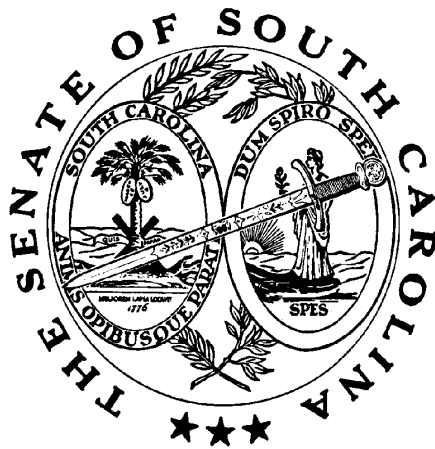


NO. 3

JOURNAL
OF THE
SENATE
OF THE
STATE OF SOUTH CAROLINA



REGULAR SESSION BEGINNING TUESDAY, JANUARY 10, 2023

THURSDAY, JANUARY 11, 2024

Thursday, January 11, 2024
(Statewide Session)

~~Indicates Matter Stricken~~

Indicates New Matter

The Senate assembled at 11:00 A.M., the hour to which it stood adjourned, and was called to order by the PRESIDENT.

A quorum being present, the proceedings were opened with a devotion by the Chaplain as follows:

Exodus 13:21

It is in the Book of Exodus that we find this bold, dramatic image: “By day the Lord went ahead of them in a pillar of cloud to guide them on their way and by night in a pillar of fire to give them light.”

Once again, join me in prayer, please: O ever-faithful God, as we reflect upon the wondrous image of the cloud and the fire guiding Your beloved people long, long ago, help each of us to know that You continue to embrace and direct us even today. And this of course is true in every setting of life, if only we also will trust in Your grace and Your might and Your love. Therefore, dear Lord, we do pray with a passion that You enfold in Your guiding spirit each of these women and men charged with leading the Senate of this State. May they trust you completely as this Session unfolds this year and as weighty issues are handled and hopefully resolved. And just as you bless this Body, Lord, so bless all of our troops serving in so many spots around the globe, and as well bestow Your care on our fellow citizens in and around Bamberg, blasted by a brutal 125 mile an hour tornado on Tuesday. All this, O Lord, we humbly ask in Your loving name. Amen.

The PRESIDENT called for Petitions, Memorials, Presentments of Grand Juries and such like papers.

Call of the Senate

Senator CAMPSEN moved that a Call of the Senate be made. The following Senators answered the Call:

Adams	Alexander	Allen
Campsen	Cash	Corbin
Cromer	Davis	Devine
Fanning	Garrett	Goldfinch
Gustafson	Harpoottlian	Hembree
Hutto	Jackson	<i>Johnson, Kevin</i>

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<i>Johnson, Michael</i>	Loftis	Martin
Massey	Matthews	McElveen
Peeler	Rankin	Reichenbach
Rice	Sabb	Senn
Setzler	Shealy	Talley
Tedder	Turner	Verdin
Williams	Young	

A quorum being present, the Senate resumed.

Doctor of the Day

Senator K. JOHNSON introduced Dr. Robert Ridgeway of Manning, S.C., Doctor of the Day.

Leave of Absence

On motion of Senator HEMBREE, at 11:28 A.M., Senator BENNETT was granted a leave of absence for today.

Leave of Absence

On motion of Senator M. JOHNSON, at 11:28 A.M., Senator KIMBRELL was granted a leave of absence for today.

Expression of Personal Interest

Senator HARPOOTLIAN rose for an Expression of Personal Interest.

CO-SPONSORS ADDED

The following co-sponsors were added to the respective Bills:

S. 882 Sen. Adams
S. 910 Sens. Shealy, Gambrell and Hutto
S. 948 Sens. Stephens, Adams, Senn, Campsen, Goldfinch, Climer and Bennett

RECALLED AND COMMITTED

S. 806 -- Senator Alexander: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 2-1-180, RELATING TO ADJOURNMENT OF GENERAL ASSEMBLY AND CONDITIONS FOR EXTENDED SESSION, SO AS TO PROVIDE THAT THE DATE FOR SINE DIE ADJOURNMENT IS AUTOMATICALLY EXTENDED IF THE HOUSE OF REPRESENTATIVES DOES NOT GIVE THIRD READING TO THE ANNUAL APPROPRIATIONS ACT ON OR BEFORE MARCH

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TENTH, SO AS TO PROVIDE THAT THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES MAY CALL THEIR RESPECTIVE BODIES INTO SESSION AFTER THE SINE DIE ADJOURNMENT DATE TO FINISH ANY UNFINISHED BUSINESS RELATING TO THE GENERAL APPROPRIATIONS BILL OR CAPITAL RESERVE FUND RESOLUTION, AND TO PROVIDE THE TIME PERIOD DURING WHICH THE SENATE AND THE HOUSE OF REPRESENTATIVES MAY BE CALLED BACK TO COMPLETE THE UNFINISHED BUSINESS RELATING TO THE GENERAL APPROPRIATIONS BILL OR CAPITAL RESERVE FUND RESOLUTION.

On motion of Senator RANKIN, with unanimous consent, the Bill was recalled from the Committee on Judiciary and committed to the Committee on Finance.

INTRODUCTION OF BILLS AND RESOLUTIONS

The following were introduced:

S. 950 -- Senator Jackson: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 1-11-720, RELATING TO ENTITIES WHOSE EMPLOYEES AND RETIREES ARE ELIGIBLE FOR STATE HEALTH AND DENTAL INSURANCE PLANS, SO AS TO INCLUDE SCHOOL BOARD MEMBERS.

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Read the first time and referred to the Committee on Finance.

S. 951 -- Senator Stephens: A SENATE RESOLUTION TO CONGRATULATE BERNIE BELL GILMORE ON THE OCCASION OF HER ONE HUNDREDTH BIRTHDAY AND TO WISH HER A JOYOUS BIRTHDAY CELEBRATION AND MUCH HAPPINESS IN THE YEARS AHEAD.

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The Senate Resolution was adopted.

S. 952 -- Senator Fanning: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 38-71-180 SO AS TO PROVIDE STANDARDS FOR POLICY PROVISIONS OF MEDICARE SUPPLEMENT POLICIES AND CERTIFICATES IN THIS STATE.

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Senator FANNING spoke on the Bill.

Read the first time and referred to the Committee on Banking and Insurance.

S. 953 -- Senator Adams: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 6-1-2100 SO AS TO PROVIDE DEFINITIONS RELATED TO LODGING MARKETPLACES; BY ADDING SECTION 6-1-2110 SO AS TO PROHIBIT A GOVERNING BODY FROM PROHIBITING SHORT-TERM RENTALS EXCEPT UNDER CERTAIN CIRCUMSTANCES; BY AMENDING SECTION 6-1-510, RELATING TO DEFINITIONS CONCERNING LOCAL ACCOMMODATIONS TAXES, SO AS TO INCLUDE OPERATORS OF LODGING MARKETPLACES IN THE DEFINITION OF LOCAL ACCOMMODATIONS TAX; BY AMENDING SECTION 6-1-520, RELATING TO THE IMPOSITION OF LOCAL ACCOMMODATIONS TAX, SO AS TO PROVIDE THAT LOCAL GOVERNING BODIES IMPOSING A LOCAL ACCOMMODATIONS TAX MUST NOTIFY THE DEPARTMENT OF REVENUE AND THE STATE TREASURER; BY AMENDING SECTION 6-1-570, RELATING TO REMITTING TAX TO A LOCAL GOVERNING BODY, SO AS TO PROVIDE THAT LOCAL ACCOMMODATIONS TAXES MUST BE COLLECTED, REMITTED, AND ADMINISTERED IN THE SAME MANNER AS IN SECTION 12-36-920; BY AMENDING SECTION 6-1-620, RELATING TO DEFINITIONS RELATED TO THE BEACH PRESERVATION ACT, SO AS TO INCLUDE RENTALS FACILITATED BY A LODGING MARKETPLACE IN THE DEFINITION OF BEACH PRESERVATION FEE; BY AMENDING SECTION 6-1-630, RELATING TO BEACH PRESERVATION FEES, SO AS TO PROVIDE THAT THE LOCAL GOVERNING BODY ISSUING A TAX PURSUANT TO THIS SECTION MUST NOTIFY THE DEPARTMENT OF REVENUE AND THE STATE TREASURER; BY AMENDING SECTION 6-1-650, RELATING TO NOTICE OF DROPPED RENTAL PROPERTY, SO AS TO EXEMPT LODGING MARKETPLACES; BY AMENDING SECTION 5-7-30, RELATING TO POWERS CONFERRED UPON MUNICIPALITIES, SO AS TO PROVIDE THAT ANY TAXES IMPOSED UPON LODGING ACCOMMODATIONS BE COLLECTED AND ADMINISTERED BY THE DEPARTMENT OF REVENUE IN THE SAME MANNER AS IN SECTION 12-36-920; BY AMENDING

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SECTION 12-36-70, RELATING TO THE DEFINITION OF "RETAILER" AND "SELLER", SO AS TO PROVIDE THAT A PERSON OPERATING AS A LODGING MARKETPLACE BE CONSIDERED A "RETAILER" OR "SELLER"; BY ADDING SECTION 12-36-72 SO AS TO PROVIDE A DEFINITION FOR AN LODGING MARKETPLACE; BY AMENDING SECTION 12-36-920, RELATING TO THE TAX ON ACCOMMODATIONS FOR TRANSIENTS, SO AS TO PROVIDE THAT TRANSACTIONS BY LODGING MARKETPLACES ARE SUBJECT TO THE SEVEN PERCENT SALES TAX; AND BY REPEALING SECTION 12-36-922 RELATING TO ACCOMMODATIONS TAX RETURN INFORMATION.

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Read the first time and referred to the Committee on Judiciary.

S. 954 -- Senator Hembree: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 17-13-142 SO AS TO AUTHORIZE A LAW ENFORCEMENT OFFICER, A CIRCUIT SOLICITOR, OR THE ATTORNEY GENERAL TO REQUIRE THE DISCLOSURE OF ELECTRONIC COMMUNICATIONS AND OTHER RELATED RECORDS BY A PROVIDER OF AN ELECTRONIC COMMUNICATION SERVICE OR REMOTE COMPUTING SERVICE UNDER CERTAIN CIRCUMSTANCES.

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Read the first time and referred to the Committee on Judiciary.

S. 955 -- Senator Campsen: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 50-5-400 SO AS TO ESTABLISH THE LIMITED COMMERCIAL BLUE CRAB LICENSE AND THE REQUIREMENTS FOR OBTAINING THE LICENSE; BY AMENDING SECTION 50-5-325, RELATING TO COMMERCIAL EQUIPMENT LICENSES AND FEES, SO AS TO REVISE THE FEE STRUCTURE FOR THE COMMERCIAL TRAP LICENSE; BY AMENDING SECTION 50-5-350, RELATING TO THE TRANSFERABILITY OF LICENSES, SO AS TO EXEMPT THE LIMITED COMMERCIAL BLUE CRAB LICENSE FROM THE GENERAL TRANSFER PROHIBITION; BY AMENDING SECTION 50-5-360, RELATING TO LICENSES TO ENGAGE IN SHEDDING PEELER CRABS, SO AS TO REQUIRE THAT AN APPLICANT'S OR LICENSEE'S BUSINESS PREMISES BE CAPABLE OF PEELER

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SHEDDING OPERATIONS; BY AMENDING SECTION 50-5-545, RELATING TO TRAPS FOR TAKING BLUE CRAB, SO AS TO PROVIDE FOR THE MATERIAL, DIMENSIONS, AND ESCAPE VENT REQUIREMENTS OF THE TRAPS; BY ADDING SECTION 50-5-1302 SO AS TO ESTABLISH A RECREATIONAL LIMIT OF ONE-HALF BUSHEL OF BLUE CRABS PER PERSON PER DAY NOT TO EXCEED ONE BUSHEL PER BOAT; BY ADDING SECTION 50-5-1345 SO AS TO PROHIBIT THE USE OF CRAB TRAPS IN THE WATERS OF THIS STATE FROM JANUARY 16 THROUGH JANUARY 29 OF EACH YEAR; BY AMENDING SECTION 50-5-330, RELATING TO RECREATIONAL EQUIPMENT LIMITS, SO AS TO INCREASE THE NUMBER OF TRAPS THAT MAY BE USED FOR RECREATIONAL PURPOSES FROM TWO TO TEN WITH A RECREATIONAL CRAB TRAP ENDORSEMENT; AND BY AMENDING SECTION 50-9-540, RELATING TO RECREATIONAL SALTWATER FISHING LICENSES SO AS TO PROVIDE FOR THE COST OF THE RECREATIONAL CRAB TRAP ENDORSEMENT.

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Senator CAMPSSEN spoke on the Bill.

Read the first time and referred to the Committee on Fish, Game and Forestry.

S. 956 -- Senator Garrett: A SENATE RESOLUTION TO RECOGNIZE AND HONOR THOMAS CLYDE BURROUGHS, CHIEF WARRANT OFFICER FOUR, RETIRED, FOR AN OUTSTANDING CAREER AND TO CONGRATULATE HIM ON HIS VALOR IN SERVICE FOR WHICH HE WAS AWARDED THE PURPLE HEART.

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The Senate Resolution was adopted.

S. 957 -- Senator Cromer: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 38-3-150, RELATING TO THE AUTHORITY OF THE DIRECTOR OF THE DEPARTMENT OF INSURANCE OR HIS DESIGNEES TO CONDUCT EXAMINATIONS, INVESTIGATIONS, AND HEARINGS, SO AS TO PROVIDE FOR THE CONFIDENTIALITY OF SUCH INVESTIGATIONS; BY AMENDING SECTION 38-9-200, RELATING TO CONDITIONS FOR ALLOWING REINSURANCE CREDITS, SO AS TO REVISE CERTAIN CONDITIONS; BY

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AMENDING SECTION 38-13-10, RELATING TO INSURER EXAMINATIONS, SO AS TO PROVIDE SUCH EXAMINATIONS ARE FINANCIAL EXAMINATIONS, TO APPLY THE PROVISIONS TO HEALTH MAINTENANCE ORGANIZATIONS AND OTHER LICENSEES OF THE DEPARTMENT, TO PROVIDE MARKET CONDUCT EXAMINATIONS, AND TO REMOVE OBSOLETE PROVISIONS, AMONG OTHER THINGS; BY AMENDING SECTION 38-13-70, RELATING TO INVESTIGATIONS OF ALLEGED VIOLATIONS, SO AS TO PROVIDE THE DIRECTOR OR HIS DESIGNEES MAY CONDUCT INVESTIGATIONS, TO PROVIDE FOR THE CONFIDENTIALITY OF INVESTIGATIONS, AND TO PROVIDE FINAL ORDERS DISCIPLINING LICENSEES ARE PUBLIC INFORMATION, AMONG OTHER THINGS; AND BY AMENDING SECTION 38-57-130, RELATING TO INSURANCE TRADE PRACTICES, SO AS TO PROVIDE REVISED EXEMPTIONS FROM PROVISIONS PROHIBITING MISREPRESENTATIONS, SPECIAL INDUCEMENTS, AND REBATES IN INSURANCE CONTRACTS.

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Read the first time and referred to the Committee on Banking and Insurance.

H. 4720 -- Rep. Bannister: A JOINT RESOLUTION TO PROVIDE FOR THE CONTINUING AUTHORITY TO PAY THE EXPENSES OF STATE GOVERNMENT IF THE 2024-2025 FISCAL YEAR BEGINS WITHOUT A GENERAL APPROPRIATIONS ACT FOR THAT YEAR IN EFFECT, AND TO PROVIDE EXCEPTIONS.

Read the first time and referred to the Committee on Finance.

H. 4807 -- Reps. G. M. Smith, Weeks, Alexander, Anderson, Atkinson, Bailey, Ballentine, Bamberg, Bannister, Bauer, Beach, Bernstein, Blackwell, Bradley, Brewer, Brittain, Burns, Bustos, Calhoon, Carter, Caskey, Chapman, Chumley, Clyburn, Cobb-Hunter, Collins, Connell, B. J. Cox, B. L. Cox, Crawford, Cromer, Davis, Dillard, Elliott, Erickson, Felder, Forrest, Gagnon, Garvin, Gatch, Gibson, Gilliam, Gilliard, Guest, Guffey, Haddon, Hager, Hardee, Harris, Hart, Hartnett, Hayes, Henderson-Myers, Henegan, Herbkersman, Hewitt, Hiott, Hixon, Hosey, Howard, Hyde, Jefferson, J. E. Johnson, J. L. Johnson, S. Jones, W. Jones, Jordan, Kilmartin, King, Kirby, Landing, Lawson, Leber, Ligon, Long, Lowe, Magnuson, May, McCabe, McCravy, McDaniel, McGinnis, Mitchell, J. Moore, T. Moore,

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A. M. Morgan, T. A. Morgan, Moss, Murphy, Neese, B. Newton, W. Newton, Nutt, O'Neal, Oremus, Ott, Pace, Pedalino, Pendarvis, Pope, Rivers, Robbins, Rose, Rutherford, Sandifer, Schuessler, Sessions, M. M. Smith, Stavrinakis, Taylor, Thayer, Thigpen, Trantham, Vaughan, West, Wetmore, Wheeler, White, Whitmire, Williams, Willis, Wooten and Yow: A CONCURRENT RESOLUTION TO CONGRATULATE SUMTER NATIVE JORDAN MONTGOMERY ON HIS DEBUT AS A STARTING PITCHER FOR THE 2023 WORLD SERIES AND TO APPLAUD HIS TEAM, THE TEXAS RANGERS, ON CAPTURING THEIR FIRST WORLD SERIES TITLE IN TEAM HISTORY.

The Concurrent Resolution was adopted, ordered returned to the House.

H. 4830 -- Reps. Taylor, Blackwell, Oremus, Hixon and Clyburn: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR THE UNIVERSITY OF SOUTH CAROLINA AIKEN EVENTING TEAM MEMBERS FOR AN EXTRAORDINARY SEASON AND TO CONGRATULATE THEM FOR CAPTURING THE UNIVERSITY'S FIRST NATIONAL CHAMPIONSHIP IN ANY SPORT.

The Concurrent Resolution was adopted, ordered returned to the House.

HOUSE CONCURRENCES

S. 894 -- Senator Grooms: A CONCURRENT RESOLUTION TO CONGRATULATE MICHAEL A. LOCKLEAR UPON THE OCCASION OF HIS RETIREMENT AS MAYOR OF THE TOWN OF MONCK'S CORNER, TO COMMEND HIM FOR HIS TWENTY YEARS OF DEDICATED SERVICE, AND TO WISH HIM MUCH HAPPINESS AND FULFILLMENT IN THE YEARS AHEAD.

Returned with concurrence.

Received as information.

S. 898 -- Senator Verdin: A CONCURRENT RESOLUTION TO EXPRESS PROFOUND SORROW UPON THE PASSING OF MICHAEL DEL PRIORE, TO EXTEND THE DEEPEST SYMPATHY TO HIS FAMILY AND MANY FRIENDS, AND TO HONOR HIS MEMORY ON WHAT WOULD HAVE BEEN HIS SEVENTIETH BIRTHDAY.

Returned with concurrence.

Received as information.

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S. 937 -- Senator Jackson: A CONCURRENT RESOLUTION TO REMEMBER AND HONOR HARRIETTE EUGENIA "HETTIE" ANDERSON, THE MODEL FOR THE STUNNING SAINT-GAUDENS DOUBLE EAGLE COIN MINTED FROM 1907 TO 1933.

Returned with concurrence.

Received as information.

S. 938 -- Senators Rice, Cash and Alexander: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR BUTCH WOMACK, MAYOR OF THE CITY OF EASLEY, FOR OVER FORTY YEARS OF SERVICE TO THE CITY.

Returned with concurrence.

Received as information.

THE SENATE PROCEEDED TO A CALL OF THE UNCONTESTED LOCAL AND STATEWIDE CALENDAR.

ORDERED ENROLLED FOR RATIFICATION

The following Bills were read the third time and, having received three readings in both Houses, it was ordered that the title be changed to that of an Act and enrolled for Ratification:

H. 3977 -- Reps. Sandifer, Hardee and Anderson: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 38-55-730 SO AS TO ALLOW INSURERS TO POST AN INSURANCE POLICY OR ENDORSEMENT ON THEIR WEBSITE IF CERTAIN CONDITIONS ARE MET.

H. 3872 -- Reps. Murphy, Caskey, B. Newton, Brewer, Robbins, Sandifer, Herbkersman, Rutherford, Wooten, Connell, Mitchell and Hager: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 59-150-145 SO AS TO EXEMPT CERTAIN PERSONALLY IDENTIFIABLE INFORMATION CONCERNING LOTTERY CLAIMS FROM NONCONSENSUAL DISCLOSURE OR RELEASE UNDER THE FREEDOM OF INFORMATION ACT, TO PROVIDE THE LOTTERY COMMISSION MAY DISCLOSE CERTAIN INFORMATION CONCERNING LOTTERY CLAIMS WITHOUT CONSENT, AND TO PROVIDE AN EXCEPTION FOR PARTICIPANTS IN CERTAIN PROMOTIONS; AND BY AMENDING SECTION 30-4-40, RELATING TO MATTERS EXEMPT FROM DISCLOSURE UNDER

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THE FREEDOM OF INFORMATION ACT, SO AS TO MAKE A CONFORMING CHANGE.

H. 3960 -- Rep. Forrest: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 1-1-686 SO AS TO DESIGNATE THE SOUTH CAROLINA POULTRY FESTIVAL IN LEXINGTON COUNTY AS THE OFFICIAL STATE POULTRY FESTIVAL.

H. 4352 -- Reps. Calhoun and Felder: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 53-3-270 SO AS TO DESIGNATE THE MONTH OF MARCH OF EACH YEAR AS "MIDDLE LEVEL EDUCATION MONTH".

**READ THE THIRD TIME
SENT TO THE HOUSE**

The following Bill was read the third time and ordered sent to the House:

S. 801 -- Senator Alexander: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 7-7-430, RELATING TO DESIGNATION OF VOTING PRECINCTS IN OCONEE COUNTY, SO AS TO REDESIGNATE THE MAP NUMBER ON WHICH THESE PRECINCTS MAY BE FOUND ON FILE WITH THE REVENUE AND FISCAL AFFAIRS OFFICE.

OBJECTION

H. 3518 -- Reps. Felder and Williams: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 56-1-395, RELATING TO THE DRIVER'S LICENSE REINSTATEMENT FEE PAYMENT PROGRAM, SO AS TO PROVIDE THE DRIVERS' LICENSES ISSUED UNDER THIS PROGRAM ARE VALID FOR AN ADDITIONAL SIX MONTHS, TO REVISE THE AMOUNT OF REINSTATEMENT FEES OWED BY PERSONS TO BECOME ELIGIBLE TO OBTAIN THESE DRIVERS' LICENSES, TO REVISE THE DISTRIBUTION OF THE ADMINISTRATIVE FEES COLLECTED, TO PROVIDE THE DEPARTMENT OF MOTOR VEHICLES MAY PROVIDE PERSONS IN THE PROGRAM A FEE SCHEDULE OF THE AMOUNTS OWED AND THE ABILITY TO MAKE ONLINE PAYMENTS, TO REVISE THE TYPES OF DRIVERS' LICENSE SUSPENSIONS THAT ARE COVERED BY THIS SECTION, AND TO REVISE THE

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FREQUENCY THAT PERSONS MAY PARTICIPATE IN THE PROGRAM AND THE CONDITIONS FOR FUTURE PARTICIPATION; BY AMENDING SECTION 56-1-396, RELATING TO THE DRIVER'S LICENSE SUSPENSION AMNESTY PERIOD, SO AS TO LIMIT THE TYPES OF QUALIFYING SUSPENSIONS; BY AMENDING SECTION 56-10-240, RELATING TO THE REQUIREMENT THAT UPON LOSS OF INSURANCE, NEW INSURANCE MUST BE OBTAINED OR PERSONS MUST SURRENDER THEIR REGISTRATION AND PLATES, WRITTEN NOTICE BY INSURERS, APPEAL OF SUSPENSIONS, ENFORCEMENT, AND PENALTIES, SO AS TO REVISE THE PERIOD OF TIME VEHICLE OWNERS MUST SURRENDER MOTOR VEHICLE LICENSE PLATES AND REGISTRATION CERTIFICATES FOR CERTAIN UNINSURED MOTOR VEHICLES, TO DELETE THE PROVISION THAT GIVES THE DEPARTMENT OF MOTOR VEHICLES DISCRETION TO AUTHORIZE INSURERS TO UTILIZE ALTERNATE METHODS OF PROVIDING CERTAIN NOTICES TO THE DEPARTMENT, TO DELETE THE PROVISION THAT ALLOWS CERTAIN PERSONS TO APPEAL CERTAIN SUSPENSIONS TO THE DEPARTMENT OF INSURANCE FOR FAILURE TO MEET THE STATE'S FINANCIAL RESPONSIBILITY REQUIREMENTS IN ERROR, AND TO ALLOW THESE PERSONS TO PROVIDE CERTAIN DOCUMENTS TO SHOW THE SUSPENSION WAS ISSUED IN ERROR; BY AMENDING SECTION 56-10-245, RELATING TO PER DIEM FINES FOR LAPSE IN REQUIRED COVERAGE, SO AS TO PROVIDE THE FINES CONTAINED IN THE SECTION MAY NOT EXCEED TWO HUNDRED DOLLARS PER VEHICLE FOR A FIRST OFFENSE; BY AMENDING ARTICLE 5 OF CHAPTER 10, TITLE 56, RELATING TO THE ESTABLISHMENT OF THE UNINSURED MOTORIST FUND, SO AS TO REVISE THE PROVISIONS OF THIS ARTICLE TO REGULATE THE OPERATION OF UNINSURED MOTOR VEHICLES, TO DELETE PROVISIONS RELATING TO THE ESTABLISHMENT AND COLLECTION OF UNINSURED MOTOR VEHICLE FEES, TO MAKE TECHNICAL CHANGES, TO REVISE THE AMOUNT OF THE MOTOR VEHICLE REINSTATEMENT FEE AND PROVIDE IT SHALL BE INCREASED ANNUALLY, TO PROVIDE SUSPENDED LICENSES, REGISTRATION CERTIFICATES, LICENSE PLATES, AND DECALS MAY BE RETURNED TO THE DEPARTMENT OF MOTOR VEHICLES BY ELECTRONIC MEANS OR IN PERSON, AND TO DELETE THE

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PROVISIONS THAT REQUIRE THE DEPARTMENT OF MOTOR VEHICLES TO COLLECT STATISTICS REGARDING VARIOUS MOTOR VEHICLE REGISTRATION, INSURANCE, AND UNINSURED MOTORIST FUND ISSUES.

Senator MALLOY objected to the consideration of the Bill.

OBJECTION

H. 4116 -- Reps. Sandifer, M.M. Smith and King: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 40-19-295 SO AS TO PROHIBIT THE DIVIDING OF FEES OR OTHER COMPENSATION CHARGED OR RECEIVED BY LICENSEES OF THE BOARD OF FUNERAL SERVICES WITH ANOTHER PERSON, PARTNERSHIP, CORPORATION, ASSOCIATION, OR LEGAL ENTITY FOR THE DELIVERY OR PERFORMANCE OF FUNERAL SERVICES; BY AMENDING SECTION 32-7-100, RELATING TO PENALTIES FOR VIOLATIONS OF PROVISIONS REGULATING PRENEED FUNERAL CONTRACTS, SO AS TO INCREASE FINE RANGES AND PERMANENTLY BAR PERSONS CONVICTED OF A FELONY FROM CONDUCTING PRENEED CONTRACT SALES; BY AMENDING SECTION 32-7-110, RELATING TO THE INVESTIGATION OF COMPLAINTS AGAINST UNLICENSED PRENEED CONTRACT SALES PROVIDERS, SO AS TO PROVIDE COMPLAINTS TO WHICH THE DEPARTMENT SHALL RESPOND MAY BE WRITTEN OR ORAL; BY AMENDING SECTION 32-8-360, RELATING TO PENALTIES FOR VIOLATIONS OF THE SAFE CREMATION ACT, SO AS TO INCREASE MONETARY FINES AND REQUIRE IMMEDIATE REPORTING OF VIOLATIONS TO THE BOARD; BY AMENDING SECTION 32-8-385, RELATING TO REQUIREMENTS THAT CREMATORIES EMPLOY CERTAIN TRAINED STAFF TO PERFORM CREMATIONS, SO AS TO REQUIRE ALL CREMATIONS BE PERFORMED BY THESE TRAINED STAFF MEMBERS; BY AMENDING SECTION 40-19-20, RELATING TO DEFINITIONS CONCERNING THE REGULATION OF EMBALMERS AND FUNERAL DIRECTORS, SO AS TO REVISE CERTAIN DEFINITIONS; BY AMENDING SECTION 40-19-30, RELATING TO THE REQUIREMENT OF LICENSURE TO PRACTICE FUNERAL SERVICES, SO AS TO PROVIDE CONDUCT CONSTITUTING THE PRACTICE OF FUNERAL SERVICES INCLUDES PARTIES WHO EXERCISE ANY CONTROL OR

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AUTHORITY OVER A FUNERAL ESTABLISHMENT OR ITS EMPLOYEES, AGENTS, OR REPRESENTATIVES, AND TO PROHIBIT CORPORATIONS, PARTNERSHIPS, OR INDIVIDUALS IN WHOSE NAME APPEARS THE NAME OF A PERSON WITH A REVOKED OR LAPSED LICENSE FROM HAVING A LICENSE TO OPERATE A FUNERAL HOME; BY AMENDING SECTION 40-19-70, RELATING TO POWERS AND DUTIES OF THE BOARD, SO AS TO PROVIDE BOARD MEMBERS, COMMITTEES, OR EMPLOYEES MAY NOT BE LIABLE FOR ACTS PERFORMED IN THE COURSE OF THEIR OFFICIAL DUTIES IN THE ABSENCE OF MALICE SHOWN AND PROVEN IN A COURT OF COMPETENT JURISDICTION; BY AMENDING SECTION 40-19-80, RELATING TO INSPECTORS EMPLOYED BY THE BOARD, SO AS TO INSTEAD REQUIRE THE BOARD TO EMPLOY AT LEAST TWO INVESTIGATORS WHO MAY BE LICENSED EMBALMERS AND FUNERAL DIRECTORS WITH CERTAIN EXPERIENCE BUT WHO HAVE NOT BEEN DISCIPLINED; BY AMENDING SECTION 40-19-110, RELATING TO CONDUCT CONSTITUTING UNPROFESSIONAL CONDUCT BY A LICENSEE OF THE BOARD, SO AS TO MAKE GRAMMATICAL CHANGES; BY AMENDING SECTION 40-19-115, RELATING TO JURISDICTION OF THE BOARD, SO AS TO INCLUDE UNLICENSED PERSONS WITH THIS JURISDICTION; BY AMENDING SECTION 40-19-200, RELATING TO PENALTIES FOR VIOLATIONS OF PROVISIONS PROHIBITING THE PRACTICE OF FUNERAL SERVICES WITHOUT A LICENSE OR USING FALSE INFORMATION TO OBTAIN SUCH LICENSURE, SO AS TO INCREASE MONETARY FINES, AND TO SUBJECT PERSONS WHO AID AND ABET UNLICENSED PERSONS OR ENTITIES IN ENGAGING IN THE PRACTICE OF FUNERAL SERVICE WITHOUT LICENSURE TO THESE PENALTIES; BY AMENDING SECTION 40-19-250, RELATING TO CONTINUING EDUCATION PROGRAMS, SO AS TO REQUIRE CERTAIN COURSEWORK IN ETHICS, TO REQUIRE FOUR HOURS OF TOTAL ANNUAL COURSEWORK, TO REQUIRE A CERTAIN PORTION OF THIS COURSEWORK TO BE IN ETHICS, AND TO REQUIRE A CERTAIN PORTION OF THIS COURSEWORK BE COMPLETED IN PERSON; AND BY AMENDING SECTION 40-19-290, RELATING TO THE FIDUCIARY RESPONSIBILITIES OF FUNERAL ESTABLISHMENTS WITH RESPECT TO PAYMENTS RECEIVED FOR FUNERAL MERCHANDISE BEING PURCHASED, SO AS TO

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PROVIDE THESE PAYMENTS MUST BE KEPT IN A TRUST ACCOUNT UNTIL THE MERCHANDISE IS DELIVERED FOR ITS INTENDED USE OR IS DELIVERED INTO THE PHYSICAL POSSESSION OF THE PURCHASER.

Senator MALLOY objected to the consideration of the Bill.

CARRIED OVER

H. 3782 -- Reps. West, Yow, Jefferson, Ligon, Nutt, Anderson, Hardee, Bannister, Thayer, Blackwell and Oremus: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 58-12-300, RELATING TO DEFINITIONS, SO AS TO AMEND THE DEFINITION OF "VIDEO SERVICE".

On motion of Senator MASSEY, the Bill was carried over.

CARRIED OVER

H. 4120 -- Reps. Pope and Long: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 23-3-80 SO AS TO CREATE THE "ILLEGAL IMMIGRATION ENFORCEMENT UNIT" WITHIN THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION, TO PROVIDE FOR ITS ADMINISTRATION AND DUTIES, AND TO REQUIRE IT TO ENTER INTO A MEMORANDUM OF AGREEMENT WITH THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY; BY REPEALING SECTION 23-6-60 AND CHAPTER 30 OF TITLE 8 RELATING TO THE CREATION OF THE ILLEGAL IMMIGRATION ENFORCEMENT UNIT WITHIN THE DEPARTMENT OF PUBLIC SAFETY AND RECORDING AND REPORTING OF IMMIGRATION LAW VIOLATIONS; AND BY ADDING SECTION 40-1-35 SO AS TO PROVIDE CERTAIN IMMIGRANTS ARE ELIGIBLE FOR OCCUPATIONAL OR PROFESSIONAL LICENSURE UNDER THIS TITLE.

On motion of Senator MALLOY, the Bill was carried over.

CARRIED OVER

S. 882 -- Senators M. Johnson, Kimbrell, Gustafson, Climer, Garrett and Loftis: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 63-5-380 SO AS TO PROVIDE THAT A PARENT OR THE LEGAL GUARDIAN OF A MINOR MUST BE NOTIFIED WHEN A HEALTHCARE PROFESSIONAL PRESCRIBES MEDICATION TO THE MINOR, TO PROVIDE THAT A PHARMACIST CANNOT FILL A PRESCRIPTION FOR A MINOR

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WITHOUT THE MINOR'S PARENT OR LEGAL GUARDIAN CONSENTING, TO PROVIDE THAT A PARENT OR LEGAL GUARDIAN CANNOT BE PROHIBITED FROM VIEWING HIS MINOR'S PRESCRIPTION HISTORY, AND TO PROVIDE THAT THESE PROVISIONS DO NOT APPLY TO AN EMANCIPATED MINOR OR A MARRIED MINOR.

On motion of Senator MASSEY, the Bill was carried over.

READ THE SECOND TIME

H. 3799 -- Reps. Hyde and Nutt: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 53-3-270 SO AS TO DECLARE THE FIRST MONDAY OF MARCH OF EACH YEAR AS "WATER PROFESSIONALS DAY".

The Senate proceeded to a consideration of the Bill.

Senator TALLEY explained the Bill.

The question being the second reading of the Bill.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 43; Nays 0

AYES

Adams	Alexander	Allen
Campsen	Cash	Climer
Corbin	Cromer	Davis
Devine	Fanning	Gambrell
Garrett	Goldfinch	Grooms
Gustafson	Harpootlian	Hembree
Hutto	Jackson	<i>Johnson, Kevin</i>
<i>Johnson, Michael</i>	Loftis	Malloy
Massey	Matthews	McElveen
McLeod	Peeler	Rankin
Reichenbach	Rice	Sabb
Senn	Setzler	Shealy
Stephens	Talley	Tedder
Turner	Verdin	Williams
Young		

Total--43

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NAYS

Total--0

The Bill was read the second time, passed and ordered to a third reading.

ADOPTED

S. 948 -- Senator Grooms: A CONCURRENT RESOLUTION TO RECOGNIZE THE WEEK OF JANUARY 21-27, 2024, AS NATIONAL CORONER AND MEDICOLEGAL DEATH INVESTIGATOR WEEK IN HONOR OF THE PUBLIC SERVICE OF THE SOUTH CAROLINA CORONERS ASSOCIATION, CORONERS, DEPUTY CORONERS, AND MEDICOLEGAL DEATH INVESTIGATORS.

The Resolution was adopted, ordered sent to the House.

THE CALL OF THE UNCONTESTED CALENDAR HAVING BEEN COMPLETED, THE SENATE PROCEEDED TO THE MOTION PERIOD.

MADE SPECIAL ORDER

H. 3690 -- Reps. Taylor, G.M. Smith, Thayer, Bradley, Hiott, Bannister, W. Newton, Sandifer, West, Davis, Erickson, J.E. Johnson, Jordan, Whitmire, Hixon, Elliott, Forrest, Wooten, Bustos, Willis, Yow, Carter, Hartnett, Moss, McCravy, B.J. Cox, Haddon, Burns, Chumley, Oremus, Hardee, Ligon, Long, Gilliam, Magnuson, Lawson, Nutt, Brewer, Guffey, Hager, Mitchell, Neese, Sessions, Vaughan, Robbins, Kilmartin, M.M. Smith, B. Newton, Hewitt, Leber, Pope, Blackwell, Caskey and Landing: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS SO AS TO ENACT THE "ESG PENSION PROTECTION ACT"; BY AMENDING SECTION 9-16-10, RELATING TO RETIREMENT SYSTEM FUNDS DEFINITIONS SO AS TO ADD A DEFINITION OF "PECUNIARY FACTOR"; BY AMENDING SECTION 9-16-30, RELATING TO DELEGATION OF FUNCTIONS BY THE COMMISSION, SO AS TO PROVIDE THAT PROXY VOTING DECISIONS MUST BE BASED ON PECUNIARY FACTORS; BY AMENDING SECTION 9-16-50, RELATING TO INVESTMENT AND MANAGEMENT CONSIDERATIONS BY TRUSTEES, SO AS TO PROVIDE THAT THE COMMISSION MAY ONLY CONSIDER PECUNIARY FACTORS IN MAKING CERTAIN

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INVESTMENT DECISIONS; BY AMENDING SECTION 9-16-320, RELATING TO ANNUAL INVESTMENT PLANS SO AS TO REQUIRE CERTAIN MEETINGS; BY AMENDING SECTION 9-16-330, RELATING TO STATEMENT OF ACTUARIAL ASSUMPTIONS AND INVESTMENT OBJECTIVES, SO AS TO REQUIRE CERTAIN CERTIFICATIONS; AND BY ADDING SECTION 9-16-110 SO AS TO PROVIDE THAT THE ATTORNEY GENERAL MAY BRING AN ACTION TO ENFORCE CERTAIN PROVISIONS.

Senator MASSEY moved that the Bill be made a Special Order.

The Bill was made a Special Order.

MOTION ADOPTED

At 11:54 A.M., on motion of Senator MASSEY, the Senate agreed to dispense with the balance of the Motion Period.

STATEWIDE APPOINTMENT

Confirmation

Having received a favorable report from the Education Committee, the following appointment was confirmed in open session:

Initial Appointment, South Carolina Commission on Higher Education, with the term to commence July 1, 2021, and to expire July 1, 2025

At-Large:

Mitchell M. Zais, 1642 Tanglewood Road, Columbia, SC 29204-3308
VICE Benjamin Wright Satcher, Jr.

On motion of Senator HEMBREE, the question was confirmation of Mitchell M. Zais.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 41; Nays 2

AYES

Adams	Alexander	Allen
Campsen	Cash	Climer
Corbin	Cromer	Davis
Devine	Gambrell	Garrett

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Goldfinch	Grooms	Gustafson
Hembree	Jackson	<i>Johnson, Kevin</i>
<i>Johnson, Michael</i>	Loftis	Malloy
Martin	Massey	Matthews
McElveen	McLeod	Peeler
Rankin	Reichenbach	Rice
Sabb	Senn	Setzler
Shealy	Stephens	Talley
Tedder	Turner	Verdin
Williams	Young	

Total--41

NAYS

Harpootlian Hutto

Total--2

The appointment of Mitchell M. Zais was confirmed.

Motion Adopted

On motion of Senator MASSEY, the Senate agreed to stand adjourned.

REPORT RECEIVED

Judicial Merit Selection Commission

**Report of Candidate Qualifications
2023**

Date Draft Report Issued: Thursday, January 11, 2024

Date and Time Final Report Issued: Noon, Tuesday, January 16, 2024

**Judicial candidates are not free to seek or accept
commitments until Tuesday, January 16, 2024, at
Noon.**

Judicial Merit Selection Commission

Rep. Micajah P. "Micah" Caskey IV, Chairman
Sen. Luke A. Rankin, Vice Chairman
Sen. Ronnie A. Sabb

Erin B. Crawford, Chief Counsel
Patrick Dennis, Counsel

THURSDAY, JANUARY 11, 2024

Sen. Scott Talley
Rep. J. Todd Rutherford
Rep. Wallace H. "Jay" Jordan, Jr.
Hope Blackley
Lucy Grey McIver
Andrew N. Safran
J.P. "Pete" Strom Jr.



Post Office Box 142
Columbia, South Carolina 29202
(803) 212-6623
January 11, 2024

Dear Members of the General Assembly:

Enclosed is the Judicial Merit Selection Commission's Report of Candidate Qualifications. This Report is designed to assist you in determining how to cast your vote. The Commission is charged by law with ascertaining whether judicial candidates are qualified for service on the bench. In accordance with this mandate, the Commission has thoroughly investigated all judicial candidates for their suitability for judicial service.

The Commission's finding that a candidate is qualified means that the candidate satisfies both the constitutional criteria for judicial office and the Commission's evaluative criteria. The attached Report details each candidate's qualifications as they relate to the Commission's evaluative criteria.

Judicial candidates are **prohibited** from asking for your commitment until **12:00 Noon on Tuesday, January 16, 2024.** Further, members of the General Assembly are not permitted to issue letters of introduction, announcements of candidacy, statements detailing a candidate's qualifications, or commitments to vote for a candidate **until 12:00 Noon on Tuesday, January 16, 2024.** In summary, no member of the General Assembly should, orally or in writing, communicate about a candidate's candidacy until this designated time after the release of the Judicial Merit Selection Commission's Report of Candidate Qualifications. If you find a candidate violating the pledging prohibitions or if you have questions about this report, please contact Erin B. Crawford, Chief Counsel to the Commission, at (803) 212-6689.

Thank you for your attention to this matter.

Sincerely,

Representative Micajah P. "Micah" Caskey IV

THURSDAY, JANUARY 11, 2024

Judicial Merit Selection Commission

Rep. Micajah P. "Micah" Caskey IV, Chairman
Sen. Luke A. Rankin, Vice Chairman
Sen. Ronnie A. Sabb
Sen. Scott Talley
Rep. J. Todd Rutherford
Rep. Wallace H. "Jay" Jordan, Jr.
Hope Blackley
Lucy Grey McIver
Andrew N. Safran
J.P. "Pete" Strom Jr.

Erin B. Crawford, Chief Counsel
Patrick Dennis, Counsel



Post Office Box 142
Columbia, South Carolina 29202
(803) 212-6623
January 11, 2024

Dear Fellow Members of the General Assembly:

This letter is written to call your attention to issues raised during the December 2003, Judicial Merit Selection hearings concerning a judicial candidate's contact with members of the General Assembly, as well as third parties contacting members on a candidate's behalf. It is also to remind you of these issues for the current screening.

Section 2-19-70(C) of the South Carolina Code contains strict prohibitions concerning candidates seeking or legislators giving their pledges of support or implied endorsement through an introduction prior to 48 hours after the release of the final report of the Judicial Merit Selection Commission ("Commission"). The purpose of this section is to ensure that members of the General Assembly have full access to the report prior to being asked by a candidate to pledge his or her support. The final sentence of Section 2-19-70(C) provides that "the prohibitions of this section do not extend to an announcement of candidacy by the candidate and statements by the candidate detailing the candidate's qualifications" (emphasis added). Candidates may not, however, contact members of the Commission regarding their candidacy. Please note that six members of the Commission are also legislators.

In April 2000, the Commission determined that Section 2-19-70(C) means no member of the General Assembly should engage in any form of communication, written or verbal, concerning a judicial candidate before the 48-hour period expires following the release of the Commission's report. The Commission would like to clarify and reiterate that until at least 48 hours have expired after the Commission has released its final report of candidate qualifications to the General

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Assembly, only candidates, and not members of the General Assembly, are permitted to issue letters of introduction, announcements of candidacy, or statements detailing the candidates' qualifications.

The Commission would again like to remind members of the General Assembly that a violation of the screening law is likely a disqualifying offense and must be considered when determining a candidate's fitness for judicial office. Further, the law requires the Commission to report any violations of the pledging rules by members of the General Assembly to the House or Senate Ethics Committee, as may be applicable.

Should you have any questions regarding this letter or any other matter pertaining to the judicial screening process, please do not hesitate to call Erin B. Crawford, Chief Counsel to the Commission, at (803) 212-6689.

Sincerely,

Representative Micajah P. "Micah" Caskey IV

Chairman

INTRODUCTION

The Judicial Merit Selection Commission is charged by law to consider the qualifications of candidates for the judiciary. This report details the reasons for the Commission's findings, as well as each candidate's qualifications as they relate to the Commission's evaluative criteria. The Commission operates under the law that went into effect on July 1, 1997, and which dramatically changed the powers and duties of the Commission. One component of this law is that the Commission's finding of "qualified" or "not qualified" is binding on the General Assembly. The Commission is also cognizant of the need for members of the General Assembly to be able to differentiate between candidates and, therefore, has attempted to provide as detailed a report as possible.

The Judicial Merit Selection Commission is composed of ten members, four of whom are non-legislators. The Commission has continued the more in-depth screening format started in 1997. The Commission has asked candidates their views on issues peculiar to service on the court to which they seek election. These questions were posed in an effort to provide members of the General Assembly with more information about candidates and the candidates' thought processes on issues relevant to their candidacies. The Commission has also engaged in a more probing inquiry into the depth of a candidate's experience in areas of practice that are germane to the office he or she is seeking. The Commission feels that candidates should have familiarity with the subject matter of the courts for which they offer, and feels that

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candidates' responses should indicate their familiarity with most major areas of the law with which they will be confronted.

The Commission also used the Citizens Committees on Judicial Qualifications as an adjunct of the Commission. Since the decisions of our judiciary play such an important role in people's personal and professional lives, the Commission believes that all South Carolinians should have a voice in the selection of the state's judges. It was this desire for broad-based grassroots participation that led the Commission to create the Citizens Committees on Judicial Qualifications. These committees are composed of individuals who are both racially and gender diverse, and who also have a broad range of professional experiences (*i.e.*, lawyers, teachers, businessmen, bankers, and advocates for various organizations). The committees were asked to advise the Commission on the judicial candidates in their regions. Each regional committee interviewed the candidates from its assigned area and also interviewed other individuals in that region who were familiar with the candidate either personally or professionally. Based on those interviews and its own investigation, each committee provided the Commission with a report on their assigned candidates based on the Commission's evaluative criteria. The Commission then used these reports as a tool for further investigation of the candidate if the committee's report so warranted. Summaries of these reports have also been included in the Commission's report for your review.

The Commission conducts a thorough investigation of each candidate's professional, personal, and financial affairs, and holds public hearings during which each candidate is questioned on a wide variety of issues. The Commission's investigation focuses on the following evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental health, and judicial temperament. The Commission's investigation includes the following:

- (1) survey of the bench and bar through BallotBox online;
- (2) SLED and FBI investigation;
- (3) credit investigation;
- (4) grievance investigation;
- (5) study of application materials;
- (6) verification of ethics compliance;
- (7) search of newspaper articles;
- (8) conflict of interest investigation;
- (9) court schedule study;

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- (10) study of appellate record;
- (11) court observation; and
- (12) investigation of complaints.

While the law provides that the Commission must make findings as to qualifications, the Commission views its role as also including an obligation to consider candidates in the context of the judiciary on which they would serve and, to some degree, govern. To that end, the Commission inquires as to the quality of justice delivered in the courtrooms of South Carolina and seeks to impart, through its questioning, the view of the public as to matters of legal knowledge and ability, judicial temperament, and the absoluteness of the Judicial Canons of Conduct as to recusal for conflict of interest, prohibition of ex parte communication, and the disallowance of the acceptance of gifts. However, the Commission is not a forum for reviewing the individual decisions of the state's judicial system absent credible allegations of a candidate's violations of the Judicial Canons of Conduct, the Rules of Professional Conduct, or any of the Commission's nine evaluative criteria that would impact a candidate's fitness for judicial service.

The Commission expects each candidate to possess a basic level of legal knowledge and ability, to have experience that would be applicable to the office sought, and to exhibit a strong adherence to codes of ethical behavior. These expectations are all important, and excellence in one category does not make up for deficiencies in another.

Routine questions related to compliance with ethical Canons governing ethics and financial interests are now administered through a written questionnaire mailed to candidates and completed by them in advance of each candidate's staff interview. These issues are no longer automatically made a part of the public hearing process unless a concern or question was raised during the investigation of the candidate. The necessary public record of a candidate's pledge to uphold the Canons is his or her completed and sworn questionnaire.

This report is the culmination of lengthy, detailed investigatory work and public hearings. The Commission takes its responsibilities seriously, believing that the quality of justice delivered in South Carolina's courtrooms is directly affected by the thoroughness of its screening process. Please carefully consider the contents of this report, which we believe will help you make a more informed decision. **Please note that the candidates' responses included herein are restated verbatim from the documents that the candidates submitted as part of their application to the Judicial Merit Selection Commission. All candidates were informed that the Commission does not revise or**

THURSDAY, JANUARY 11, 2024

alter the candidates' submissions, and thus, any errors or omissions in the information contained in this draft report existed in the original documents that the candidate submitted to the Commission.

This report conveys the Commission's findings as to the qualifications of all candidates currently offering for election to the South Carolina Supreme Court, Court of Appeals, Circuit Court, Family Court, and the Administrative Law Court.

