

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA

Application for Mediators

Please complete the entire application, using additional paper if necessary. You may also attach a resume.

Name: Henry B. Smythe, Jr.

Firm or Office Name: Buist, Moore, Smythe & McGee, P.A.

Office Address: Five Exchange Street, P.O. Box 999, Charleston, SC 29402

Office Phone: (803) 722-3400

Office Fax: (803) 723-7398

**ADMISSIONS AND AFFILIATIONS**

Date admitted to the Bar of the District of South Carolina: \_\_\_\_\_ I.D. No.: 4226

Date admitted to the South Carolina Bar: 1976 Bar No.: 5215

Other courts or jurisdictions to which admitted (with dates of admission and bar nos.): \_\_\_\_\_

Membership and positions held in bar, ADR and professional associations: Member: Board of Directors-  
Charleston County Public Defenders Corp. (1982-1991): see attached...

Are you a member in good standing in each jurisdiction where admitted to practice law?  yes  no

Are you currently the subject of any pending disciplinary proceeding in any jurisdiction?  yes  no

Have you, within the last 5 years, been denied admission to a bar for character or ethical reasons or disciplined for professional misconduct?  yes  no

Yale, B.A. 1970

**EDUCATION**

Year law degree received 1976 Law School University of Virginia

Other professional degrees received (including year and school) \_\_\_\_\_

**LEGAL EXPERIENCE (A minimum of 5 years of law practice required)**

Summarize legal experience (including teaching) since admission to the bar, particularly in the past five years:

Civil practice, emphasis on litigation since 1976. Specializing  
in commercial litigation, product liability and other tort  
litigation.

Percentage of practice in last 5 years representing plaintiff 10 % or defense 90 %

Percentage of Federal or State court practice in last 5 years: Federal 65 % State 35 %

Number of years engaged in active litigation: 19

### EXPERTISE

Indicate all substantive areas in which you have expertise. Place a "1" by your strongest area(s) and a "2" by all other areas in which you have expertise. (Do not rank beyond "1" and "2.") After any category you have marked, please identify any sub-areas of expertise you have (e.g. "medical malpractice" after Personal Injury).

- |   |  |
|---|--|
| <input type="checkbox"/> Admiralty                    | <input type="checkbox"/> Security or Shareholders suits  |
| <input type="checkbox"/> Antitrust                    | <input type="checkbox"/> Labor                           |
| <input checked="" type="checkbox"/> Contracts         | <input type="checkbox"/> ERISA                           |
| <input type="checkbox"/> Environment                  | <input checked="" type="checkbox"/> Wrongful Termination |
| <input type="checkbox"/> Fraud or Civil RICO          | <input type="checkbox"/> Civil Rights in Employment      |
| <input checked="" type="checkbox"/> Insurance         | <input type="checkbox"/> Other Civil Rights              |
| <input type="checkbox"/> Miller Act                   | <input type="checkbox"/> Copyrights                      |
| <input checked="" type="checkbox"/> Personal Injury   | <input type="checkbox"/> Patent                          |
| <input checked="" type="checkbox"/> Product Liability | <input type="checkbox"/> Trademark                       |
| <input type="checkbox"/> Other (specify) _____        |  |

Publications: \_\_\_\_\_

### MEDIATION EXPERIENCE

Mediation experience (particularly in the subject matter categories above): Involved in numerous mediations as litigant and as mediator over the past few years, particularly in areas of product liability, personal injury, contracts, and division of real property.

Other courts or organizations for whom you serve as a mediator: Resolute Systems of South Carolina, LLC

Number of mediations conducted: 6

### MEDIATION TRAINING

<u>Course Provider</u>	<u>Course Content</u>	<u>Date</u>	<u>Place</u>	<u>No. of Hours</u>
<u>Academy of Dispute Resolution</u>		<u>July 8-11, 1995</u>	<u>Charleston</u>	<u>40</u>

**OTHER INFORMATION**

Are you familiar with the statutes, rules and practice governing mediation conferences in the District of South Carolina?  X  yes   no

Other relevant experience or skills or other information you would like considered in connection with this application:

I feel that my extensive involvement in all types of litigation and my mediation training make me an excellent candidate to be a mediator.

\_\_\_\_\_

\_\_\_\_\_

Cities in which you are available to conduct mediation:

✓  Columbia       ✓  Charleston        Greenville       ✓  Florence

Other \_\_\_\_\_

Fees charged:

Hourly Rate:  \$150       Minimum charge each mediation:  \$ no minimum

How do you bill for travel? (explain):  at regular hourly rate

I agree to: (1) Be subject to the Rules of Professional Conduct, Rule 407, South Carolina Appellate Court Rules; to the Rules on Disciplinary Procedure, Rule 413, South Carolina Appellate Court Rules; and the Local Rules of the District Court; (2) Provide mediation to indigents without pay if ordered by the Court; (3) Notify the Clerk of Court of any change in the above facts or otherwise in my ability to perform duties as a mediator; (4) Disclosure of information contained in this application to litigants and other members of the public.

I certify that the foregoing is true and correct.

