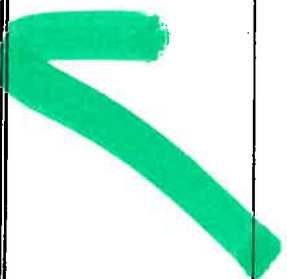


DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF DIRECTOR

ACTION REFERRAL

TO <i>Singleton</i>	DATE <i>1-21-10</i>
------------------------	------------------------

DIRECTOR'S USE ONLY		ACTION REQUESTED	
1. LOG NUMBER  <i>000309</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____		
2. DATE SIGNED BY DIRECTOR  	<input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____		
<input type="checkbox"/> FOIA DATE DUE _____			
<input checked="" type="checkbox"/> Necessary Action			

APPROVALS (Only when prepared for director's signature)	APPROVE	* DISAPPROVE (Note reason for disapproval and return to preparer.)	COMMENT
1.			
2.			
3.			
4.			

NATIONAL ACADEMY OF  
ELDER LAW ATTORNEYS, INC. —  
SOUTH CAROLINA CHAPTER, INC.

1413 LAURENS ROAD  
GREENVILLE SC 29607

Department of Health & Human Services  
OFFICE OF THE DIRECTOR

JAN 20 2010

January 18, 2010

VIA HAND DELIVERY  
The Honorable Daniel E. Shearouse  
Clerk of Court  
South Carolina Supreme Court  
PO Box 11330  
Columbia SC 29211

Re: Karen W., et. al. v. Sandford, et. al. — Motion for Leave to be allowed to appear as Amicus

Dear Mr. Shearouse,

Enclosed are an original and six copies of the Motion to be allowed to appear as Amicus Curiae in Support of Plaintiff's Petition for Original Jurisdiction. Also enclosed is the Proof of Service.

Please feel free to contact me if you have any questions. My telephone number is 803-733-3433. My email is [cmillender@srmlaw.com](mailto:cmillender@srmlaw.com).

Very truly yours,



Franckelle C. Millender  
On behalf of the  
National Academy of Elder Law Attorneys, Inc. —  
South Carolina Chapter, Inc.

FCM/rcm  
Enclosures

cc: Patricia L. Harrison	Senator Hugh K. Leatherman, Sr.
Kenneth Anthony, Jr.	Rep. Dan T. Cooper
Marjorie Taylor Elliot	Attorney General Henry McMaster
E. Brandon Gaskins	Gloria Prevost, Exec. Director, P&A
Vance J. Bettis	Kenneth P. Woodington
Edwin E. Evans	Anna Marie Darwin, Esquire
William H. Davidson, II	The Honorable Richard Ekstrom
Treasurer Converse A. Chellis, III	Emma Forkner



NAELA™

National Academy of Elder Law Attorneys, Inc.  
Leading the Way in Special Needs and Elder Law™

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THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

IN THE ORIGINAL JURISDICTION OF THE SUPREME COURT

---

Karen W., Edward M., Richard S.,  
Susan E., Rob L., Peter B., Ann J.,  
Corrie D. and Robyn P.,

Petitioners,

v.

Marshall C. Sanford, Individually and in his  
Official Capacity as the Governor of South Carolina  
and Member of the South Carolina Budget and Control  
Board; Converse A. Chellis, III and Richard Eckstrom,  
Individually and in their Official Capacities as Members of the South  
Carolina Budget and Control Board; Daniel Cooper and Hugh  
Leatherman, in their Official Capacities as Members of the South  
Carolina Budget and Control Board, Emma Forkner,  
Individually and in Her Official Capacity as the Director  
of the South Carolina Department of Health and Human  
Services; Kelly Hansen Floyd, Individually and in her Official  
Capacity as the Chairman of the South Carolina Department of  
Disabilities and Special Needs, W. Robert Harrell, Individually and  
in his Official Capacity as former Chairman and Current Commissioner of  
the South Carolina Department of Disabilities and Special Needs; Otis  
Speight, Richard Huntress, Susan Lait, Deborah McPherson and Nancy Banov,  
in their Official Capacities as Commissioners of the South Carolina  
Department of Disabilities and Special Needs; and Thomas Waring,  
Individually and in his Official Capacity as Budget Analyst  
for the South Carolina Department of Disabilities and Special Needs,  
and David Goodell, Individually and in his Official Capacity as  
Associate State Director of SCDDSN,

Defendants.

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MOTION OF NATIONAL ACADEMY OF ELDER LAW ATTORNEYS, INC. -  
SOUTH CAROLINA CHAPTER, INC.  
FOR LEAVE TO APPEAR AS AMICUS CURIAE FOR THE PURPOSE OF  
ADOPTING THE BRIEF OF PROTECTION AND ADVOCACY FOR PEOPLE WITH  
DISABILITIES, INC., IN SUPPORT OF PLAINTIFFS' PETITION FOR ORIGINAL  
JURISDICTION

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COPY

Pursuant to Rule 213, SCACR, National Academy of Elder Law Attorneys, Inc. – South Carolina Chapter, Inc. (SCNAELA) moves for permission to appear as Amicus Curiae for the purpose of adopting the Amicus Curiae brief of Protection and Advocacy for People with Disabilities, Inc., (P&A) in support of the Supreme Court exercising its original jurisdiction in the above-referenced matter. According to Rule 213, SCACR, the motion for leave to appear should identify the interest of the applicant and why an amicus curiae brief will be desirable.