**SUPREME COURT
QUALIFIED AND NOMINATED**

**The Honorable John W. Kittredge
Supreme Court, Chief Justice**

Commission's Findings: QUALIFIED AND NOMINATED

Pursuant to § 2-19-80(A), if fewer than three persons apply to fill a vacancy or if the Commission concludes that there are fewer than three candidates qualified for a vacancy, it shall submit only the names and qualifications of those who are considered to be qualified, with a written explanation for submitting fewer than three names.

For the vacancy for Supreme Court, Chief Justice, one candidate applied for this vacancy. Accordingly, the name and qualifications of one candidate is hereby submitted in this report.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Justice Kittredge meets the qualifications prescribed by law for judicial service as Supreme Court, Chief Justice.

Justice Kittredge was born in 1956. He is 67 years old and a resident of Greenville, South Carolina. Justice Kittredge provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1982.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Justice Kittredge.

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Justice Kittredge demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Justice Kittredge reported that he has made \$607.26 in campaign expenditures for stamps, paper, envelopes, typing assistance, scanning costs, and clerical assistance.

Justice Kittredge testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Justice Kittredge testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Justice Kittredge to be intelligent and knowledgeable.

Justice Kittredge reported that he has taught the following law-related courses:

- (a) I have also spoken to diverse groups across the state. I have spoken to school children, including middle and high school students. I have further spoken to college level students and law school students. I have spoken to many civic organizations, such as Rotary, Civitan, and Kiwanis. In speaking to students and civic groups, the primary focus has been an understanding of the legal system and the importance of the rule of law. I have spoken to other groups as well, such as law enforcement officers.
- (b) I have spoken at many CLE programs. While the topics have varied, I am generally asked to present on the topics of civility and professionalism. This is the result of my service as chair of the Chief Justice's Commission on the Profession. For example, when the Bridge the Gap program

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existed, I was the speaker for many years on civility and professionalism. I have also spoken at the South Carolina Bar Convention on numerous occasions, including CLE programs and the Plenary Luncheon. In January 2023, I presented the “State of the Judiciary” talk to the House of Delegates.

Justice Kittredge reported that he has published the following:

- (a) Around 1978, I wrote a paper entitled The Inevitability of Police Discretion, which was published in the South Carolina Law Enforcement Officers Association magazine.
- (b) An article on juvenile justice was published in the Greenville News in December, 1992.

(4) Character:

The Commission’s investigation of Justice Kittredge did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission’s investigation of Justice Kittredge did not indicate any evidence of a troubled financial status. Justice Kittredge has handled his financial affairs responsibly.

The Commission also noted that Justice Kittredge was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Justice Kittredge reported that his last available rating by a legal rating organization, Martindale-Hubbell, was AV.

Justice Kittredge reported that he has not served in the military.

Justice Kittredge reported that he has never held public office other than judicial office.

(6) Physical Health:

Justice Kittredge appears to be physically capable of performing the duties of the office he seeks.

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(7) Mental Stability:

Justice Kittredge appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Justice Kittredge was admitted to the South Carolina Bar in 1982.

He gave the following account of his legal experience since graduation from law school:

- (a) I served as a law clerk to the Honorable William W. Wilkins, Jr., then United States District Judge, from August 1982 through August 1984.
- (b) From September 1984 until July 1991, I worked at the law firm of Wilkins, Nelson and Kittredge. I had a litigation practice. I was involved in the administrative management of our law firm.
- (c) I also worked as a part-time assistant solicitor from 1984 until mid-1985, and then again for several months in 1986 to try several cases at the request of the Solicitor. As an assistant solicitor, I prosecuted many criminal cases.
- (d) I was elected by the General Assembly to the Family Court bench in 1991.
- (e) In 1996, I was elected by the General Assembly to the Circuit Court bench.
- (f) In 2003, I was elected by the General Assembly to the Court of Appeals.
- (g) In 2008, I was elected by the General Assembly to the Supreme Court.

Justice Kittredge reported the frequency of his court appearances prior to his service on the bench as follows:

- (a) Federal: two times per year;
- (b) State: weekly.

Justice Kittredge reported the percentage of his practice involving civil, criminal, domestic and other matters prior to his service on the bench as follows:

- (a) Civil: 30%;
- (b) Criminal: 10%;
- (c) Domestic: 60%;
- (d) Other: 0%.

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Justice Kittredge reported the percentage of his practice in trial court prior to his service on the bench as follows:

- (a) The vast majority of my practice was in the trial court
- (b) The majority of my jury trials came from my service as an assistant solicitor. I do not recall exact numbers concerning cases tried and cases settled. As an assistant solicitor, I was a part-time prosecutor; I was assigned specific cases that were viewed as “definite trials.” Very few of my assigned cases were resolved by guilty plea. On the civil side in private practice, at any given time, I was handling between fifty and one hundred cases.
- (c) As a prosecutor, I was specifically assigned cases that had to be tried. As a result, most criminal cases went to trial and resulted in a jury verdict. Concerning civil and domestic cases, as was (and is) customary, most cases were resolved by settlement before or during trial. My best guess is that eighty percent (80%) of the cases were resolved by agreement and twenty percent (20%) were tried.
- (d) I probably did have a case or cases settle immediately after jury selection, but I cannot recall a specific instance.

Justice Kittredge provided that during the past five years prior to his service on the bench, his time was equally divided between sole counsel and co-counsel.

The following is Justice Kittredge’s account of his five most significant litigated matters:

- (a) *State v. Floyd McDuffie*. (approximately 1985, Greenville County General Sessions Court.) I prosecuted many cases as an assistant solicitor, and this case was significant to me. It involved a highly publicized murder and robbery. Interesting legal questions arose during the trial. The defendant was convicted of armed robbery and manslaughter and sentenced to jail.
- (b) *State v. Donnie Robinson*. (approximately 1986, Greenville County General Sessions Court.) I prosecuted this defendant for armed robbery and kidnapping. This was a highly publicized case in which the defendant kidnapped the victim at gunpoint in the parking lot of Haywood Mall in Greenville. The defendant then forced the victim to withdraw money from her bank

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account. The victim eventually escaped from the defendant. The jury convicted the defendant on all counts, and he received a life sentence.

- (c) *Stogner v. City of Mauldin*. 84-CP-23-680. I, along with my law partner, represented the defendant. Plaintiff filed a myriad of claims (including a 42 USC §1983 cause of action) arising from a challenge to the zoning ordinance of the City of Mauldin. The case was tried to a jury. Judgment for defendant at the close of evidence.
- (d) *Collins Music v. Terry et al.* 87-CP-23-2982. I represented plaintiff in this common pleas action. The case received substantial publicity. Plaintiff alleged breach of contract, tortious interference with contractual relations and unfair trade practices. Plaintiff prevailed. Judgment was entered in the approximate amount of \$18,000 actual damages and \$100,000 punitive damages. The case was appealed and affirmed by the Court of Appeals. (303 S.C. 358, 400 S.E.2d 783 (1991)). I also handled the appeal.
- (e) *First Baptist Church of Mauldin v. City of Mauldin*. 90-CP-23-955. I represented the church (on a pro bono basis) in its petition to close a road on its property. The road closing was necessary to enable the church to expand its facility to accommodate its growing membership. This was far more than a typical road closing case. For political reasons, the church's petition was adamantly opposed by the City of Mauldin. Significant publicity surrounded the case and trial. Following a lengthy trial, judgment was entered in favor of the church and the road was closed, thus enabling the church to expand its facilities. I was elected to the Family Court bench while the case was on appeal to the Supreme Court. The Supreme Court affirmed, 308 S.C. 226, 417 S.E.2d 592 (1992).

The following is Justice Kittredge's account of five civil appeals he has personally handled:

- (a) *Collins Music v. Terry*, 303 S.C. 358, 400 S.E.2d 783 (Ct. App. 1991).

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- (b) *S.C. Tax Commission v. S. C. Tax Board of Review*, 305 S.C. 183, 407 S.E.2d 627 (1991). I argued the case before the Supreme Court, but I did not write the brief.
- (c) *Watson v. Watson*, 291 S.C. 13, 351 S.E.2d 883 (Ct. App. 1986).
- (d) *Burns v. Burns*. 293 S.C. 1, 358 S.E.2d 168 (Ct. App. 1987).
- (e) *Lineberger v. Lineberger*. 303 S.C. 248, 399 S.E.2d 786 (Ct. App. 1990).

Justice Kittredge reported that he has not personally handled any criminal appeals. He also reported the following:

I have not, as an attorney, personally handled a criminal appeal. However, as an appellate judge, I have authored hundreds of opinions. Attached to this application is a list of all opinions I have authored while serving on the Court of Appeals and to date on the Supreme Court.

Justice Kittredge reported that he has held the following judicial office(s):

- (a) I was elected by the General Assembly to the Family Court bench on May 8, 1991, and reelected in May 1995. The Family Court is a court of limited jurisdiction.
- (b) In 1996, I was elected by the General Assembly to an At-Large Circuit Court judgeship (Seat 11).
- (c) In 1998, I was elected to a Resident Circuit Court judgeship (Thirteenth Judicial Circuit, Seat 4). The Circuit Court is South Carolina's general jurisdiction court, civil and criminal.
- (d) In 2003, I was elected to the Court of Appeals. The Court of Appeals is an intermediate, error-correction appellate court.
- (e) In 2008, I was elected to the Supreme Court. The Supreme Court is the highest court in South Carolina. While the Supreme Court primarily serves as an appellate court, it has authority to hear matters in its original jurisdiction. *See* Article V of the South Carolina Constitution.

Justice Kittredge provided the following list of his most significant orders or opinions:

- (a) *Moore v. Moore*, 414 S.C. 490, 779 S.E.2d 533 (2015).
- (b) *Adoptive Couple v. Baby Girl*, 395 S.C. 625, 731 S.E.2d 550 (2012) (Kittredge, J., dissenting), *rev'd* 133 S.Ct.

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2552 (2013) (reversing majority decision and adopting Justice Kittredge’s view that Indian Child Welfare Act did not bar adoption of child where Indian parent abandoned Indian child prior to birth).

- (c) *Abbeville Cnty. Sch. Dist. v. State*, 410 S.C. 619, 767 S.E.2d 157 (2014) (Kittredge, J., dissenting); see also *Abbeville Cnty. Sch. Dist. v. State*, 414 S.C. 166, 777 S.E.2d 547 (2015) (order) (Kittredge, J., dissenting), *superseded by* 415 S.C. 19, 780 S.E. 2d 609 (2015) (Kittredge, J., dissenting).
- (d) *Bd. of Trustees of School Dist. of Fairfield County v. State*, 395 S.C. 276, 718 S.E.2d 210 (2011).
- (e) *State v. Moore*, 429 S.C. 465, 839 S.E.2d 882 (2020).
- (f) I have been an appellate judge since 2003. I have authored hundreds of opinions. I am attaching to my application a list of all appellate opinions I have authored.

Justice Kittredge reported no other employment while serving as a judge:

(9) Judicial Temperament:

The Commission believes that Justice Kittredge’s temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Upstate Citizens Committee on Judicial Qualification found Justice Kittredge “Qualified” in the evaluative criteria of constitutional qualifications, physical health, and mental stability; and “Well-Qualified” in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee had no related or summary comments.

Justice Kittredge is married to Lila Graham Hewell Kittredge. He has three children.

Justice Kittredge reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar – 1982 to present;
- (b) Greenville County Bar – 1982 to present.

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Justice Kittredge provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Upstate Warrior Solutions - Board of Directors, Greenville, S.C.;
- (b) Commission on Accreditation for Law Enforcement Agencies – National Commissioner;
- (c) Greenville Country Club, Greenville, S.C.;
- (d) Poinsett Club, Greenville, S.C.;
- (e) First Presbyterian Church, Greenville, S.C. – previously served as an Elder;
- (f) Haynsworth-Perry Inn of Court, Greenville, S.C.

Justice Kittredge further reported:

- (a) I believe I am well qualified to serve as Chief Justice of the South Carolina Supreme Court. My academic background includes summa cum laude, Phi Beta Kappa, Order of the Coif; and Wig and Robe.
- (b) This June concluded by thirty-second year of judicial service to South Carolina. I am the first and only person ever in South Carolina to serve on the four major courts— Family Court, Circuit Court, Court of Appeals and the Supreme Court. My service at every level has prepared me well to serve as Chief Justice. I am no stranger to hard work.
- (c) As a trial judge, I (1) served as chief administrative judge on numerous occasions on Family and Circuit Court; (2) formed Bench-Bar committees in Family and Circuit Court to facilitate productive and positive communications between judges and practicing attorneys on matters affecting the court; (3) assembled and participated in the committee which resulted in the implementation of the successful Alternate Dispute Resolution Program in Greenville County; (4) was assigned and tried many complex cases, including medical malpractice, products liability, constitutional challenges to state statutes, etc.; (5) was responsible for the organization, scheduling and presentation of many JCLEs at Family Court and Circuit Court conferences; (6) was assigned numerous death

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penalty cases by the Supreme Court, including death penalty post-conviction relief; (7) served on numerous occasions as an Acting Associate Justice of the Supreme Court; and (8) was appointed many times by the Supreme Court as a special referee in matters in the Supreme Court's original jurisdiction, and in all such cases the Supreme Court unanimously adopted my Report and Recommendation in published opinions.

- (d) For the past approximately twenty years, I have served as an appellate judge, the last fifteen on the Supreme Court. I enjoy the challenges of novel and difficult issues we frequently encounter at the appellate level. I hope my work product (legal opinions) is acceptable to the Bench and Bar. It has been and remains my goal to write understandable and meaningful opinions for the Bench and Bar. My judicial philosophy is that judges adjudicate and legislators legislate.
- (e) I have served on the Chief Justice's Commission on the Profession since approximately 2003. In 2008, I was appointed as Chairman of the Commission on the Profession and have served in that capacity since. The Commission on the Profession has led the way on numerous improvements to the system of justice, including the mentoring program and numerous rule changes.
- (f) In 2015, I received a lifetime achievement award from Chief Justice Toal for my contributions to the legal profession. I was the first recipient of this award.
- (g) I wish to add a final comment. I have no agenda, other than to honor my oath as a judge and uphold the rule of law. I bring neither a bias nor an agenda to the discharge of my judicial duties. I am faithful to the rule of law, and my record of almost thirty-two years in the state judiciary so reflects. Moreover, beyond my uncompromising commitment to the rule of law, I have tried my best to treat everyone with kindness and respect.

I thank the JMSC for its consideration of my application for election to the position of Chief Justice of the Supreme Court.

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(11) Commission Members' Comments:

The Commission noted Justice Kittredge's remarkable experience, having served on each of the statewide courts in South Carolina and being the only person to have done so. The Commission also took note of the exceptional amount of positive feedback it received concerning all areas of Justice Kittredge's qualifications.

The Commission found that Justice Kittredge is an exemplary candidate to be Chief Justice of the South Carolina Supreme Court.

(12) Conclusion:

The Commission found Justice Kittredge qualified, and nominated him for election to the Supreme Court, Chief Justice.

**COURT OF APPEALS
QUALIFIED AND NOMINATED**

**The Honorable Jerry Deese Vinson Jr.
Court of Appeals, Seat 8**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Vinson meets the qualifications prescribed by law for judicial service as a Court of Appeals judge.

Judge Vinson was born in 1960. He is 63 years old and a resident of Florence, South Carolina. Judge Vinson provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1985.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Vinson.

Judge Vinson demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to

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judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Vinson reported that he has not made any campaign expenditures.

Judge Vinson testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Judge Vinson testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Vinson to be intelligent and knowledgeable.

Judge Vinson reported that he has taught the following law-related courses:

- (a) SC Bar Hot Tips from the Coolest Domestic Law Practitioners 9/12/97
- (b) SC Bar Hot Tips from the Coolest Domestic Law Practitioners 8/28/98
- (c) SC Bar Hot Tips from the Coolest Domestic Law Practitioners 9/24/99
- (d) Family Law Ethics Seminar 12/4/99
- (e) SC Bar Hot Tips from the Coolest Domestic Law Practitioners 9/15/00
- (f) SC Bar Hot Tips from the Coolest Domestic Law Practitioners 9/21/01
- (g) SC Bar Hot Tips from the Coolest Domestic Law Practitioners 9/20/02
- (h) Ethical Issues in Appointed Cases 10/18/02
- (i) Guardian Ad Litem Certification 1/10/03
- (j) SC Bar Cool Tips Seminar 4/25/03
- (k) Children's Law Seminar 10/14/05

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- (l) SC Bar CLE – Panel Discussion – New Tools for the Family Court 1/27/06
- (m) SC Bar CLE - Children's Issues in Family Court – Relocation: A New Approach 3/17/06
- (n) 2006 Orientation School for New Judges 7/10/06
- (o) Charleston County Family Law Seminar – Observations from the Bench 11/17/06
- (p) Children's Issues in Family Court – Guardian ad litem Reports What's in It for Me? 3/23/07
- (q) SC Bar Hot Tips from the Coolest Domestic Law Practitioners – Ten Things Lawyers Need to Know about Temporary Hearings 9/21/07
- (r) Children's Law Project Seminar on Abuse & Neglect 11/16/07
- (s) SC Bar CLE - Tips from the Bench – Divorce and Separation – The Devil is in the Details: Checklists as Tools 2/15/08
- (t) SC Bar Hot Tips from the Coolest Domestic Law Practitioners – Best Legal Practices in Abuse and Neglect Cases –a Work in Progress 9/19/08
- (u) SC Bar Hot Tips from the Coolest Domestic Law Practitioners –Thoughts from the Bench – Top Ten Basics All Lawyers Need to Know 9/19/08
- (v) Children's Law Center Conference – Best Legal Practices in Abuse and Neglect Cases 10/31/08
- (w) SC Bar Convention - Family Law Section-Advantages of the New Financial Declaration 1/23/09
- (x) SCDSS CLE - Attorney Training – Best Legal Practices in Abuse and Neglect Cases -Panel Discussion 2/27/09
- (y) SC Bar Hot Tips from the Coolest Domestic Law Practitioners - Common Evidentiary Issues: Oops! I Did It Again 9/18/09
- (z) Training for Attorneys Appointed in Abuse & Neglect Cases 1/15/10
- (aa) SC Bar - Children's Law Committee Seminar– Best Legal Practices in Abuse and Neglect cases 1/23/10
- (bb) SCCFCJ Conference – Best Legal Practices 4/22/10
- (cc) Guardian ad Litem training on Best Legal Practices in Abuse and Neglect Cases 5/17/10
- (dd) SC Bar – Solo & Small Firm Seminar – What Every Lawyer Should Know About Family Court 9/24/10

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- (ee) SC Bar Hot Tips from the Coolest Domestic Law Practitioners – Trial Tips from the Bench 10/1/10
- (ff) Child Support Enforcement CLE – Best Legal Practices in Abuse and Neglect Cases 10/29/10
- (gg) Family Court Judges Mini Summit on Justice for Children – Best Legal Practices in Child Abuse and Neglect Cases 12/2/10
- (hh) Orientation School for New Family Court Judges - Alimony 6/8/11
- (ii) SC Bar Hot Tips from the Coolest Domestic Law Practitioners 9/16/11
- (jj) SC Bar Family Court Judges Bench/Bar – Effective Pre-Trial Practice in a Small Market 12/2/11
- (kk) Orientation School for New Family Court Judges - Alimony 5/31/12 (ll) VIP SCNYTD – SCDSS Independent Living Conference Youth Speak Workshop – Panel Discussion 6/8/12
- (mm) SC Supreme Court Institute – Panel Discussion – Overview of the South Carolina Courts 6/19/12
- (nn) Forum on Judicial Independence & Diversity LWVSC 8/7/12
- (oo) SC Bar Hot Tips from the Coolest Domestic Law Practitioners – Show Your Love: Ten Suggestions for a Happier Relationship with Your Judge 9/28/12
- (pp) Francis Marion University Criminal Justice Class – Lecture on Juvenile Justice 11/20/12
- (qq) SCAJ Annual Conference – Rules of Procedure – Order of Protection 8/1/13
- (rr) Orientation School for New Family Court Judges - Alimony 5/31/13
- (ss) SC Bar Hot Tips from the Coolest Domestic Law Practitioners – New Rule on Temporary Hearings: Page Limitations, Time Limitations, Exceptions to the Rule 9/27/13
- (tt) Orientation School for New Family Court Judges - Alimony 6/19/14
- (uu) SC Bar Hot Tips Seminar – Just the Factors Ma’am: Attorney Fees 9/26/14
- (vv) SCCA Orientation School for New Judges - Alimony 6/4/15

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- (ww) SC Bar Hot Tips from the Coolest Domestic Law Practitioners – Relationships: the Practitioners Professional Responsibility 9/25/15
- (xx) SCCA Orientation School for New Family Court Judges - Alimony 6/2/16
- (yy) SC Bar Hot Tips from the Coolest Domestic Law Practitioners –Ain’t Mishebavin: Conduct, Lawyers Oath, Rule 9 9/23/16
- (zz) South Carolina Summit on Access to Justice for All –Self-Represented Litigants 10/24/16
- (aaa) Twelfth Circuit Tips from the Bench 10/28/16
- (bbb) Children’s Law Seminar 11/4/16
- (ccc) Orientation School for New Family Court Judges - Alimony 5/4/17
- (ddd) SC Bar Hot Tips from the Coolest Domestic Law Practitioners – And It Is So Ordered: Order Details 9/22/17
- (eee) SC Bar Family Court Judges Bench/Bar – Standardizing “Standard” Visitation: A View from the Bench 12/1/17
- (fff) Children’s Law Center – Raising the Bar for Children 4/13/18
- (ggg) SCCA Orientation School for New Judges - Alimony 5/17/18
- (hhh) SC Bar Hot Tips Seminar – Amuse Bouche 9/21/18
- (iii) Orientation School for New Family Court Judges – Alimony 5/29/19
- (jjj) SC Bar Hot Tips Seminar – Seven Habits of Highly Effective Family Court Litigators 9/20/19
- (kkk) SC Bar CLE – Panel for Improving Temporary Hearings 10/6/19
- (lll) Orientation School for New Family Court Judges – Alimony 6/9/20
- (mmm) View from the Bench – Indigent Defense – via WebEx 6/12/20
- (nnn) SC Bar Hot Tips Seminar – The New Normal: Disposition by Packet 9/25/20
- (ooo) Mediation Symposium – Charleston Law School – Family Law & ADR – Panel Discussion 2/26/21
- (ppp) USC School of Law – Family Court System 3/10/21
- (qqq) Orientation School for New Family Court Judges – Alimony 5/25/21

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- (rrr) SC Bar Hot Tips Seminar – It Bears Repeating 9/24/21
- (sss) USC School of Law – Family Court System 3/1/22
- (ttt) SC Bar Hot Tips Seminar – Up the Road: Your Case on Appeal 9/23/22
- (uuu) Practicing before the Appellate Courts – Panel 11/5/22
- (vvv) USC School of Law – Family Court System 1/24/23
- (www) SC Family Court Judges Conference – From the Family Court to the Court of Appeals: Opinions & Observations 4/27/23
- (xxx) SC Bar LRE Mock Trial Competitions, Presiding Judge for regional, state and national 7/04 – present

Judge Vinson reported the following about publishing article and books:

I have prepared seminar materials for a majority of the seminars at which I have spoken.

(4) Character:

The Commission’s investigation of Judge Vinson did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission’s investigation of Judge Vinson did not indicate any evidence of a troubled financial status. Judge Vinson has handled his financial affairs responsibly.

The Commission also noted that Judge Vinson was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Vinson reported that his last available rating by a legal rating organization, Martindale-Hubbell, was BV.

Judge Vinson reported that he has not served in the military.

Judge Vinson reported that he has never held public office other than judicial office.

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(6) Physical Health:

Judge Vinson appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Vinson appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Vinson was admitted to the South Carolina Bar in 1985.

He gave the following account of his legal experience since graduation from law school:

- (a) From August 1985 until April 1986, I practiced as an associate with Haigh Porter in Florence, South Carolina. My responsibilities primarily involved mortgage foreclosure actions and real estate transactions.
- (b) From April 1986 until July 1987, I served as a law clerk to the Honorable John H. Waller, Jr., Circuit Judge for the Twelfth Judicial Circuit. My responsibilities involved assisting Judge Waller with research and reviewing Orders and other documents presented for execution by Judge Waller.
- (c) From July 1987 until April 1992, I practiced as an associate with Turner, Padgett, Graham and Laney, P.A. in Florence, South Carolina. My practice involved civil litigation in State and Federal Court, primarily related to defense of insureds in personal injury, premises liability and business litigation.
- (d) From April 1992 until December 1992, I practiced as an attorney with the Fallon Law Firm in Florence, South Carolina. My practice involved civil litigation, primarily representing plaintiffs in personal injury cases.
- (e) From January 1993 until January 2001, I was a shareholder with the Vinson Law Firm, PA, in Florence, South Carolina. My practice involved civil and domestic litigation, including personal injury cases and business litigation, as well as divorce and custody actions. I also represented the Department of Social Services as a contract

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attorney for four (4) years during this period of time, litigating all abuse and neglect cases.

- (f) From January 2001 until June 30, 2004, I was a partner at McDougall and Self, L.L.P. practicing in the Florence, South Carolina office. My practice was limited to Family Court litigation.
- (g) On February 4, 2004, I was elected by the Legislature to the Twelfth Judicial Circuit Family Court, Seat Three. I served in that position from July 1, 2004 until December 31, 2021.
- (h) On February 3, 2021, I was elected by the Legislature to the South Carolina Court of Appeals, Seat Eight. I began service in this position since January 1, 2022.

Judge Vinson reported that he has held the following judicial office(s):

From July 1, 2004 to December 2021, I served on the Family Court for the Twelfth Judicial Circuit. I was elected three times by the Legislature for that position. From January 1, 2022 to present, I have served on the Court of Appeals, Seat 8. I was elected by the Legislature for this position.

Judge Vinson reported no other employment while serving as a judge.

Judge Vinson further reported the following regarding unsuccessful candidacies:
Court of Appeals, Seat 3, 2019.

(9) Judicial Temperament:

The Commission believes that Judge Vinson's temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Pee-Dee Citizens Committee on Judicial Qualifications found Judge Vinson to be "Well Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability; and "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The

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Committee did not provide a summary statement or related comments.

Judge Vinson is married to Flora Sue Lester Vinson. He has no children.

Judge Vinson reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar
 - Judicial member (Current)
 - House of Delegates (Past member)
 - Family Law Section Council - Chair (2001 - 2002)
(Past member)
 - Law Related Education Committee (Current member) - Chair (2010 – 2012)
- (b) South Carolina Women Lawyers Association (Current member)
- (c) National Council of Juvenile and Family Court Judges (Past member)
 - Served on Board of Trustees from 2008 to 2011
 - Finance Committee member from 2010 to 2016
- (d) South Carolina Family Court Judges Association (Past member)
 - President (2012 – 2013)
 - President Elect (2011 - 2012)
 - Secretary/Treasurer (2010-2011)
- (e) Bench/Bar Committee (2005-2017)
 - Chair (2012-2014)
 - Best practices Subcommittee – Chair and Co-Chair (2009 to 2017)
- (f) Governor's Task Force for Adoption and Foster Care (2007 to 2008)
- (g) American Bar Association – Judicial Division (Past member)
- (h) Family Court Judges Advisory Committee (2010-2013)
- (i) Pee Dee Inn of Court (Current member)
- (j) John Belton O’Neill Inn of Court (Current member)
- (k) South Carolina Appellate Court Judges Association (Current member)

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Judge Vinson provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Confirmed Communicant at St. John's Church and former Vestry Member
- (b) Member, and Past President, of Francis Marion University Alumni Association
- (c) Former member and Vice-Chair of Francis Marion University Foundation Board
- (d) Graduate of Leadership Florence
- (e) Recipient of Francis Marion University Outstanding Member of Alumni Association
- (f) Kiwanian of the Year
- (g) Participant at National Security Seminar, United States Army War College
- (h) Recipient of Francis Marion University John S. Boyce Award
- (i) Pee Dee Inn of Court
- (j) John Belton O'Neall Inn of Court

Judge Vinson further reported:

It has been an honor and privilege to have served as a Family Court Judge for the past seventeen years and as a Court of Appeals Judge for the past eighteen months. I am very grateful to have been afforded this opportunity for service to my state and to its citizens. I take my judicial oath very seriously and find that it serves as a constant reminder that my conduct, both inside and outside the courtroom, influences the perception of our judicial system. I remain mindful of the significant impact that the decisions I make as a judge have upon litigants appearing before me.

Before starting law school, I worked as a bag boy, bus driver, theater usher, janitor, and delivery person. In my legal career, I have served as a circuit court law clerk, an associate at a large firm, a member of a small firm, and a Judge. These experiences have broadened my perspective and enhanced my appreciation for those involved in our legal system. I believe these varied life experiences have helped me be a better person and a better judge.

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(11) Commission Members' Comments:

Commission members commented that Judge Vinson is efficient, kind, very experienced, and exudes civility.

(12) Conclusion:

The Commission found Judge Vinson qualified, and nominated him for re-election to Court of Appeals, Seat 8.

**Whitney B. Harrison
Court of Appeals, Seat 9**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Harrison meets the qualifications prescribed by law for judicial service as a Court of Appeals judge.

Ms. Harrison was born in 1985. She is 38 years old and a resident of Columbia, South Carolina. Ms. Harrison provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2011.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Harrison.

Ms. Harrison demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. Harrison reported that she has made \$442.59 in campaign expenditures for metered postage, palm cards, paper, envelopes, and copying.

Ms. Harrison testified she has not:

- (a) sought or received the pledge of any legislator prior to screening;

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- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Ms. Harrison testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. Harrison to be intelligent and knowledgeable.

Ms. Harrison reported that she has taught the following law-related courses:

- (a) September 19, 2017: I delivered Presbyterian College's Constitution Day speech, where I discussed the toolbox of rights and protections found in our constitution; afterwards I had Q&A with faculty and staff;
- (b) June 14, 2018: I spoke at Palmetto Girls State about my experience with the practice of law;
- (c) September 24, 2018; I spoke at the Honorable Michelle Child's Federal Court Mentoring Lunch regarding appellate practice—including briefing, motions practice, and oral argument preparation—with the Deputy Staff Attorney of the Court of Appeals and a fellow appellate practitioner;
- (d) August 3, 2019: I was on a panel at the South Carolina Association for Justice (SCAJ) convention for the Consumer Protection Section CLE with co-counsel, an attorney from Office of Regulatory Staff, and a reporter from The State to discuss the VC Summer Litigation;
- (e) November 20, 2019: I spoke again at Judge Child's Federal Court Mentoring Lunch regarding appellate practice.
- (f) From January 2020 through May 2020, I was part of Cornell Law School's Clinical Program in connection with Moore v. Stirling. This weekly class was a hybrid of legal course work for law students and counsel meetings with Cornell faculty and students, fellows and staff attorneys from Justice 360, and other criminal practitioners;

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- (g) November 7, 2021: I spoke on a panel about civil litigation and appellate practice with two fellow practitioners and former appellate clerks for the Supreme Court and Court of Appeals' mentoring program;
 - (h) March 28, 2022: I taught a three-hour class on appellate practice and procedure in a South Carolina law survey course at Presbyterian College, which stemmed from the weekly constitutional law course I taught at Presbyterian College in Spring 2013;
 - (i) In June 2022, I spoke at Palmetto Girls State with the practice of law.
 - (j) August 5, 2022: I presented at the SCAJ convention for the Family Law Section—on supersedeas filings at the Court of Appeals and issue preservation;
- Ms. Harrison reported that she has published the following:
- (a) Incorporating Service Work Into Your Practice, South Carolina Young Lawyer, February 2011, Volume 2, Issue 2, p. 15. (Co-authored with Professor Amy Milligan of University of South Carolina School of Law).
 - (b) A Best Friend to All: A Tribute to the Honorable Tanya A. Gee; South Carolina Young Lawyer, December 2016, Volume 9, Issue 2, p. 3; The Docket, December 2016, Volume 10, Issue 10, p. 2; RICHBARNEWS, November/December 2016, p. 6.
 - (c) Inspired to Dream: Inspired to Give, PC Annual Report, July 2020, p. 19.

(4) Character:

The Commission's investigation of Ms. Harrison did not reveal evidence of any founded grievances or criminal allegations made against her.

The Commission's investigation of Ms. Harrison did not indicate any evidence of a troubled financial status. Ms. Harrison has handled her financial affairs responsibly.

The Commission also noted that Ms. Harrison was punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

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(5) Reputation:

Ms. Harrison reported that her rating by legal rating organizations as follows:

Super Lawyers, Rising Star (2014-2021),
Super Lawyers, Super Lawyer (2022),
National Trial Lawyers, 40 under 40 (twice).

Ms. Harrison reported that she has not served in the military.

Ms. Harrison reported that she has never held public office.

(6) Physical Health:

Ms. Harrison appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Harrison appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Harrison was admitted to the South Carolina Bar in 2011.

She gave the following account of her legal experience since graduation from law school:

Upon graduating from law school, I clerked for the Honorable Aphrodite K. Konduros, on the South Carolina Court of Appeals. While working for Judge Konduros, I reviewed briefs and records in criminal, civil, family, workers' compensation, and administrative law cases; researched legal issues raised and wrote bench memoranda to assist the judges; presented my analysis and recommendations on my assigned cases to the appellate panel to help prepare them for oral argument; and assisted with the drafting of opinions.

In March 2013, I accepted a job in private practice, working for McGowan, Hood, Felder & Phillips, LLC (MHFP) on anti-trust litigation, along with an agreement that I could establish an appellate practice overtime. During my first year, I worked primarily on class action litigation brought on behalf of the State through parens patriae, where I served as the primary associate for the team. Over the course of that year, I started handling my

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firm's appeals at the Supreme Court of South Carolina and South Carolina Court of Appeals.

From March 2014 to July 2015, I continued handling MHFP's appeals to the South Carolina appellate courts and assisted with appeals to the United States Court of Appeals for the Fourth Circuit and drafting a writ of certiorari to the United States Supreme Court. In total, I served as lead counsel on nine appeals and argued five times before our appellate courts during this period. Additionally, I worked with the named partners on medical malpractice cases and personal injury cases—assisting at every stage of litigation by drafting pleadings, arguing motions, and taking depositions, along with handling motions, jury charges, and witnesses at trial.

In Spring 2015, the Honorable Kaye G. Hearn invited me to clerk in her chambers at the Supreme Court of South Carolina. While unexpected, the opportunity to sharpen my appellate skills was significant, and I accepted the position with the conditions that before leaving private practice I could complete two milestones, already calendared: (1) try my first medical malpractice case; and (2) argue for the first time before the Supreme Court.

With both conditions met, in August 2015 I began clerking for Justice Hearn. At the Supreme Court, I worked on novel issues in every area of the law. I also had exposure to original jurisdiction cases, which provided an opportunity to work on cases involving elections, death penalty, utilities, and constitutional issues.

In August 2016, I returned to MHFP with a heightened desire to firmly establish myself as a name in appellate practice. As part of those efforts, I placed an emphasis on gaining as much courtroom experience as possible through motions practice and trial work to master procedural and discovery issues that are often addressed on appeal, while also increasing my appellate work. These matters included: medical malpractice, personal injury, civil rights, first amendment claims, and probate. During 2017, I began taking on appeals and trial work from other law firms while continuing to work with MHFP's trial teams for larger cases and complex appeals. Today, I continue to work under this rubric, which gives me the incredible ability to continually work on fascinating issues at trial and on appeal.

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Ms. Harrison reported the frequency of her court appearances during the past five years as follows:

- (a) Federal: 5%;
- (b) State: 95%.

Ms. Harrison reported the percentage of her practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 75%;
- (b) Criminal: 5%;
- (c) Domestic: 15%;
- (d) Other: 5% administrative.

Ms. Harrison reported the percentage of her practice in trial court during the past five years as follows:

- (a) What percentage of your practice was in trial court, including cases that settled prior to trial?
- (b) What number of cases went to trial and resulted in a verdict? 25%
- (c) What number of cases went to trial and resolved after the plaintiff's or State's case? 0
- (d) What number of your cases settled after a jury was selected but prior to opening statements? 0%

My practice is unique. Generally, I am associated as co-counsel in trial court for two reasons: (1) a case is certain to go to trial or (2) a case includes a novel issue that will likely require an appeal—typically stopping a case after summary judgment or in the days leading up to trial (including the day or week before). I have tried multiple cases to verdict in circuit court and have arbitrated a case.

Ms. Harrison provided the following regarding her role as counsel during the past five years:

For trial matters, I served as co-counsel, where I typically handled motions and legal strategy, and during trial I handled motions, record preservation, and occasional examination of witnesses. In appellate matters, I served as chief counsel—regardless of whether I was co-counsel in the underlying matter or retained to handle the appeal.

The following is Ms. Harrison's account of her five most significant litigated matters:

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(a) VC Summer Litigation (*Lightsey v. S.C. Elec. & Gas Co., et al.*, Case No. 2017-CP-25-00335 & *Cook v. S.C. Pub. Serv. Auth., et al.*, Case No. 2019-CP-23-06675).

This litigation stemmed from the abandonment of the VC Summer Nuclear Project (the Project) on July 31, 2017, by South Carolina Electric & Gas Company (SCE&G) and South Carolina Public Service Authority (Santee Cooper). Class counsel filed a lawsuit against the utility companies for their negligence and mismanagement of the Project.

In stark contrast to traditional utility law, the Base Load Review Act (BLRA), allowed SCE&G to charge customers for construction costs prior to service, i.e. providing electricity to be used by customers, from the new units. In total, SCE&G customers advanced over \$2 billion in financing costs at the time of abandonment. The determinative legal issue in this matter was the BLRA's constitutionality. At the hearing, I argued the BLRA was unconstitutional because it violated Article I, Section 22 of the South Carolina Constitution, which contains an express protection of the right of notice and an opportunity to be heard in administrative agency cases, as well violating the Fifth and Fourteenth amendments of the United States Constitution and the delegation doctrine.

Months after I argued this constitutional challenge, the circuit court issued instructions regarding anticipated rulings on the Class's constitutional arguments. These instructions provided the impetus for SCE&G to begin settlement negotiation. This case settled for almost \$2.2 billion—\$178 million in cash and \$2 billion in rate relief administered through the Public Service Commission.

As to Santee Cooper, the determinative legal issues were defining the duties owed to these customers. Generally, a utility company does not owe a duty to its customers regarding rates. Articulating a duty between the company and the customers was heightened because Santee Cooper is a state entity. Additionally, because of the Project's nature as a joint venture with SCE&G, it was necessary to craft a separate and distinct duty between SCE&G and Santee Cooper's customers. By arguing that Santee Cooper's customers were financing the project for Santee Cooper and in turn SCE&G, it provided an avenue to satisfy elements of both negligence theories.

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In the weeks leading up to trial, where a jury would determine whether a duty existed, Santee Cooper moved to strike future damages, valued at nearly \$4 billion, as a means of limiting liability/recovery at trial. Santee Cooper and SCE&G argued that the future damages were speculative. Following my argument that they were ascertainable, the Court agreed and found \$4 billion could be requested at trial. The case settled shortly thereafter. In total, the settlement provided for \$520 million in cash and \$510 million in rate relief.

(b) *Kosciusko v. Parham*, 428 S.C. 481, 836 S.E.2d 362 (Ct. App. 2019).

This appeal addressed whether South Carolina law permits issues relating to child custody and visitation to be submitted to binding arbitration without oversight from the family court or appellate review. I represented the mother, who argued that the family court did not have jurisdiction to enforce a custody arrangement decided in arbitration because allowing an arbitrator to decide custody violated multiple state laws—specifically, ones in which the General Assembly vested exclusive jurisdiction in the family court to determine issues with children—as well as court rules. This was a case of first impression and the Court of Appeals found that child custody may not be arbitrated. Two years later, the Supreme Court in *Singh v. Singh*, agreed and relied on this case’s reasoning and the mother’s arguments. 434 S.C. 223, 225, 863 S.E.2d 330, 331 (2021) (“[O]ur reading of the statutes and court rules is consistent with the analysis of the court of appeals in *Kosciusko*.”).

(c) *Moore v. Stirling*, 436 S.C. 207, 871 S.E.2d 423 (2022).

For the first time in almost thirty years, the Supreme Court granted oral argument to a habeas corpus petition in a death penalty case to address an issue of first impression. This case challenged the Court’s methodology for conducting a proportionality review on direct appeal. By way of background, following a death sentence in circuit court, the case is appealed directly to the Supreme Court. While addressing any merit issue raised by the defendant, the Court separately conducts a

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proportionality review as mandated by the General Assembly—one vested solely with the Supreme Court. Practically, the Court is charged with confirming the sentence is proportionate to the crime based on prior cases in the State. In interpreting this mandate, the Court previously decided it would only compare the case before it to cases where the death sentences were upheld.

My client challenged the Court's limited comparison pool arguing that the pool invited only one outcome because of the pool's limited size. The pool failed to account for cases with similar facts in which: a death sentence was not sought, a death notice was withdrawn, or a death sentence was not imposed—including consideration of the lesser sentences. In the absence of a rule change, my client contended that the Court was failing to carry out its statutory directive from the General Assembly. The Supreme Court agreed and modified its rule to allow a defendant to submit comparison cases that should be taken into consideration during its proportionality review.

(d) *Gartrell v. Aiken Regional Medical Center*, Court of Common Pleas, Aiken County, Civil Action No: 15-CP-02-0794.

My client became a triple-amputee as a result of medical negligence. After a two-week trial alongside MHFP partners, an Aiken County jury awarded a \$13.75 million verdict. In anticipation of a large verdict, I was invited to the trial team to preserve the record for appeal, handle motions and jury charges, and prepare for post-trial motions to sustain the verdict, including constitutional challenges to any reduction. In preparation for those constitutional challenges, I utilized primary documents from the 1700 and 1800s, and worked with historians and research librarians in the months leading up to trial. While this matter did not get appealed, this was the first case that blended my passion for complexity and novel law into the circuit court in anticipation of an appeal to the Supreme Court through original jurisdiction. Following this experience, I saw an avenue to practice in my own unique way.

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(e) Shareholder Dispute (*Andrews v. Broom*, Op. No. 2018-002223, 2022 WL 539073, at *1 (S.C. Ct. App. filed Feb. 9, 2022) *Broom v. Ten State St., LLP*, Op. No. 2015-MO-057 (S.C. Sup. Ct. filed Sept. 30, 2015) (reversing *Broom v. Ten State St. LLP*, Op. No. 2015-UP-030 (S.C. Ct. App. filed January 14, 2015)).

This business dispute, spanning eighteen years of litigation and counting, involves a partnership dissolution with an assertion of a novel issue surrounding a minority shareholder, along with numerous issues involving preservation, statutes of limitations, and civil procedure. I have been involved with the case's two appeals to the Court of Appeals, two writs of certiorari to the Supreme Court, and a bench trial. Included within this lengthy litigation are a series of firsts for me: first appellate brief—*Broom v. Ten State St. LLP*, Op. No. 2015-UP-030 (S.C. Ct. App. filed January 14, 2015); first win at the Supreme Court—*Broom v. Ten State St., LLP*, Op. No. 2015-MO-057 (S.C. Sup. Ct. filed Sept. 30, 2015), and my first bench trial.

Without getting too far into the procedural weeds or business disagreements, Mr. Broom has asserted since 2016 that the case was moot following his 2015 favorable Supreme Court's favorable ruling and remittitur. In 2018, Mr. Broom raised these arguments in a motion to dismiss before the trial court. The trial court disagreed and allowed the matter to proceed to a bench trial. At trial, Mr. Broom was successful on all but one claim, which he appealed. In 2022, the Court of Appeals agreed with Mr. Broom that it was an error of law for the trial to have occurred because the issues were moot on procedural grounds. The case is currently pending before the Supreme Court.

For me, this case highlights the importance of preserving a record on appeal and continually renewing arguments for appeal.

The following is Ms. Harrison's account of five civil appeals she has personally handled:

- (a) *Rainey v. S.C. Dep't of Soc. Servs.*, 434 S.C. 342, 344, 863 S.E.2d 470, 471 (Ct. App. 2021);
- (b) *Broom v. Ten State St., LLP*, Op. No. 2015-MO-057 (S.C. Sup. Ct. filed Sept. 30, 2015); *Andrews v. Broom*, Op. No. 2018-002223, 2022 WL 539073, at *1 (S.C. Ct. App. filed Feb. 9, 2022);

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- (c) *Sims v. Amisub of S.C., Inc.*, 414 S.C. 109, 110, 777 S.E.2d 379, 380 (2015);
- (d) *Roddey v. Wal-Mart Stores E., LP*, 415 S.C. 580, 583, 784 S.E.2d 670, 672 (2016);
- (e) *Michael v. Michael*, Op. No. 2016-001498, 2018 WL 1956476, at *1 (S.C. Ct. App. Apr. 25, 2018).

The following is Ms. Harrison’s account of two criminal appeals she has personally handled:

- (a) *Moore v. Stirling*, 436 S.C. 207, 211, 871 S.E.2d 423, 425 (2022).
- (b) *State v. Robinson*, 438 S.C. 421, 426, 882 S.E.2d 883, 886 (Ct. App. 2023), reh’g denied (Feb. 9, 2023).

Ms. Harrison further reported the following regarding unsuccessful candidacies:

In November 2022, I was found qualified and nominated by JMSC for the Court of Appeals, Seat 2. Prior to election in February 2023, I withdrew.

(9) Judicial Temperament:

The Commission believes that Ms. Harrison’s temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualification found Ms. Harrison to be “Qualified” in the evaluative criteria of constitutional qualifications, physical health, and mental stability; and “Well Qualified” in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Midlands Citizens Committee noted, “Exceptionally qualified as she was in 2022.”

Ms. Harrison is not married. She does not have any children.

Ms. Harrison reported that she was a member of the following Bar and professional associations:

- (a) South Carolina Bar Association (2011 to present);
involvement includes: Torts & Insurance Council

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- (2018-2021); Practice and Procedures Committee (2020 to Present);
- (b) South Carolina Bar Foundation Board (2018 to Present); involvement includes: Cole Committee Chair (overseeing scholarship donations for CLEs), Finance Committee member, and Grants Committee member (helping interview and propose awards of grants to non-profit organizations); South Carolina Supreme Court Historical Society Co-Chair (2018 to 2021);
 - (c) South Carolina Association for Justice (2016 to Present); involvement: Rules and Practice Chair (2018 to Present);
 - (d) South Carolina Women Lawyers Association (2020 to Present);
 - (e) Supreme Court Historical Society (2018 to Present); involvement: revived Supreme Court Historical Society as co-chair through Bar Foundation and now am a member under new framework;
 - (f) Supreme Court Common Pleas Docketing Committee (2017 to Present);
 - (g) American Association of Justice (2022); member.

Ms. Harrison provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations and was recognized with the following awards:

Current Involvement

- (a) Presbyterian College Board of Trustees
- (b) Downtown Church (PCUSA)
- (c) Historic Columbia

Past Involvement:

- (a) SC Appleseed Board Member
- (b) Femex Columbia

Awards/Recognition:

- (a) SC Bar's Trial and Appellate Advocacy Award;
- (b) Presbyterian College's Young Alumna Award;
- (c) 20 under 40, The State;
- (d) Best and Brightest: 35 and Under, Columbia Magazine;
- (e) William Plumer Jacobs Society Member.

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Ms. Harrison further reported:

I love a courtroom podium. It's where I have always felt most at home in this profession. The law comes alive during an argument when I am peppered with hypotheticals and nuanced questions to test the strength and veracity of my arguments. It's in those moments that the courtroom becomes my stage as I am pushed by the ticking appellate clock to prioritize and persuade seamlessly while balancing the bench's questions. I generally dislike discussing myself and resist a spotlight—a truth I felt with force as I answered the last fifty-seven questions. But in a courtroom, it's never about me. I stand front and center, giving voice to issues that need to be squarely addressed. When I leave court, I know I have given it my all, using my time and talents to make a difference—living out my definition of service.

I grew up with parents who made service an organic part of our family. From hosting Cub Scout meetings in our living room every Monday night for nearly six years to volunteering with every clean-up project, ticket table, or random event that needed more hands, we were there ready to serve. It was instilled in me that when you care about your community you show up—wherever and however you can.

This emphasis on making service a daily practice is what drew me to Presbyterian College, whose motto “while we live, we serve” continues to inspire me twenty-years later. There, my mentor, former PC President Dr. John V. Griffith, often brought our conversations about life and my future back to a paraphrased verse in Deuteronomy, stating: “we are heirs of cities we did not build.” His point being that with our grand inheritances comes a responsibility to serve our communities using our unique gifts to ensure that those who follow us will receive not only the same, but better. I left college anticipating that the law would be my vocation and my path to serve.

As you read in my application, my path had obstacles including having to take the bar exam three times. There were moments when I questioned if I would ever practice law. And even after I was admitted, I was certain my bar failures would be a shameful embarrassment that would follow my career—a blemish used to size up my intellect and talent. Yet, with the passing of time, I have come to see that experience for what it really is: a sign of my strength and determination.

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During the fall of my 3L year, I was diagnosed with cancer. I underwent surgery to prevent melanoma from spreading, which involved the removal of a grapefruit-size mass. I declined doctors' advice to take leave from school and returned to law school hooked to a machine with tubes coming out of my clothes. There was nothing normal about the rest of that school year (or the year that followed). But I adapted because I had three goals I was determined to accomplish: finish school, deliver our class speech at graduation as planned, and pass the bar exam that October—almost a year from the date of my diagnosis.

I achieved the first two goals—walking across the graduation stage with my classmates and delivering a speech on service. But it took an extra year of studying when I was not working at the Court of Appeals or focused on healing, to pass the bar exam.

Trusting my inner voice that reminded me “I am strong enough to try” despite the pressure to do otherwise was the most significant decision I will likely ever make. There is no question there were challenging, humbling, and downright awful days that occurred as I faced setbacks both personally and professionally. Yet, those are the days that profoundly shaped me, giving me the perspective that I want a lifetime of days filled with purpose and meaningful service. This, in turn, sharpened my drive and forced me to try harder, embracing late nights and early mornings to fully commit to a task at hand. I learned I am not afraid to be an outlier and the value of following my own compass and its passions. Those two years of choosing to try rather than accepting defeat made me a better lawyer and a better servant.

It is still that inner voice that boldly guides me in all aspects of life. In the law, it has encouraged me to take on challenging novel issues and remain unwavering in my advocacy. In so doing, I have represented South Carolinians from all walks of life including: a businessman, an injured DSS worker, a single mother fighting for her kids, a child abandoned by his family, a utility customer, a triple amputee, a man on death row, and so many others. My vocation has become my service—with an unassailable conviction and stronger confidence than I could have anticipated.