Signature  Henry Anthony       Date  08/30/95   
Applicant

Return completed application to:  
U.S. District Court  
Mediation  
1845 Assembly Street  
Columbia, SC 29201-2431

Approved:  [Signature]       Date  11/3/95   
U.S. District Judge

# SUPPLEMENT

## UNITED STATES DISTRICT COURT DISTRICT OF SOUTH CAROLINA

### Application for Mediators

Please complete the entire application, using additional paper if necessary. You may also attach a resume.

Name: Henry B. Smythe, Jr.

Firm or Office Name: Buist, Moore, Smythe & McGee, P.A.

Office Address: 5 Exchange Street (29401)  
P. O. Box 999, Charleston, SC 29402

Office Phone: 843-722-3400 Office Fax: 843-723-7398

email address: hsmythe@bmsmlaw.com

### ADMISSIONS AND AFFILIATIONS

Date admitted to the Bar of the District of South Carolina: 1977 I.D. No.: 5215

Date admitted to the South Carolina Bar: 1977 Bar No.: \_\_\_\_\_

Other courts or jurisdictions to which admitted (with dates of admission and bar nos.): \_\_\_\_\_  
District of Columbia

Membership and positions held in bar, ADR and professional associations: \_\_\_\_\_  
See attached resume

Are you a member in good standing in each jurisdiction where admitted to practice law?  yes  no

Are you currently the subject of any pending disciplinary proceeding in any jurisdiction?  yes  no

Have you, within the last 5 years, been denied admission to a bar for character or ethical reasons or disciplined for professional misconduct?  yes  no

### EDUCATION

Year law degree received 1976 Law School University of Virginia

Other professional degrees received (including year and school) \_\_\_\_\_

### LEGAL EXPERIENCE (A minimum of 5 years of law practice required)

Summarize legal experience (including teaching) since admission to the bar, particularly in the past five years:

Civil practice, emphasis on litigation since 1976. Specializing in commercial

litigation, product liability, and other tort litigation.

# SUPPLEMENT

Percentage of practice in last 5 years representing plaintiff 10 % or defense 90 %

Percentage of Federal or State court practice in last 5 years: Federal      % State      %

Number of years engaged in active litigation: 24

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## EXPERTISE

Indicate all substantive areas in which you have expertise. Place a "1" by your strongest area(s) and a "2" by all other areas in which you have expertise. (Do not rank beyond "1" and "2.") After any category you have marked, please identify any sub-areas of expertise you have (e.g. "medical malpractice" after Personal Injury).

<u>    </u> Admiralty	<u>    </u> Security or Shareholders suits
<u>    </u> Antitrust	<u>    </u> Labor
<u>  1</u> Contracts	<u>    </u> ERISA
<u>    </u> Environment	<u>  1</u> Wrongful Termination
<u>    </u> Fraud or Civil RICO	<u>    </u> Civil Rights in Employment
<u>  1</u> Insurance	<u>    </u> Other Civil Rights
<u>    </u> Miller Act	<u>    </u> Copyrights
<u>  1</u> Personal Injury	<u>    </u> Patent
<u>  1</u> Product Liability	<u>    </u> Trademark
<u>    </u> Other (specify) _____	

Publications: \_\_\_\_\_

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## MEDIATION EXPERIENCE

Mediation experience (particularly in the subject matter categories above): Involved in numerous  
mediations as litigant and as mediator over the past few years, particularly  
in areas of product liability, personal injury, contracts, and division of  
real property.

Other courts or organizations for whom you serve as a mediator (please note any certifications): \_\_\_\_\_  
Resolute Systems of SC, LLC

Number of mediations conducted: 16 Number of other ADR sessions conducted: \_\_\_\_\_

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## MEDIATION AND OTHER ADR TRAINING

<u>Course</u> <u>Provider</u>	<u>Course</u> <u>Content</u>	<u>Date</u>	<u>Place</u>	<u>No. of</u> <u>Hours</u>
<u>ADR</u>		<u>7/8-11/95</u>	<u>Charleston</u>	<u>40</u>

# SUPPLEMENT

## OTHER INFORMATION

Are you familiar with the statutes, rules and practice governing alternative dispute resolution in the District of South Carolina?  yes  no

Other relevant experience or skills or other information you would like considered in connection with this application:

I feel that my extensive involvement in all types of litigation and my mediation training make me an excellent candidate to be a mediator.

Cities in which you are available to conduct mediation:

Columbia       Charleston       Greenville       Florence

Other \_\_\_\_\_

Fees charged:

Hourly Rate: \$ 200.00      Minimum charge each mediation: \$ No Minimum

How do you bill for travel? (explain): at regular hourly rate

I agree to: (1) Be subject to the Rules of Professional Conduct, Rule 407, South Carolina Appellate Court Rules; the Rules for Lawyer Disciplinary Enforcement, Rule 413, South Carolina Appellate Court Rules; and the Local Rules of the District Court; (2) Provide mediation to indigents without pay if ordered by the Court; (3) Notify the Alternative Dispute Resolution Program Director of any change in the above facts or otherwise in my ability to perform duties as a mediator; (4) Disclosure of information contained in this application to litigants and other members of the public.

