health and safety of DDSN clients. No written or recorded statements have been taken at this time.

Helping Hands
2010 State Street
West Columbia, SC 29033
803 796 5192

Rhonda Goodman

Ms. Goodman was employed by Helping Hands, where she provided care to Mims after his discharge from Babcock Center and she provided respite to Mims in her own home. Ms. Goodman is expected to testify about Mims' condition and behaviors and the standards for preventing, reporting and investigating abuse and neglect of vulnerable adults. No written or recorded statements have been taken at this time.

Newberry County DSS
South Carolina
2107 Wilson Road
Newberry SC 29108
803-321-2155

Marie Leonard

Marie Leonard was a direct caregiver at Kensington. She is expected to testify about conditions at Kensington and behavioral issues related to the care and treatment provided. No written or recorded statements have been taken at this time.

418 Center Street 3W
Columbia, SC 29169

Yvonne Davis

Ms. Davis was the house manager at Kensington and she is expected to testify about the condition of Edward Mims and the conditions of that facility and matters related to abuse, neglect and exploitation of Babcock Center clients. No written or recorded statements have been taken at this time.

Address unknown.

William Green, M.D.

William Green is a doctor who served on the Babcock Center Board of directors, while working under contract for DDSN. He is expected to testify about matters related to investigations of Babcock Center and DDSN and about abuse, neglect and exploitation of DDSN clients. No written or recorded statements have been taken at this time.

5115 Forest Drive, Suite E
Columbia, SC 29206
(803) 331 3645

Henry McMaster

Henry McMaster served as Attorney General, Lieutenant Governor and the Governor of the State of South Carolina, positions where he had supervisory authority over matters related to abuse, neglect and exploitation of DDSN clients. The letter of McMaster's employee, Lee Teed, has been provided to counsel for DDSN and the court. No other written or recorded statements have been taken at this time.

State House
1100 Gervais Street
Columbia, SC 29201
803 734 2100

Ross Robinson

Ross Robinson was the assistant director of the Babcock Center and he was terminated after Judy Johnson was hired as director. Robinson is expected to testify about the hiring of persons who had abused, neglected or exploited DDSN clients and the knowledge of DDSN, Butkus and Lacy regarding abuse, neglect and exploitation of clients. No written or recorded statements have been taken at this time.

Address unknown.

Leigh Flynn

Leigh Flynn is expected to testify about her role as guardian ad litem for Edward Mims and actions taken after learning of the abuse and neglect Mims suffered at Clusters and other matters related to this litigation. She is expected to testify about the unconstitutional treatment and confinement of Babcock Center clients, the abuse, neglect and exploitation of those clients and the knowledge of DDSN, Butkus and Lacy regarding these matters. Flynn is also expected to testify about matters related to Mrs. Mims' attempts to have her son released from the custody of DDSN and the Babcock Center. Parties have taken her deposition and Plaintiff produces her affidavits herein.

Cardinal Drive
W. Columbia, SC

James Hill

Hill is expected to testify about audits and investigations related to the Babcock Center, abuse, neglect and exploitation of DDSN clients and the involvement of Lacy, Butkus and DDSN in attempting to prevent Mrs. Mims from being appointed as her son's guardian. Hill's filing with the probate court opposing the appointment of a guardian for Mims has been provided to counsel for DDSN and the court. No other written or recorded statements have been taken at this time.

108 Pond Ridge Rd.
Columbia, SC 29223-7008
(803) 751-3808

Patrick Maley

Patrick Maley investigated DDSN programs in his capacity as State Inspector General, spent one year analyzing the DDSN waiver programs, then served as interim director of DDSN. He is expected to testify about his investigations group homes operated by Mentor, Inc. and the involvement of Stan Butkus in the operation of those homes where rates of abuse and neglect were significantly above the state average. Maley is also expected to testify about overcharging clients for room and board, the system of reporting abuse, neglect and exploitation and the respective duties of persons at DDSN to monitor DDSN programs. Maley has produced reports related to DDSN programs, in particular the report on Mentor, Inc., and others and produced power point presentations and reports as an employee of DDSN. No other written or recorded statements have been taken at this time.

DDSN
S.C. Department of Disabilities and Special Needs
PO Box 4706
Columbia, SC 29240
(803) 898 9600

Tan Platt. M.D.

Tan Platt was the medical director at the Babcock Center and is now a family physician in Columbia and is the medical director of DHHS. See Transcript in Stogsdill v. DDSN. See also Platt's affidavit and related documents filed with the Supreme Court in In re Harrison. No other written or recorded statements have been taken at this time.

3209 Colonial Drive
Columbia, SC 29203

Contact Information
(803) 434-6113

Deborah Wofford

Wofford was the executive assistant to the director of the Babcock Center and was appointed to receive reports of abuse, neglect, exploitation and mismanagement from Babcock Center employees. She is expected to testify about abuse, neglect and exploitation of clients, neglect and negligent supervision by Butkus, Lacy and DDSN and other matters related to Kensington and Babcock Center. Correspondence with Ms. Wofford and documents related to her lawsuit against Rip Linder have been provided to counsel for DDSN. No other written or recorded statements have been taken at this time.

Address Unknown

Nita McMahon Brice

McMahon was a CPA who worked at the Babcock Center. She is expected to testify about abuse, neglect and exploitation of Babcock Center clients and related neglect, negligent supervision and gross neglect by Butkus, Lacy and DDSN. No written or recorded statements have been taken at this time.

Address unknown.

Margaret Mims

Margaret Mims is expected to testify about her son, Edward Mims, abuse, neglect and exploitation of Mims, the involuntary commitment of Mims and her efforts to have those matters investigated and prosecuted. See her Affidavit.

3301 Rosewood Drive
Columbia, SC 29205
Phone - c/o Patricia Logan Harrison at 803 360 5555

Nancy Dixon

Nancy Dixon is the parent of a former resident of Clusters. Dixon is expected to testify about abuse, neglect and exploitation of clients at the Babcock Center and DDSN, and the failure to monitor, protect and provide services to these clients in less restrictive settings. No written or recorded statements have been taken at this time.

121 Grant Mill Drive
Leesville, SC 29070
(803) 894 7275

Tim Cuddington

Cuddington was a behavior support specialist at Babcock Center and he is expected to testify about abuse, neglect and exploitation of clients at the Babcock Center, retaliation against employees who advocated or reported abuse and his responsibilities receiving reports and complaints from Babcock Center employees. He is also expected to testify about the roles of Butkus, Lacy and DDSN in matters related to this lawsuit. Report provided in Discovery. No other written or recorded statements have been taken at this time.

508 Great North Road
Columbia, SC 29223
(803) 708 5416

Georgia Cupps

Georgia served on the Governor's Developmental Disabilities Council. She is expected to testify about the systemic abuse and neglect in Babcock Center and DDSN programs and about the actions taken by Kathi Lacy and Stanley Butkus to cover up abuse, neglect and exploitation of DDSN clients and retaliation against families who report abuse. No written or recorded statements have been taken at this time.

Address Unknown

Rick Magner

Magner is a former employee of the Babcock Center and held positions as director of a DSN Board and DDSN. He is expected to testify about matters related to abuse, neglect and exploitation of clients and about the conscious indifference of Lacy and Butkus to the needs of clients. No written or recorded statements have been taken at this time.

Summerville, SC
rmagner0@gmail.com

Diana Farace

Diana Farace was a behavior support professional at the Babcock Center who is expected to testify about matters related to the systemic abuse, neglect and exploitation of clients and efforts to retaliate against employees who advocated for DDSN clients. No written or recorded statements have been taken at this time.

2318 Park Street
Columbia, SC 29201
803 799 7219

Mary Poole

Mary Poole is currently the Director of the South Carolina Department of Disabilities and Special Needs. She was hired by Judy Johnson after the Babcock Center was required to downsize due to systemic abuse, neglect and exploitation of clients. She is expected to testify about the conditions of the Babcock Center when she was hired by Babcock Center and as to matters related to Stan Butkus and Kathi Lacy. No written or recorded statements have been taken at this time.

DDSN
S.C. Department of Disabilities and Special Needs
PO Box 4706
Columbia, SC 29240
(803) 898 9600

Stanley Butkus

Butkus is a party to this lawsuit and is expected to testify about matters contained in his deposition and investigations of DDSN programs. He is also expected to testify about his termination as director of Mentor, Inc. after the deaths of residents there. No written or recorded statements except his deposition have been taken at this time.

Known to Defendants

Kathi Lacy

Kathi Lacy is expected to testify about matters contained in her deposition and investigations/reports involving DDSN programs. No other written or recorded statements except her deposition have been taken at this time.

Known to Defendants

Robert Kerr

Robert Kerr was the director of DHHS during the time Mims was confined at Clusters and Kensington. He is expected to testify about DDSN programs, Butkus and Lacy, as well as findings, including, but not limited to CMS investigation of DDSN programs, investigations and studies he ordered, his communications with CMS and other federal and state officials and his work involving DDSN programs after his retirement from DHHS. No written or recorded statements except for his report on DDSN and his deposition in Timpson v. Haley et. al. have been taken at this time.

Kerr & Company
1201 Lincoln Street
Ste 301

Columbia, SC 29201
(803) 728-8024

Anthony Keck

Mr. Keck is expected to testify about DDSN's knowledge of abuse, neglect and exploitation in DDSN waiver programs and the funding. No written or recorded statements except for his deposition in Timpson v. Haley et. al. have been taken at this time.

Ballad Health
2428 Knob Creek Road
Johnson City, TN 37604
423 431 7111

Emma Forkner

Emma Forkner was the director of DHHS when caps were placed on services and she is expected to testify about the relationships between DDSN and providers and the high rates of abuse and neglect in DDSN programs. No written or recorded statements have been taken at this time.

14 Laurent Court
Irmo, SC 29063
803 738 5627

Grahame Johnson

Grahame Johnson is the physician hired by Stan Butkus to examine Mims and investigate allegations of abuse/neglect at Kensington. Report on Mims provided. No written or recorded statements have been taken at this time.

8301 Farrow Road
Columbia, SC 29203
(803) 935 5604

Cornell Rivers

Cornell Rivers was a direct caregiver at Kensington and she is expected to testify about the death of Mims' roommate, abuse/neglect of Mims and findings of immediate jeopardy and other audits of Babcock Center. No written or recorded statements have been taken at this time.

305 Creighton Drive
W. Columbia, SC 29172

Belvia Jackson

Belvia Jackson is the sister of two residents of Kensington and she is expected to testify about the systemic abuse and neglect of clients at that facility and the Babcock Center. No written or recorded statements except for Wall Street Journal statements have been taken at this time.

607 New State Road
Cayce, SC 29033
(803) 794 3835

Deborah McPherson

Deborah McPherson worked in the director's office in DDSN from 1988 until 2002. She served for three weeks on the Babcock Center Board of Directors when Mims was confined to Kensington. McPherson is expected to testify about actions of Butkus, Lacy and others at DDSN to cover up abuse, neglect and exploitation of clients. She is expected to testify about matters contained in her depositions which have been made available to Defendants. See her affidavits and deposition in Levin v. DDSN.

Valley Springs Road
Columbia, SC
(803) 788 6722

Carl Anthony

Carl Anthony is a former employee of the Babcock Center who was convicted of assaulting Mims. He is expected to testify about matters related to the condition of Mims and conditions at Clusters. No written or recorded statements have been taken at this time.

100 Hidden Valley Drive
Lexington, SC 29073

Janis Summers

Janis Summers served on the Board of Directors of the Babcock Center and on the Human Rights Committee. She is expected to testify about matters related to abuse, neglect and exploitation of DDSN clients and the conditions of the Babcock Center and the current Defendants' failure to monitor and protect the health and safety of clients.

130 Linnet Drive
West Columbia, SC 29169
(803) 794 8906

Sue Slater

Sue Slater was a member of the Babcock Center Board of Directors and is expected to testify about matters related to the abuse, neglect and exploitation of clients and DDSN's failure to monitor and protect residents. No written or recorded statements have been taken at this time.

220 Great North Road
Columbia, SC 29223
(803) 736 4595

William Danielson

William Danielson is a former member of the Board of Directors of the Babcock Center and a Commissioner of DDSN. He is expected to testify about matters related to the abuse, neglect and exploitation of DDSN clients and his communications with Defendants Butkus and Lacy. He is expected to testify about the conditions at the Babcock Center at the time he was appointed to that Board of Directors and other matters covered in his deposition in Timpson v. DDSN, which is in the possession of Defendants' counsel. Danielson is the President and managing partner of Datapay. No written or recorded statements have been taken at this time.

21 Surrey Court
Columbia, SC 29212
(803) 929-0042

William Barfield

Barfield is a former associate state director of DDSN, who subsequently received funding funneled through Kerr & Company to study DDSN. He is expected to testify about matters related to the abuse and neglect of DDSN clients and matters contained in his deposition. No written or recorded statements except his deposition in this case have been taken at this time.

Address unknown

Lennie Mullis

Lennie Mullis provided behavior supports and psychological services to Babcock Center clients and was appointed by the Probate Court as Visitor in Mims' guardianship proceedings. Mullis is expected to testify about her experiences involving the abuse, neglect and exploitation of DDSN clients and matters related to the care provided to Mims after his release from custody of Butkus, as director of DDSN. Mullis is expected to testify about the conscious indifference of Lacy and Butkus to the rights of DDSN

clients, families and providers and their retaliation against families, employees and providers. See affidavits of Lennie Mullis in Brown, Stogsdill and Levin. No written or recorded statements have been taken at this time.

1002 Lofty Pine Drive
Columbia, 29212, SC
(803) 289-4298

Steve Hamm

Attorney Hamm represented Protection & Advocacy in a lawsuit filed against Butkus and DDSN in 2007. He is expected to testify about the conscious indifference of Butkus, Lacy and DDSN to comply with the South Carolina Administrative Procedures Act. Hamm is expected to testify about matters contained in the depositions of Butkus, Lacy and McPherson in that lawsuit, copies of which are in the possession of Defendants' counsel. No written or recorded statements have been taken at this time.

Richardson Plowden & Robinson PA
PO Drawer 7788
Columbia, SC 29202
(803) 771-4400 Ext.

Sarah St. Onge

Attorney St. Onge is expected to testify about the conscious indifference of Lacy, Butkus and DDSN to provide non-institutional services to DDSN clients in the least restrictive setting and the abuse, neglect and exploitation of DDSN clients. She is expected also to testify about matters contained in the P&A report "Unequal Justice." No written or recorded statements have been taken at this time.

3710 Landmark Drive
Ste. 208
Columbia, SC 29204
(803) 782-0639

Brenda Bryant

Brenda Bryant is the mother of Madison in Madison v. Babcock Center. She is expected to testify about the conscious indifference of Butkus, Lacy and DDSN to the rights of DDSN clients and the systemic abuse, neglect and exploitation of residents of DDSN facilities, including Babcock Center facilities. She is expected to testify also about the retaliation against families who challenge DDSN policies and practices. No written or recorded statements have been taken at this time.

Mooreville, NC

Lee Teed

Lee Teed is a former investigator with the Office of the Attorney General. Teed is the author of the letter informing Mrs. Mims that the AG does not have authority over the Babcock Center or DDSN. Teed is expected to testify about the systemic abuse, neglect and exploitation of clients in DDSN facilities and the conscious indifference of Butkus, Lacy and DDSN to the rights of those clients. See letter from Lee Teed. No other written or recorded statements have been taken at this time.

325 N Stonehedge Drive
Columbia, SC 29210-4223

Mary Katherine Bagnal

Mary Katherine Bagnal is a former Commissioner of DDSN who, prior to her appointment, provided case management services to Mims and was appointed by the Probate Court to examine Mims. Bagnal will testify about Mims' needs and condition, care provided by Margaret Mims and matters related to cover ups of abuse, neglect and exploitation of DDSN clients. Bagnal will also testify about actions taken by Lacy and Butkus in relation to widespread abuse, neglect and exploitation of clients in the DDSN system. See her visitor report in Mims. No other written or recorded statements have been taken at this time.

Senior Matters
3710 Landmark Drive
Ste 109
Columbia, SC 29204
(803) 779-1181

Nancy Banov

Nancy Banov is a former Commissioner of DDSN and she is expected to testify about abuse, neglect and exploitation in DDSN programs and the conscious indifference of Butkus and Lacy to protect DDSN clients from harm and to comply with federal and state law. She is also expected to testify about the failure of Butkus to keep Commissioners informed about litigation. No written or recorded statements have been taken at this time.

Atlanta, GA

David Pointer

Pointer was an investigator at the Office of the AG and is expected to testify about abuse, neglect and exploitation of clients at the Babcock Center and other DDSN programs, and

the involvement of Butkus and Lacy. No written or recorded statements have been taken at this time.

Columbia, SC

Jerry Bellune

Bellune was the editor of the Lexington Chronicle and was sued by Judy Johnson, who claimed to have been defamed by his newspaper articles critical of DDSN and the Babcock Center. He is expected to testify about his experiences investigating abuse, neglect and exploitation of clients at the Babcock Center and testimony by DDSN officials the lawsuit filed against him and/or his newspaper by Judy Johnson. No written or recorded statements have been taken at this time.

131 Swartz Road
Lexington, SC 29072
803-359-7633

Gordon Brown

Gordon Brown is a former employee of Babcock Center who worked at Kensington. He will testify about understaffing at Kensington and the failure of management to provide the supports needed to protect residents. No written or recorded statements have been taken at this time.

Address unknown.

Steve Jeffcoat

Steve Jeffcoat, CPA, is the former internal auditor of DDSN who conducted the study of Babcock Center that was released in 2003 and participated in the audit of the DDSN programs released in 2006. Jeffcoat is expected to testify about the systemic abuse, neglect and exploitation of DDSN clients and the failure to protect them from harm and to prevent them from living in less restrictive environments. Jeffcoat is expected to testify about the conscious indifference of Butkus and Lacy and their violations of federal and state laws, regulations and standards of care. Jeffcoat is also expected to testify about retaliation against families, providers and employees who reported abuse, neglect and exploitation. No written or recorded statements have been taken at this time.

West Columbia, SC
(803) 796 7058

Senator David Lloyd Thomas

Senator Thomas will testify about the hearings his Senate Committee held regarding problems at DDSN during the tenure of Butkus and Lacy. He will testify about the DDSN Commissioners, families, employees and former employees who reported systemic abuse and violation of federal and state laws in the operation of DDSN programs. He will testify about the retaliation against families and employees who advocated to protect DDSN clients. No written or recorded statements have been taken at this time.

23 Wade Hampton Boulevard
Greenville, SC 29609
(864) 271-1707 Ext.

Sandra Ray, PhD

Dr. Ray is a former risk manager of Mentor, Inc. and formerly operated group homes funded by DDSN. She is expected to testify about the standards of care and risk management issues related to the operation of DDSN programs. Ray is expected to testify about the conscious indifference of Butkus, Lacy and DDSN to the rights of persons served by DDSN to live in the least restrictive setting, free from abuse and neglect. No written or recorded statements have been taken at this time.

PO Box 775
White Rock, SC 29177
(803) 603-7796

Mary Riley

Mary Riley is the President/Principal at Legislative Solutions and the former Chief of Staff / Director of Research at South Carolina Senate. Riley is expected to testify about the interviews she conducted of persons reporting systemic abuse, neglect and exploitation in DDSN programs. No written or recorded statements have been taken at this time.

Legislative Solutions
1333 Main Street
Columbia, SC 29201

Honorable Amy McCullough

Judge McCullough is expected to testify about the Edward Mims proceedings in the Probate Court and settlements of cases involving clients of DDSN and Babcock Center clients resulting from abuse, neglect and/or exploitation. No written or recorded statements have been taken at this time.

1701 Main Street
Columbia, SC 29201
(803) 576-1975

Randy Thomas

Randy Thomas is a national instructor in the area of vulnerable adult abuse, neglect and exploitation and was one of the authors of "Unequal Justice," a report describing the abuse, neglect and exploitation of clients in DDSN programs published circa 2004. He is expected to testify about the systemic nature of abuse, neglect and exploitation in DDSN programs and the failure of DDSN officials to protect DDSN clients from harm. No other written or recorded statements have been taken at this time.

212 Beacon Lane
Columbia SC 29229-7526
(803) 865-8603

Neal Douglas Truslow

Attorney Truslow is expected to testify about his investigations related to the violation of DDSN's duty of care to protect clients from neglect at the Babcock Center. No written or recorded statements have been taken at this time.

PO Box 1465
Columbia, SC 29202
(803) 256-6276

Other witnesses may be discovered during discovery and this list will be supplemented.

- I j. Names and addresses of medical personnel who treated Plaintiff for each injury and may testify.

Tan Platt was the medical director of the Babcock Center and was Mims' treating physician during his confinement at the Babcock Center. Records from his practice related to Mims are available to counsel to be copied.

Grahame Johnson is a physician who examined Mims and investigated the injury of his penis and performed other investigations related to DDSN clients.

Records of other medical providers and dates of injuries are documented on records from the medical providers (including the Babcock Center) which have been made available to Defendants' counsel.

Lennie Mullis was a provider of behavioral support services who treated Mims. See above.

Mary Katherine Bagnal is a provider of case management services who treated Mims. See above.

1. k. Expert witnesses have not disclosed the books, treatises, articles or other works they will rely upon, except as listed below.

Nora Baldarian, PhD

Nora Baldarian is an expert in trauma and abuse/neglect of persons with disabilities. She is expected to testify about abuse and neglect at the Babcock Center and in DDSN programs. Baladarian has been contacted by phone, but has not reviewed records or testimony related to this case. She was named as an expert in Madison v. Babcock Center and presumably became familiar with the operation of DDSN programs and Babcock Center through that lawsuit.

Counseling Center of Palm Springs
555 Sunrise Way
Palm Springs, CA 92264
(310) 473 6768

Kathy Hoover, RN

Kathy Hoover is a retired RN who provided an affidavit in this case. She is expected to testify about matters contained in that affidavit. No other statement has been provided by this witness.

(864) 266 5048

Sandra Ray

See 1.i. above.

Randy Thomas

See 1.i. above.

Lennie Mullis

See 1.i. above.

Deborah McPherson

See above. McPherson is familiar with matters related to this lawsuit as a former employee of DDSN, where she reviewed complaints made by families. Records reviewed by McPherson include the investigations and audits contained in the record on appeal, the 2014 LAC audit, the Mentor review by Patrick Maley and other reports issued by Patrick Maley. She has reviewed the reports prepared by Kerr & Company under contract with

DDSN. McPherson has reviewed the audits and investigations contained in the record on appeal and all articles published in the Lexington Chronicle, the Greenville News, the State, the Charleston Courier, WIS, WLTX and the Wall Street Journal which discuss abuse, neglect and exploitation of DDSN clients.

Richard Magner

See 1.i. above.

Mary Katherine Bagnal

See 1.i. above.

1. 1. Actions and omissions by DDSN, Butkus and Lacy include consciously failing to protect Mims and other DDSN clients from abuse, neglect and exploitation and actively covering up violations of the rights of DDSN clients, including Mims, to live in safe, less restrictive placements. Butkus caused Mims to be involuntarily committed to his custody to prevent Mrs. Mims from challenging the atrocious conditions at Clusters and both he and Lacy obstructed her efforts to remove Mims from a decertified, dangerous facility and attempted to force his return to the Babcock Center by denying services needed to maintain him at home. DDSN and these Defendants were grossly negligent in failing to provide services Mims was entitled to receive and in subjecting him to unsafe and unconstitutional living conditions. Defendants violated the applicable statutory and regulatory standards of care for persons who receive services in Medicaid programs and their common law duty of care to protect vulnerable adults from negligent conditions. Violations included the failure to monitor the services provided to Mims and the failure to report abuse, neglect and exploitation of DDSN clients to proper authorities in a timely manner.

RESPONSE TO REQUEST FOR PRODUCTION

1. All documents identified or relied upon in response to second interrogatories.

Documents relied upon include those contained in the record on appeal and boxes of records made available to Defendants and reports/audits by US DOJ OIG and other federal, state and private sources. See also Plaintiff's supplemental production annexed hereto.
2. Copies of all statements given on behalf of Plaintiff and witnesses related to matters contained in the Amended Complaint are contained in the record on appeal. See also Plaintiff's supplemental production annexed hereto.
3. Records, memoranda, notation, written and recorded statements, and other documents related to claims and/or defenses are contained in the record on appeal and other records

made available to Defendants' counsel. See also Plaintiff's supplemental production annexed hereto.

4. Documents, correspondence, emails and internal memoranda generated or received by you related to claims or defenses.

Plaintiffs object to this request due to it being burdensome and that many of these records and protected by the attorney-client/work product privilege. Subject to that objection all documents have been made available to the Defendant. See also Plaintiff's supplemental production annexed hereto.

5. Photographs and visual aids in possession of Plaintiff and/or counsel.

These records have been made available to Defendants for copying. See also Plaintiff's supplemental production annexed hereto.

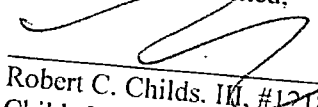
6. Exhibits to be used at trial.

The records have been made available to Defendants for copying. See also Plaintiff's supplemental production annexed hereto.

7. "B.C." documents.

These records have been made available to Defendants for copying. See also Plaintiff's supplemental production annexed hereto.

Respectfully submitted,



Robert C. Childs, III, #1218
Childs Law Firm, LLC
2100 Poinsett Hwy, Suite D
Greenville, SC 29609
(864) 242-9997
Fax (864) 242-9914
Fed. Bar No. 0123
Robert@LawyerChilds.com

Patricia Logan Harrison
611 Holly Street
Columbia, SC 29205
pharrison@loganharrisonlaw.com
ATTORNEYS FOR PLAINTIFF

March 7, 2019

*Laura Cole, as Personal Representative of Estate of Edward Mims v. South Carolina
Department of Disabilities and Special Needs et al.
Civil Action Number: 2007-CP-40-03365*

EXHIBIT 3

Defendants' Motion to Compel

Melissa S. Segear

From: Kenneth P. Woodington
Sent: Thursday, May 30, 2019 2:27 PM
To: Patricia Logan Harrison (pharrison@loganharrisonlaw.com); robert@lawyerchilds.com
Cc: Daniel C. Plyler; Melissa S. Segear
Subject: Mims

Patricia, I was out of the office yesterday and this morning and just listened to your voicemail of yesterday afternoon, in which you now claim not to know what you agreed back in March to provide to us in exchange for our not going forward with the hearing scheduled on March 12 on our December 14 motion to compel discovery.

I am astonished that you claim to have forgotten what your part of that agreement was, and apparently have forgotten even that you made an agreement, but let me refresh your memory: Our Interrogatory No. 1(k), served almost nine months ago and which has essentially not been answered with any degree of completeness, provided as follows:

- a. If expert testimony will be offered with respect to a given injury, identify in complete detail each person whom the Plaintiff expects to call as an expert witness at the trial, stating as to each such person, and with respect to each injury,
 1. The expert's name, occupation, title, business address, area of specialization, if any, and professional relationship to the Plaintiff.
 2. The manner in which such person became familiar with the facts of this case.
 3. The subject matter or area in which such person is to testify.
 4. The substance of the facts and opinions in which such person is to testify.
 5. A summary of the grounds or basis for each opinion and fact.
 6. A list of books, treatises, articles, and other works which such person regards as authoritative on the subject matter on which he is expected to testify.

I am also fairly well surprised that you are now claiming that your client may oppose the 30-day scheduling order extension that was provided for in the last scheduling order. As you know, the same attorneys for both sides in this case were involved in the weeklong trial in the Timpson case in federal court during the week of May 6. There were many pretrial hearings and other activities in that case that made it impossible for either side to focus on the Mims case for a number of weeks. After allowing some time after the trial for all concerned to catch up, I sent you what I thought would be a routine request to comply with your promise to get the expert discovery to us and, in light of the circumstances, to effectuate the agreed-upon scheduling order extension, but am now informed that you can't remember what you agreed to, and are claiming that your client wants to move forward quickly.

I would also note that your non-expert discovery responses were deficient in many ways, and that more responsive interrogatory answers were not received until early March. We nevertheless scheduled a number of depositions without the benefit of responsive interrogatory answers because time was

running on the discovery period. We took two depositions of so-called "experts," both of whom came up with their opinions for the first time on the fly in the middle of their depositions. A number of the depositions we noticed did not go forward because the addresses you gave us were not current, and we couldn't find the witnesses. We also postponed some depositions to accommodate your schedule.

In view of all of this, and with the discovery period set to run out tomorrow, we have no choice to file a motion to compel, which will be filed soon and will also include a request for a 90-day extension of the scheduling order deadlines.

Sincerely,

Ken

From: Patricia Logan Harrison [<mailto:pharrison@loganharrisonlaw.com>]
Sent: Wednesday, May 29, 2019 2:44 AM
To: Kenneth P. Woodington
Cc: robert@lawyerchilds.com; Daniel C. Plyler; Melissa S. Segear
Subject: Re: Mims

I'll ask Laura Cole. She came by my office last week w Mrs Mims asking about status and is anxious to go forward.

T

Sent from my iPhone

On May 28, 2019, at 10:39 AM, Kenneth P. Woodington <kwoodington@dml-law.com> wrote:

Robbie and Patricia,

You'll recall that the Defendants agreed not to go forward with the March 12 hearing on our motion to compel discovery, on the understanding that you would provide more full responses to the expert interrogatories within 30 days of March 11. With everything that was going on in the Timpson case at the time, we did not insist on receiving those responses by that date, but the time is now well past for them to be supplied. We would request that you provide the promised responses by this Friday, May 31.

Also, the March scheduling order provided for discovery to end by May 31, but with the option for it to be extended 30 days by consent. I would request that you consent to that extension, and also advise as to dates in June when you are not available, as we need to finish up with the depositions we previously advised that we wanted to take.

Thanks,

Ken

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	
	)	
Estate of Edward James Mims,	)	C. A. No.: 2007-CP-40-3365
Laura M. Cole, Personal Representative,	)	
Plaintiff,	)	
	)	
v.	)	SECOND AMENDED CONSENT
	)	SCHEDULING ORDER
	)	
The South Carolina Department of	)	
Disabilities and Special Needs, Kathi Lacy,	)	
And Stanley Butkus,	)	
Defendants.	)	

This matter was initially filed on May 29, 2007. The Plaintiff amended his Complaint on May 7, 2008. The Defendants filed two motions to dismiss the amended complaint on or about June 9, 2008. By order filed June 4, 2009, the trial court formally denied Defendant's motions to dismiss Mims' amended complaint. Upon Defendants' motions to alter or amend, the trial court held another hearing on September 4, 2009 and thereafter granted Defendant's motions to dismiss, without prejudice, by order filed November 23, 2009, based on insufficiency of process and insufficient service of process. The Plaintiff timely appealed and on August 15, 2012 the South Carolina Supreme Court reversed the Circuit Court's decision and remanded the case for further proceedings. See, *Mims v. Babcock Ctr., Inc.*, 399 S.C. 341, 732 S.E.2d 395 (S.C., 2012).

On January 21, 2014 the Circuit Court granted summary judgment for Defendants, and Plaintiff appealed to the South Carolina Court of Appeals. On November 8, 2017 the South Carolina Court of Appeals affirmed the dismissal of Plaintiff's ADA and Rehabilitation Act claims, reversed the dismissal of the Plaintiff's 42 USCA Section 1983 claims as well as his negligence, gross negligence, and negligent supervision claims and ruled that Mims benefitted from a five year tolling statute. The Court of Appeals remanded the case for further proceedings consistent with their decision. See, *Estate of Mims v. S.C. Dep't of Disabilities & Special Needs*, 811 S.E.2d 807, 422 S.C. 388 (S.C. App., 2017).

The Defendants petitioned the South Carolina Supreme Court for a writ of Certiorari on May 9, 2018. On August 3, 2018 the South Carolina Supreme Court denied the petition and this case was remanded to this court. On August 9, 2018 the Court of Appeals issued its remittitur. On September 18, 2018 additional counsel for the Plaintiff was substituted. On September 28, 2018 the Defendants moved for a continuance and a status conference. On October 1, 2018 the Chief Administrative Judge ordered a continuance, a status conference and directed the parties to submit proposed scheduling orders. The parties engaged in a scheduling order on October 8, 2018 which provided for completion of discovery within 90 days of the Order and mediation within 45 days after the completion of discovery with a status conference with the Court before trial is scheduled if mediation was unsuccessful. On December 6, 2018 an additional Scheduling Order was executed providing for discovery to be completed by March 1, 2019 and mediation within 45 days thereafter.

Defendants have noticed over a dozen depositions since December and the Plaintiff has supplemented discovery responses at the request of the Defendants. Both parties need to take a number of additional depositions before Mediation is scheduled. The parties have in good faith attempted to comply with this Court's scheduling Orders but have been unable to complete them in a timely fashion. In order to provide for an orderly process for prompt disposition of this case, the Court determines that they shall proceed on the following schedule:

1. Discovery shall be completed on or before May 31, 2019. The parties by consent can extend this deadline up to thirty (30) days.
2. Mediation shall occur on or before July 19, 2019. The parties by consent can extend this deadline up to thirty (30) days.
3. If the case is not resolved through mediation, trial of this case shall be no earlier than September 1, 2019

4. If the case is not resolved through mediation, the parties are instructed to contact the Chief Administrative Judge for the purpose of scheduling a date certain trial date.

IT IS SO ORDERED!

The Honorable Jocelyn Newman
Chief Administrative Judge

Columbia, South Carolina
March _____, 2019

We Consent:

s/Robert C. Childs, III
Robert C. Childs, III, #1218
Childs Law Firm, LLC
2100 Poinsett Hwy, Suite D
Greenville, SC 29609
(864) 242-9997
Fax (864) 242-9914
Robert@LawyerChilds.com

s/Patricia Harrison
Patricia Harrison
611 Holly Street
Columbia, SC 29205
(803) 256-2017

ATTORNEYS FOR PLAINTIFFS

s/Kenneth P. Woodington
Kenneth P. Woodington
PO Box 8568
Columbia, SC 29202
803-806-8222
kwoodington@DML-LAW.com

s/Daniel Clifton Plyler
Daniel Clifton Plyler
PO Box 8568
Columbia, SC 29202
803-806-8222
dplyler@DML-LAW.com

ATTORNEYS FOR DEFENDANTS



Richland Common Pleas

Case Caption: Margaret Mims , plaintiff, et al vs Babcock Center Inc , defendant,
et al
Case Number: 2007CP4003365
Type: Order/Scheduling Order

So Ordered

Jocelyn Newman, Chief Judge for Administrative
Purposes, Court of Common Pleas, 5th Judicial
Circuit

Electronically signed on 2019-03-22 10:24:21 page 4 of 4

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
	)	
Laura Cole as personal representative of	)	
estate of Edward Mims,	)	Civil Action No. 07-CP-40-3365
	)	
Plaintiff,	)	
	)	
v.	)	DEFENDANTS' MOTION TO COMPEL
	)	DISCOVERY
The South Carolina Department of	)	
Disabilities and Special Needs,	)	
Kathi Lacy and Stanley Butkus,	)	
	)	
Defendants.	)	
	)	
	)	

STATEMENT

All Defendants (The South Carolina Department of Disabilities and Special Needs, Kathi Lacy and Stanley Butkus), hereby move to compel discovery, specifically, to compel Plaintiff to provide full and complete responses to these Defendants' Second Interrogatories and Requests for Production of Documents, which were served on August 13, 2018. No documents have been received in the four months since those requests were served, and the interrogatory responses are vague and very incomplete. These Defendants also request that all deadlines set in a recent Scheduling Order in this case be extended by the amount of time it takes for Plaintiff to produce complete responses to those discovery requests.

By way of background, these Defendants were awarded summary judgment in this case in 2014, but after Plaintiff appealed, that decision was reversed in part by the Court of Appeals. The Supreme Court of South Carolina denied certiorari on August 3, 2018. The remittitur was issued on August 9, 2018. Almost immediately thereafter, as a result of certain matters referenced in the opinion of the Court of Appeals, Defendants served Interrogatories and Requests for Production on

the Plaintiff on August 13, 2018. Exhibit 1, hereto. Two months later, on October 17, 2018, Plaintiff belatedly served purported responses to those requests. Exhibit 2, hereto. Defendants' counsel shortly thereafter, on October 30, 2018, sent Plaintiffs' counsel a 6-page letter detailing the shortcomings and deficiencies in Plaintiff's responses. Exhibit 3.

At a status conference before Judge Hood on November 1, 2018, Plaintiff's counsel Robert Childs assured the Court and Defendants' counsel that correcting the responses would be a simple matter that could be accomplished within a few days. No objection of any kind was made to producing the information and documents requested. However, in the 40-plus days since the aforementioned assurance was made to Judge Hood, Plaintiffs have not supplied any additional interrogatory responses or any documents at all. E-mails were sent by Defendants' counsel on October 19, November 5, November 16 and November 29, but all have been completely ignored and not answered by Plaintiff's counsel. Plaintiff's counsel did advise Judge Hood by e-mail dated December 6 that "The Plaintiff will consistently cooperate with any discovery requests by the Defendant since the Plaintiff wishes to proceed with all due haste," but in fact, there has been no such cooperation, or even communication, at all. (All e-mails referenced above are collectively numbered as Exhibit 4.) Defendants have received no additional information for almost two months. Because depositions cannot be taken until at least a majority of the requested documents have been produced and complete answers to interrogatories received, the four-month discovery period contemplated by the scheduling order will be at least halfway over before the first deposition can be taken.

ARGUMENT

Defendants would refer the Court to their letter of October 30, 2018, for the details of the information requested, and to date not supplied. The contents of that letter can be summarized as follows: Plaintiff claims that Plaintiff's decedent, Edward Mims, suffered numerous personal

injuries while living at certain Babcock Center facilities between 2000 and 2005. The essence of Defendants' discovery requests was simply to ask Plaintiff to list each injury for which damages are being sought, together with any documents and witnesses indicating the person who inflicted the injury and information indicating what the Defendants knew or should have known about the injuries and what they did or failed to do.

Plaintiff's response with regard to the specific injuries consisted of a laundry list of events or observations reported in Babcock Center documents (which document set Plaintiff has not produced despite repeated requests). Many of these events are not even necessarily injuries, such as "Records document red marks on neck." As to witnesses and documents, such information as was provided was very vague, typically consisting of non-specific references to thousands of pages of documents. There was virtually no response to the interrogatories requesting information about what the Defendants knew or should have known, or did or failed to do. An expert in California was identified, but Plaintiff noted that she "has not reviewed records or testimony related to this case."

Finally, no documents whatsoever have been produced in response to Defendants' Requests for Production, which were served four months ago. Plaintiff has not even produced the series of documents previously referenced by Plaintiff's counsel and which have the prefix "BC," a specific and identifiable set of documents which appears to consist of nearly 4,000 pages. The failure to produce even that set of documents is inexcusable. Plaintiff's counsel were advised over a month ago of copying arrangements which would minimize any labor on the part of Plaintiff's counsel, but they still have not made even that set of documents available, nor any other documents vaguely referenced in their responses.

At the status conference on November 1, Judge Hood ordered that discovery in this matter be completed by March 1, 2018, to be followed by a 45-day period in which to conduct mediation. However, without knowing the basic facts surrounding the specific injuries claimed, including

which injuries are actually part of the case, and without having the supporting documents and evidence for each claimed injury, Defendants cannot begin to depose the approximately 40 witnesses they believe will need to be deposed (Plaintiff's responses listed a total of about 55 witnesses).

In summary, despite Defendants' efforts to begin discovery immediately after the remand of this case in August, Plaintiff has supplied only vague interrogatory responses, and no documents at all. The 40-plus days that have followed the status conference with Judge Hood have been completely unproductive, due to Plaintiff's complete and total unresponsiveness to Defendants' legitimate followup requests and despite Plaintiff's own assurances that more information would be forthcoming. As a result, Defendants request that in addition to granting the present motion to compel, the Court move the discovery and mediation deadlines back in a way that will adjust for Plaintiff's obstinate refusal to provide documents and other information.

DAVIDSON, WREN & PLYLER, P.A.

BY: s/ Kenneth P. Woodington
 WILLIAM H. DAVIDSON, II
 KENNETH P. WOODINGTON
 DANIEL C. PLYLER
 1611 Devonshire Drive, Second Floor
 Post Office Box 8568
 Columbia, South Carolina 29202
 T: 803-806-8222
 F: 803-806-8855
 E-Mail: wdavidson@dml-law.com
kwoodington@dml-law.com

ATTORNEYS FOR DEFENDANTS THE SOUTH
 CAROLINA DEPARTMENT OF DISABILITIES
 AND SPECIAL NEEDS, KATHI LACY AND
 STANLEY BUTKUS

Columbia, South Carolina

December 14, 2018

*Laura Cole, as Personal Representative of Estate of Edward Mims v. South Carolina
Department of Disabilities and Special Needs et al.
Civil Action Number: 2007-CP-40-03365*

EXHIBIT 1

Defendants' Motion to Compel

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
Edward Mims, by and through his legal	)	
guardian, Margaret Mims,	)	Civil Action No. 07-CP-40-3365
	)	
Plaintiff,	)	
	)	
v.	)	SECOND INTERROGATORIES AND
	)	REQUESTS FOR PRODUCTION OF THE
Babcock Center, Inc., Judy Johnson, the	)	SOUTH CAROLINA DEPARTMENT OF
South Carolina Department of	)	DISABILITIES AND SPECIAL NEEDS,
Disabilities and Special Needs,	)	KATHI LACY AND STANLEY BUTKUS
Kathi Lacy and Stanley Butkus,	)	
	)	
Defendants.	)	
_____	)	

INTERROGATORIES

TO: PATRICIA HARRISON, ESQUIRE, ATTORNEY FOR PLAINTIFF

The above Defendants serve the following written Interrogatories upon the Plaintiff to be answered separately and in writing by the Plaintiff within thirty (30) days after the service hereof, pursuant to South Carolina Rules of Civil Procedure, Rule 33:

1. Set forth specifically each alleged injury to Edward Mims for which damages are sought in this action, and for each such alleged injury, provide the following information:
 - a. The precise date and nature of the injury.
 - b. The specific location at which the injury allegedly occurred, including the specific building and the specific location within such building.
 - c. The person or persons who inflicted the injury.
 - d. Whether such person or persons were subordinates of any of the Defendants, and if so, why.

- e. A listing of all documentary evidence, including but not limited to medical records, supporting your claims with regard to such injury.
- f. All facts, including dates of such facts, which you contend constituted actual or constructive knowledge on behalf of any Defendant that a subordinate's conduct was a "pervasive and unreasonable risk" to injury to citizens like the plaintiff.
 - i. For each such incident, specify the Defendant whom you contend had actual or constructive knowledge that a subordinate's conduct was a "pervasive and unreasonable risk" to injury to citizens like the plaintiff.
- g. All facts, including dates of such facts, which you contend constituted deliberate indifference or implied authorization by the supervisor of the conduct that you allege to have been the cause of the injury.
 - i. For each such incident, specify the Defendant whom you contend acted with deliberate indifference or impliedly authorized the conduct that you allege to have been the cause of the injury.
- h. All facts which you contend establish an affirmative causal link between the supervisor's inaction and the constitutional injury suffered by the plaintiff.
 - i. For each such incident, specify the Defendant whose actions you contend has an affirmative causal link to the injury.
- i. The names and addresses of any fact witnesses who will testify regarding the injury, as well as either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or a copy of any written or recorded statements taken from such witnesses.

- j. To the extent not already covered by other Interrogatories herein, the names and addresses of any medical personnel who treated the Plaintiff for each injury and who will testify regarding the injury, as well as either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or a copy of any written or recorded statements taken from such witnesses.
- k. If expert testimony will be offered with respect to a given injury, identify in complete detail each person whom the Plaintiff expects to call as an expert witness at the trial, stating as to each such person, and with respect to each injury,
 - 1. The expert's name, occupation, title, business address, area of specialization, if any, and professional relationship to the Plaintiff.
 - 2. The manner in which such person became familiar with the facts of this case.
 - 3. The subject matter or area in which such person is to testify.
 - 4. The substance of the facts and opinions in which such person is to testify.
 - 5. A summary of the grounds or basis for each opinion and fact.
 - 6. A list of books, treatises, articles, and other works which such person regards as authoritative on the subject matter on which he is expected to testify.
- l. Any actions or omissions by any of the three DDSN Defendants (DDSN, Butkus and Lacy) which you claim to have proximately caused the injury.

The foregoing Interrogatories shall be deemed to continue from the time of service until the trial of the case and any information obtained, whether by the Plaintiff or counsel for the Plaintiff, shall be promptly submitted to the undersigned.

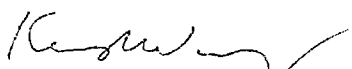
REQUEST FOR PRODUCTION

Pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, Defendant hereby serves the following written requests for production of documents upon Plaintiff, to be answered separately and in writing within thirty (30) days after the service hereof.

1. Copies of any and all documents identified or relied upon in response to Defendant's Second Interrogatories to Plaintiffs, served herewith.
2. Copies of any and all statements given by or on behalf of the Plaintiff, or any witness, whether written or recorded, which relate to the matters complained of in the Amended Complaint.
3. All records, memoranda, notation, written or recorded statements, and any other documents relating to a claim or defense in this matter.
4. Any and all documents, correspondence, emails, and internal memoranda either generated by or received by you relating to a claim or defense in this matter.
5. Copies of any and all photographs and/or other visual aids in possession of Plaintiff or Plaintiff's counsel and relating to a claim or defense in this matter.
6. All exhibits you intend to use at any hearing or at the trial of this case.

7. The series of documents previously referenced by Plaintiff's counsel and which have the prefix "BC."

DAVIDSON, WREN & PLYLER, P.A.

BY: 
WILLIAM H. DAVIDSON, II #425
KENNETH P. WOODINGTON #4741
1611 Devonshire Drive, Second Floor
Post Office Box 8568
Columbia, South Carolina 29202
T: 803-806-8222
F: 803-806-8855
E-Mail: wdavidson@dml-law.com
kwoodington@dml-law.com

ATTORNEYS FOR DEFENDANTS THE SOUTH
CAROLINA DEPARTMENT OF DISABILITIES
AND SPECIAL NEEDS, KATHI LACY AND
STANLEY BUTKUS

Columbia, South Carolina

August 17, 2018

*Laura Cole, as Personal Representative of Estate of Edward Mims v. South Carolina
Department of Disabilities and Special Needs et al.
Civil Action Number: 2007-CP-40-03365*

EXHIBIT 2

Defendants' Motion to Compel

THE STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS

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

v.

The South Carolina Department of Disabilities
and Special Needs, Kathi Lacy, and Stan Butkus,
Petitioners.

Civil Action Number 07-CP-40-3365

Plaintiff's Response to Defendants' Interrogatories

1. Edward Mims seeks actual and punitive damages under the Tort Claims Act for each and every alleged injury set forth in the attached chronology occurring after May 7, 2001. He seeks damages under 42 U.S.C. 1983 for violations occurring after May 7, 2000. Damages include those suffered due to Defendants' failure to provide proper supervision to protect Mims from assault, battery, sexual assault, and other injuries, failure to properly monitor Mims' condition and treatment needs after initiating involuntary commitment proceedings; failure to discharge Mims to the least restrictive setting under the care of his mother; and damages resulting from the obstruction of the attempts of Mims' mother to establish the guardianship. Occurrences prior to those dates support Mims' claims that Defendants knew of the widespread abusive conduct at Clusters and Kensington and that Defendants knew of and ignored systemic problems.

In support of these claims, Plaintiff relies upon all records contained in the record on appeal, including photographs at R. 0248 and the photograph of Mims after he was beaten with a belt. At trial, photographs may be presented to familiarize the jury about Mims' condition and his life.

Evidence will be presented by some of the witnesses listed below.

Plaintiff expects evidence, including that related to the following facts, to be presented to demonstrate negligence, negligent supervision and to support Mims' TCA claims by showing the systemic and longstanding violations of the rights of persons living in Babcock Center and DDSN facilities and the retaliation against families. This and other evidence demonstrates violation of Mims' right to life, liberty, happiness and to receive services and supports necessary for him to live safely in the least restrictive setting.

Oct. 5, 1999 - Aug. 2002	Edward was admitted to Babcock Center when his mother was hospitalized in the fall of 1999. Defendants determined that Mims required one-on-one supervision. His weight dropped by more than 20% in the following ten months, which is additional evidence of gross neglect at Clusters, a DDSN funded and monitored facility. Butkus, Lacy and others at DDSN had a duty to assure that Mims received one-on-one accountability, but failed to provide needed supervision and services. BC 4502 to 4511 and 424 to 425.
Nov. 6, 1999	Edward was assaulted and battered at Clusters, as demonstrated by bruises and scratch marks on his neck. Defendants received incident reports and failed to monitor the level of supervision and to provide the one-on-one care required by his accountability level. BC 894.
Nov. 20, 1999	While Mims was supposed to be receiving one-on-one supervision, Mims was again assaulted at Clusters and battered as evidenced by a bruise on his right arm. BC 2355.
Nov. 21, 1999	Mims was again assaulted as evidenced by scratch marks and bruises on his neck and arm. BC 2350, 2354 and 2356.
Dec. 7-8, 1999	Mims was assaulted by an "openhanded slap by another resident," requiring treatment in emergency room.
March 10, 2000	Mims suffered injury to his right hand. BC 900.
April 14, 2000	Mims was assaulted as evidenced by bruises on his knees. BC 1804.
May 5, 2000	Mims was assaulted as evidenced by injury to his lower lip and left shoulder. BC 2363.
<i>Statute of Limitations for Section 1983 injuries start date for claims against Butkus and Lacy.</i>	
May 26, 2000	Records document "old mark on knee, old mark on back:" BC 1803.
June 9, 2000	Records document "old bruise on his back" and "old bruise on his left knee." BC 1806.
June 16, 2000	Records document "old marks on both knees, old bruise on his back and mark on his right hip old" BC 1807.