As I look forward and consider my responsibility as an heir to our State, I believe my legal talents and experiences have

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uniquely prepared me to serve on the Court of Appeals. Although I will undoubtedly miss my beloved podium, I know serving on the bench offers more opportunity to build on our jurisprudence for the betterment of our heirs, which after everything remains my goal.

(11) Commission Members' Comments:

One affidavit was filed against Ms. Harrison by William Keefer Brumbach. The Commission thoroughly reviewed all documents while carefully considering the allegations and the nine evaluative criteria provided in statute. At the public hearing, the Commission heard testimony, questioned the complainant, and allowed Ms. Harrison to reply to the allegations both in writing and orally.

After thoroughly reviewing the complaint and listening to the testimony at the public hearing, the Commission does not find a failing on the part of Ms. Harrison in the nine evaluative criteria. The Commission finds specifically that the complaint lacks merit and should not impede Ms. Harrison's candidacy.

The Commission commended Ms. Harrison on her energy and her wealth of relevant experience.

(12) Conclusion:

The Commission found Ms. Harrison qualified, and nominated her for election to Court of Appeals, Seat 9.

**The Honorable Jan B. Bromell Holmes
Court of Appeals, Seat 9**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Holmes meets the qualifications prescribed by law for judicial service as a Court of Appeals judge.

Judge Holmes was born in 1970. She is 53 years old and a resident of Georgetown, South Carolina. Judge Holmes provided in her application that she has been a resident of South

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Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1995.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Holmes.

Judge Holmes demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Holmes reported that she has made \$108.24 in campaign expenditures for postage.

Judge Holmes testified she has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Judge Holmes testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Holmes to be intelligent and knowledgeable.

Judge Holmes reported that she has taught the following law-related courses:

- (a) I have presented at New Judges School for Newly Elected Family Court Judges on the topic of Domestic Matters in 2021 and on the topics of Child Custody, Visitation and Contempt in 2022 and 2023.
- (b) I have presented in the 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2016, 2017, 2018, 2019, 2021 and 2023 Horry County Bar Family Court Seminar-Procedural for Family Court practitioners.

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- (c) I was a panelist at the Attorney General's Youth Summit on Human Trafficking on June 27, 2018.
- (d) I have presented at the National Business Institute One Day Seminar entitled "What Family Court Judges Want You to Know" on October 28, 2011.
- (e) I have presented at the Children's Law Center Volunteer Guardian ad Litem Conference entitled Permanency Planning for Children on October 7, 2011 to volunteer guardian ad litem.
- (f) I have presented at the Children's Law Center "Training for Attorneys Appointed in Abuse and Neglect Cases in the 15th Judicial Circuit on November 13, 2009.
- (g) I presented at the 2013 South Carolina Solicitor's Association Annual Conference on Juvenile Delinquency matter to Juvenile Solicitors on September 22, 2013.
- (h) I have presented at the SC Bar CLE entitled Fifteenth Circuit Tips from the Bench: What Your Judges Want You to Know on November 18, 2016.

Judge Holmes reported that she has published the following:

- (a) I have prepared written materials for seminars of which I have presented.
- (b) Family Court Bench/Bar Best Practices Manual for South Carolina Department of Social Services Abuse and Neglect Cases. As Board Member assisted in editing the manual prior to distribution for use in DSS Abuse and Neglect cases.

(4) Character:

The Commission's investigation of Judge Holmes did not reveal evidence of any founded grievances or criminal allegations made against her.

The Commission's investigation of Judge Holmes did not indicate any evidence of a troubled financial status. Judge Holmes has handled her financial affairs responsibly.

The Commission also noted that Judge Holmes was punctual and attentive in her dealings with the Commission, and the

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Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Judge Holmes reported that she is not rated by any legal rating organization.

Judge Holmes reported that she has not served in the military.

Judge Holmes reported that she has never held public office other than judicial office.

(6) Physical Health:

Judge Holmes appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Judge Holmes appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Judge Holmes was admitted to the South Carolina Bar in 1995.

She gave the following account of her legal experience since graduation from law school:

- (a) Since my graduation from law school on May 13, 1995, I worked for Morant and Morant Law Firm located at 1022 Prince Street in Georgetown, SC from September 1995 to July 1997. I performed title searches, closed real estate loans, handled social security disability cases, personal injury cases, prepared wills, prepared deeds and handled family court cases. I had no administrative or financial duties.
- (b) From July 1997 to June 2007, I ventured out and opened my own law firm, Jan B. Bromell, P.A. Seventy five (75%) of my practice consisted of domestic matters. I prosecuted and defended child support and child custody cases, divorce, alimony, separate maintenance and support, adoption and termination of parental rights, appointed and retained on juvenile cases, appointed and retained on abuse and neglect matters, name change, annulment, equitable

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distribution, and orders of protection. Twenty-four percent (24%) of my practice consists of civil matters. I handled real estate transactions, performed title searches, handle social security disability cases, personal injury cases, prepared power of attorney, contracts, wills and deeds. One percent (1%) of my practice consisted of criminal cases. I was responsible for administrative and financial duties.

- (c) Elected as Family Court Judge Seat 1, Fifteenth Judicial Circuit on February 7, 2007. Began work July 2, 2007 and working continuously since.
- (d) Appointed to sit as Acting Justice on the South Carolina Supreme Court by Chief Justice Donald W. Beatty to hear and dispose of cases on November 15, 2017, December 14, 2022 and April 20, 2023. I reviewed the record of appeal, appellant and respondent briefs, heard oral arguments and determined along with all other justices the outcome of cases scheduled on the particular days.
- (e) Appointed to sit as Acting Judge of South Carolina Court of Appeals by Chief Justice Donald W. Beatty beginning July 1, 2023 to December 31, 2023.

Judge Holmes reported the frequency of her court appearances prior to her service on the bench as follows:

- (a) federal: Only once in 2006. Case scheduled for trial on 09/20/06, but settled.
- (b) state: 5 to 10 times per month for domestic hearings/trials, roster meetings for civil matters, civil trials, roll call for criminal matters, criminal trials, probate court chemical dependency or estate hearings, master in equity hearings.

Judge Holmes reported the percentage of her practice involving civil, criminal, domestic and other matters prior to her service on the bench as follows:

- (a) Civil: 24%;
- (b) Criminal: 1%
- (c) Domestic: 75%
- (d) Other:

Judge Holmes reported her practice in trial court as follows:

- (a) 25% of cases were in trial court.
- (b) 1% of cases went to trial and resulted in a verdict.

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(c) 0 cases went to trial and resolved after the plaintiff's or State's case.

(d) 0 cases settled after a jury was selected but prior to opening statements.

Judge Holmes provided that during the past five years prior to her service on the bench she most often served as sole counsel.

The following is Judge Holmes's account of her five most significant litigated matters:

- (a) *Gallant-Taylor vs. Taylor*, 2002 DR 22 156 was an annulment action based on non-consummation of marriage and fraud. The parties met in 1995 and never engaged in sexual intercourse while dating. Plaintiff Wife was a Christian and Defendant Husband was a Minister. The parties believed that sexual intercourse was an act reserved for married couples. Thus, the couple agreed not to engage in intercourse until married. The parties were married on December 29, 2001 in Georgetown County. Throughout the marriage, Defendant Husband offered excuses as to why he could not engage in sexual intercourse with Plaintiff Wife. Defendant Husband's continuous refusal to engage in sexual intercourse with Plaintiff Wife led to the parties' separation on May 3, 2002 in Columbia, SC. Plaintiff Wife filed an action for annulment. The court found based on the testimony of Plaintiff Wife that: (1) the parties agreed that intimacy was appropriate when two parties were married; (2) the Plaintiff Wife expected that the parties would consummate their relationship once they were married; (3) the Plaintiff Wife was reasonable in expecting that the parties would consummate their relationship once they were married; (4) the parties never engaged in sexual relations during marriage; (5) the Plaintiff is entitled to have her marriage annulled based on non-consummation of marriage and (6) the Plaintiff is entitled to have her marriage annulled based on fraud.
- (b) *Stephens, Respondent vs. Stephens*, Appellant Unpublished Opinion No. 2002-UP 077 was significant because the Court of Appeals agreed with my position that the trial court erred in apportioning the marital debts of the parties. At the time of the commencement of marital litigation, the

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total credit card debt of the parties was \$24,927.30. Of this total debt, the trial court ordered Husband to pay \$22,065.07 and ordered Wife to pay \$2,862.23. The trial court, in its order, failed to address any of the factors as they relate to apportionment of marital debt. The Court found the Husband at fault in the break up of the marriage and Wife was granted a divorce on the grounds of physical cruelty. Although fault is one factor for the court to address in equitably dividing marital property, it does not justify a severe penalty. *Morris vs. Morris* 335 S.C. 525, 517 S.E.2d 720 (Ct. App. 1999). The Wife argued that because she was given the marital home by the Husband and there exists a mortgage of \$13,000.00 on the home, the award is fair. However, the Wife received the marital home as part of the settlement agreement. There was no indication that the Court considered this debt in apportioning the debt. The Court of Appeals was unable to discern from the record the family court's basis for its apportionment of the credit card debt. The case was remanded for further consideration and discussion of the factors set forth in S.C. Code of Laws Ann. § 20-7-472 (Supp). The Court of Appeals further stated that the court may adjust the apportionment of the debt if it deems such an adjustment is appropriate.

- (c) *Moore vs. Moore* 2002 DR 22 156 was a two day contested trial concerning custody of the parties' minor children, alimony and attorney fees. A guardian was appointed to represent the interests of the minor children. I represented the Defendant Father. The Court awarded custody of the parties two minor children to the Father. In determining custody, the Family Court considered the character, fitness, attitude and inclination on the part of each parent as they impact or relate to the child. *Paparella v. Paparella* 340 S.C. 186, 531 S.E.2d 297 (Ct. App. 2000). The Court found the Father to be more actively involved in the children's daily life. The Court also found the Father to be the primary caretaker of the minor children. The Court was guided in awarding custody to the primary caretaker by the cases of *Smith v. Smith* 294 S.C. 194, 363 S.E.2d 404 (Ct. App. 1987) and *Epperly v. Epperly* 312 S.C. 411, 440 S.E.2d 884 (1994). Mother was denied alimony. The factors were not proven. Mother was also ordered to pay a

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portion of Father's attorney's fees based on the factors in *Glasscock vs. Glasscock*, 304 S.C. 158, 403 S.E. 2d 313 (1991) and clarified in *EDM v. TAM* 307S.C. 471, 415 S.E.2d 812 (1992): the difficulty of the matter, favorable results obtained, reasonableness of time and costs incurred, ability of the Mother to pay attorney fees and inability of the Father to pay attorney fees if no assistance is provided.

- (d) *Harrell vs. Gubicza* 2004 DR 26 2251 was a two day contested trial concerning custody of the parties' minor child. A guardian was appointed to represent the interests of the minor child. I represented the Plaintiff Father. The Father brought this action to save his daughter from the immoral environment of the Defendant and Defendant's Mother home. The parties were never married and the child was born out of wedlock. The law states that custody of a child born out of wedlock is with the mother. However, an acknowledged father may petition the court for custody or visitation. At such proceeding, the best interest of the minor child is the determining factor S.C. Code of Laws Ann. § 20-7-953 (B) (1976). Absent an agreement or court order regarding child custody, both parties are equally entitled to the custody of the minor child. S.C. Code of Laws Ann. § 20-7-100 (Supp). In this case we had a child born out of wedlock to young parents who had not had the issue of custody decided between them. At the temporary hearing, custody of the minor child was awarded to the Plaintiff because of the affidavits submitted on his behalf as well as the fact that the Defendant did not appear. At the conclusion of the merits hearing, the Court undertook the awesome task of looking into the past of each party and predicting which of the two available environments would advance the best interest of the child and bring about the best adjusted mature individual. *Cook v. Cobb* 271 S.C. 136, 142, 245 S.E.2d 612, 615 (1978). The Court awarded custody of the minor child to the Father.
- (e) *Pushia vs. Pushia* 2005 DR 22 470 was a divorce matter wherein the Plaintiff Wife sought alimony. The parties were married for twenty years. For most of the marriage, the Plaintiff Wife was a homemaker. The Defendant Husband's monthly income was \$5869. The Plaintiff Wife's imputed monthly income was \$893. The Defendant

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Husband was ordered to pay child support for the parties' two minor children in a semi-monthly amount of \$392.50 plus the 5% court costs. The Court found that although the Plaintiff Wife was a homemaker, she had a high school education, nursing degree, was very computer literate, skilled in word processing and had the probability of good opportunity. The court considered the following in awarding rehabilitative alimony: (1) the duration of the marriage; (2) the age, health, and education of the supported spouse; (3) the parties' accustomed standard of living; (4) the ability of the supporting spouse to meet his needs while meeting the needs of the supported spouse; (5) the time necessary for the supported spouse to acquire job training or skills; (6) the likelihood that the supported spouse will successfully complete retraining; and (7) the supported spouse's likelihood of success in the job market. Plaintiff testified that she desired to go back to school to obtain a dual degree in Medical Office Clerical Assistant and Office Systems Technology at Horry Georgetown Technical College. While pursuing this career, Plaintiff Wife would need financial support to assist her with the college expenses and the household expenses. The Court further considered the additional schooling required by the Plaintiff Wife as well as the time necessary for the Plaintiff Wife to look for and obtain employment after school to sufficiently support herself. The Court awarded the sum of \$1000 per month for 5 years, beginning June 15, 2006 and continuing the 15th of each month thereafter. The Court believed this amount to be sufficient rehabilitative alimony for the Defendant Husband to pay and for the Plaintiff Wife to receive. The amount would allow the Plaintiff Wife to meet her expenses at approximately the same level during the marriage. The Defendant Husband was the principal wage earner and provided the family with a comfortable standard of living. Defendant Husband earned \$60,000 per year most of which was earned at his principal employment with International Paper Company. The Court found that Defendant Husband would have no difficulty maintaining his standard of living by payment of \$1000.00 to Plaintiff Wife on a monthly basis. The award was intended to encourage Plaintiff Wife to become self-

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supporting after the divorce from Defendant Husband. I believe this to be the trend of the court in these type cases.

The following is Judge Holmes 's account of two civil appeals she has personally handled:

- (a) *Sheryl L. Stephens, Respondent v. Michael Anthony Stephens, Appellant.* Appeal from Georgetown County Haskell T. Abbott, III, Family Court Judge. Unpublished Opinion No. 2002-UP-077. submitted November 14, 2001-Filed February 11, 2002. Affirmed in Part; Remanded in Part. In this case, I represented the Appellant.
- (b) *Ralph Hoffman, Appellant vs. Lola Watts, Respondent,* Appeal from Georgetown County Master in Equity, Benjamin H. Culbertson. Affirmed. Unpublished Opinion. In this case, I represented the Respondent.

Judge Holmes reported that she has not personally handled any criminal appeals.

- (a) Judge Holmes reported that she has held the following judicial office(s): Elected by SC General Assembly February 7, 2007 as Family Court Judge , Fifteenth Judicial Circuit, Seat 1. Re-elected February 2013 and February 2019 to same position.
- (b) Appointed to sit as an Acting Justice on the Supreme Court of South Carolina to hear and dispose of matters on November 15, 2017, December 14, 2022 and April 20, 2023.
- (c) Appointed to sit as an Acting Judge on the South Carolina Court of Appeals from July 1, 2023 to December 31, 2023.

Judge Bromell Holmes provided the following list of her most significant orders or opinions:

- (a) *High v. High*, 697 S.E.2d 690 (S.C. Court of Appeals) Decided July 28, 2010.

This was a divorce action with an agreement on equitable distribution of marital property and debt. The contested issues were child custody and attorney fees. The matter was appealed. The Father appealed my order granting Mother sole custody of

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the couple's two children, arguing the family court erred in: (1) refusing to qualify Teressa Harrington, LPC as an expert witness; (2) prohibiting the introduction of statements made by the couple's minor daughter to Harrington; (3) refusing to admit Harrington's records into evidence; (4) making certain findings of fact relevant to the issue of custody which were not supported by the record; (5) failing to consider important factors contained in the record in its award of primary custody to Mother; (6) awarding Mother sole custody based on the fact that Mother was historically the caregiver of the minor children; and (7) granting Mother custody based on the primary caretaker factor. The Mother cross-appealed arguing that the family court erred in (1) hearing Father's untimely motion to alter or amend, and (2) failing to award her attorney's fees and costs. The Court of Appeals affirmed my ruling.

(b) *In the Interest of Spencer R. a juvenile under the age of seventeen*, 692 S.E.2d 569 (S.C. Court of Appeals) Decided April 25, 2010.

This was a juvenile delinquency matter in which Spencer R. was charged with pointing and presenting a firearm. This case was my first juvenile trial as a family court judge. What was difficult about this case is that the State charged the juvenile in one petition for pointing and presenting a firearm at three different people. I didn't understand why the State didn't file three petitions, one for each person. It was clear to me that the juvenile intended to point and present a firearm at one of the individuals, but not the other two. However, because of how the petition was filed, I thought that I had to find the juvenile delinquent on the petition. The juvenile appealed his conviction for presenting a firearm, alleging the family court erred in finding sufficient evidence to support his conviction. The Court of Appeals affirmed the conviction of one of the individuals and reversed the conviction of the other two individuals. I am particularly proud of this case because prior to my ruling, there was no case law in the State of South Carolina which defined presenting a firearm.

(c) *Simmons vs. Simmons*, 392 S.C. 412 (2011), 709 S.E.2d 666 Decided May 9, 2011.

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This was a difficult case for me. The parties divorced in 1990 and entered into a family court-approved settlement agreement that was determined to be void in part. A central part of the parties' agreement required Husband to give Wife one-third of his Social Security benefits if he began receiving them at age 62 or one-half of those benefits if he began receiving them at age 65. The Social Security benefits were to "be construed only as a property settlement, and shall not in any way be considered or construed as alimony." Husband attained the age of 62 in 1994 and 65 in 1997, but he failed to pay Wife any portion of his Social Security benefits. In December of 2003, Wife filed a petition for a rule to show cause, seeking to compel compliance with the agreement. Husband responded by filing a Rule 60(b)(4), SCRCP,[2] motion, asserting that the family court lacked subject matter jurisdiction to order division of his Social Security benefits. The family court dismissed Husband's subject matter jurisdiction challenge, and Husband appealed. The court of appeals reversed. *Simmons v. Simmons*, 370 S.C. 109, 634 S.E.2d 1 (Ct. App. 2006). The court found that the Social Security Act, specifically 42 U.S.C. § 407(a) (2010), preempted and expressly precluded the parties' agreement to divide Husband's Social Security benefits. As a result, the court voided that portion the agreement. The appeal presented the question of whether the family court may revisit, in whole or in part, the now partially voided agreement. I ruled in 2008 that I lacked subject matter jurisdiction to reconsider the 1990 court- approved agreement. The Supreme Court reversed and remanded for reconsideration of the court-approved agreement.

(d) *Scott Meyers v. SCDSS 2022–UP-141* filed March 17, 2022

Scott and Catherine Meyers appealed my order dismissing their petition to adopt their niece based on the fact that they did not satisfy the requirements of the ICPC. On appeal, they argued the family court erred in finding the Interstate Compact on the Placement of Children (ICPC) applied to the action because they are related to minor child. The Court of Appeals found that the ICPC applies and statutorily bars the Meyers from adopting the minor child. My ruling was affirmed.

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(e) *In the Interest of Justin B., a Juvenile Under the Age of Seventeen*, 747 S.E.2d 774 (S.C. Sup. Ct. decided August 28, 2013)

This case was also significant to me in that it involved sexual abuse committed between siblings. On May 3, 2009, Justin B's adoptive mother witnessed him sexually molest his adoptive sister and notified police. In August 2009, he was indicted for CSC–First in violation of section 16-3-655(A)(1) of the South Carolina Code. S.C. Code Ann. § 16-3-655(A) (Supp. 2012). Pursuant to a negotiated plea deal in which the juvenile agreed to plead guilty if allowed to do so in family court, the juvenile was brought before me on a juvenile petition in November 2009. He admitted guilt and was subsequently adjudicated delinquent. I committed the juvenile for an indeterminate period to the Department of Juvenile Justice, not to exceed his twenty-first birthday, and required him to undergo counseling. He was also ordered to register as a sex offender as required by section 23-3-460 of the South Carolina Code, and to comply with section 23-3-540's electronic monitoring requirements. *Id.* §§ 23-3-460, -540. The Juvenile appealed challenging the active electronic monitoring requirements of section 23-3-540 of the South Carolina Code Section 23-3-540 that individuals convicted of certain sex-related offenses, including criminal sexual conduct with a minor in the first degree (CSC–First), submit to electronic monitoring for the duration of the time the individual is required to remain on the sex offender registry. S.C. Code Ann. § 23-3-540(A)–(H) (Supp.2012). An individual found guilty of CSC–First is required to register as a sex offender bi-annually for life. *Id.* §§ 23-3-430, -460 (Supp. 2012). Section 23-3-540 also provides that ten years from the date electronic monitoring begins, an individual may petition the chief administrative judge of the general sessions court for the county in which the offender resides for an order of release from the monitoring requirements. *Id.* § 23-3-540(H). However, those persons convicted of CSC–First may not petition for this review. *Id.* Thus, these sex offenders must submit to monitoring for the duration of their lives.

Justin B argued that, because he is a juvenile, this imposition constitutes cruel and unusual punishment in violation of the

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federal and state constitutions. The Supreme Court found that electronic monitoring is not a punishment, and rejected Justin B's claim. However, the Supreme Court allowed the juvenile to have periodic judicial review to determine the necessity of continued electronic monitoring. My decision was affirmed as modified.

Judge Holmes reported no other employment while serving as a judge.

Judge Holmes further reported the following regarding unsuccessful candidacies: 2022 Judicial Merit Selection Commission Screening, Court of Appeals, Seat 2.

(9) Judicial Temperament:

The Commission believes that Judge Holmes 's temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Pee Dee Citizens Committee on Judicial Qualifications found Judge Holmes to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability; and "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee had no related or summary comments.

Judge Holmes is married to Cleveland Bernard Holmes. She has two children.

Judge Holmes reported that she was a member of the following Bar and professional associations:

- (a) South Carolina Conference of Family Court Judges (President, 2022-2023, Vice President, 2021-2022) and (Secretary/Treasurer, 2020-2021)
- (b) Family Court Advisory Committee (2020-Present)
- (c) South Carolina Bar Association (1997-Present)
- (d) Georgetown County Bar Association (1997-Present)
- (e) Coastal Women Lawyers
- (f) South Carolina Bar Pro Bono Board (Past Member)
- (g) Coastal Inn of Court (2017-Present)

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- (h) South Carolina Family Court Inn of Court (2021-Present)
- (i) Family Court Bench/Bar (2009-2017)

Judge Holmes provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Alpha Kappa Alpha Sorority, Inc. (Parliamentarian 2016-2018) Member of the Year for 2009
- (b) St. Paul AME Church, Steward (2005-Present), Finance Committee(2005-Present) Christian Education Department (2004-Present), Women’s Missionary Society (1995-Present) Youth Choir Director (2016-Present).

Judge Holmes further reported:

I have come into contact with thousands of people over the past fifteen years as a Family Court Judge as well as the preceding twelve years prior to my judgeship as an attorney. Throughout my life, I have lived by the golden rule “do unto others as you would have them do unto you”. I have treated all individuals with the utmost respect. These individuals came from many walks of life. I am naturally inclined to attentively and objectively listen to all parties in a dispute. I am inherently fair, courteous, diligent, patient, humble and compassionate. I possess the intellectual capacity to interpret legal principles, apply them to the facts of each case and clearly and logically communicate the reasoning leading to my conclusions. I have been patient, dignified, open-minded and diligent in disposing of my cases. I have handled the pressure of a rigorous schedule. I have maneuvered the uncertainties of returning to our new normal by being flexible in accommodating a different courtroom format such as continuing the use of virtual hearings when warranted. The totality of my life experiences has equipped me to become an outstanding Court of Appeals Judge. I’m looking forward to expanding my horizons.

(11) Commission Members’ Comments:

Five affidavits were filed against Judge Holmes by the following complainants: Shanda Nicol, Karon Mitchell, Iris B. Bullard, John Gallman, and Tucker S. Player. Additionally, each of the complainants provided oral testimony before the Commission.

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The Commission thoroughly reviewed the affidavits and any accompanying documents provided from the complainants, as well as a written response and oral testimony from Judge Holmes. After careful consideration of the testimony, complaints, response, and accompanying documents, the Commission does not find a failing on the part of Judge Holmes in the nine evaluative criteria. Further, and of note, none of these complaints were filed against her in her prior candidacy for election to the Court of Appeals. Moreover, the Commission concluded that the complaints lacked credibility.

The Commission commented that Judge Holmes is a well-respected member of the judiciary. They noted she is a dedicated and thoughtful jurist who treats others with dignity and respect.

(12) Conclusion:

The Commission found Judge Holmes qualified, and nominated her for election to Court of Appeals, Seat 9.

**The Honorable Matthew Price Turner
Court of Appeals, Seat 9**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Turner meets the qualifications prescribed by law for judicial service as a Court of Appeals judge.

Judge Turner was born in 1978. He is 45 years old and a resident of Laurens, South Carolina. Judge Turner provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2003.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Turner.

Judge Turner demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to

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judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Turner reported that he has made \$257.09 in campaign expenditures for resume paper, postage, and campaign cards.

Judge Turner testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Judge Turner testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Turner to be intelligent and knowledgeable.

Judge Turner reported that he has taught the following law-related courses:

- (a) In 2018, I spoke at the "Lessons from the Bench" CLE presented by the Newberry County Bar. My topic was "Getting to know the New Judge" which was a question and answer session to allow practitioners in my Circuit the opportunity to ask questions regarding my preferences for handling cases, etc.
- (b) I spoke at the 2018 Bench Bar seminar on the topic of "Problematic Practice in Family Court."

Judge Turner reported that he has not published any books or articles.

(4) Character:

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The Commission's investigation of Judge Turner did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Judge Turner did not indicate any evidence of a troubled financial status. Judge Turner has handled his financial affairs responsibly.

The Commission also noted that Judge Turner was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Turner reported that his last available rating by a legal rating organization, Martindale Hubbell, was BV Distinguished (2010).

Judge Turner reported that he has not served in the military.

Judge Turner reported that he has never held public office other than judicial office.

(6) Physical Health:

Judge Turner appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Turner appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Turner was admitted to the South Carolina Bar in 2003.

He gave the following account of his legal experience since graduation from law school:

(a) Turner and Burney, P.C., Associate, August 2003-2007

(b) Turner and Burney, P.C., Partner, 2007 –March 2018

(c) Family Court judge-March 2018-present

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Turner and Burney was a general practice firm. During my time as a practicing attorney, we had offices in Laurens and Simpsonville. I represented clients in cases in Common Pleas, General Sessions, Probate Court, Family Court, and Magistrate's Court. I also represented clients in appellate matters and argued several appeals to the Court of Appeals and Supreme Court. I was involved in the management of the practice, including the staff and finances. I was also the attorney responsible for overseeing the firms' trust account for many years prior to my election to the Family Court bench.

Judge Turner reported the frequency of his court appearances prior to his service on the bench as follows:

- (a) Federal: None;
- (b) State: During my time in practice, my schedule varied from week to week. I may have one (1) court appearance one (1) week, and three (3)-four (4) appearances the next. There were also some weeks that I did not have any court appearances.

Judge Turner reported the percentage of his practice involving civil, criminal, domestic and other matters prior to his service on the bench as follows:

- (a) Civil: 20%;
- (b) Criminal: 20%;
- (c) Domestic: 50%;
- (d) Other: 10%.

Judge Turner reported that during the five years prior to his election to the bench, 80% of his practice was in trial court, including matters that settled prior to trial.

The following is Judge Turner's account of his five most significant litigated matters:

- (a) *Kevin Bragg v. Morgan Bragg*, 2011 WL 11735683 (Ct. App. 2011)- I represented the mother in this post-divorce action. Father filed an action alleging that there was a substantial change in circumstances which he claimed warranted an order granting him sole custody. This case involved several temporary and/or emergency hearings and

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a two (2) day final hearing. Father asked for temporary custody on three (3) separate occasions during the pendency of the action. Father alleged that Mother had exposed the minor child to the use of illicit drugs and the excessive consumption of alcohol. Father further alleged that mother was involved in relationships with younger men and exposed the child to these relationships overnight. Father presented several witnesses who testified that mother was exposing the child to numerous young men and having them spend the night with the child present. Father's witnesses also testified that mother supplied these underage men with alcohol and that she excessively consumed alcohol while the child was in her care. We were able to establish that father's witnesses were either not credible or were biased. After the two-day trial, the court found that the child was doing well in school, was in no danger while in mother's care, and was well taken care of by mother. As such, the court awarded sole custody to mother.

Father appealed the Family Court's decision alleging that the court erred in failing to find a substantial change in circumstances. I also represented mother in the appeal. The Court of Appeals affirmed the Family Court's decision.

- (b) *State of South Carolina v. Hunter* – This was a DJJ action. I represented the juvenile who was charged with lynching. The juvenile was a fine, young man who was in the eighth (8th) grade at the time of the charge. He was in Honors classes and played on the school football team. The juvenile and several other young men were accused of attacking a friend in the locker room. The victim's mother worked for a local law firm and was extremely upset with my client. She was very involved in the case and sought full prosecution. The juvenile was suspended for ten (10) days as a result of the allegations. The case went to trial. At trial, I was able to establish that there was no proof my client was involved in the attack despite the State witness's prior testimony to the contrary. The trial judge granted my motion for directed verdict and dismissed the case. It was extremely rewarding to be able to assist this nice, young man.

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- (c) (c) *Richard Aiken v. World Finance Corp.*, 373 S.C. 144, 644 S.E.2d 705 (2007)- This was a civil action against World Finance. Mr. Aiken borrowed money from World Finance, and after his loan was paid in full, a World Finance employee misused the personal financial information of Mr. Aiken and others. My former partner represented Mr. Aiken at the trial level. World Finance filed a motion to compel arbitration based upon the arbitration agreement contained in the loan application. The trial judge denied the motion to compel arbitration and World Finance appealed. My former partner asked me to handle the appeal. I conducted the research, drafted the briefs, and argued at the Court of Appeals and Supreme Court. Both appellate courts affirmed the trial judge. This case was featured in South Carolina Lawyers Weekly.
- (d) *Jarred Linton v. Chelsea Calvert*, 2013-DR-30-461- This case involved the custody of a young child who was born out of wedlock. The parents were also very young. I represented the father who filed this action seeking custody. The child was less than one (1) year old at the time the case was filed and had lived with mother since birth. Father alleged that mother could not provide a stable home for the child, that she had no routine for child, that she was exposing the child to different men, and that she was putting her personal interests above the child's. The parents lived several hours apart. Mother alleged that father only wanted custody so that he didn't have to drive hours to visit his child. She also alleged that father was not capable of taking care of the young child. At the temporary hearing, mother submitted an affidavit which included many false and/or misleading allegations. Based upon the same, mother was granted temporary custody and father was granted one (1) weekend per month visitation. The final hearing was tried over the course of two (2) days. As a result of the deposition of the mother and other discovery obtained, father was able to establish that mother was not credible. Mother acknowledged on cross-examination that she made numerous misrepresentations and false statements in the affidavit she submitted at the temporary hearing. We were also able to establish that father was a fit parent who was capable of caring for the child on a full-

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time basis. The court awarded father sole custody and attorneys fees. This case was very rewarding for me due to the fact that we were able to obtain sole custody for a young, single father. It was also rewarding to be able to disprove the many false and misleading allegations mother made at the temporary hearing which led to her obtaining sole custody on a temporary basis.

- (e) *James Richard Miles v. Theodora Miles*, 393 S.C. 111, 711 S.E.2d 880 (2011)- This was a modification action in which my firm represented the former husband (“Husband”). Husband sought a modification of the previously approved agreement which required him to maintain health and dental insurance on his ex-wife (“Wife”). The agreement also contained a provision stating that the parties waived alimony. My former partner represented husband at the trial level. The trial court found the fact that wife waived alimony in the agreement unambiguously showed the intent of the parties that the health insurance maintenance provision was not support, and therefore, not modifiable. I was asked to handle the appeal. I handled all aspects of the appeal, including arguing the case at the Supreme Court. The Court of Appeals affirmed the trial court without oral argument. The Supreme Court reversed, holding not only that the health insurance maintenance provision was a modifiable incident of support, but that husband established a substantial change in circumstances warranting a modification of the provision.

The following is Judge Turner’s account of five civil appeals he has personally handled:

- (a) *James Richard Miles v. Theodora Miles*, 393 S.C. 111, 711 S.E.2d 880 (2011)
- (b) *Duckett v. Goforth*, 374 S.C. 446, 649 S.E.2d 72 (Ct. App. 2007)
- (c) *Simpson v. World Finance Corporation of South Carolina*, 373 S.C. 178, 644 S.E.2d 723 (2007)
- (d) *Kevin Bragg v. Morgan Bragg*, 2011 WL 11735683 (Ct. App. 2011)
- (e) *Kathleen Lollis and Linda Campbell v. Lisa Dutton, et. al.*, 421 S.C. 467, 807 S.E.2d 723 (Ct. App. 2017)

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The following is Judge Turner's account of the criminal appeal he has personally handled:

State of South Carolina v. Raymond Franklin. Unpublished Opinion No: 2014-UP-110 (Ct. App. Filed March 12, 2014)

Judge Turner reported that he has held the following judicial office:

I currently serve as Family Court Judge for the Eighth Judicial Circuit, Seat 1. I was initially elected on February 7, 2018 and began serving on March 26, 2018. I was re-elected to this position in 2019.

The Family Court, in general, has jurisdiction to hear the following types of cases: actions for divorce, legal separation, separate support and maintenance; actions for the annulment of marriages; actions for child support and alimony, as well as actions to enforce the same; actions for name changes of children and adults; actions for paternity; actions for custody and/or visitation of children; actions related to the abuse of children and vulnerable adults; actions involving juveniles charged with criminal offenses; actions for the termination of parental rights and adoption.

Judge Turner provided the following list of his most significant orders or opinions:

- (a) *Reginald Swain v. Daniel Bollinger*, 435 S.C 280, 866 S.E.2d 923 (2022). This case involved a request by grandfather to terminate the rights of the child's father and to allow him to adopt his grandchild. Grandfather and his wife had custody of their grandchild and raised the child for years as both parents were abusing drugs. The grandparents did not want to terminate their own daughters' rights so only grandfather sought to adopt the child. Granting the adoption would lead to grandfather and his daughter being listed as the child's parents on the birth certificate. I denied the request for termination of father's parental rights and adoption by grandfather. Grandfather appealed and the Court of Appeals affirmed my decision. Grandfather then appealed to the Supreme Court who

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reversed my decision in an opinion authored by Justice Hearn.

- (b) *Elena Glinyanay v. William Tobias*, 437 S.C. 137, 871 S.E.2d 193 (Ct. App. 2022). This was a highly contested custody modification action brought by the mother based on serious allegations of misconduct by father. It was tried over the course of four (4) days. I granted mother sole custody and suspended father's custody. Father appealed my decision. The Court of Appeals affirmed in part and reversed in part.
- (c) *Amanda Murphy v. Monte Murphy*, 2023 WL 3093093 (Ct. App. 2023). This was a custody modification action that was tried over the course of three (3) days. The original order granted the parties joint custody with alternating weekly visitation. I modified the prior order granting the parties joint custody with mother being designated primary custodial parent. I also modified the alternating weekly visitation schedule. The Court of Appeals affirmed my decision in an unpublished opinion.
- (d) *Katie Buist v. Michael Buist*, 2007-DR-01-254. This case was complicated from a factual and procedural standpoint. The case was initially tried by the Honorable Billy A. Tunstall, Jr. in 2009. Husband appealed, arguing that the trial court erred in the apportionment of the marital estate and the award of attorney's fees. In 2012, the Court of Appeals reversed the trial court's order regarding the apportionment of the marital estate and remanded the issue. Husband then appealed the issue of attorney's fees to the Supreme Court. In 2014, the Supreme Court found that the issue regarding attorney's fees was not preserved for appeal. Therefore, this matter was remanded to the trial Court in 2014 for further proceedings solely on the issue of the apportionment of the marital estate. Judge Tunstall passed away while this case was on appeal. The case came before me for a contested trial in 2019. Neither party appealed my decision despite insinuation from both sides that any decision issued by the trial court would be appealed again.
- (e) *South Carolina Department of Social Services v. Caressa Norris, et. al.*, 2023 WL3451531 (Ct. App. 2023). This was a highly contested termination of parental rights action that

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resulted in a three (3) day trial. I issued an order terminating the parental rights of both parents. Both parents appealed. The Court of Appeals affirmed my decision in an unpublished opinion.

Judge Turner reported no other employment while serving as a judge.

(9) Judicial Temperament:

The Commission believes that Judge Turner's temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Piedmont Citizens Committee on Judicial Qualifications found Judge Turner to be "Well-Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament; and "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee stated in summary, "Judge has a fine record as a Family Court judge and was an experienced and well-regarded practitioner before he ascended to the bench. The Committee is confident that his experience, ability and character make him a fine candidate for the Court of Appeals."

Judge Turner is married to Megan Wadford Turner. He has two children.

Judge Turner reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar
- (b) Laurens County Bar; President 2006-2018
- (c) South Carolina Conference of Family Court Judges

Judge Turner provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) First Baptist Church, Laurens
 - 1) Board of Deacons: 2009-2012; 2014-2017, 2019-2022
 - Board Chair (2016-2017; 2022)
 - 2) Former Vice-Chair of Pastor Search Committee

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(b) YMCA of Greater Laurens- member and former Board Member

Judge Turner further reported:

I have always been a driven, goal-oriented person. When I commit to do something, I put in one hundred percent (100%) effort. I pride myself on having a strong work ethic. To that end, I have no problem working long hours to ensure that the task is completed thoroughly and precisely. I have continued that practice on the bench. I am relatively young and have the energy and motivation needed to be an effective judge.

I have served on various boards in my community and my church, and have volunteered with many organizations and ministries in my community. My experiences serving on these boards, coaching, and volunteering have given me the opportunity to work with adults and children from all walks of life which has taught me to always be open minded.

During my fifteen (15) years in private practice, I had the pleasure of working with clients through some of the most difficult times they ever faced. It was truly a rewarding experience to help my clients navigate through those tough times.

It has been an absolute honor and privilege for me to serve as Family Court judge for the past five (5) years. Although some days can be sad and/or challenging, I have thoroughly enjoyed my experience so far.

Throughout my life, I have made a conscience effort to be kind and respectful to others, and to treat them the way I want to be treated. I have continued that practice on the bench. I truly believe that I have been as fair and patient with lawyers and litigants as anyone can be and I will continue to be fair and patient if elected to the Court of Appeals.

(11) Commission Members' Comments:

The Commission noted that Judge Turner has vast experience in all areas of law from his time in private practice as well as his

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time as a Family Court judge. The Commission also noted that Judge Turner has a great reputation regarding his treatment of attorneys and litigants who appear in his courtroom.

(12) Conclusion:

The Commission found Judge Turner qualified, and nominated him for election to Court of Appeals, Seat 9.

**CIRCUIT COURT
QUALIFIED AND NOMINATED**

**Grant Gibbons
Circuit Court, Second Judicial Circuit, Seat 2**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Gibbons meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Gibbons was born in 1963. He is 60 years old and a resident of Aiken, South Carolina. Mr. Gibbons provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1991.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Gibbons.

Mr. Gibbons demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Gibbons reported that he has made \$635.26 in campaign expenditures for postage, informational cards, and a webpage.

Mr. Gibbons testified he has not:

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- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Gibbons testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Gibbons to be intelligent and knowledgeable.

Mr. Gibbons reported that he has taught the following law-related courses:

The South Carolina Commission on Indigent Defense created the South Carolina Indigent Defense Academy in 2014. I am a founding member of the faculty. The courses include PD 101, PD 102, and PD 103. Each course lasts for two and a half days. This training is done over three chambers weeks each year and is mandatory for new defenders.

- (a) PD 101 – Holistic Defense, Client and Family Relationships, and Initial Contact with Clients.
- (b) PD 102 – Cross-Examination Planning and Techniques, I also serve as a group leader to review and critique the students on all PD 102 exercises. This session includes Case Theme and Strategy, Opening Argument, Direct Examination, Cross-Examination, and Closings.
- (c) PD 103 – Group leader for reviewing critiquing and coaching the students on all topics covered in PD 103. This session includes Advanced Cross-Examination, Exhibits, Experts, Evidence, Impeachment, and Pre-Trial Motions.

Mr. Gibbons reported that he has not published any books or articles.

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(4) Character:

The Commission's investigation of Mr. Gibbons did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. Gibbons did not indicate any evidence of disqualifying financial issues.

The Commission also noted that Mr. Gibbons was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Gibbons reported that he is not rated by any legal rating organization.

Mr. Gibbons reported that he has not served in the military.

Mr. Gibbons reported, regarding the holding of public office: I do not believe Circuit Public Defender is considered a public office. However, if it is one, I have served in that capacity from July 9, 2008 until present.

(6) Physical Health:

Mr. Gibbons appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Gibbons appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Gibbons was admitted to the South Carolina Bar in 1991.

He gave the following account of his legal experience since graduation from law school:

- (a) 1991-1993: Assistant Solicitor, Second Judicial Circuit, assigned to Barnwell and Bamberg Counties.

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- (b) 1993-1995: Deputy Solicitor, Second Judicial Circuit, violent crime, and sex crime prosecutor for the entire circuit.
- (c) 1995-2008: Deputy Solicitor, Second Judicial Circuit, teaching, hiring, and training of attorneys, above caseload in the entire circuit, co-counsel on seven capital prosecutions.
- (d) 2008-Present: Circuit Public Defender, Second Judicial Circuit. Manage and negotiate office budgets on state, county, and city levels. These routinely involve over 3 million dollars per year. I also serve as personnel manager for an office of thirteen attorneys along with thirteen support staff. I oversee and review financial audits of the operation yearly. I maintain a caseload of violent crimes, and I have defended one capital case.

Mr. Gibbons further reported regarding his experience with the Circuit Court practice area:

I have been involved in the General Sessions Court in the entire Second Judicial Circuit continuously for over thirty years. I have been a prosecutor, defender, or supervising attorney for nearly every term of court. As Deputy Solicitor I was responsible for creating trial rosters and dockets and supervising and assisting other attorneys on their cases. I did this while also carrying a full caseload myself. I have worked closely with violent crime victims and helped them navigate the criminal process. I have cultivated and maintained close working relationships with law enforcement and court personnel. As a young prosecutor, I routinely tried ten to twelve jury trials per year. These cases ranged from minor offenses up to death penalty cases. In 2008 I was approached by local attorneys and encouraged to seek the position of Circuit Public Defender. I have now held this position for over fifteen years. I have carried a caseload my entire tenure. I handle at least five matters during each term of court. Our circuit has at least twenty terms of General Sessions Court per year. I have defended everything from minor offenses up to a death penalty defense. I routinely serve as co-counsel with new attorneys when they try serious cases.

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State v. Dahkir Anderson, murder trial July 10, 2023; (2022-GS-02-00569)

Mr. Anderson was tried for murder, trafficking meth, kidnapping, and other charges. He was alleged to have abducted the victim along with four co-defendants. Evidence was produced that indicated they took him at gunpoint, tied his hands, and drove around Aiken County looking for a dog he stole from Mr. Anderson. Mr. Anderson admitted to assaulting the victim but denied the murder. He went to trial as the sole defendant in the case. The medical examiner testified that death was the result of homicidal beating. The body was burned at some point, but the examiner could not testify if it was before or after death. There were several issues associated with this trial. There was a horrendous seven-second video of the victim gasping for breath on the ground with a pistol stuck to his chin. There were also gruesome photos of the burned body being taken from a shallow grave. The jury returned a guilty verdict on Murder and Kidnapping, but was unable to reach a unanimous verdict on the drug and weapon charges. Mr. Anderson was given a life sentence.

State v. Marcus Turner, murder trial December 5, 2018; (2018-GS-02-00440)

This case involved a charge of Murder and Robbery. Mr. Turner, along with two co-defendants, called a cab for a ride home. The cab driver and his girlfriend responded to the request. Upon arriving the passengers exited the vehicle and refused to pay the fare. An argument ensued and the elderly cab driver was struck in the head by the defendant. The other two men then reached in and took items from the driver and the passenger. The cab driver then fled the scene. The following day, the victim had some issues and sought medical attention. He was found to have a subdural hematoma and was rushed into surgery. After surgery, he lapsed into a coma. Approximately a month later he died in the hospital. This case was complicated by the fact that the victim suffered a fall shortly before this incident and did injure his head. Medical experts were consulted, and the proximate cause of death was somewhat unclear. We proceeded to trial and during the course of the trial, the state approached me with a plea offer. Mr. Turner elected to plead guilty to voluntary manslaughter. This case was a prime example of so many legal

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disputes. As attorneys we must learn, study, and come to understand a wide variety of information. I had to give myself a crash course on brain injuries and the associated medical terms and processes. I believe this will be similar to my experiences as a judge in dealing with the myriad of legal issues associated with civil and criminal matters.

State v. Denzil Jordan, burglary 1st, kidnapping, armed robbery, A&B 1st August 9, 2018; (2018GS0200083)

Mr. Jordan was tried on the above charges. The allegations were that he, along with co-defendants, entered the victim's residence, tied him up, pistol-whipped him, and forced him to turn over his debit cards and PINs. They then held him there while a co-defendant went and withdrew funds and made purchases ensuring that they had been given the correct PIN. Entry was made into his residence after a female co-defendant, who went to school with the victim, convinced the victim that she was romantically interested in him. The female let her compatriots into the residence when the victim was out of the room. There were the usual technicalities associated with a multiple-defendant trial. The female defendant became a witness for the state. The defendant was convicted and received a sentence of twenty-five years to run concurrently.

In the civil realm, my experience consists of civil matters ancillary to the criminal system. I have dealt with PCR issues and have always reviewed the civil process and paperwork associated with these cases. As a young prosecutor, I argued appeals to the circuit court which had civil procedure aspects. During that time, I spent a short stint doing civil drug forfeiture actions and bond estreatments which have civil components. Our circuit jurists have always scheduled civil motions and hearings during criminal court. I have watched hundreds of these matters over my three decades in court. I am sure I will have much to learn and adapt to as I deal with civil cases. However, part of being a trial lawyer is being a fast study of new and unfamiliar material. I am confident that with hard work and determination, I can get up to speed quickly. I will also try to cultivate relationships with more experienced judges who can act as mentors when I need them. I plan on utilizing civil CLE courses whenever possible to further my assimilation.

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Mr. Gibbons reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: 0
- (b) State: Over twenty terms every year, approximately five matters per term.

Mr. Gibbons reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 0%
- (b) Criminal: 100%
- (c) Domestic: 0%
- (d) Other: 0%

Mr. Gibbons reported his practice in trial court as follows:

- (a) 85% settled prior to trial
- (b) 5% of cases went to trial and resulted in a verdict
- (c) 5% cases went to trial and resolved after the plaintiff's or State's case
- (d) 5% cases settled after a jury was selected but prior to opening statements

Mr. Gibbons provided the following regarding his role as counsel during the past five years: In my office we don't try cases solo. Most often I was co-counsel training younger attorneys. I was often chief counsel on cases but selected less experienced attorneys to serve as co-counsel as a means of helping them learn.

The following is Mr. Gibbons's account of his five most significant litigated matters:

- (a) *State v. Joshua Jones*, 2012-GS-02-01854 (no appeal or PCR action was filed). This was a capital murder case. The defendant killed his pregnant girlfriend in her bed in Georgia, he then took his father's car and fled to Aiken, South Carolina. He was parked in a parking space in a neighborhood park in the middle of the night. A neighbor reported a suspicious vehicle to law enforcement. An officer responded to check on the vehicle. When the officer approached Mr. Jones, he shot and killed her. A high-speed chase ensued when

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her backup officers responded. Mr. Jones eluded the officers but was arrested without incident when he was located at a relative's home. At the bond hearing on this case, Mr. Jones entered the courtroom gnashing his teeth and growling. He was somewhat unresponsive to the court's questions. This hearing was aired by local television stations and quickly went viral. I was appointed to represent Mr. Jones. We immediately arranged for a private mental evaluation to be performed by a renowned psychiatric expert. We also performed an exhaustive social, mental, and family background. Although this was clearly the murder of a law enforcement officer, we were able to establish that Mr. Jones was suffering from acute schizophrenia at the time of the offense. We found a family history of mental conditions going back generations. Based on these findings the state agreed not to seek a death sentence and Mr. Jones was found guilty but mentally ill and was given a life sentence. This case confirmed my belief that it is extremely important to actively work on every case as soon as possible.

- (b) *State v. Marcus Turner*, 2018-GS-02-00440. This case involved a charge of Murder and Robbery. Mr. Turner, along with two co-defendants, called a cab for a ride home. The cab driver and his girlfriend responded to the request. Upon arriving the passengers exited the vehicle and refused to pay the fare. An argument ensued and the elderly cab driver was struck in the head by the defendant. The other two men then reached in and took items from the driver and the passenger. The cab driver then fled the scene. The following day the victim was having some issues and decided to seek medical attention. He was found to have a subdural hematoma and was rushed into surgery. After surgery, he lapsed into a coma. Approximately a month later he died in the hospital. This case was complicated by the fact that the victim suffered a fall shortly before this incident and did injure his head. Medical experts were consulted, and the proximate cause of death was somewhat unclear. We proceeded to trial and during the trial, the state approached me with a plea offer. Mr.

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Turner elected to plead guilty to voluntary manslaughter. This case was a prime example of so many legal disputes. As attorneys we must learn, study, and come to understand a wide variety of information. I had to give myself a crash course on brain injuries and the associated medical terms and processes. I believe this will be similar to my experiences as a judge in dealing with the myriad of legal issues associated with civil and criminal matters.

