

THE STATE OF SOUTH CAROLINA
In The South Carolina Supreme Court

Appeal from Richland County

Court of Common Pleas

Robert E. Hood, Circuit Court Judge

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MAR 23 2020

S.C. SUPREME COURT

Case Number 2020-000417

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.

MOTION TO ADD PARTY

This Motion is made in response to the letter of the Supreme Court dated March 10,
2020. During the recent course of this litigation, opposing counsel has taken the position that

their “client,” is not DDSN or its governing board, but is, instead, the Insurance Reserve Fund. Petitioner learned that the governing board of DDSN has not been kept informed of or had the opportunity to participate in litigation strategy decisions in which, pursuant to this Court’s Rules of Professional Conduct, the “client” must participate. In particular, DDSN Commissioners have not participated in decisions related to compelling witnesses, including former DDSN Commissioners, to respond to oppressive and unreasonable discovery demands. Petitioners learned that settlement offers tendered during the litigation have not been communicated to the Commissioners of DDSN. According to opposing counsel, these decisions and offers have instead only been communicated to the Insurance Reserve Fund, considered by opposing counsel to be their “client.”

Petitioners seek to add as a party, in his official capacity only, Henry D. McMaster, who is chairman of the state agency responsible for the administration of the Insurance Reserve Fund, so that all parties involved in the litigation will have a full and fair opportunity to be heard on the important and novel issues raised in the Petition. In the event that Governor McMaster believes that some other official responsible for the operation of the Insurance Reserve Fund should be named in his place, Petitioner does not object to that official being substituted as the party added in this litigation.

Respectfully submitted,



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March 19, 2020