June 23, 2000	Records document "old bruise on his back and old marks on Edward (sic) knees" BC 1808.
July 4, 2000	Records document "A bruce (sic) on the back of the right shoulder. Abrasion - rt. Shoulder." BC 2372.
July 9, 2000	Documents show Mims was served tomato juice despite known allergy. BC 3199.
July 11, 2000	Records document a "discolored area noted lower lip. Lower lip .. deep purple bruise." BC 3199. (Bruise on lip again noted on July 16, 2000).
July 18, 2000	Mims was treated in ER for vomiting and abdominal pain. Lexington Urgent Care in morning and Lexington Medical Center ER in evening. Exhibit 4. Records document "several old bruises noted to left outer aspect of upper arm brownish/yellowish in color, right upper back near shoulder blade right lower back and right side of hip." BC 3199 and 3211.
July 22, 2000	Mims was transported to Richland ER for evaluation of vomiting and dehydration. Exhibit 4 and BC 3197.
July 23, 2000	Mims was transported to Lexington Medical Center ER for evaluation of vomiting. Exhibit 4.
Aug. 4, 2000	Records document red area left shoulder collar bone. BC 3192.
Aug. 6, 2000	Mims was assaulted, resulting in scrapes on back and abrasion on his right knee. BC 3192. See also 2363.
Aug. 8, 2000	Mims was treated at the Palmetto Richland emergency room for nausea and vomiting. Exhibit 4.
Aug. 11, 2000	Mims was assaulted, resulting in injury to his right knee, coccyx and lower back. BC 3191, 956.
Aug. 13, 2000	Mims was beaten by Babcock Center employee, Carl Anthony. Although witnessed, this injury was not reported to Mims' mother or to law enforcement. Evidence of abuse and negligent supervision includes abrasions to his knees and back and the failure to report this assault to law enforcement. BC 3191 and 3356.
Aug. 14, 2000	Records document a "bruised red, right eye lid and under right eye ear, scratches under his neck, rt and left side and on his back," and a splinter was found on his left foot. Mims' weight had dropped to 81 pounds from

106 pounds upon admission in 1999. Mims was examined by Babcock Center Medical Director, Dr. Tan Platt. BC 3191, 3356, 943-945.

Aug. 15, 2000 Records document scratched areas of his torso, gagging and nearly vomiting. Mims had scratches to his right eye, neck, sides and back. BC 3201.

Aug. 20, 2010 Records document a "bruise around right eye and scratches on neck, right and left sides of torso and on back." BC 3201.

Aug. 27, 2000 Records document a scrape on Mims' right knee and bruise on back right side. BC 2367.

Aug. 29, 2000 Mims was admitted to Palmetto Richland emergency room for nausea and vomiting. Exhibit 4.

Sept. 4, 2000 Mims' mother attempted to prevent her son from returning to Clusters, evidencing violation of his liberty rights. BC 2368.

Sept. 13, 2000 Records document Carl Anthony was terminated, but Mims' mother was not informed that this employee had assaulted her son.

Sept. 14, 2000 Records document "bruises and scratches noted over body," noting that Mims had not been scratching himself. These injuries included multiple purple elongated lesions on his bilateral chest wall, neck, posterior ear, right eye lids and wrist and scratches on his chest wall." BC 3356. These injuries were not reported to Mims' mother.

Oct. 13, 2000 Records document bruises on his back, right upper thigh and knees. BC 965.

Oct. 24, 2000 Records state that "Overall, Edward's health has been essentially stable throughout the year." BC 3220.

Dec. 2, 2000 Records document that Mims was treated at Lexington ER for a swollen right hand. Exhibit 6.

Jan. 14, 2001 Records document that Mims was "[s]cratched by another client," while on one-on-one accountability. BC 1654.

Jan. 15, 2001 Records document treatment in the Lexington Medical Center ER for injury to Mims' right eye. BC 2613.

Jan. 16, 2001 Records document bruising on the inside of Mims' right thigh. BC 885 and 1654.

Jan. 27, 2001	Records document scratches to Mim's scalp, right ear and right eye. BC 1654.
March 1, 2001	Records document a blood clot...on the right side of Mims' nose and eye. BC 3189.
March 4, 2001	Records document that the blood clot below Mims' eye remained visible. BC 3189.
March 8, 2001	Records document a three inch long scratch to Mims' upper thigh. BC 3189.
March 10, 2001	Records document a scratch to Mims' right leg. BC 3189.
March 19, 2001	Records document a scratch and "open slit" and bleeding on Mims' penis, which "remained bruised." BC 3274, 3190.
March 20, 2001	Records document that the wound on the left side of Mims' penis remained bruised. BC 3190.
March 21, 2001	Records document that "wound left side penis, area remains bruised. B.C. 3190.
March 22, 2001	Records document "wound left side penis bruising, open areas healed." B.C. 3190.
March 23, 2001	Records document bruising remains on penis and that bruise was "reddish brown in color." B.C. 3190.
March 25, 2001	Records document "two small red, flat bumps on scalp above r ear and ... old red mark on r flank. White blistered area on l forearm. Dark area from old scratch on l side of penis. 3" light scratch on r thigh. Black line in nail bed of r gt toe. Questionable whitish area just tor of center of nape of neck." BC 923.
March 27, 2001	Records document scratch under right eye and nose reportedly by another client. BC 3190 and 3333.
April 1, 2001	Records document Mims was "Scratched under r eye by another client." BC 3190.
April 16, 2001	Records document SCDDSN filed Petition for Judicial Admission informing the court that "Edward is fragile and carries diagnosis of cerebral palsy, seizures, hypertension, esophagitis/erosion disease. His

mother is in poor health and is unable to care for him since she has limited means and resources." Mims' visits home on weekends were terminated. Neither the GAL nor the Court were informed about the beating by Carl Anthony. BC 3238.

April 18, 2001 Records document a "laceration to top of head .. dried blood noted to also l side several dark red areas noted." BC 1656.

April 19, 2001 Records document wound to top of head and bruising. BC 1656.

Start of Statute of Limitations for Tort Claims Act

May 10, 2001 Letter from SCDDSN psychologist to Probate Court states:

"Today I made an informal assessment by behavioral observation of Edward James Mims at the Lexington Clusters JCF/MR. I also reviewed his working chart as well as interviewed his QMRP, Mr. Kevin Wise. Mr. Mims is a 29 year old Caucasian gentleman who carries diagnoses of Profound Mental Retardation, cerebral palsy, hypertension, a seizure disorder, esophagitis/erosion disease, pica, and, additionally, he is selfabusive. Because he has only one kidney, his water intake must be monitored to prevent toxicity. He is currently on a number of medications which require close monitoring as well... He is nonverbal and assumed a fetal position during my interview with him. All attempts to obtain any response from him were unsuccessful"

"Because of Mr. Mims' significant medical problems, self-injurious behavior, and bis very limited ability to care for himself, it would not be in the best interest of Mr. Mims for him to be left unattended.

Indeed, he is on one-on-one care at Clusters. According to staff report, Mr. Mims has made some progress since he was admitted in 1999. That is, he is now on a toileting schedule with assistance. Mr. Mims was cleanly dressed with good hygiene when I saw him today and he appeared to be well cared for.

"It is my opinion that Mr. Mims continues to need physical care and habilitation for services such as those provided by SCDDSN. Accordingly, it is recommended that he remain in a facility where such. service needs can be assured." Exhibit 5.

May 26, 2001 Records document "Staff reported client had scratched self under r eye. Small amount of bruising noted." BC 1657.

June 26, 2001	Records document "purpleness on elbows." BC 3829. Mims' mother attempted to remove him from placement at Clusters. BC 3218. A hearing was held on SCDDSN's Petition for involuntary commitment. SCDDSN argued that Edward was unsafe at home and should be required to remain at the Babcock Center.
July 3, 2001	Records document a bruise on Mims' upper arm. BC 3864. Richland County Probate Court issued order judicially admitting Edward to SCDDSN. Exhibit 6.
July 8, 2001	Records document that redness on neck. BC 3828.
July 12, 2001	Body audit documents mark on Mims' left upper arm and marks on back. BC 3863.
July 15, 2001	Records document red marks on neck. BC 3864.
July 16, 2001	Mims was allegedly scratched by another client" with "blood oozing" BC 1660.
July 17, 2001	Records document red bruise on back. BC 3837.
July 19, 2001	Records document a "Mark on side of nose mark on his back." BC 3831.
Aug. 19, 2001	Mims reported to have "yellowish color on left side of breast and right ____." BC 3571.
Aug. 21, 2001	Records document "yellow spots" around both breast area" and "old sm bruised areas." BC 1661.
Aug. 23, 2001	Mims was moved from Clusters House D to House C. BC 1661.
Sept. 3, 2001	Accident report states that "Edward slipped while being given a shower." BC 3799 and 1661.
Sept. 4, 2001	Accident report states that Mims fell on the floor of the shower and "hit his behind." BC 3796 and 1662.
Sept. 17, 2001	"Investigation of Injury" documents a mark on Mims' left leg..." BC 3798. No photographs were taken.
Oct. 3, 2001	SC Attorney General obtained an arrest warrant for the arrest of Babcock Center employee Carl Anthony, who "did knowingly and willfully strike or hit Edward Mims about the head."

Oct. 2001 Butkus and Lacy received notice that more than \$10,000.00 of funds of Clusters residents had been stolen by a house supervisor at Clusters, but no report was made to law enforcement and the house supervisor position remained vacant for six months.

Nov. 16, 2001 Mrs. Mims writes to Attorney General begging that Mims be released to her. R. 2703.

Dec. 3, 2001 Mims' discolored and swollen right hand is X ray'd at Lexington Medical Center. Exhibit 4. Records note "An "old bruise light yellow in color." BC 3184. Nursing note indicates scratch on right side of Mim's neck. "Possible cause of scratch r side of neck due to fingernails. BC 3188. Babcock Center Medical Director, Dr. Tan Platt was notified. BC 3277. See photograph documenting large abrasion on Edward's face which was not mentioned in nurse's notes. BC 1637.

Statements from staff dated December 2, 3 and 4 state that no one saw any marks on Mims. BC 1638 to 1643.

Dec. 6, 2001 AG investigator Lee Teed informs Mrs. Mims that the AG does not have authority over Babcock Center or DDSN. R. 235.

Dec. 16, 2001 Records state that Mims "apparently was assaulted by another client today at the Babcock Center although this was not witnessed by staff but by one of the clients ... possible corneal abrasion" treated at Lexington Medical Center. BC 3308. Body audit states "No new mark & bruise on Edward. Red bumps on his top back & right eye is bruise (sic)." BC 3778.

Dec. 19, 2001 Records document Red marks on back and above right eye lid. BC 3234.

Dec. 21, 2001 Records document scrape on left hand. BC 3280. "Old blood on his sheet and shirt. Sm dk red scrape noted on 1 hand." BC 1664 and 4584.

Dec. 27, 2001 Mrs. Mims receives response from DDSN official Lois Park Mole, who informs her that Mims will not be released and that he requires several persons around him at all times. R. 2708. Mole informs Mrs. Mims that because her son requires a "number of medications. and requires close monitoring and assistance ... Edward's significant special needs and complex medical conditions required more staffing and supervision than any one person could possibly provide. No one person can do it all to care for Edward." Exhibit 8.

Jan. 6, 2002 Records document that Mims had "a red mark on left side of neck and small red bumps on back. Also a red mark on left arm. BC 3784.

Jan. 24, 2002 Records document a "3" long old red scratch noted r side of neck." BC J 664. (Again noted on January. Mims was treated at Lexington Medical Center ER for abrasions and contusions after being beaten with a belt at the Babcock Center by 16 year old resident GA. He was taken to the "Lex. Med. Ctr for evaluation due to severity of bruises." Babcock Center Medical Director, Dr. Tan Platt was notified. BC 3273. Soon thereafter, the perpetrator raped two other residents with a belt and he allegedly raped the second victim, an elderly resident. Exhibit 9. Records note 27 marks over Mims' body, which were red in color, but "one area on r upper shoulder is purple in color .. " BC 1644 and 1665.

Jan. 30, 2002 Records state that Mims "slipped on some water that was left on floor from where another resident was mopping." BC 1665 and 4562.

Feb. 4, 2002 Records state that Mims "fell" and that the injury was "healing well." BC 3185.

Feb. 8, 2002 Mims injured the back of his head when he sat in a chair. When the chair collapsed, Mims hit the floor on his back. BC 4564.

Feb. 27, 2002 Records document that Mims' right hand suffered a contusion and he was treated at Lexington Urgent Care with "discoloration and bruising on his first and second fingers of his right hand ... They are not sure whether he injured it or hit his hand. Exhibit 4. Note that Mims was on one-on-one accountability at this time. BC 3275. Nurse's notes report that "t "results are from Edward swinging his hands and hit his hand on the door resulting in the bruise." BC 3185. Babcock Center Medical Director, Dr. Tan Platt was notified. BC 3275.

March 2, 2002 Nursing note states that Mims was bruised "possibly from swinging his hand and hitting the door." BC 3186.

March 3, 2002 Records note two long scratches on middle of right side of Mims' neck. BC 3792.

March 10, 2002 Nurses note indicate that scratches on neck remain. BC 3186.

March 20, 2002 Mims was transferred to Kensington ICF/MR.

April 17, 2002 Stan Butkus, State Director of SCDDSN writes to Babcock Center Board of Directors when he cancelled a meeting which had been scheduled to discuss problems at Clusters:
 "I have been in contact with Dr. Christian regarding the Babcock Center's status. He reports to me that, in his opinion, there are no imminent threats to the health and safety of the individuals served." Exhibit 10. (Dr.

Christian filed the Petition for Edward's involuntary commitment to SCDDSN in April 2001.)

Aug. 29, 2002 Records state that Mims scratched himself. BC 1106.

Nov. 24, 2002 Records state that Mims suffered an injury to the back of his leg. BC 1107.

Jan. 8, 2003 Records state that a client pushed Edward's head into the coffee table. BC 1104.

Jan. 14, 2003 Mims was taken to Palmetto Richland ER where it was reported that Mims was unable to sleep and was "holding his hands to his eyes." Exhibit 4.

Feb. 28, 2003 Babcock Center complained that body audits requested by Mrs. Mims were a violation of his client rights. Exhibit 11.

May 20, 2003 Mims was found at 6:00 a.m. to have a "long red scratch mark extending from the left side of mount tho the side of his cheek. BC 1110.

July 26, 2003 Mims was treated at Palmetto Baptist ER.

Aug. 3, 2003 Mims was hit on the left side of his head, reportedly by the same client who pushed his head into coffee table in January 2003 and later pushed him into the wall on August 8, 2003.) BC 1109.

Aug. 8, 2003 Mims was pushed into the wall at the Babcock Center workshop resulting in a "scrap on his left hand." (Same client who pushed Edward's head into coffee table on January 8, 2003 and hit Edward on head on August 3, 2003 ..) BC 1099.

Dec. 2003 Clusters was closed after Immediate Jeopardy is cited at one building and SCDHEC decertified a second.

July 27, 2003 Mims was transported to the doctor with "ant bites all over." According to Babcock Center records "they had a storm around the center and somehow ants managed to get into the building. Some ants were found in Edward's bed ... " Exhibit 4. (There is no mention in Mims' Babcock Center records of this injury.)

July 30, 2003 Mims was found to have a cut on his lower back and his hair was matted when he arrived home for his weekend visit. Mrs. Mims had not been informed of the injury. It was subsequently determined by the Babcock Center that Mims "slipped out of his chair and scraped his back against the air conditioner." BC 4888.

Sept. 25, 2004 Mims' roommate, Babcock Center resident, Billy Cothran, choked to death at Kensington. His family was informed by Babcock Center staff that Billy died of a heart attack. Autopsy requested by family found chunks of cheese sandwich in Cothran's trachea. Like Edward, Billy Cothran was on a mechanically altered diet. Exhibit 12.

Oct. 13, 2004. CMS cited Kensington for Immediate Jeopardy to the health and safety of clients due to inadequate staff training, understaffing, failure to conduct thorough investigations and failure to take appropriate action to ensure client protections. Exhibit 13.

Oct. 28, 2004 Mims was taken to doctor for "complaint of redness around left eye since yesterday morning." Exhibit 4.

Nov. 2, 2004 Doctor noted "Mild bruising (sic) noted around left eyelid." Exhibit 4.

Nov. 8, 2004 Records describe need for monitoring of eating and hydration. 4733

Nov. 23, 2004 SCDHEC cited Kensington for Violation of Life Safety Code.

Jan. 19, 2005 A monthly review for January documented no progress in the objective of toileting. 4796. SCHHS notified Babcock Center and SCDDSN of review by Carolina Medical Review finding that Babcock Center ICF's did not meet federal Medicaid participation requirements. Exhibit 14.

March 8, 2005 Kensington cited for failure to correct deficiencies.

April 29, 2005 Kensington decertified. Exhibit 15. Evidence will include the decision of the hearing officer in Babcock Center's appeal of decertification.

May 27, 2005 Edward was discovered to have an unexplained 4 cm "gaping laceration" on his penis. He was treated at Lexington Medical Center ER where seven stitches were required to repair the wound. Exhibit 4. The "investigation" reports conducted by Babcock Center and SCDDSN were contained in Exhibit 16. The Babcock internal investigation report states that the date of the incident is "unknown," however, a statement signed by a Babcock Center employee states:

"When getting Edward ready to go home, I took him in his room to .. get his shoes. After putting his shoes on, I looked him over and found that he had on no underwear. I then removed his shoes and asked him to take off his pants as I walked to get a pair of underwear, When I returned to the room Edward had his pants down and he was sitting in the chair. I then noticed the blood on the chair drop on the floor so I went and got a

co-worker." (SCDDSN assessment determined that Edward does not require assistance with dressing.).

The Babcock Center internal investigation contains the following findings:

"At approximately 6:50 pm on May 27, 2005 staff ... was helping Edward Mims, supported person, get ready to go home on pass.

He noticed that Edward was not wearing any underwear. According to the staff, Edward had begun undressing earlier for bed but was instructed by the staff to put his pants back on. Edward did not put his underwear back on. Mr. Heatley instructed Edward to take off his pants so that he could put some underwear on and he left the room to get a pair of underwear for him.

Edward's underwear and socks are not stored in his room but in a plastic bin in the hall closet. Edward is able to dress himself with verbal prompting. Edward will undress himself when he is ready to go to bed. When Mr. Heatley returned to the room, Edward was sitting in a chair with his pants down around his ankles. Mr. Heatley noticed blood dripping from the chair to the floor."

The Babcock Center nurse reportedly "checked under Edward's fingernails and did not notice any skin tissue or blood that would indicate that he had scratched himself. The nurse stated that she and the staff checked the chair that Edward was sitting on and could not find anything that could have caused the injury.

"There were no zippers or clasps on Edward's clothing that could have caused the injury. There was no blood in his pants. The staff also checked the underwear that Edward had been wearing earlier that evening and found no signs of blood. The chair in which Edward was sitting did not have any sharp edges that could have caused the tear.

SCDHEC refused to investigate the injury since the facility had been decertified.

June 1, 2005

Instead of conducting an independent investigation, Butkus ordered DDSN medical consultant Graeme Johnson, M.D. to investigate the injury to Mims' penis.

June 2, 2005

Dr. Graeme Johnson, Medical Consultant for SCDDSN issued a report after interviewing three Babcock Center employees. He did not interview

Edward's mother or staff at the Lexington Medical Center. Dr. Johnson's report contains the following findings:

"There is no history of masturbation. No history of excessive bleeding. No history of past injury to genital area. The demeanor of Mr. Mims today and that reported on by staff on the evening of the incident do not make an aggression on his person a likely explanation. The injury appears to have occurred suddenly and caused immediate bleeding .. It is possible minor scratching may have caused a small skin break on the penis, that lead to this laceration." (Ignoring the finding of the nurse that there was no skin tissue or blood on Edward's fingernails.)

Dr. Johnson concluded that "He appeared to be in a caring, supportive situation when the laceration occurred and appropriate care and follow-up had been provided ... The evidence I have seen, the notes I have reviewed, and interviews I have conducted, lead me to a conclusion that it is unlikely that Edward Mims' laceration was due to abusive or negligent management."

May 2005	The State Omnibus Protection Act requires providers to report allegations of abuse/neglect/exploitation within twenty-four hours or one working day. The Babcock Center did not report the injury to the Ombudsman until May 31, 2005, four days after the injury. Based on the investigations conducted by the Babcock Center and SCDDSN, the State Ombudsman issued a finding that abuse/neglect was unsubstantiated.
June 6, 7, 8	Babcock Center refused to allow the examiner appointed by the Probate Court to visit Edward. Exhibit 17.
June 9, 2005	Mims' mother appointed by the probate court temporary guardian, but DDSN continued to challenge his need for a guardian.
June 10, 2005	DDSN attorney instructed Babcock Center not to allow Mims to leave Kensington and he was only allowed after police were called to enforce the probate court order allowing Mims' mother to take custody of her son.
June 12, 2005	Jim Hill and Kathi Lacy attended a probate court hearing on Sunday afternoon attempting to thwart Mims' release to Mrs. Mims and the appointment of a guardian.
June 22, 2005	Richland County Probate Court scheduled a hearing on permanent guardianship.

- July 6, 2005 In a meeting in chambers, DDSN attorney Jim Hill challenged the probate court's authority to release Mims, arguing that only the director of DDSN (Butkus) had authority to release him.
- July 11, 2005 Butkus "voluntarily" released Mims from DDSN custody.
- July 29, 2005 Edward's single plan of care, contained in Exhibit 21, prepared by the Richland Lexington Disabilities and Special Needs Board includes the following:
- "He must be supervised at all times, as he will wander... Edward is allergic to tomato-based foods, nuts, gum and greasy foods. Food needs to be finely chopped. Edward is usually fed by caregivers and at least must be watched and coached constantly while eating due to being a choking hazard."
- "He requires supervision at all times due to limited abilities and impaired judgment, as well as for monitoring of seizures. Seizure medication is received on a daily basis and has been effective in managing this disorder."
- "Edward is not aware of safety hazards or dangers in the community and is at risk for exploitation"
- "Edward requires assistance with dressing to include zipping and buttoning ... "
- "Toileting assistance is required and adult diapers are needed due to toileting accidents Edward is toilet trained, however, often will not go to the restroom or ask for assistance when needed. If someone else is using the restroom, he will not knock or wait until vacant. He, instead, will soil his clothing. Edward will not seek out a facility if in an unfamiliar surrounding and will soil his clothing. Caregiver assistance is required for clean up when soiling and wetting occurs. This incontinence occurs despite scheduling and reminders to use the restroom regularly. He is currently being changed an average of 2-3 times daily at Columbia Adult Care. Reminders and monitoring are needed to ensure he wipes adequately after routine use of the toilet.."
- "Edward's food must be chopped finely for consumption and reminders are needed while eating to use his spoon correctly and take small bites of food. He is at risk of choking, due to having no teeth and tendency to stuff his mouth with food. He is physically fed by staff at the day program and by his mother at home the majority of the time, due to his inability to scoop small amounts of food on his spoon."

"Edward continues to attend Columbia Adult Care and progress is being made. This placement is appropriate and beneficial to Edward."

Records document that injury resulted from the conscious indifference and failure of Butkus and Lacy to properly monitor the condition of Mims and other residents and their failure to provide appropriate treatment in a safe facility. Lacy failed to properly track and report trends documenting abuse and neglect at Clusters. Separate and apart from the individual liability of Butkus and Lacy, Babcock Center was subordinate to DDSN.

Plaintiffs will show that Mims suffered after discharge from Kensington from post-traumatic stress and medical conditions which contributed to his death. Plaintiff will show that Defendants acted without substantial justification and that the involuntary commitment was secured based on false information presented to the Probate Court.

The Estate seeks actual and punitive damages, fees under 1988 and costs.

- 2(e) Documentary evidence is provided in records provided in the record on appeal, in addition to boxes of records available for Defendants to copy.
- 2(f) Lacy and Butkus both had actual and constructive knowledge of the abuse and neglect of residents of Clusters and other Babcock Center facilities as documented in the 2003 "Limited Scope Review" of the Babcock Center, the review of DDSN waiver programs released by DHHS in 2006, LAC 2007 and 2014 and other investigations, surveys and findings and they acted with conscious indifference to Mims' rights and needs and the rights and needs of other Babcock Center and DDSN residents.
- 2(g) The above facts will be considered which show deliberate and conscious indifference which was actually authorized or approved by implied authorization by Lacy, Butkus and other supervisors under their direction.

In the process of moving counsel's office this week, additional boxes of records from the Babcock Center were discovered. It is expected that these interrogatory responses will be supplemented as additional records and evidence is discovered in reviewing those files.

- 2(h) Facts establishing an affirmative causal link are described above and below and in the depositions of Butkus, Lacy, Johnson and other defendants and will be demonstrated at trial by testimony of witnesses.
- 2(i) Names and addresses of fact witnesses and summary of important facts include:

Judy Johnson

Judy Johnson is the former director of the Babcock Center and she is expected to testify about matters related to abuse, neglect and exploitation of clients, the efforts to prevent

Mims and others from being discharged and the knowledge DDSN, Butkus and Lacy had of these matters.

Address unknown.

Risley "Rip" Linder

Rip Linder was the director of the Babcock Center from 1993 until circa 2003. Linder is expected to testify about matters related to abuse, neglect and exploitation of Babcock Center clients, matters related to the health and welfare of Mims and other clients and the knowledge Butkus and Lacy had of these matters. Linder is expected also to testify about the high rates of abuse, neglect and exploitation of clients and the number of deaths at the Babcock Center when Mims was at Kensington.

Covenant Place
Sumter, SC 29150
803 469 7007

James Christian

James Christian served as the representative of DDSN at Babcock Center board meetings and as interim director of Babcock Center around 2003, when Rip Linder's employment as director was terminated. Christian is expected to testify about his knowledge and the knowledge of DDSN, Butkus and Lacy regarding the abuse, neglect and exploitation of Babcock Center clients and other matters related to the involuntary commitment and confinement of Edward Mims.

715 Maple Street
Columbia, SC 29205
803 799 8149

Barbara Wright

Barbara Wright is the owner of Helping Hands, a day program that served Mims after his discharge from the Babcock Center. She is expected to testify about Mims' condition and behaviors and the standards for protecting the health and safety of DDSN clients.

Helping Hands
2010 State Street
West Columbia, SC 29033
803 796 5192

Rhonda Goodman

Ms. Goodman was employed by Helping Hands, where she provided care to Mims after his discharge from Babcock Center and she provided respite to Mims in her own home. Ms. Goodman is expected to testify about Mims' condition and behaviors and the standards for preventing, reporting and investigating abuse and neglect of vulnerable adults.

Newberry County DSS
South Carolina
2107 Wilson Road
Newberry SC 29108
803-321-2155

Marie Leonard

Marie Leonard was a direct caregiver at Kensington. She is expected to testify about conditions at Kensington and behavioral issues related to the care and treatment provided.

418 Center Street 3W
Columbia, SC 29169

Yvonne Davis

Ms. Davis was the house manager at Kensington and she is expected to testify about the condition of Edward Mims and the conditions of that facility and matters related to abuse, neglect and exploitation of Babcock Center clients.

Address unknown.

William Green, M.D.

William Green is a doctor who served on the Babcock Center Board of directors, while working under contract for DDSN. He is expected to testify about matters related to investigations of Babcock Center and DDSN and about abuse, neglect and exploitation of DDSN clients.

5115 Forest Drive, Suite E
Columbia, SC 29206
(803) 331 3645

Henry McMaster

Henry McMaster served as Attorney General, Lieutenant Governor and the Governor of the State of South Carolina, positions where he had supervisory authority over matters related to abuse, neglect and exploitation of DDSN clients.

State House
1100 Gervais Street
Columbia, SC 29201
803 734 2100

Ross Robinson

Ross Robinson was the assistant director of the Babcock Center and he was terminated after Judy Johnson was hired as director. Robinson is expected to testify about the hiring of persons who had abused, neglected or exploited DDSN clients and the knowledge of DDSN, Butkus and Lacy regarding abuse, neglect and exploitation of clients.

Address unknown.

Leigh Flynn

Leigh Flynn is expected to testify about her role as guardian ad litem for Edward Mims and actions taken after learning of the abuse and neglect Mims suffered at Clusters and other matters related to this litigation. She is expected to testify about the unconstitutional treatment and confinement of Babcock Center clients, the abuse, neglect and exploitation of those clients and the knowledge of DDSN, Butkus and Lacy regarding these matters. Flynn is also expected to testify about matters related to Mrs. Mims' attempts to have her son released from the custody of DDSN and the Babcock Center.

Cardinal Drive
W. Columbia, SC

James Hill

Hill is expected to testify about audits and investigations related to the Babcock Center, abuse, neglect and exploitation of DDSN clients and the involvement of Lacy, Butkus and DDSN in attempting to prevent Mrs. Mims from being appointed as her son's guardian.

108 Pond Ridge Rd.
Columbia, SC 29223-7008
(803) 751-3808

Patrick Maley

Patrick Maley investigated DDSN programs in his capacity as State Inspector General, spent one year analyzing the DDSN waiver programs, then served as interim director of DDSN. He is expected to testify about his investigations group homes operated by Mentor, Inc. and the involvement of Stan Butkus in the operation of those homes where

rates of abuse and neglect were significantly above the state average. Maley is also expected to testify about overcharging clients for room and board, the system of reporting abuse, neglect and exploitation and the respective duties of persons at DDSN to monitor DDSN programs.

DDSN
S.C. Department of Disabilities and Special Needs
PO Box 4706
Columbia, SC 29240
(803) 898 9600

Tan Platt. M.D.

Tan Platt was the medical director at the Babcock Center and is now a family physician in Columbia and is the medical director of DHHS.

3209 Colonial Drive
Columbia, SC 29203
Contact Information
(803) 434-6113

Deborah Wofford

Wofford was the executive assistant to the director of the Babcock Center and was appointed to receive reports of abuse, neglect, exploitation and mismanagement from Babcock Center employees. She is expected to testify about abuse, neglect and exploitation of clients, neglect and negligent supervision by Butkus, Lacy and DDSN and other matters related to Kensington and Babcock Center.

Address Unknown

Nita McMahon Brice

McMahon was a CPA who worked at the Babcock Center. She is expected to testify about abuse, neglect and exploitation of Babcock Center clients and related neglect, negligent supervision and gross neglect by Butkus, Lacy and DDSN.

Address unknown.

Margaret Mims

Margaret Mims is expected to testify about her son, Edward Mims, abuse, neglect and exploitation of Mims, the involuntary commitment of Mims and her efforts to have those matters investigated and prosecuted.

3301 Rosewood Drive
Columbia, SC 29205
Phone - c/o Patricia Logan Harrison at 803 360 5555

Nancy Dixon

Nancy Dixon is the parent of a former resident of Clusters. Dixon is expected to testify about abuse, neglect and exploitation of clients at the Babcock Center and DDSN, and the failure to monitor, protect and provide services to these clients in less restrictive settings.

121 Grant Mill Drive
Leesville, SC 29070
(803) 894 7275

Tim Cuddington

Cuddington was a behavior support specialist at Babcock Center and he is expected to testify about abuse, neglect and exploitation of clients at the Babcock Center, retaliation against employees who advocated or reported abuse and his responsibilities receiving reports and complaints from Babcock Center employees. He is also expected to testify about the roles of Butkus, Lacy and DDSN in matters related to this lawsuit.

508 Great North Road
Columbia, SC 29223
(803) 708 5416

Georgia Cupps

Georgia served on the Governor's Developmental Disabilities Council. She is expected to testify about the systemic abuse and neglect in Babcock Center and DDSN programs and about the actions taken by Kathi Lacy and Stanley Butkus to cover up abuse, neglect and exploitation of DDSN clients and retaliation against families who report abuse.

Address Unknown

Rick Magner

Magner is a former employee of the Babcock Center and held positions as director of a DSN Board and DDSN. He is expected to testify about matters related to abuse, neglect and exploitation of clients and about the conscious indifference of Lacy and Butkus to the needs of clients.

Summerville, SC
rmagner0@gmail.com

Diana Farace

Diana Farace was a behavior support professional at the Babcock Center who is expected to testify about matters related to the systemic abuse, neglect and exploitation of clients and efforts to retaliate against employees who advocated for DDSN clients.

2318 Park Street
Columbia, SC 29201
803 799 7219

Mary Poole

Mary Poole is currently the Director of the South Carolina Department of Disabilities and Special Needs. She was hired by Judy Johnson after the Babcock Center was required to downsize due to systemic abuse, neglect and exploitation of clients. She is expected to testify about the conditions of the Babcock Center when she arrived there and matters related to Stan Butkus and Kathi Lacy.

DDSN
S.C. Department of Disabilities and Special Needs
PO Box 4706
Columbia, SC 29240
(803) 898 9600

Stanley Butkus

Butkus is a party to this lawsuit and is expected to testify about matters contained in his deposition and investigations of DDSN programs. He is also expected to testify about his termination as director of Mentor, Inc. after the deaths of residents there.

Known to Defendants

Kathi Lacy

Kathi Lacy is expected to testify about matters contained in her deposition and investigations/reports involving DDSN programs.

Known to Defendants

Robert Kerr

Robert Kerr was the director of DHHS during the time Mims was confined at Clusters and Kensington. He is expected to testify about DDSN programs, Butkus and Lacy, as well as findings, including, but not limited to CMS investigation of DDSN programs, investigations and studies he ordered, his communications with CMS and other federal

and state officials and his work involving DDSN programs after his retirement from DHHS.

Kerr & Company
1201 Lincoln Street
Ste 301
Columbia, SC 29201
(803) 728-8024

Anthony Keck

Mr. Keck is expected to testify about DDSN's knowledge of abuse, neglect and exploitation in DDSN waiver programs and the funding

Ballad Health
2428 Knob Creek Road
Johnson City, TN 37604
423 431 7111

Emma Forkner

Emma Forkner was the director of DHHS when caps were placed on services and she is expected to testify about the relationships between DDSN and providers and the high rates of abuse and neglect in DDSN programs.

14 Laurent Court
Irmo, SC 29063
803 738 5627

Grahame Johnson

Grahame Johnson is the physician hired by Stan Butkus to examine Mims and investigate allegations of abuse/neglect at Kensington.

8301 Farrow Road
Columbia, SC 29203
(803) 935 5604

Cornell Rivers

Cornell Rivers was a direct caregiver at Kensington and she is expected to testify about the death of Mims' roommate, abuse/neglect of Mims and findings of immediate jeopardy and other audits of Babcock Center.

305 Creighton Drive

W. Columbia, SC 29172

Belvia Jackson

Belvia Jackson is the sister of two residents of Kensington and she is expected to testify about the systemic abuse and neglect of clients at that facility and the Babcock Center.

607 New State Road
Cayce, SC 29033
(803) 794 3835

Deborah McPherson

Deborah McPherson worked in the director's office in DDSN from 1988 until 2002. She served for three weeks on the Babcock Center Board of Directors when Mims was confined to Kensington. McPherson is expected to testify about actions of Butkus, Lacy and others at DDSN to cover up abuse, neglect and exploitation of clients. She is expected to testify about matters contained in her depositions which have been made available to Defendants.

Valley Springs Road
Columbia, SC
(803) 788 6722

Carl Anthony

Carl Anthony is a former employee of the Babcock Center who was convicted of assaulting Mims. He is expected to testify about matters related to the condition of Mims and conditions at Clusters.

100 Hidden Valley Drive
Lexington, SC 29073

Janis Summers

Janis Summers served on the Board of Directors of the Babcock Center and on the Human Rights Committee. She is expected to testify about matters related to abuse, neglect and exploitation of DDSN clients and the conditions of the Babcock Center and the current Defendants' failure to monitor and protect the health and safety of clients.

130 Linnet Drive
West Columbia, SC 29169
(803) 794 8906

Sue Slater

Sue Slater was a member of the Babcock Center Board of Directors and is expected to testify about matters related to the abuse, neglect and exploitation of clients and DDSN's failure to monitor and protect residents.

220 Great North Road
Columbia, SC 29223
(803) 736 4595

William Danielson

William Danielson is a former member of the Board of Directors of the Babcock Center and a Commissioner of DDSN. He is expected to testify about matters related to the abuse, neglect and exploitation of DDSN clients and his communications with Defendants Butkus and Lacy. He is expected to testify about the conditions at the Babcock Center at the time he was appointed to that Board of Directors and other matters covered in his deposition in Timpson v. DDSN, which is in the possession of Defendants' counsel. Danielson is the President and managing partner of Datapay.

21 Surrey Court
Columbia, SC 29212
(803) 929-0042

William Barfield

Barfield is a former associate state director of DDSN, who subsequently received funding funneled through Kerr & Company to study DDSN. He is expected to testify about matters related to the abuse and neglect of DDSN clients and matters contained in his deposition.

Address unknown

Lennie Mullis

Lennie Mullis provided behavior supports and psychological services to Babcock Center clients and was appointed by the Probate Court as Visitor in Mims' guardianship proceedings. Mullis is expected to testify about her experiences involving the abuse, neglect and exploitation of DDSN clients and matters related to the care provided to Mims after his release from custody of Butkus, as director of DDSN. Mullis is expected to testify about the conscious indifference of Lacy and Butkus to the rights of DDSN clients, families and providers and their retaliation against families, employees and providers.

1002 Lofty Pine Drive
Columbia, 29212, SC

(803) 289-4298

Steve Hamm

Attorney Hamm represented Protection & Advocacy in a lawsuit filed against Butkus and DDSN in 2007. He is expected to testify about the conscious indifference of Butkus, Lacy and DDSN to comply with the South Carolina Administrative Procedures Act. Hamm is expected to testify about matters contained in the depositions of Butkus, Lacy and McPherson in that lawsuit, copies of which are in the possession of Defendants' counsel.

Richardson Plowden & Robinson PA
PO Drawer 7788
Columbia, SC 29202
(803) 771-4400 Ext.

Sarah St. Onge

Attorney St. Onge is expected to testify about the conscious indifference of Lacy, Butkus and DDSN to provide non-institutional services to DDSN clients in the least restrictive setting and the abuse, neglect and exploitation of DDSN clients. She is expected also to testify about matters contained in the P&A report "Unequal Justice."

3710 Landmark Drive
Ste. 208
Columbia, SC 29204
(803) 782-0639

Brenda Bryant

Brenda Bryant is the mother of Madison in Madison v. Babcock Center. She is expected to testify about the conscious indifference of Butkus, Lacy and DDSN to the rights of DDSN clients and the systemic abuse, neglect and exploitation of residents of DDSN facilities, including Babcock Center facilities. She is expected to testify also about the retaliation against families who challenge DDSN policies and practices.

Mooresville, NC

Lee Teed

Lee Teed is a former investigator with the Office of the Attorney General. Teed is the author of the letter informing Mrs. Mims that the AG does not have authority over the Babcock Center or DDSN. Teed is expected to testify about the systemic abuse, neglect and exploitation of clients in DDSN facilities and the conscious indifference of Butkus, Lacy and DDSN to the rights of those clients.

325 N Stonehedge Drive
Columbia, SC 29210-4223

Mary Katherine Bagnal

Mary Katherine Bagnal is a former Commissioner of DDSN who, prior to her appointment, provided case management services to Mims and was appointed by the Probate Court to examine Mims. Bagnal will testify about Mims' needs and condition, care provided by Margaret Mims and matters related to cover ups of abuse, neglect and exploitation of DDSN clients. Bagnal will also testify about actions taken by Lacy and Butkus in relation to widespread abuse, neglect and exploitation of clients in the DDSN system.

Senior Matters
3710 Landmark Drive
Ste 109
Columbia, SC 29204
(803) 779-1181

Nancy Banov

Nancy Banov is a former Commissioner of DDSN and she is expected to testify about abuse, neglect and exploitation in DDSN programs and the conscious indifference of Butkus and Lacy to protect DDSN clients from harm and to comply with federal and state law. She is also expected to testify about the failure of Butkus to keep Commissioners informed about litigation.

Atlanta, GA

David Pointer

Pointer was an investigator at the Office of the AG and is expected to testify about abuse, neglect and exploitation of clients at the Babcock Center and other DDSN programs, and the involvement of Butkus and Lacy.

Columbia, SC

Jerry Bellune

Bellune was the editor of the Lexington Chronicle and was sued by Judy Johnson, who claimed to have been defamed by his newspaper articles critical of DDSN and the Babcock Center. He is expected to testify about his experiences investigating abuse, neglect and exploitation of clients at the Babcock Center and testimony by DDSN officials the lawsuit filed against him and/or his newspaper by Judy Johnson.

131 Swartz Road
Lexington, SC 29072
803-359-7633

Gordon Brown

Gordon Brown is a former employee of Babcock Center who worked at Kensington. He will testify about understaffing at Kensington and the failure of management to provide the supports needed to protect residents.

Address unknown.

Steve Jeffcoat

Steve Jeffcoat, CPA, is the former internal auditor of DDSN who conducted the study of Babcock Center that was released in 2003 and participated in the audit of the DDSN programs released in 2006. Jeffcoat is expected to testify about the systemic abuse, neglect and exploitation of DDSN clients and the failure to protect them from harm and to prevent them from living in less restrictive environments. Jeffcoat is expected to testify about the conscious indifference of Butkus and Lacy and their violations of federal and state laws, regulations and standards of care. Jeffcoat is also expected to testify about retaliation against families, providers and employees who reported abuse, neglect and exploitation.

West Columbia, SC
(803) 796 7058

Senator David Lloyd Thomas

Senator Thomas will testify about the hearings his Senate Committee held regarding problems at DDSN during the tenure of Butkus and Lacy. He will testify about the DDSN Commissioners, families, employees and former employees who reported systemic abuse and violation of federal and state laws in the operation of DDSN programs. He will testify about the retaliation against families and employees who advocated to protect DDSN clients.

23 Wade Hampton Boulevard
Greenville, SC 29609
(864) 271-1707 Ext.

Sandra Ray, PhD

Dr. Ray is a former risk manager of Mentor, Inc. and formerly operated group homes funded by DDSN. She is expected to testify about the standards of care and risk management issues related to the operation of DDSN programs. Ray is expected to testify

about the conscious indifference of Butkus, Lacy and DDSN to the rights of persons served by DDSN to live in the least restrictive setting, free from abuse and neglect.

PO Box 775
White Rock, SC 29177
(803) 603-7796

Mary Riley

Mary Riley is the President/Principal at Legislative Solutions and the former Chief of Staff / Director of Research at South Carolina Senate. Riley is expected to testify about the interviews she conducted of persons reporting systemic abuse, neglect and exploitation in DDSN programs.

Legislative Solutions
1333 Main Street
Columbia, SC 29201

Honorable Amy McCullough

Judge McCullough is expected to testify about the Edward Mims proceedings in the Probate Court and settlements of cases involving clients of DDSN and Babcock Center clients resulting from abuse, neglect and/or exploitation.

1701 Main Street
Columbia, SC 29201
(803) 576-1975

Randy Thomas

Randy Thomas is a national instructor in the area of vulnerable adult abuse, neglect and exploitation and was one of the authors of "Unequal Justice," a report describing the abuse, neglect and exploitation of clients in DDSN programs published circa 2004. He is expected to testify about the systemic nature of abuse, neglect and exploitation in DDSN programs and the failure of DDSN officials to protect DDSN clients from harm.

212 Beacon Lane
Columbia SC 29229-7526
(803) 865-8603

Neal Douglas Truslow

Attorney Truslow is expected to testify about his investigations related to the violation of DDSN's duty of care to protect clients from neglect at the Babcock Center.

PO Box 1465
Columbia, SC 29202
(803) 256-6276

Other witnesses may be discovered during discovery and this list will be supplemented.

- 2(j) Names and addresses of medical personnel who treated Plaintiff for each injury and may testify.

Tan Platt was the medical director of the Babcock Center and was Mims' treating physician during his confinement at the Babcock Center. Records from his practice related to Mims are available to counsel to be copied.

Grahame Johnson is a physician who examined Mims and investigated the injury of his penis and performed other investigations related to DDSN clients.

Records of other medical providers and dates of injuries are documented on records from the medical providers (including the Babcock Center) which have been made available to Defendants' counsel.

Lennie Mullis was a provider of behavioral support services who treated Mims. See above.

Mary Katherine Bagnal is a provider of case management services who treated Mims. See above.

- 2(k) Expert witnesses, how became aware, subject matter, substance of facts and opinions, grounds or basis, books, treatises, articles and other works.

Expert witnesses have not disclosed the books, treatises, articles or other works they will rely upon, except as listed below.

Nora Baldarian, PhD

Nora Baldarian is an expert in trauma and abuse/neglect of persons with disabilities. She is expected to testify about abuse and neglect at the Babcock Center and in DDSN programs. Baladarian has been contacted by phone, but has not reviewed records or testimony related to this case. She was named as an expert in Madison v. Babcock Center and presumably became familiar with the operation of DDSN programs and Babcock Center through that lawsuit.

Counseling Center of Palm Springs
555 Sunrise Way
Palm Springs, CA 92264
(310) 473 6768

Kathy Hoover, RN

Kathy Hoover is a retired RN who provided an affidavit in this case. She is expected to testify about matters contained in that affidavit. No other statement has been provided by this witness.

(864) 266 5048

Sandra Ray

See above.

Randy Thomas

See above.

Lennie Mullis

See above.

Deborah McPherson

See above. McPherson is familiar with matters related to this lawsuit as a former employee of DDSN, where she reviewed complaints made by families. Records reviewed by McPherson include the investigations and audits contained in the record on appeal, the 2014 LAC audit, the Mentor review by Patrick Maley and other reports issued by Patrick Maley. She has reviewed the reports prepared by Kerr & Company under contract with DDSN. McPherson has reviewed the audits and investigations contained in the record on appeal and all articles published in the Lexington Chronicle, the Greenville News, the State, the Charleston Courier, WIS, WLTX and the Wall Street Journal which discuss abuse, neglect and exploitation of DDSN clients.

Richard Magner

See above.

Mary Katherine Bagnal

See above.

- 2(1) Actions and omissions by DDSN, Butkus and Lacy include consciously failing to protect Mims and other DDSN clients from abuse, neglect and exploitation and actively covering up violations of the rights of DDSN clients, including Mims, to live in safe, less restrictive placements. Butkus caused Mims to be involuntarily committed to his custody to prevent

Mrs. Mims from challenging the atrocious conditions at Clusters and both he and Lacy obstructed her efforts to remove Mims from a decertified, dangerous facility and attempted to force his return to the Babcock Center by denying services needed to maintain him at home. DDSN and these Defendants were grossly negligent in failing to provide services Mims was entitled to receive and in subjecting him to unsafe and unconstitutional living conditions. Defendants violated the applicable statutory and regulatory standards of care for persons who receive services in Medicaid programs and their common law duty of care to protect vulnerable adults from negligent conditions. Violations included the failure to monitor the services provided to Mims and the failure to report abuse, neglect and exploitation of DDSN clients to proper authorities in a timely manner.

RESPONSE TO REQUEST FOR PRODUCTION

1. All documents identified or relied upon in response to second interrogatories.

Documents relied upon include those contained in the record on appeal and boxes of records made available to Defendants and reports/audits by US DOJ OIG and other federal, state and private sources.

2. Copies of all statements given on behalf of Plaintiff and witnesses related to matters contained in the Amended Complaint are contained in the record on appeal.
3. Records, memoranda, notation, written and recorded statements, and other documents related to claims and/or defenses are contained in the record on appeal and other records made available to Defendants' counsel.
4. Documents, correspondence, emails and internal memoranda generated or received by you related to claims or defenses.

Plaintiffs object to this request due to it being burdensome and that many of these records are protected by the attorney-client/work product privilege.

5. Photographs and visual aids in possession of Plaintiff and/or counsel.

These records have been made available to Defendants for copying and the Estate is awaiting copying directives.

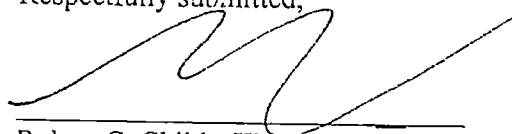
6. Exhibits to be used at trial.

To be determined.

7. "B.C." documents.

These records have been made available to Defendants for copying.

Respectfully submitted,



Robert C. Childs, III, #1218
Childs Law Firm, LLC
2100 Poinsett Hwy, Suite D
Greenville, SC 29609
(864) 242-9997
Fax (864) 242-9914
Fed. Bar No. 0123
Robert@LawyerChilds.com

s/Patricia Logan Harrison
Patricia Logan Harrison
611 Holly Street
Columbia, SC 29205
pharrison@loganharrisonlaw.com

ATTORNEYS FOR PLAINTIFF

October 17, 2018

*Laura Cole, as Personal Representative of Estate of Edward Mims v. South Carolina
Department of Disabilities and Special Needs et al.
Civil Action Number: 2007-CP-40-03365*

EXHIBIT 3

Defendants' Motion to Compel

DAVIDSON, WREN & PLYLER, P.A.

ATTORNEYS AND COUNSELLORS AT LAW

William H. Davidson, II
Michael B. Wren
Daniel C. Plyler

1611 Devonshire Drive, Second Floor
Post Office Box 8568
Columbia, South Carolina 29202-8568
Telephone: (803) 806-8222
Facsimile: (803) 806-8855

October 30, 2018

David A. DeMasters
Brandon M. Briggs

Of Counsel
Kenneth F. Woodington

VIA EMAIL AND U.S. MAIL

Patricia L. Harrison, Esquire
611 Holly Street
Columbia, South Carolina 29205

Patricia L. Harrison, Esquire
47 Rosemond Road
Cleveland, South Carolina 29635
Plh.cola@att.net

Robert C. Childs, III, Esquire
2100 Poinsett Highway
Greenville, South Carolina 29609
robert@attorneychilds.com

RE: Estate of Edward James Mims, Laura M. Cole, Personal Representative v. The South Carolina Department of Disabilities and Special Needs, Kathi Lacy, and Stan Butkus
Civil Action Number: 2007-CP-40-3365
Date of Incident: January 4, 1999
Claim Number: 44654
Our File Number: 104.7785

Dear Patricia and Robbie:

As you know, we served Interrogatories and Requests for Production in August, and received your responses on October 17. We regard the responses to our Interrogatories and Requests for Production as seriously deficient. In light of the amount of information that remains to be produced, we cannot presently prepare for mediation, much less for trial. The details of our concerns are set forth in detail below. The numbering corresponds to the numbered Interrogatories and Requests for Production.