- (c) *State v. Clarence Ashby*, 1979-GS-02-00268. On May 6, 1979, Clarence Ashby, who was seventeen years of age at the time, robbed an elderly gentleman. His co-defendant, who was nineteen years of age, shot and killed the victim. On July 11, 1979, the pair entered a plea of guilty and were sentenced to life for the murder and a consecutive twenty-five years for armed robbery. At the time of sentencing, murder convictions allowed for parole eligibility after the service of twenty years. If parole was granted it would remain for the defendant's remaining life. *Aiken v. Byars*, 410 S.C. 534, 765 S.E.2d 572 (SC 2014), was decided and provided a possible resentencing for any defendant who received a life without parole sentence while under the age of eighteen. Mr. Ashby filed for relief. I was appointed to address his motion. The law was clear that he could not obtain relief under the current case law. I joined other attorneys who were attempting to argue that Mr. Ashby, along with similarly precluded persons, had received a de facto life without parole sentence, and should be granted similar relief. This was not a probable remedy. As an alternative, I also started creating a history of Mr. Ashby's situation. I was very surprised to see that this case was pled to a life sentence barely over two months after the incident in question. Mr. Ashby was sent to maximum security prison at the age of seventeen. He described the horrors associated with the early years of his incarceration. He also informed me that he had contracted AIDS. I was able to track down the victim's daughter. I called and spoke with her by phone. She told me that their family had never been contacted when the case went to court.

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They found out about the sentence much later. They never heard any details of the crime, nor any details about the sentence itself. Nor had they ever been contacted about prior parole requests or hearings. When I shared the details of Mr. Ashby's involvement, and the details of his life while serving the thirty-seven years of his incarceration, the daughter was graciously in agreement that he should be paroled. I filed the appropriate documents and was able to get Mr. Ashby released on parole. This was one of the most satisfying cases of my career. Had Mr. Ashby not filed his ineffective motion, we never would have met, and he would likely still be incarcerated.

- (d) *State v. Scott Merkerison*, 2011-GS-02-01651. Mr. Merkerison went to trial for the offenses of kidnapping, criminal sexual conduct first degree, and attempted murder. He was accused of kidnapping, raping, and assaulting his girlfriend's daughter. The daughter was an adult. On the night in question, the victim alleged that she went to the defendant's house and was watching a movie with him. She claimed he forced her to perform oral sex. She indicated that she bit his penis causing a cut and also lodging some of his skin in her teeth. She then said he vaginally raped her twice immediately after the bite. She showed broken blood vessels in her eyes and bruising on her neck. Before trial, I met with the investigating officer and reviewed some glaring problems with the victim's statement. I shared my investigator's findings about a huge fight going on between the victim's mother and the defendant. It appeared this may have been a planned event to harm the defendant. He felt that he needed to interview her again due to issues he had with the allegations. He decided to re-interview the victim. Before he could meet with her, he got a call from the prosecutor on the case forbidding him from having any contact with the victim. These facts came out during cross-examination. Other facts caused serious doubts about the prior statement. I strongly urged my client not to testify. I told him that I thought her credibility had been thoroughly shredded. He insisted on

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testifying. He described the event and indicated that he did grab the woman around the neck when she refused to let go of his penis. He also said after she finally let go, he restrained her for a few seconds. The jury returned a verdict of guilty on the kidnapping charge, and not guilty of the other offenses. I argued at sentencing that the jury had found that this was not a sexually related kidnapping event. The judge agreed and gave the defendant seven years and did not require sex offender registration. Jurors were approached after the trial and indicated that they only found him guilty of the kidnapping because he said he did not immediately release the woman after she let go of him. My client said he was at peace because he just wanted the truth to be told.

- (e) *State v. Wise*, 359 S.C. 14, 596 S.E.2d 475, 2004 S.C. LEXIS 112. This was a death penalty trial after Hastings Wise, a disgruntled employee, entered a manufacturing plant and opened fire on employees and security personnel. Hastings Arthur Wise was convicted of four counts of murder, three counts of assault and battery with intent to kill, one count of second-degree burglary, and four counts of possession of a weapon during the commission of a violent crime. The jury found two aggravating circumstances: a murder was committed during the commission of a burglary, and two or more persons were murdered by one act or pursuant to one scheme or course of conduct. The appellant was sentenced to death on the jury's recommendation for each count of murder, twenty years consecutive on each count of assault and battery with intent to kill, fifteen years concurrent for burglary, and five years concurrent on each weapon possession conviction. I was co-counsel to the elected solicitor on this trial. Mr. Wise was represented by two very capable attorneys who made every effort to defend him. Venue was changed from Aiken, SC to Beaufort, SC, numerous motions were filed and argued, and the case went to trial. Throughout the process, Mr. Wise refused to allow his counsel to use defenses or arguments they desired to employ. He refused to allow them to speak with his family, or to

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address any mental issues. Following his conviction, Mr. Wise attempted to waive all appeals and proceed with execution. What impressed me about this case was the example I saw of defense attorneys continuing to ably defend and represent a client in a horrible situation, who was continuously working against their efforts. These attorneys remained professional and dedicated even though they had been appointed to this task.

Mr. Gibbons reported he has not personally handled any civil or criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. Gibbons's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualifications found Mr. Gibbons to be "Well-Qualified" as in the evaluative criteria of ethical fitness, character, and reputation; and "Qualified" in the evaluative criteria of constitutional qualifications, professional and academic ability, physical health, mental stability, experience, and judicial temperament. The Committee stated in summary, "Lack of civil experience."

Mr. Gibbons is married to Bonnie Carol Bass Gibbons. He has four children.

Mr. Gibbons reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar - member
- (b) National Association of Criminal Defense Lawyers – member
- (c) South Carolina Association of Criminal Defense Lawyers - member
- (d) South Carolina Association of Justice – member
- (e) Aiken County Bar Association - member

Mr. Gibbons provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

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(a) Southern Wolves Wrestling Club – Volunteer Assistant Coach 2020 to present.

Mr. Gibbons further reported:

I began my legal career as a young husband and father. I took a position with the Second Judicial Circuit Solicitors Office and was asked to work in Bamberg and Barnwell counties. I was determined to give this position every effort. There had never been a prosecutor who actually lived in Barnwell or Bamberg, so I decided that I would move my small family to Barnwell County and live in the community that I was going to serve.

I cherish the eight years that I lived and worked in Barnwell. I was a one-man operation, so I learned every facet of the criminal system. I formed lasting relationships with law enforcement and the local community that continue to this day. I had the opportunity to prepare and try a very large number of serious cases early in my career. In the first few years of my tenure, I tried several murder cases.

After a few years of being the sole attorney, another prosecutor was assigned to the Barnwell office. There had been some turnover in the Aiken office, and I was asked to assume responsibilities in all three counties. I had successfully prosecuted a number of child sexual abuse cases in the satellite counties, and I was asked to be the sex crime prosecutor for the circuit in addition to my violent crime caseload. At that time, I was promoted to Deputy Solicitor.

During the 1990s our Circuit had a string of death penalty crimes. I assisted our elected Solicitor as co-counsel on seven capital cases. As more and more of my responsibilities moved to Aiken, I decided to relocate my family. However, I continued to run the satellite office and carry caseloads in all three counties.

Another opportunity presented itself during this time. A horrific murder and robbery occurred in Denmark, South Carolina. Investigation revealed that the persons responsible had ties to a drug ring the federal government was pursuing. I was designated as a Special Assistant United States attorney. I was co-counsel

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in the federal murder trial of the four defendants involved in the murder. This gave me a chance to experience how different the federal court system is regarding resources and caseloads.

In 2007 the Circuit Public Defender legislation was enacted. I was approached by local bar members about applying for this position. I enjoyed my job as a prosecutor, and I enjoyed working with everyone in the system. After much contemplation and many prayers, I decided to apply for Circuit Public Defender.

I felt that the existing system was severely broken and that I could organize the office and bring a higher sense of professionalism to the operation. Some of the accomplishments that I have made in my current position are:

- (a) I created teams within the office so most conflict cases could stay in the office, rather than being assigned to private attorneys;
- (b) I designated an attorney to work solely in the juvenile court, alleviating the conflict of being required to be in two courts at once;
- (c) I worked closely with county officials to bring public defender salaries more in line with solicitor salaries;
- (d) I was eventually able to convert our case management system to a nearly paperless operation;
- (e) My office has one of the lowest attorney turnover rates in the state;
- (f) My office has one of the best county funding ratios in the state.

Work has always been a very important part of my life. My parents encouraged me to work in many different fields starting at a very young age. I learned how to work hard and how to work with people from all walks of life. These jobs included the following:

- (a) Surveyor's Assistant for a Mining Engineer - We surveyed property borders for uranium mining claims.
- (b) Lab Assistant at a Medical Clinic - Developed X-rays, prepared specimens for testing, and assembled and sterilized medical instruments.

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- (c) Laborer for a Fence Building Company - Prepared sites and built residential fences.
- (d) Rig Worker for a Commercial Drilling Company - We drilled test holes to map uranium deposits for miners.
- (e) Explosives Crew Member for Uranium Processing Mill - I set explosive charges used to excavate a 10-acre retaining reservoir for liquid waste.

Integrity:

There are also things that I have not experienced. I think they are important considerations regarding my career.

- (a) I have never been sued in state or federal court by either a defendant I was prosecuting or a client.
- (b) I have never had a case overturned on Post Conviction Relief.
- (c) I had cases overturned on appeal due to evolving legal issues, but never for inappropriate actions, words, or conduct on my part.
- (d) I have never been censured or admonished by any court.
- (e) My conduct has never been questioned by any legal watchdog groups such as the ACLU or NAACP.

Demeanor:

As Deputy Solicitor and as Circuit Public Defender, I worked with many past and present judges. I quickly learned that they all do things a little differently. I gained a unique perspective on their different policies and personalities. I learned by observation what techniques worked best and what practices created problems.

I have observed judges who were respectful yet firm, and judges who did what needed to be done, even when it was not easy. I have also witnessed judges who were fair and courteous to everyone in the system and yet upheld the decorum and respect their courtroom deserved while meting out justice accordingly. Unfortunately, I have experienced opposite behaviors as well.

I believe that my work history, my life experience, and my personal demeanor would make me an effective, efficient, and productive jurist.

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(11) Commission Members' Comments:

The Commission commended Mr. Gibbons on his excellent demeanor and temperament, as reflected in the BallotBox survey responses. The Commission noted Mr. Gibbons's vast experience with criminal law.

(12) Conclusion:

The Commission found Mr. Gibbons qualified, and nominated him for election to Circuit Court, Second Judicial Circuit, Seat 2.

David W. Miller
Circuit Court, Second Judicial Circuit, Seat 2

Commission's Findings: QUALIFIED, AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Miller meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Miller was born in 1972. He is 51 years old and a resident of Aiken, South Carolina. Mr. Miller provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2001.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Miller.

Mr. Miller demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Miller reported that he has made \$130.66 in campaign expenditures for cards.

Mr. Miller testified he has not:

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- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Miller testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Miller to be intelligent and knowledgeable.

Mr. Miller reported that he has taught the following law-related courses:

- (a) I have lectured at the S.C. Prosecution Commission's Prosecution Boot Camp each year from 2012 through 2022. At the Boot Camps, Senior Assistant and Deputy Solicitors are given specific topics to cover during instructional periods and all instructors participate in discussion and performance workshops. Instructors critique students on their performances with assigned fact patterns and lead group discussions. I taught the following individual classes to the participants over the years listed: Hearsay (2013, 2014, 2015) Sentencing Fundamentals (2013, 2014), Guilty Pleas: Negotiations, Agreements and Procedure (2016, 2017, 2018).
- (b) I made two presentations for the S.C. Bar's pro bono project, Legal Lessons: A series for the Public in 2012. The Legal Lessons series was a program to introduce members of the public to specific areas of the law by providing classes taught by lawyers with experience in that practice area. The courses were scheduled at the local technical college over the course of several consecutive weeks and included a one-hour class on each subject along with a question and answer period afterward. I presented an "Overview of the South Carolina State Courts" (09/17/2012) and "Criminal Law" (10/29/2012).

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- (c) I have lectured at the S.C. Solicitor's Association Annual Conference since 2017. I have conducted classes covering several evidence-related topics. In 2017, I presented a lecture titled "Obtaining Evidence Lawfully" that focused on unusual or technical situations where prosecutors are called upon to obtain evidence in cases using specific types of court orders. This lecture was presented in coordination with Senior Deputy Attorney General Don Zelenka, who presented a companion lecture titled "Getting and Using Evidence- Problems, trends, and the Appellate Courts".
- (d) In 2018, I presented a lecture titled "Investigating and Prosecuting Animal Abuse Cases" that focused on the unique aspects of investigating and prosecution of animal abuse cases including societal attitudes that impact presentation of evidence to juries and the impact of social media and public outcry on courts' sentencing. I also presented a "follow-up" to the 2017 lecture called "Using Search Warrants, Subpoenas, and Court Orders". This lecture discussed the appropriate use of search warrants and court orders to obtain evidence in criminal prosecutions, focusing on ethical and procedural concerns and how those concerns impact communication with law enforcement agencies.
- (e) Following my lecture at the SCSA Annual Conference, I was invited to be a guest facilitator for a workshop on Investigating and Prosecuting Animal Abuse cases at the Southeast Animal Alliance Annual Conference in Augusta, Georgia. The workshop took law enforcement personnel through the process of investigating and documenting a complaint to testifying at trial, where I served alternately as the prosecutor and the defense attorney for various witnesses.
- (f) In 2019, I was a co-presenter in a two-hour block of training focused on issues concerning animal cruelty for the South Carolina Summary Court Judges' annual training.

Mr. Miller reported that he has not published any books or articles.

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(4) Character:

The Commission's investigation of Mr. Miller did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. Miller did not indicate any evidence of a troubled financial status. Mr. Miller has handled his financial affairs responsibly.

The Commission also noted that Mr. Miller was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Miller reported that his rating by a legal rating organization, Martindale-Hubbell, is AV.

Mr. Miller reported the following military service:
1991-95 U.S. Marine Corps Active Duty, Corporal, Honorable Discharge
1995-96 USMC Reserve, Corporal, Honorable Discharge

Mr. Miller reported that he has never held public office.

(6) Physical Health:

Mr. Miller appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Miller appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Miller was admitted to the South Carolina Bar in 2001.

He gave the following account of his legal experience since graduation from law school:

- (a) 2001-2002 Law Clerk for The Honorable Rodney A. Peoples

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- (b) 2002-2004 Robert J. Harte, P.C. Associate attorney involved in general litigation matters representing plaintiffs and criminal and civil defendants.
- (c) 2004-2009 Smith, Massey, Brodie, Guynn & Mayes, P.C. Associate attorney involved in general litigation matters representing plaintiffs and criminal and civil defendants.
- (d) 2009-2013 Office of the Solicitor, 2nd Judicial Circuit - Assistant Solicitor prosecuting felonies and misdemeanors in the General Sessions and Magistrate courts, and handling appeals from magistrate and municipal courts.
- (e) 2013-2015 Office of the Solicitor, 2nd Judicial Circuit - Deputy Solicitor for Aiken County prosecuting felonies and misdemeanors in General Sessions, coordinating prosecution/docket management for Aiken County, and working special Information Technology projects for the Office. In this position my administrative tasks included management of staff and oversight of dockets for individual court terms.
- (f) 2015-Present Office of the Solicitor, 2nd Judicial Circuit - Deputy Solicitor for Barnwell and Bamberg Counties prosecuting felonies and misdemeanors in the General Sessions and Magistrate courts, continuing to work as needed on cases in Aiken County, and continuing implementation of technology initiatives throughout the Second Judicial Circuit. Administrative duties in this position increased to include input with the elected Solicitor on office personnel, budgetary needs, equipment and space issues, preparation of performance appraisals of employees, complete management of criminal dockets in both counties, and coordination of terms of court with incoming judges and other court personnel. Additionally, I coordinate training for law enforcement personnel throughout the circuit and in other jurisdictions while continuing to train other lawyers under my supervision.

Mr. Miller further reported regarding his experience with the Circuit Court practice area:

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My first job as a member of the South Carolina Bar was working as a law clerk for The Honorable Rodney A. Peeples. I then practiced as a private attorney for seven years before becoming an Assistant Solicitor and, later, a Deputy Solicitor in charge of two counties in our circuit. Through this experience, I have handled many different types of cases, both civil and criminal.

Before joining the Solicitor's Office, I defended numerous criminal cases involving defendants charged with everything from murder and criminal sexual conduct to driving under the influence. Additionally, I represented both plaintiffs and defendants in civil matters while in private practice. As an associate attorney in a medium sized firm, I handled diverse civil litigation matters ranging from personal injury cases to contract disputes in Common Pleas and Magistrate courts. I was personally involved in the litigation involving the Estate of James Brown before leaving private practice. My civil practice was necessarily diverse because of my firm's limited market. Our firm did not advertise for personal injury cases, and most of the civil matters I handled were taken on an hourly fee basis. I handled contract disputes between businesses, land disputes and nuisance claims, will contests, mechanic's lien cases, and condemnation claims. I was also occasionally appointed by the Circuit Court as a Special Referee to hear non-jury civil claims.

I have prosecuted hundreds of cases as an Assistant, and now Deputy Solicitor, in the Second Judicial Circuit. Many of these cases were violent felonies including multi-defendant armed robbery cases, murders and home invasions. In the past five years, I have practiced exclusively in criminal court. During that time I have handled over one thousand cases, including several jury trials. In those cases, and cases that resulted in resolutions prior to trial, I have dealt with motions to suppress evidence, Neil v. Biggers hearings, Jackson v. Denno hearings, motions in limine, as well as other motions. I have been responsible for presenting expert witness testimony and have been called upon to cross examine expert witnesses called by the defense. I have frequently been asked to draft Orders for the Court following rulings on complex factual or legal issues.

My experience as a criminal defense attorney has shaped the way I prosecute cases throughout my career as a prosecutor. Lengthy, sometimes life-long prison sentences can

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be necessary to protect society from a particular person, but those situations are, fortunately, extremely rare. I pride myself in my ability to work with the defense bar and judges to come up with fair and just resolutions to cases. I also take pride in my reputation as a capable trial attorney if a resolution cannot be reached.

Mr. Miller reported the frequency of his court appearances as follows:

- (a) federal: 0%
- (b) state: 100%

Mr. Miller reported the percentage of his practice involving civil, criminal, domestic and other matters as follows:

- (a) Civil: 1% (Post Conviction Relief Actions)
- (b) Criminal: 85%
- (c) Domestic: 0%
- (d) Other: 14% (Administrative)

Mr. Miller reported their practice in trial court as follows:

- (a) 85% was in trial court, including cases that settled prior to trial;
- (b) 30 (estimated) cases went to trial and resulted in a verdict;
- (c) 0 cases went to trial and resolved after the plaintiff's or State's case;
- (d) 0 cases settled after a jury was selected but prior to opening statements.

Mr. Miller provided that during the past five years he most often served as chief counsel, but also frequently appeared as associate counsel when one of the junior lawyers under his supervision was trying a case.

The following is Mr. Miller's account of his five most significant litigated matters:

- (a) *David Mark Hill v. State of SC*, 377 S.C. 462, 661 S.E.2d 92 (2008). This case was a Capital PCR where the Petitioner ultimately waived his rights to appeal and was put to death. This case is significant to me for many reasons. It was the first and only time I argued a case before the South Carolina Supreme Court. I was

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criticized for helping Hill waive his appeals and proceed with imposition of the death sentence by other lawyers that handled capital litigation. Although I disagreed with Hill's decision to waive his appeals, I had no doubt Hill was competent to make that decision, so I was obligated to assist him seeking the waiver. But the most impactful thing about the case was that my client requested that I be one of his witnesses when the sentence was carried out, so I ultimately watched my client be put to death on June 6, 2008.

- (b) *State of SC v. Honorio Gurrero*, 382 S.C. 620, 677 S.E.2d 603. This was an extremely complex case logistically because it involved four defendants (none of whom spoke English) and four different defense attorneys. All of the defendants were tried together. This case is also significant to me because it was the first criminal case I ever defended in General Sessions Court. It was also the first case that I had overturned on appeal when the South Carolina Supreme Court agreed with me that a directed verdict in favor of my client should have been granted at the close of the State's case.
- (c) *State of SC v. Michael Paul Buckmon*. Michael Paul Buckmon and Matthew Bolen sexually assaulted and killed Donna Dempsey in Barnwell County on November 1, 2013. Her home was set on fire in an attempt to conceal the sexual assault and subsequent burglary of the residence. The SLED investigation of the crime spanned from Allendale County to Pickens County and resulted in a nearly 800 page investigative report. The SLED arson investigator and several SLED analysts were qualified as experts in the case and offered testimony concerning the evidence collected during the investigation. There were very few lay witnesses in the case because many people were fearful of Buckmon. He had previously been convicted of murder and sentenced to life but later had his conviction overturned by the Supreme Court. The case was very difficult to organize and present to the jury in a logical fashion because of the sheer volume of

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evidence to be presented. Buckmon was convicted of murder, arson in the first degree, and criminal sexual conduct in the first degree at trial and sentenced to life.

- (d) *State of SC v. Leon Amos Jason James*. This was a multi-defendant armed robbery in Bamberg County. I tried the case against two of the most respected lawyers in Bamberg and was able to obtain a conviction on all charges. The Defendant was sentenced to life pursuant to S.C. Code 17-25-45 because he had prior convictions for armed robbery. I also convicted one of the co-defendants in a separate trial. He was given a life sentence because he had several prior armed robbery convictions. The third co-defendant in the case pled guilty but did not testify in either trial for the State.
- (e) *State of SC v. Demetrius Boyd*. This was a home invasion case where I was appointed to represent the Defendant. He was charged with Burglary 1st Degree, Kidnapping, and Assault and Battery with Intent to Kill. The case is significant to me because the Defendant was one of the most difficult criminal defendants I ever represented, but I was convinced he was not guilty of the crimes he was charged with. Less than two weeks before the trial, I received the State's notice of intent to seek life without parole. We tried the case and the jury found the defendant not guilty on all charges.

The following is Mr. Miller's account of one civil appeal he has personally handled:

David Mark Hill v. State of SC, 377 S.C. 462, 661 S.E.2d 92 (2008). South Carolina Supreme Court, April 28, 2008.

Mr. Miller reported that he has not personally handled any criminal appeals.

Mr. Miller further reported the following regarding unsuccessful candidacies:

I was a candidate for Circuit Judge, At-Large Seat 14, in the Fall of 2012. I was found to be qualified but not nominated by the Judicial Merit Selection Commission.

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I was a candidate for Circuit Judge, At-Large Seat 1, in the Fall of 2016. I withdrew from the race before the Judicial Merit Selection Commission reported on my candidacy.

I was a candidate for Resident Circuit Court Judge for the Second Judicial Circuit, Seat 1, in the Spring of 2019. I withdrew from the race after being found qualified and nominated by the Judicial Merit Selection Commission.

I was a candidate for Circuit Judge, At-Large Seat 12, in the Fall of 2020. I was found to be qualified but not nominated by the Judicial Merit Selection Commission.

(9) Judicial Temperament:

The issue of temperament was raised in the complaints filed against Mr. Miller, and several of the BallotBox surveys questioned the suitability of Mr. Miller's temperament for the bench. The Commission reviewed the BallotBox survey responses for Mr. Miller and there were multiple concerns regarding his temperament. However, overall, the BallotBox comments regarding Mr. Miller's judicial temperament were more positive than negative.

Mr. Miller was questioned about temperament extensively at the public hearing and he testified that he is passionate about the positions he takes in the courtroom, and, as a solicitor, he is the end of the line. He stated that sometimes when trying to find a reasonable compromise, there are times when he has to "draw a line in the sand", which can sometimes be interpreted poorly. He recognizes that when sitting on the bench, you're not an advocate for either side, and have better control over what's going on in the courtroom. The Commission believes that Mr. Miller's temperament is adequate for someone seeking election as a judge.

(10) Miscellaneous:

The Midlands Citizens Committee reported Mr. Miller to be "Qualified" in the evaluative criteria of constitutional qualifications, ethical fitness, physical health, and mental stability; and "Well-Qualified" in the evaluative criteria of professional and academic ability, character, reputation, experience, and judicial temperament. The Committee noted:

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“Very qualified and with his past experience will be an asset to the judiciary!”

Mr. Miller is not married and has no children.

Mr. Miller reported that he was a member of the following Bar and professional associations:

- (a) Aiken County Bar, 2001 - Present, President 2004-06;
- (b) South Carolina Trial Lawyers Association, 2001 - 2008, Member, Board of Governors 2005-08;
- (c) South Carolina Association for Justice, 2014-Present (Public Sector Member)

Mr. Miller provided that he was recognized by the following awards:

- (a) Ernest Hollings Award for Excellence in State Prosecution (2020)
- (b) J. Strom Thurmond Prosecutor of the Year for the Second Judicial Circuit (2011)

Mr. Miller further reported:

There are several moments in my career that have helped shape who I am. In 2006, I was appointed lead counsel on the Post-Conviction Relief Application for David Mark Hill, who was sentenced to death after he murdered three people in Aiken County in 1996. Ultimately, Hill decided to waive his appeals and asked that his death sentence be imposed. Following our appearance on the case before the South Carolina Supreme Court, Hill asked that I be present as his witness at his execution. I spent the last twelve hours of David Hill's life with him in a small cell at the Capital Punishment Facility of the South Carolina Department of Corrections. I witnessed his execution that evening.

In November of 2008, Strom Thurmond was elected Solicitor of the Second Judicial Circuit. In late December, he asked me to become an Assistant Solicitor for his office. It was a difficult decision for me because I had gotten married just a few weeks after his election. In less than ninety days, I went from a single, relatively successful private attorney living in a rented townhouse, to a married Assistant Solicitor living in my first home with my new wife and two children. In retrospect, there is

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no question I made the right decision when I joined Solicitor Thurmond's staff. Working as an Assistant Solicitor allowed me to be in the courtroom where I always dreamed I'd be. In addition to my prosecutorial duties, I was allowed to work with new attorneys in the office and formally mentor several of our lawyers through the SC Bar's lawyer mentoring program.

In December of 2011, Aiken Department of Public Safety Master Public Safety Officer Edward Scott Richardson was shot and killed by Stephon Carter. Two months later, Aiken Department of Public Safety Master Corporal Sandra Rodgers was shot and killed by Joshua Jones. These murders devastated our community. Solicitor Thurmond assigned me as the lead counsel in the Stephon Carter case and assigned Deputy Solicitor Beth Ann Young as the lead counsel in the Joshua Jones case. In November of 2012, Solicitor Thurmond determined our office would seek the death penalty against Stephon Carter.

For the next two and a half years, I was the lead attorney dealing with all matters involved in the case. Ultimately, we offered a plea agreement to Carter that would require him to spend life in prison without the possibility of parole. The decision to make the plea offer, and the defense's decision to accept the offer, was only possible because of the countless hours spent working the case and communicating with the officers at ADPS and family members of Officer Richardson.

During my time as an Assistant Solicitor and now as a Deputy Solicitor, I have taken on more administrative functions. Since May of 2015, I have been in charge of our "lowcountry" offices in Barnwell and Bamberg Counties. I have developed strong relationships with the defense bar, court personnel, and law enforcement agencies there. I have also managed the criminal dockets in both counties.

When I ran for Circuit Court Judge previously, I was asked many questions about my tenure as the law clerk for Judge Rodney Peeples. Judge Peeples was an incredible judge and remains an amazing person. I continue to love and respect him; he is like a father to me, as he is for all of his former clerks. He had a style that was not unique when he came to the bench, but the world changed a lot in the three decades on the bench. Unfortunately, he did not always change the way he did things with the times. As much as I love and respect him, I would have a different demeanor on the bench. Academically, Judge Peeples

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had few equals. Some of the most influential and groundbreaking cases in South Carolina over the last half century have his name attached to them. In my experience, he dispassionately applied the facts to the law, and when the result wasn't fair, he said so, but he still followed the law. Occasionally, that resulted in the law changing, but his decision was going to be based on the law and the facts of the case as he understood them. This is the influence I hope Judge Peebles would have on me as judge. I know that I will be faced with tough decisions, but I will always do what I believe the law requires, even if I am not happy about the result. Judges should apply the law, not seek to change it.

Many other Judges have influenced the demeanor I would hope to have on the bench and are a model for judges. For example, Judge Thomas W. Cooper of Manning is the ultimate "lawyer's judge" to me. He commands control of the courtroom without anger or intimidation. He is fair to all litigants, and their lawyers. He makes informed, timely decisions without unnecessarily commenting on the matters before him. He is kind and courteous, and that civility extends from him to the opposing parties in the courtroom. As I have worked as a solicitor, and before in private practice, I have had the opportunity to appear before dozens of circuit court judges. The best of them have similarities that I have noticed and hope to emulate. Of particular note is the judicial demeanor of Judge William Keesley, Judge Clifton Newman, Judge Early and Judge Casey Manning. Each of them, in their own way, display the best of judicial demeanor and temperament and watching them has prepared me for the challenge of becoming a circuit court judge.

My desire to ascend to the Circuit Court bench is driven by my desire to improve the judicial system in South Carolina. I have learned and always tried to emulate the best attributes of the lawyers and judges I have known. Being a solicitor has allowed me a great opportunity to observe many judges in the courtroom. In each judge, I looked for the things they did that I would want to do if I was in their position. I feel I am ready to take on that challenge, and to become an example to the lawyers that will follow in my footsteps. My desire to be a Circuit Court Judge is not "the next step", it is the culmination of the career of a trial attorney. That certainly does not mean I don't have room to grow, just that I have never been and do not seek to be an

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appellate lawyer or judge. I want to be the best circuit court judge in South Carolina.

(11) Commission Members' Comments:

Two complaints against Mr. Miller were heard by the Commission. The first from Sarah Ford, attorney for the victims in the underlying case. The second from Karl Stoller, the father of one of the victims in the underlying case. The complaints allege, in relative part, that Mr. Miller failed to properly communicate with victims as required by law. The Commission reviewed the complaints, Mr. Miller's written response, and heard testimony from the parties. Based on the testimony, the Commission requested, received, and reviewed emails between Complainant Ford and Mr. Miller.

The evidence as well as the testimony of the complainants shows that the victims were represented by counsel during the time in question, and there is no evidence or testimony of consent from the victims' lawyer or authorization as a matter of law or court order allowing Mr. Miller to communicate directly with the victims. The Commission concludes that Mr. Miller only communicated with the victims through their lawyer (Complainant Ford), and that his communication is consistent with Rule 4.2 of the South Carolina Rules of Professional Conduct, which prohibits direct communication with any person the lawyer knows to be represented by another lawyer without the consent of that other lawyer or authority to do so by law or a court order.

Multiple emails as well as testimony at the hearing show that the victims' counsel made sure the victims were informed throughout the case by arranging meetings, coordinating calls and conversations, and informing the victims of hearings and other pending matters. Communication seemed consistent between Mr. Miller and Complainant Ford, the victims' attorney, throughout the pendency of the matter and this same communication seemed consistent with the rules of professional responsibility.

In the nine days leading up to the final hearing, Mr. Miller wrote multiple emails to Complainant Ford explaining the desire to

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dispose of the entire case, the plea deal and its exact terms, and even the rationale behind the plea. The email evidence indicates that Mr. Miller communicated fully and completely with Complainant Ford, as was his obligation. One victim had a zoom call on the Tuesday before the hearing to discuss the case. The other victim had a zoom call on Wednesday to explain that the State would be dropping the indictment, but not until after the hearing on Friday to ensure they had the opportunity to be heard in court. The victims and their counsel, Complainant Ford, were present at the hearing on Friday. The emails show that Mr. Miller communicated openly and candidly with Complainant Ford regarding the plan to dispose of the case.

Testimony from Complainant Stoller indicates that he was unaware of the plea arrangement until arriving in the Courtroom on the Friday of the hearing. The Commission unanimously found his claims in his complaint to be credible; however, the evidence also clearly and indisputably indicates that the victims' counsel (Complainant Ford) was fully aware of the existence of a plea arrangement and its precise terms prior to Friday. The evidence also indicates that Mr. Miller had no ability under the rules of professional responsibility to communicate with the victim, but only through their counsel, which he did on multiple occasions. The Commission is unable to determine why Complainant Ford, who was the victims' counsel, did not communicate the information that was clearly in her possession to Complainant Stoller prior to Friday's hearing, despite her having more than adequate notice, explanation, and information from Mr. Miller to do so. Given the clear and irrefutable record of emails between Mr. Miller and the Complainant well before the Friday hearing, the Commission found Complainant Ford's testimony at the public hearing claiming otherwise to be both misleading and extremely troubling.

In conclusion, in assessing the veracity of the complaints and all the evidence before the Commission, the claims that Mr. Miller failed to communicate with the victims as required by law are baseless, unreliable, and without merit.

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(12) Conclusion:

The Commission found Mr. Miller qualified, and nominated him for election to Circuit Court, Second Judicial Circuit, Seat 2.

Dissenting Opinion by Rep. Micah Caskey and Mr. Pete Strom

We write to dissent in the opinion of the majority of the Judicial Merit Selection Commission finding Mr. Miller qualified and nominated for service on the Circuit Court Bench. There is no question that Mr. Miller is an excellent and ethical attorney and prosecutor as evidenced by the glowing recommendations of giants in his local bar. However, we must respectfully dissent in the finding of the majority; because, although we find that he meets and exceeds the standards of several evaluative criteria, we do not believe that he has the requisite judicial temperament to serve on the Circuit Court bench. We believe that now is the time for the Judicial Merit Selection Commission to send a strong and consistent message to judges, those who want to be judges, and to each member of the General Assembly, as well as the public at large, that there is no place in our state for judges who have poor temperament.

The sole issue here for us is Mr. Miller's temperament. Although a complaint was filed against Mr. Miller, we agree with the others on the Commission that the complaint was meritless and that instead of indicating issues with Mr. Miller, it instead highlighted his adherence to ethical rules of lawyers and his professional ability. However, a recurring theme in his current and past screenings has been that he has a poor temperament, which mirrors concerns by members of the bench and bar that his temperament negatively impacts his ability to be a judge. Mr. Miller has himself acknowledged that his temperament has on some occasions been poor because of his need to be a zealous advocate as a prosecutor on behalf of the State of South Carolina, and he promises that it will be better in the future in his different role as an impartial judge. Unfortunately, we cannot buy into his promise that electing him will place a different man inside the black judicial robe. Do occasional bad days or isolated episodes showing a failing in temperament warrant a finding that the candidate is unqualified for judicial service? Perhaps not. We are

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all human, and we all make mistakes. However, we are not confronted with a temporary lapse in temperament or a single bad day. We are instead faced with a recurring theme, over several screenings and over many years, of poor temperament. We cannot rely on a candidate's election promise when we firmly believe that a person's past actions are the best predictor of his future ones. Mr. Miller has had years to correct the concerns raised about him, and it appears, by the same concerns still being made, that he has either chosen not to correct them or he cannot correct them. If Mr. Miller is elected as a judge and we accept the majority's belief that he will be a better judge than he was a lawyer, then we are stuck with that decision for at least six years if the majority are wrong. That risk is simply too great to take.

Most South Carolinians are rarely if ever part of our judicial system. But a judge with a bad temperament could result in a litigant or party who only has one interaction with our judicial system, losing faith in it because of the actions of a bad judge. Judges are trustees of the legal system, and their actions which carry so much weight must always be above reproach. Because of this, we must be extraordinarily careful with whom we entrust this power over our friends and neighbors. We must set very high standards for those who want to be judges and we must hold them to those standards consistently and without regard to who they are. Our stringent review needs to send a signal to those who want to be judges that they cannot have a bad day and lose their temper or have a substantive lapse in concentration, because of what that means for those who appear before the judge. If the judge is short or rude to a litigant or their attorney, a litigant can reasonably worry that the judge is not going to be fair to their case. If there is doubt about the impartiality of a judge, there will be no faith in the verdict meted out by that judge. Our society is based on people trusting in the administration of justice. It is only the trust in the process and in those who carry it out that allows us to be governed by the stroke of the pen rather than the point of the bayonet.

Our guiding directive, in keeping faith with those who are given the responsibility to screen candidates for the bench, is that people can rely on the quality and integrity of judges. This

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candidate fell short of the standard we must expect from someone who seeks to be a judge and wield the enormous power given to them. Instead of making excuses, it is time that we make a stand that those with poor temperament will not be allowed to serve our state as judges. We feel compelled to make our stand here. Because of the continued failure in his temperament and the failure to correct that shortcoming over the years despite knowing of those concerns, we must conclude that Mr. Miller is not qualified for judicial office. Therefore, we respectfully dissent from the Commission's decision that he is qualified and nominated.

**Martha M. Rivers Davisson
Circuit Court, Second Judicial Circuit, Seat 2**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Rivers Davisson meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Ms. Rivers Davisson was born in 1972. She is 51 years old and a resident of Aiken, South Carolina. Ms. Rivers Davisson provided in her application she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1996.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Rivers Davisson.

Ms. Rivers Davisson demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to a judge, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. Rivers Davisson reported that she has not made \$112.20 in campaign expenditures for stamps.

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Ms. Rivers Davisson testified she has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Ms. Rivers Davisson testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. Rivers Davisson to be intelligent and knowledgeable.

Ms. Rivers Davisson reported that she has taught the following law-related course:

In April 2019, I presented the Law School for Non-Lawyers class sponsored by the South Carolina Bar in Aiken, South Carolina on the topic of Child Protection Hearings. This series of lectures is designed to provide an overview of the judicial system and its impact on citizens.

Ms. Rivers Davisson reported that she has published the following book:

"The Leaner and Meaner Youthful Offender Act," South Carolina Lawyer, Volume 9, Number 3, November/December 1997.

(4) Character:

The Commission's investigation of Ms. Rivers Davisson did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Ms. Rivers Davisson did not indicate any evidence of a troubled financial status. Ms. Rivers Davisson has handled her financial affairs responsibly.

The Commission also noted that Ms. Rivers Davisson was punctual and attentive in her dealings with the Commission, and

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the Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. Rivers Davisson reported that her rating by a legal rating organization Martindale-Hubbell is Distinguished 4.4/5.0.

Ms. Rivers Davisson reported that she has not served in the military.

Ms. Rivers Davisson reported that she has never held public office.

(6) Physical Health:

Ms. Rivers Davisson appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Rivers Davisson appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Rivers Davisson was admitted to the South Carolina Bar in 1996.

She gave the following account of her legal experience since graduation from law school:

After graduation from the USC School of Law in 1996, I clerked for one year for the Honorable Thomas L. Hughston, Jr. of the Eighth Judicial Circuit. I then became an associate attorney at Bedingfield & Williams in Barnwell, SC. From 1997 to 2000, I assisted the partners, Daniel W. Williams and Walter Bedingfield, in the general practice of law. I developed my own caseload consisting of domestic litigation, civil litigation, real estate closings and continued to assist the partners in criminal defense and civil litigation. I was assigned a paralegal but had no management duties for the firm or its finances.

In 1999, my husband entered what was then known as the Masters in International Business (MIB) program at the Darla Moore

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School of Business at USC. In August 2000, I left Bedingfield & Williams to live with Doug in Zurich, Switzerland, during a portion of his required international internship. We returned in December 2000. I then began my practice as a sole practitioner in January 2001 in Williston, South Carolina. My practice developed much like my associate work. As a sole practitioner, I established and managed the trust accounts and operating accounts. I hired a part time assistant to help with the financial management. When I managed the closing of real estate loans, I maintained two trust accounts, one for real estate matters and one for general practice. In 2018, my solo practice was converted to a limited liability corporation, Rivers Law LLC. In 2020, I opened an office in Aiken, South Carolina.

My office has consistently had staff of one to three persons. I am the administrative manager as well as the financial manager.

In 2018, I ended my real estate practice and now focus on criminal defense, Family Court, and civil litigation. I have been a 608 (appointed defense attorney) in criminal and Family Court abuse and neglect cases for several years. I did not renew my criminal defense contract in 2022.

Ms. Rivers Davisson further reported regarding her experience with the Circuit Court practice area:

My first job was as a law clerk to a circuit court judge. I then began working at a small law firm, primarily for the local criminal defense lawyer in the Second Judicial Circuit. I assisted in preparing and defending clients with him for three years. For a multitude of reasons, we held trials during almost every term of court. Therefore, I quickly became experienced at researching case law, interviewing defendants, and assisting in felony trials from the beginning of my career. Being a small county and small town, I learned a respect for law enforcement, the judicial process and the families of both the victims and the defendant.

Until last year, I maintained a contract with the South Carolina Office of Indigent Defense and was appointed criminal cases through the public defender's office. Typically, these cases involved burglary, armed robbery, murder, and drug offenses.

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As the defense attorney, I collected and reviewed discovery information, attended preliminary hearings, filed and argued motions before the court, negotiated and attended pleas in criminal court and represented clients in trials. With the COVID protocols, the number of trials held within the past five years has been limited. I did not renew my contract after 2021.

In my career, I have represented defendants in felony and non-felony arrests that involve violent and non-violent crimes. The last criminal cases I handled involved the identification issues for a murder on a store camera recording. The defendant had also stated to multiple people in the legal system that he did not intend to shoot the victim. Had the trial proceeded, the issues of the case would have been malice aforethought and specific versus general intent. I also represented a gentlemen accused of multiple break ins and thefts while potentially using illicit drugs. The multiple arrests presented a challenge in determining potential pleas and sentencing issues. The alleged drug use also presented challenges to his ability to assist in his defense. As a criminal defense attorney, I have represented persons in cases involving Driving Under the Influence, Armed Robbery, Murder, Possession of drugs, Possession of Firearms, Firing into a Dwelling, Trafficking in drugs, Possession with Intent to Distribute, and/or Assault and Battery (of various degrees and offenses).

As a small town general practitioner, I have also maintained a civil practice. My civil practice has primary been plaintiff's oriented and has involved contract disputes, land disputes, and personal injury. For the past decade, my practice became more family court oriented. Family Court has some unique procedural rules and does not allow for a trial by jury. Otherwise, I have utilized similar trial preparation and trial techniques for civil and family court. As a civil attorney in my career, I have been involved in class action litigation, wrongful death litigation, wreck cases, property disputes, evictions, slip and fall cases and unfair trade practices. The majority of personal injury cases settle, however, I have represented parties through motions practice, discovery, investigations, depositions, and trials in the civil court.

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I may appear before a circuit judge once a quarter to once a year depending on the status of cases. The frequency of appearances has reduced since 2020. I have a strong base of knowledge in both civil and criminal law, but intend to continue to strengthen and update that knowledge for service on the bench.

Ms. Rivers Davisson reported the frequency of her court appearances as follows:

- (a) federal:
- (b) state: 100%

Ms. Rivers Davisson reported the percentage of her practice involving civil, criminal, domestic and other matters as follows:

- (a) Civil: 10%
- (b) Criminal: 25%
- (c) Domestic: 50%
- (d) Other: 15%

Ms. Rivers Davisson reported their practice in trial court as follows:

- (a) 75 % of practice was in trial court, including cases that settled prior to trial;
- (b) I am in the trial court in family court on an almost weekly basis. South Carolina Indigent Defense contracts with attorneys to handle matters on behalf of qualifying defendants for a set fee. This is pursuant to Rule 608. I was a 608 contract attorney for criminal cases in Bamberg County and Barnwell County for approximately ten years. I did not renew that contract in July 2022. Those cases are trial court cases. The vast majority plea. We did attempt to hold a trial in 2022 on a murder charge, but I developed Covid type symptoms during jury selection. I have not held any other trials in criminal court since then. Although I no longer hold a contract for appointments, I still have clients from the prior years and recently accepted additional cases from the Office of Indigent Defense for a client I was appointed to represent in 2021. All other jury trials in criminal court were more than five (5) years ago.

Since 2014, I have been a 608 contract attorney for cases involving the SC Department of Social Services. These cases are regularly called to court and result in many

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trial phases as parents or other caregivers have one to two years to reunite the family after removal of their children. Trials may be held at the merits stage, the permanency planning stage, or upon various other events in the case. I would estimate that I am involved in some type of trial in a DSS action once a month between the three counties (Aiken, Bamberg and Barnwell). These trials involve the Rules of Civil Procedure as well as the various statutes and rules that are applicable to this unique area of law.

I also handle litigation in my non-appointment or private case load. In the past five (5) years, I have managed at least 2 trials in my civil practice. All other litigation or potential litigation settled prior to trial.

- (c) No cases resolved after presentation of the plaintiff's case;
- (d) No cases settled after a jury was selected but prior to opening statements.

Ms. Rivers Davisson provided the following about her role as counsel during the past five years:

I am the only attorney in my firm, Rivers Law LLC. I handle all cases directly. In the past five years, my practice has continued to be a general practice offering simple estate planning, family law services, civil personal injury advocacy, and criminal defense. In 2020, I opened an office in Aiken, South Carolina. This has helped me serve clients throughout the Second Judicial Circuit. I was asked to assist another attorney on a limited basis for one case in the past five years. I participated in one hearing with him. I have not been associated by any other attorney and have not associated another attorney for my cases in the past five years. I have taken referrals from an attorney who had a recent illness as a courtesy to her and her clients. She is not currently involved in these cases, and litigation is ongoing.

The following is Ms. Rivers Davisson's account of her five most significant litigated matters:

- (a) *DeLoach v. Norfolk Southern and Roosevelt v. Norfolk Southern* (2005). My clients and their child were harmed individually and as the heirs of Mr. Tony DeLoach who died during the Norfolk Southern train derailment in Graniteville, South Carolina. The mixture of chemicals release in the derailment resulted in mustard gas settling

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into the historic mill area known “The Valley.” Mr. Deloach, his infant daughter, and his father were at home. His father died while he struggled to keep himself and his daughter alive. His wife was able to get through the emergency barricades and remove them from the affected area for medical treatment. Mr. Roosevelt was working at the Graniteville mill the night of the derailment. He and several co-workers were able to crowd into a car to leave the area. I, with co-counsel, handled this case from the day I was hired through the negotiations with Norfolk Southern and ensured that all settlements were properly approved. The derailment was caused when a prior train crew failed to manually reset a track switch.

- (b) *Pennicuff v. Pennicuff* (2005). I served as the guardian ad litem for two minor children who were in the physical custody of their mother. The mother moved from Georgia to Ohio without making provisions for father’s visitation. The father brought an action for change in custody or to address his visitation. During the investigation, questions arose regarding the stability of the children in mother’s custody. With the assistance of an attorney in Ohio, we were able to present a full and accurate report of the status of these children to the South Carolina court which led to a change in custody. As the guardian, I pushed for court time to bring this matter to a hearing and brought out issues that neither attorney addressed for the mental and physical health of the children. The parties were limited financially and the docket was very limited. This case demonstrated the need for a guardian advocate for the minor children to move the case forward for the benefit and protection of the children. The attorneys are representing their individual clients and may have other issues to consider. This year, the father visited my office unexpectedly. He thanked me for my work and showed me pictures of his children who are now adults.
- (c) *SC v. Workman*, (2012). My client, Mr. Workman, was accused of robbing a local convenience store with two other young men. One of them pointed a gun at the store clerk’s face. I found my client to be calm and intelligent. His case is remarkable to me not because of him personally but because I also came to know his siblings through a

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family court action. The family had a history of state involvement throughout their childhood. They were very capable young men and women, but their futures appeared limited. It was disturbing to see the course of their young lives, especially as each was involved with governmental systems designed to assist. Upon the jury's verdict, Hon. Clifton Newman sentenced Mr. Workman to thirteen years in the SC Department of Corrections. Mr. Workman's case is a reminder of the interplay and impact of different courts on a family.

- (d) *Williams v. Walling, et al.* (2019) I represented Ms. Walling who was a defendant following her purchase of a mobile home. The case involved a tax sale in Bamberg County. Another man bought the home through the county Forfeited Land Commission. He then sold it to Ms. Walling. This case shows the impact of civil disputes. For the plaintiff, it involved keeping a home where she had lived for several years. It was very clear that the taxes had gone unpaid although the home was very important to her. The property taxes associated with the land were paid, so she may have had a misconception of the legal result for non-payment of the mobile home taxes. For Ms. Walling, the home represented a future for her and her family. As an immigrant, she sought a non-traditional path to home ownership. Her cash purchase from the tax sale owner was a way for her and her family to live more securely. There are many instances where the matter in dispute seems legally straightforward and has great consequences for the lives of the litigants. I have represented clients in such litigation involving boundary disputes, mobile home purchase, land contracts, automobile purchases, and contract disputes throughout my career. This case also highlights the issues of delays in the court system. The case was filed in the fall of 2019. It was affected by the shutdown of court in 2020 and was not heard until February 2023.
- (e) *State v. David M. McClure, Jr.*, SC Opinion No. 25193, 537 SE 2d 273 (2000). While I was an associate at Bedingfield & Williams, Walter Bedingfield was appointed lead defense counsel for the first death penalty trial in Barnwell County. As his associate, I assisted in all pre-trial

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matters, met with expert witnesses, met with the client, conducted research, and assisted in trial preparations. Even though I was not a named attorney on this case, I cannot think of a more significant case in my career. The defendant was a young man convicted of killing his father and his father's girlfriend. As a litigator, this case was significant for me in learning the preparation required for such a case and the voluminous legal issues presented. Mr. McClure had confessed and was convicted by the jury. During the death penalty phase, he was sentenced to death. As an associate, I attended all client meetings, conducted research, prepared motions, attended all hearings, and assisted at trial. I met with experts and reviewed all evidence in this case. The penalty verdict was later overturned for improper comment upon the defendant's right to remain silent. Several years later, the appeal was resolved with Mr. McClure sentenced to life without parole. I did not work on the appeal in any manner. After practicing for twenty years, there are a number of Family Court cases or other criminal defense cases I could list as my fifth case, but this experience was unlike anything else I will encounter in my career. Although I am not an attorney of record in Mr. McClure's defense, I cannot list my significant trials or litigation without mentioning this case.

Ms. Rivers Davisson has not reported any accounts of civil appeals that she has personally handled.

Ms. Rivers Davisson reported she has not personally handled any civil or criminal appeals.

Ms. Rivers Davisson further reported the following regarding unsuccessful candidacies:

I was a nominated candidate for SC Family Court At Large #5 in January 2013 following the Fall 2012 judicial screening. I withdrew as a candidate. The seat went to an election between the Hon. Melissa Buckhannon and Hon. Randall E. McGee. Judge McGee still holds that seat.

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In 2016, I was a nominated candidate for SC Family Court At Large # 8. I withdrew as a candidate. Hon. Rosalyn Frierson-Smith was elected to that seat in 2017.

