

IN THE SUPREME COURT OF NORTH CAROLINA

No. 292A10

FILED: 11 MARCH 2011

DONALD C. MCCASKILL,
Petitioner

v.

DEPARTMENT OF STATE TREASURER, RETIREMENT SYSTEMS DIVISION,
Respondent

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, ___ N.C. App. ___, 695 S.E.2d 108 (2010), affirming an order entered on 23 February 2009 by Judge Orlando F. Hudson, Jr. in Superior Court, Durham County. On 7 October 2010, the Supreme Court allowed petitioner's petition for discretionary review of additional issues. Heard in the Supreme Court 11 January 2011.

Stark Law Group, PLLC, by Thomas H. Stark and Seth A. Neyhart, for petitioner-appellant.

Roy Cooper, Attorney General, by Robert M. Curran, Special Deputy Attorney General, for respondent-appellee.

PER CURIAM.

As to the issues before us on appeal of right, because the Secretary of the Department of Health and Human Services lacked authority to sign the settlement agreement binding the State Retirement System, the executory portions of the agreement are unenforceable. Accordingly, the parties to the agreement are otherwise restored to the positions they held as of 3 July 2002. As

to the additional issue, we determine that discretionary review was improvidently allowed.

AFFIRMED IN PART; DISCRETIONARY REVIEW IMPROVIDENTLY ALLOWED.

Justice JACKSON took no part in the consideration or decision of this case.