Interrogatories

1. Set forth specifically each alleged injury to Edward Mims for which damages are sought in this action, and for each such alleged injury, provide the following information:

The listing of events on pp. 2 through 18 of the Responses includes many events that do not involve injury to Mims. The list should be limited to events for which damages are sought in this action. To say the very least, the defense in a civil case is entitled to know which specific incidents are claimed to have given rise to alleged damages.

In addition, the Responses state that "Plaintiffs will show that Mims suffered after discharge from Kensington from post-traumatic stress and medical conditions which contributed to his death." Responses, p. 18. While Defendants do not concede that such issues are properly before the Court in this case, Defendants believe that documents pertaining to any such claims should be made available, as well as the names of all physicians who treated Mims from 2005 until his death.

a. The precise date and nature of the injury.

While it is difficult to address the adequacy of this response, since it includes so many events that are not injuries, such responses as "old mark on knee" or "old mark on back" do not provide sufficient information as to either the date or the nature of the injury.

b. The specific location at which the injury allegedly occurred, including the specific building and the specific location within such building.

The Responses make no attempt to answer this Interrogatory, and do not even mention it.

c. The person or persons who inflicted the injury.

The Responses make no attempt to answer this Interrogatory, and do not even mention it. Only one person, Carl Anthony, is identified by name. If no other persons who inflicted injuries are known to Plaintiff, the response should so indicate.

d. Whether such person or persons were subordinates of any of the Defendants, and if so, why.

The Responses make no attempt to answer this Interrogatory, and do not even mention it.

e. A listing of all documentary evidence, including but not limited to medical records, supporting your claims with regard to such injury.

October 30, 2018
Page Three

The only response to this Interrogatory is as follows: "Documentary evidence is provided in records provided in the record on appeal, in addition to boxes of records available for Defendants to copy." This response makes no attempt to list the documentary evidence specific to each alleged injury, as the Interrogatory requests. It is a completely inadequate response when it is considered that the Record on Appeal is more than 3,000 pages long, the Babcock Center records apparently consist of well over 4,000 pages, and Plaintiff additionally references other "boxes of records" whose contents have not been identified, or in at least one instance, apparently have not even been reviewed by Plaintiff's counsel.

- f. All facts, including dates of such facts, which you contend constituted actual or constructive knowledge on behalf of any Defendant that a subordinate's conduct was a "pervasive and unreasonable risk" to injury to citizens like the plaintiff.**

Plaintiff's response was as follows:

Lacy and Butkus both had actual and constructive knowledge of the abuse and neglect of residents of Clusters and other Babcock Center facilities as documented in the 2003 "Limited Scope Review" of the Babcock Center, the review of DDSN waiver programs released by DHHS in 2006, LAC 2007 and 2014 and other investigations, surveys and findings and they acted with conscious indifference to Mims' rights and needs and the rights and needs of other Babcock Center and DDSN residents.

(Emphasis added.)

This response makes no attempt to list the facts specific to each such injury, and which relate to actual or constructive knowledge, as the Interrogatory requests. In addition, the Responses need to identify all such "other investigations, surveys and findings."

- i. For each such incident, specify the Defendant whom you contend had actual or constructive knowledge that a subordinate's conduct was a "pervasive and unreasonable risk" to injury to citizens like the plaintiff.**

The Responses make no attempt to answer this Interrogatory, and do not even mention it. If Plaintiffs have no evidence of actual or constructive knowledge that a subordinate's conduct presented a "pervasive and unreasonable risk" of injury to citizens like the plaintiff, the response should so indicate.

- g. All facts, including dates of such facts, which you contend constituted deliberate indifference or implied authorization by the supervisor of the conduct that you allege to have been the cause of the injury.**

October 30, 2018
Page Four

The Responses provide only the following:

The above facts will be considered which show deliberate and conscious indifference which was actually authorized or approved by implied authorization by Lacy, Butkus and other supervisors under their direction.

This response makes no attempt to list the facts specific to each instance of alleged deliberate and conscious indifference and in effect is no response at all. Nor does the Response identify "other supervisors under their direction."

- h. For each such incident, specify the Defendant whom you contend acted with deliberate indifference or impliedly authorized the conduct that you allege to have been the cause of the injury.**

The Responses contain a response said to be to this subpart (h), but which actually pertains to the next subpart (i). In other words, the Responses do not mention or respond to subpart (h) at all.

- i. All facts which you contend establish an affirmative causal link between the supervisor's inaction and the constitutional injury suffered by the plaintiff.**

The Responses provide only the following:

Facts establishing an affirmative causal link are described above and below and in the depositions of Butkus, Lacy, Johnson and other defendants and will be demonstrated at trial by testimony of witnesses.

This response makes no attempt to list the facts specific to each injury and alleged causal link, and in effect is no response at all.

- i. For each such incident, specify the Defendant whose actions you contend has an affirmative causal link to the injury.**

The Responses do not address this subpart.

- j. The names and addresses of any fact witnesses who will testify regarding the injury, as well as either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or a copy of any written or recorded statements taken from such witnesses.**

The response to this Interrogatory does not mention testimony "regarding [each] injury." Specific information about witnesses for each injury was requested and needs to be provided, or an indication given that Plaintiff does not have the information.

October 30, 2018
Page Five

- k. To the extent not already covered by other Interrogatories herein, the names and addresses of any medical personnel who treated the Plaintiff for each injury and who will testify regarding the injury, as well as either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or a copy of any written or recorded statements taken from such witnesses.**

Plaintiffs' response included the following:

Records of other medical providers and dates of injuries are documented on records from the medical providers (including the Babcock Center) which have been made available to Defendants' counsel.

That response is too indefinite to be informative, and should include the names and addresses of all "other medical providers" and specific information about "dates of injuries."

- l. If expert testimony will be offered with respect to a given injury, identify in complete detail each person whom the Plaintiff expects to call as an expert witness at the trial, stating as to each such person, and with respect to each injury,**
- 1. The expert's name, occupation, title, business address, area of specialization, if any, and professional relationship to the Plaintiff.**
 - 2. The manner in which such person became familiar with the facts of this case.**
 - 3. The subject matter or area in which such person is to testify.**
 - 4. The substance of the facts and opinions in which such person is to testify.**
 - 5. A summary of the grounds or basis for each opinion and fact.**
 - 6. A list of books, treatises, articles, and other works which such person regards as authoritative on the subject matter on which he is expected to testify.**

Aside from some degree of identifying information of the witnesses themselves, this Interrogatory has in essence not been answered at all. Defendants request that complete answers to this Interrogatory about experts be promptly provided.

- m. Any actions or omissions by any of the three DDSN Defendants (DDSN, Butkus and Lacy) which you claim to have proximately caused the injury.**

The very generalized response to this Interrogatory is not injury-specific, as the Interrogatory requested.

October 30, 2018
Page Six

I would appreciate your prompt response to this letter, with the additional information requested. I will be in touch next week to make arrangements regarding any documents identified by you so far. I regard this letter as an active attempt to resolve a discovery dispute that stays any deadline for filing a motion to compel. However, we stand ready to file such a motion should the responses continue to be inadequate.

Finally, we expect that we will need to depose approximately 40 of the approximately 55 witnesses you have identified, and will be in touch next week to attempt to agree on sets of dates.

With best regards, I am

Sincerely yours,



Kenneth P. Woodington

KPW/nmb

*Laura Cole, as Personal Representative of Estate of Edward Mims v. South Carolina
Department of Disabilities and Special Needs et al.
Civil Action Number: 2007-CP-40-03365*

EXHIBIT 4

Defendants' Motion to Compel

Kenneth P. Woodington

From: Kenneth P. Woodington
Sent: Friday, October 19, 2018 12:46 PM
To: 'Patricia Logan Harrison'
Subject: RE: Mims

Do you mean the place and address of a copying facility? Are the records still in Columbia?

-----Original Message-----

From: Patricia Logan Harrison [<mailto:pharrison@loganharrisonlaw.com>]
 Sent: Friday, October 19, 2018 12:35 PM
 To: Kenneth P. Woodington
 Subject: Re: Mims

Please give us the place and address and confirm that you have made arrangements for payment and I'll work on that next week.

T

Sent from my iPhone

> On Oct 19, 2018, at 12:28 PM, Kenneth P. Woodington <kwoodington@DML-LAW.com> wrote:

>
 > Robbie, we will be following up with you on these responses, but in connection with getting the BC documents, I would suggest that you or Patricia simply take them to a copying facility, have them scanned and put on a memory stick, and send the memory stick to us.

>
 > Ken

>
 > -----Original Message-----
 > From: Robert Childs [<mailto:robert@lawyerchilds.com>]
 > Sent: Wednesday, October 17, 2018 3:32 PM
 > To: Kenneth P. Woodington
 > Cc: 'Patricia Logan Harrison'; stacy@lawyerchilds.com
 > Subject: Mims

> Importance: High

>
 > Ken;

>
 > Attached are the Plaintiff's responses to interrogatories. We will mail printed documents to you in the morning.

>
 > Robbie Childs_____
 > Robert C. Childs, III
 > South Carolina Bar #1218
 > Federal Bar # 123
 > CERTIFIED CIRCUIT COURT MEDIATOR
 > 34 YEARS OF LITIGATION SERVICES
 > SC Bar Committee on Administrative Law SC Bar Wellness Committee
 > American Bar Association American Association for Justice South

- > Carolina Association for Justice Greenville County Bar Association
- > Former Greenville County Attorney Former Deputy Solicitor 13th
- > Judicial Circuit Former Public Defender for Aiken County CHILDS LAW
- > FIRM LLC
- > 2100 Poinsett Hwy., Suite D.
- > Greenville SC 29609
- > Robert@LawyerChilds.com
- > [Fb.me/@lawyerchilds](https://fb.me/@lawyerchilds)
- > @ChildsLawFirm
- > 864-242-9997
- > Fax: 864-242-9914

>
>
> This electronic message is confidential and is intended only for the use of the individual to whom it is addressed. The information may also be legally privileged. This transmission is sent in trust, for the sole purpose of delivery to the intended recipient. If you have received this transmission in error, you are hereby notified that any use, dissemination, distribution or reproduction of this transmission is strictly prohibited. If you are not the intended recipient, please immediately notify the sender and delete the message from your system.

>
>

Kenneth P. Woodington

From: Daniel C. Plyler
Sent: Monday, November 05, 2018 12:42 PM
To: 'Plh.cola@att.net'; 'robert@lawyerchilds.com'
Cc: Melissa S. Segear; Kenneth P. Woodington
Subject: Mims v. SCDDSN, et al

RE: Estate of Edward James Mims, Laura M. Cole, Personal Representative v. The South Carolina Department of Disabilities and Special Needs, Kathi Lacy, and Stan Butkus
 Civil Action Number: 2007-CP-40-3365
 Date of Incident: January 4, 1999
 Claim Number: 44654
 Our File Number: 104.7785

Dear Robby and Patricia:

I hope you are both doing well. We have identified a copy company that can pick-up the boxes of documents you referenced in your discovery requests, and reproduce them so that we can begin our review of that documentation. The company is NOVA Business Solutions, and the specific contact is Mr. Brandon Anderson.

I need to figure out a good date and time for Brandon to come and get the documents. I also need to know the specific location of the documents.

Thank you in advance.

Sincerely,

Daniel C. Plyler

DAVIDSON, WREN & PLYLER, PA
 1611 Devonshire Drive, Second Floor
 Post Office Box 8568
 Columbia, South Carolina 29202-8568
 Office: 803-806-8222
 Facsimile: 803-806-8855
 Mobile: 803-331-3328

dplyler@dml-law.com

CONFIDENTIALITY NOTICE: This email is covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510-2521, and is legally privileged. This email (and any associated files) contains confidential and/or legally privileged information from the law firm of Davidson, Wren & Plyler, P.A., intended solely for the use of the individual(s) named in this email. If you are not the intended recipient, you are notified that any disclosure, copying, distribution, or the taking of any action based or in reliance upon the contents of this email (and any associated files) is strictly prohibited. If you have received this email in error, please destroy this email and notify our office via reply email.

Kenneth P. Woodington

From: Daniel C. Plyler
Sent: Monday, November 05, 2018 12:49 PM
To: 'Patricia Logan Harrison'; Robert Childs
Cc: Melissa S. Segear; Kenneth P. Woodington; Brandon Anderson
 (banderson@novaoffice.net)
Subject: RE: Mims v. SCDDSN, et al

Thank you for the quick response. I am copying Brandon to this email, but ask that you kindly keep our office in the loop on the status of this project.

Sincerely,

Daniel C. Plyler

DAVIDSON, WREN & PLYLER, PA
 1611 Devonshire Drive, Second Floor
 Post Office Box 8568
 Columbia, South Carolina 29202-8568
 Office: 803-806-8222
 Facsimile: 803-806-8855
 Mobile: 803-331-3328

dplyler@dml-law.com

CONFIDENTIALITY NOTICE: This email is covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510-2521, and is legally privileged. This email (and any associated files) contains confidential and/or legally privileged information from the law firm of Davidson, Wren & Plyler, P.A., intended solely for the use of the individual(s) named in this email. If you are not the intended recipient, you are notified that any disclosure, copying, distribution, or the taking of any action based or in reliance upon the contents of this email (and any associated files) is strictly prohibited. If you have received this email in error, please destroy this email and notify our office via reply email.

From: Patricia Logan Harrison [<mailto:pharrison@loganharrisonlaw.com>]
Sent: Monday, November 05, 2018 12:50 PM
To: Daniel C. Plyler; Robert Childs; Patricia Logan Harrison
Subject: Re: Mims v. SCDDSN, et al

Daniel, the boxes I've gone through are in my Greenville office. I'll be back there some time next week and will make arrangements w Brandon. As I move out of my Columbia office to TreeTops, I am coming across other documents from other files, which we may be using at trial.

T

Sent from my iPhone

On Nov 5, 2018, at 12:44 PM, Daniel C. Plyler <dplyler@DML-LAW.com> wrote:

RE: Estate of Edward James Mims, Laura M. Cole, Personal Representative v. The South Carolina Department of Disabilities and Special Needs, Kathi Lacy, and Stan Butkus
Civil Action Number: 2007-CP-40-3365
Date of Incident: January 4, 1999
Claim Number: 44654
Our File Number: 104.7785

Dear Robby and Patricia:

I hope you are both doing well. We have identified a copy company that can pick-up the boxes of documents you referenced in your discovery requests, and reproduce them so that we can begin our review of that documentation. The company is NOVA Business Solutions, and the specific contact is Mr. Brandon Anderson.

I need to figure out a good date and time for Brandon to come and get the documents. I also need to know the specific location of the documents.

Thank you in advance.

Sincerely,

Daniel C. Plyler

DAVIDSON, WREN & PLYLER, PA
1611 Devonshire Drive, Second Floor
Post Office Box 8568
Columbia, South Carolina 29202-8568
Office: 803-806-8222
Facsimile: 803-806-8855
Mobile: 803-331-3328

dplyler@dml-law.com

CONFIDENTIALITY NOTICE: This email is covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510-2521, and is legally privileged. This email (and any associated files) contains confidential and/or legally privileged information from the law firm of Davidson, Wren & Plyler, P.A., intended solely for the use of the individual(s) named in this email. If you are not the intended recipient, you are notified that any disclosure, copying, distribution, or the taking of any action based or in reliance upon the contents of this email (and any associated files) is strictly prohibited. If you have received this email in error, please destroy this email and notify our office via reply email.

Kenneth P. Woodington

From: Kenneth P. Woodington
Sent: Friday, November 16, 2018 11:52 AM
To: Daniel C. Plyler; 'Patricia Logan Harrison'; Robert Childs
Subject: RE: Mims v. SCDDSN, et al

Patricia and Robbie, I notice that Patricia will be out all next week, so would ask that before she leaves, the documents be delivered to NOVA for copying. That can be accomplished by simply having them taken to Robbie's office, and NOVA can pick them up there and proceed.

Also, please advise when we can expect to receive expanded discovery responses, since Robbie had indicated to Judge Hood on November 1 that that would not be a difficult task. We will soon need to move to compel if we don't receive them, as well as the documents .

Finally, I would reiterate Daniel's request of a week ago that you agree to our submitting our proposed scheduling order to Judge Hood. If we need to submit both versions, I guess we will then proceed to do so next week, but we would again note that ours does everything the scheduling order needs to do, without injecting extraneous provisions which we dispute and believe are unnecessary.

Thanks,

Ken

From: Daniel C. Plyler
Sent: Monday, November 05, 2018 12:49 PM
To: 'Patricia Logan Harrison'; Robert Childs
Cc: Melissa S. Segear; Kenneth P. Woodington; Brandon Anderson (banderson@novaoffice.net)
Subject: RE: Mims v. SCDDSN, et al

Thank you for the quick response. I am copying Brandon to this email, but ask that you kindly keep our office in the loop on the status of this project.

Sincerely,

Daniel C. Plyler

DAVIDSON, WREN & PLYLER, PA
 1611 Devonshire Drive, Second Floor
 Post Office Box 8568
 Columbia, South Carolina 29202-8568
 Office: 803-806-8222
 Facsimile: 803-806-8855
 Mobile: 803-331-3328

dplyler@dml-law.com

CONFIDENTIALITY NOTICE: This email is covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510-2521, and is legally privileged. This email (and any associated files) contains confidential and/or legally privileged information from the law firm of Davidson, Wren & Plyler, P.A., intended solely for the use of the individual(s) named in this email. If you are not the intended recipient, you are notified that any disclosure, copying, distribution, or the taking of any action based or in reliance upon the contents of this email (and any associated files) is strictly prohibited. If you have received this email in error, please destroy this email and notify our office via reply email.

From: Patricia Logan Harrison [mailto:pharrison@loganharrisonlaw.com]
Sent: Monday, November 05, 2018 12:50 PM
To: Daniel C. Plyler; Robert Childs; Patricia Logan Harrison
Subject: Re: Mims v. SCDDSN, et al

Daniel, the boxes I've gone through are in my Greenville office. I'll be back there some time next week and will make arrangements w Brandon. As I move out of my Columbia office to TreeTops, I am coming across other documents from other files, which we may be using at trial.

T

Sent from my iPhone

On Nov 5, 2018, at 12:44 PM, Daniel C. Plyler <dplyler@DML-LAW.com> wrote:

RE: Estate of Edward James Mims, Laura M. Cole, Personal Representative v. The South Carolina Department of Disabilities and Special Needs, Kathi Lacy, and Stan Butkus
 Civil Action Number: 2007-CP-40-3365
 Date of Incident: January 4, 1999
 Claim Number: 44654
 Our File Number: 104.7785

Dear Robby and Patricia:

I hope you are both doing well. We have identified a copy company that can pick-up the boxes of documents you referenced in your discovery requests, and reproduce them so that we can begin our review of that documentation. The company is NOVA Business Solutions, and the specific contact is Mr. Brandon Anderson.

I need to figure out a good date and time for Brandon to come and get the documents. I also need to know the specific location of the documents.

Thank you in advance.

Sincerely,

Daniel C. Plyler

DAVIDSON, WREN & PLYLER, PA
 1611 Devonshire Drive, Second Floor
 Post Office Box 8568
 Columbia, South Carolina 29202-8568

Office: 803-806-8222
Facsimile: 803-806-8855
Mobile: 803-331-3328

dplyler@dml-law.com

CONFIDENTIALITY NOTICE: This email is covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510-2521, and is legally privileged. This email (and any associated files) contains confidential and/or legally privileged information from the law firm of Davidson, Wren & Plyler, P.A., intended solely for the use of the individual(s) named in this email. If you are not the intended recipient, you are notified that any disclosure, copying, distribution, or the taking of any action based or in reliance upon the contents of this email (and any associated files) is strictly prohibited. If you have received this email in error, please destroy this email and notify our office via reply email.

ELECTRONICALLY FILED - 2018 Dec 14 4:05 PM - RICHLAND - COMMON PLEAS - CASE#2007CP4003365

Kenneth P. Woodington

From: Kenneth P. Woodington
Sent: Thursday, November 29, 2018 10:21 AM
To: Patricia Logan Harrison (pharrison@loganharrisonlaw.com); Robert Childs
Cc: Daniel C. Plyler
Subject: RE: Mims - Civil Action Number 07-CP-40-3365

Robbie and Patricia,

We can agree to the proposed scheduling order if the phrase "and other discovery" is added to the second sentence, so that it reads "The Defendants requested additional time before trial so that a number of depositions and other discovery can be completed." That accurately states what we said at the status conference.

Even if that language is added, we have serious concerns about whether the schedule set forth in the order is still feasible. We advised the court at the status conference on November 1 that the responses to our written discovery requests were insufficient. Robbie advised the court at that same hearing that that would be an easy fix and that the revised responses would be provided promptly. On November 16, we sent an e-mail to you asking when we could expect to receive expanded discovery responses. Nothing was sent to us in response. Today, almost a month after the November 1 status conference, we still have not received additional responses to our written discovery, which was served in mid-August.

In addition, while our mid-August discovery request very clearly identified one set of documents that we were requesting (the "BC" documents), we still have not received even that set. We advised you on November 16, if not earlier, that NOVA would invoice us for the copying and would even pick up the documents in Greenville. To date, we have heard nothing back from you in response.

Given that an entire month has gone by with nothing have been sent to us by Plaintiff, we are not certain that the March 1 discovery deadline, which was ambitious to begin with, can still be met. Please advise when you plan to provide the requested information, which is now long overdue.

Sincerely,

Ken

-----Original Message-----

From: Stacy Timothy [<mailto:stacy@lawyerchilds.com>]
Sent: Tuesday, November 27, 2018 3:28 PM
To: Kenneth P. Woodington; 'Robert Childs'; 'Patricia Logan Harrison'
Subject: Mims - Civil Action Number 07-CP-40-3365

Estate of Edward James Mims, Laura M. Cole, Personal Representative v.
 The South Carolina Department of Disabilities and Special Needs, Kathi Lacy, and Stan Butkus

Civil Action Number 07-CP-40-3365

Dear Mr. Woodington,

I have attached the proposed Scheduling Order regarding the above referenced case. Please review and advise. Thank you.

Stacy P. Timothy
Paralegal to Robert C. Childs
2100 Poinsett Highway, Suite D
Greenville, SC 29609
Phone: 864-242-9997
Fax: 864-242-9914

This electronic message is confidential and is intended only for the use of the individual to whom it is addressed. The information may also be legally privileged. This transmission is sent in trust, for the sole purpose of delivery to the intended recipient. If you have received this transmission in error, you are hereby notified that any use, dissemination, distribution or reproduction of this transmission is strictly prohibited. If you are not the intended recipient, please immediately notify the sender and delete the message from your system.

Kenneth P. Woodington

From: Kenneth P. Woodington
Sent: Wednesday, December 05, 2018 4:35 PM
To: 'Hood, Robert E. Law Clerk (Catherine Ortmann)'
Cc: Daniel C. Plyler; Robert Childs; Patricia Logan Harrison; William H. Davidson II
Subject: Laura Cole as personal representative of estate of Mims v. SCDDSN, Butkus, et. al. 2007CP4003365

Ms. Ortmann, I just e-filed a proposed scheduling order that is consistent with the status conference held in this case on November 1. Unfortunately, it has taken this long for the parties to agree the order's language, after Plaintiff's counsel proposed certain insertions that had to be revised and re-revised.

I am writing because the March 1 discovery deadline was viewed as ambitious even when it was set by oral order more than a month ago. In the 30-plus days since then, we have received nothing whatsoever from Plaintiffs' counsel in the way of discovery responses, although we have corresponded with Plaintiffs' counsel numerous times about this. Our correspondence has gone unanswered.

I am pointing this out only to indicate that the March 1 discovery deadline may now be an impossibility. Judge Hood may not be CAJ when this issue comes up again, but I did not want to create an impression that by filing this proposed scheduling order, we are affirming as of this date that it is possible to meet its deadlines. The current delay, which is still ongoing, may force us to seek additional time.

Sincerely,

Ken Woodington

Kenneth P. Woodington
Davidson, Wren & Plyler, P.A.
1611 Devonshire Drive, 2nd Floor
Post Office Box 8568
Columbia, South Carolina 29202-8568
kwoodington@dml-law.com
T: 803-806-8222
F: 803-806-8855

Kenneth P. Woodington

From: Robert Childs <robert@lawyerchilds.com>
Sent: Thursday, December 06, 2018 9:46 AM
To: Kenneth P. Woodington; 'Hood, Robert E. Law Clerk (Catherine Ortmann)'
Cc: Daniel C. Plyler; 'Patricia Logan Harrison'; William H. Davidson II
Subject: RE: Laura Cole as personal representative of estate of Mims v. SCDDSN, Butkus, et. al. 2007CP4003365

Ms. Ortmann;

Please note that the Plaintiff disagrees with Mr. Woodington's assertions relative to the Order. Both sides suggested changes and revisions to the proposed order. Nothing has prevented the Defendant from scheduling depositions or doing any other discovery at any time since this matter was remanded by the Court of Appeals in August of 2018. The Plaintiff will consistently cooperate with any discovery requests by the Defendant since the Plaintiff wishes to proceed with all due haste. The Plaintiff is hopeful that discovery will be completed within the time frames set forth in the Order so that we can proceed to trial as promptly as possible. We would join the Defendants in requesting that his honor execute the consent scheduling order.

Robbie Childs

Robert C. Childs, III
 South Carolina Bar #1218
 Federal Bar # 123
 CERTIFIED CIRCUIT COURT MEDIATOR
 34 YEARS OF LITIGATION SERVICES
 SC Bar Committee on Administrative Law
 SC Bar Wellness Committee
 American Bar Association
 American Association for Justice
 South Carolina Association for Justice
 Greenville County Bar Association
 Former Greenville County Attorney
 Former Deputy Solicitor 13th Judicial Circuit
 Former Public Defender for Aiken County
 CHILDS LAW FIRM LLC
 2100 Poinsett Hwy., Suite D.
 Greenville SC 29609
Robert@LawyerChilds.com
[fb.me/@lawyerchilds](https://www.facebook.com/robertchildslaw)
[@ChildsLawFirm](https://www.facebook.com/ChildsLawFirm)
 864-242-9997
 Fax: 864-242-9914

This electronic message is confidential and is intended only for the use of the individual to whom it is addressed. The information may also be legally privileged. This transmission is sent in trust, for the sole purpose of delivery to the intended recipient. If you have received this transmission in error, you are hereby notified that any use, dissemination, distribution or reproduction of this transmission is strictly prohibited. If you are not the intended recipient, please immediately notify the sender and delete the message from your system.

From: Kenneth P. Woodington [<mailto:kwoodington@DML-LAW.com>]
Sent: Wednesday, December 05, 2018 4:35 PM
To: 'Hood, Robert E. Law Clerk (Catherine Ortmann)' <rhodolc@sccourts.org>
Cc: Daniel C. Plyler <dplyler@DML-LAW.com>; Robert Childs <robert@lawyerchilds.com>; Patricia Logan Harrison

<pharrison@loganharrisonlaw.com>; William H. Davidson II <wdavidson@DML-LAW.com>

Subject: Laura Cole as personal representative of estate of Mims v. SCDDSN, Butkus, et. al. 2007CP4003365

Ms. Ortmann, I just e-filed a proposed scheduling order that is consistent with the status conference held in this case on November 1. Unfortunately, it has taken this long for the parties to agree the order's language, after Plaintiff's counsel proposed certain insertions that had to be revised and re-revised.

I am writing because the March 1 discovery deadline was viewed as ambitious even when it was set by oral order more than a month ago. In the 30-plus days since then, we have received nothing whatsoever from Plaintiffs' counsel in the way of discovery responses, although we have corresponded with Plaintiffs' counsel numerous times about this. Our correspondence has gone unanswered.

I am pointing this out only to indicate that the March 1 discovery deadline may now be an impossibility. Judge Hood may not be CAJ when this issue comes up again, but I did not want to create an impression that by filing this proposed scheduling order, we are affirming as of this date that it is possible to meet its deadlines. The current delay, which is still ongoing, may force us to seek additional time.

Sincerely,

Ken Woodington

Kenneth P. Woodington
Davidson, Wren & Plyler, P.A.
1611 Devonshire Drive, 2nd Floor
Post Office Box 8568
Columbia, South Carolina 29202-8568
kwoodington@dml-law.com
T: 803-806-8222
F: 803-806-8855

*Laura Cole, as Personal Representative of Estate of Edward Mims v. South Carolina
Department of Disabilities and Special Needs et al.
Civil Action Number: 2007-CP-40-03365*

EXHIBIT 3

Defendants' Motion to Compel

DAVIDSON, WREN & PLYLER, P.A.

ATTORNEYS AND COUNSELLORS AT LAW

William H. Davidson, II
Michael B. Wren
Daniel C. Plyler

1611 Devonshire Drive, Second Floor
Post Office Box 8568
Columbia, South Carolina 29202-8568
Telephone: (803) 806-8222
Facsimile: (803) 806-8855

October 30, 2018

David A. DeMasters
Brandon M. Briggs

Of Counsel
Kenneth P. Woodington

VIA EMAIL AND U.S. MAIL

Patricia L. Harrison, Esquire
611 Holly Street
Columbia, South Carolina 29205

Patricia L. Harrison, Esquire
47 Rosemond Road
Cleveland, South Carolina 29635
Plh.cola@att.net

Robert C. Childs, III, Esquire
2100 Poinsett Highway
Greenville, South Carolina 29609
robert@attorneychilds.com

RE: Estate of Edward James Mims, Laura M. Cole, Personal Representative v. The South Carolina Department of Disabilities and Special Needs, Kathi Lacy, and Stan Butkus
Civil Action Number: 2007-CP-40-3365
Date of Incident: January 4, 1999
Claim Number: 44654
Our File Number: 104.7785

Dear Patricia and Robbie:

As you know, we served Interrogatories and Requests for Production in August, and received your responses on October 17. We regard the responses to our Interrogatories and Requests for Production as seriously deficient. In light of the amount of information that remains to be produced, we cannot presently prepare for mediation, much less for trial. The details of our concerns are set forth in detail below. The numbering corresponds to the numbered Interrogatories and Requests for Production.

Interrogatories

1. Set forth specifically each alleged injury to Edward Mims for which damages are sought in this action, and for each such alleged injury, provide the following information:

October 30, 2018
Page Two

The listing of events on pp. 2 through 18 of the Responses includes many events that do not involve injury to Mims. The list should be limited to events for which damages are sought in this action. To say the very least, the defense in a civil case is entitled to know which specific incidents are claimed to have given rise to alleged damages.

In addition, the Responses state that "Plaintiffs will show that Mims suffered after discharge from Kensington from post-traumatic stress and medical conditions which contributed to his death." Responses, p. 18. While Defendants do not concede that such issues are properly before the Court in this case, Defendants believe that documents pertaining to any such claims should be made available, as well as the names of all physicians who treated Mims from 2005 until his death.

a. The precise date and nature of the injury.

While it is difficult to address the adequacy of this response, since it includes so many events that are not injuries, such responses as "old mark on knee" or "old mark on back" do not provide sufficient information as to either the date or the nature of the injury.

b. The specific location at which the injury allegedly occurred, including the specific building and the specific location within such building.

The Responses make no attempt to answer this Interrogatory, and do not even mention it.

c. The person or persons who inflicted the injury.

The Responses make no attempt to answer this Interrogatory, and do not even mention it. Only one person, Carl Anthony, is identified by name. If no other persons who inflicted injuries are known to Plaintiff, the response should so indicate.

d. Whether such person or persons were subordinates of any of the Defendants, and if so, why.

The Responses make no attempt to answer this Interrogatory, and do not even mention it.

e. A listing of all documentary evidence, including but not limited to medical records, supporting your claims with regard to such injury.

October 30, 2018
Page Three

The only response to this Interrogatory is as follows: "Documentary evidence is provided in records provided in the record on appeal, in addition to boxes of records available for Defendants to copy." This response makes no attempt to list the documentary evidence specific to each alleged injury, as the Interrogatory requests. It is a completely inadequate response when it is considered that the Record on Appeal is more than 3,000 pages long, the Babcock Center records apparently consist of well over 4,000 pages, and Plaintiff additionally references other "boxes of records" whose contents have not been identified, or in at least one instance, apparently have not even been reviewed by Plaintiff's counsel.

- f. All facts, including dates of such facts, which you contend constituted actual or constructive knowledge on behalf of any Defendant that a subordinate's conduct was a "pervasive and unreasonable risk" to injury to citizens like the plaintiff.**

Plaintiff's response was as follows:

Lacy and Butkus both had actual and constructive knowledge of the abuse and neglect of residents of Clusters and other Babcock Center facilities as documented in the 2003 "Limited Scope Review" of the Babcock Center, the review of DDSN waiver programs released by DHHS in 2006, LAC 2007 and 2014 and other investigations, surveys and findings and they acted with conscious indifference to Mims' rights and needs and the rights and needs of other Babcock Center and DDSN residents.

(Emphasis added.)

This response makes no attempt to list the facts specific to each such injury, and which relate to actual or constructive knowledge, as the Interrogatory requests. In addition, the Responses need to identify all such "other investigations, surveys and findings."

- i. For each such incident, specify the Defendant whom you contend had actual or constructive knowledge that a subordinate's conduct was a "pervasive and unreasonable risk" to injury to citizens like the plaintiff.**

The Responses make no attempt to answer this Interrogatory, and do not even mention it. If Plaintiffs have no evidence of actual or constructive knowledge that a subordinate's conduct presented a "pervasive and unreasonable risk" of injury to citizens like the plaintiff, the response should so indicate.

- g. All facts, including dates of such facts, which you contend constituted deliberate indifference or implied authorization by the supervisor of the conduct that you allege to have been the cause of the injury.**

October 30, 2018
Page Four

The Responses provide only the following:

The above facts will be considered which show deliberate and conscious indifference which was actually authorized or approved by implied authorization by Lacy, Butkus and other supervisors under their direction.

This response makes no attempt to list the facts specific to each instance of alleged deliberate and conscious indifference and in effect is no response at all. Nor does the Response identify "other supervisors under their direction."

- h. For each such incident, specify the Defendant whom you contend acted with deliberate indifference or impliedly authorized the conduct that you allege to have been the cause of the injury.**

The Responses contain a response said to be to this subpart (h), but which actually pertains to the next subpart (i). In other words, the Responses do not mention or respond to subpart (h) at all.

- i. All facts which you contend establish an affirmative causal link between the supervisor's inaction and the constitutional injury suffered by the plaintiff.**

The Responses provide only the following:

Facts establishing an affirmative causal link are described above and below and in the depositions of Butkus, Lacy, Johnson and other defendants and will be demonstrated at trial by testimony of witnesses.

This response makes no attempt to list the facts specific to each injury and alleged causal link, and in effect is no response at all.

- i. For each such incident, specify the Defendant whose actions you contend has an affirmative causal link to the injury.**

The Responses do not address this subpart.

- j. The names and addresses of any fact witnesses who will testify regarding the injury, as well as either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or a copy of any written or recorded statements taken from such witnesses.**

The response to this Interrogatory does not mention testimony "regarding [each] injury." Specific information about witnesses for each injury was requested and needs to be provided, or an indication given that Plaintiff does not have the information.

October 30, 2018
Page Five

- k. To the extent not already covered by other Interrogatories herein, the names and addresses of any medical personnel who treated the Plaintiff for each injury and who will testify regarding the injury, as well as either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or a copy of any written or recorded statements taken from such witnesses.

Plaintiffs' response included the following:

Records of other medical providers and dates of injuries are documented on records from the medical providers (including the Babcock Center) which have been made available to Defendants' counsel.

That response is too indefinite to be informative, and should include the names and addresses of all "other medical providers" and specific information about "dates of injuries."

- l. If expert testimony will be offered with respect to a given injury, identify in complete detail each person whom the Plaintiff expects to call as an expert witness at the trial, stating as to each such person, and with respect to each injury,
1. The expert's name, occupation, title, business address, area of specialization, if any, and professional relationship to the Plaintiff.
 2. The manner in which such person became familiar with the facts of this case.
 3. The subject matter or area in which such person is to testify.
 4. The substance of the facts and opinions in which such person is to testify.
 5. A summary of the grounds or basis for each opinion and fact.
 6. A list of books, treatises, articles, and other works which such person regards as authoritative on the subject matter on which he is expected to testify.

Aside from some degree of identifying information of the witnesses themselves, this Interrogatory has in essence not been answered at all. Defendants request that complete answers to this Interrogatory about experts be promptly provided.

- m. Any actions or omissions by any of the three DDSN Defendants (DDSN, Butkus and Lacy) which you claim to have proximately caused the injury.

The very generalized response to this Interrogatory is not injury-specific, as the Interrogatory requested.

October 30, 2018
Page Six

I would appreciate your prompt response to this letter, with the additional information requested. I will be in touch next week to make arrangements regarding any documents identified by you so far. I regard this letter as an active attempt to resolve a discovery dispute that stays any deadline for filing a motion to compel. However, we stand ready to file such a motion should the responses continue to be inadequate.

Finally, we expect that we will need to depose approximately 40 of the approximately 55 witnesses you have identified, and will be in touch next week to attempt to agree on sets of dates.

With best regards, I am

Sincerely yours,



Kenneth P. Woodington

KPW/nmb

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	
	)	
Estate of Edward James Mims,	)	C. A. No.: 2007-CP-40-3365
Laura M. Cole, Personal Representative,	)	
Plaintiff,	)	
	)	
v.	)	SCHEDULING ORDER
	)	
The South Carolina Department of	)	
Disabilities and Special Needs, Kathi Lacy,	)	
And Stanley Butkus,	)	
Defendants.	)	

This case was recently remanded to this Court following the denial of certiorari by the Supreme Court on August 3, 2018.

This Court held a status conference on November 1, 2018. The Defendants requested additional time before trial so that a number of depositions and other discovery can be completed. The Plaintiff requested that the case go forward to trial as quickly as possible since Edward James Mims died during the course of this litigation and his sole heir, who is his mother, is elderly. In order to provide an orderly process for the disposition of this case, the Court determines that the case shall proceed on the following schedule:

1. Discovery shall be completed by March 1, 2019.
2. Mediation shall occur no later than 45 days after the completion of discovery.
3. If the case is not resolved through mediation, the parties are instructed to contact the Chief Administrative Judge for the purpose of scheduling a date certain trial date.
4. This Order supersedes prior scheduling orders filed in this case.

IT IS SO ORDERED!

Columbia, South Carolina

December __, 2018

The Honorable Robert E. Hood
Chief Administrative Judge



Richland Common Pleas

Case Caption: Margaret Mims , plaintiff, et al vs Babcock Center Inc , defendant,
et al
Case Number: 2007CP4003365
Type: Order/Scheduling Order

So Ordered

s/ R.E. Hood #2164

Electronically signed on 2018-12-06 08:56:36 page 2 of 2

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
	)	
Laura Cole, Personal Representative of	)	
the Estate of Edward Mims,	)	Civil Action No. 07-CP-40-3365
	)	
Plaintiff,	)	
	)	
v.	)	CONTINUANCE ORDER
	)	
The South Carolina Department of	)	
Disabilities and Special Needs,	)	
Kathi Lacy and Stanley Butkus,	)	
	)	
Defendants.	)	
_____	)	
	)	
	)	

This matter has come before this Court pursuant the Court's request for the parties to submit proposed scheduling orders. This matter was originally filed in 2007, an amended complaint was filed in 2008. The circuit court granted summary judgment to the Defendants and the Supreme Court subsequently remanded the case for trial in 2012. The trial court again granted summary judgment to Defendants and appeal was taken to the South Carolina Court of Appeals. Plaintiffs settled all claims against Babcock Center and Judy Johnson before the Court of Appeals reversed the trial court on November 7, 2017, in an unpublished decision. The Court of Appeals withdrew, substituted and published its final decision on February 21, 2018. Defendants petitioned the South Carolina Supreme Court for *certiorari*, which was denied.

Defendants moved in this Court for a continuance which was granted to mediate the case and to conduct additional discovery. Based upon the submissions of the parties I order the following schedule;

1. Mediation shall be conducted in this case on or before December 18, 2018.

The case shall be set for trial on or after January 22, 2019.

This Court finds the above this schedule to be reasonable. Therefore, THIS COURT
ORDERS THAT the above schedule be followed.

AND IT IS SO ORDERED!

Robert E. Hood
Chief Administrative Judge
Common Pleas 5th Judicial Circuit

Columbia, South Carolina

October __, 2018



Richland Common Pleas

Case Caption: Margaret Mims , plaintiff, et al vs Babcock Center Inc , defendant,
et al
Case Number: 2007CP4003365
Type: Order/Continuance

So Ordered

s/ R.E. Hood #2164

Electronically signed on 2018-10-09 09:18:16 page 3 of 3

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
	)	
Edward Mims, by and through his legal	)	
guardian, Margaret Mims,	)	Civil Action No. 07-CP-40-3365
	)	
Plaintiff,	)	
	)	
v.	)	ORDER OF CONTINUANCE
	)	
Babcock Center, Inc., Judy Johnson, the	)	
South Carolina Department of	)	
Disabilities and Special Needs,	)	
Kathi Lacy and Stanley Butkus,	)	
	)	
Defendants.	)	
	)	

Defendants have a motion for continuance, and both parties to this case have requested the opportunity to file proposed scheduling orders and to mediate the case. The parties are accordingly ordered to file their respective proposed scheduling orders by October 5, 2018. It is further ordered that a status conference will be held thereafter with the undersigned judge at a date convenient to the Court and the parties, and that in the meantime, this case is continued.

AND IT IS SO ORDERED.

Robert E. Hood
Chief Administrative Judge

Columbia, South Carolina

October __, 2018



Richland Common Pleas

Case Caption: Margaret Mims , plaintiff, et al vs Babcock Center Inc , defendant,
et al
Case Number: 2007CP4003365
Type: Order/Continuance

So Ordered

s/ R.E. Hood #2164

Electronically signed on 2018-10-01 15:00:26 page 2 of 2

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
	)	
Edward Mims, by and through his legal guardian, Margaret Mims,	)	Civil Action No. 07-CP-40-3365
	)	
Plaintiff,	)	
	)	
v.	)	MOTION FOR CONTINUANCE AND SCHEDULING ORDER
	)	
Babcock Center, Inc., Judy Johnson, the South Carolina Department of Disabilities and Special Needs,	)	
Kathi Lacy and Stanley Butkus,	)	
	)	
Defendants.	)	
	)	

Defendants move for a continuance and a status conference. This case was recently remanded to this Court following the denial of certiorari by the Supreme Court on August 3, 2018. Shortly thereafter, as a result of certain matters referenced in the opinion of the Court of Appeals, Defendants served Interrogatories and Requests for Production on the Plaintiff on August 13, 2018. As of this date, September 28, 2018, responses have not yet been received. Defendants believe that additional depositions or other discovery may be necessary.

In addition, because this case has been subject to dispositive motions for most of the time since it was filed, it has not yet been mediated. Defendants request a scheduling order that will permit time for the orderly completion of discovery, as well as mediation. No additional dispositive motions are contemplated by Defendants.

Plaintiff's position on this motion is that the case should be heard by a circuit judge who has not ever been employed by the Babcock Center. If that condition is met, Plaintiff has agreed not to oppose continuing the case until after the term of court set to begin on October 8, 2018. Plaintiff

also has asked the Defendants to advise that Plaintiffs would like the case set for trial on a date certain before Judge Hood on the next date he is scheduled to preside over jury trials after December 1. Defendants do not necessarily oppose either of these requests by Plaintiff, but believe that they are premature for consideration in the present motion, and that they may be more appropriate for consideration at a status conference.

Plaintiff and Defendants agree to submit proposed scheduling orders at the roster meeting scheduled for October 5, 2018.

DAVIDSON, WREN & PLYLER, P.A.

BY: s/William H. Davidson, II
WILLIAM H. DAVIDSON, II #425
KENNETH P. WOODINGTON #4741
1611 Devonshire Drive, Second Floor
Post Office Box 8568
Columbia, South Carolina 29202
T: 803-806-8222
F: 803-806-8855
E-Mail: wdavidson@dml-law.com
kwoodington@dml-law.com

ATTORNEYS FOR DEFENDANTS THE SOUTH
CAROLINA DEPARTMENT OF DISABILITIES
AND SPECIAL NEEDS, KATHI LACY AND
STANLEY BUTKUS

Columbia, South Carolina

September 28, 2018

AGENCY NAME:	Department of Disabilities and Special Needs		
AGENCY CODE:	J160	SECTION:	36

**Fiscal Year 2018–2019
Accountability Report**

SUBMISSION FORM

AGENCY MISSION

The South Carolina Department of Disabilities and Special Needs (DDSN), as stated in Section 44-20-240 of the South Carolina Code of Laws, has authority over all the state’s services and programs for South Carolinians with severe lifelong disabilities, including intellectual disabilities and related disabilities, autism, traumatic brain injury, spinal cord injury, and similar disabilities. Primary responsibilities include planning, development, and provision of a full range of services for children and adults; ensure all services and supports provided meet or exceed acceptable standards; and improve the quality of services and efficiency of operations. The department advocates for people with severe lifelong disabilities both as a group and as individuals; coordinates services with other agencies; and promotes and implements prevention activities to reduce the occurrence of both primary and secondary disabilities.

AGENCY VISION

To provide the very best services to all persons with disabilities and their families in South Carolina.

Does the agency have any major or minor recommendations (internal or external) that would allow the agency to operate more effectively and efficiently?

**RESTRUCTURING
RECOMMENDATIONS:**

Yes	No
☐	☒

AGENCY NAME:	Department of Disabilities and Special Needs		
AGENCY CODE:	J160	SECTION:	36

Is the agency in compliance with S.C. Code Ann. § 2-1-230, which requires submission of certain reports to the Legislative Services Agency for publication online and the State Library? See also S.C. Code Ann. § 60-2-30.

REPORT SUBMISSION COMPLIANCE:	Yes	No
	☒	☐

Is the agency in compliance with various requirements to transfer its records, including electronic ones, to the Department of Archives and History? See the Public Records Act (S.C. Code Ann. § 30-1-10 through 30-1-180) and the South Carolina Uniform Electronic Transactions Act (S.C. Code Ann. § 26-6-10 through 26-10-210).

RECORDS MANAGEMENT COMPLIANCE:	Yes	No
	☒	☐

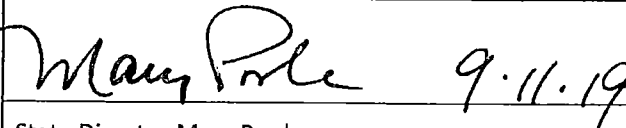
Is the agency in compliance with S.C. Code Ann. § 1-23-120(J), which requires an agency to conduct a formal review of its regulations every five years?

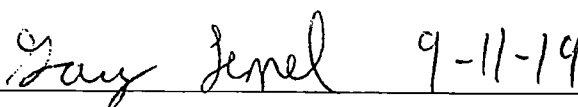
REGULATION REVIEW:	Yes	No
	☒	☐

Please identify your agency's preferred contacts for this year's accountability report.

	<u>Name</u>	<u>Phone</u>	<u>Email</u>
PRIMARY CONTACT:	Patrick Maley	803/898-9796	pmaley@ddsn.sc.gov
SECONDARY CONTACT:	Sandra Delaney	803/898-9769	sdelaney@ddsn.sc.gov

I have reviewed and approved the enclosed FY 2018–2019 Accountability Report, which is complete and accurate to the extent of my knowledge.

AGENCY DIRECTOR (SIGN AND DATE):	
(TYPE/PRINT NAME):	State Director Mary Poole

BOARD/CMSN CHAIR (SIGN AND DATE):	
(TYPE/PRINT NAME):	Chairman Gary Lemel

AGENCY NAME:	Department of Disabilities and Special Needs		
AGENCY CODE:	J160	SECTION:	36

AGENCY'S DISCUSSION AND ANALYSIS

I. Background

DDSN is operating in a substantial change environment. During FY18, DDSN underwent formal legislative oversight performance reviews by both the Senate and the House. Many areas of improvement were identified. However, the overall theme was for DDSN to move away from its parochial tendency to manage providers as if extensions of DDSN. DDSN should move towards treating all providers as contractors from whom services are purchased, with emphasis on treating providers equally to promote competition for clients and better managed providers. Additionally, DDSN should shed the source of much of the current frustration and divisiveness in its service delivery system – its complex, cumbersome, and non-transparent “Band” payment system. DDSN should move towards a fee-for-service type payment model.

To assist the reader without an understanding of DDSN’s somewhat complex operations, DDSN currently has 37,063 intellectually disabled citizens qualified for services. DDSN’s FY19 \$709 million expenditures provided services to 20,586 consumers through a variety of resource mechanisms: Medicaid At-Home Waivers (7992); Medicaid Residential Waivers (3927); Community Intermediate Care Facilities (483); Regional Center Intermediate Care Facilities (658); state funded equivalent waiver services (327), Early Intervention (3089), and state funded family support (4110). DDSN’s \$709 million in annual expenditures was spent on contracting services (83.5%), operating state Intermediate Care Facilities (14%), operating state Autism residential homes (0.2%), and DDSN’s overhead (2.3%). Inasmuch as Medicaid waivers are not a Medicaid entitlement service and therefore constrained by available state/federal funding, DDSN maintains a waiting list for each specific waiver. The end of FY19 waivers’ wait times were: Intellectual Disability/Related Disabilities (3.7 years); Consumer Supports (2.4 years); and Head and Spinal Cord Injury (no waiting list).

II. FY19 Improvement Initiatives

DDSN is accomplishing its mission to serve intellectually disabled citizens qualified for services. However, DDSN’s self-assessment during these legislative performance reviews highlighted its main organizational problem—weak fundamental management practices. DDSN had a reactive management culture with a tendency to avoid problems and defensively manage problems to avoid criticism from external stakeholders. There was also a lack of accurate, reliable, and recurring data presented in a suitable manner for management to have insight into operations to identify issues and proactively manage. These management issues have allowed problems creating inefficiencies and risks to build up in its delivery system. Given the direction from legislative oversight committees and the leadership from a new State Director, DDSN is now proactively tackling problems previously kicked down the road for years.

As a result, FY19’s focus has been on bringing management discipline to operations and building management information tools to accurately identify performance issues (opportunities), and then establish tactical plans to address areas requiring improvement. This emphasis on evidence-based efficiency, effectiveness, and accountability for results has created transitioning challenges found in high change environments from some stakeholders—some comfortable with the status quo, some fail to appreciate DDSN’s deficits needing improvement, and some uncomfortable with the operational tempo needed for substantive change.