In 2019, I was a nominated candidate for SC Family Court At Large #1. I withdrew as a candidate. Hon. Kimaka Nichols Graham was elected.

I ran for the South Carolina House of Representatives District 91 seat in the special election held in April 1999. I lost to the Honorable Lonnie Hosey, who still serves in that seat. In 2014, I ran for Barnwell School District #29 school board and was defeated by Ms. Ferlecia Cuthbertson.

(9) Judicial Temperament:

The Commission believes that Ms. Rivers Davisson's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualifications found Ms. Rivers Davisson to be "Qualified" as to the evaluative criteria of constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The Committee noted: "Some concern about her experience."

Ms. Rivers Davisson is married to Douglas R. Davisson. She has three children.

Ms. Rivers Davisson reported that she was a member of the following Bar and professional associations:

- (a) SC Bar, Family Law Council (currently hold position)
- (b) SC Women's Law Association
- (c) Barnwell County Bar
- (d) Aiken County Bar.

Ms. Davison provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Aiken Rotary Club
- (b) Aiken Symphony Orchestra Board Member

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- (c) St. John's Methodist Church
- (d) SC Guardian ad litem Program Volunteer for Barnwell County

Ms. Rivers Davisson further reported:

For more than twenty years, I have sat beside clients in South Carolina courtrooms. I stood beside young men for sentencing and have given clients upsetting news about their civil cases. I have watched the court system evolve to address the population influx of our state and to tailor the system for efficient processing of cases by creating drug courts, business courts, and adopting alternative resolution practices. In the past few years, I have watched the effects of the opioid crisis in South Carolina ravage families who have loved ones incarcerated, must care of children of incarcerated parents, and/or are victims of the crimes drug addicts may commit. I have represented one family member in criminal court for possession of drugs while I assist another family member in family court trying to keep her family together in a DSS action.

This litany of experiences shows how my broad legal practice allows me to look at the legal system of South Carolina in a broad sense. Today, I believe it is imperative to preserve the rule of law, uphold the procedural standards of the court, and maintain the public trust in this branch of government. If elected as a trial judge, my goal would be to always maintain those pillars, confidence in the rule of law by striving for fair rulings and maintaining the public trust by working for a high standard of professionalism and integrity.

Serving as a South Carolina judge would be a privilege and an honor.

(11) Commission Members' Comments:

The Commission noted Ms. Rivers Davisson's positive reputation in the criteria of character and temperament.

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(12) Conclusion:

The Commission found Ms. Rivers Davisson qualified, and nominated her for election to Circuit Court, Second Judicial Circuit, Seat 2

**The Honorable S. Bryan Doby
Circuit Court, Third Judicial Circuit, Seat 1**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Doby meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Doby was born in 1963. He is 60 years old and a resident of Bishopville, South Carolina. Judge Doby provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1989.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Doby.

Judge Doby demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Doby reported that he has made \$580.48 in campaign expenditures for handout cards, letters of introduction, Christmas cards, and postage.

Judge Doby testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

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Judge Doby testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Doby to be intelligent and knowledgeable.

Judge Doby reported that he has taught the following law-related courses:

I served as moderator for Master-in-Equity Bench Bar CLE for one year and served on a panel for a discussion at a CLE for Master-in-Equity Bench Bar concerning partition actions.

Judge Doby reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Doby did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Judge Doby did not indicate any evidence of disqualifying financial issues.

The Commission also noted that Judge Doby was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Doby reported that his last available rating by a legal rating organization, Martindale-Hubbell, was BV.

Judge Doby reported that he has not served in the military.

Judge Doby reported that he has not held public office other than judicial office.

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(6) Physical Health:

Judge Doby appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Doby appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Doby was admitted to the South Carolina Bar in 1989.

He gave the following account of his legal experience since graduation from law school:

(a) McDonald, McKenzie, Fuller, Rubin & Miller, 1989-1992;

General practice with an emphasis on litigation. I was an associate with primary responsibility being litigation and specifically insurance defense. I was not involved with management of the firm in any manner.

(b) Jennings & Jennings, PA, 1992-present; General practice with emphasis on litigation. I have been partner charged with administrative and financial management of Jennings & Jennings, PA for approximately the past twelve years. I hold direct management responsibility for all trust accounts.

Judge Doby further reported regarding his experience with the Circuit Court practice area:

I have extensive experience in both criminal and civil matters and have litigated both types of cases for the majority of time I have practiced law.

As to criminal matters, my experience included being a public defender for Lee County for approximately 16 years and have been retained to represent defendants in criminal matters since 1992. My experience as a public defender includes trying cases involving murder, kidnapping, rioting, burglary and other serious crimes.

As to civil matters, my experience is primarily representing plaintiffs but I have also defended cases as well. My experience includes trials involving personal injury, real

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property disputes, probate matters, family court trials and other matters which involve issues encountered in general practice.

I have also been Master-in-Equity for Lee County since 2008 and feel this experience has been invaluable in preparing me as a potential Judge of the Circuit Court.

I have, in the last five years, appeared regularly before Circuit Courts with an average of approximately one time per month.

Judge Doby reported the frequency of his court appearances prior to his service on the bench as follows:

- (a) Federal: None;
- (b) State: Extensive including on average appearances of at least once per month

Judge Doby reported the percentage of his practice involving civil, criminal, domestic and other matters prior to his service on the bench as follows:

- (a) Civil: 25%;
- (b) Criminal: 25%;
- (c) Domestic: 25%;
- (d) Other: 25% (real property, probate, Magistrate's Court)

Judge Doby reported his practice in trial court as follows:

- (a) 25% settled prior to trial
- (b) Approximately 20 cases went to trial and resulted in a verdict
- (c) 0 cases went to trial and resolved after the plaintiff's or State's case
- (d) 0 cases settled after a jury was selected but prior to opening statements

Judge Doby provided that during the past five years prior to his service on the bench he most often served as sole counsel.

The following is Judge Doby's account of his five most significant litigated matters:

- (a) *Josey v. Josey*, Appellant Case No. 2011-197626
Memorandum Opinion No. 2013- MO-024 (S.C.
September 11, 2013). The issues in this case were

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numerous and dealt with issues of interpretation and application of partition statutes.

- (b) *State v. Freddie Gardner*, not reported. The defendant, my client, was charged with murder and the case was tried by a jury. The defendant was found guilty.
- (c) *State v. Adrian Branham*, not reported. The defendant, my client, was charged with armed robbery and murder and was tried twice with a verdict of not guilty on the retrial.
- (d) *State v. Tyrone Singletary*, Unpublished opinion No. 2008-UP-506. I was appointed to represent the defendant, Tyron Singletary at his trial, for charges of rioting, taking a hostage, assaulting a correctional officer, carrying a weapon, and inciting a riot. I did not represent the defendant in the appeal. This case was tried by a jury for approximately one week and resulted in a guilty verdict. The appeal was handled by another attorney.
- (e) *Strickland v. Strickland*, 375 S.C. 76, 650 S.E.2d 465 (2007). A novel case involving principals of enforcement of an order and estoppel. I represented the wife at the trial and at the appellate level.

The following is Judge Doby's account of four civil appeals he has personally handled:

- (a) *Josey v. Josey*, Supreme Court of South Carolina, decision dated September 11, 2013, Appellate Case No. 2011-797626, Memorandum Opinion No. 2013-MO-024.
- (b) *Snow v. City of Columbia*, Court of Appeals of South Carolina, decision dated September 23, 1991, 305 S.C. 544, 409 S.E.2nd. 797 (Court of Appeals 1991).
- (c) *Strickland v. Strickland*, Supreme Court of South Carolina, decision dated August 27, 2007, 375 S.C. 76, 650 S.E.2nd 465 (2007).
- (d) *Dinkins-Robinson v. Ratner*, South Carolina Court of Appeals, decision dated March 15, 2022, Unpublished Opinion No. 2023-UP-094.

Judge Doby reported that he has not personally handled any criminal appeals.

Judge Doby reported that he has held the following judicial office:

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Lee County Master in Equity
January 2008 - December 2012;
January 2013 – December 2018;
January 2019 – present.

Judge Doby provided the following list of his most significant orders or opinions:

Attached

- (a) *Progressive Church of Our Lord, Jesus Christ, Inc. by the Board of Bishops v. Elder Roscoe Black, et al individually & as Trustees of Progressive Church of Bishopville*, which involved ownership of property. Not reported.
- (b) *Ernestine N. Palmer, as Trustee of the Article IV Trust created under the will of Mary Denman Newman, deceased et al v. Hatcham Grove, Inc and David H. Lucas*, which involved a complicated mortgage foreclosure. Not reported.
- (c) *United State of America, acting through the Farmers Home Administration, et al v. Maxie Lee Thomas, Jr., et al*, which involved mortgage foreclosure. Not reported.
- (d) *Wateree Timberland Company v. Wilson, et al*, which involved recovery of real property after a tax sale. Served as Special Referee for Sumter County. Not reported.
- (e) *ArborOne v. Drayton*, which involved issues of foreclosure, receiver, and homestead exemption. Not reported.

Judge Doby reported the following regarding his employment while serving as a judge:

Jennings & Jennings, PA, 1992 to present; General practice of law with responsibility of being managing partner for approximately the past twelve years. Practice is best described as a general practice.

(9) Judicial Temperament:

The Commission believes that Judge Doby’s temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Pee Dee Citizens Committee on Judicial Qualifications found Judge Doby to be “Well-Qualified” as to the evaluative criteria of ethical fitness, professional and academic ability,

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character, reputation, experience, and judicial temperament; and “Qualified” in the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee provided no summary statement.

Judge Doby is married to Anna Margaret McDaniel Doby. He has one child.

Judge Doby reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar Association, no offices

Judge Doby reported that he was not a member of any civic, charitable, educational, social, or fraternal organizations within the past five years.

Judge Doby further reported:

My experience as Master-in-Equity for Lee County since 2008 has been invaluable in teaching the values and demeanor necessary to be a Circuit Court Judge. The value of treating everyone with respect and courtesy would be an important part of my being a Judge in Circuit Court.

(11) Commission Members’ Comments:

The Commission commended Judge Doby for his excellent BallotBox survey results. Further, they noted that his judicial temperament while serving as the Lee County Master-in-Equity has been praised as excellent, and that he is well suited for the Circuit Court bench.

(12) Conclusion:

The Commission found Judge Doby qualified, and nominated him for election to Circuit Court, Third Judicial Circuit, Seat 1.

Christopher R. DuRant
Circuit Court, Third Judicial Circuit, Seat 1

Commission’s Findings: QUALIFIED AND NOMINATED

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(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. DuRant meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. DuRant was born in 1982. He is 41 years old and a resident of Gable, South Carolina. Mr. DuRant provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2008.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. DuRant.

Mr. DuRant demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. DuRant reported that he has not made any campaign expenditures.

Mr. DuRant testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. DuRant testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. DuRant to be intelligent and knowledgeable.

Mr. DuRant reported the following about teaching law-related courses:

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On two (2) occasions, I have led free estate planning clinics in the community.

Mr. DuRant reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. DuRant did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. DuRant did not indicate any evidence of a troubled financial status. Mr. DuRant has handled his financial affairs responsibly.

The Commission also noted that Mr. DuRant was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. DuRant reported that he is not rated by any legal rating organization.

Mr. DuRant reported that he has not served in the military.

Mr. DuRant reported that he has never held public office.

(6) Physical Health:

Mr. DuRant appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. DuRant appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. DuRant was admitted to the South Carolina Bar in 2008.

He gave the following account of his legal experience since graduation from law school:

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(a) Judicial Law Clerk to the Honorable R. Ferrell Cothran, Jr., Judge of the Circuit Court, Third Judicial Circuit; August 2008 – August 2009;

i. Performed legal research; drafted, edited and reviewed proposed orders.

(b) Assistant Solicitor, Eighth Judicial Circuit Solicitor's Office; August 2009 – July 2011;

i. Served as a special drug crimes prosecutor, handling the prosecution of all General Sessions level drug cases arising in Laurens and Newberry Counties; caseload later expanded to include a broader range of offenses.

(c) Assistant Solicitor; Third Judicial Circuit Solicitor's Office; August 2011 – March 2019;

i. Served as the senior prosecutor and manager of the Clarendon County office, responsible for scheduling, docket management, case assignments, and prosecution of an extensive General Sessions level caseload, including all homicides and most violent / serious offenses.

(d) Associate, Law Office of William H. Johnson, LLC, Manning, SC; October 2011 – March 2019;

i. Concurrent with service as Assistant Solicitor.

ii. Developed a diverse law practice in civil litigation, family law, personal injury, real estate litigation, real estate transactions, estate planning, and probate.

(e) Associate, Johnson DuRant, LLC, Manning, SC and Santee, SC; April 2019 – present.

i. Together with law partner, William H. Johnson, merged practice with Nester & Jackson, P.A. in Santee, SC, thereby adding a second office; Attorney Nester retired December 2021.

ii. Have maintained and expanded practice in civil litigation, family law, personal injury, real estate litigation, real estate transactions, estate planning, and probate, operating in and dividing time between two offices.

iii. Have expanded practice to include criminal defense, which now accounts for approximately 25% of overall practice.

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iv. Participate in administrative and personnel / management decisions.

v. Responsible for individual fees and costs billing and utilization of real estate and litigation trust accounts.

Mr. DuRant further reported regarding his experience with the Circuit Court practice area:

During my nearly ten (10) years of service as an assistant solicitor, including eight (8) years as the senior prosecutor for Clarendon County, I gained valuable criminal trial experience, having tried dozens of cases through to jury verdict. I have served as the sole attorney or first chair during jury trials for the following criminal offenses: murder; attempted murder; armed robbery; reckless homicide; felony driving under the influence resulting in death / great bodily injury; hit and run involving death; criminal sexual conduct with a minor, 2nd and 3rd degree; threatening the life of a public official; intimidation of a court official; assault and battery of a high and aggravated nature; assault and battery, 1st and 2nd degree; assault and battery by mob; kidnapping; burglary, 1st, 2nd and 3rd degree; bank robbery; grand larceny; forgery; financial transaction card fraud; shoplifting; receiving stolen goods; drug trafficking; possession with intent to distribute drugs; drug possession; failure to stop for blue light; and resisting arrest.

As a criminal prosecutor, I routinely encountered and litigated evidentiary and other legal issues arising during trial, including but not limited to, and Duncan / Protection of Persons and Property Act hearings, 4th amendment / search and seizure issues, Jackson v. Denno hearings regarding the admissibility of a defendant's statement, Neil v. Biggers hearings regarding the admissibility of eyewitness identification, Bruton issues, etc.

Having left the Solicitor's Office in March 2019, the bulk of my criminal trial experience predates the five-year modifier of the above inquiry. As a result, I include and ask the Commission to consider the following trial experience beginning in January 2018:

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- (a) State v. Jeremiah Smith, Jr.; 2015-GS-14-189; January 2018. Mr. Smith was charged with and convicted of attempted murder following trial. This matter involved the application of Rule 613(b), SCRE as to the introduction of extrinsic evidence of a testifying codefendant's prior recorded statement, due to variations in such individual's testimony at trial.
- (b) State v. Tammy Dianne Brown, 436 S.C. 505, 873 S.E.2d 445 (Ct. App. 2022); May 2018. Ms. Brown was charged with and convicted of felony driving under the influence resulting in death and a second count resulting in great bodily injury. This matter involved complicated expert witness testimony regarding accident reconstruction, and issues regarding the sufficiency of an indictment, admissibility of a defendant's blood sample, and the video recording requirements of the implied consent statute.
- (c) State v. Justin Cameron; 2016-GS-14-161; August 2018. Mr. Cameron was charged with and convicted of criminal sexual conduct with a minor, 1st degree. I assisted another prosecutor during this trial which involved the utilization of a blind expert witness regarding child sex abuse and late disclosures.
- (d) State v. Ramell Thompson; 2016-GS-14-48, December 2018. Mr. Thompson was charged with murder. Following pretrial matters, jury selection, opening statements and testimony from several witnesses, this matter ended in a mistrial.

In addition to the above, since leaving the Solicitor's Office in 2019 in favor of the full-time private practice of law, I have developed a growing criminal defense practice. In furtherance of this practice, I have or am currently representing criminal defendants charged with a wide range of criminal offenses, up to and including murder (three such pending cases).

As indicated above, in addition to my service as a prosecutor, I have been engaged in the private practice of law since 2011, during which time I have developed a diverse civil litigation practice, primarily in representation of plaintiffs. This representation has included varied personal injury matters, including automobile accidents and premises liability matters, actions for defamation, contractual disputes, interference with

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contract, breach of fiduciary duty, actions to set aside deeds, and other real estate litigation, including foreclosures, heirs' property matters, quiet title and partition actions. In furtherance of this practice, I have gained valuable experience in civil discovery and motions practices.

As an example of a complex legal issue encountered, my law partner and I represented the Plaintiffs in a negligent entrustment action against a sporting goods store that sold a firearm to a mentally defective person, who, the following day, used the firearm to shoot a hospital staff member. At the summary judgment stage, that action involved the application of the federal Protection of Lawful Commerce in Arms Act, which prohibits, subject to certain exceptions, civil liability actions against manufacturers and sellers of firearms.

As to the frequency of my appearances before a Circuit Court judge, while working as an assistant solicitor, I regularly appeared throughout the entirety of each monthly term of court. Since leaving the Solicitor's Office, I have had required appearances at least monthly, most often for guilty pleas and/or bond hearings in the Court of General Sessions, and motion and/or non-jury hearings in the Court of Common Pleas.

Mr. DuRant reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: 2-3 total appearances
- (b) State: 5-10 appearances per month, including criminal, civil and domestic..

Mr. DuRant reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 20%;
- (b) Criminal: 25%;
- (c) Domestic: 20%;
- (d) Other: 35%.

Mr. DuRant reported the percentage of his practice in trial court during the past five years as follows:

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(a) What percentage of your practice was in trial court, including cases that settled prior to trial? Approximately 60%.

(b) What number of cases went to trial and resulted in a verdict? Approximately 75 cases. In the interest of transparency, I offer the following breakdown:

i. General Sessions jury: 3 cases (January 2018 to present).

ii. Common Pleas non-jury (e.g., quiet title/partition actions, foreclosure, breach of contract) and Magistrate's Court non-jury (e.g., eviction actions, criminal, breach of contract) requiring the presentation of testimony and documentary evidence: Approximately 40-50 cases.

iii. Family Court: 5 cases resolved by judgment following final evidentiary hearings, including one in which I served as the guardian ad litem, but excluding temporary hearings, contempt hearings, and final hearings for the approval of a settlement agreement.

iv. Administrative, Social Security and Workers' Compensation: Approximately 5 – 10 cases.

v. Probate: Approximately 10-15 cases.

(c) What number of cases went to trial and resolved after the plaintiff's or State's case? (Resolved may include settlement, plea, by Judge's order during a motion hearing, etc.)

Approximately 3-4 cases.

(d) What number of your cases settled after a jury was selected but prior to opening statements? Approximately 3-4 cases.

Mr. DuRant provided that during the past five years he has most often served as sole counsel.

The following is Mr. DuRant's account of his five most significant litigated matters:

(a) State v. Justin Jermaine Johnson, 422 S.C. 439, 812 S.E.2d 739 (Ct. App. 2018). This case arose out of a double murder in Clarendon County in which the Defendant brutally killed his nine-month-old son and the child's great grandmother. Solicitor Ernest A. Finney, III and I represented the State at trial over the course of two weeks in March 2014, following which the Defendant was convicted and sentenced to life in prison. The most significant issue presented involved the admissibility of the Defendant's confession, which was received near

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the end of approximately 11 hours of videotaped interviews by law enforcement and was complicated by the investigators' misrepresentations of evidence to the Defendant, and by the alleged exertion of improper influence.

- (b) State v. Tammy Dianne Brown, 436 S.C. 505, 873 S.E.2d 445 (Ct. App. 2022). As noted above, Ms. Brown was charged with felony driving under the influence resulting in death as well as felony driving under the influence resulting in great bodily injury following a two-car automobile accident which resulted in the death of one victim and significant injuries to another. I served as the lead prosecutor for the State at trial in May 2018. While the most significant appellant issues were that of the sufficiency of the indictment and the video recording requirements of the implied consent statute, significant trial issues included the presentation of complex expert witness testimony regarding accident reconstruction and the sufficiency of a search warrant probable cause affidavit bearing on the admissibility of the Defendant's blood sample.
- (c) State v. Chad Morris; 2014-GS-14-329. Mr. Morris was charged with reckless homicide by operation of boat and failure to render aid resulting in death, following a boating accident on Lake Marion in Clarendon County on July 4, 2014, which resulted in the death of a 21-year-old college student. I served as the lead prosecutor for the State during this approximately 25-witness trial in July 2016.
- (d) State v. Jeffrey Eady; 2013-GS-14-164. Mr. Eady was charged with two counts of murder and other charges following the killings of two women in Clarendon County, and a third murder in Charleston County, before he was eventually arrested in Florida. Mr. Eady was noticed for the death penalty but was eventually permitted to plead guilty to life without parole in consideration of mental health mitigating circumstances.
- (e) Austin v. Phillips Sporting Goods, LLC; 2021-CP-38-1405. As referenced above, my law partner and I represented the Plaintiffs in this negligent entrustment action against

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a sporting goods store that sold a firearm to a mentally defective person, who, the following day, used the firearm to shoot a hospital staff member. Of significance, I handled the response to the Defendant's motion for summary judgment, which involved the application of the federal Protection of Lawful Commerce in Arms Act, which prohibits, subject to certain exceptions, civil liability actions against manufacturers and sellers of firearms.

The following is Mr. DuRant's account of two civil appeals he has personally handled:

(a) Estate of Ellen Hillery v. Michael We. Pettigrew, as Personal Representative of the Estate of Webber Pettigrew; 2022-CP-08-2722. While not an appeal *from* the Court of Common Pleas, I represented the Appellant in this appeal from the Probate Court of Berkeley County *to* the Court of Common Pleas. The judgment of the Probate Court was overturned and the matter remanded for a new hearing. I have attached the Final Brief of Appellant as a writing sample pursuant to question 24

(b) Martha M. Coleman v. Jeffrey W. Coleman and Brooks Walters; Appellate Case No. 2022-001209. I currently represent the Respondent, Martha M. Coleman, in this appeal from the Sumter County Family Court which is pending before the Court of Appeals. I have attached the Initial Brief of Respondent as a writing sample pursuant to question 24.

Mr. DuRant reported that he has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. DuRant's temperament would be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Committee on Judicial Qualification found Mr. DuRant to be "Well-Qualified" as to the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience and judicial temperament; and

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“Qualified” in the criteria of constitutional qualifications, physical health, and mental stability.

Mr. DuRant is married to Ansely Toole DuRant. He has three children.

Mr. DuRant reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar;
- (b) Clarendon County Bar;
- (c) Orangeburg County Bar
- (d) South Carolina Association of Criminal Defense Lawyers.

Mr. DuRant provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Board of Directors; Clarendon County Commission on Alcohol and Drug Abuse d/b/a Clarendon Behavioral Health Services;
- (b) Top 20 Professionals under 40 – Sumter, Lee, & Clarendon; Sumter ITEM; 2019-2020

Mr. DuRant further reported:

I am fortunate to have been raised in a multigenerational farming family where hard work and long hours were the norm. Amongst the principles and values instilled through this experience that I appreciate most now is that of a strong work ethic. Any success that I have found in the practice of law has been a function of a related principle, that is, “there is no substitute for preparation.” I believe my broad legal experience would prove to have prepared me well to serve as a circuit court judge.

While working as the senior assistant solicitor in Clarendon County, it was not only my responsibility to see that justice was done as to an annual caseload of approximately 500 warrants, but to manage the overall county docket, and to ensure that each term of court was utilized efficiently and effectively. Having had this experience, I appreciate the challenge of balancing these seemingly competing interests, but nevertheless value the effort required in doing so in order to maintain a healthy judicial system.

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I believe my experience is unique in, first of all, having worked on both sides of the aisle in criminal matters. As a result, I have not only encountered the full gamut of constitutional and evidentiary legal issues but can appreciate the variety of factors that might impact just resolution. Secondly, I believe my experience is unique in having been engaged in private practice concurrent to my service in the Solicitor's Office. When asked in what area of law I specialize, I often respond that "it's hard to specialize in a small town." The benefit to this type of practice, however, is in becoming well-rounded in one's legal experience.

In my legal career, I have had the great pleasure of appearing before many different Circuit Court judges, often during the tense and adversarial midst of trial. Through this experience, I have grown to appreciate not only the wisdom and knowledge exuded by most in their application of the law, but also the patience, courtesy and dignity with which those who appear before them are treated. If elected, I would consider the latter values to be equally as important as the former

(11) Commission Members' Comments:

The Commission commented that Mr. DuRant has a breadth of experience that would serve him well on the bench. They further noted that Mr. DuRant's work ethic makes him well-suited to the demands of a Circuit Court judge.

(12) Conclusion:

The Commission found Mr. DuRant qualified, and nominated him for election to Circuit Court, Third Judicial Circuit, Seat 1.

Samuel L. Floyd
Circuit Court, Third Judicial Circuit, Seat 1

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Floyd meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

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Mr. Floyd was born in 1969. He is 54 years old and a resident of Kingstree, South Carolina. Mr. Floyd provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2001.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Floyd.

Mr. Floyd demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Floyd reported that he has made \$299.81 in campaign expenditures for handout cards, note cards, and envelopes.

Mr. Floyd testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Floyd testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Floyd to be intelligent and knowledgeable.

Mr. Floyd reported that he has taught the following law-related courses:

I taught Business Law from 2005 to 2007 at Williamsburg Technical College, Kingstree, SC.

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Mr. Floyd reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Floyd did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. Floyd did not indicate any evidence of a troubled financial status. Mr. Floyd has handled his financial affairs responsibly.

The Commission also noted that Mr. Floyd was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Floyd reported that aside from a peer review in Martindale-Hubbell, he is not rated by any legal rating organization.

Mr. Floyd reported that he has not served in the military.

Mr. Floyd reported that he has held the following public office:

- (a) I was elected to Williamsburg County Council in November, 2010 and currently serve as Council Member for District Six.
- (b) On June 28, 2013, I paid a penalty for the following late filing dates:

October 10, 2010
January 10, 2011
April 10, 2011
July 10, 2011
January 10, 2012
January 10, 2013

If I remember correctly, we had filed the reports on time, but they were done incorrectly. The matter came to my attention when I contacted the Ethics Commission on

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another matter. The reports were then corrected, and I paid the fee for my mistake.

(6) Physical Health:

Mr. Floyd appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Floyd appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Floyd was admitted to the South Carolina Bar in 2001.

He gave the following account of his legal experience since graduation from law school:

- (a) I served as Clerk for the Honorable M. Duane Shuler, 1999.
- (b) I worked for Williamsburg County from 2001 to 2002 as a Magistrate Judge.
- (c) I worked at Jenkinson, Jarrett & Kellahan, P.A. law firm as an Associate, beginning April, 2002 and ending in 2007. I was not responsible for the administrative or financial management of the firm. I handled civil and criminal cases in the Court of Common Pleas, General Sessions, and Magistrate/Municipal Courts. I handled Family Court cases as well as real estate cases involving partitions, foreclosures, and loan closings.
- (d) I have engaged in private practice for my own firm, Samuel L. Floyd, LLC, from January, 2007 to the present. My practice includes civil and criminal cases in the Court of Common Pleas, General Sessions, and Magistrate and Municipal courts, and Family Court litigation (plaintiff and defendant), and real estate cases involving partitions, foreclosures, and loan closings.
- (e) I am responsible for the administrative and financial management of my practice, including the management of trust accounts.

Mr. Floyd further reported regarding his experience with the Circuit Court practice area:

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- (a) Over the past five years, I have handled various criminal matters in
- (b) Magistrate, Municipal and General Sessions Court ranging from traffic violations to murder. These cases involved working out a plea defense and active defense at trial.
- (c) My civil case experience includes, but is not limited, personal injury cases (plaintiff and defendant), real estate litigation such as partitions, foreclosure and right of way actions, landlord tenant cases, collections cases (plaintiff and defendant) in all SC Courts.

Mr. Floyd reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: None;
- (b) State: Weekly.

Mr. Floyd reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 40%;
- (b) Criminal: 40%;
- (c) Domestic: 0%;
- (d) Other: 20%.

Mr. Floyd reported the percentage of his practice in trial court during the past five years as follows:

- (a) 50% settled prior to trial
- (b) 0 cases went to trial and resulted in a verdict
- (c) 0 cases went to trial and resolved after the plaintiff's or State's case
- (d) 1 case settled after a jury was selected but prior to opening statements

Mr. Floyd provided that during the past five years he most often served as sole counsel.

The following is Mr. Floyd's account of his five most significant litigated matters:

- (a) *State vs. Marty Baggett Case # 2010-GS-45-269 and 2010-GS-45-270*. Case was tried in Williamsburg County General Sessions Court. I was court appointed to defend

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Mr. Baggett who was charged with Felony DUI and Reckless Homicide. He was convicted in Circuit Court on 7-22-2011. At the conclusion of testimony, I made a motion for a directed verdict which the trial Court denied. A motion to appeal was filed by me but handled by the Office of the Indigent Defense based on denial of the directed verdict motion. The motion was affirmed by a three member panel at the Courts of Appeals. Later the SC Supreme Court on October, 2015 affirmed the trial Court ruling.

- (b) *State vs. Lou Ann Robinson*, Case # 2007GS4500152. Case was tried in Williamsburg County General Sessions Court. I served as co-counsel with W. E. Jenkinson, III to represent defendant. Defendant was charged with murder and possession of a weapon during a violent crime. She was convicted on the lesser included charge of involuntary manslaughter thereby significantly reducing her sentence.
- (c) *Jason Bynum vs. South Carolina Department of Corrections, Robert H Blease, DDS and Robert H. Blease, DDS, P.A.*, Case # 2003CP1400482. Case was tried in Clarendon County Circuit Court. Mr. Bynum was my client. I associated J. Ed Bell for trial purposes. The Plaintiff was an incarcerated inmate who suffered a personal injury claim as a result of mistreatment for a tooth infection. A verdict of \$825,000 was rendered in plaintiff's favor.
- (d) *Janie Rabon vs. Derrick Scott Patrick and Clark's Transport Co., LLC*, Case # 2012CP2100840. I associated Ronnie Sabb and Kimberly Barr to assist at trial. We obtained a favorable jury verdict for plaintiff for damages.
- (e) *State vs. Robert Stack*. Case number not available as case was expunged. This was a trial in the Williamsburg County Magistrate Court. I represented the Defendant who was charged with Criminal Domestic Violence. The case was tried three times. The defendant was finally found not guilty and he was able to keep his job.

Mr. Floyd reported he has not personally handled any civil or criminal appeals.

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Mr. Floyd further reported the following regarding unsuccessful candidacies:

- (a) I was an unsuccessful candidate for the SC Senate race, seat #32 Special Election in 2014.
- (b) I was an unsuccessful candidate for Circuit Court, Third Judicial Circuit, Seat Two in 2017.

(9) Judicial Temperament:

The Commission believes that Mr. Floyd's temperament would be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Committee on Judicial Qualification found Mr. Floyd to be "Well-Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament; and "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee had no related or summary comments.

Mr. Floyd is married to Tammy Davis Floyd. He does not have any children.

Mr. Floyd reported that he was a member of the following Bar and professional associations:

- (a) SC Bar Association None
- (b) Williamsburg County Bar Association 2005
Secretary/Treasurer

Mr. Floyd provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Rotary Club
- (b) Williamsburg Regional Hospital Foundation Board

Mr. Floyd further reported:

I was fortunate to be raised in a good Christian home. From the time I could speak, my parents insisted and demanded that I be courteous, polite and respectful to all people. As a teenager, my father required that I work on our family tobacco

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farm each summer. From this I learned to appreciate hard work as well as the importance of being able to work daily with people from all walks of life.

My college experience was where I began interacting with people other than ones from my hometown. By joining a fraternity and serving in the student body Senate, I began to appreciate the value of what my parents and community had instilled in me.

Since graduating law school, I have participated in numerous volunteer efforts in my hometown of Kingstree. I have been active in the political area and have always strived to exercise professionalism when facing the most difficult or adverse situations. I believe my parents and community installed a humble and hard-working attitude in me that is commonly found in small towns across this state.

I meet the professional and academic ability criteria for this seat due to my broad exposure to the judiciary and my diverse experience practicing law. After law school I clerked for the Honorable M Duane Shuler. During this time, I learned the importance of proper courtroom demeanor and true professionalism. I served as a full time Williamsburg County Magistrate thereafter, where as I participated in all aspects of the judicial process. I worked as an associate with a well-respected law firm in Kingstree for five years. I have been the sole proprietor of my own law firm since 2007.

I have handled criminal cases ranging from speeding tickets to murder. I have litigated civil cases, some of which settled amicably, and some of which resulted in trial. I have handled family court cases, DSS cases, real estate matters including loans, partition actions and foreclosure. I was retained in 2016 as in-house counsel for Santee Electric Cooperative. I have been elected and currently serving as Williamsburg County Councilman, District Six. I have run unsuccessfully for the South Carolina State Senate District Thirty-two in 2014. I have always done my best to display professionalism in victory and defeat.

With the understanding that I do not know everything and have much left to learn and to be desired, I would like to use these values to ensure a fair, equitable and meaningful remedy in any situation that may present itself before me.

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(11) Commission Members' Comments:

The Commission commented that Mr. Floyd has a great deal of experience in both civil and criminal law. The Commission also noted his excellent temperament and demeanor in dealing professionally and personally with people in his community.

(12) Conclusion:

The Commission found Mr. Floyd qualified, and nominated him for election to Circuit Court, Third Judicial Circuit, Seat 1.

**The Honorable Kristi Fisher Curtis
Circuit Court, Third Judicial Circuit, Seat 2**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Curtis meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Curtis was born in 1969. She is 54 years old and a resident of Sumter, South Carolina. Judge Curtis provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1995.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Curtis.

Judge Curtis demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Curtis reported that she has paid \$1.89 in campaign expenditures for postage.

Judge Curtis testified she has not:

- (a) sought or received the pledge of any legislator prior to screening;

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- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Judge Curtis testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Curtis to be intelligent and knowledgeable.

Judge Curtis reported that she has taught the following law-related courses:

- (a) I have spoken on the topic of "Real Estate & Landlord/Tenant Law" & on Appellate Practice at Law School for Non-Lawyers, sponsored by the S.C. Pro Bono Program.
- (b) I have spoken on "Landlord/Tenant Law" to the Sumter County Board of Realtors.
- (c) I served on a panel of judges speaking on "Best Courtroom Practices" for a CLE in Richland County sponsored by the S.C. Bar.

Judge Curtis reported that she has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Curtis did not reveal evidence of any founded grievances or criminal allegations made against her.

The Commission's investigation of Judge Curtis did not indicate any evidence of a troubled financial status. Judge Curtis has handled her financial affairs responsibly.

The Commission also noted that Judge Curtis was punctual and attentive in her dealings with the Commission, and the

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Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Judge Curtis reported that she is not rated by any legal rating organization.

Judge Curtis reported that she has not served in the military.

Judge Curtis reported that she has held the following public office:

I was appointed to serve on the Sumter County Zoning Board of Appeals from 2009 until I resigned to serve as Sumter County Magistrate in 2011.

(6) Physical Health:

Judge Curtis appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Judge Curtis appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Judge Curtis was admitted to the South Carolina Bar in 1995.

She gave the following account of her legal experience since graduation from law school:

(a) Staff Attorney, South Carolina Court of Appeals, August 1995 to August 1996.

Prepared legal memoranda and conducted legal research for the judges of the South Carolina Court of Appeals.

(b) Law Clerk to the Honorable Kaye G. Hearn, South Carolina Court of Appeals, August 1996 to August 1998.

Read briefs and transcripts for each case assigned to Judge Hearn's panel each month. Conducted legal research, prepared memoranda of law, and drafted opinions as directed.

(c) Associate Attorney, Bryan Law Firm, August 1998 to 2004
Partner, Bryan Law Firm, 2003 to 2004

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Business litigation, appellate practice before the South Carolina Court of Appeals and South Carolina Supreme Court, represented Sumter County and the Sumter County Treasurer's Office, prosecuted criminal cases for the Sumter County Sheriff's Office in Magistrate's Court.

- (d) Trust Officer, Synovus Trust Company, September 2004 to February 2011

I was responsible for the administration of trust accounts and probate estates where Synovus was named as Trustee and/or Personal Representative of the Estate.

- (e) Magistrate Judge, Sumter County Summary Court, April 2011 to February 2018.

Appointed Chief Magistrate in July of 2011. Jurisdiction over traffic and criminal cases punishable by up to thirty days in jail and a \$500 fine. Civil jurisdiction over restraining order actions, evictions, public sales, and small claims civil cases where the amount in controversy does not exceed \$7,500.00. We conducted bond hearings for Sumter County 365 days per year, and held preliminary hearings on a monthly basis. Jury trials were conducted monthly for criminal and traffic cases. Jury trials were conducted quarterly for civil cases. As Chief Magistrate, I was responsible for the administration and financial management of the Court, and supervised a staff of twelve employees.

- (f) Circuit Court Judge for the Third Judicial Circuit, 2018 to present. Jurisdiction over Common Pleas and General Sessions Court.

Judge Curtis reported that she has held the following judicial office(s):

- (a) Appointed Magistrate Judge, Sumter County Summary Court, April 2011 to February 2018. Appointed Chief Magistrate for Sumter County July 2011 to February 2018. Jurisdiction over traffic and criminal cases punishable by up to thirty days in jail and a \$500 fine. Civil jurisdiction over restraining order actions, evictions, public sales, and small claims civil cases where the amount in controversy does not exceed \$7,500.00. Conducted bond hearings and preliminary hearings for General Sessions matters.

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Summary Court has no jurisdiction to hear cases involving any interest in real property.

- (b) Elected Circuit Court Judge for the Third Judicial Circuit, Seat Two, on February 7, 2018. Jurisdiction over all civil matters pending in the Court of Common Pleas and all criminal cases in the General Sessions Court. No jurisdiction over family court matters.

Judge Curtis provided the following list of her most significant orders or opinions:

- (a) *Hood v. United Services Automobile Ass'n*, 2023 WL 155073. Plaintiff sued her insurance company for bad faith in connection with payment of her UIM claim. The Court of Appeals affirmed my order granting JNOV in favor of the defendant. In a special interrogatory, the jury found the defendant did not violate its duty of good faith and fair dealing. I granted JNOV as to the Plaintiff's negligence cause of action, holding that there was no separate duty owed by the Defendant Insurer above and beyond the duty of good faith and fair dealing.
- (b) *Meswaet Abel, as Personal Representative of the Estate of Zerihun Wolde v. Lack's Beach Service*, 2019-CP-26-07075, Order on Post-Trial Motions filed April 10, 2023, Horry County Court of Common Pleas. In this tragic wrongful death action, I affirmed the jury's significant verdict following a week-long trial. The case is currently on appeal to the South Carolina Court of Appeals.
- (c) *Atkinson v. SSC Sumter East Operating Co., LLC*, 2022 WL 17484345. In this nursing home negligence case, the Court of Appeals affirmed my order denying the Defendant's motion to dismiss and compel arbitration.
- (d) *The Station, Inc. d/b/a Company Two, Inc. v. Hampton County*, 2017-CP-25-00170. Final Order dated October 8, 2021, Hampton County Court of Common Pleas. In this case, The Station, Inc. relocated its business to Hampton County in conjunction with negotiations with the County for use of the airport facilities. This case involved numerous issues of contract construction, as well as equitable principles. It is currently on appeal to the South Carolina Court of Appeals.

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- (e) *In re: The Murkin Group, LLC*, 429 S.C. 618, 840 S.E.2d 926 (2020). This case was filed in the South Carolina Supreme Court pursuant to its original jurisdiction to hear cases alleging the unauthorized practice of law. The Supreme Court assigned the case to me as Special Referee to conduct a hearing, take testimony, and issue a report and recommendation. The Supreme Court followed my recommendation and adopted my order in large part as the published opinion.

Judge Curtis reported no other employment while serving as a judge.

(9) Judicial Temperament:

The Commission believes that Judge Curtis's temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Pee Dee Citizens Committee on Judicial Qualifications found Judge Curtis to be "Qualified" in the evaluative criteria of constitutional qualification, physical health, and mental stability; and "Well-Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee had no related or summary comments.

Judge Curtis is married to Warren Stephen Curtis. She has two children.

Judge Curtis reported that she was a member of the following Bar and professional associations:

- (a) Member, South Carolina Bar, 1995 to present
- (b) Third Circuit Delegate to the S.C. Bar House of Delegates, 2000 to 2001
- (c) Member, Sumter County Bar, 1998 to present
- (d) Sumter County Bar Executive Committee, 2003 to 2004
- (e) Member, South Carolina Summary Court Judges Association, 2011 to 2018
- (f) Member, South Carolina Summary Court Judges Advisory Board, 2015 to 2018

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- (g) Member, South Carolina Commission on Continuing Legal Education, 2022 to present
- (h) Member, South Carolina Commission on Judicial Conduct, 2023 to present.

Judge Curtis provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Sumter Rotary Club. Avenue of Service Award Recipient 2014 – 2015. Program Chair 2010 to 2012, 2014 to 2018. Newsletter editor 2006 to 2008. Membership Committee 2005.
- (b) Member, Alice Drive Baptist Church, 2001 to present. Building Committee, Personnel Committee, Sunday school teacher for children and youth.
- (c) Sumter Assembly, Debutante Club.
- (d) The Epicureans, Debutante Club.
- (e) Bon Pied, Dance Club.

Judge Curtis further reported:

It has been the greatest honor of my professional life to serve as Circuit Court Judge for the Third Judicial Circuit over the past five years. It is a true pleasure to travel the state and observe the high caliber of attorneys who practice in the civil and criminal courts of South Carolina. It is enormously humbling to appear before this very gifted bar. It has also been the greatest privilege to serve the civil litigants, the victims and their families, and the criminal defendants of this State, and to give them a forum to tell their stories. My experience as a Circuit Court judge has reinforced my belief that the attorneys and litigants of this state deserve to have their cases heard by a judge who is professional, competent, prepared, courteous, and compassionate. I have tried every day of my tenure to be the judge they deserve.

(11) Commission Members' Comments:

The Commission commented that Judge Curtis has an outstanding reputation as a jurist. They noted that she was exceptionally well-qualified and a credit to the profession.

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(12) Conclusion:

The Commission found Judge Curtis qualified, and nominated her for re-election to Circuit Court, Third Judicial Circuit, Seat 2.

**The Honorable Michael S. Holt
Circuit Court, Fourth Judicial Circuit, Seat 2**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Holt meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Holt was born in 1970. He is 53 years old and a resident of Hartsville, South Carolina. Judge Holt provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1996.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Holt.

Judge Holt demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Holt reported that he has not made any campaign expenditures.

Judge Holt testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

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Judge Holt testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Holt to be intelligent and knowledgeable.

Judge Holt reported the following about teaching law-related courses:

I have been an adjunct professor and have taught, among other things, business law.

Judge Holt reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Holt did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Judge Holt did not indicate any evidence of a troubled financial status. Judge Holt has handled his financial affairs responsibly.

The Commission also noted that Judge Holt was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Holt reported that he is not rated by any legal rating organization.

Judge Holt reported that he has not served in the military.

Judge Holt reported that he has held the following public office: I was elected as Mayor of the City of Hartsville, South Carolina from 2005 – 2009. I filed all required reports; however, there were late reports which resulted in fines, all of which were promptly paid.

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(6) Physical Health:

Judge Holt appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Holt appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Holt was admitted to the South Carolina Bar in 1996.

He gave the following account of his legal experience since graduation from law school:

- (a) From 1996 to 2006 my practice experience would best be described as a general practice. My areas of focus were primarily in domestic litigation, criminal defense, Social Security disability and real estate, although I handled other matters, as well.
- (b) Beginning in 2006 until 2009 when I was elected to the Family Court bench, I operated my own law firm as a sole practitioner. My areas of primary practice did not change. Obviously, in managing my own firm, I was responsible for handling all financial matters and business functions of my firm.

Judge Holt reported that he has held the following judicial office(s):

I was elected in 2009 to Seat 3, Family Court of the Fourth Judicial Circuit. I served in that position until 2021 when I was elected to Seat 2, Circuit Court of the Fourth Judicial Circuit and have served continuously since that time.

Judge Holt provided the following list of his most significant orders or opinions:

- (a) *State of South Carolina v. William A. Stone*: What makes this case unique is this was the first Duncan hearing over which I presided. The facts of the case I also found interesting. The Court found the defendant immune from criminal prosecution or civil liability. The case involved a dispute between a defendant father and his adult son at the

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defendant father's home. I found the legal analysis interesting, which is why I list it here.

- (b) *State of South Carolina v. Joshua D. Manning*: This case involved the murder of a prominent member of the community, which brought significant notoriety to the trial. During the course of the trial, there was a large gathering in the gallery, which included multiple members of the news media. What was memorable was the level of tension in the courtroom due to the raw emotions of the nature of the trial. There was a conviction of murder in the case resulting in a life sentence for the defendant.
- (c) *State v. Donald D. Smith*: This case is unique to me because it was my first murder trial. It was held in Florence County while I was sitting with Judge Nettles. It was a week of supervision as required for new judges. Under Judge Nettles' supervision, I handled the trial with the exception of jury qualification and selection. From a factual and legal analysis there was not anything particularly distinguishing, but the experience is something I won't forget. The trial resulted in a guilty verdict requiring the court to issue a prison sentence to the Department Corrections.
- (d) *DJJ v. John Henry Bridges*: This case involved a juvenile who was charged with murdering an elderly lady. The matter before the Court was a "waiver" hearing, and it was the first one I had handled on the bench. I ultimately determined the juvenile should be waived up to General Sessions after a contested hearing.
- (e) *DSS vs. Tina Roberts, Travis Hayes, Richard Herring, Gene Lashley, Barbara Roberts, Johnny and Cammie Corbett and Catherine Hayes*: This was a DSS Abuse and Neglect case wherein the department had asked the Court to remove the children from the parents due to domestic violence among other things. The parents did not work the treatment plan and the Department chose to move before the Court to have the children placed with the paternal grandmother who had not been involved in the children's lives. The Court gave custody to the parties who had the interim custody of the children. This case was significant due to the number of parties involved; it was a lengthy trial and the children

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were placed with non-relatives who the Court felt offered the best home to the minor children.

Judge Holt reported the following regarding his employment while serving as a judge:

I have served as an adjunct professor at Coker University in Hartsville, South Carolina, in its evening programs. I began teaching in 2014 and have taught in the areas of business law, political science and business administration.

Judge Holt further reported the following regarding unsuccessful candidacies:

- (a) I was unsuccessful in the South Carolina Senate primary race in 1996.
- (b) I was unsuccessful in my attempt to be elected to the Court of Appeals, Seat #1, in 2018. I was technically never a candidate, but it was a position I sought.

(9) Judicial Temperament:

The Commission believes that Judge Holt's temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Pee Dee Citizens Committee on Judicial Qualifications found Judge Holt to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability; and "Well-Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee had no related or summary comments.

Judge Holt is married to Sherry Burton Holt. He has two children.

Judge Holt reported that he was a member of the following bar and professional associations:

- (a) SC Bar Association
- (b) Darlington County Bar Association
- (c) Pee Dee Inn of Court

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Judge Holt provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Pee Dee Inn of Court
- (b) Kappa Alpha Order – Court of Honor
- (c) Darlington County Historical Society

Judge Holt further reported:

Serving the judiciary has been the highlight of my professional career. I was raised in a family who stressed the importance of public service.

(11) Commission Members' Comments:

The Commission noted that Judge Holt has a reputation for treating people fairly and kindly. They commended his energy, passion, and his deep concern for the people of this State.

(12) Conclusion:

The Commission found Judge Holt qualified, and nominated him for re-election to Circuit Court, Fourth Judicial Circuit, Seat 2.

**James Smith
Circuit Court, Fifth Judicial Circuit, Seat 1**

Commission's Findings: QUALIFIED AND NOMINATED

Pursuant to § 2-19-80(A), if fewer than three persons apply to fill a vacancy or if the Commission concludes that there are fewer than three candidates qualified for a vacancy, it shall submit only the names and qualifications of those who are considered to be qualified, with a written explanation for submitting fewer than three names.

For the vacancy for Circuit Court, Fifth Judicial Circuit, Seat 1, two candidates applied for this vacancy. Accordingly, the names and qualifications of two candidates are hereby submitted in this report.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Smith meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

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Mr. Smith was born in 1967. He is 56 years old and a resident of Columbia, South Carolina. Mr. Smith provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1995. He was also admitted to the Georgia and North Carolina Bar in 1995 and the New York Bar in 2016.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Smith.

Mr. Smith demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Smith reported that he has not made any campaign expenditures.

Mr. Smith testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Smith testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Smith to be intelligent and knowledgeable.

Mr. Smith reported that he has taught the following law-related courses:

- (a) Numerous CLE and Conference appearances to provide a legislative update in various areas of the law.
- (b) Co-instructor for Sports and Entertainment Law at the University of South Carolina School of Law.

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- (c) Veterans Legal Clinic – I provided direction and supervision of law students under the student practice rule handling legal matters for veterans in the areas of family law, landlord / tenant, construction claims, expungement, simple wills, and powers of attorney.

Mr. Smith reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Smith did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. Smith did not indicate any evidence of a troubled financial status. Mr. Smith has handled his financial affairs responsibly.

The Commission also noted that Mr. Smith was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Smith reported that his rating by a legal rating organization, Martindale-Hubbell, is AV.

Mr. Smith reported the following military service:
Yes.

Mr. Smith reported that he has held the following public offices:

- (a) South Carolina House of Representatives – Nov. 1996 through Nov. 2018
- (b) Patriots Point Development Authority – May 2023 to Present.

(6) Physical Health:

Mr. Smith appears to be physically capable of performing the duties of the office he seeks.