SCNAELA is a state chapter of the National Academy of Elder Law Attorneys (NAELA). Members of SCNAELA are South Carolina attorneys who practice in the areas of elder law which includes advocacy for the elderly and those with disabilities. The mission of NAELA is to educate and assist attorneys in providing advocacy, guidance and services to enhance the lives of people as they age as well as individuals with special needs. As the organization has evolved, there has been an increasing emphasis on institutional, as well as individual, advocacy for people with disabilities, regardless of age, with particular emphasis on access to government benefits and services that are essential to achieving as much dignity and independence as possible for the person with disabilities.

Budget Proviso 90.13 negatively impacts those persons who are most vulnerable and least able to advocate for themselves and SCNAELA is compelled to speak on their behalf. SCNAELA has reviewed the Amicus Curiae brief of P&A and finds that it addresses the specific concern of SCNAELA in this matter, being the potential violation of the mandate of the United States Supreme Court in *Olmstead v. L.C.* 527 U.S. 581,

600-02(1999). This violation creates a disparity between resources available to individuals residing in the community relative to those residing in segregated facilities. Because of the time constraints on the Court and the parties in this matter and to avoid redundancy, SCNAELA requests that the Court grant it leave to appear as Amicus Curiae and to adopt the Amicus Curiae brief of P&A in support of the Petition for Original Jurisdiction.

Respectfully submitted,

NATIONAL ACADEMY OF ELDER LAW  
ATTORNEYS, INC. – SOUTH CAROLINA  
CHAPTER, INC.

BY:   
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Attorneys for SCNAELA

Columbia, South Carolina  
January 18, 2010

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

IN THE ORIGINAL JURISDICTION OF THE SUPREME COURT

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Karen W., Edward M., Richard S.,  
Susan E., Rob L., Peter B., Ann J.,  
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Carolina Budget and Control Board; Daniel Cooper and Hugh  
Leatherman, in their Official Capacities as Members of the South  
Carolina Budget and Control Board, Emma Forkner,  
Individually and in Her Official Capacity as the Director  
of the South Carolina Department of Health and Human  
Services; Kelly Hansen Floyd, Individually and in her Official  
Capacity as the Chairman of the South Carolina Department of  
Disabilities and Special Needs, W. Robert Harrell, Individually and  
in his Official Capacity as former Chairman and Current Commissioner of  
the South Carolina Department of Disabilities and Special Needs; Otis  
Speight, Richard Huntress, Susan Lait, Deborah McPherson and Nancy Banov,  
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Department of Disabilities and Special Needs; and Thomas Waring,  
Individually and in his Official Capacity as Budget Analyst  
for the South Carolina Department of Disabilities and Special Needs,  
and David Goodell, Individually and in his Official Capacity as  
Associate State Director of SCDDSN,

Defendants.

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PROOF OF SERVICE

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Franchelle C. Millender, attorney for National Academy of Elder Law Attorneys,

Inc. – South Carolina Chapter, Inc., certifies that I have served the below parties in this action with a copy of MOTION OF NATIONAL ACADEMY OF ELDER LAW ATTORNEYS, INC. – SOUTH CAROLINA CHAPTER, INC. FOR LEAVE TO APPEAR AS AMICUS CURIAE FOR THE PURPOSE OF ADOPTING THE BRIEF OF PROTECTION AND ADVOCACY FOR PEOPLE WITH DISABILITIES, INC., IN SUPPORT OF PLAINTIFFS' PETITION FOR ORIGINAL JURISDICTION by United States Mail to the following:

Kenneth Anthony, Jr.  
THE ANTHONY LAW FIRM, PA  
PO Box 3565  
Spartanburg SC 29304

The Honorable Richard Eckstrom  
1200 Senate Street  
305 Wade Hampton Office Building  
Columbia SC 29201

Vance J. Bettis  
GIGNILLIAT, SAVITZ & BETTIS,  
L.L.P.  
900 Elmwood Avenue, Suite 100  
Columbia SC 29201

Marjorie Taylor Elliott  
411 Meeting Street, 6104  
Charleston SC 29402

The Honorable Converse A. Chellis III  
PO Box 11778  
Columbia SC 29211

Edwin E. Evans  
State Budget & Control Board  
PO Box 12444  
Columbia SC 29211

The Honorable Daniel T. Cooper  
525 Blatt Building  
Columbia SC 29201

Emma Forkner, Director  
SC DHHS  
1801 Main Street  
Columbia SC 29201

Anna Marie Darwin, Esquire  
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PO Box 8568  
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Patricia L. Harrison  
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Columbia SC 29205

The Honorable Hugh K. Leatherman, Sr.  
111 Gressett Building  
Columbia SC 29201

Gloria Prevost, Exec. Director, P&A  
3710 Landmark Drive, Suite 208  
Columbia SC 29204

Attorney General Henry McMaster  
PO Box 11549  
Columbia SC 29211

Kenneth P. Woodington, Esquire  
Davidson & Lindemann, PA  
PO Box 8568  
Columbia SC 29202

Respectfully submitted by:

A handwritten signature in dark ink, appearing to read "Franchelle C. Millender", with a long, sweeping horizontal stroke extending to the right.

Franchelle C. Millender  
On behalf of the  
National Academy of Elder Law Attorneys, Inc. –  
South Carolina Chapter, Inc.

January 18, 2010  
Columbia, South Carolina