Below are the key areas of improvement pursued in FY19:

- A. Change payment system: The capitated “Band” payment system is negatively impacting DDSN’s finances for multiple reasons, to include maintaining adequate SCDHHS rates; current SCDHHS/DDSN split rates are out of alignment; does not maximize Medicaid match opportunities; complexity undermines operational control of finances and budgeting; and general lack of trust by most all stakeholders, to include DDSN personnel.

AGENCY NAME:	Department of Disabilities and Special Needs		
AGENCY CODE:	J160	SECTION:	36

DDSN produced in an internal report in November 2017 identifying the risks and systemic dissatisfaction posed by the band payment system. In August 2018, the DDSN Commission recommended to move from the band system due to its deficiencies. DDSN coordinated with SCDHHS to sponsor an objective payment system review by Mercer Healthcare Consultants (Mercer), as well as adjust service rates to current market conditions.

The Mercer Report was finalized in August 2019, which set forth systemic criticisms of DDSN's band payment system to include: waiver service definitions lacked detail service delivery requirements; subjective nature of establishing consumer budgets; administrative burden on DSN Boards as fiscal agents; lack of transparency; monitoring and oversight challenges due lack of easily accessible data; bands do not coincide with individual consumer needs; and lack of direct billing requires the need for complex cost settlements. The Mercer Report set out three future options: fee-for-service and two variations of managed care models.

During FY19 while waiting for the Mercer Report, DDSN engaged in a variety of tasks in preparation for a payment system change to include:

- Extricating involvement in real estate transactions with providers by stopping capital improvement grants, as well as readied options to collaborate with providers after the Mercer Report to take ownership of 65 DDSN properties currently managed by providers.
 - Began unwinding the capitated bands by converting to fee-for-service (FFS) waiver case management (WCM), DSN Board Early Intervention (EI), and state funded at-home consumers, effective July 2019. The capitated bands paid prospectively regardless of providers' corresponding billing/service efficiency. The July 2019 change to a FFS WCM market rate model incentivized billing/service efficiency resulting in 167% increase in WCM and 100% in DSN Board EI, yet the taxpayer cost was equal or less than in the capitated model. This increase in provider WCM and EI billing efficiency will save DDSN approximately \$4.7 million in FY20 due to DDSN historically funding these deficit billings; future provider billing increases will correlate with a corresponding increase in services.
 - Conducted a review of all financial payment processes to examine Medicaid ineligible risks; validated accuracy & reliability of financial reporting; and built a monthly integrated service utilization report baseline to enhance oversight, execution, and budget trending. DDSN has data; however, it was not organized in a user friendly, actionable manner to support agency-wide use and access by managers.
 - Eliminated \$1.35 million in marginal value non-service contracts (consultants and special community grants) and reformed \$635,000 in contracts to improve cost/effectiveness. Reduced nine Central Office FTE positions (5%).
 - Established a new work unit to co-locate all waiver services and standardize all corresponding business functions to transition to a higher financial risk FFS model. These common business functions previously fragmented among multiple divisions are: a) process to qualify providers; b) operating policies & procedures with adequate criteria to support FFS; c) estimate financial liability from operating policies; d) coordinate with Finance Division to balance consumer budgets with available state match; e) utilization monitoring (units & dollars); f) legally sound cost control contingencies; g) analytical quality control/technical assistance; and h) accurately forecast annual financial requests for DDSN's legislative budget proposal to the General Assembly.
- B. Addressed turnover of Regional Center Direct Support Professionals (DSP): Despite improvement from the General Assembly's second year of generously increasing DSP salaries by \$1/hour, Regional Centers still have challenging turnover, particularly at two difficult to staff centers with turnover still well above 40%. Management moved beyond static posting of vacancies on the state's job web-service, and hired Indeed.Com to proactively contact suitable

AGENCY NAME:	Department of Disabilities and Special Needs		
AGENCY CODE:	J160	SECTION:	36

candidates who have not previously applied for vacant DSP positions. Additionally, HR aggressively put on local job fairs, and matched this energy in processing the increased volume of candidates. Turnover may not have dropped not dramatically, but the hiring pool has skyrocketed resulting in a net gain of 86 DSP FTEs over the last six months of FY19. With the third consecutive year of \$1/hour DSP increase approved for FY20, DDSN anticipates the turnover rate to finally turn the corner and significantly reduce.

DDSN formalized DSP Targeted Staffing Levels (TSL) at Regional Centers and developed a real-time management reporting tool. The net increase in DSPs has moved overall DSP staffing from 85% of TSL to 88%. Most notably, the Whitten Regional Center staffing has risen from an unsustainable 69% of TSL to 80% in July 2019.

DDSN has established a program with SC Department of Education to strategically place DSP certification curriculum in high schools to increase DSP pool and provide career opportunities for high school students upon graduation. A pilot is set to launch in August 2019 at the York County Comprehensive High School (technical school) with Maxibility (York County DSN Board). Twenty-four students are currently enrolled.

- C. Addressed inadequate management information systems undermining proper agency management: DDSN key processes generally lacked relevant, recurring performance data to provide systematic insight into operations. This is a crucial starting point to develop actionable information to identify issues and proactively manage the agency.

During FY19, DDSN solidified the following monthly/quarterly reporting to standup the agency's "1.0" Enterprise Performance Management System (EPM): 1) DDSN Eligibility-IDRD/HASCI/EI; 2) DDSN Eligibility-Autism; 3) Environmental Modifications; 4) Waiver Administrative Division; 5) Waiver Enrollment; 6) HR On-Board Personnel; 7) Regional Center DSP Hiring; 8) Regional Center Budget Execution; 9) Regional Center DSP & Nurse Staffing; 10) Critical Needs List; 11) Residential Placement & Vacancies; 12) Service Utilization; 13) Abuse, Neglect, and Exploitation; 14) Community Provider Performance Matrix; 15) DDSN Eligibility & Consumers Served; 16) INFOSEC Risk Matrix; 17) Facility Capital & Maintenance; and 18) ICF Performance Matrix.

Relevant and organized performance information stimulates a proactive management posture to answer the questions as to where are we and what opportunities/roadblocks do we need to address to get us to where we want to be? DDSN is developing a continuous improvement management mindset, which must be fed relevant, reliable, and recurring performance information to support managers. Quality information is the jet fuel to stimulate substantive change; system change is a marathon and not a sprint.

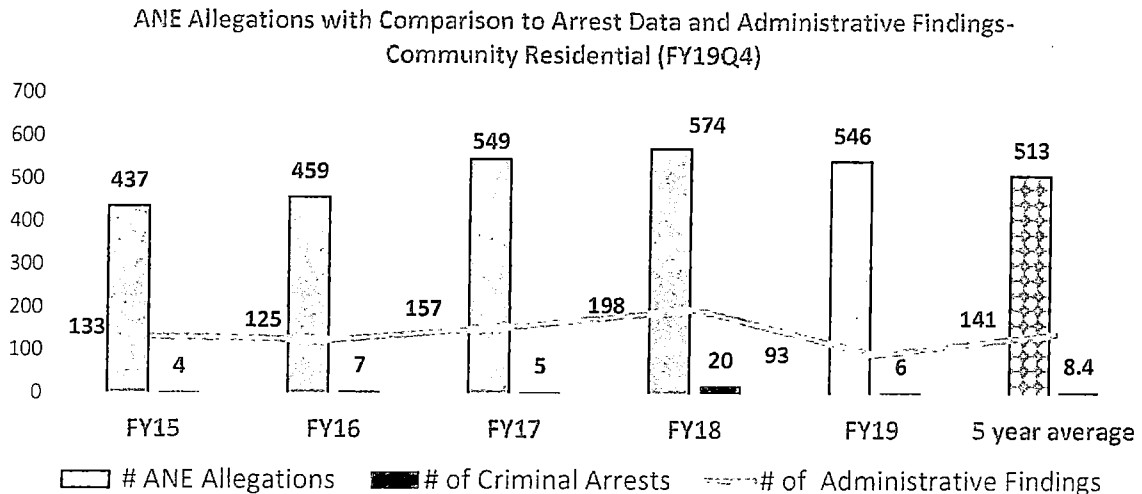
- D. Addressed the inching up of Abuse, Neglect, & Exploitation (ANE) indicators over the past four years: Despite the extensive media coverage on this topic in 2016-2017, the uptick of ANE indicators is not a function of inadequate ANE policies or management deficiencies to keep "predator" employees out of the system. Rather, it is a function of "real world" factors: 1) DSP workforce stress from high turnover, under-staffing, and high overtime; 2) consumer population's increasing behavioral needs; and 3) eroding focus on consistent, quality consumer habilitation.

FY19 initiatives to address include: 1) The General Assembly has graciously supported increasing DSP wages by \$1/hour for the current and prior two years for a total \$3/hour increase. Staffing has improved with high hopes this third \$1/hour raise in FY20 will make a pivotal difference. 2) FY19 emphasized raising higher ANE awareness with feedback reporting to providers, particularly after FY18 experienced a spike in ANE indicators in the residential community. 3) DDSN has completed its first full year of using the "Residential Observation" audit technique where its Quality Improvement Organization (Alliant) makes unannounced visits to 25% of all residential settings (250/year). These Residential Observation results have been positive pertaining to consumers' health and safety indicators. 4) DDSN's participates in an annual national survey (National Core Indicators) with 34 other states released in March

AGENCY NAME:	Department of Disabilities and Special Needs		
AGENCY CODE:	J160	SECTION:	36

2019. DDSN scored well across the board, particularly on the two consumer safety questions, to include the best score in one question (*"Have someone to go to for help if they ever feel scared"*—99% yes).

FY19 ANE residential community indicators all decreased from prior four FYs' increases as illustrated by:



The DSP wage increases and enhanced provider awareness helps, but improving providers' habilitation capabilities most correlates with mitigating ANE risk. DDSN developed a pilot technical assistance and review program. The difference in this new program's pre-review and post-review habilitation quality was substantial. The challenge will be to sustain this improvement overtime, which DDSN will support with additional quarterly reviews until this positive change is solidified. This pilot will be expanded during FY20 to the lower twenty percentile of residential providers. Additionally, DDSN is nearing completion on a new Residential Plan developed collaboratively with providers, which will facilitate a consistent provider planning process stressing proactive consumer habilitation. DDSN has also emphasized "person centered thinking" in all its training, particularly for case managers.

- E. Addressed backlogged DDSN cost reports for period FY13-18: In FY12, SCDHHS set out a new approach for DDSN to calculate its home office overhead costs, pass through SCDHHS rates direct to providers, and a "one-way" cost settlement approach. A normal lag in cost reports while waiting to transition to this new approach has turned into an unhealthy, inordinate delay. The delay in these DDSN reports has undermined refreshing SCDHHS rates. DDSN now has experienced excess Medicaid expenses, which signals opportunities for rate increases. The delay in annual payback settlements to SCDHHS are now aggregating into a sizable contingent liability estimated in the range of \$10 - \$15 million based on the FY16 & 17 cost reports. There has been no planning for the one-way settlement process's impact to minimize the risk of unnecessary cost settlements due to being inconsistent with DDSN's existing capitated payment model.

DDSN completed its FY16 cost report in March 2019. With SCDHHS's partnership, DDSN is digging out of the backlog by outsourcing the cost reports for FYs 13, 14, 15, and 17 to be completed in calendar year 2019. With the fresh cost report data from FYs 16 & 17, DDSN is postured to request an immediate rate increase. Further, its excess Medicaid expense can also support a FY21 legislative budget request increase underpinned by the recent Mercer Rate Report. The move to FFS will significantly reduce the one-way cost settlement risk. Additionally, DDSN recognizes the need for one-way settlements, but will make a business case for applying the one-way settlement process to prior FYs by using aggregate Medicaid costs rather than individual Medicaid service cost settlements to lower cost settlements.

AGENCY NAME:	Department of Disabilities and Special Needs		
AGENCY CODE:	J160	SECTION:	36

- F. Analyzed and develop a plan to address Regional Centers' financial shortages: In FY18, Regional Centers incurred \$1.5 million in deficit spending. Central Office did not have a true understanding of Regional Centers' budget needs; rather, annual budgeting rolled over the prior FY's baseline with general direction to make it work. As a result, Regional Centers were understaffed with excessive delayed maintenance, as well as lacked a management information system to even accurately articulate with precision their deficit issues.

In FY19, an in-depth analysis determined the Regional Centers' revenue generated from consumer Medicaid billings was being diverted to other DDSN operations, most notably community services. Further, a significant portion of the \$4.7 million consumer fees traditionally used for Regional Center capital projects and maintenance was also being diverted to other operations. The solution for Regional Center financial issues is not new legislative budget requests; just restore its adequate revenue streams already in existence. This requires addressing the revenue leakages in the community band payment system from both inefficiencies and justifying SCDHHS residential rate increases.

In FY19, DDSN developed an integrated Regional Center budget reporting tool and clarified roles and responsibilities between Central Office and Regional Centers on budget execution. The Regional Centers proactive management reversed FY18's \$1.5 million deficit and completed FY19 with a \$1.5 million surplus. Formal DSP and nursing target staffing levels (TSL) have been established for the first time, which are currently 88% and 85% of the TSLs for DSP and nursing, respectively. Nursing has marginally improved throughout FY19 supported by a LPN hiring pilot and DSPs have increased 3% due to a net increase in DSP hiring. Delayed maintenance is roughly estimated at \$8.6 million. The highest priority needs include such items as electrical grids at Midlands and Coastal, roofs and HVACs for old buildings, and basic interior upkeep such as flooring, furniture, and equipment. DDSN is currently building a model to better organize its delayed maintenance to match it with available and projected future cash flows to address in an orderly manner.

- G. Addressed over-reliance on state funded settings for difficult to place consumers: During FY19, DDSN reduced state funded consumers served by Wellpath, formerly Correct Care, from 27 to 17 at a net savings of over \$1 million and certainly higher quality conditions in community residential settings. DDSN is in the process to convert 18 state funded juveniles in congregate care settings to either reunite with their families or be served by a Medicaid community residential settings with similar cost savings and better conditions.
- H. Addressed lack of a systematic personnel management program: The vast majority of DDSN personnel did not have performance plans, nor provided annual performance appraisals. DDSN trained its managers on the state's Employee Performance Management System (EPMS), organized all employees to have a "short cycle" EPMS completed in FY19, and now all employees are on the same universal performance review cycle (July 1 to June 30).
- I. Addressed provider communication concerns: DDSN suffered from a tendency of informal, fragmented communications to providers for important guidance and issues, which varied in quality and delivery format (i.e., emails, meetings, and phone calls). Providers were not uniformly receiving this information and often times resulted in different guidance depending on who in the Central Office or District Office responded to a provider's question. To address these concerns, DDSN implemented the following:
- DDSN launched a new process (DDSN Executive Memos) to disseminate important information to community providers using a standardized format, authority level to send, targeted distribution email lists, designated a single point of contact, and a permanent webpage repository.
 - DDSN established four monthly recurring meetings (in-person & skype) based on key topics, as well as a quarterly meeting hosted by the State Director with all provider Executive Directors.



Richland County Fifth Judicial Circuit Public Index



Richland County Home Page [Online Payments](#) [Public Index](#) [City of Columbia Municipal Ct S.C. Judicial Department Summary Ct Dockets](#)

Margaret Mims , plaintiff, et al vs Babcock Center Inc , defendant, et al					
Case Number:	2007CP4003365	Court Agency:	Richland County Common Pleas	Filed Date:	05/29/2007
Case Type:	Common Pleas	Case Sub Type:	Person Inj/Other 399	File Type:	Jury
Status:	Appeal	Assigned Judge:			
Disposition:		Disposition Date:		Disposition Judge:	
Original Source Doc:		Original Case #:		Restore Reason:	Reopened Case
Judgment Number:	2007CP4003365	Court Roster:			

Case Parties Judgments Tax Map Information Associated Cases Actions Financials							
Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents	
Mims, Margaret	NEF(02-03-2020 10:19:18 AM) Order/Protection from Court ...	Filing		02/03/2020-10:19			
Mims, Margaret	Order/Protection from Court Appearance	Order		02/03/2020-10:19			
Mims, Margaret	NEF(01-30-2020 09:20:52 AM) Proposed Order/Protection fr...	Filing		01/30/2020-09:20			
Mims, Margaret	Order/Order Coversheet No Fee	Filing		01/30/2020-09:20			
Mims, Margaret	NEF(12-20-2019 11:37:04 AM) Order/Order Cover Sheet \$25....	Filing		12/20/2019-12:05			
Mims, Margaret	Order/Order Cover Sheet \$25.00	Filing		12/20/2019-11:37			
Butkus, Stanley	NEF(12-09-2019 03:26:30 PM) Notice/Other	Filing		12/09/2019-15:36			
Butkus, Stanley	Notice of Withdraw as Counsel for Defendants	Filing		12/09/2019-15:26			
Mims, Margaret	Appeal/Notice of Appeal to Court of Appeals	Action		09/14/2019-13:59			
Mims, Margaret	NEF(09-13-2019 01:59:31 PM) Appeal/Notice of Appeal to C...	Filing		09/13/2019-13:59			
Mims, Margaret	Letter address to Ms. Kitchings from Attorney Harrison	Filing		09/13/2019-13:59			
Mims, Margaret	Proof Of Service	Filing		09/13/2019-13:59			
Butkus, Stanley	NEF(09-05-2019 04:43:06 PM) Order/Other	Filing		09/05/2019-16:43			
Butkus, Stanley	Order Plaintiffs Motion to Reconsider is DENIED	Order		09/05/2019-16:43			
Butkus, Stanley	NEF(09-04-2019 03:58:40 PM) Order/Order Cover Sheet \$25....	Filing		09/05/2019-08:26			
	Order/Order Cover Sheet \$25.00	Filing					

Butkus, Stanley				09/04/2019-15:58		
Mims, Edward	NEF(08-30-2019 11:58:42 AM) Motion/Alter and/or Amend	Filing		08/30/2019-12:20		
Mims, Edward	Motion To Reconider Alter and/or Amend Order	Motion		08/30/2019-11:58	09/05/2019-11:58	
Butkus, Stanley	NEF(08-22-2019 09:34:14 AM) Order/Compel	Filing		08/22/2019-09:34		
Butkus, Stanley	Order GRANTING Defendants Motion to Extend Scheduling Order	Order		08/22/2019-09:34		
Mims, Edward	NEF(08-12-2019 09:56:08 AM) Motion/Protection Court Appe...	Filing		08/12/2019-10:08		
Mims, Edward	Motion/Protection Court Appearance	Motion		08/12/2019-09:56	08/12/2019-09:56	
Butkus, Stanley	NEF(08-09-2019 12:40:29 PM) Order/Order Cover Sheet \$25....	Filing		08/09/2019-14:57		
Butkus, Stanley	Order/Order Cover Sheet \$25.00	Filing		08/09/2019-12:40		
Butkus, Stanley	NEF(08-06-2019 02:48:46 PM) Order/Order Cover Sheet \$25....	Filing		08/06/2019-16:07		
Butkus, Stanley	Order/Order Cover Sheet \$25.00	Filing		08/06/2019-14:48		
Mims, Margaret	SEPTEMBER 2010 AND PREVIOUS FILING IMAGES	Filing		08/06/2019-13:28		
Plyler, Daniel Clifton	9/3/2019_J1_Roster/Notice of Case Roster Publication Sent	Action		08/05/2019-14:44		
Childs, Robert Clyde III	9/3/2019_J1_Roster/Notice of Case Roster Publication Sent	Action		08/05/2019-14:44		
Davidson, William H. II	9/3/2019_J1_Roster/Notice of Case Roster Publication Sent	Action		08/05/2019-14:44		
Cotter, Leslie A. Jr.	9/3/2019_J1_Roster/Notice of Case Roster Publication Sent	Action		08/05/2019-14:44		
Woodington, Kenneth P.	9/3/2019_J1_Roster/Notice of Case Roster Publication Sent	Action		08/05/2019-14:44		
Harrison, Patricia Logan	9/3/2019_J1_Roster/Notice of Case Roster Publication Sent	Action		08/05/2019-14:44		
Mims, Margaret	ADR/Deferred	Action		07/19/2019-10:30		
Mims, Margaret	NEF(07-08-2019 11:44:55 AM) Motion/Supplement	Filing		07/08/2019-12:33		
Mims, Margaret	Motion/Supplement	Motion		07/08/2019-11:44		
Plyler, Daniel Clifton	7/30/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/01/2019-14:25		
Plyler, Daniel Clifton	7/30/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/01/2019-14:25		
Childs, Robert Clyde III	7/30/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/01/2019-14:25		
Childs, Robert Clyde III	7/30/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/01/2019-14:25		
Davidson, William H. II	7/30/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/01/2019-14:25		
	7/30/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/01/2019-14:25		

[illegible]

[illegible]

Mims, Margaret	Order/Order Cover Sheet \$25.00	Filing		10/22/2018-11:18		
Mims, Margaret	NEF(10-09-2018 12:42:50 PM) Order/Continuance	Filing		10/09/2018-12:42		
Mims, Margaret	Order/Continuance for trial until after 1/22/19	Order		10/09/2018-12:42		
Butkus, Stanley	NEF(10-09-2018 10:24:06 AM) Notice/Notice of Appearance	Filing		10/09/2018-10:24		
Butkus, Stanley	Notice/Notice of Appearance	Filing		10/09/2018-10:24		
Mims, Margaret	NEF(10-08-2018 03:20:11 PM) Order/Order Cover Sheet \$25....	Filing		10/09/2018-08:45		
Mims, Margaret	Order/Order Cover Sheet \$25.00	Filing		10/08/2018-15:20		
Butkus, Stanley	NEF(10-08-2018 02:21:15 PM) Order/Scheduling Order	Filing		10/08/2018-14:21		
Butkus, Stanley	Order/Scheduling Order	Order		10/08/2018-14:21		
Butkus, Stanley	NEF(10-05-2018 01:00:10 PM) Proposed Order/Scheduling Or...	Filing		10/05/2018-14:13		
Butkus, Stanley	Order/Order Cover Sheet \$25.00	Filing		10/05/2018-13:00		
Mims, Margaret	NEF(10-05-2018 11:56:37 AM) Order/Order Cover Sheet \$25....	Filing		10/05/2018-12:09		
Mims, Margaret	Order/Order Cover Sheet \$25.00	Filing		10/05/2018-11:56		
Mims, Edward	NEF(10-04-2018 12:42:42 PM) Notice/Notice of Appearance	Filing		10/04/2018-12:43		
Mims, Edward	Notice/Notice of Appearance	Filing		10/04/2018-12:42		
Butkus, Stanley	NEF(10-01-2018 04:28:49 PM) Order/Continuance	Filing		10/01/2018-16:28		
Butkus, Stanley	Order of Continuance	Order		10/01/2018-16:28		
Butkus, Stanley	NEF(10-01-2018 12:35:01 PM) Proposed Order/Continuance	Filing		10/01/2018-12:50		
Butkus, Stanley	Order/Order Cover Sheet \$25.00	Filing		10/01/2018-12:35		
Butkus, Stanley	NEF(09-28-2018 12:07:53 PM) Notice/Notice of Appearance	Filing		09/28/2018-14:10		
Butkus, Stanley	Notice/Notice of Appearance	Filing		09/28/2018-12:07		
Butkus, Stanley	Motion/Continuance	Motion		09/28/2018-12:07	09/28/2018-12:07	
Mims, Margaret	NEF(09-18-2018 04:16:04 PM) Order/Relieve Counsel	Filing		09/18/2018-16:16		
Mims, Margaret	Order/Relieve Counsel	Order		09/18/2018-16:16		
Mims, Margaret	NEF(09-18-2018 01:02:57 PM) Proposed Order/Relieve Couns...	Filing		09/18/2018-13:11		
Mims, Edward	Order/Order Cover Sheet \$25.00	Filing		09/18/2018-13:02		
Mims, Margaret	NEF(09-06-2018 01:58:41 PM) Notice/Notice of Appearance	Filing		09/06/2018-13:59		
Mims, Margaret	Notice/Notice of Appearance	Filing		09/06/2018-13:58		
Protopapas, Peter Demos	10/8/2018_J1_Roster/Notice of Case Roster Publication Sent	Action		09/04/2018-15:37		
Cotter, Leslie A. Jr.	10/8/2018_J1_Roster/Notice of Case Roster Publication Sent	Action		09/04/2018-15:37		
		Action				

Harrison, Patricia Logan	10/8/2018_J1_Roster/Notice of Case Roster Publication Sent			09/04/2018-15:37		
Woodington, Kenneth P.	10/8/2018_J1_Roster/Notice of Case Roster Publication Sent	Action		09/04/2018-15:37		
Mims, Margaret	NEF(08-10-2018 03:41:51 PM) Order/Other	Filing		08/10/2018-15:42		
Mims, Margaret	SC Court of Appeals Order Affirmed in part, Reversed in part	Order		08/10/2018-15:41		
Mims, Margaret	NEF(08-10-2018 03:39:31 PM) Remittitur From Court Of App...	Filing		08/10/2018-15:39		
Mims, Margaret	Remittitur From Court Of Appeals	Filing		08/10/2018-15:39		
Mims, Margaret	NEF(08-07-2018 10:59:39 AM) Order/Other	Filing		08/07/2018-10:59		
Mims, Margaret	Supreme Court Order Writ of Certiorari is DENIED	Order		08/07/2018-10:59		
Mims, Margaret	SC Court of Appeals Order for time serving the record on app	Order		12/30/2015-11:13		
Mims, Margaret	SC Court of Appeals Partial Remittitur	Order		12/15/2015-10:06		
Woodington, Kenneth P.	Roster/Notice of Case Roster Publication Sent	Action		09/09/2015-12:57	01/21/2014-12:57	
Cotter, Leslie A. Jr.	Roster/Notice of Case Roster Publication Sent	Action		09/09/2015-12:57	01/21/2014-12:57	
Protopapas, Peter Demos	Roster/Notice of Case Roster Publication Sent	Action		09/09/2015-12:57	01/21/2014-12:57	
Harrison, Patricia Logan	Roster/Notice of Case Roster Publication Sent	Action		09/09/2015-12:57	01/21/2014-12:57	
Mims, Margaret	Order DENYING Plaintiff's Motion for Reconsideration	Order		06/03/2014-10:37	01/21/2014-10:37	
SC Dept Of Disabilities & Special Needs	Response in Opposition to Plaintiffs Motion to Alter or Amen	Filing		03/28/2014-12:08	01/21/2014-12:08	
SC Dept Of Disabilities & Special Needs	Deposition Of Leigh Flynn	Filing		02/21/2014-15:18	01/21/2014-15:18	
Mims, Margaret	Motion/Motion Filing Fee	Filing		02/06/2014-16:44	01/21/2014-16:44	
Mims, Margaret	Motion/Motion Filing Fee	Filing		02/06/2014-10:40	01/21/2014-10:40	
SC Dept Of Disabilities & Special Needs	Motion to Correct Clerical Error	Motion		02/06/2014-09:56	02/06/2014-09:56	
Mims, Margaret	Motion to Alter, Amend or Reconsider Judgment	Motion		02/06/2014-09:15	02/06/2014-09:15	
Mims, Margaret	Form 4 Order Defendants' Motion to Correct Clerical Error is	Order		02/04/2014-09:49	01/21/2014-09:49	
Mims, Margaret	Order GRANTING Summary Judgment to Defendants Babcock Center	Order		01/21/2014-09:36	01/21/2014-09:36	
Mims, Margaret	Order GRANTING Motion for Summary Judgment of Defendants Sou	Order		01/21/2014-09:16	01/21/2014-09:16	
Mims, Margaret	Form Order Motion UNDER ADVISEMENT	Order		06/05/2013-15:25	01/21/2014-15:25	
Babcock Center Inc	Memorandum in Support of Motion For Summary Judgment	Filing		06/04/2013-16:52	01/21/2014-16:52	

SC Dept Of Disabilities & Special Needs	Memorandum in Support of Motion For Summary Judgment	Filing		06/03/2013-13:56	01/21/2014-13:56	
Mims, Margaret	Motion/Motion Filing Fee	Filing		05/24/2013-14:23	01/21/2014-14:23	
Mims, Margaret	Motion For Partial Summary Judgment	Motion		05/24/2013-11:02	05/24/2013-11:02	   
Harrison, Patricia Logan	Notice of Case Roster Publication Sent	Action		05/23/2013-11:59	01/21/2014-11:59	
Protopapas, Peter Demos	Notice of Case Roster Publication Sent	Action		05/23/2013-11:59	01/21/2014-11:59	
Cotter, Leslie A. Jr.	Notice of Case Roster Publication Sent	Action		05/23/2013-11:59	01/21/2014-11:59	
Davidson, William H. II	Notice of Case Roster Publication Sent	Action		05/23/2013-11:59	01/21/2014-11:59	
Collins, Joel W. Jr.	Notice of Case Roster Publication Sent	Action		05/23/2013-11:59	01/21/2014-11:59	
Stegmaier, Christian	Notice of Case Roster Publication Sent	Action		05/23/2013-11:59	01/21/2014-11:59	
Woodington, Kenneth P.	Notice of Case Roster Publication Sent	Action		05/23/2013-11:59	01/21/2014-11:59	
Protopapas, Peter Demos	Notice of Motions Roster Publication Sent	Action		05/08/2013-12:24	01/21/2014-12:24	
Protopapas, Peter Demos	Notice of Motions Roster Publication Sent	Action		05/08/2013-12:24	01/21/2014-12:24	
Cotter, Leslie A. Jr.	Notice of Motions Roster Publication Sent	Action		05/08/2013-12:24	01/21/2014-12:24	
Cotter, Leslie A. Jr.	Notice of Motions Roster Publication Sent	Action		05/08/2013-12:24	01/21/2014-12:24	
Davidson, William H. II	Notice of Motions Roster Publication Sent	Action		05/08/2013-12:24	01/21/2014-12:24	
Davidson, William H. II	Notice of Motions Roster Publication Sent	Action		05/08/2013-12:24	01/21/2014-12:24	
Woodington, Kenneth P.	Notice of Motions Roster Publication Sent	Action		05/08/2013-12:24	01/21/2014-12:24	
Woodington, Kenneth P.	Notice of Motions Roster Publication Sent	Action		05/08/2013-12:24	01/21/2014-12:24	
Stegmaier, Christian	Notice of Motions Roster Publication Sent	Action		05/08/2013-12:24	01/21/2014-12:24	
Stegmaier, Christian	Notice of Motions Roster Publication Sent	Action		05/08/2013-12:24	01/21/2014-12:24	
Collins, Joel W. Jr.	Notice of Motions Roster Publication Sent	Action		05/08/2013-12:24	01/21/2014-12:24	
Collins, Joel W. Jr.	Notice of Motions Roster Publication Sent	Action		05/08/2013-12:24	01/21/2014-12:24	
Harrison, Patricia Logan	Notice of Motions Roster Publication Sent	Action		05/08/2013-12:24	01/21/2014-12:24	
Harrison, Patricia Logan	Notice of Motions Roster Publication Sent	Action		05/08/2013-12:24	01/21/2014-12:24	
Mims, Margaret	Motion/Motion Filing Fee	Filing		04/25/2013-10:42	01/21/2014-10:42	
Babcock Center Inc	Motion For Summary Judgment	Motion		04/25/2013-09:37	04/25/2013-09:37	

Mims, Margaret	Motion/Motion Filing Fee	Filing	04/24/2013-11:15	01/21/2014-11:15	
Mims, Margaret	Motion to Withdraw As Counsel	Motion	04/24/2013-10:56	04/24/2013-10:56	
Mims, Margaret	Motion/Motion Filing Fee	Filing	04/17/2013-10:00	01/21/2014-10:00	
SC Dept Of Disabilities & Special Needs	Motion For Summary Judgment	Motion	04/17/2013-08:41	04/17/2013-08:41	
Harrison, Patricia Logan	Notice of Case Roster Publication Sent	Action	04/09/2013-12:05	01/21/2014-12:05	
Collins, Joel W. Jr.	Notice of Case Roster Publication Sent	Action	04/09/2013-12:05	01/21/2014-12:05	
Woodington, Kenneth P.	Notice of Case Roster Publication Sent	Action	04/09/2013-12:05	01/21/2014-12:05	
Stegmaier, Christian	Notice of Case Roster Publication Sent	Action	04/09/2013-12:05	01/21/2014-12:05	
Davidson, William H. II	Notice of Case Roster Publication Sent	Action	04/09/2013-12:05	01/21/2014-12:05	
Cotter, Leslie A. Jr.	Notice of Case Roster Publication Sent	Action	04/09/2013-12:05	01/21/2014-12:05	
Cotter, Leslie A. Jr.	Notice of Case Roster Publication Sent	Action	11/21/2012-16:17	01/21/2014-16:17	
Davidson, William H. II	Notice of Case Roster Publication Sent	Action	11/21/2012-16:17	01/21/2014-16:17	
Stegmaier, Christian	Notice of Case Roster Publication Sent	Action	11/21/2012-16:17	01/21/2014-16:17	
Collins, Joel W. Jr.	Notice of Case Roster Publication Sent	Action	11/21/2012-16:17	01/21/2014-16:17	
Woodington, Kenneth P.	Notice of Case Roster Publication Sent	Action	11/21/2012-16:17	01/21/2014-16:17	
Harrison, Patricia Logan	Notice of Case Roster Publication Sent	Action	11/21/2012-16:17	01/21/2014-16:17	
Mims, Edward	Verification/Verified	Filing	11/02/2012-16:07	01/21/2014-16:07	
Butkus, Stanley	Judgment/Judgment	Judgment	10/17/2012-15:41	01/21/2014-15:41	
Mims, Edward	Judgment/Judgment	Judgment	10/17/2012-15:41	01/21/2014-15:41	
Mims, Edward	Judgment/Judgment	Judgment	10/17/2012-15:40	01/21/2014-15:40	
Lacy, Kathi	Judgment/Judgment	Judgment	10/17/2012-15:40	01/21/2014-15:40	
SC Dept Of Disabilities & Special Needs	Judgment/Judgment	Judgment	10/17/2012-15:40	01/21/2014-15:40	
Mims, Edward	Judgment/Judgment	Judgment	10/17/2012-15:40	01/21/2014-15:40	
South Carolina Dept of Health and Human Services	Judgment/Judgment	Judgment	10/17/2012-15:40	01/21/2014-15:40	
Mims, Edward	Judgment/Judgment	Judgment	10/17/2012-15:40	01/21/2014-15:40	
Mims, Edward	Judgment/Judgment	Judgment	10/17/2012-15:40	01/21/2014-15:40	

Dowling, Susan	Judgment/Judgment	Judgment		10/17/2012-15:40	01/21/2014-15:40	
Mims, Edward	Judgment/Judgment	Judgment		10/17/2012-15:40	01/21/2014-15:40	
Butkus, Stanley	Judgment/Judgment	Judgment		10/17/2012-15:40	01/21/2014-15:40	
Slater, Sue	Judgment/Judgment	Judgment		10/17/2012-15:40	01/21/2014-15:40	
Mims, Edward	Judgment/Judgment	Judgment		10/17/2012-15:40	01/21/2014-15:40	
Mims, Edward	Judgment/Judgment	Judgment		10/17/2012-15:40	01/21/2014-15:40	
Stoxen, Craig	Judgment/Judgment	Judgment		10/17/2012-15:40	01/21/2014-15:40	
Mims, Edward	Judgment/Judgment	Judgment		10/17/2012-15:40	01/21/2014-15:40	
Bradford, Tonya	Judgment/Judgment	Judgment		10/17/2012-15:40	01/21/2014-15:40	
Johnson, Judy	Judgment/Judgment	Judgment		10/17/2012-15:40	01/21/2014-15:40	
Mims, Edward	Judgment/Judgment	Judgment		10/17/2012-15:40	01/21/2014-15:40	
Mims, Edward	Judgment/Judgment	Judgment		10/17/2012-15:40	01/21/2014-15:40	
Babcock Center Inc	Judgment/Judgment	Judgment		10/17/2012-15:40	01/21/2014-15:40	
Mims, Margaret	Judgment/Judgment	Judgment		10/17/2012-12:55	01/21/2014-12:55	
Butkus, Stanley	Judgment/Judgment	Judgment		10/17/2012-12:55	01/21/2014-12:55	
Lacy, Kathi	Judgment/Judgment	Judgment		10/17/2012-12:55	01/21/2014-12:55	
Mims, Margaret	Judgment/Judgment	Judgment		10/17/2012-12:55	01/21/2014-12:55	
Mims, Margaret	Judgment/Judgment	Judgment		10/17/2012-12:55	01/21/2014-12:55	
SC Dept Of Disabilities & Special Needs	Judgment/Judgment	Judgment		10/17/2012-12:55	01/21/2014-12:55	
South Carolina Dept of Health and Human Services	Judgment/Judgment	Judgment		10/17/2012-12:55	01/21/2014-12:55	
Mims, Margaret	Judgment/Judgment	Judgment		10/17/2012-12:55	01/21/2014-12:55	
Mims, Margaret	Judgment/Judgment	Judgment		10/17/2012-12:55	01/21/2014-12:55	
Dowling, Susan	Judgment/Judgment	Judgment		10/17/2012-12:55	01/21/2014-12:55	
Butkus, Stanley	Judgment/Judgment	Judgment		10/17/2012-12:55	01/21/2014-12:55	
Mims, Margaret	Judgment/Judgment	Judgment		10/17/2012-12:55	01/21/2014-12:55	
Mims, Margaret	Judgment/Judgment	Judgment		10/17/2012-12:55	01/21/2014-12:55	
Slater, Sue	Judgment/Judgment	Judgment		10/17/2012-12:55	01/21/2014-12:55	
Mims, Margaret	Judgment/Judgment	Judgment		10/17/2012-12:55	01/21/2014-12:55	
	Judgment/Judgment	Judgment				

Stoxen, Craig				10/17/2012-12:55	01/21/2014-12:55	
Bradford, Tonya	Judgment/Judgment	Judgment		10/17/2012-12:55	01/21/2014-12:55	
Mims, Margaret	Judgment/Judgment	Judgment		10/17/2012-12:55	01/21/2014-12:55	
Mims, Margaret	Judgment/Judgment	Judgment		10/17/2012-12:55	01/21/2014-12:55	
Johnson, Judy	Judgment/Judgment	Judgment		10/17/2012-12:55	01/21/2014-12:55	
Babcock Center Inc	Judgment/Judgment	Judgment		10/17/2012-12:55	01/21/2014-12:55	
Mims, Margaret	Judgment/Judgment	Judgment		10/17/2012-12:55	01/21/2014-12:55	
Mims, Margaret	Order from Supreme Court of SC for Costs	Order		10/17/2012-12:54	01/21/2014-12:54	
Mims, Margaret	SC Supreme Court Order - Circuit Court Ruling REVERSED AND R	Order		09/18/2012-15:20	01/21/2014-15:20	
Mims, Margaret	SC Court of Appeals Order of Dismissal	Order		04/21/2010-09:22	01/21/2014-09:22	
Mims, Margaret	Proof of Service	Filing		03/19/2010-10:47	01/21/2014-10:47	
Mims, Margaret	Amended Notice of Appeal	Filing		03/19/2010-10:46	01/21/2014-10:46	
Mims, Margaret	Appeal/Notice of Appeal	Action		03/10/2010-15:00	01/21/2014-15:00	
Mims, Margaret	Order Plaintiff's Motion to Reconsider is DENIED	Order		02/08/2010-09:44	01/21/2014-09:44	
Mims, Margaret	Certificate of Service	Filing		01/19/2010-15:42	01/21/2014-15:42	
Mims, Margaret	Defendants Babcock Center Inc and Judy Johnson's Memorandum	Filing		01/19/2010-15:41	01/21/2014-15:41	
Johnson, Judy	Certificate/Certificate of Service	Filing		01/14/2010-10:38	01/21/2014-10:38	
Johnson, Judy	Reply to Plaintiff's Motion to Alter or Amend Judgment dated	Filing		01/14/2010-10:37	01/21/2014-10:37	
Harrison, Patricia Logan	Notice of Motions Roster Publication Sent	Action		01/08/2010-16:36	11/23/2009-16:36	
Harrison, Patricia Logan	Notice of Motions Roster Publication Sent	Action		01/08/2010-16:36	11/23/2009-16:36	
Harrison, Patricia Logan	Notice of Motions Roster Publication Sent	Action		01/08/2010-16:36	11/23/2009-16:36	
Harrison, Patricia Logan	Notice of Motions Roster Publication Sent	Action		01/08/2010-16:36	11/23/2009-16:36	
Woodington, Kenneth P.	Notice of Motions Roster Publication Sent	Action		01/08/2010-16:36	11/23/2009-16:36	
Woodington, Kenneth P.	Notice of Motions Roster Publication Sent	Action		01/08/2010-16:36	11/23/2009-16:36	
Harrison, Patricia Logan	Notice of Motions Roster Publication Sent	Action		01/08/2010-16:36	11/23/2009-16:36	
Harrison, Patricia Logan	Notice of Motions Roster Publication Sent	Action		01/08/2010-16:36	11/23/2009-16:36	
Harrison, Patricia Logan	Notice of Motions Roster Publication Sent	Action		01/08/2010-16:36	11/23/2009-16:36	
Collins, Joel W. Jr.	Notice of Motions Roster Publication Sent	Action		01/08/2010-16:36	11/23/2009-16:36	

Cotter, Leslie A. Jr.	Notice of Motions Roster Publication Sent	Action		01/08/2010-16:36	11/23/2009-16:36	
Cotter, Leslie A. Jr.	Notice of Motions Roster Publication Sent	Action		01/08/2010-16:36	11/23/2009-16:36	
Cotter, Leslie A. Jr.	Notice of Motions Roster Publication Sent	Action		01/08/2010-16:36	11/23/2009-16:36	
Cotter, Leslie A. Jr.	Notice of Motions Roster Publication Sent	Action		01/08/2010-16:36	11/23/2009-16:36	
Collins, Joel W. Jr.	Notice of Case Roster Publication Sent	Action		01/08/2010-11:24	11/23/2009-11:24	
Woodington, Kenneth P.	Notice of Case Roster Publication Sent	Action		01/08/2010-11:24	11/23/2009-11:24	
Stegmaier, Christian	Notice of Case Roster Publication Sent	Action		01/08/2010-11:24	11/23/2009-11:24	
Davidson, William H. II	Notice of Case Roster Publication Sent	Action		01/08/2010-11:24	11/23/2009-11:24	
Cotter, Leslie A. Jr.	Notice of Case Roster Publication Sent	Action		01/08/2010-11:24	11/23/2009-11:24	
Harrison, Patricia Logan	Notice of Case Roster Publication Sent	Action		01/08/2010-11:24	11/23/2009-11:24	
SC Dept Of Disabilities & Special Needs	Certificate of Service	Filing		12/07/2009-13:14	11/23/2009-13:14	
SC Dept Of Disabilities & Special Needs	Defendants the South Carolina Department of Disabilities and	Motion		12/07/2009-13:12	12/07/2009-13:12	
Mims, Margaret	Motion/Motion Filing Fee	Filing		12/07/2009-09:56	11/23/2009-09:56	
Mims, Margaret	Motion/Motion Filing Fee	Filing		12/03/2009-16:18	11/23/2009-16:18	
Mims, Margaret	Certificate/Certificate of Service	Filing		12/03/2009-15:14	11/23/2009-15:14	
Mims, Margaret	Motion to Alter or Amend Judgment Dated November 23, 2009	Motion		12/03/2009-15:12	01/08/2010-15:12	
Babcock Center Inc	Certificate/Certificate of Service	Filing		12/03/2009-13:49	11/23/2009-13:49	
Babcock Center Inc	Defendants Babcock Center, Inc and Dr. Judy John's Motion fo	Motion		12/03/2009-12:36	12/03/2009-12:36	
Mims, Margaret	Motion/Motion Filing Fee	Filing		12/03/2009-11:03	11/23/2009-11:03	
Mims, Margaret	Order Granting Motion to Reconsider and Dismiss Action	Order		11/23/2009-16:13	11/23/2009-16:13	
Mims, Margaret	Form Order CONTINUED J/Manning	Order		11/05/2009-11:34	11/23/2009-11:34	
Harrison, Patricia Logan	Notice of Motions Roster Publication Sent	Action		10/12/2009-15:14	11/23/2009-15:14	
Harrison, Patricia Logan	Notice of Motions Roster Publication Sent	Action		10/12/2009-15:14	11/23/2009-15:14	
Harrison, Patricia Logan	Notice of Motions Roster Publication Sent	Action		10/12/2009-15:14	11/23/2009-15:14	
Harrison, Patricia Logan	Notice of Motions Roster Publication Sent	Action		10/12/2009-15:14	11/23/2009-15:14	

[illegible]

Collins, Joel W. Jr.	Notice of Motions Roster Publication Sent	Action		10/12/2009-15:14	11/23/2009-15:14	
Stegmaier, Christian	Notice of Motions Roster Publication Sent	Action		10/12/2009-15:14	11/23/2009-15:14	
Stegmaier, Christian	Notice of Motions Roster Publication Sent	Action		10/12/2009-15:14	11/23/2009-15:14	
Stegmaier, Christian	Notice of Motions Roster Publication Sent	Action		10/12/2009-15:14	11/23/2009-15:14	
Davidson, William H. II	Notice of Motions Roster Publication Sent	Action		10/12/2009-15:14	11/23/2009-15:14	
Davidson, William H. II	Notice of Motions Roster Publication Sent	Action		10/12/2009-15:14	11/23/2009-15:14	
Davidson, William H. II	Notice of Motions Roster Publication Sent	Action		10/12/2009-15:14	11/23/2009-15:14	
Davidson, William H. II	Notice of Motions Roster Publication Sent	Action		10/12/2009-15:14	11/23/2009-15:14	
Woodington, Kenneth P.	Notice of Motions Roster Publication Sent	Action		10/12/2009-15:14	11/23/2009-15:14	
Woodington, Kenneth P.	Notice of Motions Roster Publication Sent	Action		10/12/2009-15:14	11/23/2009-15:14	
Woodington, Kenneth P.	Notice of Motions Roster Publication Sent	Action		10/12/2009-15:14	11/23/2009-15:14	
Woodington, Kenneth P.	Notice of Motions Roster Publication Sent	Action		10/12/2009-15:14	11/23/2009-15:14	
Harrison, Patricia Logan	Notice of Motions Roster Publication Sent	Action		10/12/2009-15:14	11/23/2009-15:14	
Harrison, Patricia Logan	Notice of Motions Roster Publication Sent	Action		10/12/2009-15:14	11/23/2009-15:14	
Mims, Margaret	Certificate/Certificate of Service	Filing		09/25/2009-15:48	11/23/2009-15:48	
Mims, Margaret	Motion for Protective Order and Response to Motion of M. Lei	Motion		09/25/2009-15:46	09/25/2009-15:46	
Mims, Margaret	Motion/Motion Filing Fee	Filing		09/25/2009-11:46	11/23/2009-11:46	
Mims, Margaret	Motion/Motion Filing Fee	Filing		09/11/2009-16:36	11/23/2009-16:36	
Mims, Margaret	Certificate/Certificate of Service	Filing		09/11/2009-09:55	11/23/2009-09:55	
Mims, Margaret	Motion for Protective Order by a Non-Party Deponent, M. Leig	Motion		09/11/2009-09:49	09/11/2009-09:49	
Mims, Margaret	Certificate/Certificate of Service	Filing		09/04/2009-09:01	11/23/2009-09:01	
Mims, Margaret	Defendants Babcock Center, Inc. and Judy Johnson's Memorandu	Filing		09/04/2009-09:00	11/23/2009-09:00	
Mims, Margaret	Defendants Babcock Center, Inc. and Judy Johnson's Motion fo	Motion		08/03/2009-14:34	08/03/2009-14:34	
Mims, Margaret	Motion/Motion Filing Fee	Filing		08/03/2009-13:02	11/23/2009-13:02	
Mims, Margaret	Certificate/Certificate of Service	Filing		08/03/2009-11:30	11/23/2009-11:30	
Mims, Margaret	Defendants Babcock Center Inc. and Judy Johnson's Amended An	Filing		08/03/2009-11:28	11/23/2009-11:28	
Mims, Margaret	Defendants Babcock Center, Inc. and Judy Johnson's Motion fo	Motion		08/03/2009-11:26	01/08/2010-11:26	
Mims, Margaret	Summons and Order of Appointments/Special Referee	Filing		07/31/2009-12:36	11/23/2009-12:36	
	CP Jury Trial Docket - ND	Event				