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(7) Mental Stability:

Mr. Smith appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Smith gave the following account of his legal experience:

- (a) 1995 – 1996, Associate Attorney, Nelson Mullins Riley & Scarborough, LLP Served as an associate attorney on the Joel Smith Team assisting in complex auto products and worked on the Steve Morrison Team assisting in software defense cases. Not involved in the administrative or financial management of the firm.
- (b) 1996 – 2003 US Army Reserves / SC Army National Guard Judge Advocate (JAG) Served in a variety of roles including, trial defense counsel in criminal matters, drafted wills and powers of attorney, prepared family law separation agreements, advised the Commander on operational law, handled 15-6 investigation reviews, reviews of nonjudicial punishment, summary, and general courts martial, and served as the JAG on a civil affairs team. Not involved in the administrative or financial management as a JAG.
- (c) 1997 – 1999, Managing Shareholder, James E. Smith Jr., P.A. Solo General Practice handling as lead counsel in plaintiff's personal injury, corporate formation and transactions, commercial litigation, construction litigation, entertainment and intellectual property law, federal and state criminal defense, family law, probate, and estate planning. Handled all administrative and financial management, including management of the trust account.
- (d) 2000 – 2009, Shareholder, Smith Ellis and Stuckey, P.A. Shareholder with three other attorneys handling cases as lead counsel in practice areas including those mentioned above and adding plaintiff and defense securities cases, medical malpractice, complex automotive products defense, product liability, premises liability, criminal defense, administrative environmental and regulatory cases. Participated in the administrative and financial management of the firm, including assisting in the management of the trust account.

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- (e) 2010 – 2017, Managing Shareholder, James E. Smith Jr., P.A. Continued to serve as lead counsel and co-counsel in all of the above-mentioned practice areas. Handled all administrative and financial management, including management of the trust account.
- (f) 2019 – 2022, Of counsel with The Finkel Law Firm During this time, I was not involved in the active practice of law. I had a few legacy cases I was bringing to a conclusion. I was employed with the University of South Carolina. Not involved in the administrative or financial management of the firm.
- (g) 08/22 – 04/23, University of South Carolina School of Law – Veterans Legal Clinic Provided guidance to clinic students under the student practice rule to appear in SC Courts on behalf of Veteran clients who need assistance in areas of family law, landlord/tenant, consumer law, disability claims and other areas. Assisted clinic students in the administrative management of cases. There was no trust account to manage.
- (h) 09/22 – Present, Nelson Mullins Riley & Scarborough, LLP – Partner My current practice focuses on civil litigation. I am responsible for the administration of my practice, but I am not involved in the larger firm administration, nor am I involved in the management of a trust account.

Mr. Smith further reported regarding his experience with the Circuit Court practice area:

Much of the past five years I was not involved in the active practice of law as I was employed at the University of South Carolina. Throughout my nearly 28 years as a lawyer, I have handled numerous criminal and civil matters.

Criminal Matter Experience – In the earliest years of my practice, I gained valuable criminal case experience serving on the Federal CJA Panel. I was appointed to represent defendants charged with various federal drug related offenses. Over the years of my practice, I handled many state criminal cases that included charges ranging from traffic offenses, property crimes, disorderly conduct, to assault, domestic violence, and DUI.

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While as expected most of these cases concluded with a plea agreement, I tried several cases to a verdict. I can recall several successful defense verdicts in a domestic violence case, another in a DUI trial and a multi-count, multi-victim General Courts Martial Trial sexual assault trial case against a young Airman.

Civil Matter Experience – I have extensive civil matter experience on both sides of the bar, plaintiff, and defense, in cases large and small including numerous trials. I have served as lead counsel in election law trials, environmental full evidentiary trial in the administrative law court, construction litigation trials, automotive crashworthiness trial experience, defamation trial experience, motor vehicle accident trial, real property dispute trial experience, procurement, licensing and other administrative tribunal trials and others.

I have had lead counsel civil case experience in plaintiff and defense securities cases, plaintiff and defense employment law matters, plaintiff and defense class actions, plaintiff and defense commercial and business law, plaintiff and defense intellectual property cases, plaintiff medical malpractice cases, defense software cases, plaintiff and defense product liability cases, plaintiff and defense premises liability cases, plaintiff and defense landlord tenant cases, plaintiff qui tam cases, a variety of LLR licensing and enforcement cases, DOR licensing, and others.

Mr. Smith reported the frequency of his court appearances during the past five years as follows:

From January 2019 through May 2022, I worked full time at the University of South Carolina. These percentages reflect the five years prior.

(a) Federal: 10%

(b) State: 90%

Mr. Smith reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

From January 2019 through May 2022, I worked full time at the University of South Carolina. These percentages reflect the five years prior.

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- (a) Civil: 65%;
- (b) Criminal: 10%;
- (c) Domestic: 15%;
- (d) Other: 10%

Mr. Smith reported the percentage of his practice in trial court during the past five years as follows:

From January 2019 through May 2022, I worked full-time at the University of South Carolina.

(a) What percentage of your practice was in trial court, including cases that settled prior to trial? 75%

(b) What number of cases went to trial and resulted in a verdict?

1. After reviewing my answer to this question, I thought it might be worth supplementing my response to answer more fully. The original answer is correct in that I had one trial result in a verdict in the past five years when I was working full-time for the University of South Carolina. That answer does not fully share with the Commission my trial experience. Prior to my service at the University of South Carolina I ran my own practice for 24 years and have extensive trial experience in civil, criminal, family and administrative courts which have resulted in verdicts. If needed, I am happy to share with the commission specific examples.

(c) What number of cases went to trial and resolved after the plaintiff's or State's case? 0

(d) What number of your cases settled after a jury was selected but prior to opening statements? 0

Mr. Smith provided the following regarding his role as counsel during the past five years:

Throughout my nearly 28 years of practice, I served as sole or lead counsel in over 95% of the matters I was engaged in. Nearly four of the past five years I was employed with the University of South Carolina and not in the active practice of law. Since returning to the practice of law last year I have most often served as sole or lead counsel.

The following is Mr. Smith's account of his five most significant litigated matters:

- (a) *Teresa M. King v. Glenn MacDonald et al.*,
Civil Action No. 2012-CP-40-03794

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This was an important Defamation case for a variety of reasons. CSM (Ret) Teresa M. King was my client. She was the first female Commandant of the US Army Drill Sergeant School and her situation had gained national attention. This case dealt with some interesting personal jurisdiction issues where an out of state internet blog was subject to personal jurisdiction in South Carolina. The case ended in a verdict in favor of CSM (Ret) King.

- (b) *Hattie Knuckles et al. v. Toyota Motor Corporation et al.*

Civil Action No. 2004-CP-42-00200

Civil Action No. 2004-CP-42-00201

I represented the Defendants along with Joel H. Smith, Esq., of Nelson Mullins in this large complex automotive crashworthiness case. The trial Judge was Judge Mark Hayes who did an incredible job handling this litigation and trial. This was a nearly three-week highly complex trial that because of the size of the demonstrative exhibits was moved to the Spartanburg auditorium for a portion of the trial for expert witness testimony.

- (c) *Richland County, SC v. SCDOR et al.*

Civil Action No. 2016-CP-40-3102

I served as outside counsel for the Defendants, Counterclaim and Third-Party Plaintiffs. This was a complex high-profile case of first impression. I personally handled the matter from trial through appeal to the Supreme Court with assistance from SCDOR counsel and John S. Nichols, Esq., on the appeal.

- (d) *Troy Burgess v. Race Automotive,*

Civil Action No. 97-CP-32-1556

I represented the Plaintiff in this commercial automotive servicing case bringing causes of action for Breach of Contract, Fraud, SC Unfair Trade Practices Act and others. The case ended in a verdict in favor of the Plaintiff. I included it because every lawyer remembers their first trial but also because of the excellent trial judge, Judge William P. Keesley. I learned so much from him during that two-day trial. I gained an appreciation of what a good judge can do for the administration of justice and the confidence all parties can have in the result.

- (e) *United States of America v. Kevin Fetrow, SSGT, USAF,*

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I served as criminal defense counsel for Staff Sergeant Kevin Fetrow who was charged with multiple counts of sexual assault among five alleged victims. The case was brought as a General Court Martial and held before a military judge and panel (jury) on Shaw Air Force Base. It is significant not only to share the diversity of the cases I have tried but I learned valuable lessons about trial preparation and confirming evidence. I learned in preparation of the case that four of the five alleged victims would, if forced to testify under oath, recant any statement that my client committed any crime. I advised the prosecutor that they have a problem with their proof. Notwithstanding that information the prosecutor insisted on going forward with the trial. The near week long trial was a series of failed witnesses for the prosecution that ended in a very favorable verdict for my client, allowing him to continue to serve our Nation.

The following is Mr. Smith's account of five civil appeals he has personally handled:

- (a) *Darrick Jackson, Mayor of the Town of Timmonsville v. Mark Sanford, Governor*
Opinion No. 26918, January 24, 2011.
- (b) *Tynaysha Horton v. City of Columbia*,
Appellate Case No. 2012-211168, February 26, 2014
DD
- (c) *Richland County, South Carolina et al v. SCDOR et al.*
Appellate Case No. 2017-00010
- (d) *Assistive Technology Medical Equipment Sales, LLC v. Phillip DeClemente*,
Appellate Case Nos. 2021-000037; 2021-000038
- (e) *IOS, LLC v. Lander University*,
Appellate Case No. 2021-001400

The following is Mr. Smith's account of the criminal appeal he has personally handled:

- (a) *United States of America v. Patrick Raymond Peer*, Case No. 6:03-0027-1 United States Court of Appeals for the Fourth Circuit

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Mr. Smith further reported the following regarding unsuccessful candidacies:

(a) Governor – 2018

(9) Judicial Temperament:

The Commission believes that Mr. Smith's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualifications found Mr. Smith to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability; and "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee stated in summary, "Well Qualified – will be an asset on the trial bench."

Mr. Smith is married to Kirkland Thomas Smith. He has four children.

Mr. Smith reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar Association
- (b) John Belton O'Neill Inn of Court
- (c) SC Bar Military Law Section Committee Member
- (d) New York State Bar Association
- (e) Georgia Bar Association
- (f) North Carolina Bar Association

Mr. Smith provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations, and was recognized by the following honors and awards:

- (a) Liberty Fellowship
- (b) Riley Diversity Leaders Fellows
- (c) Friends of the Edisto FRED, Board Member
- (d) Congaree Riverkeeper, Board Member
- (e) The River Alliance, Board Member
- (f) WREN, Board Member
- (g) Big Red Barn Retreat – Warrior PATHH, Board Member
- (h) Patriots Point Development Authority, Board Member

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- (i) Medal of Honor Center for Leadership, Board Member, Executive Committee
- (j) US Global Leadership Coalition State Advisory Board and Veterans Advisory Board
- (k) SC Humanities Council, Board Member

Law Related Professional Honors and Awards:

- (a) 1997 Most Distinguished USC Young Alumni Award
- (b) 1999 South Carolina Bar Young Lawyer of the Year
- (c) 2008 Richland County Bar Civic Star of the Year
- (d) 2010 Distinguished Service Award USC College of Arts and Sciences
- (e) 2012 Riley Institute, Wilkins Award for Legislative Leadership
- (f) 2017 The Compleat Lawyer Award – Gold Medallion
- (g) 2018 Distinguished Service Award USC Veterans Alumni Council

(11) Commission Members' Comments:

The Commission noted that Mr. Smith has a calm, respectful demeanor. In addition, the Commission commented on his reputation for a great intellect and a strong work ethic.

(12) Conclusion

The Commission found Mr. Smith qualified, and nominated him for election to Circuit Court, Fifth Judicial Circuit, Seat 1

Justin T. Williams
Circuit Court, Fifth Judicial Circuit, Seat 1

Commission's Findings: QUALIFIED AND NOMINATED

Pursuant to § 2-19-80(A), if fewer than three persons apply to fill a vacancy or if the Commission concludes that there are fewer than three candidates qualified for a vacancy, it shall submit only the names and qualifications of those who are considered to be qualified, with a written explanation for submitting fewer than three names.

For the vacancy for Circuit Court, Fifth Judicial Circuit, Seat 1, two candidates applied for this vacancy. Accordingly, the names and qualifications of two candidates are hereby submitted in this report.

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(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Williams meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Williams was born in 1984. He is 39 years old and a resident of Columbia, South Carolina. Mr. Williams provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2011.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Williams.

Mr. Williams demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Williams reported that he has not made any campaign expenditures.

Mr. Williams testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Williams testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Williams to be intelligent and knowledgeable.

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Mr. Williams reported that he has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

Mr. Williams reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Williams did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. Williams did not indicate any evidence of a troubled financial status. Mr. Williams has handled his financial affairs responsibly.

The Commission also noted that Mr. Williams was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Williams reported that he is not rated by any legal rating organization.

Mr. Williams reported the following military service:

December 9, 2014 – present.

United States Army

Major/O4

United States Army Reserve

Honorable

Mr. Williams reported that he has held the following public office:

Commissioner

Public Service Commission of South Carolina

Elected May 11, 2018

I have timely filed all Statements of Economic Interest except the first Statement of Economic Interest. On January 21, 2022, I received notice from the State Ethics Commission that I should

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have filed a Statement of Economic Interest in May 2018 instead of October 2018. I informed the State Ethics Commission that I did not object to the \$100.00 late penalty, but I wanted to offer some extenuating circumstances for their consideration. Even though my term started on July 1, 2018, I was at Camp Humphreys in South Korea for an overseas U.S. Army training exercise from June 27 – July 30, 2018. Also, I was not sworn in until August 15, 2018. At worst, I filed my Statement of Economic Interest two months late as opposed to five months late.

(6) Physical Health:

Mr. Williams appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Williams appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Williams was admitted to the South Carolina Bar in 2011.

He gave the following account of his legal experience since graduation from law school:

(a) Assistant Solicitor, May 2011 – August 2013

- Serving as an Assistant Solicitor was my first legal job after graduating from law school. As an Assistant Solicitor, I only practiced criminal law at the trial court level. Initially, my caseload included over 600 warrants. As an Assistant Solicitor, my duties included managing a criminal docket includes appearing in bond court, appearing at preliminary hearings, appearing at first and second appearances, meeting with law enforcement officers and victims, issuing offers to defendants to enter a guilty plea, arguing motions before in General Sessions Court, negotiating terms of a plea agreement with defense counsel, presenting guilty pleas in General Sessions Court, and calling a case to trial in General Sessions Court if plea negotiations were unsuccessful. I prepared and called four cases to a jury trial during my first stint as an Assistant Solicitor. I did

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not have any administrative or financial management responsibilities in this role.

(b) Associate, Workers' Compensation Defense, August 2013-June 2015

- Working as an associate for an insurance defense firm was all about practicing law in the most effective and efficient manner possible. I recorded all the time I spent working on a legal matter for a client and billed them accordingly. Many of my clients (I represented the employer and their insurance company) preferred quick, low-cost resolutions to claims instead of long, drawn-out litigation. This made initial case evaluation very important. Much of my time was spent reviewing initial filings, taking depositions, developing legal strategies, and making recommendations that mitigated my clients' liability accident claims and job-related injuries. Most of my cases were settled, but a few went to a hearing before a Workers' Compensation Commissioner. I did not have any administrative management or financial management responsibilities in this role.

(c) United States Army Reserve Judge Advocate, June 2015 – Present

- Serving as the United States Army Reserve Judge Advocate has significantly broadened my legal practice. From June 2015 – June 2016, I served as a legal assistance attorney. As a legal assistance attorney, I helped Soldiers and retirees with wills, powers of attorney, family care plans, debt issues, letter writing, landlord-tenant issues, and referred them to civil counsel to assist with matters that required counsel to appear on their behalf. From July 2016 – July 2018, I served as an administrative law attorney. As an administrative law attorney, I was responsible for serving as the legal advisor for Investigating Officers, conducting legal reviews on administrative investigations into Soldier misconduct, and serving as the recorder (prosecutor) for separation boards. From August 2018 – present, I served as Brigade Commanders' primary or secondary legal advisor on matters of administrative law, contract and fiscal law, military justice, and national security law. Currently, I serve as the Brigade Judge Advocate for the 2d Brigade, 87th Training Division. Not only am I the primary legal advisor to 2d Brigade's Commander, but I advise Commanders

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at the Battalion and Company level within 2d Brigade's footprint. I also provide legal support at the 87th Training Division's Commanding General as needed. I do not have administrative management or financial management responsibilities in this role.

(d) Assistant Solicitor, June 2015- December 2016

- During my second stint as an Assistant Solicitor, I prosecuted mid-level and major felonies. My caseload was lower than it was when initially started in 2011 because I was assigned more serious and complex cases. I spent much more time reviewing discovery, preparing plea offers, negotiating plea agreements, and preparing for trial. I prepared and called three cases to jury trial during this period. A murder case, a burglary ring, and a case where the State pursued Life Without the Possibility of Parole (I recused myself from arguing the last case because my wife was the trial judge's law clerk). I had very limited administrative management responsibilities with interns, legal assistants, and paralegals. I had no financial management responsibility.

(e) Associate, Civil Litigation (Plaintiff) and Criminal Defense, January 1, 2017 – June 30, 2018

- As a Plaintiff's Civil Litigation and Criminal Defense Associate, the character and nature of my job was simply to help me. I worked at a high operational tempo law firm with clients throughout the entire state. While I built my practice, I would assist partners with their appearances. There were some days when I would have an appearance in Chester County at 9:00 a.m. and Bamberg County at 2:00 p.m. During this time I learned how important it was to a lawyer in private practice for the court to start on time and for fellow attorneys to be prepared to present their matters so that the court can keep moving. Because of court appearances and client appointments, I prepared for court early in the morning and late in the evening. My primary practice areas were personal injury, workers compensation, and criminal defense. I also appeared in magistrate court for traffic tickets and simple contract disputes. My administrative management responsibilities were limited to managing my legal assistant. I did not have any financial management responsibilities.

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(f) Public Service Commissioner, July 1- Present

- Serving as a Public Service Commissioner is the most unique job I have had. While I do not practice law and I am not a judge, I conduct legal research, make legal analyses to support my decisions, and I must comply with the Code of Judicial Conduct. Serving as a Public Service Commissioner is a cerebral academic endeavor in that I spend much of my time reading reports and pre-filed testimony in preparation for hearings. While the Public Service Commission has jurisdiction to regulate electric, natural gas, water and wastewater, transportation, and telecommunication utilities, my tenure on the commission has focused heavily on electric utilities and the renewable energy transition. During my service as Chair of the Public Service Commission, my responsibilities increased greatly because by statute the Chair is the chief executive and administrative officer of the Public Service Commission. While I was not managing simple day-to-day tasks, I frequently met with executive staff to ensure that all employees were performing to standard and that we were managing our financial resources responsibly and effectively. As Chair (July 1, 2020 – June 30, 2022), I was ultimately responsible for administrative and financial management; however, I delegated many tasks to the Executive Director and managed her performance.

Mr. Williams further reported regarding his experience with the Circuit Court practice area:

Since July 1, 2018, I have served as a Commissioner for the Public Service Commission of South Carolina. As such, I have not appeared as counsel for a party to a criminal or civil matter in Circuit Court or any other court since my election to the Public Service Commission.

Prior to my election to the Public Service Commission, I was an associate for Moore Bradley Myers from January 1, 2017 – July 1, 2018. In that capacity, my criminal experience included regular appearances in General Sessions Court in Richland, Lexington, Orangeburg, and Bamberg Counties as defense counsel for the accused. I served as primary and secondary defense counsel for clients charged with murder, kidnapping, assault and battery, criminal sexual conduct, driving under the

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influence involving death, and trafficking narcotics, among other charges. My representation included arguing for a bond at bond hearings, arguing against probable cause at preliminary hearings, reviewing discovery, negotiating plea agreements, and presenting plea agreements in General Sessions Court. None of my General Sessions Court cases were resolved with a trial. In addition to a robust criminal practice in General Sessions Court, I also represented clients accused of various misdemeanor charges in magistrate court.

Prior to my employment with Moore Bradley Myers, I served as an Assistant Solicitor for the Fifth Judicial Circuit Solicitor's office From June 2015 – December 2016. In this capacity, I was immersed in criminal practice in General Sessions Court every day. I advised law enforcement on probable cause for arrest, argued for an appropriate bond at bond hearings, argued in support of probable cause for arrest at preliminary hearings, argued for bond revocation when defendants were charged with committing a subsequent crime while on bond for a pending criminal charge, negotiated plea agreements and presented plea agreements in General Sessions Court, prepared serious felony matters for jury trial, and presented several serious felony matters, including a murder case, to juries from opening statement to jury verdict. During my first stint with the Fifth Circuit Solicitor's Office (February 2011 – August 2013), I worked as a law clerk and performed legal research/writing on criminal matters and observed General Sessions Court while waiting for bar results. Once I was admitted to practice (May 24, 2011), I performed the same tasks that I performed during my second stint, but my docket was primarily misdemeanors and low to mid-level felonies.

My civil experience is limited to my time as an associate with Moore Bradley Myers (January 1, 2017 - June 30, 2018), where I served as primary and secondary counsel for personal injury, employment, contract disputes, and medical malpractice matters. My civil practice included taking depositions, arguing against motions for summary judgment, settlement negotiations, and mediation. Even though none of my civil cases made it to a jury trial, I am adequately prepared to preside over such matters due to my trial experience in General Sessions Court and my

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experience as Chair of the Public Service Commission of South Carolina. In both roles, I had to demonstrate mastery of the South Carolina Rules of Evidence and understand legal procedures and processes. I will use my past experience and dedicate myself to constant study of the South Carolina Rules of Civil Procedure and other applicable Circuit Court Rules to ensure the fair administration of justice. Also, I will engage the parties who appear before me by giving all parties the full and complete opportunity to offer oral and written arguments to support their positions on issues as they arise. I am most concerned with issuing the correct ruling, and I am willing to take all the time necessary to reach the proper decision.

Mr. Williams reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: 0.10%;
- (b) State: 99.9%

Mr. Williams reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 5%;
- (b) Criminal: 90%;
- (c) Domestic: not applicable;
- (d) Other: 5%.

Mr. Williams reported the percentage of his practice in trial court during the past five years as follows:

- (a) Not applicable because I have served on the Public Service Commission for the past five years.
- (b) Not applicable because I have served on the Public Service Commission for the past five years.
- (c) Not applicable because I have served on the Public Service Commission for the past five years.
- (d) Not applicable because I have served on the Public Service Commission for the past five years.

Mr. Williams provided that during the past five years prior to his election to the PSC Commission, he most often served as counsel.

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The following is Mr. Williams's account of his five most significant litigated matters:

- (a) *State v. Channen F. Ricks* was a murder case prosecuted by the Fifth Judicial Circuit Solicitor's Office. I prosecuted the Defendant while I was an assistant solicitor in the Fifth Judicial Circuit Solicitor's Office. April Sampson was the first chair, and I was the second chair. This was the most significant legal matter that I personally handled due to the serious nature of the charge, the length of preparation (two years), the length of the trial (four days), and the number of witnesses (30), and the impact on the community (justice for the victim's family and the local community). This case was called to trial on the week of October 10, 2016. The jury found the Defendant guilty, and the judge sentenced him to 40 years in prison.
- (b) *State v. Khlil Davis* was a multi-count first-degree burglary and grand larceny case prosecuted by the Fifth Judicial Circuit Solicitor's Office. I prosecuted the Defendant while I was an assistant solicitor in the Fifth Judicial Circuit Solicitor's Office. I served as the first chair, and Stephanie Taylor was the second chair. This case was significant due to the number of homes burglarized, the number of co-defendants, the organized nature of the burglary operation, the mandatory minimum fifteen-year sentence for burglary first degree, successfully turning a co-defendant into a witness for the State, and the fact that the Defendant did not have a criminal record. This case was prepared and called to trial the week of September 19, 2016, but the judge granted a continuance. The case was not resolved before I left the Solicitor's Office for a new employment opportunity.
- (c) *Tyresha Outing, et al vs Oliver P Simmons et al* was a medical malpractice, wrongful death, and survival action filed on behalf of the mother of a toddler who died as the result of an improperly written and filed prescription. Stanley Myers, Jake Moore, and I represented the Plaintiff in this matter. Representative Todd Rutherford also assisted in representing the Plaintiff in this matter. This case was significant because it involved highly sophisticated Defendants, was highly technical, and required an immense amount of study and preparation for

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depositions, arguing against motions for summary judgment, trial, and mediation. This case was ultimately settled for a sum representative of justice for the decedent and his mother.

- (d) Margret B. Villegas v. AYG Aiken, LLC was an employment discrimination case based on gender discrimination, hostile work environment, and constructive discharge. I was the sole counsel for the Plaintiff. This case was significant because it was demonstrative of how a pro se litigant's access to justice can be denied even if they follow every step of an administrative process. After defeating a motion to dismiss, this case settled for an appropriate amount representing justice for the Plaintiff.
- (e) State v. James Earl Green was a dog-fighting case prosecuted by the Fifth Judicial Circuit Solicitor's Office. I prosecuted the Defendant while I was an assistant solicitor in the Fifth Judicial Circuit Solicitor's Office. I served as the first chair, and Sandra Moser was the second chair. This case was significant because of the significant investment in resources used to investigate and prosecute the Defendant, the number of co-defendants, and the other alleged criminal activity intertwined with the dog fighting ring. This case was called to trial on the week of January 21, 2013. The Defendant accepted a one-year active prison sentence after the State presented its case. This was believed to be the first active prison sentence received by a defendant for dogfighting in Richland County.

Mr. Williams reported he has not personally handled any civil or criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. Williams's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualifications found Mr. Williams to be overall "Qualified." The Committee found him to be "Qualified" in the evaluative criteria of constitutional requirements, physical health, and mental stability; and "Well Qualified" in the evaluative criteria of

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ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee also commented: “Well Qualified!”

Mr. Williams is married to Stacy Ayers Williams. He has one child.

Mr. Williams reported that he was a member of the following Bar and professional associations:

- (a) Richland County Bar Association
- (b) South Carolina Black Lawyers
- (c) National Association of Regulatory Utility Commissioners

Mr. Williams provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Richland County Bar Association - Member
- (b) South Carolina Black Lawyers Association - Member
- (c) National Association of Regulatory Utility Commissioners
- (d) USC Alumni Association – 2022 Young Alumni of the Year
- (e) Kappa Alpha Psi Fraternity, Incorporated – Zeta Epsilon Advisory Team
- (f) Sigma Pi Phi Fraternity

(11) Commission Members’ Comments:

The Commission commented that Mr. Williams has an outstanding reputation, particularly as it relates to his professionalism. The Commission further discussed his experience as a Commissioner on the Public Service Commission of South Carolina, and how that experience could be useful should he be elected to the Circuit Court bench.

(12) Conclusion:

The Commission found Mr. Williams qualified, and nominated him for election to Circuit Court, Fifth Judicial Circuit, Seat 1.

**The Honorable Daniel McLeod Coble
Circuit Court, Fifth Judicial Circuit, Seat 2**

Commission’s Findings: QUALIFIED AND NOMINATED

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(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Coble meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Coble was born in 1987. He is 36 years old and a resident of Columbia, South Carolina. Judge Coble provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2012.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Coble.

Judge Coble demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Coble reported that he has spent less than \$50 in campaign expenditures for postage.

Judge Coble testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Judge Coble testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Coble to be intelligent and knowledgeable.

Judge Coble reported that he has taught the following law-related courses:

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- (a) 2023 Mandatory Bond Court Program for Magistrates and Municipal Judges: *Bond Court Essentials* (May 2023);
- (b) 2022 SCDTAA Annual Meeting: *Hot Button Evidentiary Issues in SC Courts, A Panel Discussion* (November 2022);
- (c) He Said She Said: Hearsay - *Justice Clearinghouse* (October 2022);
- (d) 2022 SCSCJA Judge's Seminar: *Rules of Evidence* (September 2022);
- (e) 2022 SCSCJA Judge's Seminar: *Landlord Tenant* (September 2022);
- (f) Search and Seizure Law and Terry Stops - *Justice Clearinghouse* (July 2022);
- (g) S.C. Bar Leadership Academy: *Judicial Panel* (May 2022);
- (h) Orientation School for Magistrates and Municipal Judges: *DUI – The Defense Perspective* (March 2022);
- (i) 2022 SCSCJA Staff Seminar: *Ethical Responsibilities of Court Staff* (March 2022);
- (j) 2022 It's All a Game: Top Trial Lawyers Tackle Evidence: *Course Planner and Moderator (Evidentiary Ethics: Ethical Strategies to Help Your Case)* (February 2022);
- (k) The Evidence Primer: A Practical Refresher for Lawyers: *Best Evidence Rule* (January 2022);
- (l) Richland County Bar Association, Annual Ethics CLE: *Virtual Courts and Ethical Dilemmas* (presented with former Chief Justice Costa Pleicones) (October 2021);
- (m) 2021 SCSCJA Judge's Seminar: *Guilty Pleas* (September 2021);
- (n) 2021 SCSCJA Judge's Seminar: *Ethics: Judges and Social Media* (September 2021);
- (o) Daubert/Council & Expert Testimony: CLE – S.C. Bar (August 2021);
- (p) 2021 Domestic Violence, Sexual Assault, Stalking and Harassment Training by the S.C. Attorney General's Office: *Restraining Orders in Magistrate Court* (May 2021);
- (q) Understanding Evidentiary Issues: Court Education (May 2021);
- (r) Judicial Canon 3: Ethical Issues in Magistrate Court: Court Education (May 2021);
- (s) Midlands Mediation Center, Guest Speaker: MMC Spring Training 2021;

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- (t) Ethics and Professionalism: Effective Relationships with the Court, Opposing Counsel, & Pro Se Litigants: *CLE - S.C. Bar* (April 2021);
- (u) Magistrate Court Series: Richland County Central Court: *CLE - S.C. Bar* (April 2021);
- (v) Residential Landlord Tenant Act: *CLE - S.C. Bar* (April 2021);
- (w) South Carolina Trial Evidence in Magistrate Court: *CLE - S.C. Bar* (April 2021);
- (x) Driving Under the Influence: DUI in Magistrate Court: *CLE - S.C. Bar* (April 2021);
- (y) Fourth Amendment: Search and Seizure Law in Magistrate Court: *CLE - S.C. Bar* (April 2021);
- (z) Stanford Legal Design Lab, *Justice by Design*, Panelist (April 2021);
- (aa) Orientation School for Magistrates and Municipal Judges: Claim & Delivery (March 2021);
- (bb) Midlands Mediation Center, Guest Speaker: MMC Winter Training 2020;
- (cc) Ever Evolving Evidence: *CLE – S.C. Bar* (August 2020);
- (dd) No-Knock Search Warrants: On-Demand CLE – S.C. Bar (June 2020);
- (ee) 2020 SCSCJA Staff Seminar: Evidence (*Postponed due to COVID-19*);
- (ff) 2020 It's All a Game: Top Trial Lawyers Tackle Evidence: Evidence in Magistrates Court (February 2020);
- (gg) South Carolina Impaired Driving Assessment: Adjudication of DUI Cases (October 2019);
- (hh) Leadership Columbia: South Carolina Judicial Systems (October 2019);
- (ii) Midlands Tech, Guest Speaker: Judicial Systems CRJ 220 (September 2019);
- (jj) A Guide to Prelims: On-Demand CLE – S.C. Bar (Fall 2019);
- (kk) S.C. Victims' Rights Week: The Bond Hearing Process – A Creative Approach (April 2019);
- (ll) South Carolina Bar Leadership Academy: Attorneys in Public Service (Running for Office) (March 2019);
- (mm) Orientation School for Magistrates and Municipal Judges: Landlord/Tenant (March 2019);

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- (mn) Direct Examination Podcast: Episode 3: Judge Daniel Coble (March 2019);
- (oo) Midlands Tech, Guest Speaker: Judicial Systems CRJ 220 (October 2018);
- (pp) 2018 SCSCJA Judge's Seminar: Discovery (Brady/Rule 5) (September 8, 2018);
- (qq) S.C. Victims' Rights Week: A Walk Through the Criminal Justice System (April 2018);
- (rr) 2018 SCSCJA Staff Seminar: Criminal/Civil Trial Objections (March 2018);
- (ss) Columbia Homeless Court Training, Panelist (December 2014);
- (tt) Columbia Rotary Club, Guest Speaker: Columbia Homeless Court (June 2014).

Judge Coble reported that he has published the following:

1. Published Books
 - (a) The General: The Life and Times of Daniel R. McLeod (submitted for publication);
 - (b) Pocket Prelims: A Guide Book to Preliminary Hearings in South Carolina (S.C. Bar Publications, 2019);
 - (c) Florida Rules of Evidence: Annotated for State and Federal Court (Lawyers & Judges Publishing, 2020);
 - (d) Texas Rules of Evidence: Annotated for State and Federal Court (Lawyers & Judges Publishing, forthcoming 2024).
2. Articles, Essays, Book Reviews
 - (a) *Rearranging the Apple Cart: Good-Faith Originalism and the Fourteenth Amendment: Review of "The Original Meaning of the Fourteenth Amendment: Its Letter and Spirit"* 15 ConLawNOW 25 (2023);
 - (b) *Per Se Inequality: A Review of Judge Richard Gergel's "Unexampled Courage"* 46 Seattle U. L. Rev. SUpra 1 (2023);
 - (c) *Expert Testimony and Crawford* S.C. Lawyer (March 2023);
 - (d) *What's in a Name, Anyway? Daubert/Council and Expert Testimony* S.C. Lawyer (September 2021);
 - (e) *Ever Evolving Evidence* S.C. Lawyer (September 2020);

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- (f) *@Posner_Thoughts - The Verified Account: A Review of Judge Posner's The Federal Judiciary: Strengths and Weaknesses* 41 La Verne L. Rev. 2 (2020);
 - (g) *Not Your Scalia's Textualism* JOTWELL (July 9, 2019) (reviewing Jeffrey Bellin, *Fourth Amendment Textualism*, Mich. L. Rev. (2019), available at SSRN);
 - (h) *A Prosecutor's Credo, Robed Oracles, and Gideon's Angels: A Review of Doing Justice* Harv. L. & Pol'y Rev. Notice and Comment Blog (May 28, 2019);
 - (i) *Discretionary Life Sentences for Juveniles: Resolving the Split Between the Virginia Supreme Court and the Fourth Circuit* 75 Wash. & Lee L. Rev. Online 101 (2019);
 - (j) *The Time in Between: A Response to A Theory of Civil Problem-Solving Courts* 67 Buff. L. Rev. D1 (2019);
 - (k) *Severing the Severability Doctrine: Why It's Time the Supreme Court Finally Acknowledges, Clarifies, and Severs this Doctrine* 88 UMKC L. Rev. 565 (2020);
 - (l) *Permissible Inference or Impermissible Burden Shift: How the Supreme Court Could Decide State v. Glover* Washburn L.J. Blog (Mar. 18, 2019);
 - (m) *Following Friendly or Running to Rehnquist? A Review of Joan Biskupic's "The Chief"* 52 Ind. L. Rev. Blog (April 19, 2019);
 - (n) *Heart-Wrenching, Yet Hopeful: A Review of Judge William Alsup's 'Won Over'* The Recorder on Law.com (April 5, 2019);
 - (o) *I Recommend: Theodore Roosevelt for the Defense* Judicature, Bolch Judicial Institute, Duke Law School (May 2020).
3. Self-Published Books
- (a) South Carolina Trial Evidence: A Reference Guide to Common Evidentiary Issues;
 - (b) Search & Seizure in South Carolina;
 - (c) Deconstructing the DUI: A Brief Guide to DUI law in South Carolina, 2nd Edition;
 - (d) Federal Rules of Evidence: Annotated for the Fourth Circuit;
 - (e) South Carolina Rules of Evidence: Annotated;
 - (f) Everyday Evidence: State Court and Federal Court;

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- (g) Traffic Court in South Carolina: Offenses and Definitions.

4. Other

- (a) Federal Rules of Evidence: An Introduction to Trial Evidence (Harvard Law School's Library Innovation Lab H2O, 2020) (Open Casebook);
- (b) Constitutional Law Precedents: Annotated and Abridged Cases from the Supreme Court (Harvard Law School's Library Innovation Lab H2O, 2022) (Open Casebook);
- (c) The Briefcase Lawyer, 2nd Ed. (*Chapter on Land-Lord Tenant Law*) (S.C. Bar Publications, 2022) (Book Chapter);
- (d) *Editor and Updater*, South Carolina Evidence by Danny Collins, 3rd Ed. (*forthcoming* S.C. Bar Publications 2024);
- (e) *Editorial Board Member*, A Guide to Civil Practices and Procedures in Magistrate Court by Judge Kenneth Southerlin (S.C. Bar Publications 2021);
- (f) *Editorial Board Member*, How to Try a Simple Auto Wreck Case by R. Allyce Bailey and S. Venus Poe (S.C. Bar Publications 2022).

(4) Character:

The Commission's investigation of Judge Coble did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Judge Coble did not indicate any evidence of a troubled financial status. Judge Coble has handled his financial affairs responsibly.

The Commission also noted that Judge Coble was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Coble reported that he is not rated by any legal rating organization.

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Judge Coble reported that he has not served in the military.

Judge Coble reported that he has never held public office other than judicial office.

(6) Physical Health:

Judge Coble appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Coble appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Coble was admitted to the South Carolina Bar in 2012.

He gave the following account of his legal experience since graduation from law school:

- (a) From July 2012 to November 2012, I was a law clerk for the Fifth Judicial Circuit.
- (b) From November 2012 to July 2017, I was an assistant solicitor for the Fifth Judicial Circuit. I handled a wide range of cases ranging from drug offenses and DUIs to armed robbery and kidnapping. I co-counseled three murder cases and tried several other felony and misdemeanor cases. From 2014 until 2017, I was the lead prosecutor for the Columbia Homeless Court. I also organized a committee of health care professionals to address the chronically homeless in seeking solutions for their recovery, which was called Homeless Coordination.
- (c) From July 2017 to July 2021, I was a full-time Magistrate Judge in Richland County. In that capacity, I handled both civil and criminal cases, which included bond settings, preliminary hearings, mediation, civil and criminal jury trials, transfer court, and more. In June 2018, I was appointed as the Associate Chief Judge for Richland County. As the Associate Chief Judge, I handled the majority of administrative issues at the Central Court. I was appointed as the Municipal Judge for Arcadia Lakes in May 2020.

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- (d) From August 2021 to January 2023, I was the owner of my own solo law firm, The Coble Law Group, LLC. I represented clients in both civil and criminal matters, and I practiced in Summary Courts and Circuit Courts. As the owner of my own law firm, I was solely responsible for the administration of running the business as well as handling all client matters.
- (e) I am currently a Circuit Court Judge for the Fifth Judicial Circuit.

Judge Coble reported that he has held the following judicial office(s):

I was appointed as a full-time Magistrate Judge for Richland County in July 2017. Magistrates generally have jurisdiction in criminal cases that do not carry more than a \$500 fine or 30 days in jail. In civil cases, Magistrates are generally limited to cases not exceeding \$7,500 in the amount in controversy.

I am now serving as a Circuit Court Judge for the Fifth Judicial Circuit.

Judge Coble provided the following list of his most significant orders or opinions:

Because I have only sat on the Circuit Court bench for about six months, I have not had any orders or opinions that have been heard by an appellate court at this point that I am aware of.

- (a) *South Carolina Automobile and Truck Dealers Association v. South Carolina Department of Consumer Affairs*, 2022-CP-40-05552. The Plaintiff (SCADA) filed a lawsuit against the Defendant (S.C. Department of Consumer Affairs) seeking a declaratory judgment regarding closing fee enforcement. The Defendant filed a counterclaim alleging civil conspiracy by the Plaintiff. I granted the Plaintiff's motion to dismiss the counterclaim on two grounds. First, the Defendant's counterclaim exceeded the statutory authority granted to the Department of Consumer Affairs. Second, the Defendant failed to state a claim for civil conspiracy.
- (b) *State v. Haggins*, Order 5469-2017-3 (Not Reported). The public defender filed a motion to dismiss for failure to comply with a speedy trial motion, *Langford* violation, and

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Rule 5 violation. I held a hearing and ultimately denied the motion to dismiss.

- (c) *State v. Andrzejewski*, Order 5469-2018-3 (Not Reported). In this case, I held a castle hearing on an assault charge. I wrote an order denying immunity under the Protection of Persons and Property Act.
- (d) *Rodriguez v. McDaniel*, Order 5469-2017-5 (Not Reported). After a civil trial, one party moved for sanctions against the other claiming that they violated ADR Rules. I denied the motion.
- (e) *Rowe v. Osbourne*, Order 5469-2018-14 (Not Reported). After a restraining order hearing, I granted the restraining order against the defendant. The defendant moved for a new trial based on new evidence. I denied the motion for a new trial after analyzing the required factors. This order was overturned on appeal by the Circuit Court Judge.

Judge Coble reported no other employment while serving as a judge.

Judge Coble further reported the following regarding unsuccessful candidacies:

In 2012, I ran unsuccessfully for Columbia City Council District Three.

In 2020, I ran unsuccessfully for Circuit Court, At-Large.

(9) Judicial Temperament:

The Commission believes that Judge Coble's temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Midlands Citizens Committee found Judge Coble "Qualified" in the evaluative criteria areas of constitutional qualifications, physical health, and mental stability; and "Well-Qualified" in the evaluative criteria areas of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee stated in summary, "Already doing well on the bench."

Judge Coble is married to Kristen Karr Coble. He has two children.

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Judge Coble reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar Association;
- (b) Richland County Bar Association;
- (c) S.C. Bar: CLE Publications Committee, (*Chair 2020*).

Judge Coble provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Summary Court Judge Mentoring Program (mentored three new judges);
- (b) S.C. Bar: CLE Publications Committee;
- (c) 1L Mentoring Program (2016 – Present);
- (d) UofSC Mock Trial Judge (2019, 2020);
- (e) Tarantella Club.

Judge Coble further reported:

I believe that my experience as a prosecutor, defense attorney, Magistrate Judge, and now Circuit Court Judge, makes me well qualified to continue my service on the bench. It has been an honor and privilege to serve in the judiciary. Every day I am humbled to make such weighty decisions that have such a profound impact on people's lives, and I do not take that responsibility lightly. My goal is to always render a fair and just decision and to always listen to both sides before making my final decision. It is a humbling experience to work alongside such talented and experienced attorneys, and I hope that I continue to become a better and wiser judge if I have the opportunity to continue to serve.

As a prosecutor, I had the honor of being involved with South Carolina's first Homeless Court. This diversionary court gave second chances to many of our state's veterans who suffer from mental illnesses and drug abuse. As a prosecutor, my job was usually looking to seek justice which often involved sending people to prison. However, as the lead prosecutor for Homeless Court, our office was able to give people a second chance who deserved it and were turning their lives around.

I gained even more experience when I was sworn in as a full-time Magistrate Judge for Richland County. I was able to take

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off my hat as an advocate and sit as a neutral and independent arbiter of disputes. In a county as large as Richland, I handled hundreds if not thousands of bench trials and jury trials each year. I dealt with *pro se* litigants as well as extremely experienced attorneys. This experience gave me humility and a deeper understanding of our legal profession by seeing day-to-day operations of our court system.

While in private practice, I had the honor of representing clients and advocating for them in court. It was easy for me to say that I saw both sides as a Magistrate Judge, but by actually representing clients, I lived it every day.

I believe I am well qualified to continue to serve as a Circuit Court Judge and represent our judiciary. It has been an honor to serve the people of South Carolina in this capacity, and it would be an honor to continue to serve in this role.

(11) Commission Members' Comments:

The Commission noted that Judge Coble's enthusiasm for the job, the respect that he shows litigants, victims, and others, as well as his commitment to the rule of law, is something that the Bar has taken note of, and of which he should be very proud.

(12) Conclusion:

The Commission found Judge Coble qualified, and nominated him for re-election to Circuit Court, Fifth Judicial Circuit, Seat 2.

**J. Derham Cole Jr.
Circuit Court, Seventh Judicial Circuit, Seat 1**

Commission's Findings: QUALIFIED AND NOMINATED

Pursuant to § 2-19-80(A), if fewer than three persons apply to fill a vacancy or if the Commission concludes that there are fewer than three candidates qualified for a vacancy, it shall submit only the names and qualifications of those who are considered to be qualified, with a written explanation for submitting fewer than three names.

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For the vacancy for Circuit Court, Seventh Judicial Circuit, Seat 1, one candidate applied for this vacancy. Accordingly, the name and qualifications of one candidate is hereby submitted in this report.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Cole meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Cole was born in 1977. He is 46 years old and a resident of Spartanburg, South Carolina. Mr. Cole provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2003.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Cole.

Mr. Cole demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Cole reported that he has not made any campaign expenditures.

Mr. Cole testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Cole testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

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(3) Professional and Academic Ability:

The Commission found Mr. Cole to be intelligent and knowledgeable.

Mr. Cole reported that he has taught the following law-related courses:

(a) During my tenure in the General Assembly, I provided legislative updates from time-to-time at legal association meetings such as the S.C. Bar Convention and the S.C. Defense Trial Attorneys Association Summer and Annual Meetings.

(b) I participated in teaching an in-house law firm CLE with fellow associates in my first couple of years of practice.

Mr. Cole reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Cole did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. Cole did not indicate any evidence of a troubled financial status. Mr. Cole has handled his financial affairs responsibly.

The Commission also noted that Mr. Cole was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Cole reported that his rating by a legal rating organization, Martindale-Hubbell, is AV, and that his rating by a legal rating organization, Super Lawyers, is Rising Stars 2016 .

Mr. Cole reported that he has not served in the military.

Mr. Cole reported that he has held the following public office:

(a) S.C. House of Representatives, 2008-2018, Elected. Reports with the State Ethics Commission were timely filed.

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(6) Physical Health:

Mr. Cole appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Cole appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Cole was admitted to the South Carolina Bar in 2003.

He gave the following account of his legal experience since graduation from law school:

(a) Wilkes Law Firm, P.A., Spartanburg, SC

Attorney, July 2010 – December 2018

Represented clients in business transactions, business litigation, construction litigation, and torts and insurance defense.

(b) Cole Law Firm, LLC, Spartanburg, SC

Sole Member, July 2009 – July 2010

Represented clients in business transactions and litigation matters.

Managed all administrative and financial functions of the firm.

(c) Parker Poe Adams & Bernstein, LLP, Spartanburg, SC

Associate Attorney, September 2006 – June 2009

Represented clients in corporate and business transactional matters.

(d) Leatherwood Walker Todd & Mann, P.C., Greenville, SC

Associate Attorney, September 2003 – August 2006

Represented clients in corporate and securities matters.

Mr. Cole further reported regarding his experience with the Circuit Court practice area:

During my legal career, I have practiced primarily in civil and corporate law in firms ranging from a solo practice to a large regional law firm. In my solo practice, I handled a variety of matters that are best categorized as business litigation matters,

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including two matters that I personally tried to verdict. During my time at Wilkes Law Firm, P.A., I had a primarily insurance defense practice on the civil litigation side, with an emphasis on construction claims, premises liability, and contractual claims. The matters in which I was involved at Wilkes Law Firm mostly settled at mediation or otherwise, although they involved a significant amount of motions practice and depositions.

I regularly review the Advance Sheets to keep myself abreast of the state of the law across all areas, including criminal law, which is an area in which I have not practiced in my legal career. I intend to emphasize criminal practice in both my formal CLE seminars as well as my informal self-education. I also plan to observe General Sessions terms of court to bolster my knowledge in this area.

Mr. Cole reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: None;
- (b) State: 0-1 times per month.

Mr. Cole reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 10%;
- (b) Criminal: 0%;
- (c) Domestic: 0%;
- (d) Other: 90% (Higher Education Administration)

Mr. Cole reported the percentage of his practice in trial court during the past five years as follows:

- (a) What percentage of your practice was in trial court, including cases that settled prior to trial? 10%
- (b) What number of cases went to trial and resulted in a verdict?

0%

- (c) What number of cases went to trial and resolved after the plaintiff's or State's case? 0 % (Resolved may include settlement, plea, by Judge's order during a motion hearing, etc.
- (d) What number of your cases settled after a jury was selected but prior to opening statements? 0%

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Mr. Cole provided that during the past five years he most often served as co-counsel. It was the practice of his firm to have more than one attorney assigned to cases.

The following is Mr. Cole's account of his five most significant litigated matters:

- (a) General Wholesale Distributors, LLC v. McArn Enterprises, LLC et al.; 2009-CP-23-8061. Tried this breach of contract case solo before a jury to a defense verdict in favor of my client.
- (b) Vaughn Curbing Company v. Handy; 2010-CP-42-1563. Tried this breach of contract action solo to a verdict in favor of my client in a bench trial.
- (c) Pinckney v. Fankhauser et. al., 2010-CP-46-2326. Construction defect case with relatively complicated posture and multiple parties and issues that were appealed to Court of Appeals.
- (d) DFO, LLC v. High Country Restaurant Holdings, LLC et al., 2014-CP-42-4590. Franchise-related litigation resolved at mediation after significant discovery and motions practice.
- (e) Smith v. Turner, 2018-CP-42-02749. Trespass and negligence case in which I developed legal strategy leading to judgment for damages against a party other than my client.

The following is Mr. Cole's account of the civil appeal he has personally handled:

Pinckney v. Epcon Communities et. al., 2012-213730 (Ct. App.). I was primarily involved in the briefing of this appeal and was preparing to argue it until the matter settled on the eve of oral argument.

Mr. Cole reported that he has not personally handled any criminal appeals.

Mr. Cole further reported no unsuccessful candidacies.

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(9) Judicial Temperament:

The Commission believes that Mr. Cole's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Committee on Judicial Qualifications found Mr. Cole to be "Well-Qualified" as to the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience and judicial temperament; and "Qualified" in the evaluative criteria of constitutional qualifications, physical health and mental stability.

Mr. Cole is married to the former Suzanne Curry Boulware. He has two children.

Mr. Cole reported that he was a member of the following Bar and professional associations:

- (a) S.C. Bar Association (Seventh Circuit YLD Representative, 2007-2009)
- (b) Spartanburg County Bar Association

Mr. Cole provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Chair, Daniel Morgan District Committee, Palmetto Council, Boy Scouts of America, 2022-Present.
- (b) Cubmaster, First Presbyterian Church, Pack 2, Palmetto Council, BSA 2023-Present
- (c) Trustee, Spartanburg County Libraries, 2018-Present.
- (d) Member, Board of Directors, Healthy Smiles of Spartanburg, Inc., 2019-Present; Chair, 2023-Present.
- (e) Member, Board of Governors, Piedmont Club, 2023-Present.
- (f) Member, Board of Directors, Piedmont Interstate Fair Association, 2019-Present.
- (g) Member, Caroliniana Ball, 2017-Present.
- (h) Member, County Club of Spartanburg.
- (i) Member, Rotary Club of Spartanburg, 2009-2021; Board of Directors, 2020-2021.
- (j) Member, Board of Directors, Chapman Cultural Center, 2008-2018.