I certify that the foregoing is true and correct.

Signature:  Date: 5/31/00  
Applicant

Return completed application to:  
**Danny H. Mullis, Director**  
Alternative Dispute Resolution Program  
United States District Court  
Post Office Box 835  
Charleston, SC 29402-0835

Reviewed: \_\_\_\_\_ Date: \_\_\_\_\_  
ADR Program

Approved: 

Initially approved by Judge Norton 11/3/95
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 \_\_\_\_\_ Date: \_\_\_\_\_  
Judge

# **SUPPLEMENT**

**Buist, Moore, Smythe & McGee, P.A.**  
**Civil Litigators**

**HENRY B. SMYTHE, JR.**

## **Areas of Practice:**

Product Liability  
Commercial and Civil Litigation  
Class Actions

## **Educational Background**

**College:** Yale University, B.A., 1970

**Graduate:** University of Virginia School of Law, 1976

## **Professional Background**

Buist, Moore, Smythe & McGee, P.A.  
Principal, 1981 to Present (Managing Director of the Firm)  
Associate, 1976 to 1981

**Certified Circuit Court Mediator**  
**Approved Mediator U.S. District Court**

## **Professional Activities**

South Carolina Bar  
President, 1997-1998  
President-Elect, 1996-1997  
Treasurer, 1995-1996  
Secretary, 1994-1995  
Chairman, House of Delegates, 1992-1994  
Board of Governors, 1988-1999  
Chairman, Practice & Procedure Committee, 1989-1992  
Past Chairman, Long Range Planning Committee, 1985-1986  
South Carolina Bar Foundation  
Vice President, 1991-1992  
Board of Directors, 1988-1994  
American Bar Association  
Member, 1977-Present  
District of Columbia Bar Association - member

## **SUPPLEMENT**

Defense Research Institute-Member  
Product Liability Advisory Council  
American Board of Trial Advocates  
Charleston County Public Defender Corporation  
Board of Directors, 1982-1991

### **Community Activities:**

Councilmember, Charleston City Council, 1992-1996  
The Community Foundation  
President, 1988-1991  
Board of Directors, 1985-1991; 1999-  
Spoleto Festival, U.S.A.  
Secretary, 1994-Present  
Board of Directors, 1993-Present  
Friends of Bermuda Aquarium, Ltd.  
Board of Directors, 1999-Present  
Trident Urban League  
College of Charleston Foundation  
Board of Directors, 1991-1998  
Palmetto Project  
Advisory Board, 1992-1996  
Hospice of Charleston, Inc.  
Board of Directors, Past member  
Town Attorney, Town of Sullivan's Island, 1977-1978  
Leadership South Carolina, Class of 1982

### **Reported Decisions**

*Garvin v. Alumax of South Carolina, Inc.*, 787 F.2d 910 (4th Cir. 1986). BMSM represented Alumax. The Fourth Circuit held that Alumax, as a statutory employer, was immune from the longshoreman's common-law tort claim. BMSM Attorneys: Henry B. Smythe, Jr., David B. McCormack.

*International Paper Company v. Century Contractors, Inc.*, 892 F.2d 74 (Table) (4th Cir. 1989) (Unpublished disposition, full text available 1989 WL 152507). BMSM represented Century Contractors, Inc. on brief. The Fourth Circuit affirmed the district court's ruling that International Paper and Industrial Risk Insurers, Inc. could not recover because they had contractually assumed the risk of fire loss. BMSM Attorneys: Henry B. Smythe, Jr.

## **SUPPLEMENT**

*Branning v. Morgan Guaranty Trust Co. of New York*, 739 F.Supp. 1056 (D.S.C. 1990). BMSM represented Morgan Guaranty Trust. The district court entered summary judgment for defendants in alleged bank fraud matter on several legal grounds including the preclusive effect of prior adjudications in related cases. BMSM Attorneys: Henry B. Smythe, Jr., David M. Collins

*Lindsey v. South Carolina Tax Commission*, 395 S.E.2d 184 (S.C. 1990). BMSM represented for Defendant Commonwealth II in a successful effort to change the assessment on an unfinished subdivision. BMSM Attorneys: Henry B. Smythe, Jr.

*Mobay Chemical Corp. v. City of Goose Creek*, 299 S.E.2d 486 (S.C. 1983). BMSM represented respondents DuPont and General Dynamics in an appeal from an order enjoining the city from annexing the Bushy Park Industrial Park. DuPont and General Dynamics persuaded the South Carolina Supreme Court held that the petition for annexation was improper. BMSM Attorneys: David B. McCormack; Henry B. Smythe, Jr.

*In re Asbestosis Cases*, 266 S.E.2d 773 (S.C. 1980). BMSM represented defendant Armstrong Cork, a distributor supplier of insulation products appealed from denial of its Motion for Change of Venue. Supreme Court held that venue was proper only in county in which distributor supplier had its only place of business. Adverse ruling for appellant. BMSM Attorneys: Joseph H. McGee, Henry B. Smythe, Jr.

### **Personal:**

Born in Charleston, South Carolina in 1948  
Married, three children