Mims, Margaret				07/27/2009-09:00	02/08/2010-17:00	
Mims, Margaret	Motion for Protective Order and Motion for Summary Judgment	Event		07/23/2009-15:30	07/14/2009-17:00	
Mims, Margaret	Certificate/Certificate of Service	Filing		07/23/2009-11:08	11/23/2009-11:08	
Mims, Margaret	Defendants Babcock Center, Inc. and Judy Johnson's Amended	Motion		07/23/2009-11:04	11/23/2009-11:04	
Mims, Margaret	Motion/Motion Filing Fee	Filing		07/23/2009-09:33	11/23/2009-09:33	
Mims, Margaret	Certificate/Certificate of Service	Filing		07/21/2009-10:42	11/23/2009-10:42	
Mims, Margaret	Motion for Summary Judgment on behalf of Defendants South Ca	Motion		07/21/2009-10:36	07/21/2009-10:36	
Mims, Margaret	Motion/Motion Filing Fee	Filing		07/21/2009-10:24	11/23/2009-10:24	
Mims, Margaret	Motion for Protective Order Defendants Babcock Center Inc &	Motion		07/14/2009-08:42	07/14/2009-08:42	
Rion, James H. Jr.	Notice of Case Roster Publication Sent	Action		06/24/2009-09:11	11/23/2009-09:11	
Davidson, William H. II	Notice of Case Roster Publication Sent	Action		06/24/2009-09:11	11/23/2009-09:11	
Mims, Margaret	Certificate/Certificate of Service	Filing		06/18/2009-15:05	11/23/2009-15:05	
Mims, Margaret	Motion/Alter and/or Amend	Motion		06/18/2009-15:03	07/23/2009-15:03	
Mims, Margaret	Motion/Information Form	Motion		06/18/2009-15:02	07/23/2009-15:02	
Mims, Margaret	Motion/Motion Filing Fee	Filing		06/18/2009-14:01	11/23/2009-14:01	
Mims, Margaret	Certificate/Certificate of Service	Filing		06/17/2009-14:25	11/23/2009-14:25	
Mims, Margaret	Defendants Babcock Center, Inc. and Judy Johnson's Motion t	Motion		06/17/2009-14:21	07/23/2009-14:21	
Mims, Margaret	Motion/Information Form	Motion		06/17/2009-14:19	07/23/2009-14:19	
Mims, Margaret	Motion/Motion Filing Fee	Filing		06/17/2009-10:49	11/23/2009-10:49	
Mims, Margaret	Summons and Order of Appointment J/Strickland	Filing		06/08/2009-09:52	11/23/2009-09:52	
Mims, Margaret	Order DENYING Defendants' Motion to Dismiss J/Strickland	Order		06/04/2009-09:10	11/23/2009-09:10	
Mims, Margaret	Motion/Protective Order 15 Min	Motion		06/03/2009-15:29	07/23/2009-15:29	
Mims, Margaret	Motion/Motion Filing Fee	Filing		06/03/2009-11:28	11/23/2009-11:28	
Mims, Margaret	Order/Order Filing Fee	Filing		05/14/2009-12:58	11/23/2009-12:58	
Mims, Margaret	Amended Scheduling Order Trial NB 90 Days after 04/21/2009 J	Order		05/14/2009-09:08	11/23/2009-09:08	
Mims, Margaret	Motion/Motion Filing Fee	Filing		05/11/2009-14:40	11/23/2009-14:40	
Mims, Margaret	Certificate/Certificate Of Service	Filing		05/11/2009-11:11	11/23/2009-11:11	
Mims, Margaret	Motion/Protective Order 30	Motion		05/11/2009-10:48	07/23/2009-10:48	
Mims, Margaret	CP Jury Trial Docket - ND	Event		05/11/2009-09:00	07/27/2009-17:00	
Mims, Margaret	Motion/Summary Judgment 30 Min	Motion		05/08/2009-16:14	07/23/2009-16:14	
		Motion				

Mims, Margaret	Motion/Protective Order Defendants Babcock Center Inc & Judy			05/08/2009-16:13	07/23/2009-16:13	
Mims, Margaret	Motion/Motion Filing Fee	Filing		05/08/2009-12:48	11/23/2009-12:48	
Mims, Margaret	Motion/Motion Filing Fee	Filing		05/08/2009-12:48	11/23/2009-12:48	
Mims, Margaret	CP Jury Trial Docket - ND	Event		05/04/2009-09:00	02/12/2009-17:00	
Mims, Margaret	Certificate/Certificate Of Service	Filing		04/20/2009-10:05	11/23/2009-10:05	
Mims, Margaret	Answer/Defendants Babcock Centers Inc & Judy Johnson Answer	Filing		04/20/2009-10:04	11/23/2009-10:04	
Mims, Margaret	Protection for Attorney Patricia Harrison 5/14/09 & 5/18/09	Filing		04/17/2009-15:05	07/27/2009-15:05	
Mims, Margaret	Service/Certificate Of Service	Filing		04/13/2009-15:01	11/23/2009-15:01	
Mims, Margaret	Answer/Answer of SC Dept of Disabilitiex and Special Needs	Filing		04/13/2009-15:00	11/23/2009-15:00	
Mims, Margaret	Motion/Motion Filing Fee	Filing		04/13/2009-12:31	11/23/2009-12:31	
Mims, Margaret	Motion/Motion Filing Fee	Filing		04/13/2009-12:31	11/23/2009-12:31	
Babcock Center Inc	Motion/Motion For Alter Or Amend For Reconsideration 30 MIn	Motion		04/13/2009-09:03	06/03/2009-09:03	
Babcock Center Inc	Certificate/Certificate Of Service	Filing		04/13/2009-08:59	11/23/2009-08:59	
Babcock Center Inc	Motion/Strike 30 Min	Motion		04/13/2009-08:59	11/23/2009-08:59	
Mims, Margaret	Certificate/Certificate Of Service	Filing		04/10/2009-15:43	11/23/2009-15:43	
Mims, Margaret	Motion/Reconsideration Defendants Bancok Center Inc &	Motion		04/10/2009-15:42	06/03/2009-15:42	
Mims, Margaret	Motion/Motion Filing Fee	Filing		04/10/2009-09:47	11/23/2009-09:47	
Mims, Margaret	Form Order Motion to Dismiss DENIED J/Strickland	Order		03/31/2009-13:45	11/23/2009-13:45	
Mims, Margaret	Form Order Plaintiff's 59(e) Motion DENIED J/Manning	Order		03/30/2009-15:01	11/23/2009-15:01	
Mims, Margaret	Motion to Dismiss	Event		03/30/2009-09:30	03/31/2009-17:00	
Harrison, Patricia Logan	Notice of Roster Publication Sent	Action		03/25/2009-16:00	11/23/2009-16:00	
Stegmaier, Christian	Notice of Roster Publication Sent	Action		03/25/2009-16:00	11/23/2009-16:00	
Collins, Joel W. Jr.	Notice of Roster Publication Sent	Action		03/25/2009-16:00	11/23/2009-16:00	
Woodington, Kenneth P.	Notice of Roster Publication Sent	Action		03/25/2009-16:00	11/23/2009-16:00	
Mims, Margaret	Motion/Motion Filing Fee	Filing		03/25/2009-13:40	11/23/2009-13:40	
Mims, Margaret	Motion/Motion For Alter Or Amend 30 Min	Motion		03/25/2009-11:17	07/23/2009-11:17	
Mims, Margaret	Memo/Memo in Support Of Motion To Alter Of Amend	Filing		03/25/2009-08:17	11/23/2009-08:17	
Mims, Margaret	Form Order Motion for CONTINUANCE GRANTED J/Manning	Order		03/12/2009-11:56	11/23/2009-11:56	
Mims, Margaret	Motion to Dismiss	Event		03/09/2009-10:00	03/11/2009-17:00	
Mims, Margaret	CP Jury Trial	Event		01/26/2009-09:00	01/08/2009-17:00	

Mims, Margaret	Form Order Motion to Dismiss CONTINUED J/Strickland	Order		01/23/2009-11:43	11/23/2009-11:43	
Mims, Margaret	Motion to Dismiss	Event		01/22/2009-14:00	02/11/2009-17:00	
Mims, Margaret	Scheduling Order Trial not before 05/04/2009 J/Barber	Order		01/13/2009-15:19	11/23/2009-15:19	
Mims, Margaret	Scheduling Order Trial Not Before 05/04/2009 J/Barber	Order		01/13/2009-11:00	11/23/2009-11:00	
Mims, Margaret	Order/Order Filing Fee	Filing		01/12/2009-16:30	11/23/2009-16:30	
Mims, Margaret	Motion/Motion Filing Fee	Filing		01/08/2009-11:21	11/23/2009-11:21	
Mims, Margaret	Motion/Motion Filing Fee	Filing		01/08/2009-11:21	11/23/2009-11:21	
Mims, Margaret	Certificate/Certificate Of Service	Filing		01/08/2009-09:15	11/23/2009-09:15	
Mims, Margaret	Motion/Continuance	Motion		01/08/2009-09:15	03/09/2009-09:15	
Mims, Margaret	Certificate/Certificate Of Service	Filing		01/08/2009-09:14	11/23/2009-09:14	
Mims, Margaret	Motion/Protective Order	Motion		01/08/2009-09:14	03/09/2009-09:14	
Mims, Margaret	Motion/Dismiss	Motion		10/14/2008-10:51	01/22/2009-10:51	
Mims, Margaret	Form Order CONTINUED J/Milling	Order		10/14/2008-10:50	11/23/2009-10:50	
Mims, Margaret	Motion to Dismiss	Event		10/09/2008-14:00	10/14/2008-17:00	
Mims, Margaret	Motion/Motion Filing Fee	Filing		10/03/2008-16:53	11/23/2009-16:53	
Mims, Margaret	Certificate/Certificate Of Service	Filing		10/03/2008-11:22	11/23/2009-11:22	
Mims, Margaret	Motion/Motion For Request Recusal	Motion		10/03/2008-11:22	01/22/2009-11:22	
Mims, Margaret	Certificate Of Service	Filing		06/11/2008-13:10	11/23/2009-13:10	
Mims, Margaret	Motion/Dismiss 1 Hr	Motion		06/11/2008-13:10	10/09/2008-13:10	
Mims, Margaret	Certificate Of Service	Filing		06/11/2008-13:05	11/23/2009-13:05	
Mims, Margaret	Motion/Dismiss 30 Min	Motion		06/11/2008-13:05	10/09/2008-13:05	
Mims, Margaret	Summons Amended Complaint	Filing		05/07/2008-12:49	11/23/2009-12:49	
Mims, Margaret	CP Notice Mailed	Filing		04/28/2008-00:00	01/26/2009-00:00	
Mims, Margaret	CP Six Months Notice Mailed	Filing		11/30/2007-16:08	11/23/2009-16:08	
	Verified	Filing		05/30/2007-16:17	11/23/2009-16:17	
Mims, Margaret	Summons & Complaint - CP	Filing		05/29/2007-16:51	11/23/2009-16:51	

South Carolina Appellate Case Management System

C-Track, the browser based CMS for Appellate Courts

Appellate Case No. ...

Cases

Case Search

Participant Search

Disclaimer: The information and documents available here should not be relied upon as an official record of action. Only filed documents can be viewed. Some documents received in a case may not be available for viewing. Some documents originating from a lower court, including records and appendices, may not be available for viewing.

Case Information: 2019-001552

Court:	Court of Appeals	Classification:	Appeal - Common Pleas - Other
Short Title:	Estate of Edward Mims v. SCDDSN	Case Status:	Rehearing Denied
	View Full Title		
Consolidated:			
Filed Date:	09/12/2019	Oral Argument Date:	
Disposition Date:	12/05/2019	Disposition Type:	Order
Remittitur Date:			
Lower Court or Tribunal:	Richland (2007CP4003365)		

- Party Information

Appellate Role	Party Name	Former	Attorney(s)
Appellant	Laura M. Cole	N	Patricia Logan Harrison Robert Clyde Childs, III
Respondent	Stan Butkus	N	Kenneth P. Woodington Daniel Clifton Plyler
Respondent	Kathi Lacy	N	Kenneth P. Woodington Daniel Clifton Plyler
Respondent	The South Carolina Department of Disabilities and Special Needs	N	Kenneth P. Woodington Daniel Clifton Plyler

Views

Display:

Event Information

Filed Date	Event Information	Doc
02/05/2020	Rehearing - Denied	
12/20/2019	Rehearing - Petition for Rehearing	
12/05/2019	Dispositional Decision - Order	
10/15/2019	Correspondence - Incoming (In RE: Respondent's Reply Brief)	
10/08/2019	Motion - Reply to return	
10/03/2019	Motion - Return to Respondent's Motion to Dismiss	
10/02/2019	Correspondence - Outgoing (Appealability Correspondence)	
10/01/2019	Correspondence - Incoming (Appealability Correspondence) from Respondent	
09/23/2019	Motion - Dismiss	
09/23/2019	Correspondence - Outgoing (Appealability Inquiry)	
09/19/2019	Transcript Documents - Transcript Ordered	
09/13/2019	Correspondence - Outgoing (Notice of Appeal Initial Letter)	
09/12/2019	Notice of Appeal (Civil) - Initial	

South Carolina Appellate Case Management System

C-Track, the browser based CMS for Appellate Courts

Appellate Case No. ...

Cases

Case Search

Participant Search

Disclaimer: The information and documents available here should not be relied upon as an official record of action. Only filed documents can be viewed. Some documents received in a case may not be available for viewing. Some documents originating from a lower court, including records and appendices, may not be available for viewing.

Case Information: 2014-001373

Court:	Court of Appeals	Classification:	Appeal - Common Pleas - Other
Short Title:	Estate of Edward Mims v. The South Carolina Department of Disabilities View Full Title	Case Status:	Remittitur
Consolidated:			
Filed Date:	06/24/2014	Oral Argument Date:	06/08/2017 10:40 AM
Disposition Date:	02/21/2018	Disposition Type:	Opinion
Remittitur Date:	08/09/2018		
Lower Court or Tribunal:	Richland (2007CP4003365)		

- Party Information

Appellate Role	Party Name	Former	Attorney(s)
Appellant	Edward Mims	N	Patricia Logan Harrison Robert Clyde Childs, III
Respondent	Babcock Center Inc.	Y	Christian Stegmaier (Former) Kerri Brown Rupert (Former) Meghan Hazelwood Hall (Former)
Respondent	Stan Butkus	N	Kenneth P. Woodington William H. Davidson, II
Respondent	Judy Johnson	Y	Christian Stegmaier (Former) Kerri Brown Rupert (Former) Meghan Hazelwood Hall (Former) William H. Davidson, II (Former)
Respondent	Kathi Lacy	N	Kenneth P. Woodington William H. Davidson, II
Respondent	The South Carolina Department of Disabilities and Special Needs	N	Kenneth P. Woodington William H. Davidson, II
Other Participants			
Amicus Curiae	Protection and Advocacy for People with Disabilities, Inc.	N	Kathleen Ashley Warthen Andrew Jefferson Atkins Franchelle C. Millender

Views

Display:

Event Information

Filed Date	Event Information	Doc
08/09/2018	Remittitur - Remittitur Sent	
08/03/2018	Correspondence - Incoming (Copy of Order Denying Petition for Certiorari)	
07/19/2018	Correspondence - Incoming (Copy of Notice of Appearance Filed in Supreme Court)	
05/11/2018	Correspondence - Incoming (Supreme Court Initial Letter)	
05/09/2018	Correspondence - Incoming (Copy of Petition for Certiorari)	
04/13/2018	Rehearing - Denied	
04/12/2018	Correspondence - Incoming (Response to April 11, 2018 Letter)	
04/11/2018	Correspondence - Incoming (Regarding Rule 208(b)(7), SCACR)	
04/03/2018	Rehearing - Reply	
03/30/2018	Rehearing - Return	
03/22/2018	Correspondence - Incoming (Copy of Corrected Petition for Writ of Certiorari filed with Supreme Court)	
03/21/2018	Non-Dispositional Decision - Extension Granted (Return to Petition for Rehearing)	
03/21/2018	Correspondence - Incoming (Order from Supreme Court Dismissing Petition for Writ of Certiorari)	
03/20/2018	Motion - Extension of Time (1st) (Return to Petition for Rehearing)	

03/19/2018	Correspondence - Incoming (Petition for Writ of Certiorari Filed with Supreme Court)
03/08/2018	Rehearing - Petition for Rehearing
02/21/2018	Rehearing - Moot with Substitute Opinion
02/21/2018	Dispositional Decision - Opinion
01/12/2018	Brief - Amicus Reply
12/29/2017	Non-Dispositional Decision - Extension Granted
12/27/2017	Deficiency - Correction (Regarding Amicus Brief and Motion to File Amicus)
12/27/2017	Motion - Extension of Time (1st) (To file return to motion to file amici brief)
12/18/2017	Deficiency - Deficiency Letter Sent (Amicus Brief)
12/18/2017	Deficiency - Deficiency Letter Sent (Motion to File Amicus)
12/18/2017	Rehearing - Reply
12/15/2017	Brief - Amicus
12/15/2017	Motion - File Amici Curiae Brief
12/13/2017	Rehearing - Return
12/04/2017	Motion - Return (Motion to Publish Opinion)
12/04/2017	Non-Dispositional Decision - Extension Granted (Return to Petition for Rehearing)
11/30/2017	Motion - Extension of Time (1st) (regarding return to petition for rehearing)
11/27/2017	Motion - Other Motion (motion to publish opinion)
11/21/2017	Rehearing - Petition for Rehearing
11/08/2017	Dispositional Decision - Opinion Withdrawn due to Order Dated February 21, 2018
09/05/2017	Supplemental Citations - Response (Attorney Woodington)
08/30/2017	Supplemental Citations - Received (Attorney Patricia L. Harrison- for appellant)
06/13/2017	Supplemental Citations - Received
06/08/2017	Oral Argument - Oral Argument Held
06/08/2017	Motion - Return (supplement record)
06/06/2017	Non-Dispositional Decision - Order
06/05/2017	Record - Supplemental (Volume 1)
06/05/2017	Motion - Supplement Record
05/30/2017	Correspondence - Incoming (Signed Acknowledgment)
05/15/2017	Correspondence - Incoming (Signed Acknowledgment)
05/04/2017	Correspondence - Outgoing (Letter - Notice of Oral Argument and Acknowledgement)
05/03/2017	Correspondence - Incoming (Response to Preliminary List)
03/27/2017	Correspondence - Incoming (Response to Preliminary List)
03/23/2017	Correspondence - Incoming (Response to Preliminary List)
03/08/2017	Correspondence - Outgoing (Letter - Conflict Letter for Oral Arguments)
12/22/2016	Correspondence - Incoming (Response to Preliminary List)
12/16/2016	Correspondence - Incoming (Response to Preliminary List)
12/12/2016	Correspondence - Outgoing (Letter - Conflict Letter for Oral Arguments)
11/21/2016	Correspondence - Incoming (Response to Preliminary List)
11/16/2016	Correspondence - Incoming (Response to Preliminary List)
11/10/2016	Correspondence - Outgoing (Letter - Conflict Letter for Oral Arguments)
11/08/2016	Correspondence - Incoming (Response to Preliminary List)
09/01/2016	Correspondence - Incoming (Response to Preliminary List)
09/01/2016	Correspondence - Incoming (Response to Preliminary List)
08/25/2016	Correspondence - Outgoing (Letter - Conflict Letter for Oral Arguments)
08/19/2016	Supplemental Citations - Received
05/25/2016	Final Brief - Briefing and Record Complete
05/03/2016	Deficiency - Correction (labels placed on all documents as corrections)
04/21/2016	Deficiency - Deficiency Letter Sent (respondents' brief)
02/29/2016	Final Brief - Respondent
02/29/2016	Final Brief - Reply
02/29/2016	Final Brief - Appellant

02/25/2016	Record - Record on Appeal Filed
02/09/2016	Motion - Extension of Time (1st) (regarding duplicate set of amended record on appeal)
02/08/2016	Correspondence - Incoming (Email re date of ROA and final briefs)
01/13/2016	Non-Dispositional Decision - Extension Granted (amended record on appeal)
01/07/2016	Motion - Allow Late Filing (for proof of service of an amended record on appeal) Joint Motion
12/23/2015	Record - Proof of Service of Record on Appeal
12/15/2015	Non-Dispositional Decision - Extension Granted
12/09/2015	Deficiency - Correction (motion)
12/09/2015	Motion - Allow Late Filing (record on appeal)
12/07/2015	Remittitur - Partial Remittitur Sent
12/04/2015	Deficiency - Deficiency Letter Sent (motion)
11/25/2015	Motion - Extension of Time (1st) (record on appeal)
11/18/2015	Non-Dispositional Decision - Order (Revised Caption)
10/28/2015	Non-Dispositional Decision - Order (initial reply brief)
10/28/2015	Motion - Other Motion (Caption) (Dismiss a Party)
10/22/2015	Initial Brief - Reply
10/22/2015	Motion - Allow Late Filing (initial reply brief)
09/02/2015	Non-Dispositional Decision - Order
07/22/2015	Motion - Hold in Abeyance (with consent)
07/16/2015	Motion - Other Motion
06/16/2015	Non-Dispositional Decision - Extension Granted
06/11/2015	Motion - Extension of Time (2nd) (appellant)
05/20/2015	Non-Dispositional Decision - Order
05/18/2015	Correspondence - Outgoing
05/15/2015	Designation of Matter - Designation of Matter Filed
05/12/2015	Correspondence - Incoming (notice of appearance) (Kerri Rupert)
05/12/2015	Motion - Allow Late Filing (respondents Babcock, Johnson)
05/12/2015	Initial Brief - Respondent(Babcock Center, Johnson)
04/22/2015	Correspondence - Outgoing
04/22/2015	Non-Dispositional Decision - Extension Granted
04/21/2015	Motion - Return
04/14/2015	Non-Dispositional Decision - Extension Granted
04/13/2015	Motion - Extension of Time (1st) appellant
04/03/2015	Motion - Extension of Time (1st) respondent
04/02/2015	Designation of Matter - Designation of Matter Filed
04/02/2015	Initial Brief - Respondent(DDSN, Lacy, Butkus)
03/09/2015	Initial Brief - Appellant-Amended
02/03/2015	Correspondence - Outgoing (Unbound Originals Letter)
02/02/2015	Non-Dispositional Decision - Order
01/20/2015	Motion - Extension of Time (2nd)
01/20/2015	Designation of Matter - Designation of Matter Filed
01/20/2015	Initial Brief - Respondent (DDSN, Lacy, Butkus)
12/29/2014	Motion - Extension of Time (1st)
12/18/2014	Designation of Matter - Designation of Matter Filed
12/18/2014	Initial Brief - Appellant
12/18/2014	Motion - Allow Late Filing
12/09/2014	Motion - Exceed Page Limit
11/24/2014	Non-Dispositional Decision - Order
11/20/2014	Motion - Allow Late Filing
11/12/2014	Non-Dispositional Decision - Extension Granted
11/05/2014	Motion - Extension of Time (1st)

10/08/2014	Transcript Documents - Transcript Delivered - Direct Appeal	
10/02/2014	Correspondence - Outgoing	
07/17/2014	Deficiency - Correction (Orders challenged on appeal)	
07/17/2014	Deficiency - Correction	
07/07/2014	Deficiency - Deficiency Letter Sent	
07/07/2014	Deficiency - Deficiency Letter Sent	
07/07/2014	Correspondence - Outgoing	
06/24/2014	Transcript Documents - Transcript Ordered	
06/24/2014	Notice of Appeal (Civil) - Initial	

The Supreme Court of South Carolina

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

v.

The South Carolina Department of Disabilities and
Special Needs, Kathi Lacy, and Stan Butkus, Petitioners.

Appellate Case No. 2018-000867

The Honorable G. Thomas Cooper, Jr.
Richland County
Trial Court Case No. 2007CP4003365

ORDER

Based on the vote of the Court, the petition for a writ of certiorari to the court of
appeals is denied.

FOR THE COURT

BY *Shonda L. Shady*
Chief Deputy CLERK

Columbia, South Carolina

August 3, 2018

cc:

Kenneth P. Woodington, Esquire

William H. Davidson, II, Esquire

Patricia Logan Harrison, Esquire

The Honorable Jeanette W. McBride

The Honorable Jenny Abbott Kitchings

DAVIDSON, WREN & PLYLER, P.A.

ATTORNEYS AND COUNSELLORS AT LAW

William H. Davidson, II
Michael B. Wren
Daniel C. Plyler

1611 Devonshire Drive, Second Floor (29204)
Post Office Box 8568
Columbia, South Carolina 29202-8568
Telephone: (803) 806-8222
Facsimile: (803) 806-8855

David A. DeMasters
Brandon M. Briggs
Jonathan M. Riddle

Of Counsel
Kenneth P. Woodington

September 20, 2019

Writer's Email: kwoodington@dml-law.com

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

RE: Estate of Edward James Mims, Laura M. Cole, Personal Representative v. The South Carolina Department of Disabilities and Special Needs, Kathi Lacy, and Stan Butkus
Appellate Case Number: 2019-001552
Civil Action Number: 2007-CP-40-3365
Date of Incident: January 4, 1999
Claim Number: 44654
Our File Number: 104.7785

Dear Ms. Kitchings:

Please find enclosed for filing the original and seven (7) copies of the **Motion to Dismiss Appeal** and **Certificate of Service** in the above referenced matter. Please file the original and return a clocked-in copy to me in the enclosed envelope.

By copy of this letter, I am serving copies on all counsel of record. Thank you for your assistance in this matter.

With highest regards, I am

Sincerely yours,

DAVIDSON, WREN & PLYLER, P.A.



Kenneth P. Woodington

KPW/mss
Enclosures

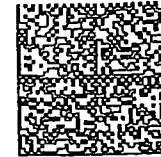
RECEIVED
SEP 23 2019
SC Court of Appeals

The Honorable Jenny Abbott Kitchings
September 20, 2019
Page 2

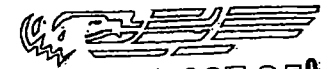
cc: (w/ *Enclosures*)

Patricia L. Harrison, Esquire
47 Rosemond Road
Cleveland, South Carolina 29635

Robert C. Childs, III, Esquire
Childs Law Firm, LLC
2100 Poinsett Highway, Suite D
Greenville, South Carolina 29609



U.S. POSTAGE » PITNEY BOWES



ZIP 29204 \$ 007.85⁰
02 1W
0001400565 SEP. 20. 2019

104.07785

DAVIDSON, WREN & PLYLER, P.A.

Attorneys and Counsellors at Law

Post Office Box 8568
Columbia, South Carolina 29202-8568

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

RECEIVED
SEP 23 2019
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Robert E. Hood, Circuit Court Judge

Case No. 2007-CP-40-3365
Appellate Case No. 2019-001552

RECEIVED
SFP 23 2019
SC Court of Appeals

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.

MOTION TO DISMISS APPEAL

Respondents, the South Carolina Department of Disabilities and Special Needs, Kathi Lacy, and Stan Butkus, hereby move to dismiss this appeal on the ground that the appealed Orders govern only scheduling, discovery and other non-final issues, and are therefore undoubtedly interlocutory. The August 22, 2019 Order and the September 5, 2019 Order denying reconsideration (the latter

referenced in the Notice of Appeal) are both attached hereto. Respondents also request that if this appeal is dismissed, as would appear to be an obvious outcome, the deadlines in the Order under appeal should begin to run as of the date when the dismissal of this appeal becomes final.

FACTS AND PROCEDURAL HISTORY

While this appeal can and should be dismissed under the authority of such cases as *Ex parte Whetstone*, 289 S.C. 580, 347 S.E.2d 881–82 (1986) (order directing a party to participate in discovery is interlocutory and not directly appealable), Respondents submit the following summary of the procedural history of this case in order to show that the present appeal appears to have been taken solely as a continuation of a year's worth of dilatory conduct by counsel for the Plaintiff-Appellant in this case.

By way of background, this action was filed in 2007, complaining of actions that occurred between 2000 and 2005. It was not served until approximately a year later, with the service of an Amended Complaint, causing the Defendants to move to dismiss the case for several different reasons. Eventually, the Supreme Court held in 2012 that the case could proceed, and remanded the case for further proceedings. *Mims ex rel. Mims v. Babcock Center, Inc.*, 732 S.E.2d 395, 396, 399 S.C. 341, 343 (2012).

The Supreme Court's decision became final on September 17, 2012. On April 12, 2013, these Defendants moved for summary judgment.¹ The motion was promptly heard in the circuit court on June 4, 2013. By order filed on January 21, 2014, the circuit court granted summary judgment for the Defendants and dismissed the case. A motion to reconsider filed by Plaintiff was denied by order filed on June 3, 2014.

Plaintiff filed a notice of appeal on June 24, 2014, appealing the grant of summary judgment to the Defendants. A review of the history of the appeal as shown on C-Track indicates that the briefing and record were not complete until May 25, 2016, almost two years later. On November 8, 2017, this Court issued an unpublished decision reversing the dismissal of the action. The present Defendants filed a petition for rehearing, which was granted in part and denied in part. A revised, published opinion was issued on February 21, 2018. *Estate of Mims v. South Carolina Department of Disabilities and Special Needs*, 811 S.E.2d 807, 422 S.C. 388 (Ct. App. 2018). These Defendants then filed a petition for rehearing of that latter decision. The petition was denied on April 13, 2018. Defendants filed a Petition for Certiorari, which was denied on August 3, 2018.

¹ At the time, the Babcock Center and certain persons associated with it were also among the defendants, but those defendants eventually settled and were dismissed.

Shortly thereafter, as a result of certain matters referenced in this Court's opinion, Defendants served Interrogatories and Requests for Production on the Plaintiff on August 13, 2018. Plaintiff's initial responses were served approximately a month late. Soon thereafter, Defendants' counsel advised Plaintiff's counsel in a lengthy letter that the responses were incomplete and unsatisfactory.

To summarize the long story of Plaintiff's counsel's post-remand dilatory conduct and resistance to discovery as briefly as possible, Defendants did not receive complete answers to their August 2018 written discovery requests until the end of May 2019. The complete answers came only after Defendants filed two different motions to compel discovery.

The attempts by Defendants to take depositions of many of the 54 witnesses named by Plaintiff, including 8 purported experts, have been frustrated and delayed even more than the written discovery responses. Because deadlines in then-existing scheduling orders were running out, Defendants noticed a number of depositions even in the absence of full answers to written discovery requests. However, of 16 noticed depositions (8 of which were noticed twice following objections by the Plaintiff's counsel to the first set of notices), only 8 actually took place. Some of the witnesses had reasons of their own for not appearing, but others were not

sufficiently identified by Plaintiff's counsel for them even to be located. Plaintiff's counsel also has been slow to respond to requests for mutually agreeable dates, when they respond at all.

The taking of depositions paused around the middle of March 2019, because all counsel for both sides found themselves heavily engaged in trial preparation in an unrelated federal case, No. 6:16-cv-01174-DCC, *Timpson et al. v. Haley et al.*, which was tried before a jury from May 6 through May 10. That case involved not only the usual level of pretrial preparation for a jury trial of that length, but also two mediations, four pretrial hearings before the United States District Court, and many filings in advance of the trial, including motions in limine, pretrial briefs, proposed verdict forms and proposed jury instructions.

After that trial, and also after a short break in which to allow all counsel to catch up on other matters, one of the counsel for Defendants sent Plaintiff's counsel an e-mail on May 28, 2019, asking that the remaining unanswered interrogatories from August 2018 be answered by May 31. By agreement, those responses were to have been served by mid-April, but they were not served then. Defendants' counsel also asked Plaintiff's counsel agree to a 30-day discovery extension as permitted by the March 22, 2019, Scheduling Order. Plaintiff's counsel, Patricia Harrison, on May 29, 2019, left a voicemail with Defendants'

counsel, which stated in effect that she could not remember making an agreement to provide more complete answers, and that she also could not remember what she was supposed to answer. Plaintiff's counsel also declined to consent to any extension of the discovery period.

The next day Defendants filed a Motion to Compel and to Extend the Deadlines in the Scheduling Order. Late in the evening on May 31, 2019, Plaintiff's counsel served more complete expert discovery responses. However, Plaintiff's counsel still did not consent to extend the discovery period despite the fact that, among other things, their expert discovery responses were a number of weeks overdue and that it had not been possible to take most of the depositions Defendants sought to take.

Shortly thereafter, on June 3, 2019, Defendants' counsel sent document subpoenas to a number of Plaintiff's designated experts, essentially asking them for documents relevant to their opinions in this case as well as documents relevant to billing.² Plaintiff's counsel then filed a motion for protective order on June 17, 2019, claiming, among other things, that the subpoenas were "burdensome," and that "Responses to the subpoenas would require review of more than a decade of records, many of which are not readily accessible." Several other similar objections

² After Plaintiff's counsel complained that the subpoenas were mailed, rather than personally served, Defendants' counsel had them served personally.

were also made. Finally, Plaintiff requested “an order requiring the Chairperson of the South Carolina Disabilities and Special Needs Commission to attend mediation and for the members of the Commission to be informed about the mediation.”

The motions were heard by Judge Robert Hood on July 30, 2019. By order dated August 22, 2019, Judge Hood determined the issues before him as follows:

“1. Defendants’ Motion to Extend Scheduling Order Deadlines by 90 days is GRANTED. . . . Discovery in this case shall conclude 90 days after the date of this Order.

2. Mediation shall occur within 30 days after the close of discovery.

3. If the case is not resolved through mediation, the parties are instructed to contact the Chief Administrative Judge for the purpose of scheduling a date certain trial date.

4. Plaintiff’s Motion for Protective Order regarding the document subpoenas is DENIED. The witnesses must respond to the subpoenas within 15 days of this Order.

5. Finally, Plaintiff’s motion to have certain DDSN officials present at mediation is DENIED.”

8/22/19 Order. Defendants had originally submitted a proposed Order to Judge Hood that discussed in some detail the dilatory conduct of Plaintiff’s counsel in 2018 and 2019. However, when Plaintiff’s counsel asked that the Order be made more summary in nature, Defendants’ counsel agreed, and submitted to Plaintiff’s counsel a proposed Order that contained little more than the conclusions quoted above. Plaintiff’s counsel Robert Childs advised in an e-mail that

Although we do not agree with the Judge's decision and reserve our rights to request reconsideration and appeal, we agree that the revised order most accurately reflects the directives of the trial judge and should be substituted for the previously submitted proposed order. We reserve our right to request that the Judge consider amending the order to give additional time for responses to subpoenas and to request reconsideration or appeal of the same. Thank you for working with us on this.

Defendants' counsel then submitted a much shorter proposed Order, revised and shortened at the request of Plaintiff's counsel, to Judge Hood, who proceeded to sign it on August 22, 2019.

Plaintiff's counsel then took the rather surprising step of filing a motion to reconsider, complaining that the revised Order "did not contain facts and conclusions of law addressing why an additional ninety days of discovery should be allowed under the circumstances set forth in Plaintiffs' motions." This was an extraordinary move on the part of Plaintiff's counsel, given that they themselves had asked for details to be removed from the proposed Order and agreed to the format of it once that was done.

Judge Hood quickly denied the motion to reconsider by Order dated September 5, 2019, and extended the deadlines in the original order so that they ran from the date of the Order denying reconsideration. Four days later, on September 9, 2019, Plaintiff filed the Notice of Appeal that commenced the

present appeal. Defendants' counsel have asked twice how this appeal could possibly not be interlocutory, but Plaintiff's counsel have not provided a substantive response.

ARGUMENT

As noted at the outset of this motion, the Supreme Court in *Ex parte Whetstone*, 289 S.C. 580, 580, 347 S.E.2d 881, 881 (1986) held that “[a]n order directing a party to participate in discovery is interlocutory and not directly appealable under S.C. Code Ann. § 14-3-330 (1976).” *Whetstone* cited two earlier cases, *Patterson v. Specter Broadcasting*, 287 S.C. 249, 335 S.E.2d 803 (1985) and *Lowndes Products, Inc. v. Brower*, 262 S.C. 431, 205 S.E.2d 184 (1974) in support of its conclusions, and has itself been cited many times thereafter. *Whetstone* also held that “an order directing a non-party to submit to discovery is not immediately appealable.” 289 S.C. 580, 580, 347 S.E.2d 881, 881.

To the extent that the Order mentions the persons who need to be present or do not need to be present at mediation, that reference likewise does not make the present Order a final, appealable order. *See, e.g., Short Bros. Const., Inc. v. Korte & Luitjohan Contractors, Inc.*, 828 N.E.2d 754, 756, (Ill. App. 2005)(“a mediation order is an interim order, which does not establish or affect the rights of the parties but preserves them until those rights can be established”); *In re D.C., Jr.*, 2011 WL

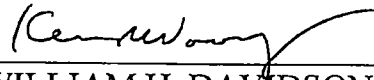
691633 (Tex. App. 2011) (“We have no appellate jurisdiction to review an interlocutory order granting or denying referral of a matter to mediation”).

A review of the August 22, 2019 Order and the September 5, 2019 Order denying reconsideration will show that those Orders were completely interlocutory, involving matters related to scheduling and discovery and to a small extent, mediation. The appeal is not only without substantive merit; Defendants’ counsel are unaware of even a colorable legal basis for this appeal such as would cause it to comply minimally with S.C.R.C.P. Rule 11(a), which provides in part that “The written or electronic signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion or other paper; that to the best of his knowledge, information and belief there is good ground to support it; and that it is not interposed for delay.” (Emphases added.) Instead, and as has been shown above, delay and obstruction have been the *modus operandi* of Plaintiff’s counsel ever since this case was remanded in mid-2018. If Plaintiff’s counsel can show some colorable basis for arguing that the present appeal is not precluded as interlocutory and nonappealable, these Defendants will address such arguments in a reply memorandum. At present, however, it would appear that *Whetstone*, its predecessors and its progeny, dictate that this appeal must be dismissed.

CONCLUSION

For the foregoing reasons, Defendants-Respondents respectfully submit that this appeal should be dismissed. Defendants-Respondents also request that this Court order, or direct the circuit court to order, that the deadlines in the Order under appeal should begin to run as of the date when the dismissal of this appeal becomes final.

DAVIDSON, WREN & PLYLER, P.A.

BY: 
WILLIAM H. DAVIDSON, II
KENNETH P. WOODINGTON
DANIEL C. PLYLER
1611 Devonshire Drive, Second Floor
Post Office Box 8568
Columbia, South Carolina 29202
T: 803-806-8222
F: 803-806-8855
E-Mail: wdavidson@dml-law.com
kwoodington@dml-law.com
dplyler@dml-law.com

ATTORNEYS FOR DEFENDANTS THE
SOUTH CAROLINA DEPARTMENT OF
DISABILITIES AND SPECIAL NEEDS,
KATHI LACY AND STANLEY BUTKUS

Columbia, South Carolina

September 20, 2019

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

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

Civil Action No. 07-CP-40-3365

ORDER

v.

The South Carolina Department of
Disabilities and Special Needs,
Kathi Lacy and Stanley Butkus,
Defendants.

This matter comes before the Court upon a motion for reconsideration filed by Plaintiff. Specifically, Plaintiff's counsel filed a motion for reconsideration on August 30, 2019, asking the undersigned to reconsider the rulings in his August 22, 2019 Order. For the reasons set forth herein, Plaintiff's motion is **DENIED**.

The August 22, 2019 Order addressed two motions. Specifically, that Order denied Plaintiff's "Motion for Protective Order and Other Relief," which was filed by Plaintiff on June 17, 2019, as well as Plaintiff's "supplement" to that motion, which was filed by Plaintiff July 8, 2019. The August 22, 2019 Order also granted Defendants' "Motion to Compel Discovery and for Extension of Scheduling Order Deadlines," which was filed by Defendants on May 30, 2019.

As was stated in the August 22, 2019 Order, the Court held a hearing, on July 30, 2019, on Plaintiff's "Motion for Protective Order and Other Relief" and Defendants' "Motion to Compel Discovery and for Extension of Scheduling Order Deadlines." At that hearing the Court heard and considered the arguments from all parties with regards to both motions, and subsequently the Court decided to deny Plaintiff's motion in its entirety, and to grant Defendants' motion. Plaintiff's counsel

subsequently filed a "Motion to Reconsider, Alter or Amend," and Plaintiff states said motion is based on Rules 52 and 59(e), SCRCP. Plaintiff proceeds to alleged that the August 22, 2019 Order "did not address all of the issues and arguments raised by the Estate." *See*, Motion at pg. 2.

The undersigned has carefully and fully reviewed the Motion to Reconsider, Alter or Amend and hereby **DENIES** that motion. First, the Court is not required to set forth, on interlocutory Orders, specific findings of fact and/or conclusions of law. The August 22, 2019 Order is not a final Order or Judgment, and therefore Rules 52 and 59(e), SCRCP are not applicable to that Order. Therefore, for that reason alone, Plaintiff's motion can be, and hereby is, **DENIED**.

Furthermore, to the extent Plaintiff is asking the Court to reconsider its ruling contained in the August 22, 2019 Order, the Court finds Plaintiff has failed to make the requisite showing for why the Court should reconsider, alter or amend its ruling. The Court's August 22, 2019 Order makes it clear the Court considered all arguments made by Plaintiff's counsel in Plaintiff's written submissions, as well as at the oral argument on the motions in question. Having heard and considered those arguments, the Court decided to deny, in its entirety, Plaintiff's "Motion for Protective Order and Other Relief." Additionally, the Court decided to grant, in its entirety, Defendants' "Motion to Compel Discovery and for Extension of Scheduling Order Deadlines." The Court reiterates said rulings, with the following *caveat*.

Due to the delay in moving discovery forward in this case caused by Plaintiff's filing of the herein denied motion for reconsideration, the Court hereby Orders that the Scheduling Order in this matter shall be further modified as follows:

1. Discovery in this case shall conclude 90 days after the date this Order is signed and filed.
2. The witnesses must respond to Defendants' subpoenas within 15 days of this Order.

AND IT IS SO ORDERED.

The Honorable Robert E. Hood
Judge, Fifth Judicial Circuit

Columbia, South Carolina

September _____, 2019



Richland Common Pleas

Case Caption: Margaret Mims , plaintiff, et al vs Babcock Center Inc , defendant,
et al
Case Number: 2007CP4003365
Type: Order/Other

So Ordered

s/ R.E. Hood #2164

Electronically signed on 2019-09-05 15:36:56 page 4 of 4

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
	)	
Estate of Edward James Mims,	)	
Laura M. Cole, Personal Representative,	)	Civil Action No. 07-CP-40-3365
	)	
Plaintiff,	)	
	)	
v.	)	ORDER
	)	
The South Carolina Department of	)	
Disabilities and Special Needs,	)	
Kathi Lacy and Stanley Butkus,	)	
	)	
Defendants.	)	
_____	)	

This case came before the Court for a hearing on July 30, 2019 regarding two motions. On May 30, 2019, Defendants filed a Motion to Compel Discovery and for Extension of Scheduling Order Deadlines. On June 17, Plaintiff filed a Motion for Protective Order and for Other Relief. After hearing argument from both sides, the Court GRANTS Defendants' motion and DENIES Plaintiff's motion as follows:

1. Defendants' Motion to Extend Scheduling Order Deadlines by 90 days is GRANTED. This will necessarily remove this case from the September 3, 2019 trial roster. Discovery in this case shall conclude 90 days after the date of this Order.
2. Mediation shall occur within 30 days after the close of discovery.
3. If the case is not resolved through mediation, the parties are instructed to contact the Chief Administrative Judge for the purpose of scheduling a date certain trial date.
4. Plaintiff's Motion for Protective Order regarding the document subpoenas is DENIED. The witnesses must respond to the subpoenas within 15 days of this Order.
5. Finally, Plaintiff's motion to have certain DDSN officials present at mediation is DENIED.

AND IT IS SO ORDERED.

The Honorable Robert E. Hood
Judge, Fifth Judicial Circuit

Columbia, South Carolina

August _____, 2019



Richland Common Pleas

Case Caption: Margaret Mims , plaintiff, et al vs Babcock Center Inc , defendant,
et al
Case Number: 2007CP4003365
Type: Order/Scheduling Order

So Ordered

s/ R.E. Hood #2164

Electronically signed on 2019-08-21 15:40:03 page 3 of 3

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Robert E. Hood, Circuit Court Judge

Case No. 2007-CP-40-3365
Appellate Case No. 2019-001552

RECEIVED
SEP 23 2019
SC Court of Appeals

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.

CERTIFICATE OF SERVICE

The undersigned employee of Davidson, Wren & Plyler, P.A., attorneys for the Respondents, does hereby certify that service of the **Motion to Dismiss Appeal** in the above referenced action was made upon all counsel of record by placing copies in the United States Mail, first class postage prepaid, at the below listed addresses clearly indicated on said envelopes this the 20th day of September, 2019:

Certificate of Service-Motion to Dismiss Appeal
Appellate Case No. 2019-001552
Page Two

Patricia L. Harrison, Esquire
47 Rosemond Road
Cleveland, South Carolina 29635

Robert C. Childs, III, Esquire
Childs Law Firm, LLC
2100 Poinsett Highway, Suite D
Greenville, South Carolina 29609


Melissa S. Segear

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Robert E. Hood, Circuit Court Judge

Case No. 2007-CP-40-3365
Appellate Case No. 2019-001552

RECEIVED
OCT 08 2019
SC Court of Appeals

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.

**REPLY MEMORANDUM IN SUPPORT OF MOTION TO DISMISS
APPEAL**

On September 20, 2019, Respondents, the South Carolina Department of Disabilities and Special Needs, Kathi Lacy, and Stan Butkus, moved to dismiss this appeal on the ground that the appealed Orders govern only scheduling, discovery and other non-final issues, and are therefore undoubtedly interlocutory. That

motion received by this Court on September 23, 2019, the same day that this Court wrote the parties, noting that the order(s) challenged on appeal might not be immediately appealable, and requesting the parties to file memoranda on the issue of appealability. On October 3, 2019, Appellant filed and served a response to Respondents' motion. The present Reply is being filed in order to address the dearth of legal authority in Appellant's response, as well as to address several misstatements of fact in that response.

ARGUMENT

1, Appellant's assertions of appealability are unsupported by any pertinent legal authority.

Appellant cites no pertinent authority for its assertion that the discovery and scheduling orders in this case are immediately appealable. Instead, Appellant cites three categories of cases, none of which is applicable here.

The first category, represented by *Hollman v. Woolfson*, 384 S.C. 571, 683 S.E.2d 495 (2009), involves situations where the issue sought to be appealed would be effectively mooted or vitiated if an appeal were not permitted. *Hollman* involved an order permitting interviews with third party patients, which if permitted to stand would moot any subsequent challenge on appeal to the discovery and also would adversely affect the "significant public interest" in the privacy rights of the patients. Also cited by Appellant, and also in this category of

cases, is *Laffitte v. Bridgestone Corp.*, 381 S.C. 460, 674 S.E.2d 154 (2009), a case involving discovery of trade secrets. No claim is made in this case that the requested disclosure of information would become moot if not reviewed by an appellate court prior to its disclosure, and there is likewise no plausible claim of an adverse effect on the public interest.

The second category, represented by *Oncology & Hematology Assocs. of S.C., LLC v. S.C. Dep't of Health & Envtl. Control*, 387 S.C. 380, 692 S.E.2d 920, (2010), involves the rare situation in which the requested discovery was grossly out of line with the needs of the case. *Oncology & Hematology Assocs.* was a Certificate of Need case involving only the relocation of a linear accelerator to a different location. Despite this limited nature of the issue in the case, the party opposing the CON “took a shotgun approach and sought virtually all information concerning every facet of [the applicant’s] operation,” a practice which the Supreme Court deemed “abusive and beyond the pale.” 387 S.C. at 383, 385, 692 S.E.2d at 922, 924.

In the present case, however, the subpoenas duces tecum to which Appellant objected, issued to five persons listed by Appellant as potential trial expert witnesses, sought only routine information: documents prepared by them or reviewed by them that relate to this case and their opinions in this case. (The

subpoenas are attached as Exhibit 2 to Appellant's response.) Requests for such information are completely routine, and Appellant cites no authority that would preclude discovery of this information. Indeed, the only thing that is "beyond the pale" in the present situation is that Appellant would go to such extreme lengths in opposing routine discovery.¹

The third category of cases is represented by *Hagood v. Sommerville*, 362 S.C. 191, 197, 607 S.E.2d 707, 710 (2005), in which a motion to disqualify a party's attorney in a civil case was held to affect a substantial right and therefore could be immediately appealed under S.C. Code Ann. § 14-3-330(2). However, the Supreme Court has held that "discovery orders, in general, are interlocutory and are not immediately appealable because they do not, within the meaning of the appealability statute, involve the merits of the action or affect a substantial right. *Grosshuesch v. Cramer*, 377 S.C. 12, 30, 659 S.E.2d 112, 122 (2008)

In an attempt to claim that a substantial right is affected, Appellant asserts, citing no evidence, that it "risks the loss of some if not all of [its] expert witnesses." Response at 12. Again, however, the information sought from the listed

¹ While no South Carolina case directly in point has been located, it is generally held elsewhere that "a party does not have standing to challenge a subpoena issued to a nonparty unless the party claims some personal right or privilege in the information sought by the subpoena." *United States v. Idema*, 118 F. App'x 740, 744 (4th Cir. 2005). There is no suggestion that Appellant has any such personal right or privilege in the matters subpoenaed documents.

experts is routine, and Appellant cites nothing to support its claim that production of the requested information would be unduly burdensome, much less so burdensome that the present orders should be immediately appealable. In fact, one of the purported experts, Mary Katherine Bagnal, has already responded to the subpoena, stating she has no records to produce, and that her only interaction with Mr. Mims was a "Visitor's Report" she prepared back in 2005.² Her response took her one phone call and one email. Clearly this is not the sort of "unduly burdensome" task Appellant's counsel is claiming it to be.

Appellant also makes the novel assertion that it has "a substantial right to have litigation decisions made by the governing board of the agency that provided him services. . . ." Response at 12-13. However, statutory law is directly contrary to this claim. It is undisputed that the claims against DDSN are covered by the Insurance Reserve Fund, a branch of the Fiscal Accountability Authority. S.C. Code Ann. § 1-11-140(A) provides that the Authority, *i.e.*, the Insurance Reserve Fund, "has the exclusive control over the investigation, settlement, and defense of claims against the various entities and personnel for whom it provided insurance coverage and may promulgate regulations in connection therewith." (Emphases

² See, Exhibit 1.

added.) That authority includes the power to determine how discovery should be conducted in litigation.

2. Appellant's response misstates the history of this case.

Appellants' response misleadingly and incorrectly asserts that "Respondents had not taken any depositions when this decade-old case appeared as number two on the trial docket two months after this Court remitted the case to the trial court in 2018." Response at 2. In fact, prior to the 2014 appeal in this case, Respondents took enough depositions to support the filing of a motion for summary judgment, which was then granted by the circuit court, although reversed by this Court. And while Respondents did not immediately resume taking depositions once the case was remanded in 2018, Respondents did quickly serve written discovery requests once the case was remanded. As previously discussed in the Motion to Dismiss Appeal, it took a number of months and two motions to compel discovery before complete answers to those requests were finally received.

Appellant characterizes the five expert document subpoenas as "extremely onerous and requir[ing] the non-party witnesses to answer questions and to locate documents more than a decade old." Response at 3. However, as noted above, the subpoenas merely requested the information reviewed or prepared by the experts in

formulating their opinions. Nothing was requested that the experts should not have already had available if they were going to testify.