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(k) Member, Board of Directors, South Carolina Defense Trial Attorneys Association, 2012-2018.

(l) Member, South Carolina Bar Association; Representative for the 7th Judicial Circuit, South Carolina Bar Association Young Lawyers Division, 2007-2009.

(m) Dancer, Dancing with the Spartanburg Stars benefiting Cancer Association of Spartanburg and Cherokee Counties, 2015.

(n) Member, Board of Directors, Children's Shelter of the Upstate, 2009-2012.

Mr. Cole further reported:

I have dedicated most of my post-graduate life to the legal profession and public service. Having the ability to merge these two vocations, passions and interests in service to the state as a circuit court judge would be a high honor for which my experience in private practice as well as my service in the General Assembly has well equipped me. As a public servant, I believe my constituents would say I represented them effectively, diligently, and compassionately. As a lawyer, I have represented my clients zealously and ethically, while maintaining a collegiality with fellow lawyers that I hold as one of the hallmarks of the South Carolina Bar.

In addition, my experience in higher education, including taking over as interim chancellor of a comprehensive university at the onset of a global pandemic, has allowed me to use my legal education and background from the perspective of an executive decisionmaker. My legal background and analytical skills served me well in navigating the myriad legal issues facing a complex organization on a daily basis, all of which were amplified by the challenges posed by operating in a pandemic. From assessing the liability landscape, to negotiating and renegotiating agreements with vendors and community partners on the fly, my ability to see issues and assess risk was invaluable. I also routinely used the skills I developed in pursuit of my Master of International Business Studies degree from the University of South Carolina. These skills will be useful on the bench, particularly in complex business matters.

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(11) Commission Members' Comments:

The Commission noted that Mr. Cole enjoys a reputation as both an excellent attorney and an attorney who is well known for his upstanding character. The Commission further complimented Mr. Cole's temperament as being well-suited to the bench and found his desire to continue serving the citizens of South Carolina laudable.

(12) Conclusion:

The Commission found Mr. Cole qualified, and nominated him for election to Circuit Court, Seventh Judicial Circuit, Seat 1.

**The Honorable Grace Gilchrist Knie
Circuit Court, Seventh Judicial Circuit, Seat 2**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Knie meets the qualifications prescribed by law for judicial service as a Circuit Court Judge.

Judge Knie was born in 1964. She is 59 years old and a resident of Campobello, South Carolina. Judge Knie provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1989.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Knie.

Judge Knie demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Knie reported that she has made not made any campaign expenditures.

Judge Knie testified she has not:

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- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Judge Knie testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Knie to be intelligent and knowledgeable.

Judge Knie reported that she has taught the following law-related courses:

- (a) I have lectured at the 2002 SCAJ Annual Convention, to the Family Law Section on the subject Family Court Visitation and Custody Issues (Excluding Patel);
- (b) I have lectured at the 2003 SCAJ Annual Convention, to the Family Law Section, on the subject What Family Court Judges Want at Temporary Hearings;
- (c) I have lectured at the 2004 SCAJ Annual Convention, to the Family Law Section on the subject Family Law- Case Law Update, September 2003 -July 2004;
- (d) I have lectured at the 2005 SCAJ Annual Convention, to the Family Law Section on the subject Family Law- Case Law Update, September 2004 -July 2005;
- (e) In 2007 I chaired the Family Law Section of the SCAJ and enlisted speakers for the CLE presentation. I presided over and moderated the Family Law presentation at the 2007 Annual Convention;
- (f) I have lectured as a judicial panelist at the SC Bar Association CLE held in Spartanburg on the subject of 7th Circuit Tips from the Bench, May , 2018;
- (g) I enlisted speakers for the JCLE presentation and moderated the JCLE presentation for the SC Circuit Judges' Association Annual Conference in May 2019;
- (h) I served as co-presenter at the SC Judicial Conference September 2019, for the introduction of speaker Karen

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Korematsu, Director of the Fred T. Korematsu Institute regarding Korematsu v. United States, 323 U.S. 214 (1944);

- (i) I made a presentation at the ABOTA SC Chapter Meeting, March 2020, as judicial panelist to discuss Attorney Conducted Voir Dire in South Carolina;
- (j) I have lectured as a judicial panelist at the SC Bar Association CLE held in Spartanburg on the subject of 7th Circuit Tips from the Bench, May 2022;
- (k) I have participated as a panelist in several presentations by the NCSI (National Courts and Sciences Institute) in my capacity of SC Judicial Representative 2018-present.

Judge Knie reported that she has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Knie did not reveal evidence of any founded grievances or criminal allegations made against her.

The Commission's investigation of Judge Knie did not indicate any evidence of a troubled financial status. Judge Knie has handled her financial affairs responsibly.

The Commission also noted that Judge Knie was punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Judge Knie reported that she is rated by the following legal rating organizations:

- (a) AV Preeminent Rating Martindale -Hubbell in Legal Ability and Ethical Standards;
- (b) Best Lawyers in America, Member;
- (c) Super Lawyers, Member;
- (d) Litigation Counsel of America Trial Lawyer Honorary Society Fellow.

Judge Knie reported that she has not served in the military.

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Judge Knie reported that she has never held public office other than judicial office.

(6) Physical Health:

Judge Knie appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Judge Knie appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Judge Knie was admitted to the South Carolina Bar in 1989.

She gave the following account of her legal experience since graduation from law school:

(a) Kermit S. King, Attorney, Columbia, South Carolina, Clerkship August 1988-June 1989;

Upon graduating from law school in the Summer of 1989, while studying to take the bar exam in August, I continued to work for Kermit S. King, Attorney at Law, in Columbia. Mr. King's practice primarily focused on domestic litigation. My job responsibilities were to research aspects of the law as instructed, to assist in organizing files and accompanying him and other lawyers in the firm to court, when necessary. In addition, I performed general clerkship duties. The position ended at the conclusion of the bar exam preparation and upon my taking a position as Law Clerk to The Honorable James B. Stephen, Circuit Court Judge.

(b) The Honorable James B. Stephen, Circuit Court Judge, Spartanburg, South Carolina, Law Clerk, August 1989-August 1990;

I obtained the position of Law Clerk to The Honorable James B. Stephen, Circuit Court Judge for the Seventh Judicial Circuit, Spartanburg, SC, in August 1989. I had the opportunity to shadow Judge Stephen in his court room and in his office for one year. I traveled with him while he rotated throughout the state when he held court in Beaufort, Charleston, Columbia, Aiken, Cherokee, Spartanburg and other counties. I had a unique and distinct career opportunity which was priceless in gaining valuable experience and

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insight into the practice of law and in being a Circuit Court Judge. During that year, I sat beside Judge Stephen on the bench, in the courtroom, daily and was able to observe first-hand General Sessions Court and Common Pleas Court. He had me research legal issues, assist in writing decisions and had me serve as the conduit of information between him and counsel appearing before him concerning decisions, calendaring, and scheduling.

- (c) Bruce Foster, P.A., Spartanburg, South Carolina, Associate, 1990-1992;

In August of 1990 I became an associate of Bruce Foster, P.A. in Spartanburg. The practice was a general litigation practice with a focus on domestic litigation, and plaintiff's personal injury. As an associate attorney, I initially served as co-counsel with Mr. Foster in on-going, pending litigation. I then accumulated my own clients, representing them in both family court and civil litigation, and some criminal defense, as well as, employment discrimination and sexual harassment litigation. At the conclusion of two years, I continued to share office space with Mr. Foster but, formed my own firm as Grace Gilchrist Dunbar, P.A.

- (d) Grace Gilchrist Dunbar, PA, Spartanburg, South Carolina, Attorney, 1992-2004;

In 1992 through 2004, I had a general litigation practice handling domestic litigation, plaintiff's personal injury, workers' compensation, employment discrimination and criminal defense work. During this time, Mr. Foster's health began to deteriorate, and he retired. I purchased and renovated an office building in Spartanburg and moved my practice to a location approximately one block from Mr. Foster's office. I was a sole practitioner and solely handled the administrative and financial management of the law firm which required that I was in charge of payroll, payroll tax deposits, quarterly and annual tax returns, and I was in charge of the management of the law firm's trust account/s. A CPA firm calculated payroll, tax deposits, and withholding amounts.

- (e) City of Spartanburg, Spartanburg, South Carolina, City Prosecutor, 1995-2010; part-time position;

In 1995, I took the position as the City Prosecutor for the City of Spartanburg. I held that position until 2010. It was

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part-time. My job responsibilities included the prosecution of all criminal jury trials for the City of Spartanburg. The cases ranged from minor traffic citations to more serious charges of Criminal Domestic Violence, Driving Under the Influence 1st offense and Driving Under Suspension. There were multi-day terms of court on a monthly basis. I dealt with attorneys representing defendants, as well as, pro-se litigants on a regular basis. Additionally, I served as legal counsel at City Council meetings when the City Attorney could not be present. I handled most of the appeals from the Spartanburg County Municipal Court to the Circuit Court.

- (f) Grace Gilchrist Knie, PA, Spartanburg, South Carolina, Attorney, 2004 – February 23, 2017.

In 2004, although the nature of my practice remained the same, after my marriage, I changed the name of my law practice and professional association to Grace Gilchrist Knie, P.A. Approximately 6-8 years later I transitioned the nature of my practice from contested domestic litigation to Social Security Disability in addition to personal injury. I was a sole practitioner and solely handled the administrative and financial management of the law firm which required that I was in charge of payroll, payroll tax deposits, quarterly and annual tax returns, and I was in charge of the management of the law firm's trust account/s. A CPA firm calculated payroll, tax deposits, and withholding amounts.

Judge Knie reported that she has held the following judicial office(s):

I was elected on February 1, 2017, by the SC General Assembly and took the oath on February 24th, 2017, for the position of Circuit Court Judge for the Seventh Judicial Circuit, Seat 2. The Circuit Court is a court of general trial jurisdiction and limited appellate jurisdiction from the Probate Court, Magistrate Court and Municipal Court in South Carolina. I was re-elected to the same position on February 7th, 2018.

Judge Knie provided the following list of her most significant orders or opinions:

- (a) *Farr v. Wan, et.al.*, 2013-CP-42-02404

This action was brought as a medical negligence case in which it was alleged that the physician, a pulmonologist due to a

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failure to diagnose breached the standard of care when she failed to identify an abnormal density in the decedent's right lung. Suit was brought against the physician and her employer medical group. The case was tried by jury trial for one week in the fall of 2020. There were several expert witnesses from various parts of the United States called by both parties. The trial was challenging due to the constraints of the COVID pandemic. There were challenges and complications regarding jury selection, jury management, and travel restrictions for witnesses. Ultimately it was agreed that several expert witnesses would be allowed to testify virtually. The jury trial verdict was for the Defendants.

(b) *State v. Mark Anthony Gilbert*, 2019-GS-42-1035

This criminal jury trial involved allegations by the victim, a daughter against her biological father of criminal sexual conduct. The Defendant was charged with four counts of Criminal Sexual Conduct with a Minor in the Second Degree. The evidence presented by the State included the testimony of the victim, and other family members. The State presented no physical evidence. The case was tried for four days. The jury found the Defendant guilty on all charges. He was sentenced to 25 years in the SC Department of Corrections and was required to register as a Sex Offender.

(c) *Keith Bookman v. Jason Brian Buffkin*, 2018-CP-40-6147

The parties in this action were involved in a motor vehicle collision on Interstate 77 North in 2018. Plaintiff was working in an interstate construction zone, driving a message board truck, and Defendant, driving under the influence, collided with the attenuator on the back of Plaintiff's truck. Plaintiff suffered personal injuries. Plaintiff brought a claim for negligence and sought actual and punitive damages. Plaintiff resolved his case against the at-fault insurance carrier on a covenant not to execute and proceeded at trial against the UIM carrier. Plaintiff's demand had been for the limits of coverage. In September of 2021, the case was tried for four days. At trial, Defendant admitted negligence but disputed that Plaintiff was injured or suffered any damages as a result of the collision. The parties presented expert testimony via video conference and in person from an orthopedic surgeon, a toxicologist, and a biomechanical expert. The jury returned a verdict in favor of

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the Plaintiff for \$12.5 million dollars, \$3.5 million dollars in actual damages and \$9 million dollars in punitive damages.

- (d) *State v. Christian Thomas McCall*, 2018-GS-46-03262, 2018-GS-46-03265, 2018-GS-46-03267 and 2018-GS-46-03269

This action arose in 2018 from a domestic dispute between husband and wife in which a 911 call was made from the residence of the victim and the Defendant. The Defendant fled the scene on foot and to apprehend him, a chase ensued by law enforcement. When cornered, the Defendant killed one officer and wounded three others. The Defendant pled guilty to Murder and three counts of Attempted Murder. He received a life sentence, three consecutive thirty-year sentences and a consecutive five-year sentence. This case was further complicated due to the significant public and press interest in this case, and the press coverage of the plea and sentencing hearing which lasted for several hours.

- (e) *Carnell Davis v. The State of South Carolina*, 1991-GS-42-1126 & 1991-GS-42-1723

This matter came before the Court for a bench trial on resentencing pursuant to *Aiken v. Byars*, 410 S.C. 534, 765 S.E.2d 572 (2014). Petitioner filed his petition and the Circuit Court of Spartanburg County was vested with exclusive jurisdiction to hear the petition by Order of the Chief Justice of the South Carolina Supreme Court. A hearing on the petition was conducted in August 2018. In 1991, the Petitioner committed murder and shot a Spartanburg City Police Officer. Petitioner was indicted and pled guilty to Murder and Assault and Battery with Intent to Kill. The Petitioner received a life sentence with parole on the Murder charge and he received a twenty-year consecutive sentence on the Assault and Battery with Intent to Kill charge. At the time of the commission of the crimes, the Petitioner was seventeen years old. Petitioner sought relief pursuant to *Aiken v. Byars*, 410 S.C. 534, 765 S.E.2d 572 (2014). However, the law of South Carolina at the time of Petitioner's conviction provided for possibility of parole being granted for persons sentenced to life terms. Based on information obtained from the South Carolina Department of Probation, Parole, and Pardon Services, since first becoming eligible for parole in 2011, Petitioner had at least four prior parole hearings and subsequent to the time of the re-

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sentencing hearing the Defendant would again be eligible for parole consideration. Because the Petitioner's original life sentence made him eligible for parole pursuant to South Carolina law, he was not entitled to resentencing pursuant to Aiken v. Byars, 410 S.C. 534, 765 S.E.2d 572 (2014).

Judge Knie reported no other employment while serving as a judge.

Judge Knie further reported the following regarding unsuccessful candidacies:

I ran for the position of Judge of the SC Court of Appeals, Seat 2, in 2022-2023. I withdrew from the race before the election.

(9) Judicial Temperament:

The Commission believes that Judge Knie's temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Upstate Citizens Committee on Judicial Qualifications found Judge Knie to be "Qualified" as to the evaluative criteria of constitutional qualifications, physical health, and mental stability; and "Well-Qualified" as to the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Judge Knie is married to Patrick Eugene Knie. She has no children.

Judge Knie reported that she was a member of the following Bar and professional associations:

- (a) Spartanburg County Bar Association;
President, 2012; Vice President, 2011; Executive Committee member, 2009 -2013;
Chairperson, Spartanburg County Bar's Cinderella Prom Dress Project 2008-2013;
- (b) SC Bar Association 1989 - Present;
Member, Judicial Qualifications Committee 2012 - January 2016;
Member, Solo and Small Firm Section
- (c) American Bar Association;

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- (d) Association of SC Circuit Judges;
- (e) NCSI (National Courts and Sciences Institute) SC Judicial Representative.

Judge Knie provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) First Presbyterian Church;
- (b) The YMCA;
- (c) The Piedmont Club;
- (d) The Spartanburg County Library.

Judge Knie further reported:

As a young person, it was always my goal to complete college and law school. Out of necessity in order to pay the tuition and the necessary costs involved, I worked multiple jobs at the same time while attending school and was able to pay my way through undergraduate school and law school. I believe that I have a strong work ethic that has carried over to my professional practice. I was always willing to put in the long hours necessary to be fully prepared in every case which I handled. As a circuit court judge, I brought that work ethic with me every day to ensure that whatever tasks were assigned to me were fully and timely completed. My work ethic has also made me very independent and I believe that such independence is very important to be a good and ethical jurist.

(11) Commission Members' Comments:

The Commission noted Judge Knie has a reputation of being an outstanding jurist who serves the State of South Carolina well. Judge Knie has an excellent judicial temperament and intellectual ability.

(12) Conclusion:

The Commission found Judge Knie qualified, and nominated her for re-election to Circuit Court, Seventh Judicial Circuit, Seat 2.

**The Honorable Eugene Cannon Griffith Jr.
Circuit Court, Eighth Judicial Circuit, Seat 2**

Commission's Findings: QUALIFIED AND NOMINATED

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(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Griffith meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Griffith was born in 1964. He is 59 years old and a resident of Prosperity, South Carolina. Judge Griffith provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1991.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Griffith.

Judge Griffith demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Griffith reported that he has not made any campaign expenditures.

Judge Griffith testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Judge Griffith testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Griffith to be intelligent and knowledgeable.

Judge Griffith reported that he has taught the following law-related courses:

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Judge's School: For New Circuit Judges: 2016, 2017, 2018, 2019, 2020, 2021, 2023 – teach the criminal law portion to newly elected judges

Back to Basics SCACDL: February 2023 – Provided tips from judicial perspective to criminal defense attorneys

I spoken as a panel member for many CLE's e.g.: Solicitors Conferences, Public Defenders Conferences, and other CLE's on a variety of topics but mostly: Best courtroom practices/ Best Advice from the Bench, etc.

Judge Griffith reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Griffith did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Judge Griffith did not indicate any evidence of a troubled financial status. Judge Griffith has handled his financial affairs responsibly.

The Commission also noted that Judge Griffith was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Griffith reported that his last available rating by a legal rating organization, Martindale-Hubbell, was BV.

Judge Griffith reported that he has not served in the military.

Judge Griffith reported that he has never held public office other than judicial office.

(6) Physical Health:

Judge Griffith appears to be physically capable of performing the duties of the office he seeks.

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(7) Mental Stability:

Judge Griffith appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Griffith was admitted to the South Carolina Bar in 1991.

He gave the following account of his legal experience since graduation from law school:

- (a) March 1991 – July 1991: Clerk to the Honorable James E. Moore, Circuit Court for Eighth Judicial Circuit
- (b) July 1991 – June 1992: Clerk to the Honorable John P. Gardner, S. C. Court of Appeals
- (c) July 1992 – February 1997: solo practice as Griffith Law Firm – general practice of law. The office handled real estate transactions, mortgage closings, magistrate’s trial work, criminal trial defense, civil trial work, both plaintiff and defense counsel, domestic relations trial work, and estate and probate matters. As a sole practitioner, I was entirely responsible for administrative and financial management functions.
- (d) February 1997 – February 2009: In February of 1997, Rushing and Griffith, P.C., was formed by Eugene C. Griffith, Jr. and Elizabeth R. Griffith. The scope and type of law practice did not change significantly from the initial five years as a solo practitioner, and was operated as a general practice. Don S. Rushing bought into the corporation, and opened an office in Lancaster, South Carolina. Don S. Rushing has operated a limited practice in the Lancaster office. During the last several years of the practice, the type of work performed in the Newberry office changed slightly. In January of 2005, I agreed to work as a special prosecutor for the Eighth Judicial Circuit for the court terms of General Sessions Court, held in Newberry County. After agreeing to act as special prosecutor, I was unable to accept cases as a criminal defense attorney. I also handled numerous condemnation actions on behalf of the SCDOT, Duke Energy, and City of Newberry. I was also appointed under the Circuit Court rules to numerous civil cases to act as special referee for non-jury matters, such as partitions and foreclosures. I was

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part-time city attorney or the City of Newberry for 15 years. I was entirely responsible for administrative and financial management functions of the law firm.

- (e) February 27th, 2009 – present: Resident Circuit Court Judge for the Eighth Judicial Circuit, Seat 2
- (f) May 2010 – December 2011: Chief Administrative Judge Eighth Judicial Circuit for Common Pleas and General Sessions
- (g) January 2013 – December 2013: Chief Administrative Judge Eighth Judicial Circuit for Common Pleas and General Sessions
- (h) January 2014 – December 2014: Chief Administrative Judge Eighth Judicial Circuit for General Sessions
- (i) January 2016 – July 2016: Chief Administrative Judge Eighth Judicial Circuit for Common Pleas
- (j) July 2016 – June 2017: Chief Administrative Judge Eleventh Judicial Circuit for General Sessions
- (k) July 2017 – December 2017: Chief Administrative Judge Eighth Judicial Circuit for Common Pleas
- (l) January 2018 – December 2018: Chief Administrative Judge Eleventh Judicial Circuit for General Sessions
- (m) January 2019 – December 2020: Chief Administrative Judge Eighth Judicial Circuit for Common Pleas
- (n) January 2021 – December 2021: Chief Administrative Judge for Sixth Judicial Circuit
- (o) January 2022 – June 2022: Chief Administrative Judge Eighth Judicial Circuit for Common Pleas
- (p) July 2022 – December 2023: Chief Administrative Judge Sixteenth Judicial Circuit for General Sessions

Judge Griffith reported that he has held the following judicial office(s):

Circuit Court Eighth Judicial Circuit Seat 2: February 27, 2009 to present

Judge Griffith provided the following list of his most significant orders or opinions:

- (a) *Wilson v. Willis* 426 S.C. 326, 827 S.E.2d 167 (2019)
- (b) *State v. Tim Jones* ___ S.E.2d ___, WL 2671754 (2023)
- (c) *City of Charleston v. City of North Charleston* 439 SC 6, 885

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SE2d 151 (Ct. App. 2023)

(d) *State v. Chhith-Berry*, 437 S.C. 527, 878 S.E.2d 352 (Ct. App. 2022)

(e) *Crenshaw v. Erskine College*, 432 S.C. 1, 850 S.E.2d 1 (2020)

Judge Griffith reported no other employment while serving as a judge.

Judge Griffith further reported the following regarding unsuccessful candidacies:

Candidate for House District 40 2002: Unsuccessful

Candidate for Circuit Court At-large Seat 13 2008: Unsuccessful

(9) Judicial Temperament:

The Commission believes that Judge Griffith's temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Piedmont Citizens Committee on Judicial Qualification found Judge Griffith to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability; and "Well-Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee commented that: "Judge Griffith has been an able and well-regarded judge for years on the Circuit Court bench. The Committee appreciates his record as a fine public servant and believes he will continue to do his community and his State credit during another term."

Judge Griffith is not married. He has three children.

Judge Griffith reported that he was a member of the following Bar and professional associations:

(a) South Carolina Bar Association

(b) Newberry County Bar- President, 1994-1999; Secretary-Treasurer 1992-1994

Judge Griffith provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

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I am an active member in Macedonia Lutheran Church and am currently serving as Vice Chair on the Church Council. I do not participate in other organizations.

(11) Commission Members' Comments:

The Commission complimented Judge Griffith's demeanor in the court room and his general reputation among the Bar. They thanked him for his years of service on the bench.

(12) Conclusion:

The Commission found Judge Griffith qualified, and nominated him for re-election to Circuit Court, Eighth Judicial Circuit, Seat 2.

**The Honorable Daniel E. Martin Jr.
Circuit Court, Ninth Judicial Circuit, Seat 4**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Martin meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Martin was born in 1963. He is 60 years old and a resident of Charleston, South Carolina. Judge Martin provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1989.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Martin.

Judge Martin demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Martin reported that he has not made any campaign expenditures.

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Judge Martin testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Judge Martin testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Martin to be intelligent and knowledgeable.

Judge Martin reported that he has taught the following law-related courses:

I have been a presenter at the Orientation School for New Family Court Judges for the last six (6) years. In 2018, 2019, and 2019, my presentation covered Court rules. In 2020, my presentation concerned Court hearings. In 2021, 2022, and 2023, my topic focused on domestic hearings.

I have spoken at CLE presentations and also at the South Carolina Judicial Conference.

At the 2020 annual Judicial Conference in Columbia, I spoke on the subject of Court security.

On January 20, 2020, I served on a CLE panel entitled "What Works." The subject I covered was "best practices" for attorneys coming before the family court.

I have spoken numerous times at the Charleston School of Law at the invitation of the Black Law Student Association and several of the professors. The discussions mostly centered on family law and the procedure for seeking judicial office. I recently made a similar presentation to students at Charleston Pro Bono.

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On April 28, 2020, I hosted a webinar with the Charleston County Bar Association to discuss new court procedures during the COVID-19 pandemic. More than 100 lawyers tuned in for the event. These are some of the most recent activates in which I lectured or spoke before members of the Bar and judiciary.

Judge Martin reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Martin did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Judge Martin did not indicate any evidence of disqualifying financial issues.

The Commission also noted that Judge Martin was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Martin reported that he is not rated by any legal rating organization.

Judge Martin reported that he has not served in the military.

Judge Martin reported that he has never held public office other than judicial office.

(6) Physical Health:

Judge Martin appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Martin appears to be mentally capable of performing the duties of the office he seeks.

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(8) Experience:

Judge Martin was admitted to the South Carolina Bar in 1989.

He gave the following account of his legal experience since graduation from law school:

1989 - 2011 Private Practice Law

1989 - 1993 Part-time Magistrate (Charleston County)

2011 - present Family Court Judge (Charleston County)

From 1989-2011, I engaged in a general practice of law. During most of that time, I was a sole practitioner. I employed a secretary and at times a paralegal to assist me. I was responsible for all administrative duties including the payment of payroll, insurance, worker's compensation expenses and other business expenses. I also compiled records for filing state and federal taxes, maintained IOTA and other trust accounts and monitored checking accounts. I dictated letters, prepared HUD-1 settlement statement, drafted deeds, notes, mortgages, contracts, wills, powers-of-attorney, accident settlement statements and other instruments necessary for the practice.

I drafted and filed summons, complaints, answers, affidavits, motions, briefs, discovery requests and responses, subpoenas and other such documents necessary in my day to day practice. I deposed witnesses and prepared witnesses for their deposition(s) and in-court testimonies. I conducted voir dire in jury selections, directed and cross-examined witnesses, presented evidence at trial, and made both opening and closing statements before juries. I mostly filed actions on behalf of Plaintiffs but occasionally acted as counsel for Defendants. The actions I filed included various tort claims, medical malpractice claims, claims of excessive use of force and claims for wrongful death. I brought quiet title and partition actions, determination of heirs actions, petitions for the appointment of guardians and conservators, breach of contracts actions and non-compete lawsuits. I did hundreds of real estate closings involving the sale of residential and commercial property and the refinancing of mortgages. I was proficient in searching real estate titles and handled many land

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dispute actions. A significant part of my practice was in the field of domestic law. In addition to representing parties in divorce actions, I handled paternity actions, child custody disputes, abuse and neglect cases, juvenile defense, name changes and correction of birth certificates. I also represented persons charged with crimes, mostly at the magistrate and municipal court level.

Judge Martin further reported regarding his experience with the Circuit Court practice area:

Before being elected to the Family Court bench in 2011, I represented people charged with various criminal offenses, mostly at the municipal and magistrate court level. I had several jury trials where my clients were charged with offenses like assault and battery and DUIs. I also represented people at guilty plea hearings in the Court of General Sessions but very rarely. Over the last 12 years, as a Family Court judge, I've presided over thousands of trials and hearings involving juveniles charged with criminal offenses. As the sole trier of fact(s) and interpreter of the law, I gained a unique perspective concerning the rights of the accused and deciding when the state had met its burden of proof beyond a reasonable doubt. I believe that this experience has prepared me for handling matters in criminal court.

The larger part of my private practice was civil in nature. I handled many personal injury, medical malpractice, excessive use of force, dog bite and slander cases over the 22 years in private practice. (see answer to #10 above). Real estate closings and Family Court matters encompassed a significant portion of day to day practice. While I did represent Defendants from time to time, I mostly represented Plaintiffs in tort actions.

Judge Martin reported the frequency of his court appearances prior to his service on the bench as follows:

- (a) Federal: One (1) four-day trial in 2008;
- (b) State: I had at least two (2) jury trial in the Court of Common Pleas during the five years prior to me being

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elected to the family court. I also had at least five (5) bench trials and perhaps a dozen or more motions and non-jury hearings in the Court of Common Pleas. I had well more than 500 appearances in Family Court, Master-in-Equity Court, Probate Courts, Municipal Courts and Magistrate Courts in the five years before I went on the bench. I argued a case before the South Carolina Supreme Court in 2009, and appeared before the South Carolina Election Commission in 2009 and the Administrative Court in Columbia for a trial in May, 2010. I successfully argued an appeal before the South Carolina Court of Appeals in 2011. I had scores of hearings in Probate Court for formal appointments of personal representatives, conservators and guardians, determination of heirs actions and will contests. My appearances in the tri-county Family Courts normally averaged between 3 to 8 times each week. It was not unusually for me to have three (3) hearings in one day in more than one Family Court.

Judge Martin reported the percentage of his practice involving civil, criminal, domestic and other matters prior to his service on the bench as follows:

- (a) Civil: 15%;
- (b) Criminal: 5%;
- (c) Domestic: 50%;
- (d) Other: 30%.

Judge Martin reported his practice in trial court as follows:

- (a) 75% of cases settled prior to trial
- (b) 10+ cases went to trial and resulted in a verdict
- (c) 2 cases went to trial and resolved after the plaintiff's or State's case
- (d) 1 case settled after a jury was selected but prior to opening statements

Judge Martin provided that during the past five years prior to his service on the bench he most often served as sole counsel.

The following is Judge Martin's account of his five most significant litigated matters:

- (a) *USA vs. Larry Blanding* (Operation Lost Trust)

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Case No.: CR-90-434-CHH

In this case, Larry Blanding, a member of the South Carolina General Assembly, was charged with violating the Hobbs Act. Mr. Blanding was accused of accepting a cash bribe from a lobbyist working under cover with the FBI in exchange for support a para-mutual betting bill. The criminal trial was tried in federal court in Columbia. Although Mr. Blanding was found guilty, my law partner and I appealed his conviction to the Fourth Circuit Court of Appeals. The conviction was reversed. This case was significant because it allowed me to experience the federal criminal process at an early stage in my legal career. It also exposed me to the criminal appeals process and allowed me to witness oral argument before the US Court of Appeals. The case itself was significant because it involved the alleged corruption of a state official and is credited with making the lobbying process before the South Carolina General Assembly more transparent.

(b) *Connell Brown and Illya Brown vs. Adolpho Cofino, Joseph Gabe and the City of Charleston*
Case Nos.: 2:92-1745-2 and 2:92-1744-2

These cases involved the shooting of a citizen in his own home by a Charleston city police officer and the unlawful arrest of his brother. Illya Brown, while walking home carrying his family's typewriter, was followed onto his front porch by two city officers. Mr. Brown was immediately grabbed by the officers, one of whom placed a handcuff around his wrist. His brother, Connell Brown, came to the front door of the residence and was immediately shot in the doorway. He survived his injuries but suffered significant injuries and permanent damages. Illya Brown was released without any criminal charges several hours after the shooting. Both brothers filed actions in federal court claiming violations of their civil rights and certain state torts claims. I, along with 2 other attorneys, represented the brothers. The case received significant coverage by the local press. The case was tried before a jury. Verdicts were returned in favor of the Defendants. However, the state court claims were preserved and litigated in the Charleston County Court of Common

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Pleas. The case involving Illya Brown resulted in a settlement after several days of testimony where I served as lead counsel. This case was significant because it challenged the over aggressive behavior of the Charleston Police Department. Because of the heavy publicity, claims of police brutality were reduced. Subsequently, the city of Charleston placed more emphasis officer training and how better to engage citizens they believe to be suspects.

(c) *Julia T. Gregory vs. Chief John R. Zumult and the City of North Charleston*

Case No.: 2:05-CV-0306-DCV

In this case, Asberry Wilder, a mentally ill adult, was shot to death by a member of the North Charleston Police Department after being accused of stealing a package of meat from a Piggly Wiggly grocery store. It was alleged by the officers that Mr. Wilder had a screw driver and posed a threat to one of the many officers that surrounded him. Mr. Wilder's mother filed an action against NCPD for his wrongful death. The case was tried over the course of several days in the United States District Court. After both parties presented their respective cases and just prior to presentation of closing arguments, the trial judge reversed his prior ruling and granted a directed verdict in favor of the Defendants. During the trial, testimony revealed that the officer who claimed to suffer an injury at the hands of Mr. Wilder was actually struck by a fellow officer. Also, the Defendants' expert witness confirmed that the victim's fatal wounds were inflicted while he was already on the ground. Despite this significant revelation during trial, the judge ended the case in favor of the Defendants. Although the result was a painful loss for the Wilder family, the North Charleston police equipped their officers with taser guns after the filing of the lawsuit. The use of such a weapon would have most likely prevented the untimely death of Mr. Wilder and has perhaps spared the lives of other mentally challenged people in North Charleston since. I feel that the case was significant for this reason and how it benefitted me in better understanding the complexity between police encounters and the mentally ill community.

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(d) *Dana E. Winters and Daniella C. Winters vs. Joyce Fiddie, C.W. Burbage, Barbara Daniels and Prudential Carolina Real Estate*

Case No.: 07-CP-08-0973

S.C. Court of Appeals No.: 2009115366

Vol. 7, Issue 10 of Verdict Search National, October 2008

In this case, Dana and Daniella Winters purchased a house shown to them by a real estate agent who acted as a dual agent for the sellers and the buyers. The sellers and their agent had prior knowledge that the home contained toxic mold, yet they failed to disclose this information to the buyers. After learning about the dangerous conditions in the home, my clients sued sellers, the agent and Prudential Carolina for failure to disclose and violating other provisions of the state code. The jury returned a verdict in favor of the Winters for \$125,000 in actual and punitive damages. The case was significant because it was the first verdict in the country against a real estate agent and real estate company for failure to disclose the presence of mold in a residence. The case has been published in several national publications including Verdict Search. Although the Defendants appealed the verdict, the jury's decision was upheld by the South Carolina Court of Appeals.

(e) *Fred Hamilton, Jr., and Allyne Mitchell vs. Jeff Fulgham, Norman Thomas and the Beaufort County Board of Elections and Voter Registration*

South Carolina Supreme Court Opinion No.: 26747

In November 2008, Fred Hamilton and Allyne Mitchell won the most votes for the two open seats on the Bluffton town council election. The town of Bluffton had no board of elections and commissioned the Beaufort County election board to conduct the election. Jeff Fulgham and Norman Thomas, the other two candidates, failed to win enough votes to win their elections. They filed a protest before the Beaufort County Board of Elections and a new election was ordered. Fred Hamilton and Alleyne Mitchell retained the services of my firm and appealed the decision to the South Carolina State Election Commission. The commission reversed the decision.

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Fulgham and Thomas then filed an appeal to the South Carolina Supreme Court. On May 13, 2009, I presented oral argument on behalf of Hamilton and Mitchell. Because the Bluffton township had not clarified the procedure for appeals in contest elections, the Supreme Court remanded the case to the Beaufort County Court of Common Pleas. Both Allyne Mitchell and Fred Hamilton, Jr., were sworn in and continued to serve as duly qualified members of the Bluffton town council. Mr. Hamilton still remains as a member of the council. This case is significant because it afforded me the opportunity to make an oral argument before the state's highest court. Also, but for the challenge, the town of Bluffton may have been deprived two very able and deserving members of its town council.

The following is Judge Martin's account of two civil appeals he has personally handled:

- (a) Dana E. Winters and Daniella C. Winters vs. Joyce Fiddie, C.W. Burbage, Barbara Daniels and Prudential Carolina Real Estate

Decision issued on August 13, 2008

S.C. Court of Appeals No.: 2009115366

- (b) Fred Hamilton, Jr., and Alleyne Mitchell vs. Jeff Fulgham, Norman Thomas and the Beaufort County Board of Elections and Voter Registration

Decision issued on December 7, 2009

South Carolina Supreme Court Opinion No.: 26747

Judge Martin reported that he has not personally handled any criminal appeals.

Judge Martin reported that he has held the following judicial office(s):

From 1989 – 1993, I served as a Magistrate (part-time) for the County of Charleston. I was appointed to this position by the Governor after being recommended by my local state Senator and

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approved by the local delegation. This was a Court of limited jurisdiction that handled small claims, landlord tenant disputes, claim and deliveries and presided over Bond Court. The jurisdiction of the Court was peninsula Charleston.

Since 2011, I have served as a judge of the Family Court in the Ninth Judicial Circuit. I am a resident judge in Charleston County and occupy seat no. 1. I was elected by the South Carolina General Assembly in February, 2011. The jurisdiction of the Family Court is established by state statute.

Judge Martin provided the following list of his most significant orders or opinions:

- (a) *Adoptive Couple vs. Baby Girl, Birth Fathers and the Cherokee Indian Nation*,
Case No. 2009-DR-10-3803
S.C. Appellate Case No.: 2011-205166

This action involved custody of a minor child of Cherokee Indian decent. The mother, a white female, and father, a native of the Cherokee tribe, had a child born out-of-wedlock. (The child has since come to be widely known as “Baby Veronica”) The child was placed for adoption without the knowledge of the father. Unbeknownst to the biological father, the adoptive parents obtained physical custody shortly after the child’s birth. After later becoming aware of the pending adoption action, the biological father and the Cherokee Indian Nation objected to the adoption. At the adoption hearing, the trial judge granted the biological father’s counter petition for adoption. The child was placed with the father and both left South Carolina and moved to Oklahoma.

The adoptive parents appealed the case. A media storm brewed in South Carolina and Oklahoma. The South Carolina Supreme Court ultimately reversed the lower Court decision and remanded the case to Charleston County. I was assigned the case. At the first hearing, the Court approved the petition for adoption filed by the adoptive parents and issued a Decree of Adoption. The Court ruled that the child was to be returned to South

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Carolina immediately. Because the father failed to comply with my ruling, it was also necessary to issue orders to enforce the ruling. The unfolding situation drew national attention with governors of both South Carolina and Oklahoma getting involved. The father, after exhausting efforts in the Oklahoma state court system, the Indian tribal court system and the federal court system, ultimately allowed the child to be returned with her legal parents to South Carolina.

- (b) *Keith Alan May vs. Denise Marie May*
Case No. 2015-DR-10-3222
S.C. Appellate Case No.: 2017-000030

The order issued by me in this matter involved a motion to relieve a party from an order which approved the parties' agreement. The agreement contained inconsistent language which impacted whether one party would be obligated to pay the other \$60,000 as their share in the marital home. I decided that the parties' agreement should be reformed and made the necessary adjustment to the agreement and final order. The former wife appealed the decision. The decision was affirmed.

- (c) *Harrison Shelby Nelson vs. Melissa Starr Nelson*,
Case No. 2015-DR-10-1870
S.C. Appellate Case No.: 2017-000291

In this divorce case, the parties had resolved the child custody, visitation and support issues. The unresolved issues involved equitable distribution of significant marital assets and liabilities. After hearing all the testimony, the Court reached certain findings that the husband did not agree with. In his appeal, he challenged the Court's determination of his interest in property valued at more than a million dollars. He also asserted that my valuation of the marital home was incorrect. The wife also appealed my decision to grant a Rule 60(b) motion after the trial. The appellate court made a de novo review of the trial and all the evidence presented.

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In South Carolina Court of Appeal's decision, it agreed with my decision to grant the Rule 60(b) motion. In doing so, it directly quoted language that I put in my final order. The Court also agreed that my valuation of the husband's investment property and that the Court's valuation of marital home was within the range of the evidence presented at the final hearing. The final order was affirmed.

- (d) *SCDSS vs. Nina Ward and Benjamin R. Clayton, Sr.*
Case No. 2016-DR-10-2327
S.C. Appellate Case No. 2016-002327

This case involved the termination of the parental rights of Nina Ward and Benjamin Clayton to their minor children. Actions involving the termination of parental rights are some of the hardest for Family Court judges to make. In most cases, the parents truly love their children. However, their love is sometimes not enough to keep the families together. The judge is always governed by the best interest of the children. In this matter, the parents failed to complete their drug treatment and other provisions required in their treatment plan. I determined that the best interest of the children demanded that the Defendant's parental rights be terminated. The parents appealed the case but the South Carolina Court of Appeals confirmed my decision.

- (e) *SCDSS vs. Teoshi Etoya Manigault White and Jawaan Frederick*
Case No. 2018-DR-10-1582
S.C. Appellate Case No.: 2018-000888

In this case, the father, Jawaan F. White, appealed my final order terminating his parental rights to his minor daughter. Again, determinations in such cases are always difficult. Based upon the evidence, I determined that the Father had failed to make any material contribution toward the support of his child and that it would be in the child's best interest that his parental rights to her be terminated. The father appealed. The appellate court affirmed my decision.

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Judge Martin reported no other employment while serving as a judge.

(9) Judicial Temperament:

The Commission believes that Judge Martin's temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee on Judicial Qualifications found Judge Martin to be "Well-Qualified" as to the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament; and. "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental health. The Committee commented: "Fabulous person, excellent judicial temperament, well balanced, compassionate, thoughtful, EXCELLENT CANDIDATE."

Judge Martin is married to Reba Z. Hough-Martin. He has two children.

Judge Martin reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar Association
- (b) Charleston County Bar Association – former executive committee member
- (c) SC Black Lawyers Association – former treasurer

Judge Martin provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Alpha Phi Alpha Fraternity, Inc., - life member
- (b) Sigma Pi Phi Fraternity – current Sire Archon (president)
- (c) Prince Hall Mason – Nehemiah Lodge No. 51
- (d) George Washington Consistory No. 162 (33rd degree Mason)
- (e) Arabian Temple No. 139 (Shriner)
- (f) South Carolina Aquarium – current Board member
- (g) Coastal Carolina Boy Scouts – current Board member
- (h) Avery Institute – current Board member
- (i) James L. Petigru chapter of Inns of Court – current member
- (j) Charleston Pro Bono – current Board Member

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- (k) 2023 recipient of the Buchan, Brown and Jacobs award given by the South Carolina Conference of Family Court Judges

Judge Martin further reported:

I do not believe that judges should live a nomadic and isolated life. I believe that the more life experience that one has to bring to the bench, the better jurist he/she would make. I have always been active in my church and in my community. I have been affiliated with numerous charitable organizations including the Prince Hall Masons. As a 33^o Mason, I held the position of Grand Legal Advisor for the state of South Carolina before joining the Family Court. I currently serve on many local boards of directors including Charleston Pro Bono, the Coastal Carolina Boy Scouts, the South Carolina Aquarium and Avery Institute. I actively participate in Inns of Court and have spoken individually and also on panels before fellow judges, lawyers, law students and students of all ages. As a sole practitioner with an office located in downtown Charleston for so many years, I consistently engaged with people from all walks of life. My clients came from every social-economic sector of our community. I believe that this well-rounded exposure to life and real-world situations and people of diverse backgrounds has given me the tools necessary to serve on the Circuit Court bench. I feel that I have the compassion, empathy, knowledge, work ethic and moral compass that would make be able to serve with distinction as a judge on the Circuit Court.

(11) Commission Members' Comments:

The Commission commented that Judge Martin has a reputation of having a calm disposition and a great temperament, as well as a reputation for fairness, as a Family Court judge. The Commission noted that Judge Martin has the perfect demeanor for the Circuit Court bench.

(12) Conclusion:

The Commission found Judge Martin qualified, and nominated him for election to Circuit Court, Ninth Judicial Circuit, Seat 4.

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Thomas J. Rode
Circuit Court, Ninth Judicial Circuit, Seat 4

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Rode meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Rode was born in 1983. He is 40 years old and a resident of Charleston, South Carolina. Mr. Rode provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2008.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Rode.

Mr. Rode demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Rode reported that he has made \$310.40 in campaign expenditures for palm card photos and metered postage.

Mr. Rode testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Rode testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

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(3) Professional and Academic Ability:

The Commission found Mr. Rode to be intelligent and knowledgeable.

Mr. Rode reported that he has taught the following law-related courses:

- (a) Yes. I taught legal research and writing to first year law students at the Charleston School of Law from 2013 through 2017. This course involved lectures, two or three times per week on topics related to general legal issues and standards of review, formulating arguments, researching legal issues, and composing various legal documents, motions, and appellate briefs. It also included preparing for and delivering oral argument. Dealing with a crowded class of students, all with varying degrees of experience and legal knowledge, was good preparation for dealing with difficult personalities, explaining concepts simply, delivering prompt feedback, and ensuring continued progress toward keeping to a longer-term schedule. These are skills that will translate well in serving as a Circuit Court judge.

Mr. Rode reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Rode did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. Rode did not indicate any evidence of a troubled financial status. Mr. Rode has handled his financial affairs responsibly.

The Commission also noted that Mr. Rode was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

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(5) Reputation:

Mr. Rode reported that his rating by a legal rating organization as follows: for Super Lawyers, Rising Star; for Best Lawyers, Appellate Practice; and for Lawyers of Distinction, Appellate Practice.

Mr. Rode reported that he has not served in the military.

Mr. Rode reported that he has never held public office.

(6) Physical Health:

Mr. Rode appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Rode appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Rode was admitted to the South Carolina Bar in 2008.

He gave the following account of his legal experience since graduation from law school:

(a) 2008-2011: Law Clerk to the Honorable Paula Thomas, South Carolina Court of Appeals.

My primary role as an appellate law clerk was to review and analyze the merits of appeals assigned to Judge Thomas. I made recommendations for disposition, first to Judge Thomas and then later to the other appellate judges reviewing the case. It was my responsibility to research and articulate a comprehensive explanation of the legal basis for those recommendations. This required me to conduct thorough review of the evidence in the record and orders issued by the trial court, prepare for and attend oral arguments, and develop an in-depth understanding of the legal rules implicated. It was also my responsibility to critically analyze the recommendations Judge Thomas received from the other appellate judges on the panel. I also employed a similar analytical process for the many appeals that were initially evaluated by the Staff Attorney's Office of the Court of Appeals.

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Once the judges finalized their decision(s) on a particular matter, I was responsible for preparing drafts of the opinions or dissents that would be authored by Judge Thomas for publication. I drafted these opinions in collaboration with Judge Thomas and pursuant to her directives on the proper legal reasoning and outcome.

Finally, to the extent the Court received any petition for rehearing or petition for rehearing en banc, it was my duty to conduct the same type of evaluation and analysis described above. As a result, the number of appeals I handled and the variety of legal issues that I tackled during my three-year clerkship for Judge Thomas was in the hundreds.

(b) 2011-2013: Associate Attorney at Savage and Savage P.A.

The general nature of my practice included criminal defense and personal injury in both State and Federal courts, as well as in various municipal, magistrate, and administrative courts throughout the Charleston area. In this role I made regular and frequent appearances in both State and Federal courts. I tried multiple criminal cases with Andy Savage, a well-seasoned and respected criminal defense attorney and I learned a great deal in the process. I was not involved with the administration or financial management of this firm or management of its trust accounts.

(c) 2013: Associate Attorney at Babb Law Firm.

The general nature of my practice included criminal defense and personal injury. I was only in this position for a very brief period, and I was not involved with the administration or financial management of this firm or management of this firm's trust accounts.

(d) 2013 – 2014: Sole Practitioner at The Rode Law Firm.

In this role, I operated as a general practitioner and the majority of my practice consisted of criminal defense and personal injury. As a sole practitioner, I managed all aspects of administration and financial matters of the firm including the trust account.

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(e) 2014 – Present: Attorney/Partner at Thurmond Kirchner & Timbes, P.A.

I focus primarily on civil litigation and appellate work. My civil practice is generally described as business litigation, a lot of which is related to the construction and development industries. This includes contract disputes, mechanic's liens and construction defects. However, my practice areas are broad and I have litigated real property disputes, condemnation actions, insurance coverage disputes, homeowner association matters, unfair trade practices, and land use issues. I have also handled a variety of tort matters including bad faith actions, employment claims, and malpractice matters. I routinely represent both plaintiffs and defendants, and my practice has also included insurance defense.

My appellate practice is equally diverse. Since 2015, I have worked on roughly twenty (20) appeals to the Supreme Court of South Carolina, the South Carolina Court of Appeals, and the U.S. Court of Appeals for the Fourth Circuit. The types of appeals I have handled vary widely, and I have represented appellants, respondents, and amici curia parties. In addition to a variety of different civil matters, I have handled appeals from the Court of General Sessions, Family Court, Probate Court, and the Master-in-Equity. I have also handled appeals involving questions related to Worker's Compensation issues. This is in addition to the innumerable appellate issues I worked on as a law clerk at the South Carolina Court of Appeals.

In my current role, I am not heavily involved with the day-to-day administrative or financial management of the firm. While I am informed of these matters, my active role is typically limited to those things in which my involvement is necessary. Similarly, I monitor, review, and approve trust account transactions related to my specific clients, but I am not actively involved in the day-to-day management of the firm's IOLTA account(s) for clients whose matters I am not handling.

Mr. Rode further reported regarding his experience with the Circuit Court practice area:

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Criminal Matters:

In the past five years, I have not handled any criminal matters in Circuit Court. However, I have successfully appealed a criminal matter to the Supreme Court of South Carolina in *State v. Cain*, 419 S.C. 24, 795 S.E.2d 846 (2017). This case concerned the admissibility of expert scientific testimony on the issues of theoretical or hypothetical quantities in drug related prosecutions. Although my practice does not currently include criminal defense, my experience as an appellate law clerk provided me with extensive experience in addressing and analyzing a huge number of criminal appeals. These included a wide array of issues from evidentiary disputes to substantive questions regarding South Carolina's Criminal Code, to sentencing, and everything in between.

My experience in criminal law is not limited only to my work as an appellate law clerk. During my first several years in private practice, between 2011 and 2014, a large majority of my practice included criminal defense in both state and federal court. During this time, I tried multiple criminal cases. Moreover, while in law school I not only received the CALI Award (highest grade) in Criminal Procedure, but I also worked as an intern for both a state and federal prosecutor. I worked as a summer intern in the District Attorney's Office (the equivalent of a circuit solicitor) in my hometown of Wilmington, North Carolina. During the school year, I worked as a legal extern in the United States Attorney's Office in Charleston. Combined, my experience has provided me with a substantive understanding of criminal law as well as a keen insight into the practical realities facing the participants in the criminal justice system. Not only do I have a solid understanding of the direct and collateral effects the criminal justice system has on the people charged and their families, I have also acquired a unique awareness of the burdens that the criminal justice system can place on prosecutors, defense attorneys, the court's administrative resources, and (most importantly) the people who are victims of crime.

