

## Pro Bono

# Protecting the Rights of School Children

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In Abbeville County School District v. State of South Carolina, Nelson Mullins represented a group of rural school districts, students, and taxpayers in a groundbreaking lawsuit challenging the funding of public schools and the adequacy of the education system overall. Students in the plaintiff school districts are predominantly living in poverty in the state's poorest and most isolated areas.

This case was litigated under the leadership of Carl Epps and deceased partner Steve Morrison with the support of many other attorneys, paralegals, and legal professionals in the firm over many years. A non-jury trial lasted 102 days in 2003-2004, with the parties calling more than 70 witnesses. In December 2005, the trial court ruled that students in these school districts were not receiving the constitutionally required "opportunity to receive a minimally adequate education" (the constitutional standard in the state), but only because of "the lack of effective and adequately funded early childhood intervention programs designed to address the impact of poverty on their educational abilities and achievements." The court found that other aspects of the public school system, including teacher quality and facilities, were "minimally adequate."

*Our state has given children in the most impoverished and rural portions of our state a chance at life. Our clients, our law firm, and I have sought the relief granted today for many years. It's been a long, but always rewarding, struggle. We could not be more pleased for our clients, particularly the children we have had the privilege of representing and the dedicated superintendents, principals, and teachers who have devoted much of their lives fighting for these children.*

*-Carl Epps, Columbia partner*

Both sides appealed the trial court's decision. The appeal addressed issues of separation of powers, constitutional interpretation, the impact of poverty on a child's educational needs, and the importance of educational opportunity. The South Carolina Supreme Court heard oral arguments and later requested re-arguments on one issue: whether the parties' arguments had been impacted by changes in school finance legislation in the years since the trial had concluded.

Following the oral re-arguments, the Supreme Court found the entire public education system to be constitutionally lacking and instructed the parties to work together to create and "present a plan to

address the constitutional violation announced today." The court encouraged the parties to consider remedies fashioned by other states' courts, in which the legislatures were directed to undertake comprehensive efforts to assess the students' needs and to determine the cost and programs required to meet those needs.

Since the decision was rendered in November 2014, the South Carolina legislature has worked to examine the educational shortcomings identified in the court's opinion, and then-Governor Nikki Haley commenced an independent examination of educational issues. The Supreme Court retained jurisdiction to monitor the legislature's annual progress toward remedying the constitutional violations until 2017, when the Supreme Court dismissed the case, finding that the General Assembly and Executive Branch had demonstrated a commitment to promote and advance educational opportunities in the plaintiff school districts. Although discontinuing judicial oversight, the Supreme Court reaffirmed the critical importance of public education to South Carolina and its citizens.