Two of the purported experts were former DDSN Commissioners who voluntarily agreed to testify on behalf of the Appellant and against DDSN in this case. Appellant makes a completely illogical argument or inference that since three other DDSN Commissioners resigned in the Summer of 2019, which happens to be after the subpoenas in this case were served, their resignations must have occurred out of concerns that they also might have their records subpoenaed by DDSN in this lawsuit. Response at 6, 9-10. However, none of those Commissioners have been named by Appellant as expert witnesses, which means that there would be no occasion for subpoenas to issue to them. This *non sequitur* of an argument is therefore specious.³

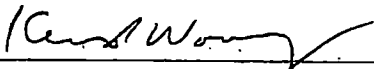
CONCLUSION

For the foregoing reasons, Defendants-Respondents respectfully submit that this appeal should be dismissed. Defendants-Respondents also request that this Court order, or direct the circuit court to order, that the scheduling deadlines in the

³ Appellant also appears to argue that the Notice of Appeal in this case should be treated as a petition for some unspecified form of extraordinary writ. Response at 13-15. First of all, no such petition has actually been filed. In any event, however, Appellant has made no showing of irreparable harm or other special circumstances that would support the issuance of an extraordinary writ.

Order under appeal should begin to run as of the date when the dismissal of this appeal becomes final.

DAVIDSON, WREN & PLYLER, P.A.

BY: 
WILLIAM H. DAVIDSON, II
KENNETH P. WOODINGTON
DANIEL C. PLYLER
1611 Devonshire Drive, Second Floor
Post Office Box 8568
Columbia, South Carolina 29202
T: 803-806-8222
F: 803-806-8855
E-Mail: wdavidson@dml-law.com
kwoodington@dml-law.com
dplyler@dml-law.com

ATTORNEYS FOR DEFENDANTS THE
SOUTH CAROLINA DEPARTMENT OF
DISABILITIES AND SPECIAL NEEDS,
KATHI LACY AND STANLEY BUTKUS

Columbia, South Carolina

October 4, 2019

*Estate of Edward James Mims, Laura M. Cole, Personal Representative v. The South Carolina
Department of Disabilities and Special Needs, Kathi Lacy, and Stan Butkus*
Appellate Case Number: 2019-001552

Exhibit 1

Reply Memorandum in Support of Motion to Dismiss Appeal

From: Daniel C. Plyler
To: Kenneth P. Woodington; Melissa S. Segear
Subject: Fwd: Mims
Date: Monday, September 16, 2019 1:31:33 PM

Sent from my iPhone

Begin forwarded message:

From: Mary Katherine Bagnal <Mkbagnal@seniormatters.com>
Date: September 16, 2019 at 1:06:30 PM EDT
To: "dplyler@dml-law.com" <dplyler@dml-law.com>, "tharrison@loganharrisonlaw.com" <tharrison@loganharrisonlaw.com>
Subject: Mims

Dear Mr. Plyler:

This is in response to a second request for information which I have already submitted.

Please be advised that the only interaction I had with Mr. Edward Mims was a Visitor's Report requested by the Richland County Probate Court which should be included in the record.

Please note that we are not required to hold client information more than 7 years and this request exceeds that time period.

Respectfully,
Mary Katherine Bagnal, MSW, CMC, NCG

[Online Services](#) | [Agency Listing](#)[Recent News](#)[Contact Us](#)[Careers](#)[Applying for Services](#)[Translate Site](#)

South Carolina

Department of Disabilities and Special Needs



Menu

[About Us](#)[Services](#)[Providers](#)[Contact](#)[Home](#) » [About Us](#) » Commission

Commission

DDSN is governed by a seven-member Commission appointed by the Governor with the advice and consent of the Senate. A Commission member is appointed from each of the state's seven Congressional districts.

District 1

Mr. Barry D. Malphrus

Commission Members

[Meeting
Schedule](#)[Meeting
Notices](#)

6036 Vaux Road

Beaufort, SC 29906

(843) 525-6359

bdmcommissioner@outlook.com

[Meeting
Minutes](#)

[Commission
Policies and
Documents](#)

[Commission
Meeting
Videos](#)

[Live Stream
The Current
Commission
Meeting](#)

District 2

Ms. Lorri Unumb

863 Corley Mill Road

Lexington, SC 29072

(803) 520-8080

lnumbDDSN@gmail.com

District 3

Mr. David L. Thomas

23 Wade Hampton Boulevard

Greenville, SC 29609

(864) 271-1707

David@DavidThomasLawFirm.com

District 4

Ms. Robin B. Blackwood

222 East Park Ave

Greenville, SC 29601

864-905-2444

DDSNcommissioner@gmail.com

District 5

Mr. Gary C. Lemel

936 Ashford Way

Fort Mill, SC 29708

(803) 325-7673

glemelddsn@gmail.com

District 6

Vacant

District 7

Vacant

[Job Opportunities](#)

[Resource Links](#)

[Transparency](#)

[Report Abuse, Neglect, or Exploitation of persons supported by DDSN](#)

[Submit Complaint about State Agency Children's Services \(1-800-206-1957\)](#)

[Competency to Stand Trial](#)

[Freedom of Information Act \(FOIA\)](#)

[Notice of Privacy Practices](#)

[Report Fraud, Waste, Abuse, Mismanagement, or Misconduct](#)

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

MINUTES

February 15, 2018

The South Carolina Commission on Disabilities and Special Needs met on Thursday, February 15, 2018, at 10:00 a.m. at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present:

Eva Ravenel, Chairman
Gary Lemel – Vice Chairman
Mary Ellen Barnwell – Secretary
Sam Broughton, Ph.D.
Chris Neeley
Vicki Thompson

Absent:

Lorri Unumb

DDSN Administrative Staff

Mr. Pat Maley, Interim State Director; Mr. David Goodell, Associate State Director, Operations; Mr. Tom Waring, Associate State Director, Administration; Mrs. Susan Beck, State Director, Policy; Ms. Tana Vanderbilt, General Counsel (For other Administrative Staff see Attachment 1 – Sign In Sheet).

Guests

(See Attachment 1 Sign-In Sheet)

Coastal Regional Center (via videoconference)

Georgetown County DSN Board

(See Attachment 3 Sign-In Sheet)

Pee Dee Regional Center (via videoconference)

(See Attachment 4 Sign-In Sheet)

Pickens County DSN Board (via videoconference)
(See Attachment 5 Sign-In Sheet)

Whitten Regional Center (via videoconference)
(See Attachment 6 Sign-In Sheet)

Jasper County DSN Board (via videoconference)

News Release of Meeting

Chairman Ravenel called the meeting to order and Commissioner Barnwell read a statement of announcement about the meeting that was mailed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Invocation

Commissioner Ravenel gave the invocation.

Adoption of the Agenda

The Commission adopted the February 15, 2018 Meeting Agenda by unanimous consent. (Attachment A)

Introduction of New Commission Members

Commissioner Ravenel introduced and welcomed the newest Commission Member, Mr. Chris Neeley representing District 4. Commissioner Ravenel also read resolutions for both outgoing Commissioners Danielson and Fayssoux.

Approval of the Minutes of the December 14, 2017 Commission Meetings

The Commission approved the December 14, 2017 Commission Meeting minutes by unanimous consent.

Public Input

The following individuals spoke during Public Input: Deborah McPherson and Beth Bunge.

Commissioners' Update

Commissioner Thompson spoke of an event in her district.

State Director's Report

Pat Maley reported on the following:

The Silver Palmetto Award

Governor's Proclamation – (Attachment B)

Presentation to the House Oversight Committee

The new process of the Environmental Modification Program

High Management Housing

Employment Showcase

Commissioner Lemel along with Ms. Mary Poole and members of her staff shared a presentation showcasing York Coffee Roastery, a MaxAbilities of York County mission to develop a non-Medicaid funding stream that will support 21 year olds as they exit high school to help them develop marketable skills and build a resume. Samples of their coffee beans were also shared. (Attachment C)

Waiting List Reduction Efforts

Mrs. Beck provided an update on the Waiting List Reduction Efforts. Ms. Beck stated the climate is good working with DHHS, communication is improving and staff is working with case managers to aid in not keeping persons in pending status. Discussion followed regarding critical needs. (Attachment D)

Quarterly Quality Management Report

Mr. Maley provided a detailed presentation sharing a collection of data relating to critical incidents and ANE. Discussion followed. Mr. Maley stated past data would be reviewed to understand where we are in measuring results (Attachment E)

Global Analysis of Home and Community Based Setting (HCBS) Final Rule Site Assessment Results

Mrs. Beck spoke of the communication that went out to the provider network January 31, 2018 regarding the HCBS Assessment Data. Non-residential settings must be compliant by March 17, 2022. Residential settings must be in compliance by December 31, 2018, but more challenging geographical compliance (co-location of settings) was extended a deadline of March 17, 2022. Upcoming information will be shared and technical assistance will be provided. (Attachment F)

Provider Contract Increases

Mr. Waring presented information for the amendment of the Fiscal Agent Services contract to Charles Lee Cente-414-requesting approval to increase the contract by \$317,151 for a total award of \$ 5,024,151. On motion of

Commissioner Neeley, seconded and passed, the Commission approved the increase as presented. Mr. Waring also presented information for the amendment of the Fiscal Agent Services contract to the Jasper County DSN Board to increase the contract by \$1,000,000 for a total award of \$6,355,000. On motion of Commissioner Broughton, seconded and passed, the Commission approved the increase as presented. (Attachment G)

Whitten Center Easement Request

Mr. Waring presented information on the Whitten Center easement. On motion of Commissioner Broughton, seconded and passed, the Commission approved the Whitten Center easement as presented. (Attachment H)

FY 2018-2019 Budget Update

Mr. Waring provided a detailed update on the agency's nine budget request items as presented by the Governor in his Executive Budget. Priority nine was partially funded at \$200,000 an increase in Access to Post-acute Rehabilitation that is Specialized for Traumatic Brain or Spinal Cord Injuries. Mr. Waring explained the next steps of the budget process. Commissioners requested staff to look at how the agency will deal with the other budget priorities that are not funded so that there will not be a repeat of the ICF rate issue. (Attachment I)

Financial Update

Mr. Waring provided an overview of the agency's financial activity through January 31, 2018 and the agency's current financial position. A SCEIS report reflecting budget versus actual expenditures through January 2018 was presented as well as an Analysis of Expenditures July 1, 2017 through December 31, 2017 for the Regional Centers. (Attachment J)

Mid-Year Spending Plan Review

Mr. Waring gave an update of the Mid-year Spending Plan that the Commission approved in December. Discussion followed. The Commission requested a breakdown of the Administration increase. (Attachment K)

Update on CPIP Projects

Mr. Waring provided an update on the CPIP projects that included an update on the generator needs project. (Attachment L)

Capital Improvement Interim Project

Mr. Waring presented information on a bid for roof repairs at the Coastal Center Highlands Dorm 310. Discussion followed. It was requested the accurate square footage of the dorm be provided (actual footage is 11,178

square feet). On motion of Commissioner Thompson, seconded and passed, the Commission approved the bid of \$280,000 as presented. (Attachment M)

ICF Band Increase and Statewide Funding

Mr. Maley presented information requesting Commission approve increasing annual Community ICF funding by \$3,675,131 effective February 1, 2018. Discussion followed with Mr. Maley stating the funding would come from the Band A's that are sitting idle. On motion of Commission Broughton, seconded and passed, the Commission approved increasing the annual Community ICF funding by \$3,675,131 effective February 1, 2018. (Attachment N)

Executive Session

On motion of Commissioner Broughton, seconded and passed, the Commission entered into Executive Session to discuss a contractual matter regarding Mentor.

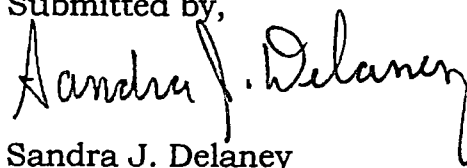
Enter into Public Session

The Commission entered into Public Session. It was noted that no action was taken in the Executive Session.

Next Regular Meeting

March 15, 2018 to be held at the DDSN Central Office.

Submitted by,



Sandra J. Delaney

Approved:



Commissioner Mary Ellen Barnwell
Secretary

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS**A G E N D A**

**South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 251
Columbia, South Carolina**

February 15, 2018**10:00 A.M.**

1. Call to Order *Chairman Eva Ravenel*
2. Welcome - Notice of Meeting Statement *Commissioner Mary Ellen Barnwell*
3. Invocation *Commissioner Eva Ravenel*
4. Introduction of Guests
5. Adoption of Agenda
6. Introduction of New Commission Members *Chairman Eva Ravenel*
7. Approval of the Minutes of the December 14, 2017 Commission Meeting
8. Public Input
9. Commissioners' Update *Commissioners*
10. State Director's Report *Mr. Pat Maley*
11. Business:
 - A. Employment Showcase *Commissioner Gary Lemel*
Mrs. Mary Poole
Executive Director
MaxAbilities of York County
 - B. Waiting List Reduction Project Report *Mrs. Susan Beck*
 - C. Quarterly Quality Management Report *Mrs. Susan Beck*
 - D. Global Analysis of Home and Community Based
Setting (HCBS) Final Rule Site Assessment Results *Mrs. Susan Beck*
 - E. Provider Contract Increases *Mr. Tom Waring*
 - F. Whitten Center Easement Request *Mr. Tom Waring*
 - G. FY 2018-2019 Budget Update *Mr. Tom Waring*
 - H. Financial Update *Mr. Tom Waring*
 - I. Mid-Year Spending Plan Review *Mr. Tom Waring*
 - J. Update on CPIP Projects *Mr. Tom Waring*
 - K. Capital Improvement Interim Project *Mr. Tom Waring*
 - L. ICF Band Increase and Statewide Funding *Mr. Pat Maley*
12. Executive Session *Chairman Eva Ravenel*
13. Next Regular Meeting (March 15, 2018)
14. Adjournment

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

MINUTES

March 15, 2018

The South Carolina Commission on Disabilities and Special Needs met on Thursday, March 15, 2018, at 10:00 a.m. at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present:

Eva Ravenel, Chairman
Gary Lemel – Vice Chairman
Mary Ellen Barnwell – Secretary
Sam Broughton, Ph.D.
Chris Neeley
Vicki Thompson
Lorri Unumb

DDSN Administrative Staff

Mr. Pat Maley, Interim State Director; Mr. David Goodell, Associate State Director, Operations; Mr. Tom Waring, Associate State Director, Administration; Mrs. Susan Beck, Associate State Director, Policy; Ms. Tana Vanderbilt, General Counsel (For other Administrative Staff see Attachment 1 – Sign In Sheet).

Guests

(See Attachment 1 Sign-In Sheet)

Coastal Regional Center (via videoconference)

(See Attachment 2 Sign-In Sheet)

Georgetown County DSN Board

Pee Dee Regional Center (via videoconference)

(See Attachment 4 Sign-In Sheet)

Alliant residential Observation Audit Process

Mr. Maley presented information of the residential observation audit process that included the developmental tool to address risk factors in order to produce a safe and healthy environment for the consumers. He stated this system would address the providers differently that are producing risk factor outcomes. Discussion followed. (Attachment M)

Executive Session

On motion of Commissioner Broughton, seconded and passed, the Commission entered into Executive Session to receive legal advice.

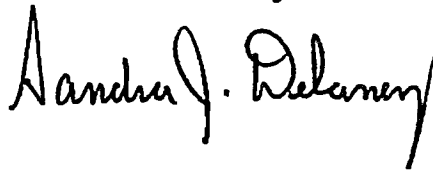
Enter into Public Session

The Commission entered into Public Session. It was noted that no action was taken in the Executive Session.

Next Regular Meeting

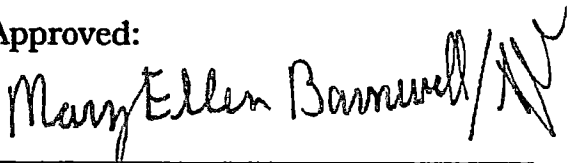
April 19, 2018 to be held at the DDSN Central Office.

Submitted by,



Sandra J. Delaney

Approved:



Commissioner Mary Ellen Barnwell
Secretary

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS**A G E N D A**

**South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 251
Columbia, South Carolina**

March 15, 2018**10:00 A.M.**

1. Call to Order *Chairman Eva Ravenel*
2. Welcome - Notice of Meeting Statement *Commissioner Mary Ellen Barnwell*
3. Invocation *Commissioner Gary Lemel*
4. Introduction of Guests
5. Adoption of Agenda
6. Introduction of New Commission Member *Chairman Eva Ravenel*
7. Approval of the Minutes of the February 15, 2017 Commission Meeting
8. Public Input
9. Commissioners' Update *Commissioners*
10. State Director's Report *Mr. Pat Maley*
11. Finance and Audit Committee Report *Committee Chairman Gary Lemel*
12. Business:
 - A. Brain Injury Awareness Month *Ms. Melissa Ritter
Director, DDSN HASCI Division
Ms. Joyce Davis
Executive Director, Brain Injury Association of SC*
 - B. Waiting List Reduction Project Report and Waiver Program Update *Mrs. Susan Beck*
 - C. FY 2018-2019 Budget Update *Mr. Tom Waring*
 - D. Financial Update *Mr. Tom Waring*
 - E. Consideration of Bid-Three Generators for Emergency Shelters *Mr. Tom Waring*
 - F. Consideration of Surplus Property *Mr. Tom Waring*
 - G. Alliant Residential Observation Audit Process *Mr. Pat Maley*
13. Executive Session *Chairman Eva Ravenel*
14. Next Regular Meeting (April 19, 2018)
15. Adjournment

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

MINUTES

April 19, 2018

The South Carolina Commission on Disabilities and Special Needs met on Thursday, April 19, 2018, at 10:00 a.m. at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present:

Eva Ravenel, Chairman
Gary Lemel – Vice Chairman
Mary Ellen Barnwell – Secretary
Sam Broughton, Ph.D.
Chris Neeley
Vicki Thompson – Via Teleconference
Lorri Unumb

DDSN Administrative Staff

Mr. Pat Maley, Interim State Director; Mr. David Goodell, Associate State Director, Operations; Ms. Lisa Weeks, Interim Associate State Director, Administration; Mrs. Susan Beck, Associate State Director, Policy; Ms. Tana Vanderbilt, General Counsel (For other Administrative Staff see Attachment 1 – Sign In Sheet).

Guests

(See Attachment 1 Sign-In Sheet)

Coastal Regional Center (via videoconference)

(See Attachment 2 Sign-In Sheet)

Georgetown County DSN Board

Pee Dee Regional Center (via videoconference)

(See Attachment 4 Sign-In Sheet)

Pickens County DSN Board (via videoconference)
(See Attachment 5 Sign-In Sheet)

Whitten Regional Center (via videoconference)
(See Attachment 6 Sign-In Sheet)

MaxAbilities (via videoconference)
(See Attachment 7 Sign-In Sheet)

News Release of Meeting

Chairman Ravenel called the meeting to order and Commissioner Barnwell read a statement of announcement about the meeting that was mailed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Invocation

Commissioner Neeley gave the invocation.

Adoption of the Agenda

The Commission adopted the April 19, 2018 Meeting Agenda by unanimous consent. (Attachment A)

Approval of the Minutes of the March 15, 2018 Commission Meetings

The Commission approved the March 15, 2018 Commission Meeting minutes by unanimous consent.

Public Input

The following individual spoke during Public Input: Deborah McPherson.

Commissioners' Update

There were no updates.

State Director's Report

Pat Maley reported on the following:

Announced personnel changes and retirements

DHHS Stakeholder meeting begins in May

Adult Health Care Consent Act – No traction in legislature. Will try to go through the Legislative House Oversight Committee to get it cleared up.

Critical Needs Plan – Opening six beds at the Midlands center for men and six beds at the Pee Dee Center for women. Will present written plan to the Commission.

State Director Search Committee Update

Committee Chairman Thompson gave an update of the State Director Search Committee meeting that was held Thursday, March 15, 2018. On behalf of the Committee, Chairman Thompson recommended to the Commission, to open the application process for the position of the State Director for 30 days and that the State Director Search Committee would meet in May. By motion of Commissioner Lemel, the Commission approved the recommendation.

Disability Awareness Day

Ms. Dawn Darby, Vice President of Disability Organizations and Executive Director of the Therapy Place, spoke of the events that took place at the 29th Annual Disability Advocacy Day held at the State House on March 7, 2018, which included State Treasurer Curtis Loftis sharing the impact of the South Carolina ABLE Savings Program. Ms. Angela Green, Advocate of the Year, shared her award and expressed thanks for all the support she has received.

Autism Awareness Month

Mr. Daniel Davis, DDSN Autism Division Director, share history about working in the field of Autism. In 1984, 1 in 10,000 individuals were diagnosed with Autism; however, today, 1 in 69 is diagnosed.

House Bill 3790 – Expanded Insurance Coverage for Individuals with Autism

Mr. Daniel Davis and Commissioner Unumb spoke on House Bill 3790 that picks up two insurance plans that were excluded in 2006. Discussion followed. On motion of Commissioner Neeley, seconded and passed, the Commission approved for staff to draft a letter or resolution for the Commissioners' signatures urging the Legislation to bring House Bill 3790 to a vote. (Attachment B)

Waiting List Reduction Efforts

Mrs. Beck presented an updated Waiting List Reduction Efforts report along with a presentation bringing awareness to factors that are causing difficulties in moving forward with waiver enrollment processing. She emphasized that staff are working jointly with SCDHHS on improving the processes. (Attachment C)

HCBS Final Rule Update

Mrs. Beck provided a PowerPoint detailing the intent of the HCBS Setting Rule. Discussion followed regarding how important communication will be to implement the changes. Mr. Maley stated that DDSN, for the next twelve months, would be fine-tuning the process to provide guidance. (Attachment D)

Case Management Medicaid Reimbursement Rate Change

Mr. Maley shared the history of case management rates. He emphasized that the delivery system needs to be at or near revenue neutral when the DHHS rate reduction is implemented. It will be important to increase billing capacity. (Attachment E)

FY 2018-2019 Budget Update

Mr. Maley provided a detailed update on the agency's budget request. The Senate version was the same as the House; however, they added funding to Priority 2, Waiting List at \$700,000 and Priority 9, Post-acute Rehabilitation at \$500,000. (Attachment F)

Financial Update

Mr. Maley spoke of the new revised report. An overview of the agency's financial activity was provided through March 31, 2018. A monthly financial summary was also provided showing a cash balance of \$43,115,345 as of March 31, 2018. (Attachment G)

Consideration of Bid-Coastal Center Campus

Mr. Maley presented information on the bid for the Coastal Center Campus drainage improvements. On motion of Commissioner Lemel, seconded and passed, the Commission approved that the contract be awarded to Sea Island Land Development LLC, of Charleston, South Carolina in the amount of \$205,217.00. (Attachment H)

DDSN Employee of the Year

Mr. Goodell spoke of the Regional Center employees and how they provide a wide array of services to the consumers 24-hours a day, 7-days a week and are extremely dedicated to individuals that live at the Regional Centers. They are the backbone of our delivery system. Ms. Lemmond introduced each Regional Center Facility Manager to make the following announcements:

Mr. John Hitchman announced Mr. Jerome Cooks as Employee of the Year for the Pee Dee Regional Center. Commissioner Broughton presented a Commission resolution to Mr. Cooks.

Mr. Randy Davis announced Ms. Jacqueline P. Williams as Employee of the Year for the Whitten Regional Center. Commissioner Neeley presented a Commission resolution to Ms. Williams.

Ms. Becky Hill announced Mr. James B. Moses as Employee of the Year for the Coastal Regional Center. Commissioner Barnwell presented a Commission resolution to Mr. Moses.

Mr. John Hitchman announced Ms. Janice Dickson as Employee of the Year for the Saleeby Regional Center. Commissioner Unumb presented a Commission resolution to Ms. Dickson.

Ms. Angela Wright announced Ms. Virginia S. Kirton as Employee of the Year for the Midlands Regional Center. Commissioner Lemel presented a Commission resolution to Ms. Kirton.

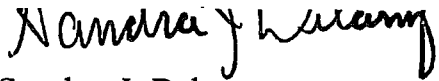
Commissioner Ravenel announced Mr. James B. Moses as the statewide 2017 DDSN Employee of the Year and presented him with a plaque. Mr. Maley presented Mr. Moses with a monetary award.

Executive Session

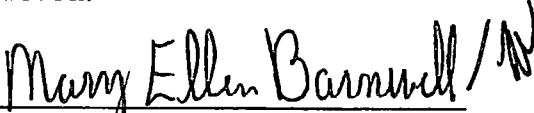
On motion of Commissioner Broughton, seconded and passed, the Commission entered into Executive Session to discuss contractual matters.

Enter into Public Session

The Commission entered into Public Session. It was noted that no action was taken in the Executive Session.


Sandra J. Delaney

Approved:


Commissioner Mary Ellen Barnwell
Secretary

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

A G E N D A

**South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 251
Columbia, South Carolina**

April 19, 2018

10:00 A.M.

1. Call to Order *Chairman Eva Ravenel*
2. Welcome - Notice of Meeting Statement *Commissioner Mary Ellen Barnwell*
3. Invocation *Commissioner Chris Neeley*
4. Introduction of Guests
5. Adoption of Agenda
6. Approval of the Minutes of the March 15, 2018 Commission Meeting
7. Public Input
8. Commissioners' Update *Commissioners*
9. State Director's Report *Mr. Pat Maley*
10. State Director Search Committee Update *Committee Chairman Vicki Thompson*
11. Business:
 - A. Disability Advocacy Day *Ms. Margie Williamson
Executive Director, The Arc of SC
President, SC Partnership of Disability Organizations*
 - B. Autism Awareness Month *Mr. Daniel Davis*
 - C. House Bill 3790 - Expand Insurance Coverage
for Individuals with Autism *Mr. Daniel Davis*
 - D. Waiting List Reduction Project Report *Mrs. Susan Beck*
 - E. HCBS Final Rule Update *Mrs. Susan Beck*
 - F. Case Management Medicaid Reimbursement Rate Change *Mr. Pat Maley*
 - G. FY 2018-2019 Budget Update *Mr. Pat Maley*
 - H. Financial Update *Mr. Pat Maley*
 - I. Consideration of Bid – Coastal Center Campus
Drainage Improvements *Mr. Pat Maley*
 - J. DDSN Employee of the Year *Mr. David Goodell
Ms. Liz Lemmond*
12. Executive Session *Chairman Eva Ravenel*
13. Next Regular Meeting (May 17, 2018)
14. Adjournment

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS**A G E N D A**

**South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 251
Columbia, South Carolina**

May 17, 2018**10:00 A.M.**

1. Call to Order *Chairman Eva Ravenel*
2. Welcome - Notice of Meeting Statement *Commissioner Mary Ellen Barnwell*
3. Invocation *Commissioner Mary Ellen Barnwell*
4. Introduction of Guests
5. Adoption of Agenda
6. Approval of the Minutes of the April 19, 2018 Commission Meeting
7. Public Input
8. Commissioners' Update *Commissioners*
9. Nominating Committee *Chairman Eva Ravenel*
10. State Director's Report *Mr. Pat Maley*
11. State Director Search Committee Update *Committee Chairman Vicki Thompson*
12. Business:
 - A. Fiscal Year 2018-2019 Comprehensive Permanent Improvement Projects (CPIP) *Ms. Joan Cooper*
 - B. Critical Needs List and Residential Vacancies Update *Mr. David Goodell*
 - C. FY 2018-2019 Budget Update *Mr. Pat Maley*
 - D. Financial Update *Mr. Pat Maley*
 - E. Quarterly Quality Management Report *Mr. Pat Maley*
 - F. Department of Transportation Grant *Mr. Pat Maley*
13. Executive Session *Chairman Eva Ravenel*
14. Next Regular Meeting (June 21, 2018)
15. Adjournment

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS
MINUTES

May 17, 2018

The South Carolina Commission on Disabilities and Special Needs met on Thursday, May 17, 2018, at 10:00 a.m. at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present:

Eva Ravenel, Chairman
Gary Lemel – Vice Chairman
Mary Ellen Barnwell – Secretary
Chris Neeley
Vicki Thompson
Lorri Unumb
Absent
Sam Broughton, Ph.D.

DDSN Administrative Staff

Mr. Pat Maley, Interim State Director; Mr. David Goodell, Associate State Director, Operations; Ms. Lisa Weeks, Interim Associate State Director, Administration; Mrs. Susan Beck, Associate State Director, Policy; Ms. Tana Vanderbilt, General Counsel (For other Administrative Staff see Attachment 1 – Sign In Sheet).

Guests

(See Attachment 1 Sign-In Sheet)

Coastal Regional Center (via videoconference)

(See Attachment 2 Sign-In Sheet)

Georgetown County DSN Board

Pee Dee Regional Center (via videoconference)

(See Attachment 4 Sign-In Sheet)

Pickens County DSN Board (via videoconference)
(See Attachment 5 Sign-In Sheet)

Whitten Regional Center (via videoconference)
(See Attachment 6 Sign-In Sheet)

MaxAbilities (via videoconference)
(See Attachment 7 Sign-In Sheet)

News Release of Meeting

Chairman Ravenel called the meeting to order and Commissioner Barnwell read a statement of announcement about the meeting that was mailed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Invocation

Commissioner Barnwell gave the invocation.

Adoption of the Agenda

The Commission adopted the May 17, 2018 Meeting Agenda by unanimous consent. Chairman Ravenel stated an Executive Session would not be held. (Attachment A)

Approval of the Minutes of the April 19, 2018 Commission Meetings

The Commission approved the April 19, 2018 Commission Meeting minutes by unanimous consent.

Public Input

The following individual spoke during Public Input: Deborah McPherson.

Commissioners' Update

Commissioners Thompson and Unumb spoke of events in their district.

Nominating Committee

Chairman Ravenel appointed Commissioners Broughton, Lemel and Thompson to serve on the Nominating Committee for the election of officers.

State Director's Report

Pat Maley reported on the following:

Thanked the upstate executive directors for ramping up the Direct Support Professional certification course at the local technical college. This initiative will aid in reducing abuse, neglect and exploitation incidents through tracking to better fulfill the very important duties of direct support staff.

The Adult Health Care Consent Act directive is on the agency website for comments. The Office of the Attorney General will provide an independent opinion.

Waiver Administrative Division Services – Percentage of the case manager **assessed** reduction in services remains consistent with information that was presented in March.

Mercer Healthcare Consulting has been retained to conduct a review of DDSN's payment system. It will first examine our payment system and make recommendations, which will then be followed by a rate study. Mercer is planning to start the week of June 4th.

Final Rule workshops were held to help providers transition to compliance. We are in the implementation phase.

Information on billing capability on case management initiative to move to market rates will be reported at the June Commission Meeting.

Mr. Rufus Britt will serve as Interim State Director of Operations upon Mr. David Goodell's retirement. He has accepted the challenge to address our short-term direct care worker shortage at the Regional Centers.

State Director Search Committee Update

Committee Chairman Thompson reported that the Committee so far has received 116 applicants. All applicants are very qualified and exceptional. The Committee will conduct interviews on June, 20, 2018.

Fiscal Year 2018-2019 Comprehensive Permanent Improvement Projects

Mrs. Joan Cooper presented information on five CPIP projects requesting Commission approval. Discussion followed. On motion of Commissioner Thompson, seconded and passed, the Commission approved the five CPIP projects totaling \$1,715,000.00. (Attachment B)

Critical Needs List and Residential Vacancies Update

Mr. Goodell presented information on the critical needs list and the system bed capacity/vacancies. He stated we are moving in the right direction and spoke of the initiatives to serve high management individuals. It was discussed that it would be helpful to look into federal grants to obtain much needed mental health services and to push hard to forge a relationship with DMH. Mr. Maley presented information to get more funding and capacity to meet the needs of this population. Staff will pull together a proposal for Commissioners Neeley and Unumb to present in Washington. (Attachment C)

FY 2018-2019 Budget Update

Mr. Maley stated there has not been an update of the budget since the April Commission meeting. Sometime in June, the Senate and House will reconcile the budget. Our anticipation is the agency will at least receive what the House has proposed.

Financial Update

Mr. Maley spoke of the cash flow projection. The June Medicaid revenue will have a positive impact on the agency's budget. Capital accounts will not go negative as we have ample fallback. (Attachment D)

Quarterly Quality Management Report

Mr. Maley provided information on abuse, neglect and exploitation (ANE) trends for the third quarter of FY 2018 which included factors that are driving uptick in ANE outcomes. (Attachment E)

Department of Transportation Grant

Mr. Maley presented information on the Department of Transportation grant for the Pee Dee Region requesting Commission approval to move forward with the transaction. On motion of Commissioner Neeley, seconded and passed, the Commission approved the Department of Transportation grant. (Attachment F)

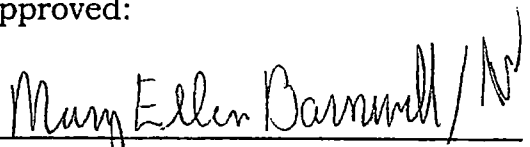
Next Regular Meeting

June 21, 2018 to be held at the DDSN Central Office.

Submitted by,


Sandra J. Delaney

Approved:



Commissioner Mary Ellen Barnwell
Secretary

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

MINUTES

June 21, 2018

The South Carolina Commission on Disabilities and Special Needs met on Thursday, June 21, 2018, at 10:00 a.m. at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present:

Eva Ravenel, Chairman
Gary Lemel – Vice Chairman
Mary Ellen Barnwell – Secretary
Sam Broughton, Ph.D.
Chris Neeley
Vicki Thompson
Lorri Unumb –Via Skype

DDSN Administrative Staff

Mr. Pat Maley, Interim State Director; Mr. Rufus Britt, Interim Associate State Director, Operations; Ms. Lisa Weeks, Interim Associate State Director, Administration; Mrs. Susan Beck, Associate State Director, Policy; Ms. Tana Vanderbilt, General Counsel, Ms. Sandra Delaney, Administrative Coordinator (For other Administrative Staff see Attachment 1 – Sign In Sheet).

Guests

(See Attachment 1 Sign-In Sheet)

Coastal Regional Center (via videoconference)

(See Attachment 2 Sign-In Sheet)

Georgetown County DSN Board

Pee Dee Regional Center (via videoconference)

(See Attachment 4 Sign-In Sheet)

Pickens County DSN Board (via videoconference)

(See Attachment 5 Sign-In Sheet)

Whitten Regional Center (via videoconference)
(See Attachment 6 Sign-In Sheet)

MaxAbilities (via videoconference)

News Release of Meeting

Chairman Ravenel called the meeting to order and Commissioner Barnwell read a statement of announcement about the meeting that was mailed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Invocation

Commissioner Broughton gave the invocation.

Adoption of the Agenda

The Commission adopted the June 21, 2018 Meeting Agenda by unanimous consent. (Attachment A)

Approval of the Minutes of the May 17, 2018 Commission Meetings

The Commission approved the May 17, 2018 Commission Meeting minutes by unanimous consent.

Public Input

The following individual spoke during Public Input: Deborah McPherson and Kathleen Roberts.

Commissioners' Update

Commissioner Ravenel spoke of her visit to Oconee.

Commissioner Ravenel read a resolution recognizing outgoing Commissioner Barnwell.

Policy Committee Update

Committee Chairman Thompson gave an update of the Policy Committee Meeting that was held June 15, 2018. The revised Policy Committee Guidelines adopted August 31, 2014 was reviewed and discussed as well as the draft procedures to implement new policy guidelines. Commissioner Thompson motioned to amend the Policy Committee Guidelines as presented. The motion was seconded by Commissioner Neeley and passed unanimously. (Attachment B)

Nominating Committee

Committee Chairman Thompson presented the following slate of officers for FY 2018-2019 – Commissioner Ravenel as Chairman, Commissioner Lemel as Vice Chairman, and Commissioner Thompson as Secretary. Commissioner Lemel moved to close nominations and accept the slate of officers by acclamation as opposed to ballots. The motion passed unanimously.

State Director Search Committee Update

Committee Chairman Thompson stated the Committee selected two candidates and pending acceptance from the candidates, will schedule the second round of interviews with the full Commission.

State Director's Report

Pat Maley reported on the following:

The first SCDHHS stakeholder meeting for input on the DDSN payment system review is scheduled for June 22, 2018.

HCBS Final Rule – DDSN is wrapping up the workshops to help providers transition to compliance.

Residential Observations – this should become a monthly report once enough quality data is collected.

Case Management Market Rate Issue – May was the first full month report after the market rate transition issue arose. There was a forty percent increase in billing over March. Billing is still under the proposed 25/15 rate. DDSN staff is taking initiatives to improve billing.

Information Security (INFOSEC) – DDSN is the first of 74 state agencies at level three certification with four being the highest. Many thanks to Dexter Alston, our Chief Information Officer, and his team.

Rufus Britt was welcomed on his position as Interim State Director, Operations.

Golden Palmetto Award

Mrs. Beck and Mr. Britt presented DDSN's recommendation for the Golden Palmetto Award for 2017 which is awarded annually to a county government in South Carolina that has best demonstrated exemplary support of citizens with disabilities and special needs during the previous year. Chairman Ravenel made the motion to accept the recommendation to award Williamsburg County and Lexington County the 2017 Golden Palmetto Award. The motion was seconded by Commis-
-436-
r Lemel and passed. The 2017

Golden Palmetto Award will be presented during the annual meeting of the SC Association of Counties August 6, 2018.

Consideration of FEMA Grant Award

Mrs. Cooper presented information on the FEMA Grant Award to install emergency generators at nine day program facilities. Discussion followed. On motion of Commissioner Thompson, seconded and passed, the Commission approved the staff recommendation that the agency pay the twenty-five percent match. Discussion followed. Commissioner Lemel made the motion that in future grant proposals, regardless of the source, that the expectation of local match funding be made clear as to whether it is expected or not expected in any grant when initial information is sent out to the providers. The motion was seconded by Commissioner Neeley and passed. (Attachment C)

FY 2018-2019 Budget Update

Mr. Maley stated we should have an update by the end of the month. Both the House and Senate are in favor of the wage increase for the direct care workers.

Financial Update

The Financial Report was reviewed and discussed. (Attachment D)

Community Provider Contracts

Mr. Maley presented information of the agency budget for FY 2018-2019 community contracts in the amount of \$543,895,841 for Commission approval. Discussion followed. Commissioner Thompson pointed out that the total contract amount included respite care funding twice. Mr. Maley, Interim State Director agreed and stated that staff would address that. Commissioner Thompson made the motion to approve the contracts for FY 2018-2017 as presented. The motion was seconded by Commissioner Neeley and passed unanimously. (Attachment E)

Executive Session

Commissioner Lemel made the motion to enter into Executive Session to discuss a personnel matter. The motion seconded by Commissioner Neeley and passed.

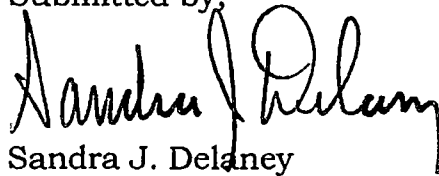
Enter into Public Session

The Commission entered into Public Session. It was noted that no action was taken in the Executive Session.

Next Regular Meeting

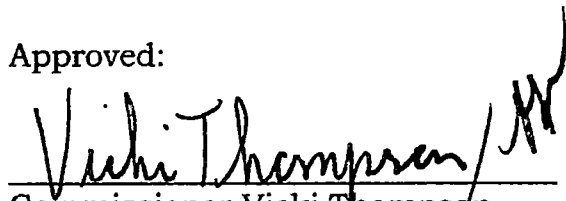
July 19, 2018 to be held at the DDSN Central Office.

Submitted by,

A handwritten signature in black ink, appearing to read "Sandra J. Delaney".

Sandra J. Delaney

Approved:

A handwritten signature in black ink, appearing to read "Vicki Thompson".

Commissioner Vicki Thompson
Secretary

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

A G E N D A

**South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 251
Columbia, South Carolina**

June 21, 2018

10:00 A.M.

1. Call to Order *Chairman Eva Ravenel*
2. Welcome - Notice of Meeting Statement *Commissioner Mary Ellen Barnwell*
3. Invocation *Commissioner Sam Broughton*
4. Introduction of Guests
5. Adoption of Agenda
6. Approval of the Minutes of the May 17, 2018 Commission Meeting
7. Public Input
8. Commissioners' Update *Commissioners*
9. Policy Committee Update *Committee Chairman Vicki Thompson*
10. Nominating Committee-Election of Officers *Committee Chairman Vicki Thompson*
11. State Director Search Committee Update *Committee Chairman Vicki Thompson*
12. State Director's Report *Mr. Pat Maley*
13. Business:
 - A. Golden Palmetto Award *Mrs. Susan Beck
Mr. Rufus Britt*
 - B. Consideration of FEMA Grant Award *Mrs. Joan Cooper*
 - C. FY 2018-2019 Budget Update *Mr. Pat Maley*
 - D. Financial Update *Mr. Pat Maley*
 - E. Community Provider Contracts *Mr. Pat Maley*
14. Executive Session *Chairman Eva Ravenel*
15. Next Regular Meeting (July 19, 2018)
16. Adjournment

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

MINUTES

July 19, 2018

The South Carolina Commission on Disabilities and Special Needs met on Thursday, July 19, 2018, at 9:00 a.m. at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present:

Eva Ravenel, Chairman
Gary Lemel – Vice Chairman
Vicki Thompson – Secretary
Sam Broughton, Ph.D.
Chris Neeley
Lorri Unumb

DDSN Administrative Staff

Mr. Pat Maley, Interim State Director; Mr. Rufus Britt, Interim Associate State Director, Operations; Ms. Lisa Weeks, Interim Associate State Director, Administration; Mrs. Susan Beck, Associate State Director, Policy; Ms. Tana Vanderbilt, General Counsel, Ms. Sandra Delaney, Administrative Coordinator (For other Administrative Staff see Attachment 1 – Sign In Sheet).

Guests

(See Attachment 1 Sign-In Sheet)

Coastal Regional Center (via videoconference)

(See Attachment 2 Sign-In Sheet)

Georgetown County DSN Board

Pee Dee Regional Center (via videoconference)

(See Attachment 4 Sign-In Sheet)

Pickens County DSN Board (via videoconference)

(See Attachment 5 Sign-In Sheet)

Whitten Regional Center (via videoconference)
(See Attachment 6 Sign-In Sheet)

MaxAbilities (via videoconference)

News Release of Meeting

Chairman Ravenel called the meeting to order and Commissioner Thompson read a statement of announcement about the meeting that was mailed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Adoption of the Agenda

The Commission adopted the July 19, 2018 Meeting Agenda by unanimous consent. (Attachment A)

Executive Session

Commissioner Broughton made the motion to enter into Executive Session to discuss a personnel matter. The motion was seconded by Commissioner Lemel and passed.

Enter into Public Session

The Commission entered into Public Session. It was noted that no action was taken in the Executive Session.

Invocation

Commissioner Unumb gave the invocation.

Approval of the Minutes of the June 21, 2018 Commission Meetings

The Commission approved the June 21, 2018 Commission Meeting minutes by unanimous consent.

Public Input

The following individual spoke during Public Input: Deborah McPherson.

Commissioners' Update

Commissioner Neeley spoke of the third town hall meeting that was held June 28, 2018 at the Coastal Center. He is receiving great feedback from the providers and taking the information to Washington in his role as Chairman of the President's Committee for People with Intellectual Disabilities.

Committee Assignments

Chairman Ravenel made the following Committee appointments:

Finance and Audit Committee – Commissioners Lemel, Neeley and Broughton with Commissioner Lemel serving as Chairman.

Policy Committee – Commissioners Thompson, Unumb and Broughton with Commissioner Thompson serving as Chairman.

Legislative Committee – Commissioners Unumb and Neeley with Chairman to be named.

State Director's Report

The House Legislative Committee has set three DDSN hearings on July 30, August 30, and September 12. The agency is hoping the Committee will wrap up its review and produce a report and recommendations later in the year. The July 30 meeting will be about DDSN's performance management system. This is third time this has been set; a PowerPoint was previously sent. The agency will update with 4th quarter reports.

On July 17, Mercer Healthcare Consultants held their second stakeholder meeting on the DDSN payment system and rate study. They have three more planned through the summer.

Fourth quarter reports were completed and placed in the meeting binders. Will discuss in August when there is more time. The benefits of a performance system are now surfacing because comparing data with prior periods is key to see if the agency is progressing or not.

Residential Observations – Interviewed all staff and consumers in 31 homes in June. Comments were shared. Not one consumer felt unsafe from an Abuse, Neglect and Exploitation perspective.

Case management market rate issue nudged up about five percent in productivity, but still 55 percent less current band revenue if billings calculated at the 25/15 rate. The agency has much work to do. We are working on parallel issues of conflict free case management and Mercer rate study ties into to help the system wide issue.

SC DHHS has taken over BabyNet. DDSN is still the third party payment system until transfer in three to six months. A DDSN Task force meeting is scheduled for August 1 on how DDSN will handle payment for remaining E1-26 percent. Also on the agenda for the August 1 meeting is getting input on the proposed process of batching new policies and changes on a quarterly basis and how the Commission's Policy Committee will engage to provide a higher level review on key policies. The agency also be discussing a proposal to

standardized communications between providers and DDSN on key issues and key topics.

FY 2018-2019 Budget Update

Mr. Maley stated the Governor did not issue any vetoes regarding the agency's budget. (Attachment B)

Financial Update

The Financial Report was reviewed and discussed. (Attachment C)

State Director Selection Process

Commissioner Thompson stated the Committee interviewed six candidates on June 20, 2018 and on June 21, 2018, the Committee recommended to the full Commission two candidates would be interviewed by the full Commission.

In response to a FOIA request, information was provided on two candidates. After the information was distributed, a question was presented to Commissioner Lemel. Commissioner Lemel commented on the question stating one of the two candidates listed him as one of their five professional references and a possibility of a conflict of interest. Commissioner Lemel stated, he personally had no concerns that it was a conflict of interest, however, out of an abundance of caution, he ceased participation in the selection process and asked our Interim State Director to request an opinion from the State Ethics Commission to get some resolution. The General Counsel of the Ethics Commission found no reason that he could not continue to serve in the selection process.

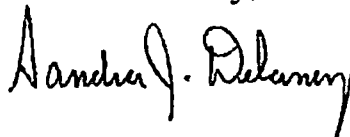
Commissioner Thompson stated the motion, after several months of advertising, screening and interviewing, it is with great pleasure to nominate Mary Poole as our State Director of the SC Department of Disabilities and Special Needs. Commissioner Broughton seconded and the motion passed.

It was noted that Commissioner Neeley abstained from voting.

Next Regular Meeting

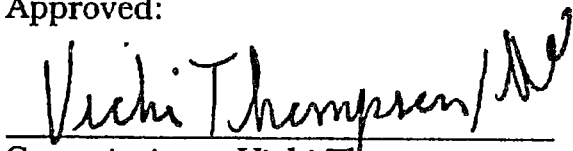
August 16, 2018 to be held at the DDSN Central Office.

Submitted by,

A handwritten signature in black ink, appearing to read "Sandra J. Delaney". The signature is fluid and cursive, with the first name "Sandra" being the most prominent.

Sandra J. Delaney

Approved:

A handwritten signature in black ink, appearing to read "Vicki Thompson", followed by a large, stylized flourish or initial.

Commissioner Vicki Thompson
Secretary

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

A G E N D A

**South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 251
Columbia, South Carolina**

July 19, 2018

9:00 A.M.

1. Call to Order *Chairman Eva Ravenel*
2. Welcome - Notice of Meeting Statement *Commissioner Vicki Thompson*
3. Adoption of Agenda
4. **Executive Session – will be closed to the public**
5. **Enter into Public Session – 12:30 p.m.**
6. Invocation *Commissioner Lorri Unumb*
7. Introduction of Guests
8. Approval of the Minutes of the June 21, 2018 Commission Meeting
9. Public Input
10. Commissioners' Update *Commissioners*
11. Committee Assignments *Chairman Eva Ravenel*
12. State Director's Report *Mr. Pat Maley*
13. Business:
 - A. FY 2018-2019 Budget Update *Mr. Pat Maley*
 - B. Financial Update *Mr. Pat Maley*
14. State Director Selection Process *Commissioner Vicki Thompson*
15. Next Regular Meeting (August 16, 2018)
16. Executive Session
17. Adjournment

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

MINUTES

August 16, 2018

The South Carolina Commission on Disabilities and Special Needs met on Thursday, August 16, 2018, at 10:00 a.m. at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present:

Eva Ravenel, Chairman
Gary Lemel – Vice Chairman
Vicki Thompson – Secretary
Sam Broughton, Ph.D.
Chris Neeley
Lorri Unumb

DDSN Administrative Staff

Mr. Pat Maley, Interim State Director; Mr. Rufus Britt, Interim Associate State Director, Operations; Ms. Lisa Weeks, Interim Associate State Director, Administration; Mrs. Susan Beck, Associate State Director, Policy; Ms. Tana Vanderbilt, General Counsel, Ms. Sandra Delaney, Administrative Coordinator (For other Administrative Staff see Attachment 1 – Sign In Sheet).

Guests

(See Attachment 1 Sign-In Sheet)

Coastal Regional Center (via videoconference)

(See Attachment 2 Sign-In Sheet)

Pee Dee Regional Center (via videoconference)

(See Attachment 3 Sign-In Sheet)

Whitten Regional Center (via videoconference)

(See Attachment 4 Sign-In Sheet)

News Release of Meeting

Chairman Ravenel called the meeting to order and read a statement of announcement about the meeting that was mailed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Adoption of the Agenda

On motion of Commissioner Broughton, seconded by Commissioner Lemel, the Commission adopted the August 16, 2018 Meeting Agenda. (Attachment A)

Invocation

Commissioner Thompson gave the invocation.

Approval of the Minutes of the July 19, 2018 Commission Meetings

On motion of Commissioner Neeley, seconded by Commissioner Lemel, the Commission approved the July 19, 2018 Commission Meeting minutes.

Public Input

The following individuals spoke during Public Input: Deborah McPherson and Rob Scharstein

Commissioners' Update

There were no Commission Updates.

Finance and Audit Committee Update

Committee Chairman Lemel stated the Committee met for their regular meeting prior to the Commission Meeting. He reported the Committee received updates on the FY18 Audit Plan and the FY19 Audit Plan. Both plans are intact and right on target. There was discussion on long-term plans to provide training for the committee members once Commission Broughton rotates off the Commission and someone is appointed in his place.

Policy Committee Update

Committee Chairman Thompson stated the Committee met prior to the Commission Meeting. She provided handouts with the changes to the Executive Limitations Policy 800-03-CP that the Committee recommended for approval. Discussion followed regarding No. 15 as to the volume of requests that would be received from CMS. Committee Chairman stated it is important that the Commission is informed and it⁴⁴⁷ comes cumbersome, the Committee will revisit. Committee Chairmen motioned that the Commission

approved the recommended changes to the Executive Limitations Policy. The motion passed with all in favor. (Attachment B)

Committee Chairman Thompson announced that the Policy Committee would review in September in accordance to the Policy Guidelines policies 535-07, 535-14, 600-05, and 603-03.

State Director's Report

Interim State Director reported on the following topics:

Mr. Maley's presentation of DDSN's performance management system to the HLOC on July 30, 2018 was well received. The next presentation is scheduled for August 30, 2018 regarding DDSN's recommendations to be considered by the HLOC in its final report. He will send a DRAFT of the recommendations to the Commission for input and concurrence before presenting to the HLOC.

The outline of budget options has been submitted to individual Commissioners for input as well as shared with the two provider associations for input by the end of the month. A final form will be complete by September 4, 2018 for Director Poole's review/modifications which need to be approved by the Commission on September 20, 2018 and to the Executive Budget Office on September 21, 2018.

The annual spending plan will be developed and ready for Director Poole on September 4, 2018 and presented to the Commission on September 20, 2018.

On August 6, 2018, Mr. Maley presented the Golden Palmetto to Lexington and Williamsburg Counties for the excellent support of local DSN Boards in the community at the annual conference of County Government in Hilton Head.

On the topic of the Case Management Market Rate issue—Mercer will look at the rate but all at the same time so we may not know the rate until January/February/March.

Mercer will have its fourth stakeholder meeting August 22, 2018 with one more scheduled.

The Annual Accountability Report is due September 15, 2018.

Audit by the State Auditor had only minor technical findings.

Annual plan authorization process – two memorandums about the interim policy decisions were sent out to the provider network to address some concerns.

Consideration of Bid – Whitten Center

Mrs. Cooper presented information on the bid for the building demolitions at the Whitten Center. On motion of Commissioner Thompson, seconded by Commissioner Broughton, the motion passed to approve the contract be awarded to Complete Demolition Services, LLC, of Carrollton, Georgia in the amount of \$216,900.00. (Attachment C)

Provider Contract Increase

Mr. Maley explained the reasons for the adjustments to the Babcock contract. Discussion followed. On motion of Commissioner Thompson, seconded by Commissioner Lemel, the motion passed to approve the Babcock contract increase to reflect transactions of last year. (Attachment D)

Financial Update

The Financial Report was reviewed and discussed. (Attachment E)

FY18 Monthly Report

Mrs. Beck provided a report and a presentation on the FY18 Monthly Report-Waiver Process Performance. Discussion followed regarding the policy timelines to limit extended holding of a slot award. Mrs. Beck stated the case managers would work with families with the time limits to encourage forward progress to waiver enrollment. (Attachment F)

Executive Session

On motion of Commissioner Unumb, seconded by Commissioner Lemel, the motion passed to enter into Executive Session to discuss a contractual matter and an employment matter.

Enter into Public Session

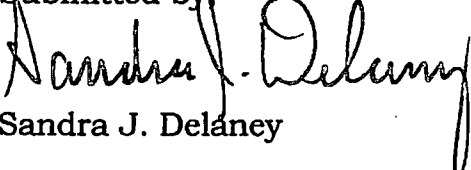
The Commission entered into Public Session. It was noted that no action was taken in the Executive Session.

Commissioner Thompson stated that the Commission had reviewed the salary ranges of other agencies in the state. The Commission also reviewed and discussed historical salaries of the agency. Commissioner Thompson made the motion to recommend to the Agency Head Salary Commission that Mary Poole's starting salary be \$168,043 and that the salary range for the DDSN State Director position be raised to \$168,043 - \$260,499 to coincide with other state agencies. Commissioner Unumb seconded the motion. Motion carried. It was noted that Commissioner Neeley abstained from voting on the motion.

Next Regular Meeting

September 20, 2018 to be held at the DDSN Central Office.

Submitted by


Sandra J. Delaney

Approved:



Commissioner Vicki Thompson
Secretary

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

A G E N D A

**South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 251
Columbia, South Carolina**

August 16, 2018

10:00 A.M.

1. Call to Order *Chairman Eva Ravenel*
2. Welcome - Notice of Meeting Statement *Commissioner Vicki Thompson*
3. Adoption of Agenda
4. Invocation *Commissioner Vicki Thompson*
5. Introduction of Guests
6. Approval of the Minutes of the July 19, 2018 Commission Meeting
7. Public Input
8. Commissioners' Update *Commissioners*
9. Finance and Audit Committee Update *Committee Chairman Gary Lemel*
10. Policy Committee Update *Committee Chairman Vicki Thompson*
11. State Director's Report *Mr. Pat Maley*
12. Business:
 - A. Consideration of Bids – Whitten Center Building Demolitions *Mrs. Joan Cooper*
 - B. Provider Contract Increase *Mr. Pat Maley*
 - C. Financial Update *Mr. Pat Maley*
 - D. FY 18 Monthly Report-- Waiver Process Performance *Mrs. Susan Beck*
13. Executive Session
14. Next Regular Meeting (September 20, 2018)
15. Adjournment

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

MINUTES

August 28, 2018

The South Carolina Commission on Disabilities and Special Needs met for a Special-Called Meeting on Tuesday, August 28, 2018, at 3:30 p.m. at the Department of Disabilities and Special Needs Central Office, Conference Room 180, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present:

Eva Ravenel, Chairman – Via Skype
Gary Lemel – Vice Chairman – Via Skype
Vicki Thompson – Secretary – Via Skype
Chris Neeley – Via Skype
Lorri Unumb – Via Skype

Absent:

Sam Broughton, Ph.D.

DDSN Administrative Staff

Mr. Pat Maley, Interim State Director; Mr. Rufus Britt, Interim Associate State Director, Operations; Ms. Lisa Weeks, Interim Associate State Director, Administration; Mrs. Susan Beck, Associate State Director, Policy; Ms. Tana Vanderbilt, General Counsel, Ms. Sandra Delaney, Administrative Coordinator (For other Administrative Staff see Attachment 1 – Sign In Sheet).

Guests

(See Attachment 1 Sign-In Sheet)

News Release of Meeting

Chairman Ravenel called the meeting to order and Sandra Delaney read a statement of announcement about the meeting that was mailed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Adoption of the Agenda

On motion of Commissioner Neeley, seconded by Commissioner Thompson, the Commission adopted the August 28, 2018 Meeting Agenda. (Attachment A)

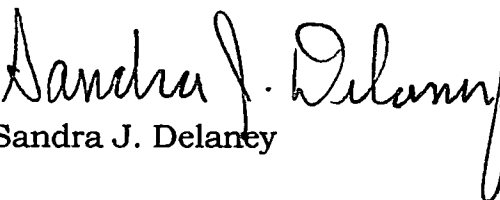
Draft Recommendation Memo to the House Legislative Oversight Committee

Mr. Maley explained the purpose of the meeting was to ensure the Commission approved the recommendations before submitting to the House Legislative Oversight Committee, as he will be testifying Thursday, August 30, 2018. Discussion followed. The Commission requested the following changes be made to the recommendations: (Attachment B – Recommendations Discussed)

1. Clarify in the beginning that the recommendations are not in prioritized order.
2. Make clear that No. 9c pertains to the Waiting List.

Commissioner Unumb moved to adopt the recommendations as presented, seconded by Commissioner Neeley, the motion passed.

Submitted by,


Sandra J. Delaney

Approved:


Commissioner Vicki Thompson
Secretary

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

A G E N D A

**South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 180
Columbia, South Carolina**

August 28, 2018

3:30 P.M.

1. Call to Order *Chairman Eva Ravenel*
2. Notice of Meeting Statement *Commissioner Vicki Thompson*
3. Adoption of Agenda
4. To Discuss the DRAFT Recommendation Memo to the House
Legislative Oversight Committee
5. Adjournment

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS
MINUTES

September 20, 2018

The South Carolina Commission on Disabilities and Special Needs met on Thursday, September 20, 2018, at 10:00 a.m. at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present:

Eva Ravenel, Chairman
Vicki Thompson – Secretary
Sam Broughton, Ph.D.
Chris Neeley
Lorri Unumb

Absent:

Gary Lemel – Vice Chairman

DDSN Administrative Staff

Mrs. Mary Poole, State Director; Mr. Pat Maley, Project Manager; Mr. Rufus Britt, Interim Associate State Director, Operations; Ms. Lisa Weeks, Interim Associate State Director, Administration; Mrs. Susan Beck, Associate State Director, Policy; Ms. Tana Vanderbilt, General Counsel, Ms. Sandra Delaney, Administrative Coordinator (For other Administrative Staff see Attachment 1 – Sign In Sheet).

Guests

(See Attachment 1 Sign-In Sheet)

Coastal Regional Center (via videoconference)

(See Attachment 2 Sign-In Sheet)

Pee Dee Regional Center (via videoconference)

(See Attachment 3 Sign-In Sheet)

Whitten Regional Center (via videoconference)

(See Attachment 4 Sign-In Sheet)

Pickens County DSN Board
(See Attachment 5 Sign-In Sheet)

News Release of Meeting

Chairman Ravenel called the meeting to order and Commissioner Thompson read a statement of announcement about the meeting that was distributed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Welcome

Chairman Ravenel extended a special welcome to Mary Poole, DDSN's new State Director.

Adoption of the Agenda

On motion of Commissioner Unumb, seconded by Commissioner Thompson, the Commission adopted the September 20, 2018 Meeting Agenda. (Attachment A)

Invocation

Chairman Ravenel gave the invocation.

Approval of the Commission Meeting Minutes

On motion of Commissioner Broughton, seconded by Commissioner Unumb, the Commission approved the minutes of the August 16, 2018 Commission Meeting and the minutes of the August 28, 2018 Special-Called Commission Meeting.

Public Input

The following individuals spoke during Public Input: Deborah McPherson and Dori Tempio.

Commissioners' Update

Commissioner Unumb and Chairman Ravenel spoke of events they attended in their districts.

Policy Committee Update

Committee Chairman Thompson stated the Committee met prior to the Commission Meeting. She reported the Committee would be developing their process for reviewing the policies, direc-456- and standards. The Committee will also try to differentiate between policies and procedures. A place on the

Internet will be developed for individuals to make suggestions on what our priorities should be. The next Committee meeting will most likely be in November. The Committee will also try to construct a plan of action, along with a process, to achieve the overall goal of shifting governance back to the Commission as required by State Law.

State Director's Report

Mary Poole reported on the following topics:

Case Management – Production has increased to a positive.

HASCI Waiver Renewal – The Waiver Manual will be submitted with updates to DHHS for approval.

CAP Plan – The completion date has been pushed back to October 31, 2018.

2018 Direct Support Professionals (DSP) Recognition Week – September 9 – 15, 2018 – The storm was a demonstration of the dedication, determination and durability of the DSPs. It was an incredible showcase of what DSPs actually do which we deeply appreciate.

She thanked various Central Office staff, Facility Administrators for working during the storm and thanked the Regional Centers and Boards that took in evacuees.

Spinal Cord Awareness Month

Ms. Melissa Ritter, Director of the Head and Spinal Cord Injury Division, spoke on Spinal Cord Awareness Month. She also stated that Blakely Martin, statewide advocate, was here at DDSN to display his artwork. Ms. Ritter then introduced Brian Denny, Outreach Coordinator, SC Spinal Cord Injury Association who shared information of the ThinkFirst education program.

Progress of the Technical College Training Program

Mr. Jerry Mize, Executive Director of the Tribble Center, spoke of the partnership with the Center and Tri-County Technical College in creating a direct care staff certification program to improve the staff turnover rate. The curriculum is fully paid for and an agreement was reached with various representatives that DDSN would pay the students on-the-job training while they are participating in the certification program. Mr. Mize stated that recruitment is needed and he is hoping the program will expand which would include a supervisory curriculum.

Consideration of Bids-Coastal Center

Ms. Cooper, Director of Engineering and Planning Division, presented information on bids for the Coastal Center. On motion of Commissioner Broughton, seconded by Commissioner Thompson, the motion passed to approve State Contract No. J16-9915 and State Contract No. J16-9919 as presented. (Attachment B)

Financial Update

The Financial Report was reviewed and discussed. (Attachment C)

Agency Budget Request Items and Priorities for FY 2019-2020

Mr. Maley presented the Agency Budget priorities for FY 2019-2020. Discussion followed as to why Greenwood Genetic Center's request is part of the DDSN's budget request. Commissioner Unumb moved to list Priority 7 - SC Genomic Medicine Initiative separately and as an unranked item. Discussion followed. Commissioner Unumb withdrew the motion. On motion of Commissioner Thompson, seconded by Commissioner Unumb, the motion passed to approve the Budget Request as presented with the exception of Priority #7, and that this funding request be presented separately from the DDSN prioritized requests. (Attachment D)

FY 2018-2019 Agency Spending Plan

Mr. Maley presented the FY 2018-2019 Agency Spending Plan. Discussion followed. Commissioner Thompson requested to see the General Assembly's approved budget. On motion of Commissioner Thompson, seconded by Commissioner Unumb, the motion passed to approve the Spending Plan as presented. (Attachment E)

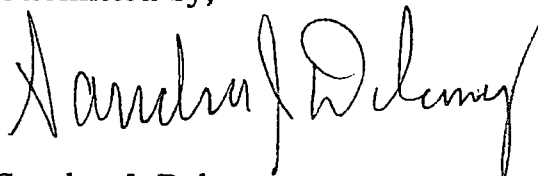
Executive Session

An Executive Session was not held.

Next Regular Meeting

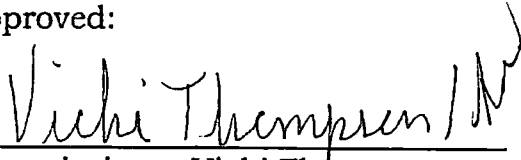
October 18, 2018 Meeting will be held at the Coastal Regional Center.

Submitted by,



Sandra J. Delaney

Approved:



Commissioner Vicki Thompson
Secretary

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

MINUTES

October 1, 2018

The South Carolina Commission on Disabilities and Special Needs met for a Special-Called Meeting on Monday, October 1, 2018, at 9:00 a.m. at the Department of Disabilities and Special Needs Central Office, Conference Room 180, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present:

Eva Ravenel, Chairman – Via Skype
Vicki Thompson – Secretary – Via Skype
Sam Broughton, Ph.D. – Via Skype
Chris Neeley – Via Skype
Lorri Unumb – Via Skype

Absent:

Gary Lemel – Vice Chairman

DDSN Administrative Staff

Mrs. Mary Poole, State Director; Ms. Tana Vanderbilt, General Counsel, Ms. Sandra Delaney, Administrative Coordinator

Guests

(See Attachment 1 Sign-In Sheet)

News Release of Meeting

Chairman Ravenel called the meeting to order and Sandra Delaney read a statement of announcement about the meeting that was mailed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Adoption of the Agenda

On motion of Commissioner Thompson, seconded by Commissioner Broughton, the Commission adopted the October 1, 2018 Special-Called Commission Meeting Agenda. (Attachment A)

Executive Session

On motion of Commissioner Broughton, seconded by Commissioner Thompson, the Commission entered into Executive Session to discuss a legal matter.

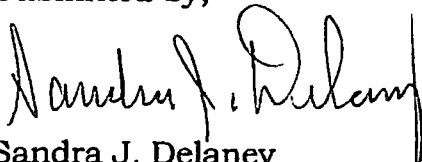
Enter into Public Session

The Commission entered into Public Session. It was noted that no action was taken in the Executive Session.

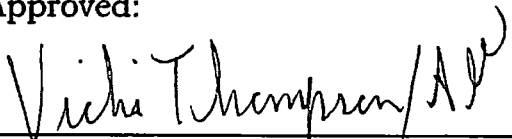
Commissioner Unumb moved to approve the settlement agreement drafted last week. The motion was seconded by Commissioner Neeley. The motion passed.

It was noted that Commissioner Thompson abstained from voting.

Submitted by,


Sandra J. Delaney

Approved:



Commissioner Vicki Thompson
Secretary

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

A G E N D A

**South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 180
Columbia, South Carolina**

October 1, 2018

9:00 A.M.

1.	Call to Order	<i>Chairman Eva Ravenel</i>
2.	Notice of Meeting Statement	<i>Commissioner Vicki Thompson</i>
3.	Adoption of Agenda	
4.	Executive Session to Receive Legal Advice	
5.	Adjournment	

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

MINUTES

November 15, 2018

The South Carolina Commission on Disabilities and Special Needs met on Thursday, November 15, 2018, at 10:00 a.m. at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present:

Eva Ravenel, Chairman
Gary Lemel – Vice Chairman
Vicki Thompson – Secretary
Sam Broughton, Ph.D.
Chris Neeley
Lorri Unumb – Via Skype

DDSN Administrative Staff

Mrs. Mary Poole, State Director; Mr. Pat Maley, Deputy Director; Mr. Rufus Britt, Associate State Director, Operations; Ms. Lisa Weeks, Interim Associate State Director, Administration; Mrs. Susan Beck, Associate State Director, Policy; Ms. Tana Vanderbilt, General Counsel, Ms. Sandra Delaney, Administrative Coordinator (For other Administrative Staff see Attachment 1 – Sign In Sheet).

Guests

(See Attachment 1 Sign-In Sheet)

Coastal Regional Center (via videoconference)

(See Attachment 2 Sign-In Sheet)

Pee Dee Regional Center (via videoconference)

(See Attachment 3 Sign-In Sheet)

Whitten Regional Center (via videoconference)

(See Attachment 4 Sign-In Sheet)

Pickens County DSN Board
(See Attachment 5 Sign-In Sheet)

News Release of Meeting

Chairman Ravenel called the meeting to order and Commissioner Thompson read a statement of announcement about the meeting that was distributed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Adoption of the Agenda

On motion of Commissioner Thompson, seconded by Commissioner Lemel, the Commission adopted the November 15, 2018 Meeting Agenda. (Attachment A)

Invocation

Commissioner Lemel gave the invocation.

Approval of the Commission Meeting Minutes

On motion of Commissioner Neeley, seconded by Commissioner Broughton, the Commission approved the minutes of the September 20, 2018 Commission Meeting and the minutes of the October 1, 2018 Special-Called Commission Meeting with a change that Commissioner Broughton attended via Skype and not in person.

Public Input

The following individuals spoke during Public Input: Deborah McPherson and Patricia Harrison.

Commissioners' Update

Commissioner Neeley spoke of his involvement as chair of the President's Committee on Intellectual Disabilities.

Policy Committee Update

Committee Chairman Thompson reported the Committee met prior to the Commission meeting. She stated the Committee received a lot of input on the directive titled, "Obtaining Health Care Consent for Minors and Adults with Intellectual Disability which includes Autism". Mrs. Beck will compile the revisions and distribute the revised version to the Policy Committee. Commission Chairman Thompson added that hopefully the Health Care consent issue would be resolved in the 464th coming Legislative session. The Committee did not have time to review the Committee agenda item "Camera

Usage Policy Planning". The Committee will try to meet between now and the next Commission meeting to handle Committee business.

State Director's Report

Mary Poole reported on various topics. (Attachment B):

National Disability Employment Awareness Month

Commissioner Lemel shared Governor McMaster's proclamation proclaiming the month of October 2018 as Disability Employment Awareness Month. Ms. Susan Davis, Program Coordinator, USC, Center for Disability Resources spoke of the many initiatives taking place to increase the number of real jobs for individuals. Ms. Nicole Caniff of Community Options shared her employment success story and Ms. Megan Reynolds shared her experience as a job specialist at Community Options. (Attachment C)

Financial Update

The Financial Report was reviewed and discussed. Mr. Maley stated the report would be revised so as to not cause confusion. Commissioner Thompson requested a crosswalk for comparison. (Attachment D)

Consideration of Bids-Coastal Center

Ms. Cooper, Director of Engineering and Planning Division, presented information on the bid for the generators for emergency shelters. Discussion followed regarding obtaining bids. At the request of the Commission, information will be provided on the bidding process. Commissioner Lemel moved to accept the bid from DNB Electric, Inc. of West Columbia, SC. The motion passed with a 3-2 vote. (Attachment E)

Ms. Cooper presented information on the bid for HVAC replacement at the Coastal Center. Commissioner Broughton moved to accept the bid from Cayce Company, Inc. of Florence, SC. The motion was seconded by Commissioner Neely and passed. (Attachment F)

Provider Contract Increases

Mr. Norman provided information on the 2019 Contract Amendments for the Charles Lea Center and the Sumter DSN Board. Commissioner Lemel moved to approved the amendments presented. The motion was seconded by Commissioner Broughton and passed. (Attachment G)

Quarterly ANE Report

Ms. Ann Dalton shared a detailed quarterly report of the incident management data. Discussion followed. At the request of the Commission, ages of all incidents will be provided in the report and an action plan is needed to determine what system characteristics are different from eight years ago. (Attachment H)

Case Management Market Rate

Mrs. Beck shared a presentation on this subject. DDSN is gearing up for the upcoming rate change. Billing and monitoring are improving among the Providers. (Attachment I)

HASCI and CS Waiver Renewals

The renewals were presented and discussed. Mrs. Beck stated when the Mercer study is released; most likely amendments will take place. On motion of Commissioner Thompson, seconded by Commissioner Neeley, the HASCI and CS Waiver renewals were approved. (Attachment J)

Waiting List

The Waiting List Report was presented and discussed. Mrs. Beck stated a process is being added to require case managers to report the reason for a slot declination. She added that 300 ID/RD slots were approved for release on November 14, 2018. (Attachment K)

Executive Session

On motion of Commissioner Lemel, seconded by Commissioner Neeley, the Commission entered into Executive Session to discuss a contractual matter with Mentor.

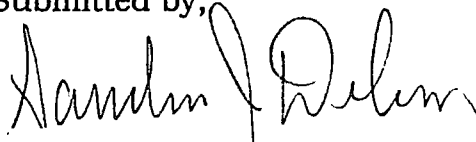
Enter into Public Session

The Commission entered into Public Session. It was noted that no action was taken in the Executive Session.

Next Regular Meeting

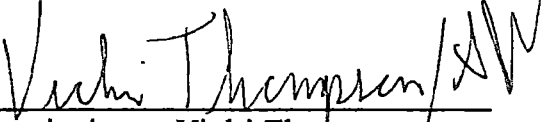
December 13, 2018

Submitted by,

A handwritten signature in black ink, appearing to read "J. Delaney", is written over the printed name.

S-466-J. Delaney

Approved:



Commissioner Vicki Thompson
Secretary

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

A G E N D A

**South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 251
Columbia, South Carolina**

November 15, 2018

10:00 A.M.

1. Call to Order *Chairman Eva Ravenel*
2. Welcome - Notice of Meeting Statement *Commissioner Vicki Thompson*
3. Adoption of Agenda
4. Invocation *Commissioner Gary Lemel*
5. Introduction of Guests
6. Approval of the Minutes of the September 20, 2018 and October 1, 2018
Commission Meetings
7. Public Input
8. Commissioners' Update *Commissioners*
9. Policy Committee Update *Committee Chairman Vicki Thompson*
10. State Director's Report *Mrs. Mary Poole*
11. Business:
 - A. National Disability Employment Awareness Month *Ms. Susan Davis, CESP
Program Coordinator
USC, Center for Disability Resources*
 - B. Financial Update *Mr. Pat Maley*
 - C. Consideration of Bids *Mrs. Joan Cooper*
 - D. Provider Contract Increases *Mr. Chuck Norman*
 - E. Quarterly ANE Report *Mrs. Ann Dalton*
 - F. Case Management Market Rate *Mrs. Susan Beck*
 - G. HASCI and CS Waiver Renewals *Mrs. Susan Beck*
 - H. Waiting List Report *Mrs. Susan Beck*
12. Executive Session
13. Next Regular Meeting (December 20, 2018)
14. Adjournment

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

MINUTES

December 13, 2018

The South Carolina Commission on Disabilities and Special Needs met on Thursday, December 13, 2018, at 10:00 a.m. at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present:

Eva Ravenel, Chairman
Gary Lemel – Vice Chairman
Vicki Thompson – Secretary – Via Skype
Sam Broughton, Ph.D.
Chris Neeley
Lorri Unumb

DDSN Administrative Staff

Mrs. Mary Poole, State Director; Mr. Pat Maley, Deputy Director; Mr. Rufus Britt, Associate State Director, Operations; Ms. Lisa Weeks, Interim Associate State Director, Administration; Mrs. Susan Beck, Associate State Director, Policy; Ms. Sandra Delaney, Administrative Coordinator (For other Administrative Staff see Attachment 1 – Sign In Sheet).

Guests

(See Attachment 1 Sign-In Sheet)

Coastal Regional Center (via videoconference)

(See Attachment 2 Sign-In Sheet)

Pee Dee Regional Center (via videoconference)

(See Attachment 3 Sign-In Sheet)

Whitten Regional Center (via videoconference)

(See Attachment 4 Sign-In Sheet)

Pickens County DSN Board
(See Attachment 5 Sign-In Sheet)

News Release of Meeting

Chairman Ravenel called the meeting to order and Commissioner Thompson read a statement of announcement about the meeting that was distributed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Adoption of the Agenda

On motion of Commissioner Neeley, seconded by Commissioner Unumb, the Commission adopted the December 13, 2018 Meeting Agenda. (Attachment A)

Invocation

Commissioner Neeley gave the invocation.

Approval of the Commission Meeting Minutes

On motion of Commissioner Lemel, seconded by Commissioner Broughton, the Commission approved the minutes of the November 15, 2018 Commission Meeting.

Public Input

The following individual spoke during Public Input: Deborah McPherson.

Commissioners' Update

Chairman Ravenel spoke of an event she attended in her district and a constituent of Commissioner Unumb's district, Ms. Tanya LeBoeuf, shared her experience in trying to find placement for her son.

Policy Committee Update

Committee Chairman Thompson reported that after the Committee met and obtained input on *Directive 535-07 Obtaining Health Care Consent*, the Committee presented their best version of the directive. Discussion followed. On motion of Committee Chairman Thompson, seconded by Commissioner Neeley, the Commission voted all in favor of passing the directive as presented. (Attachment B)

State Director's Report

Director Poole reported on various topics. (Attachment C):

High Management Homes Accountability Plan

Director Poole presented an Accountability Plan for Mentor stating she was not asking to lift the freeze on Mentor, that the plan is a purpose to set measurable goals for improvement, which, if met, will allow Mentor to once again admit residents into their high management vacant beds. Discussion followed as to what the consequences would be if Mentor does not maintain the objectives. Commissioner Lemel moved to approve the Accountability Plan for Mentor as presented and to instruct staff to develop this plan for all high management providers. The motion was seconded by Commissioner Neeley and passed. A vote was called and the outcome was one opposed and four approved. (Attachment D)

Camera Usage in Regional Centers

Mr. Britt shared a PowerPoint presentation which provided information whether to install surveillance video cameras at the Regional Centers. The information included stakeholder input from families. Policy Committee Chairman Thompsen stated the directive is ready to send out for public comment. Discussion followed regarding the video retention cycle of thirty days and to look at the cost if it is necessary to increase the cycle. Commissioner Neeley moved to issue the directive for public comment and then submit to the Policy Committee. The motion was seconded by Commissioner Lemel and passed. (Attachment E).

Personal Care and Respite Assessments for ID/RD, CS and HASCI Waiver Enrollees

Mrs. Beck presented information on the revised assessments. Mrs. Beck stated because they are waiver services, they will need to be approved by SCDHHS. Commissioner Thompson motioned to approve the assessments as presented and submit to SCDHHS for approval. The motion was seconded by Commissioner Lemel and passed. (Attachment F)

Financial Update

The Financial Report was reviewed and discussed. Mr. Maley stated there was better reporting on the revenue side and projections would be provided in January. (Attachment G)

Executive Session

An Executive Session was not held.

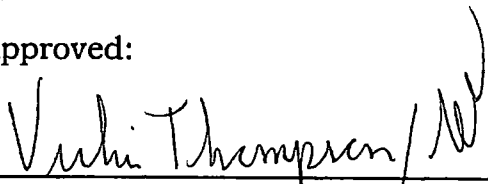
Next Regular Meeting

January 17, 2019.

Submitted by,


Sandra J. Delaney

Approved:



Commissioner Vicki Thompson
Secretary

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

A G E N D A

**South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 251
Columbia, South Carolina**

December 13, 2018

10:00 A.M.

1. Call to Order *Chairman Eva Ravenel*
2. Welcome - Notice of Meeting Statement *Commissioner Vicki Thompson*
3. Adoption of Agenda
4. Invocation *Commissioner Chris Neeley*
5. Introduction of Guests
6. Approval of the Minutes of the November 15, 2018 Commission Meeting
7. Public Input
8. Commissioners' Update *Commissioners*
Commissioner Unumb – Illustration of a Lack of Community
Supports for Children, A Family Story
9. Policy Committee Report *Committee Chairman Vicki Thompson*
Directive 535-07 Obtaining Health Care Consent
10. State Director's Report *Director Mary Poole*
11. Business:
 - A. High Management Homes Accountability Plan *Director Mary Poole*
 - B. Budget Amendments *Mr. Pat Maley*
 - C. Camera Usage in Regional Centers *Mr. Rufus Britt*
 - D. Personal Care and Respite Assessments for
ID/RD, CS and HASCI Waiver Enrollees *Mrs. Susan Beck*
 - E. Financial Update *Mr. Pat Maley*
12. Executive Session
13. Next Regular Meeting (January 17, 2019)
14. Adjournment

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

MINUTES

January 17, 2019

The South Carolina Commission on Disabilities and Special Needs met on Thursday, January 17, 2019, at 10:00 a.m. at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present:

Eva Ravenel, Chairman
Gary Lemel – Vice Chairman
Vicki Thompson – Secretary
Sam Broughton, Ph.D.
Chris Neeley
Lorri Unumb

DDSN Administrative Staff

Mrs. Mary Poole, State Director; Mr. Pat Maley, Deputy Director; Mr. Rufus Britt, Associate State Director, Operations; Ms. Lisa Weeks, Chief Financial Officer; Mrs. Susan Beck, Associate State Director, Policy; Ms. Tana Vanderbilt, General Counsel; Ms. Sandra Delaney, Administrative Coordinator (For other Administrative Staff see Attachment 1 – Sign In Sheet).

Guests

(See Attachment 1 Sign-In Sheet)

Coastal Regional Center (via videoconference)

(See Attachment 2 Sign-In Sheet)

Pee Dee Regional Center (via videoconference)

(See Attachment 3 Sign-In Sheet)

Whitten Regional Center (via videoconference)

(See Attachment 4 Sign-In Sheet)

Pickens County DSN Board
(See Attachment 5 Sign-In Sheet)

News Release of Meeting

Chairman Ravenel called the meeting to order and Commissioner Thompson read a statement of announcement about the meeting that was distributed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Adoption of the Agenda

On motion of Commissioner Neeley, seconded by Commissioner Broughton, the Commission adopted the January 17, 2019 Meeting Agenda. (Attachment A)

Invocation

Commissioner Broughton gave the invocation.

Approval of the Commission Meeting Minutes

On motion of Commissioner Neeley, seconded by Commissioner Lemel, the Commission approved the minutes of the December 13, 2018 Commission Meeting.

Public Input

The following individual spoke during Public Input: Deborah McPherson.

Commissioners' Update

There were no Commissioners' Update.

Policy Committee Update

Committee Chairman Thompson reported the Committee met on January 14, 2019. She stated the policies that were taken into consideration were previously sent to the full Commission for review. Committee Chairman moved that the Commission accept changes made to Directives 535-14, 535-15, 600-03 and 600-05. The motion was seconded by Commissioner Neeley and passed. Committee Chairman Thompson stated the Policy Committee would like to begin discussions on risk management changes and taking progressive action on providers. Discussion followed in regards to hiring an outside consultant to examine the agency. Commissioner Neeley made the motion that the Legislative Committee form a workgroup with citizen, staff and other Commissioners to solicit proposals from outside consultants to come in and do

a full examination of the agency. The motion was seconded by Commissioner Unumb and passed. (Attachment B)

State Director's Report

Director Poole reported on various topics. (Attachment C):

2018 Silver Palmetto Award

Director Poole presented information on the 2018 Silver Palmetto Award that is given annually to a city or town in South Carolina that has best demonstrated exceptional support and commitment to the people we serve during the previous year. On motion of Commissioner Neeley, seconded by Commissioner Broughton and passed, the Commission approved that the City of Aiken be awarded the 2018 Silver Palmetto Award. The 2018 Silver Palmetto Award will be presented February 4, 2019, during the annual meeting of the Municipal Association of South Carolina.

Legislative Oversight Committees Update

Director Poole provided an update on the Legislative Oversight Committees. Discussion followed. Commissioner Neeley recommended that the updates to the House and Senate Committees include a legislative report card showing the agency's progress. The Legislative Committee will look at the recommendations and bring to the full Commission. (Attachment D)

Provider Contact Increases

Mr. Norman provided information on the 2019 Contract Amendments for Babcock Center, Greenville Thrive Upstate and Georgetown DSN Board. Commission Thompson moved to approve the amendments presented. The motion was seconded by Commissioner Lemel and passed. (Attachment E)

2019-2020 Budget Update

Ms. Weeks provided an update of the 2019-2020 Budget. Discussion followed. (Attachment F)

Financial Update

Ms. Weeks provided an overview of the agency's financial activity and the agency's current financial position. Discussion followed. (Attachment G)

Analysis of Current Waiting Lists

Mrs. Beck provided an analysis of the current waiting lists. Discussion followed. The Commission requested that the report be broken out by ages. (Attachment H)

Executive Session

On motion of Chairman Ravenel, seconded by Commission Neeley, the motion passed to enter into Executive Session to discuss personnel issues.

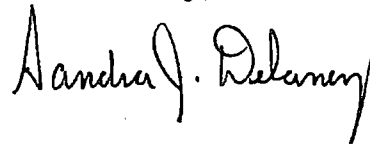
Enter into Public Session

The Commission entered into Public Session. It was noted that no action was taken in the Executive Session.

Next Regular Meeting

February 21, 2019.

Submitted by,



Sandra J. Delaney

Approved:



Commissioner Vicki Thompson
Secretary

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

A G E N D A

**South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 251
Columbia, South Carolina**

January 17, 2019

10:00 A.M.

1. Call to Order *Chairman Eva Ravenel*
2. Welcome - Notice of Meeting Statement *Commissioner Vicki Thompson*
3. Adoption of Agenda
4. Invocation *Commissioner Sam Broughton*
5. Introduction of Guests
6. Approval of the Minutes of the December 13, 2018 Commission Meeting
7. Public Input
8. Commissioners' Update *Commissioners*
9. Policy Committee Report *Committee Chairman Vicki Thompson*
10. State Director's Report *Director Mary Poole*
11. Business:
 - A. 2018 Silver Palmetto Award *Director Mary Poole*
 - B. Legislative Oversight Committees Update *Director Mary Poole*
 - C. Provider Contract Increases *Mr. Chuck Norman*
 - D. 2019-2020 Budget Update *Ms. Lisa Weeks*
 - E. Financial Update *Ms. Lisa Weeks*
 - F. Analysis of Current Waiting Lists *Mrs. Susan Beck*
12. Executive Session
13. Next Regular Meeting (February 21, 2019)
14. Adjournment

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

A G E N D A

**South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 251
Columbia, South Carolina**

January 17, 2019

10:00 A.M.

1. Call to Order *Chairman Eva Ravenel*
2. Welcome - Notice of Meeting Statement *Commissioner Vicki Thompson*
3. Adoption of Agenda
4. Invocation *Commissioner Sam Broughton*
5. Introduction of Guests
6. Approval of the Minutes of the December 13, 2018 Commission Meeting
7. Public Input
8. Commissioners' Update *Commissioners*
9. Policy Committee Report *Committee Chairman Vicki Thompson*
10. State Director's Report *Director Mary Poole*
11. Business:
 - A. 2018 Silver Palmetto Award *Director Mary Poole*
 - B. Legislative Oversight Committees Update *Director Mary Poole*
 - C. Provider Contract Increases *Mr. Chuck Norman*
 - D. 2019-2020 Budget Update *Ms. Lisa Weeks*
 - E. Financial Update *Ms. Lisa Weeks*
 - F. Analysis of Current Waiting Lists *Mrs. Susan Beck*
12. Executive Session
13. Next Regular Meeting (February 21, 2019)
14. Adjournment

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

MINUTES

February 21, 2019

The South Carolina Commission on Disabilities and Special Needs met on Thursday, February 21, 2019, at 10:00 a.m. at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present:

Eva Ravenel, Chairman
Gary Lemel – Vice Chairman
Vicki Thompson – Secretary
Sam Broughton, Ph.D.

Absent:

Lorri Unumb

DDSN Administrative Staff

Director Mary Poole; Mr. Pat Maley, Deputy Director; Mr. Rufus Britt, Associate State Director, Operations; Ms. Lisa Weeks, Chief Financial Officer; Mrs. Susan Beck, Associate State Director, Policy; Ms. Tana Vanderbilt, General Counsel; Ms. Sandra Delaney, Administrative Coordinator (For other Administrative Staff see Attachment 1 – Sign In Sheet).

Guests

(See Attachment 1 Sign-In Sheet)

Coastal Regional Center (via videoconference)

(See Attachment 2 Sign-In Sheet)

Pee Dee Regional Center (via videoconference)

(See Attachment 3 Sign-In Sheet)

Whitten Regional Center (via videoconference)

(See Attachment 4 Sign-In Sheet)

Pickens County DSN Board

News Release of Meeting

Chairman Ravenel called the meeting to order and Commissioner Thompson read a statement of announcement about the meeting that was distributed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Adoption of the Agenda

On motion of Commissioner Broughton, seconded by Commissioner Lemel, the Commission adopted the February 21, 2019 Meeting Agenda. (Attachment A)

Invocation

Commissioner Thompson gave the invocation.

Approval of the Commission Meeting Minutes

On motion of Commissioner Broughton, seconded by Commissioner Lemel, the Commission approved the minutes of the January 17, 2019 Commission Meeting.

Public Input

The following individual spoke during Public Input: Susan John and Deborah McPherson.

Commissioners' Update

There were no Commissioners' Update.

Policy Committee Update

Committee Chairman Thompson stated the Policy Committee met on February 14, 2019. The meeting information was provided to the full Commission to give them the opportunity to review prior to today's meeting. Committee Chairman stated the Committee recommends the Commission adopt the revised Governance Policy. Discussion followed. Commissioner Broughton moved that the sentence involving the Chairperson removing themselves from debate be eliminated, otherwise adopt the policy leaving the direction as written and presented. The motion was seconded by Commission Thompson and passed.

The revised Regional Center Car Policy 535-16-DD was discussed. Committee Chairman Thompson made⁻⁴⁸¹⁻ motion that the policy requiring the

use of surveillance video cameras in DDSN Regional Centers be passed. The motion was seconded by Commissioner Broughton and passed.

Committee Chairman Thompson stated the Committee does not feel it can make a recommendation on using cameras in community settings until they have more information. The list of eight questions need to be answered. It was suggested adding the question under Location of Providers, what percentage of ANE's have taken place where cameras are in place. (Attachment B)

State Director's Report

Director Poole reported on various topics. Discussion followed on the Case Management rate changes that will be implemented July 1, 2019. It was asked that a roadmap be provided at the next month's Commission Meeting to assist providers in the transition of the new rate. (Attachment C)

Legislative Oversight Committees Update

Director Poole gave an update stating nothing has changed from last month except for the approval of the Governance Policy.

Quarterly Quality Management Report

Ms. Ann Dalton provided a Quarterly Management Report. Discussion followed. (Attachment D)

Financial Update

Ms. Weeks provided an overview of the agency's financial activity and the agency's current financial position. (Attachment E)

Provider Contact Increases

Mr. Norman provided information on the 2019 Contract Amendments for Excalibur and Correct Care. Commissioner Thompson moved to approve the amendments presented. The motion was seconded by Commissioner Broughton and passed. (Attachment F)

Consideration of Bid-Generators for Emergency Shelters

Ms. Cooper presented information on the bid for the generators for emergency shelters located in Spartanburg, Laurens and Newberry Counties. Commissioner Thompson moved to accept the bid from Page Power Systems, Inc. of Gastonia, North Carolina for a total contract award of \$574,307.00 and to award to the second low bidder should low bidder be determined non-responsible. The motion was seconded by Commissioner Lemel and passed. (Attachment G)

Executive Session

On motion of Commissioner Thompson, seconded by Commission Lemel, the motion passed to enter into Executive Session to discuss an employment and contractual matter.

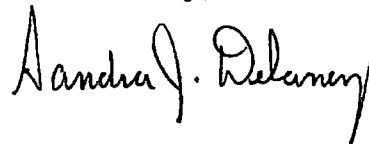
Enter into Public Session

The Commission entered into Public Session. It was noted that no action was taken in the Executive Session.

Next Regular Meeting

March 21, 2019.

Submitted by,



Sandra J. Delaney

Approved:



Commissioner Vicki Thompson
Secretary

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

MINUTES

March 21, 2019

The South Carolina Commission on Disabilities and Special Needs met on Thursday, March 21, 2019, at 9:00 a.m. at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present:

Eva Ravenel, Chairman
Gary Lemel – Vice Chairman
Vicki Thompson – Secretary
Sam Broughton, Ph.D.
Lorri Unumb

DDSN Administrative Staff

Director Mary Poole; Mr. Pat Maley, Deputy Director; Mr. Rufus Britt, Associate State Director, Operations; Ms. Lisa Weeks, Chief Financial Officer; Mrs. Susan Beck, Associate State Director, Policy; Mr. Robb McBurney, Ms. Colleen Honey, Administrative Coordinator (For other Administrative Staff see Attachment 1 – Sign In Sheet).

Guests

(See Attachment 1 Sign-In Sheet)

Coastal Regional Center (via videoconference)

(See Attachment 2 Sign-In Sheet)

Pee Dee Regional Center (via videoconference)

(See Attachment 3 Sign-In Sheet)

Whitten Regional Center (via videoconference)

(See Attachment 4 Sign-In Sheet)

Pickens County DSN Board

News Release of Meeting

Chairman Ravenel called the meeting to order and Commissioner Thompson read a statement of announcement about the meeting that was distributed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Adoption of the Agenda

On motion of Commissioner Broughton, seconded by Commissioner Unumb, the Commission adopted the March 21, 2019 Meeting Agenda. (Attachment A)

Executive Session

On motion of Commissioner Broughton, seconded by Commissioner Unumb, the motion passed to enter into Executive Session to discuss a contractual matter.

Enter into Public Session

The Commission entered into Public Session. It was noted that no action was taken in the Executive Session.

Invocation

Commissioner Unumb gave the invocation.

Approval of the Commission Meeting Minutes

On motion of Commissioner Broughton, seconded by Commissioner Lemel, the Commission approved the minutes of the February 21, 2019 Commission Meeting.

Public Input

The following individuals spoke during Public Input: Deborah McPherson, Patricia Harrison, Susan John and Beth Bunge.

Commissioners' Update

Commission Lemel spoke about attending the subcommittee at the State House regarding who can become a Commissioner to no avail as the meeting was adjourned before the issue came up for discussion. He also spoke about a local individual who is participating in the International Special Olympics and how proud everyone was of his achievements.

State Director's Report

Director Poole reported on various topics. (Attachment B)

Brain Injury Awareness Month

Ms. Melissa Ritter, Director of the HASCI Division, gave a presentation.

Legislative Oversight Committees Update

Mr. Robb McBurney gave an update on the various Bills relating to the agency. He also gave an update on the budget. Commission Thompson asked for a monthly update. (Attachment C)

Strategic Plan

Mr. Pat Maley provided a detailed update on the agency's strategic plan. (Attachment D)

Case Management and Early Intervention Update

Director Poole gave a detailed update regarding the timeframe surrounding the CM rate changes and issues surrounding this topic for providers. A discussion followed.

Update on Use of Cameras in Community Settings

Mr. Rufus Britt gave an update on the RFP for installation of cameras in the Regional Centers. Answers to previous questions regarding use in community settings were included in their binders for review. (Attachment E)

Budget and Financial Update

Ms. Weeks provided an overview of the agency's financial activity and the agency's current financial position. It was noted that Mr. McBurney had earlier given the budget update. (Attachment F)

Next Regular Meeting

April 18, 2019.

Submitted by,



Colleen Honey

Approved:

A handwritten signature in black ink, appearing to read "Vicki Thompson" followed by a stylized flourish or initials.

Commissioner Vicki Thompson
Secretary

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

A G E N D A

**South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 251
Columbia, South Carolina**

March 21, 2019

9:00 A.M.

1. Call to Order *Chairman Eva Ravenel*
2. Welcome - Notice of Meeting Statement *Commissioner Vicki Thompson*
3. Adoption of Agenda
4. ***Executive Session – discuss contractual matter***
5. ***Enter into Public Session – at approximately 10:00 a.m. or later***
6. Invocation *Commissioner Lorri Unumb*
7. Introduction of Guests
8. Approval of the Minutes of the February 21, 2019 Commission Meeting
9. Public Input
10. Commissioners' Update *Commissioners*
11. State Director's Report *Director Mary Poole*
12. Business:
 - A. Brain Injury Awareness Month *Ms. Melissa Ritter
Director, DDSN HASCI Division*
 - B. Legislative Updates *Mr. Robb McBurney*
 - C. Strategic Plan *Director Mary Poole*
 - D. Case Management and Early Intervention Update *Director Mary Poole*
 - E. Update on Use of Cameras in Community Settings *Mr. Rufus Britt*
 - F. Budget Update *Ms. Lisa Weeks*
 - G. Financial Update *Ms. Lisa Weeks*
13. Next Regular Meeting (April 18, 2019)
14. Adjournment

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

MINUTES

April 18, 2019

The South Carolina Commission on Disabilities and Special Needs met on Thursday, April 18, 2019, at 10:00 a.m. at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present:

Eva Ravenel, Chairman
Gary Lemel – Vice Chairman
Sam Broughton, Ph.D.
Lorri Unumb – Via Skype

Absent:

Vicki Thompson – Secretary

DDSN Administrative Staff

Director Mary Poole; Mr. Pat Maley, Deputy Director; Mr. Rufus Britt, Associate State Director, Operations; Mrs. Susan Beck, Associate State Director, Policy; Tana Vanderbilt, General Counsel, Mr. Robb McBurney, Legislative Liaison; Ms. Sandra Delaney, Administrative Coordinator (For other Administrative Staff see Attachment 1 – Sign In Sheet).

Guests

(See Attachment 1 Sign-In Sheet)

Coastal Regional Center (via videoconference)

Pee Dee Regional Center (via videoconference)

(See Attachment 3 Sign-In Sheet)

Whitten Regional Center (via videoconference)

(See Attachment 4 Sign-In Sheet)

News Release of Meeting

Chairman Ravenel called the meeting to order and Commissioner Lemel read a statement of announcement about the meeting that was distributed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Adoption of the Agenda

On motion of Commissioner Broughton, seconded by Commissioner Lemel, the Commission adopted the April 18, 2019 Meeting Agenda. (Attachment A)

Invocation

Chairman Ravenel gave the invocation.

Approval of the Commission Meeting Minutes

On motion of Commissioner Broughton, seconded by Commissioner Lemel, the Commission unanimously approved the minutes of the March 21, 2019 Commission Meeting.

Public Input

The following individuals spoke during Public Input: Susan John, Deborah McPherson, Patricia Harrison, Kathleen Roberts and Beth Bunge.

Commissioners' Update

Commissioner Lemel spoke about attending the subcommittee at the State House regarding a hearing on H 3824-DDSN Commissioner Qualifications and Training adding the subcommittee members were open to his and Director Poole's feedback.

State Director's Report

Director Poole reported on various topics. (Attachment B)

Finance and Audit Committee Update

Committee Chairman Lemel stated the Committee met earlier this month and made minor changes on Directives 275-04 and 275-06. On behalf of the Committee, Committee Chairman Lemel moved that both policies that were presented be adopted by the Commission. The motion was seconded by Commissioner Broughton and passed. (Attachment C)

Disability Advocacy Day

Ms. Connie Gallman, immediate past-chair of the SC Partnership of Disability Organizations, spoke of the events that took place at the 30th Annual Disability Advocacy Day held at the State House on March 6, 2019.

Legislative Update

Mr. McBurney gave an update of the various Legislative topics relating to the agency. (Attachment D)

Budget Update

Mr. Maley provided an update of the agency's budget process. (Attachment E)

Financial Update

Mr. Maley provided an overview of the agency's financial activity and the agency's current financial position. Commissioner Lemel motioned to accept the financial report as presented. The motion was seconded by Commissioner Broughton and passed. (Attachment F)

DDSN Employee of the Year

Mr. Britt welcomed the employees that were nominated for the 2018 DDSN Employee of the Year. Ms. Lemmond introduced each Employee of the Year for each regional center as follows:

Ms. Angel Shuler was announced as the Coastal Regional Center Employee of the Year. Ms. Becky Hill, Facility Administrator, spoke on her behalf.

Ms. Mary Kelly was announced as the Saleeby Regional Center Employee of the Year. Mr. John Hitchman, Facility Administrator, spoke on her behalf.

Ms. Charlene Speaks was announced as the Whitten Center Employee of the Year. Mr. Randy Davis, Facility Administrator, spoke on her behalf.

Ms. Rachel Sholar was announced as the Midlands Regional Center Employee of the Year. Ms. Angela Wright, Facility Administrator, spoke on her behalf.

Ms. Wilma Epps was announced as the Pee Dee Regional Center Employee of the Year. Mr. John Hitchman, Facility Administrator, spoke on her behalf.

Ms. Lemmond announced Ms. Angel Shuler as the DDSN Employee of the Year 2018. Ms. Becky Hill spoke on her behalf.

All recipients received a certificate along with a monetary award.

Executive Session

An Executive Session was not held.

Next Regular Meeting

May 16, 2019.

Submitted by,

Sandra J. Delaney

Sandra Delaney

Approved:

Vicki Thompson / VHT

Commissioner Vicki
Thompson Secretary

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

A G E N D A

**South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 251
Columbia, South Carolina**

April 18, 2019

10:00 A.M.

1. Call to Order *Chairman Eva Ravenel*
2. Welcome - Notice of Meeting Statement *Commissioner Vicki Thompson*
3. Adoption of Agenda
4. Invocation *Commissioner Eva Ravenel*
5. Introduction of Guests
6. Approval of the Minutes of the March 21, 2019 Commission Meeting
7. Public Input
8. Commissioners' Update *Commissioners*
9. State Director's Report *Director Mary Poole*
10. Finance and Audit Committee Update *Committee Chairman Gary Lemel*
11. Business:
 - A. Disability Advocacy Day *Ms. Margie Williamson
Executive Director, The Arc of SC
President, SC Partnership of Disability Organizations*
 - B. Legislative Updates *Mr. Robb McBurney*
 - C. Budget Update *Mr. Pat Maley*
 - D. Financial Update *Mr. Pat Maley*
 - E. DDSN Employee of the Year *Mr. Rufus Britt
Ms. Liz Lemmond*
12. Executive Session *Chairman Eva Ravenel*
13. Next Regular Meeting (May 16, 2019)
14. Adjournment

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

A G E N D A

**South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 251
Columbia, South Carolina**

April 18, 2019

10:00 A.M.

1. Call to Order *Chairman Eva Ravenel*
2. Welcome - Notice of Meeting Statement *Commissioner Vicki Thompson*
3. Adoption of Agenda
4. Invocation *Commissioner Eva Ravenel*
5. Introduction of Guests
6. Approval of the Minutes of the March 21, 2019 Commission Meeting
7. Public Input
8. Commissioners' Update *Commissioners*
9. State Director's Report *Director Mary Poole*
10. Finance and Audit Committee Update *Committee Chairman Gary Lemel*
11. Business:
 - A. Disability Advocacy Day *Ms. Margie Williamson
Executive Director, The Arc of SC
President, SC Partnership of Disability Organizations*
 - B. Legislative Updates *Mr. Robb McBurney*
 - C. Budget Update *Mr. Pat Maley*
 - D. Financial Update *Mr. Pat Maley*
 - E. DDSN Employee of the Year *Mr. Rufus Britt
Ms. Liz Lemmond*
12. Executive Session *Chairman Eva Ravenel*
13. Next Regular Meeting (May 16, 2019)
14. Adjournment

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

MINUTES

May 16, 2019

The South Carolina Commission on Disabilities and Special Needs met on Thursday, May 16, 2019, at 10:00 a.m. at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present:

Eva Ravenel, Chairman (Via Teleconference)

Gary Lemel – Vice Chairman

Vicki Thompson – Secretary

Robin Blackwood

Lorri Unumb

Absent:

Sam Broughton, Ph.D.

DDSN Administrative Staff

Director Mary Poole; Mr. Pat Maley, Deputy Director; Mr. Rufus Britt, Associate State Director, Operations; Mrs. Susan Beck, Associate State Director, Policy; Tana Vanderbilt, General Counsel, Mr. Robb McBurney, Legislative Liaison; Ms. Sandra Delaney, Administrative Coordinator (For other Administrative Staff see Attachment 1 – Sign In Sheet).

Guests

(See Attachment 1 Sign-In Sheet)

Coastal Regional Center (via videoconference)

Pee Dee Regional Center (via videoconference)

Whitten Regional Center (via videoconference)

(See Attachment 2 Sign-In Sheet)

Pickens DSN Board

(See Attachment 3 Sign-In Sheet)

News Release of Meeting

Commissioner Lemel called the meeting to order and Commissioner Unumb read a statement of announcement about the meeting that was distributed to the appropriate media, interested persons, and posted at the

Central Office and on the website in accordance with the Freedom of Information Act.

Adoption of the Agenda

On motion of Commissioner Unumb, seconded by Commissioner Blackwood, the Commission adopted the May 16, 2019 Meeting Agenda (Attachment A).

Invocation

Commissioner Lemel gave the invocation.

Approval of the Commission Meeting Minutes

On motion of Commissioner Unumb, seconded by Commissioner Thompson, the Commission unanimously approved the minutes of the March 21, 2019 Commission Meeting.

Public Input

The following individuals spoke during Public Input: Deborah McPherson and Linda Lee.

Commissioners' Update

Commissioner Unumb stated yesterday was her last day at Autism Speaks and has started her new adventure as CEO of the Council of Autism Service Providers (CASP).

Nominating Committee

Commission Lemel stated that Chairman Ravenel had initially appointed Commissioners Thompson, Unumb and Broughton to the Nominating Committee, however, Commission Broughton will not be able to serve in that capacity. Chairman Ravenel requested that Commissioner Lemel also serve on the committee. Commissioner Thompson will chair the committee.

Policy Committee Update

Committee Chairman Thompson gave an update on the Executive Limitations Policy and spoke of the recommended changes from the Policy Committee (highlighted areas attached). The Committee recommended two additions to the policy – one differentiating “Policies from Procedures on page 2, and the second requiring the Director to submit relevant information to the Commission regarding changes being considered by SCDHHS on page three. Commissioner Lemel stated the recommended proposals presented be treated

as a motion. Discussion followed on the first recommendation (page two). Commissioner Unumb moved to amend the motion to change the word “and” to “on”. Commissioner Thompson seconded the motion and the amendment to the motion. The motion and the amendment passed unanimously. Discussion followed on the second recommendation (page 3). Commissioner Unumb moved to amend the motion to move the last sentence to the beginning of item No. 15 and revise the sentence structure. Commissioner Thompson seconded the motion to the amendment. The motion and the amendment to the motion passed unanimously. Commissioner Lemel requested a motion to further review and create a supplemental policy on subsection 8. Commissioner Unumb motioned that the Policy Committee further review and have a supplementary policy to define the procedures under subsection eight. Commissioner Blackwood seconded the motion. Commissioners Lemel, Ravenel, Unumb, and Blackwood voted aye, Commissioner Thompson abstained. (Attachment B)

Legislative Update

Mr. McBurney gave an update of the various Legislative topics relating to the agency. (Attachment C) In regard to the Adult Health Care Consent Act, Commissioner Thompson requested that staff research with other states as to how they handle the potential conflict of interest that exists when providers have dual relationships of being both a provider and a personal representative.

Budget Update

Mr. McBurney provided an update of the agency’s budget process as part of the Legislative Update. He stated the budget was in conference committee to hash out the differences between the House and Senate, however, he said the agency budget looked good and the budget should be finalized by the end of the week.

Financial Update

Mr. Maley announced that the agency hired Mr. Chris Clark as the new Chief Financial Officer and he will begin June 3, 2019. Mr. Maley provided an overview of the agency’s financial activity and the agency’s current financial position. Commissioner Unumb motioned to accept the financial report as presented. The motion was seconded by Commissioner Blackwood and passed. (Attachment D)

HCBS Settings Rule Update

Ms. Priest gave a PowerPoint presentation update on the implementation of the HCBS Final Rule Settings. Discussion followed. Commissioner Thompson requested that staff narrow down the definition of isolation other than by using a fence and that a link for the State Transition Plan formulated

by DHHS be placed on the DDSN website when it comes open for public comment. (Attachment E)

Early Intervention Update

Mr. Britt gave an update on the transition to fee for service. In July, DDSN wants to implement consistency and pay retrospectively at a rate of \$23.52 for 15-minute units. At this time, only one provider, Pickens DSN Board, wants to terminate this service. They have a good transition plan to position the six children they serve to other agencies without disruption in their services. Commissioner Thompson asked if all providers would currently be breaking even according to projections with prospective payment. Mr. Britt responded no. Commissioner Lemel entertained a motion to approve the July 1 implementation date of the fee-for-service retrospective payment across the board. Commissioner Unumb so moved and the motion was seconded by Commissioner Blackwood. Discussion followed. A vote was taken with Commissioners Lemel, Ravenel, Unumb, and Blackwood voting aye and Commissioner Thompson voting no. The motion passed.

It was noted Chairman Ravenel had to disconnect from the teleconference connection after the vote.

Waiver Case Management Update

Ms. Beck provided a PowerPoint presentation update on waiver case management. Mr. Maley explained the provider billing trend analysis chart and shared the safety net plan to aid providers for three months through the transition to fee-for-service. Discussion followed. Commissioner Lemel entertained a motion to ratify the safety net plan. Commissioner Unumb moved and the motion was seconded by Commissioner Blackwood. A vote was taken with Commissioners Lemel, Unumb, and Blackwood voting aye and Commissioner Thompson voting no. (Attachment F)

Hurricane Preparedness

Mr. Britt gave an update on hurricane preparedness stating the generators the agency operates are in working order. There are sixty-two fixed generators throughout the five campuses and there are mobile generators that can power the cottages, etc. An annual emergency preparedness meeting is scheduled this Wednesday to discuss readiness plans with all providers and facility administrators. Mr. Britt also spoke of the FEMA grant applications for generators for providers. Discussion followed

It was noted that Commissioner Thompson had to depart the meeting.

Regional Center Cameras

Mr. Britt gave an update on the cameras for the Regional Centers stating video surveillance is going well at the Coastal Center. Codelynx has been requested to visit Saleeby, Midlands and Whitten Center to provide specifications to add video surveillance of residential and day program facilities. A visit is being coordinated to visit the Pee Dee Center. A consensus is being conducted with families for the consumers that reside at the Coastal Center. The plan is to go live June 1 and if it requires staff to visit some of these families to help explain the process, that is what will be done. Discussion followed. (Attachment G)

Analysis of Current Waiting Lists

Ms. Beck stated she had a PowerPoint presentation prepared but given the time constraint, she provided highlights of the report provided in the Commission meeting binders. Ms. Beck also summarized waiver enrollment process improvements being implemented to include changes to DDSN internal processing that will not affect case managers. Additional case management units will be awarded to help expedite enrollment in the waiver; families will be contacted 3 months earlier to begin enrollment that much earlier; and case managers will implement enrollment timelines. Discussion followed. (Attachment H)

Quarterly Quality Management Report

Ms. Dalton provided data for a five-year trend on incident management. (Attachment I)

State Director's Report

Director Poole reported on various topics. (Attachment J)

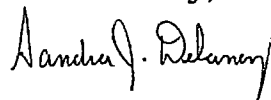
Executive Session

Commissioner Lemel announced that an Executive Session would not be held due to not having a quorum.

Next Regular Meeting

June 20, 2019.

Submitted by,



Sandra Delaney

Approved:

A handwritten signature in black ink that reads "Vicki Thompson" followed by a stylized flourish or set of initials.

Commissioner Vicki Thompson
Secretary

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

A G E N D A

**South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 251
Columbia, South Carolina**

May 16, 2019

10:00 A.M.

1. Call to Order *Commissioner Gary Lemel*
2. Welcome - Notice of Meeting Statement *Commissioner Vicki Thompson*
3. Adoption of Agenda
4. Invocation *Commissioner Gary Lemel*
5. Introduction of Guests
6. Approval of the Minutes of the April 18, 2019 Commission Meeting
7. Public Input
8. Commissioners' Update *Commissioners*
9. Nominating Committee *Commissioner Gary Lemel*
10. Policy Committee Update *Committee Chairman Vicki Thompson*
11. Business:
 - A. Legislative Updates *Mr. Robb McBurney*
 - B. Budget Update *Mr. Pat Maley*
 - C. Financial Update *Mr. Pat Maley*
 - D. HCBS Final Rule Update *Ms. Janet Priest*
 - E. Early Intervention Update *Mr. Rufus Britt*
 - F. Waiver Case Management Update *Mrs. Susan Beck*
 - G. Hurricane Preparedness *Mr. Rufus Britt*
 - H. Regional Center Cameras *Mr. Rufus Britt*
 - I. Analysis of Current Waiting Lists *Mrs. Susan Beck*
 - J. Quarterly Quality Management Report *Ms. Ann Dalton*
12. State Director's Report *Director Mary Poole*
13. Executive Session *Commissioner Gary Lemel*
14. Next Regular Meeting (June 20, 2019)
15. Adjournment

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

MINUTES

June 20, 2019

The South Carolina Commission on Disabilities and Special Needs met on Thursday, June 20, 2019, at 10:00 a.m. at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present:

Eva Ravenel, Chairman
Gary Lemel – Vice Chairman
Vicki Thompson – Secretary
Robin Blackwood
Lorri Unumb

DDSN Administrative Staff

Director Mary Poole; Mr. Pat Maley, Deputy Director; Mr. Rufus Britt, Associate State Director, Operations; Mrs. Susan Beck, Associate State Director, Policy; Mr. Chris Clark, Chief Financial Officer; Ms. Tana Vanderbilt, General Counsel, Mr. Robb McBurney, Legislative Liaison; Ms. Sandra Delaney, Administrative Coordinator (For other Administrative Staff see Attachment 1 – Sign In Sheet).

Guests

(See Attachment 1 Sign-In Sheet)

Coastal Regional Center (via videoconference)

(See Attachment 2 Sign-In Sheet)

Pee Dee Regional Center (via videoconference)

(See Attachment 3 Sign-In Sheet)

Whitten Regional Center (via videoconference)

(See Attachment 4 Sign-In Sheet)

Pickens DSN Board

(See Attachment 5 Sign-In Sheet)

Notice of Meeting Statement

Chairman Ravenel called the meeting to order and Commissioner Thompson read a statement of announcement about the meeting that was distributed to the appropriate media, interested persons, and posted at the

Central Office and on the website in accordance with the Freedom of Information Act.

Adoption of the Agenda

On motion of Commissioner Lemel, seconded by Commissioner Unumb, the Commission adopted the June 20, 2019 Meeting Agenda. (Attachment A)

Invocation

Commissioner Blackwood gave the invocation.

Approval of the Commission Meeting Minutes

On motion of Commissioner Blackwood, seconded by Commissioner Thompson, the Commission approved the minutes of the May 16, 2019 Commission Meeting.

Public Input

The following individuals spoke during Public Input: Dana McConnell, Evelyn Turner, Susan John and Deborah McPherson.

Commissioners' Update

There were no commission updates.

Policy Committee Update

Committee Chairman Thompson gave an update of the Policy Committee meeting that was held June 5, 2019. On behalf of the Policy Committee, Commissioner Thompson motioned that the Commission approve 738-01-DD with changes as presented and the Waiver and Case Management standards as presented. The motion passed. (Attachment B)

Golden Palmetto Award

Mr. McBurney presented DDSN's recommendation for the Golden Palmetto Award for 2018 which is awarded annually to a county government in South Carolina that has best demonstrated exemplary support of citizens with disabilities and special needs during the previous year. Commissioner Unumb made the motion to accept the recommendation to award Fairfield County the 2017 Golden Palmetto Award. The motion was seconded by Commissioner Lemel and passed. The award will be presented during the annual meeting of the SC Association of Counties in Hilton Head on August 5, 2019.

Legislative Update

Mr. McBurney gave an update of the various Legislative topics relating to the agency. (Attachment C)

Budget Update

Mr. Clark gave a brief update on the budget stating the agency will start moving toward a true operating budget in February 2020 and will present to the Commission in May or June. The agency will start with a zero-based budget with the regional centers. He also added a memo was sent to the provider network regarding the two percent cost-of-living adjustment and the final one-dollar increase.

Financial Update

Mr. Clark provided an overview of the agency's financial activity and the agency's current financial position. He stated expenses are below the budgeted expenses per the spending plan, but we have some revenue issues that negatively impact our actual financial results. The Finance Team is working hard to make sure the agency remains in a positive cash position. Chairman Ravenel asked that the revenue information be included in the report. Mr. Clark stated we would look at taking a full income state type of approach and present cash balance information as well. Commissioner Blackwood motioned to accept the financial report as presented. The motion was seconded by Commissioner Lemel and passed. (Attachment D)

Community Provider Contacts

Mr. Clark presented information on the agency budget for FY 2019-2020 community contracts in the amount of \$543,895,841 for Commission approval. Discussion followed. Mr. Clark will research Commissioner Thompson's questions as to (1) why are the number of individuals receiving case management and family support services down from last year, (2) what is the change in the Community Options contract amount, and (3) what is the day service add-on for SC Mentor? Mr. Clark stated future reports would be updated to show comparative consumers served information as well as explanations to help minimize the confusion on some of the changes. Commissioner Thompson made the motion to approve the contracts for FY 2019-2020 as presented. The motion was seconded by Commissioner Unumb and passed. (Attachment E)

Comprehensive Property Improvement Plan (CPIP) Projects

Ms. Hall presented information on the FY 19-20 CPIP projects totaling \$1,370,000.00. She requested approval from the Commission to start the bidding process. Discussion followed. Commissioner Thompson motioned to

approve the CPIP projects as presented. The motion was seconded by Commissioner Lemel and passed. (Attachment F)

Sale of Property

Mr. Maley presented information on Lots 2 and 3 Diane Road, York, SC, requesting Commission approval to sell the property. Discussion followed. Commissioner Blackwood made the motion to sell the property with the Commission approving unanimously. (Attachment G)

Case Management Update

Ms. Beck provided a PowerPoint presentation on case management. Discussion followed. The Commission urged agency staff to negotiate with DHHS on the travel rates. Mr. Clark also provided information on how DHHS developed the rates in 2014 for case management. (Attachment H)

Waiting List Report

Ms. Beck provided information and discussed the waiting list summary in detail. (Attachment I)

Consideration of Bids

Mr. Tharin presented information on the bid for three generators for emergency shelters in Fairfield, Williamsburg and Florence counties with the recommendation to award the contract to DNB Electric of West Columbia in the amount of \$413,237.00. Commissioner Blackwood moved to approve the bid as presented with the permission to award to the second low bidder should the low bidder be determined non-responsible. The motion was seconded by Commissioner Unumb and passed. Mr. Tharin also presented information on the bid for a generator upgrade at the Coastal Center with the recommendation to award the contract to LC's Electric of Chapin, SC in the amount of \$124,960.00. Commissioner Blackwood moved to approve the bid as presented with the permission to award to the second low bidder should the low bidder be determined non-responsible. The motion was seconded by Commissioner Lemel and passed. (Attachment J)

Review of Special Contracts/Grants

Mr. Maley provided information on the special contracts and grants. He stated that staff have looked closely for ones that were non cost-effective. Commissioner Thompson moved to accept the recommended reductions. The motion was seconded by Commissioner Unumb and passed. (Attachment K)

Nominating Committee-Election of Officers

Committee Chairman Thompson presented the following slate of officers for FY 2019-2020 – Commissioner Lemel as Chairman, Commissioner Thompson as Vice Chairman, and Commissioner Unumb as Secretary. Chairman Ravenel moved to close nominations and accept the slate of officers by acclamation. The motion was seconded by Commissioner Lemel and the motion passed.

State Director's Report

Director Poole reported on various topics. (Attachment L)

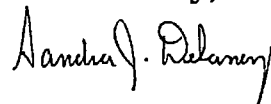
Executive Session

An Executive Session was not held.

Next Regular Meeting

July 18, 2019.

Submitted by,



Sandra Delaney

Approved:



Commissioner Vicki Thompson
Secretary

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

A G E N D A

**South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 251
Columbia, South Carolina**

June 20, 2019

10:00 A.M.

1. Call to Order *Chairman Eva Ravenel*
2. Welcome - Notice of Meeting Statement *Commissioner Vicki Thompson*
3. Adoption of Agenda
4. Invocation *Commissioner Robin Blackwood*
5. Introduction of Guests
6. Approval of the Minutes of the May 16, 2019 Commission Meeting
7. Public Input
8. Commissioners' Update *Commissioners*
9. Policy Committee Update *Committee Chairman Vicki Thompson*
10. Business:
 - A. Golden Palmetto Award *Mr. Robb McBurney*
 - B. Legislative Update *Mr. Robb McBurney*
 - C. Budget Update *Mr. Chris Clark*
 - D. Financial Update *Mr. Chris Clark*
 - E. Community Provider Contracts *Mr. Chris Clark*
 - F. Comprehensive Property Improvement Plan (CPIP) Projects *Ms. Nancy Hall*
 - G. Sale of Property *Mr. Pat Maley*
 - H. Case Management Update *Ms. Susan Beck*
 - I. Waiting List Report *Ms. Susan Beck*
 - J. Consideration of Bids *Mr. Andrew Tharin*
 - K. Review of Special Contracts/Grants *Mr. Pat Maley*
11. Nominating Committee-Election of Officers *Committee Chairman Vicki Thompson*
12. State Director's Report *Director Mary Poole*
13. Executive Session *Chairman Eva Ravenel*
14. Next Regular Meeting (July 18, 2019)
15. Adjournment

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

MINUTES

July 18, 2019

The South Carolina Commission on Disabilities and Special Needs met on Thursday, July 18, 2019, at 10:00 a.m. at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present:

Gary Lemel – Chairman

Vicki Thompson – Vice Chairman (Attended via Skype)

Lorri Unumb - Secretary

Robin Blackwood

DDSN Administrative Staff

Director Mary Poole; Mr. Pat Maley, Deputy Director; Mr. Rufus Britt, Associate State Director, Operations; Ms. Susan Beck, Associate State Director, Policy; Mr. Chris Clark, Chief Financial Officer; Ms. Tana Vanderbilt, General Counsel, Mr. Robb McBurney, Legislative Liaison; Ms. Sandra Delaney, Administrative Coordinator (For other Administrative Staff see Attachment 1 – Sign In Sheet).

Guests

(See Attachment 1 Sign-In Sheet)

Coastal Regional Center (via videoconference)

(No Attendance)

Pee Dee Regional Center (via videoconference)

(See Attachment 3 Sign-In Sheet)

Whitten Regional Center (via videoconference)

(No Attendance)

Notice of Meeting Statement

Chairman Lemel called the meeting to order and Commissioner Unumb read a statement of announcement about the meeting that was distributed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Adoption of the Agenda

On motion of Commissioner Unumb, seconded by Commissioner Blackwood, the Commission adopted the July 18, 2019 Meeting Agenda. (Attachment A)

Invocation

Commissioner Thompson gave the invocation.

Approval of the Commission Meeting Minutes

On motion of Commissioner Unumb, seconded by Commissioner Blackwood, the Commission approved the minutes of the June 20, 2019 Commission Meeting with a change.

Public Input

The following individuals spoke during Public Input: Patricia Harrison, Jerry Mize, and Jason Tavenner.

Commissioners' Update

Commissioner Blackwood shared information on the Fragile X Awareness Day Ceremony to be held at the State House on July 22, 2019. She also attended the Whitten Center Beach Blast held last month.

Chairman Lemel stated as many of you know we expected to have at least one interim appointment to join us on the Commission. We have been informed that that interim appointment will not be taking place by agreement between the legislature and the Governor's office, an agreement that doesn't really have anything to do with DDSN but has an impact on us until the legislature is back in session and an individual can go through the normal appointment process. Chairman Lemel added that the Commission is at four members which has an impact on all of us in terms of the amount of work that the Commission is going to have to do and encouraged the members to attend the meetings in order to have a quorum.

Committee Assignment

Chairman Lemel appointed the following Committee Chairs to organize the Committee meetings and added that all other Commission members will serve on all Committees until there are enough Commission members. At such time as any additional commissioners are appointed, we will be revisiting this and we will operate under this system until that time.

Finance and Audit Committee – Commissioner Blackwood, Chairman

Policy Committee – Commissioner Thompson, Chairman

Legislative Committee – Commissioner Unumb, Chairman

Policy Committee Update

Committee Chairman Thompson gave an update of the Policy Committee meeting that was held July 10, 2019. There were six standards to review but due to the timeframe, only three were reviewed. On behalf of the Policy Committee, Commissioner Thompson recommended that the Commission approve the following standards. (Attachment B)

Commissioner Blackwood moved to approve the Employment Services Individual Standards. Seconded by Commissioner Unumb, the motion passed.

The Employment Services Group Standards were approved with no opposition.

There was discussion on the Licensing Day Facilities Standards. Commissioner Thompson moved to approve the Licensing Day Facilities Standards as presented. Seconded by Commissioner Unumb, the motion passed.

In order for staff to provide guidance to the Policy Committee before the next committee meeting regarding the Residential Habilitation Standards, Commissioner Thompson made the following motion:

1. Reopen standards for public comment.
2. Create a work group to review the standards and obtain the work group's feedback.
3. Research other states' approach to setting the standards.

Seconded by Commissioner Unumb, the motion passed.

Commissioner Unumb requested that the research of the states include more than just Georgia, North Carolina, and Tennessee.

Case Management Update

Ms. Beck shared a PowerPoint presentation that provided information on Case Management. Discussion followed. At Commissioner Thompson's request, Mr. Maley will provide a detailed billing report. (Attachment C)

EI Update

Mr. Britt reported that per a conference call he participated in this morning with DHHS, as of today, DHHS will release answers to frequently

asked questions and will indicate in writing to providers of EI services to continue practices as they have until further notice. DHHS did recognize that maybe the comments regarding prep time were premature. They will also provide weekly bulletins providing more clarity on EI.

Follow-Up to Community Contacts

Mr. Clark stated he followed-up with the Commission with the answers to their questions at the June 20, 2019 meeting regarding community contracts; however, he wanted to share the responses in public. (Attachment D – Questions and Answers)

HCBS Settings Regulation Training

Ms. Shaffer, Executive Director of MaxAbilities of York County, demonstrated the HCBS Settings Regulation training that the Board provides.

Family Support/Respite Administrative Costs

Mr. Clark presented information on family support/respite administrative costs. Commissioner Unumb moved that the Commission approve the recommendation to change the current practice to allow administrative costs as an expense in the Family Support/Respite Program. Commissioner Blackwood seconded and the motion passed. (Attachment E)

Financial Update

Mr. Clark provided an overview of the agency's financial activity and the agency's current financial position. Commissioner Unumb motioned to accept the financial report as presented. Seconded by Commissioner Blackwood, the motion passed. (Attachment F)

Provider Contract Increases

Mr. Clark provided information on the 2020 Contract Amendments for CHESCO, Dorchester, and Laurens DSN Boards. Commissioner Blackwood moved to approve the amendments as presented. Seconded by Commissioner Unumb, the motion passed. (Attachment G)

State Director's Report

Director Poole reported on various topics. (Attachment H)

Executive Session

Commissioner Unumb moved to enter into Executive Session to discuss a contractual matter regarding Mentor. The motion was seconded by Commissioner Blackwood and passed.

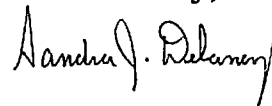
Enter into Public Session

The Commission entered into Public Session. It was noted that no action was taken in the Executive Session.

Next Regular Meeting

August 15, 2019.

Submitted by,



Sandra Delaney

Approved:



Commissioner Lorri Unumb
Secretary

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

A G E N D A

**South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 251
Columbia, South Carolina**

July 18, 2019

10:00 A.M.

1. Call to Order *Chairman Gary Lemel*
2. Welcome - Notice of Meeting Statement *Commissioner Lorri Unumb*
3. Adoption of Agenda
4. Invocation *Commissioner Vicki Thompson*
5. Introduction of Guests
6. Approval of the Minutes of the June 20, 2019 Commission Meeting
7. Public Input
8. Commissioners' Update *Commissioners*
9. Committee Assignments *Chairman Gary Lemel*
10. Policy Committee Update *Committee Chairman Vicki Thompson*
11. Old Business:
 - A. Case Management Update *Ms. Susan Beck*
 - B. EI Update *Mr. Rufus Britt*
 - C. Follow-up to Community Contracts *Mr. Chris Clark*
12. New Business:
 - A. HCBS Settings Regulation Training *Ms. Michelle Shaffer
Executive Director, MaxAbilities*
 - B. Family Support/Respite Administrative Costs *Mr. Chris Clark*
 - C. Financial Update *Mr. Chris Clark*
 - D. Provider Contract Increases *Mr. Chris Clark*
13. State Director's Report *Director Mary Poole*
14. Executive Session *Chairman Gary Lemel*
15. Next Regular Meeting (August 15, 2019)
16. Adjournment

FINANCE AND AUDIT COMMITTEE AGENDA

**Commission of the South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 180
Columbia, South Carolina**

September 12, 2019

3:00 p.m.

1. Call to Order Committee Chair Robin Blackwood
2. Adoption of Agenda
3. Budget ask for 2021
4. Transfer of DDSN owned properties to providers
5. Outlier reconciliation process
6. Reporting of financial information to DDSN by QPLs
7. Extension of Case Management Sixty Percent Prospective Payment
8. Adjournment

FINANCE AND AUDIT COMMITTEE AGENDA

**Commission of the South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 180
Columbia, South Carolina**

September 26, 2019

4:00 p.m.

1. Call to Order *Robin Blackwood, Committee Chair*
2. Adoption of the Agenda
3. Discussion of the Proposed Adjusted Legislative Budget Summary *Chris Clark, Chief Financial Officer*
4. Adjournment

**South Carolina Department of Disabilities and Special Needs
FY 2020 – 2021 Budget Request Items In Priority Order**

Priority	Program Need – Recurring Funds	State Funds	Federal Medicaid Match Funds	Total Funds
1	Residential Service Rate Increase: DDSN will submit a budget request for \$10 million to increase the residential service rate (\$2.9 million state funds). DDSN cost data and the DRAFT Mercer Report assumptions both support a residential community rate increase. The challenge is to come up with a multi-year strategy to balance the DDSN delivery system absorbing a new rate increase, use of existing excess Medicaid system costs in lieu of new legislative appropriations, and the availability of future legislative resources. DDSN will be working diligently with SCDHHS throughout the Fall to establish a multi-year funding strategy prior to the January 2020 legislature session. Given DDSN's 9/20/2019 Executive Budget Office (EBO) submission deadline, SCDHHS and DDSN will notify the EBO and legislators of this ongoing analysis to develop a final long-term residential rate funding strategy later this Fall.	\$2,900,000	\$7,100,000	\$10,000,000
2	Respite Service Rate Increase: Respite is a highly valued and sought after service, but DDSN's Respite Program has inefficiencies and access problems. In FY19, consumers were authorized \$29.9 million in needs-based respite, yet consumers only used \$19.4 million in services (65%). Consumer utilization is hindered for two reasons. First, a large majority of respite providers and Boards exited providing this service due to the low rate (mandatory caregiver rate without adequate additional revenue for overhead) and high risk (worker's comp & civil liability). This has by default required consumers to overly rely on taking on the role of employer for respite caregivers. This model works for some, but it can be inefficient for many others due to high respite caregiver turnover; reliance on consumers to find their own caregivers; and caregiver training and backgrounds must be coordinated through a remote third party Internet vendor. Further, this consumer employer model shifts caregiver civil liability risks to the families of the consumers. DDSN proposes raising the rate from \$12.69 to \$15.41. The increase is required to pay a minimum \$12.00/hour rate to the caregiver, employment taxes, adequate risk insurance, provider costs, and a fair equity return. An increase in participation by local providers and Boards generates increased consumer choice; reduces compliance risk to maintain training and employment standards; and eases access logistics for families. The provider model also removes the consumers' civil liability risk. Despite the inefficiencies in the Respite Program, consumers are still increasing utilization annually by 12% for this highly valued service. This increased utilization is not accounted for in the current band payment structure, and recent cost reports clearly identifies providers' overall costs exceeding Medicaid reimbursement revenues.	\$1,395,000 \$695,000	\$3,392,877 \$1,690,856	\$4,787,877 \$2,385,856
3	Early Intervention (EI) Utilization Increase: The SCDHHS's BabyNet Program continues to experience increase consumers annually in need of developmentally delayed services (ages 0-3), which then directly correlates with increase consumers and utilization of DDSN EI services (ages 3-6). DDSN has absorbed the past three Fiscal Years' increases in consumers and utilization from its base funding, which were 13% (FY17), 18% (FY18), and 30% (FY19). DDSN anticipates a conservative 13% increase in FY21 utilization due to serving an increase in consumers. Absent an increase in funding, DDSN anticipates EI Program changes to keep funding at the FY20 level.	\$755,000	\$1,018,035	\$1,773,035

**South Carolina Department of Disabilities and Special Needs
FY 2020 – 2021 Budget Request Items In Priority Order**

Priority	Program Need – Recurring Funds	State Funds	Federal Medicaid Match Funds	Total Funds
4	Increase and Improve Access to Residential Supports: DDSN currently has 76 consumers on its Critical Needs List (CNL) with a 130 days average time pending of the list. This request will provide necessary residential supports and services to 28 individuals with specialized needs: - Two CTH IIs serving eight Traumatic Brain Injury (TBI) consumers with trained staff to meet their complex needs. There are nine TBI consumers on the CNL and 36 TBI consumers scattered across the delivery system; any relocations from current residentially served TBI consumers will be backfilled with high management needs consumers from the CNL. - Two CTH IIs serving eight autistic young adults with specialized staff. The DDSN delivery system lacks adequate capabilities to serve challenging autistic youth as an increasing number of families are unable to meet needs and short-term Psychiatric Residential Treatment Facilities (PRTFs) have been unsuccessful. - Two CTH IIs serving eight high management consumers with needs surpassing many providers' capabilities. - One CTH II dedicated to serve four high management dually diagnosed consumers in a new initiative with the Department of Mental Health.	\$807,312	\$1,964,100	\$2,771,412
5	HASCI Waiver Slots: On 7/1/2019, DDSN had 97 budgeted HASCI waiver slots available, which were funded from prior FY legislative appropriations. DDSN anticipates issuing 70 new HASCI waiver slots in FY20, as well as using the residual 27 funded HASCI waiver slots prior to mid-FY21. As a result, DDSN needs 43 new HASCI waiver slots to meet FY21 anticipated consumer needs.	\$430,000	\$1,046,141	\$1,476,141
6	State Plan Rate Increases for Three Services Impacting DDSN Waiver Service Costs Based on SCDHHS's consultant (Milliman) rate review, SCDHHS proposed to increase three state plan fee-for-service rates in FY21. Inasmuch as DDSN provides these same services in its waivers, DDSN will need additional funding to support these statewide rate increases. These three SCDHHS proposed service rate increases are: - Private duty nursing rate proposed to increase 15%, which will generate an estimated 100% increase in utilization. The total estimated cost will be \$12.9 million (\$3.75 million state funds). - Attendant care rate proposed to increase 5%, which will generate an estimated 10% increase in utilization. The total estimated cost will be \$4.4 million (\$1.28 state funds). - Adult day healthcare rate proposed to increase 15%, which will generate an estimated 30% increase in utilization. The total estimated cost increase will be \$360,000 (\$105,000 state funds). The total estimated costs of these three state plan proposed rate increases on DDSN's waiver costs is \$17,660,000 (\$5,135,000 state funds).	\$5,135,000	\$12,525,000	\$17,660,000

South Carolina Department of Disabilities and Special Needs
FY 2020 – 2021 Budget Request Items In Priority Order

Priority	Program Needs --- Recurring Funds	State Funds	Federal Medicaid Match Funds	Total Funds
7	Increase Access to Post-Acute Specialized Rehabilitation for Traumatic Brain or Spinal Cord Injuries: The most recent data (2017) indicates South Carolina experiences 2235 traumatic spinal cord and brain injuries annually. The state has graciously state funded time-sensitive post-acute specialized rehabilitation for the uninsured and under-insured citizens, which totaled 83 consumers in FY19. Under/uninsured consumers' needs have been incrementally increasing each fiscal year. In FY 17, the legislature increased funding by \$500,000 from \$2.6 million to \$3.1 million, which DDSN fully used for services. In FY18, DDSN received no increased appropriations and the increased need was financed by providers holding invoices until a subsequent year and DDSN moved funds from other programs. In FY19, the legislature increased funding by \$500,000 again, which exactly met the FY needs. In the current FY20, DDSN received no additional appropriations. As a result, DDSN requests \$500,000 in FY21 to meet its estimated increased needs. DDSN program needs are increasing at approximately \$500,000 every other fiscal year. As an example, FY20's first two months served 25 consumers, which is up from 15 consumers for the same two month period in FY19.	\$500,000	\$0	\$500,000
8	Appropriation Transfer from DHHS for First Filled Slots SCDHHS's contract with DDSN to manage the CSW, IDR, and HASCI waivers requires DDSN to pay the state match for all consumers' medical state plan costs. The \$762,665 is SCDHHS's estimate in recurring state funds needed for DDSN to pay the state match for new waiver consumers' medical state plan costs beginning in FY 21. This is an annually recurring appropriations transfer.	\$762,665	\$1,851,888	\$2,614,553
	Total Recurring Funds Requested	\$13,379,977	\$30,588,897	\$43,968,874

**South Carolina Department of Disabilities and Special Needs
FY 2020 – 2021 Budget Request Items In Priority Order**

Priority	Program Needs — Non-Recurring Funds	State Funds	Federal Medicaid Match Funds	Total Funds
9	Electrical Grid – Coastal Center: The Coastal Centers' electrical grid requires replacement at an estimated cost of \$1.5 million. DDSN owns and operates this 53 year-old system, which is not compliant with Dominion Electric of South Carolina's standards. As a result, all repairs must be contracted out to area electrical contractors. This capital issue has escalated in priority due to the increasing risk of a catastrophic failure during a wide spread power outage due to complete reliance on contractors rather than Dominion Electric for repair services. DDSN hired a consultant, who advised this electrical grid is long overdue to be replaced.	\$1,500,000	\$0	\$1,500,000
10	Transfer of 65 Legacy State Owned Facilities to Providers: The November 2017 Senate Oversight Report recommended DDSN extricate itself from real estate holdings (65 properties) and discontinue future real estate partnerships with providers. DDSN plans to coordinate with the State Fiscal Accountability Authority (SFAA) to turn over ownership of these 65 properties to providers, who are currently operating as residences, day programs, and a few administrative offices. The buildings' equity will remain in the delivery system to benefit consumers, but providers will need to maintain these properties. Given these buildings are some of the oldest in the system, DDSN proposes to grant \$7500 with each property to providers to facilitate this negotiated transfer of ownership and maintenance responsibility. The \$7500 is premised on paying the estimated annual DDSN maintenance expense on these properties for three years (\$2500/year) for a total of \$487,500.	\$487,500	\$0	\$487,500
11	South Carolina Genomic Medicine Initiative: The Greenwood Genetics Center (GGC) is embarking on a major genomic initiative that will have a transformative impact on the GGC, the state, and the provision of personalized medicine for South Carolinians. This South Carolina Genomic Medicine Initiative will combine clinical care, a "multi-omics" technological approach and big data/machine learning to create a powerful and unique resource serving patients, healthcare providers, and state agencies. This bold initiative is being pursued to significantly increase the diagnostic yield for individuals with intellectual disabilities and autism, with the ultimate goal of providing information necessary to provide personalized and precise medical treatment and management for patients with disabilities and autism. In addition, the data accumulated with this initiative will provide precise genomic information that will help develop and guide personalized public health policies. The request of \$2,000,000 of new state funds for FY21, which would be the second \$2,000,000 investment in a projected five year \$10 million state funded plan in conjunction with funds from the private sector. Anticipated partners include the private sector, such as Duke Endowment, a major university, and individual donors. It is the intention of the GGC to work with SCDHHS to pursue an administrative Medicaid match for this project to demonstrate the impact and value to CMS.	\$2,000,000	\$0	\$2,000,000
	Total Non-Recurring Funds Requested	\$3,987,500	\$0	\$3,987,500
	Total Recurring & Non-Recurring Funds Requested	\$17,367,477	\$30,592,486	\$47,959,963

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

MINUTES

January 23, 2020

The South Carolina Commission on Disabilities and Special Needs met on Thursday, January 23, 2020, at 9:00 a.m. at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present:

Gary Lemel – Chairman
Lorri Unumb - Secretary
Robin Blackwood
Barry Malphrus
David Thomas

DDSN Administrative Staff

Director Mary Poole; Mr. Pat Maley, Deputy Director; Mr. Rufus Britt, Associate State Director, Operations; Ms. Susan Beck, Associate State Director, Policy; Mr. Chris Clark, Chief Financial Officer; Ms. Constance Holloway, General Counsel, Mr. Robb McBurney, Legislative Liaison; Ms. Sandra Delaney, Administrative Coordinator (For other Administrative Staff and Guests see Attachment 1 – Sign In Sheet).

Guests

(See Attachment 1 Sign-In Sheet)

Notice of Meeting Statement

Chairman Lemel called the meeting to order and Commissioner Unumb read a statement of announcement about the meeting that was distributed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Adoption of the Agenda

Chairman Lemel moved to amend the agenda to add the discussion of public input to Item No. 10 - Commissioners' Update. On motion of Commissioner Unumb, seconded by Commissioner Malphrus, the Commission adopted the January 23, 2020 Meeting Agenda with the amendment. (Attachment A)

Executive Session

Commissioner Thomas made the motion to go into Executive Session to discuss a contractual matter with Lutheran Services Carolinas. Seconded by Commissioner Malphrus, the motion passed.

Enter into Public Session

The Commission entered into Public Session 9:45 a.m. It was noted that no action was taken in the Executive Session.

Commission Thomas made the motion to continue working with Lutheran Services Carolinas to come into compliance and admissions be suspended until such time that LCS has met all the benchmarks set out for them in the December 6, 2019 letter. Suspension should be lifted and SCDDSN will continue to provide close monitorship to ensure continued compliance. Commissioner Malphrus seconded and the motion passed.

Invocation

Commissioner Blackwood gave the invocation.

Approval of the Commission Meeting Minutes

On motion of Commissioner Unumb, seconded by Commissioner Blackwood, the Commission approved the minutes of the July 18, 2019 Commission Meeting.

Public Input

The following individual spoke during Public Input: Jason Tavenner.

Commissioners' Update

Commissioner Malphrus thanked the Lord first for the opportunity to serve on this board and secondly thanked Governor McMaster for making it possible for him to do this at this time in his life. He added the agency needs a lot of reform and it has for a very long time and with Ms. Poole we are at least moving down that road slowly and he is thankful for that and he intends to work as best as he can with the rest of the board members not only for this much-needed reform that we need so desperately but to allow the people that we serve to reach their potential in this life.

Commissioner Unumb stated she had the opportunity this past month to travel to see how people in other states and countries are dealing with the needs and what solutions they are proposing for people with special needs.

She added that she would work to see more of our local services in the coming months. She also welcomed Commissioners Thomas and Malphrus.

Commissioner Thomas stated he is impressed with what he sees and is thankful for the opportunity to serve on the Commission. He also had questions regarding the Agency's memorandums and stated he would like to see them when they are distributed.

Commissioners' Business

A. Election of Commission Office

Chairman Lemel stated with a resignation of a Commission member, there is an open seat for Vice Chairman. Commissioner Thomas moved to elect Commissioner Blackwood as Vice Chairman. By acclamation, Commissioner Blackwood was elected Vice Chairperson.

B. Naming of Committee Members

Chairman Lemel named Commissioners Unumb, Thomas and Blackwood to serve on the Legislative Committee with Commissioner Unumb as Chairman; Commissioners Malphrus, Thomas and Lemel to serve on the Policy Committee with Commissioner Malphrus as Chairman; and Commissioners Blackwood, Malphrus and Lemel to serve on the Finance and Audit Committee with Commissioner Blackwood as Chairman.

C. Discussion of Public Input

Chairman Lemel spoke of the establishment of public input. He asked for feedback from the Commission as a whole as to what the policy would be. Discussion followed. Commissioner Malphrus made the motion that it would be at the discretion of the chair as to who would speak to the Commission in public during public input and that he could reject any person at any time including in the middle of their speech. Commissioner Blackwood seconded and the motion passed.

Legislative Committee Update

Committee Chairman Unumb reported the after the Committee reviewed the proposed regulations making minor changes, the Committee voted to send the regulations to the State Registry for posting.

Now that we have a quorum, the Legislative Committee is bringing the proposed regulations to the full Commission with a recommendation that the proposed regulations be put through the legislative process once again. That would be to send a notice of drafting, republish the proposed regulations, open

the 30-day comment period and hold a public hearing as required. Chairman Lemel stated we will treat Commissioner Unumb's committee update as a motion and a second and with no further discussion, the motion passed.

Finance and Audit Committee Update

Committee Chairman Blackwood stated the items on today's agenda were previously voted on at the January 9, 2020 Committee meeting, however, they need to be ratified. Mr. Clark spoke specifically about each one.

- A. Contract Amendments – Commissioner Thomas made the motion that quarterly updates of amendments be provided as information to the Commission regardless of the amount. Commissioner Malphrus seconded and the motion passed. Chairman Lemel stated in addition, give the 803-CP directive to the Policy Committee to follow up, review and amend if necessary. Mr. Clark provided information on the 2020 Contract Amendments for Babcock, Charles Lee, Jasper, and Pickens DSN Boards. Discussion followed. Committee Chairman Blackwood made the motion from the Committee to approve the contract amendments. With the motion coming out of the Committee, and no further discussion, the motion passed. (Attachment B)
- B. Travel Directive 200-13-DD – Committee Chairman Blackwood made the motion from the Committee to approve the changes to the Travel Directive. With the motion coming out of the Committee, and no further discussion, the motion passed. (Attachment C)
- C. Procurement Directive 250-08-DD – Committee Chairman Blackwood made the motion from the Committee to approve the changes to Procurement Directive. With the motion coming out of the Committee, and no further discussion, the motion passed. (Attachment D)
- D. 2021 Budget Plan – Committee Chairman Blackwood made the motion from the Committee to ratify the budget request as presented. With the motion coming out of the Committee and no further discussion, the motion passed. (Attachment E)
- E. Consideration of options to pass State appropriated funds to Case Management and Early Intervention (July to December funding) – Committee Chairman Blackwood made the motion from the Committee to approve the distribution of the funds that were allocated by the Legislature according to the plans based on actual productivity per unit. With the motion coming out of the Committee and no further discussion, the motion passed.

- F. Waiver Enrollment and Medicaid Eligibility to Providers – This information was brought to the Commission's attention. Discussion followed.
- G. Review and Approval of DOT Grant – Committee Chairman Blackwood made the motion from the Committee to approve the Agency's acceptance of the award. With the motion coming out of the Committee and no further discussion, the motion passed. (Attachment F)
- H. Date Change for February Finance and Audit Committee Meeting – Committee Chairman Blackwood stated the scheduled February 6, 2020 Finance and Audit Committee Meeting has been changed to February 5, 2020 at 3:30 p.m. She added that going forward now that we have members, we are looking at scheduling the meetings the last week of the month.

Old Business:

- A. Case Management Update

Mrs. Manos shared a PowerPoint presentation that provided information on Case Management. Discussion followed. (Attachment G)

- B. Sixty Percent Prospective Case Management Payment

Chairman Lemel explained why the Sixty Percent Prospective Case Management Payment was implemented as a safety net and since has been terminated. Commissioner Malphrus made the motion to formally terminate the safety net. Commissioner Thomas seconded. A vote was taken with Commissioner Unumb abstaining. With no further discussion, the motion passed.

New Business

- A. 2019 Silver Palmetto Award

Mr. McBurney presented information on the 2019 Silver Palmetto Award that is given annually to a city or town in South Carolina that has best demonstrated exceptional support and commitment to the people we serve during the previous year. On motion of Commissioner Thomas, seconded by Commissioner Malphrus and passed, the Commission approved the City of Rock Hill and the City of Greenville be awarded the 2019 Silver Palmetto Award. The award will be presented February 4, 2020, during the annual meeting of the Municipal Association of South Carolina.

B. Financial Update

Mr. Clark provided an overview of the agency's financial activity and the agency's current financial position. Commissioner Blackwood motioned to accept the financial report as presented. Commissioner Malphrus seconded and the motion passed. (Attachment H)

C. Consideration of Bid – Coastal Center Roof Replacement

Mr. Tharin presented information on the bid. It was recommended that a contract be awarded for the Base Bid And Alternate No. One to Exterior Solutions Of Georgia dba Bone Dry Roofing Company of North Charleston, South Carolina in the amount of \$533,176 with permission to award to the second low bidder if this bidder be determined non-responsive or non-responsible. Commissioner Thomas motioned to approve the bid as presented. Commissioner Malphrus seconded and the motion passed. (Attachment I)

D. HASCI Rehabilitation Supports

Ms. Beck provided detailed information regarding the transition from provision of Medicaid State Plan Psychosocial Rehabilitation Services (Rehabilitation Supports). (Attachment J)

State Director's Report

Director Poole reported on various topics. (Attachment K)

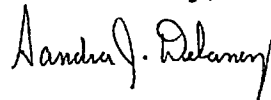
Next Regular Meeting

February 20, 2020

Adjournment

On motion of Commissioner Unumb, seconded by Commissioner Malphrus and passed, the meeting was adjourned.

Submitted by,



Sandra Delaney

Approved:

A handwritten signature in black ink, appearing to read 'Lorri Unumb', written over the printed name.

Commissioner Lorri Unumb
Secretary

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS**A G E N D A**

**South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 251
Columbia, South Carolina**

January 23, 2020**9:00 A.M.**

1. Call to Order *Chairman Gary Lemel*
2. Welcome - Notice of Meeting Statement *Commissioner Lorri Unumb*
3. Adoption of Agenda
4. **Executive Session – will be closed to the public**
5. **Enter into Public Session – at approximately 10:00 A.M. or later**
6. Invocation *Commissioner Robin Blackwood*
7. Introduction of Guests
8. Approval of the Minutes of the July 18, 2019 Commission Meeting
9. Public Input
10. Commissioners' Update *Commissioners*
11. Commissioners' Business *Chairman Gary Lemel*
 - A. Election of Commission Officer
 - B. Naming of Committee Members
12. Legislative Committee Update *Committee Chairman Lorri Unumb*
Department State Regulations
13. Finance and Audit Committee Update *Committee Chairman Robin Blackwood*
Mr. Chris Clark
 - A. Contract amendments over \$200,000
 - B. Travel directive
 - C. Procurement directive
 - D. 2021 budget plan/request
 - E. Consideration of options to pass State appropriated funds to Case Management and Early Intervention – July to December funding
 - F. Waiver enrollment and Medicaid eligibility to Providers
 - G. Review and approval of DOT grant
 - H. Date Change for February Finance and Audit Committee Meeting
14. Old Business:
 - A. Case Management Update *Ms. Lori Manos*
 - B. Sixty Percent Prospective Case Management Payment *Director Mary Poole*

15. New Business:

A. 2019 Silver Palmetto Award

Mr. Robb McBurney

B. Financial Update

Mr. Chris Clark

C. Consideration of Bid – Coastal Center Roof Replacements

Mr. Andrew Tharin

D. HASCI Rehabilitation Supports

Ms. Susan Beck

16 State Director's Report

Director Mary Poole

17. Next Regular Meeting (February 20, 2020)

18. Adjournment