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Civil Matters:

During the past five years I have handled a variety of civil matters in Circuit Court for both plaintiffs and defendants. A fair amount of my litigation practice is business related and specifically pertains to businesses in the construction industry. I have represented both builders and homeowners in contract disputes, mechanic's liens, and construction defect claims. I have represented a variety of clients—from individuals and small business owners all the way up to large corporations. My practice also includes real property litigation, including ownership disputes, heirs property matters, and zoning/land use disputes. I have represented property owners as well as local municipalities/governmental entities.

I have also had the opportunity to handle cases in a variety of other practice areas. These have included maritime cases, electronic eavesdropping and wiretapping issues, insurance coverage and bad faith matters, professional malpractice claims, class action suits, claims for unfair trade practices, Section 1983 civil rights actions, defamation, products liability, and employment matters—among others. I have represented both plaintiffs and defendants, as well as defended clients on behalf of insurance companies. This varied practice, together with my appellate experience, makes me uniquely well qualified to serve as a Circuit Court judge.

Mr. Rode reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: During the past five years, I have handled eight (8) matters in U.S. District Court and one (1) appeal before the U.S. Court of Appeals for the Fourth Circuit. Thus, my actual appearances in federal court over the past five years have been relatively infrequent, particularly during and since the pandemic;
- (b) State: During the past five years, I have handled roughly fifty-five (55) separate matters in Circuit Court, and roughly twenty (20) matters before the Supreme Court of

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South Carolina and/or the South Carolina Court of Appeals. I make regular court appearances that average approximately once per month. My court appearances were more frequent prior to the pandemic.

Mr. Rode reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 100%;
- (b) Criminal: 0% (I handled one criminal appeal in 2017 and have handled many criminal matters in my career— just not in the past five years.);
- (c) Domestic: 0% (I handled one Family Court appeal in 2021.)
- (d) Other: n/a

Mr. Rode reported his practice in trial court as follows:

- (a) 70% of cases were in trial court. Roughly 5-10% of my practice involved matters that would otherwise have been in trial court but were either resolved pre-suit or were resolved through alternative dispute resolution. The balance of my practice (roughly 20-25%) involved matters on appeal.
- (b) 1 case went to trial and resulted in a verdict.
- (c) 0 cases went to trial and resolved after the plaintiff's or State's case.
- (d) 0 cases settled after a jury was selected but prior to opening statements.

Mr. Rode provided that during the past five years he most often served as chief counsel and/or co-counsel with one or more attorneys in his firm.

The following is Mr. Rode's account of his five most significant litigated matters:

- (a) *In re Mt. Hawley Ins. Co.*, 427 S.C. 159, 161, 829 S.E.2d 707, 709 (2019).

This matter came before the Supreme Court of South Carolina on a certified question from the U.S.

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Court of Appeals for the Fourth Circuit. The question was significant because it involved a matter of first impression in South Carolina concerning attorney-client privilege in the context of an insurance bad faith action—a scenario that places the policy considerations of attorney-client privilege in conflict. Specifically, the case dealt with what is known as the “at issue” exception to attorney-client privilege. This case sought to resolve the extent to which a party could rely on the substance of attorney-client communication, either explicitly or implicitly, before the attorney-client privilege would be considered waived. The arguments, as well as the Supreme Court’s analysis, explored the extent to which the laws and public policy of this State embrace the various interpretations of this rule that had been observed around the country. Ultimately the Supreme Court developed its own analytical framework to evaluate this issue that is instructive in bad faith matters.

(b) *State v. Cain*, 419 S.C. 24, 795 S.E.2d 846 (2017).

In this criminal appeal, the Supreme Court of South Carolina confronted the novel question of whether a defendant could be convicted of possession with the intent to distribute drugs where the only evidence offered to satisfy the quantity element of the crime was expert testimony about “theoretical yield.” The evidence offered was an expert’s opinion as to the theoretical quantity of drugs or contraband the defendant might have been able to manufacture, possess, or distribute. The Court ultimately rejected the use of “theoretical yield” evidence in the manner it was used in this case. Not only did this case involve a matter of first impression, but it was also legally significant because it demonstrated how evidentiary rules—particularly those concerning expert testimony—overlap with the substantive requirements of the criminal code. The matter was also significant because it implicated unique questions of issue preservation that arose post-trial. These preservation issues—while seemingly mundane—are exceptionally important to appellate procedure and appellate practitioners.

(c) *Cavanaugh v. Cavanaugh*: 2017-CP-10-03376.

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This matter dealt with civil claims and private rights of action brought for alleged electronic wiretapping and eavesdropping under both South Carolina and federal law. This case presented several technical and seemingly novel issues that had not previously been litigated in our state courts. As a result, the case presented an exciting and stimulating academic challenge to research and develop the necessary legal arguments on behalf of my client. Over years of contentious litigation, the case was a great opportunity to hone the skills necessary to synthesize and present hyper-technical arguments to the Circuit Court. While the case likely would have presented several novel issues for our appellate courts, the matter settled before trial.

- (d) *Brown v. VSHZ; Traxxas, LP & Amazon.com Inc.*, 4:15-4684-BHH

This case dealt with an alleged product defect and failure to warn, stemming from the explosion of a lithium-ion battery. Although this is a well-known risk with these batteries now, it was less widely known at the time. While the subject matter was interesting and presented intriguing legal issues concerning the extent to which liability flows to attenuated sellers in the stream of commerce, this case was significant to me for a different reason. I represented one of many large corporate defendants and it presented one of the first and most notable matters in which I was able to observe how the relationships and interactions between corporate in-house counsel, litigation counsel, and local counsel can converge to have a significant impact on the volume and type of issues, motions, and arguments that come before the Circuit Court. In learning to marshal these competing interests I developed an ability to efficiently cut through the complicated and voluminous legal theories and proposed strategies to get to the heart of the issues that are relevant under South Carolina law and local practice.

I strongly believe that all parties are entitled to their day in court and the opportunity to have their grievances resolved as efficiently as possible. A Circuit

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Court judge set to tackle a lengthy motions roster may be presented with one motion on a complicated \$10 million dollar dispute, and another case that is a simple and small-value dispute. Both cases are deserving of the Court's time and attention, but a Circuit Court judge must be able to strike a balance that ensures a singular matter does not syphon away all the Court's time. This necessarily requires a Circuit Court judge be able to effectively synthesize complicated matters to the more manageable core issues, but also requires the ability to appreciate how one case could negatively impact another. While no silver bullet exists, having the ability to predict and appreciate how some cases might be made overly complicated is an important tool that could help me strike this balance. That is the reason I include this case among the significant cases I have handled.

- (e) *Hollinshead v. Medical University of South Carolina*; 2:19-cv-2517-RMG-BM

This case is significant primarily for personal reasons. Many lawyers have “that one case” that sticks with them as the years go on. This is that case for me. It was the perfect combination of a deserving client who suffered a terrible event and a result that actually set the wrong right and felt like true justice. This was a wrongful termination matter in which the plaintiff, an African American, alleged that shortly after receiving a promotion, her new boss, who was white, initiated an escalating course of sexual and racial harassment. The plaintiff claimed she reported the conduct to Human Resources—which investigated and confirmed the claims to be true—but instead of taking any steps to address the matter, the plaintiff was summarily terminated. Ultimately, with my help, the parties reached a settlement that not only compensated the plaintiff for her losses, but also afforded her the opportunity to return to employment—a very rare occurrence.

This matter is not significant for any prestige or monetary award. Instead, this matter is significant to me because of the justice that was obtained. The plaintiff, who suffered atrocious mistreatment because of her

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race, was able to reclaim her dignity in a way that money alone could never have done for her. The ability to help facilitate that result gave me a sense of accomplishment that struck at the very heart of why I became a lawyer. For that reason, this case will remain one of the most significant cases I've handled.

The following is Mr. Rode's account of five civil appeals he has personally handled:

- (a) *In re Mt. Hawley Ins. Co.*, 427 S.C. 159, 829 S.E.2d 707 (2019) – Supreme Court of South Carolina.
- (b) *Mims v. USAA Cas. Ins. Co.*, No. 21-1654, 2023 U.S. App. LEXIS 6727, (4th Cir. Mar. 21, 2023) – U.S. Court of Appeals for the Fourth Circuit.
- (c) *Martin v. Valipour*, No. 2023-UP-080, 2023 S.C. App. Unpub. LEXIS 101, (Ct. App. Mar. 8, 2023) – South Carolina Court of Appeals.
- (d) *United Servs. Auto. Ass'n v. Pickens*, 434 S.C. 60, 862 S.E.2d 442 (2021) – Supreme Court of South Carolina.
- (e) *Morris v. State Fiscal Accountability Auth.*, No. 2023-UP-201, 2023 S.C. App. Unpub. LEXIS 260 (Ct. App. May 24, 2023) – South Carolina Court of Appeals.

The following is Mr. Rode's account of two criminal appeals he has personally handled:

- (a) *State v. Cain*, 419 S.C. 24, 26, 795 S.E.2d 846, 847 (2017) – Supreme Court of South Carolina.
- (b) This list does not include the numerous criminal appeals I worked on while a law clerk at the South Carolina Court of Appeals.

(9) Judicial Temperament:

The Commission believes that Mr. Rode's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee on Judicial Qualifications found Mr. Rode to be "Qualified" in the evaluative criteria of constitutional qualification, physical health, mental stability, and experience; and "Well-Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character,

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reputation, and judicial temperament. The Committee had no related or summary comments.

Mr. Rode is married to Julie L. Moore. He has two children.

Mr. Rode reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar Association.
- (b) Charleston County Bar Association.

Mr. Rode provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Old Windermere Neighborhood Association – Board Member.
- (b) South Carolina Bar Association, Young Lawyers Division Committee Chair, Star of the Quarter.
- (c) South Carolina Bar Foundation – Ambassador Board Member

Mr. Rode further reported:

In candor, I went to law school without a full understanding of what it truly meant to be a lawyer. However, through some great fortune, I discovered the law is something I am passionate about and my passion made me good at it. I became a dedicated student of the law and was constantly curious to understand it better. Through hard work I graduated near the top of my law school class. This gave me the opportunity to become an appellate law clerk which super-charged my ability to study the law and provided me with substantive experience on a wide array of legal issues and cases. No other job could have given me this foundation and appreciation for the law of our state. Through this experience, I learned how to identify and evaluate issues, how to recognize potential pitfalls, and how to avoid problems that could result in unnecessary appeals that delay the resolution of cases for litigants.

As important as the academic experience, my appellate clerkship provided me with the opportunity to work closely with many exceptional judges at the Court of Appeals. No better mentors could possibly exist for a future judge. Of the many and most

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lasting lessons I learned from these judges was how imperative it is for a judge to approach every case with an open mind and without assuming you know everything there is to know about the law. At first, I was surprised, but then inspired by the humility of the jurists I worked with. I came to appreciate how necessary this trait is for a judge, who cannot let preconceived ideas or assumptions about the law guide his analysis or impact his ruling. I learned that to serve the law, a judge must remain open to changing his mind when a studied analysis demonstrates his assumptions about the law were wrong. The humility to acknowledge the limitations of your knowledge, the willingness to discover those limitations, and the academic courage to admit you might be wrong, are all indispensable to serving as a judge. This is something I learned firsthand from the very start of my career.

My time in private practice has also informed my knowledge of a judge's role. Having handled all types of matters—criminal, civil, trials, and appeals—I am familiar with the legal and practical issues facing practitioners. I know, firsthand, the passion, stress, hard work, unpaid hours, and soul that trial lawyers (on both sides) put into their work for their clients. A Circuit Court judge sits precisely at the intersection of where the academics of the law meet the practical and administrative realities of a crowded docket. While it always hurts to lose, a judge cannot take the efforts of litigants for granted. A judge must be willing to rule and to do so in a way the law requires and do so efficiently. I believe this requires a judge to strike a very difficult balance that ensures the highest fidelity to the law as well as administrative efficiency. My unique set of experiences have allowed me to develop a keen ability to navigate both of those competing duties. If I were elected Circuit Court judge, I believe I could provide a true benefit to the judiciary and the people of my community.

(11) Commission Members' Comments:

The Commission commented that Mr. Rode is well qualified and respected by his peers in the legal community. They noted that

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his work ethic, analytical ability, and excellent temperament make him well-suited to serve as a circuit court judge.

(12) Conclusion:

The Commission found Mr. Rode qualified, and nominated him for election to Circuit Court, Ninth Judicial Circuit, Seat 4.

**The Honorable Dale E. Van Slambrook
Circuit Court, Ninth Judicial Circuit, Seat 4**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Van Slambrook meets the qualifications prescribed by law for judicial service as a circuit court judge.

Judge Van Slambrook was born in 1958. He is 65 years old and a resident of Goose Creek, South Carolina. Judge Van Slambrook provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1983.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Van Slambrook.

Judge Van Slambrook demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Van Slambrook reported that he has not made any campaign expenditures.

Judge Van Slambrook reported that he has made \$230.73 in campaign expenditures for stationery and envelopes (\$152.77), name tag (\$27.96) and postage (\$50.00).

Judge Van Slambrook testified he has not:

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- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Judge Van Slambrook testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Van Slambrook to be intelligent and knowledgeable.

Judge Van Slambrook reported that he has taught the following law-related courses:

- (a) I have lectured at the April 26, 2018 Berkeley County Bar Day Court CLE
- (b) I made presentation on the topic of Partition Actions on December 15, 2017

Judge Van Slambrook reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Van Slambrook did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Judge Van Slambrook did not indicate any evidence of a troubled financial status. Judge Van Slambrook has handled his financial affairs responsibly.

The Commission also noted that Judge Van Slambrook was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

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(5) Reputation:

Judge Van Slambrook reported that his rating by a legal rating organization was B.V.

Judge Van Slambrook reported that he has not served in the military.

Judge Van Slambrook reported that he has never held public office other than judicial office.

(6) Physical Health:

Judge Van Slambrook appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Van Slambrook appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Van Slambrook was admitted to the South Carolina Bar in 1983.

He gave the following account of his legal experience since graduation from law school:

From 1983 to 2000, I engaged in a General law practice. I was involved in domestic cases, divorce, child custody disputes; Workers Compensation cases; Chapter 7 and Chapter 13 Bankruptcy cases; Personal Injury Litigation; Probate; Social Security; Real Estate Closings and Real Estate Litigation. Beginning in 2000, my practice narrowed to where I was primarily involved in personal injury, Social Security, Probate and Miscellaneous Litigation.

I was hired as an Associate with The Steinberg Law Firm, LLP in 1983, became a partner in 1986. I primarily practiced in the Goose Creek Office but also worked in the Ashley Phosphate office and later in the Summerville office located on Main Street then Old Trolley Road as the Managing Partner of the Office until taking the Bench in November 2014. All of these positions included the operating and trust accounts.

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Judge Van Slambrook further reported regarding his experience with the Circuit Court practice area:

Criminal Matters : As a part of my private practice, I defended cases in the Magistrate Court, Municipal Court and General Sessions and tried cases in all Courts in Berkeley, Charleston and Dorchester County. Most recently, I presided over Jury Trials as Municipal Court Judge for the City of Goose Creek. I handled all matters relating to these criminal Trials. Primary focus was Driving Under the Influence, Shoplifting and Criminal Domestic Violence cases. Many cases involved Pro Se Defendants and majority of cases were prosecuted by the Arresting Officer. As a Special Circuit Court Judge, I presided over Guilty Pleas and Probation Revocation Hearings.

Also, as Special Circuit Judge, I routinely review and grant search warrants relating to matters involving telecommunications, banking, and the internet.

As Judge of the Berkeley County Adult Drug Court, I have advanced my depth of knowledge of the Criminal Court System immensely.

Civil Matters : As a part of my private practice, I handled numerous Civil matters in Magistrate Court and Common Pleas. I tried approximately one hundred (100) Jury Trial cases to verdict during my private practice. Further, I practiced in Bankruptcy Court as a Debtors Attorney in Chapter 7 and Chapter 13 cases until approximately 2006. I practiced in Federal Court presenting Social Security Disability Claimants primarily from 2008 to 2014.

As Special Circuit Court Judge concerning Civil matters, I review and sign routine matters as Default Orders, Dismissals, Publication and Appointment of Guardians.

I routinely handle minor settlements and wrongful death settlements for Berkeley County. This constant review of procedural matters has also increased my breath of knowledge as to the day to day workings of the Court System from the Judicial and Administrative perspective.

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Judge Van Slambrook reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: 10 to 15 – including Social Security (per year)
- (b) State: 10 – 15 (per year)

Judge Van Slambrook reported the percentage of his practice involving civil, criminal, domestic and other matters during the five years prior to his appointment to the bench as follows:

- (a) Civil: 95%;
- (b) Criminal: 0%;
- (c) Domestic: 0%;
- (d) Other: 5% - Probate

Judge Van Slambrook reported the percentage of his practice in trial court during the past five years as follows:

- (a) Jury: 50%
- (b) Non-jury: 50%

Judge Van Slambrook provided that during the past five years he most often served as sole counsel.

The following is Judge Van Slambrook's account of his five most significant litigated matters:

- (a) *Ruth Atkins (Pinckney vs. Atkins* 317 SC 340 (1995)
I was retained after the Trial and filed an Appeal based upon numerous errors at the original Hearing. The published Opinion clarified numerous procedural issues relative to Real Partition Actions.
- (b) *Coleman Dangerfield vs. Rainbow Carpets, et al.* (2011)
Personal Injury Trial in Berkeley County tried in May 2011 for four (4) days. Involved significant medical causation and psychiatric issues, multiple physician depositions and liability issues.
- (c) *Tamson Susor vs. Tommy Lee Schmidt* (2012)
Personal Injury Trial in Dorchester Court of Common Pleas. Involved liability and medical causation issues. Significant due to novel issues raised regarding social media and its admissibility.
- (d) *Sheryl Elliot vs. Three D Metal, Inc., et al.* (2012)
Personal Injury litigation case involving medical causation issues. Most significantly was the various experts regarding

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accident reconstruction and epidemiology. This matter was settled immediately prior to Trial during a second mediation.

- (e) *Estate of Catherine Wall vs. La Hacienda, et al.* (2011)
Wrongful death premises liability claim resulting from a fall from which an eighty (80) year old woman died. Significant issues involved defective construction and proof of conscious pain and suffering. Successfully presented a video commemoration of Mrs. Wall's life to demonstrate damages. Also involved numerous Probate Court filings.

The following is Judge Van Slambrook's account of the civil appeal he has personally handled:

Ruth Atkins (Pinckney vs. Atkins 317 SC 340 (1995)

I was retained after the Trial and filed an Appeal based upon numerous errors at the original Hearing. The published Opinion clarified numerous procedural issues relative to Real Partition Actions.

Judge Van Slambrook reported that he has not personally handled any criminal appeals.

Judge Van Slambrook reported that he has held the following judicial office(s):

- (a) City of Goose Creek, 2009 to 2014, primarily Criminal Jury Trials, occasional Bond Hearings, Bench Trials and Motions
- (b) Berkeley County Master-In-Equity, 2014 to present
- (c) Berkeley County Adult Drug Court Judge, 2017 to present
- (d) Special Circuit Judge, 2016 to present

Judge Van Slambrook provided the following list of his most significant orders or opinions:

- (a) *Mills vs. Hudson* 2012-CP-08-3013
Disputed Trial involving issues of Title to Real Estate Property, access prescriptive easement and res judicata. The Order was affirmed on Appeal. (Appellate Case No. 2015-2175)
- (b) *Carolina Comfort Specialist vs Weddle* 2012-CP-08-1869
Disputed multi-day Trial involving Mechanic's Lien, Breach of Contract, Remediation, Construction issues, Service of

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Process and other evidentiary and procedural issues. The Order was confirmed on Appeal. (Appellate Case No. 2016-2323)

- (c) *Matash vs. Clark* 2015-CP-08-0053
Disputed Trial involving neighborhood access and easement issues
- (d) *Estate of Stephens vs. Anderson* 2011-CP-08-2933
Disputed Adverse Possession Action involving Estoppel, Laches and significant procedural and evidentiary issues.
- (e) *Blue Chip vs. Bonifay* 2014-CP-08-1142
Disputed multi day Trial involving Breach of Contract issues and business development concerning development of medical equipment business. The case was dismissed on appeal. (Appellate Case No. 2016-1307)

Judge Van Slambrook reported no other employment while serving as a judge.

Judge Van Slambrook further reported the following regarding unsuccessful candidacies:

Unsuccessful candidate for Circuit Court Ninth Judicial Circuit, Seat 2 in 2018; Circuit Court At Large Seat 12 in 2020.

(9) Judicial Temperament:

The Commission believes that Judge Van Slambrook's temperament has been and would continue to be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee on Judicial Qualifications found Judge Van Slambrook to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability; and "Well-Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee noted: "Extremely well qualified, excellent judicial temperament, [unreadable] and really compassionate, smart—A GREAT CANDIDATE."

Judge Van Slambrook is married to Darlene J. Van Slambrook. He has three children.

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Judge Van Slambrook reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar Association 1983 to present
- (b) Charleston County Bar Association 1983 to present
- (c) Berkeley County Bar Association 1983 to present
Bar President 2011
- (d) South Carolina Master-In-Equity 2014 to present
- (e) Judges Association, President 2019-2020

Judge Van Slambrook provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Goose Creek International Triathlon Club - member
- (b) St. James United Methodist Church - former Lay Leader;
former Finance Committee Chairman; former Trustee;
Chair of Administrative Council
- (c) National Rifle Association – member

Judge Van Slambrook further reported:

I have lived in Berkeley County since 1974 and graduated from Goose Creek High School, Clemson University and University of South Carolina School of Law. I practiced law with The Steinberg Law Firm, LLP for more than thirty (30) years primarily out of the Goose Creek office and later in Summerville offices.

I began my legal career as general practitioner and handled a variety of cases including but not limited to domestic, criminal, probate, civil cases, high volume of real estate closing and real estate litigation and personal bankruptcy cases.

I have tried cases Jury and Non-Jury in various Courts in Charleston, Berkeley and Dorchester County Common Pleas, Family Court, General Sessions, Master-In-Equity, Magistrate and Municipal Courts. I have handled almost all manner of disputes in these various Courts.

For the last years of my private practice, I focused primarily on personal injury litigation and Social Security Disability.

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I presided over Criminal Jury Trials as a Municipal Judge for the City of Goose Creek from 2009 to 2014.

I currently serve as Berkeley County Master-In-Equity primarily Non-Jury matters that frequently involved Pro Se Litigants during the extremely stressful Foreclosure process. I also have been able to serve as a Special Circuit Court Judge and handle non jury civil matters, wrongful death settlement, and minor settlements. As Judge of the Berkeley County Adult Drug Court, I interact on a weekly basis with participants and the Drug Court Team, including assistant solicitors, public defenders and health professionals.

My experience as a Master-In-Equity, Special Circuit Court Judge, Berkeley County Adult Drug Court Judge and as Municipal Court Judge has provided me an insight into the difficulties and enormous responsibilities which face every person serving on the Bench.

I believe that based upon my depth of experience as a practicing attorney, service as a Criminal Court Judge, Master-In-Equity, a Special Circuit Court Judge and as an Adult Drug Court Judge, I have the training, education and experience to effectively perform the duties of a Circuit Court Judge. I believe that I would be able to apply a common sense and practical approach to the many duties of a Circuit Court Judge.

(11) Commission Members' Comments:

The Commission commented that Judge Van Slambrook is an impressive candidate with an outstanding reputation amongst his peers. They noted he is well-qualified with excellent judicial temperament and strong intellectual ability.

(12) Conclusion:

The Commission found Judge Van Slambrook qualified, and nominated him for election to Circuit Court, Ninth Judicial Circuit, Seat 4.

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The Honorable R. Scott Sprouse
Circuit Court, Tenth Judicial Circuit, Seat 2

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Sprouse meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Sprouse was born in 1964. He is 59 years old and a resident of Walhalla, South Carolina. Judge Sprouse provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1990.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Sprouse.

Judge Sprouse demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Sprouse reported that he has not made any campaign expenditures.

Judge Sprouse testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Judge Sprouse testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

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(3) Professional and Academic Ability:

The Commission found Judge Sprouse to be intelligent and knowledgeable.

Judge Sprouse reported that he has taught the following law-related courses:

5-5-23 I spoke on tips from the bench in Circuit Court at the Oconee Bar Annual Meeting.

10-28-22 I spoke to two political science classes at Clemson University about a law career and law school.

4-16- 19 I spoke to the TriCounty Judicial Association on Ethics and Tips from the Circuit Court for Magistrates at Anderson Civic Center.

3-23-17 I participated in the SC Bar Upstate Sporting Clays on the Judge Panel.

4-28-16 I spoke to the TriCounty Judicial Association on Ethics at Clemson University.

11-13-15 I spoke at SC Bar Tips from the Bench for the Tenth Circuit.

(4) Character:

The Commission's investigation of Judge Sprouse did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Judge Sprouse did not indicate any evidence of disqualifying financial issues.

The Commission also noted that Judge Sprouse was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Sprouse reported that he is not rated by any legal rating organization.

Judge Sprouse reported that he has not served in the military.

Judge Sprouse reported that he has never held public office other than judicial office.

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(6) Physical Health:

Judge Sprouse appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Sprouse appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Sprouse was admitted to the South Carolina Bar in 1990.

He gave the following account of his legal experience since graduation from law school:

Barnes & Smith, P.A., Beaufort, SC August 1989-March 1990 Associate for an insurance defense firm. I primarily did research and file management. This involved a large amount of discovery documents and briefs prepared for the partners. I had no involvement in the administrative and financial management of the firm.

Morgan Law Firm 49 April 1990-August 1991 Partner in general practice. I began handling various general practice cases including domestic, criminal, real estate, bankruptcy and general litigation. I was a partner engaged in the administrative and financial management of the firm (including the trust account) although all the physical assets, such as the building, were owned personally by my partner.

R. Scott Sprouse Attorney at Law August 1991-July 1992 I was a sole proprietor. I continued to handle the same types of cases but added social security and personal injury to my caseload. I also began sharing the City Attorney position for the City of Westminster in February of 1992. I had full responsibility for management of the business, including administrative and financial management (including the trust account).

Ross, Stoudemire, Ballenger & Sprouse, P.A. July 1992-December 1994 I was a member of a general practice firm. My practice primarily involved domestic litigation, criminal cases, personal injury cases and City Attorney work for the City of Westminster. I served as a Hearing Officer for the ABC

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Commission from the Fall of 1993 until early 1994. I had involvement in the administrative side of the firm and its financial management. I could sign checks and could review financial documents. We had a full time office manager and a part time bookkeeper. The office manager dealt with the day-to-day management of the firm, including paying the monthly bills. She was under the direct supervision of the senior partners/shareholders of the P.A.

Ross, Stoudemire & Sprouse, P.A. January 1995-January 1997
My practice stayed virtually the same. The only change was that (the now Honorable) Karen Ballenger, left the firm. I became the sole City Attorney for the City of Westminster in January, 1995.

Stoudemire & Sprouse, P.A. January 1997 to December 2014
My practice stayed the same, but the name of the firm changed again when Lowell Ross left the firm in January 1997. This job ended when I left the practice of law to become a Circuit Judge.

City of Westminster, City Attorney February 1992-December 2014
I was involved in various legal matters for the City of Westminster. My duties included attendance at council meetings, prosecuting criminal cases in municipal court, drafting of documents and participation in civil litigation involving the City. This job ended when I left the practice of law to become a Circuit Judge.

City of Walhalla, Municipal Judge February 1996-December 2014
I served as Municipal Judge for nearly nineteen years. I usually held court twice a week. I conducted bond hearings and signed warrants for the Walhalla Police Department. This was a court having general summary court criminal jurisdiction inside in the City of Walhalla. This job ended when I became a Circuit Judge.

Town of Salem, Municipal Judge July 2011-December 2014
I served in the same capacity for the Town of Salem. I held court once a month. This job ended when I became a Circuit Judge.

City of Seneca, Interim Municipal Judge, Fall 1998
I served as Interim Municipal Judge for the City of Seneca for several

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months in the Fall of 1998. Seneca was in the process of selecting a full time Municipal Judge. The City Council asked me to serve as Interim Judge while they were going through the hiring process. I performed all of the duties of a Municipal Court Judge during this period. This job ended when the Honorable Danny Singleton was appointed full time Municipal Judge in December of 1998.

City of West Union, Municipal Judge July 2007-March 2008
The City of Walhalla and the City of West Union entered into a contract wherein Walhalla would provide police protection for West Union. Accordingly, I was sworn in and began holding court in West Union. This job ended when Walhalla terminated its contract with West Union, who resumed having the Oconee County Magistrate's Office handle its cases.

Circuit Judge, Tenth Judicial Circuit Seat 2. January 2015 to present. I was elected on May 28, 2014 by the S.C. General Assembly to replace the retiring Alexander S. Macaulay. I was sworn in and took the bench in January of 2015, and have been serving as Resident Judge, Seat 2, Tenth Judicial Circuit since then.

Judge Sprouse reported that he has held the following judicial office(s):

I was elected by the General Assembly to Seat 2 of the Circuit Court, Tenth Judicial Circuit, on May 28, 2014. I took the bench on January 2, 2015. I was re-elected to the same position by the General Assembly on February 10, 2018, with my new term beginning July 1, 2018 and ending June 30, 2024.

Judge Sprouse provided the following list of his most significant orders or opinions:

- (a) *Hicks Unlimited Inc. v. UniFirst Corporation*. SC Appellate Case 2021-001042. This case, which was in the June 14, 2023 advance sheet, was a dispute about arbitration. I issued an order denying the Defendant's motion to compel arbitration in a contractual dispute because the arbitration provision was not in compliance with the S.C. Arbitration Act. The SC Court of Appeals reversed my decision, holding that the Federal Arbitration

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Act pre-empted the SCAA. An appeal to the SC Supreme Court followed, with the Court of Appeals being reversed by the Supreme Court.

- (b) *Baslides F. Cruz, et al v. City of Columbia*. SC Appellate Case 2019-000374. This was a non-jury trial over which I presided. The issue were the Plaintiffs' claims against the City of Columbia for damages over cancellation of insurance benefits. The Plaintiffs' brought a promissory estoppel claim. I found that the Plaintiffs' failed to meet their burden of proof. The SC Court of Appeals affirmed, although they found that I placed too strict a burden on the Plaintiffs. However, they reached the same conclusion based on a more lenient standard.
- (c) *Joshua Hawkins and Floyd S. Mills, III v. Secretary of State Mark Hammond et al*. SC Appellate Case 2019-000330. This was an action brought by two attorneys seeking to invalidate two tort reform laws in the South Carolina Code. I granted the Defendants' motion to dismiss on the grounds of res judicata and the lack of standing. The SC Court of Appeals affirmed my decision.
- (d) *R. Dean Price, et al v. Eugene L. Griffin*. 2016-CP-04-02028. This was a case involving protracted litigation over restrictive covenants in an upscale subdivision in Anderson County. I presided over a two day bench trial and issued an order.
- (e) *Annie Myers, et al v. Town of Calhoun Falls*. 2018-CP-01-0094 and 2018-CP-01-00250
This case involved a number of Abbeville County landowners bringing suit over abandoned railroad right of ways. I issued an order granting the Plaintiffs the relief requested. This case is still on appeal.

I have several cases from General Sessions and PCRs that are on appeal.

Judge Sprouse reported no other employment while serving as a judge.

Judge Sprouse further reported the following regarding unsuccessful candidacies:

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2000 I ran for the Tenth Circuit Family Court, Seat 2. I withdrew from the race prior to the election. I was deemed qualified by the Judicial Merit Selection Commission.

2009 I announced an intention to run for the Tenth Circuit Family Court, Seat 2, but never submitted the application and withdrew my name prior to screening.

2012 I ran for the Tenth Circuit Family Court, Seat 2. I withdrew from the race prior

(9) Judicial Temperament:

The Commission believes that Judge Sprouse's temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Upstate Citizens Committee on Judicial Qualification found Judge Sprouse to be "Well Qualified" as to the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee had no related or summary comments.

Judge Sprouse is married to Mary Soudemire Sprouse. He has two children.

Judge Sprouse reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar 1990 to present.
- (b) Oconee County Bar 1990 to present. President 1997.
Treasurer 1991.
- (c) South Carolina Association for Justice f/k/a SC Trial Lawyers Association 1993-2014.
- (d) American Association for Justice f/k/a American Trial Lawyers Association 1993-2014.
- (e) South Carolina Summary Court Judges Association 1998-2014.
- (f) American Bar Association Judicial Division 2016-present.
- (g) American Judges Association 2016-2018
- (h) South Carolina Circuit Court Association 2015-present

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Judge Sprouse provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) St. John's Evangelical Lutheran Church 1997-present
Church Council 1998-2004, 2008-2011 Adult Sunday
School Teacher.
- (b) IPTAY 1986-present. Representative 1994-2005.
- (c) The Oconee Assembly 1994-present Board Member 2012-present.
- (d) City of Walhalla Recreation Department, Coach Boys
Basketball 1996-2014. Baseball 2007-2014
- (e) AAU Basketball 2014, 2015.
- (f) Travel Baseball 2012.

Judge Sprouse further reported:

I was in the private practice of law for nearly twenty-five years. Since becoming a judge, I have not forgotten how the challenges of maintaining a law practice. While I do my job and keep the dockets moving, I strive to not add any unnecessary hurdles to the lawyers who already have a difficult job.

I was a certified Family Court Mediator back during my law practice, going through the SC Training and receiving my certification on August 22, 2006.

I am an Eagle Scout. I was a member of Troop 312 Boy Scouts of America in Piedmont, South Carolina.

(11) Commission Members' Comments:

The Commission commented that Judge Sprouse has an outstanding reputation as a jurist. They noted in particular that his temperament and professionalism served as an exemplar for other jurists and members of the South Carolina Bar Association.

(12) Conclusion:

The Commission found Judge Sprouse qualified, and nominated him for re-election to Circuit Court, Tenth Judicial Circuit, Seat 2.

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**The Honorable William Paul Keesley
Circuit Court, Eleventh Judicial Circuit, Seat 1**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Keesley meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Keesley was born in 1953. He is 70 years old and a resident of Edgefield, South Carolina. Judge Keesley provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1978.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Keesley.

Judge Keesley demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Keesley reported that he has not made any campaign expenditures.

Judge Keesley testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Judge Keesley testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

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(3) Professional and Academic Ability:

The Commission found Judge Keesley to be intelligent and knowledgeable.

Judge Keesley reported that he has taught the following law-related courses:

- (a) I was on a panel for the topic, "What Civil Court Judges Want You to Know" put on by the National Business Institute in Columbia, May 4, 2016.
- (b) I spoke at the South Carolina Association of Justice meeting on the topic of "Methamphetamine Addicted Defendants" in Hilton Head, August 6, 2015.
- (c) I was on a panel of speakers discussing the work of the Sentencing Reform Commission for the 2010 Spring Conference of the South Carolina Association of Circuit Judges.
- (d) I have been on a panel on three occasions over the years speaking on the topic of insight from the bench at seminars held by the Lexington County Bar Association.
- (e) I spoke at a South Carolina Bar sponsored CLE, "Tips from the Bench IV" in 2003 and at a seminar on evidence many years ago.
- (f) I was on the faculty of the National Drug Court Institute and have conducted training for Drug Court judges across the United States. The sites for those training sessions were in San Diego, California; Columbia, Missouri; Dallas, Texas; Buffalo, New York; and, Pensacola, Florida.
- (g) I spoke at the National Association of Drug Court Professional's training conference in Miami, Florida on drug court issues many years ago.
- (h) I have been a lecturer for CLE training and have spoken several times at meetings of the South Carolina Association of Drug Court Professionals concerning Drug Court.
- (i) I have lectured at the South Carolina Solicitors' Convention on Drug Courts and on a panel dealing with tips from the bench.

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- (j) I lectured to personnel of the South Carolina Department of Corrections annually for several years on Drug Courts.
- (k) I spoke at the South Carolina Judicial Branch's Annual Judicial Conference on Drug Courts and participated in the 2010 Conference on the work of the Sentencing Reform Commission, though I was not listed on the program.
- (l) I spoke at the South Carolina Public Defenders' Association Annual Meeting, discussing Drug Courts and observations from the bench. I was also part of the ethics presentation when the new oath for attorneys was implemented (which included the civility oath) and administered the new oath to all the Public Defenders.
- (m) I lectured personnel of the South Carolina Department of Probation, Parole and Pardon Services concerning Drug Courts.
- (n) I have been a speaker at the training given annually to the Chief Judges for Administrative Purposes, discussing the administrative functions of Circuit Judges.
- (o) I lectured at the Pre-Trial Intervention Conference on the topic of drug courts.
- (p) I lectured at a CLE program held at the Medical University of South Carolina dealing with Drug Courts.
- (q) I spoke at training conferences of the South Carolina Department of Alcohol and Other Drug Abuse Services (DAODAS) concerning Drug Courts.

Judge Keesley reported that he has published the following:
"Drug Courts," (*S.C. Lawyer*, July/August 1998), Author

(4) Character:

The Commission's investigation of Judge Keesley did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Judge Keesley did not indicate any evidence of a troubled financial status. Judge Keesley has handled his financial affairs responsibly.

The Commission also noted that Judge Keesley was punctual and attentive in his dealings with the Commission, and the

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Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Keesley reported that he is not rated by any legal rating organization.

Judge Keesley reported that he has not served in the military.

Judge Keesley reported that he has held the following public office:

I served in the SC House of Representatives, District 82, from November 1998 to August 12, 1991. It is an elected position. The ethics reports were properly filed.

(6) Physical Health:

Judge Keesley appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Keesley appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Keesley was admitted to the South Carolina Bar in 1978.

He gave the following account of his legal experience since graduation from law school:

- (a) 1978-1980: Associate Attorney of John F. Byrd, Jr., Esquire, Edgefield, South Carolina, general practice, primarily real estate, authorized signatory on trust account
- (b) 1980-1983: Associate Attorney with J. Roy Berry, Esquire, Johnston, South Carolina, general practice, primarily domestic relations, authorized signatory on trust account
- (c) 1983-1991: Sole practitioner, Johnston, South Carolina, general practice including civil, criminal, domestic relations, municipal, and regulatory matters. I handled all financial dealings. While in private practice, I served as a part-time Public Defender 1983-1987, as Town Attorney for Johnston, South Carolina 1983-1989; Attorney for Edgefield County Water and Sewer Authority

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approximately 1985-1989, and part-time Assistant Solicitor, Eleventh Judicial Circuit 1988-89.

Judge Keesley provided the following list of his most significant orders or opinions:

- (a) *Lambries v. Saluda County Council*, 409 S.C. 1, 760 S.E.2d 785 (2014). This case involved strict construction of the South Carolina Freedom of Information Act, resulting in agendas being published before all regularly scheduled meetings of county governmental bodies.
- (b) *State v. K.C. Langford, III*, 400 S.C. 421, 735 S.E.2d 471 (2012). Used by the Supreme Court to rule that the statute giving exclusive control of the criminal court docket to the Solicitor's office was unconstitutional.
- (c) *State v. Johnny Rufus Belcher*, 385 S.C. 597, 685 S.E.2d 802 (2009). Eliminated the longstanding jury instruction that malice may not be presumed from use of a deadly weapon where there is evidence of any conduct on the part of the shooter that might reduce, mitigate, excuse, or justify the killing.
- (d) *Bursey v. SCDHEC*, 369 S.C. 176, 631 S.E.2d 899 (2006). Dealt with reviewing the rulings of the South Carolina Mining Council on the largest mining operation in the history of South Carolina concerning the Lake Murray Dam, including technical issues of construction of the Administrative Procedures Act.
- (e) *Johnson v. Catoe*, 345 S.C. 389, 548 S.E.2d 587 (2001). In an unprecedented case, the Supreme Court stayed the scheduled execution of a death row inmate and appointed me to serve as a referee to assess the competency and credibility of a co-defendant's last-minute confession to killing a State Trooper. The co-defendant was living in a facility in Nebraska that treated persons with mental illness.

Judge Keesley further reported the following regarding unsuccessful candidacies:

I was defeated in the primary in a special election to fill an unexpired term for the position of South Carolina House of Representatives, District 82, in February 1987.

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I was considered for selection as a United States Magistrate in 2010 and 2011, but not chosen.

(9) Judicial Temperament:

The Commission believes that Judge Keesley's temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualifications found Judge Keesley to be "Well-Qualified" as to the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament; and "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee made the following related comment: "No question about being well qualified!!"

Judge Keesley is married to Linda Fay Black Keesley. He has one child.

Judge Keesley reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar, no offices held;
- (b) South Carolina Association of Drug Court Professionals, former president, former board member;
- (c) South Carolina Association of Circuit Judges, former acting president, secretary for over 20 years, chair of the education committee 2017;
- (d) Edgefield County Bar Association, president 1985, treasurer for many years.

Judge Keesley provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Concordia Lodge #50, Masonic Lodge, no offices held or recognition received;
- (b) Pine Ridge Country Club, no offices held or recognition received;
- (c) Phi Beta Kappa, no offices held or recognition received.

Judge Keesley further reported:

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I believe that my 31 years of experience as a circuit judge reflects positively on my candidacy.

(11) Commission Members' Comments:

The Commission noted Judge Keelsey's well-respected reputation on the bench as intelligent, timely, and respectful to all parties. They further thanked him for his career of service to South Carolina.

(12) Conclusion:

The Commission found Judge Keesley qualified, and nominated him for re-election to Circuit Court, Eleventh Judicial Circuit, Seat 1.

**The Honorable Walton J. McLeod IV
Circuit Court, Eleventh Judicial Circuit, Seat 2**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge McLeod meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge McLeod was born in 1978. He is 45 years old and a resident of Columbia, South Carolina. Judge McLeod provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2008.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge McLeod.

Judge McLeod demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge McLeod reported that he has not made any campaign expenditures.

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Judge McLeod testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Judge McLeod testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge McLeod to be intelligent and knowledgeable.

Judge McLeod reported that he has taught the following law-related courses:

- (a) I served as a judicial panelist in the 2019 S.C. Bar CLE "Taking the Terror out of Trial."
- (b) I made a presentation on "S.C. Judicial Branch Operations in Covid-19" for the S.C. Association of Counties – Local Government Institute.
- (c) I served as a judicial panelist discussing "Attorney Conducted Voir Dire" for the S.C. Chapter of the American Board of Trial Advocates (SC - ABOTA).
- (d) I conducted a live guilty plea in the virtual courtroom for the S.C. Bar Young Lawyers Division "Protect our Youth Day" and spoke with South Carolina high schools in the virtual courtroom after completion of the plea.
- (e) I served as a judicial panelist discussing "Tips from the Bench" for the S.C. Defense Trial Attorneys.
- (f) I spoke about S.C. Judicial Branch organization to the St. Andrews Optimist Club.

Judge McLeod reported that he has not published any books or articles.

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(4) Character:

The Commission's investigation of Judge McLeod did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Judge McLeod did not indicate any evidence of a troubled financial status. Judge McLeod has handled his financial affairs responsibly.

The Commission also noted that Judge McLeod was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge McLeod reported that he is not rated by any legal rating organization.

Judge McLeod reported the following military service: U.S. Navy 2001 – 2005; Lieutenant (O-3); Honorably Discharged in 2009.

Judge McLeod reported that he has never held public office other than judicial office.

(6) Physical Health:

Judge McLeod appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge McLeod appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge McLeod was admitted to the South Carolina Bar in 2008.

He gave the following account of his legal experience since graduation from law school:

- (a) Judicial Law Clerk – Honorable James R. Barber, III; I served as law clerk from August 2008 to August 2009. I provided research and administrative support through

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numerous jury trials, non-jury hearing, drafting Orders, and coordination between the court and all counsel/parties.

- (b) Woods Law Firm, LLC – Associate Attorney from August 2009 through February 2011. My practice areas included insurance defense litigation, defended auto accidents, premises liability, construction defect, governmental tort actions, conducting discovery depositions, arguing dispositive motions, trial prep, and trial. I did not participate management of the trust account.
- (c) Mike Kelly Law Group, LLC – Associate attorney from February 2011 until August 2015. My practice included civil litigation; personal injury, defective products, premises liability, trucking accidents, medical malpractice, professional licensure defense, and veterans disability. I did not participate in management of the trust account.
- (d) McLeod Law Group, LLC – Associate attorney from August 2015 to June 2018. Practice included civil litigation; personal injury; defective products, civil defense litigation, professional licensure defense, veterans disability and appeals, wrongful death, insurance law; management of the Columbia office. I did not participate in management of the trust account.

Judge McLeod reported that he has held the following judicial office(s):

I have served as a Circuit Court Judge since July 1, 2018. I was elected to the Circuit Court on February 7, 2018.

Judge McLeod provided the following list of his most significant orders or opinions:

- (a) *Ballard v. Admiral Insurance Co.* (2018-CP-32-1743) – Order granting Defendant’s Rule 12(c) Motion for Judgment on the Pleadings. This Order involved the interpretation of malpractice insurance policies, specifically the hammer clause. This case was appealed and recently affirmed in a reported decision; 2023 WL 4218123 (June 28, 2023)
- (b) *Diane Connell v. Lexington County Health Service District* (2018-CP-32-1750) – this matter involved a premises liability dispute with proceeded to a bench trial. This case involved lay witnesses, corporate designee, and expert

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witness testimony addressing both liability and damages. A substantive Order was entered finding for the Plaintiff which was appealed to the Court of Appeals, but subsequently resolved by the parties.

- (c) *S.C. Farm Bureau v. Longphre* (2019-CP-32-1671) – the matter involved an insurance dispute over whether a litigant’s intentional acts could be covered under a liability policy. I ruled that the applicable policy did not cover the Plaintiff’s injuries in this specific instance. This Order was affirmed in Unpublished Opinion No. 2022-UP-443
- (d) *Freda Dorch v. City of Columbia* (2013-CP-40-2159) – this matter involved the review of a Board of Zoning Appeal decision. The contested issues included (1) the proper standard of review, (2) lost grandfather status, (3) denial of a variance request. The Circuit Court Order affirmed the Board’s decision and was appealed, and affirmed via Unpublished Opinion No. 2022-UP-307.
- (e) *Andrew Torrence v. State* (2015-CP-32-1993) – this post-conviction relief case came before me in November 2018, and involved numerous grounds for relief taking two days of sworn testimony from multiple lay and expert witnesses. This Order denying post-conviction relief was appealed with the Court of Appeals which denied a Petition for Writ of Certiorari on May 19, 2023.

Judge McLeod reported no other employment while serving as a judge.

(9) Judicial Temperament:

The Commission believes that Judge McLeod’s temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualifications found Judge McLeod to be “Qualified” in the evaluative criteria of constitutional qualifications, physical health, and mental stability; and “Well-Qualified” in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee noted: “Exceptionally qualified!”

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Judge McLeod is married to Catherine Leigh Nelson McLeod. He has three children.

Judge McLeod reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar
- (b) Lexington County Bar
- (c) Newberry County Bar
- (d) Richland County Bar

Judge McLeod provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) American Legion
- (b) Veterans of Foreign Wars
- (c) St. Andrews Society of Columbia.

Judge McLeod further reported:

It has been an honor to serve our State and the legal profession as a Circuit Court Judge. It has also been a privilege to work alongside the clerks of court, and their staffs, as well as the attorneys of the South Carolina Bar. Working together with these dedicated professionals is a highlight of my job, and it is very rewarding to see us make a difference with people in our justice system – case by case.

(11) Commission Members' Comments:

The Commission found Judge McLeod to be a well-qualified jurist with a wonderful temperament, demeanor, and legal acumen.

(12) Conclusion:

The Commission found Judge McLeod qualified, and nominated him for re-election to Circuit Court, Eleventh Judicial Circuit, Seat 2.

**The Honorable Michael G. Nettles
Circuit Court, Twelfth Judicial Circuit, Seat 1**

Commission's Findings: QUALIFIED AND NOMINATED

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(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Nettles meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Nettles was born in 1959. He is 64 years old and a resident of Florence, South Carolina. Judge Nettles provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1984.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Nettles.

Judge Nettles demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Nettles reported that he has not made any campaign expenditures.

Judge Nettles testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Judge Nettles testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Nettles to be intelligent and knowledgeable.

Judge Nettles reported that he has taught the following law-related courses:

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- (a) I addressed the Solicitor Convention concerning new developments in Criminal Law in 2017;
- (b) Guest lecturer at Business Law course at Francis Marion University 2008 and 2009;
- (c) I addressed the Public Defender Convention concerning Differential Case Management in 2009;
- (d) I participated in Panel Discussions on Ethics CLE in 2010 and 2018;
- (e) Addressed the Third Judicial Circuit Young Lawyers at Court House Keys event in Manning, SC in February 2012;
- (f) Addressed the Twelfth Judicial Circuit Young Lawyers at Court House Keys event in Lake City, SC in October 2013;
- (g) Addressed Beaufort County Bar as to Differential Case Management in 2017; and
- (h) Guest Lecture at Francis Marion University concerning The Role of the Judiciary in Government in 2017;
- (i) I am a member of the Advisory Committee for the South Carolina Circuit Court. I teach at the New Judges School on a biannual basis.

Judge Nettles reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Nettles did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Judge Nettles did not indicate any evidence of a troubled financial status. Judge Nettles has handled his financial affairs responsibly.

The Commission also noted that Judge Nettles was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Nettles reported that his last available rating by a legal rating organization, Martindale-Hubbell, was BV.

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Judge Nettles reported that he has not served in the military.

Judge Nettles reported that he has never held public office other than judicial office.

(6) Physical Health:

Judge Nettles appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Nettles appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Nettles was admitted to the South Carolina Bar in 1984.

He gave the following account of his legal experience since graduation from law school:

I was engaged in the general practice of law in Lake City, South Carolina as a partner in the firm of Nettles, Turbeville & Reddick, for twenty years. Over the past five years of my practice, I handed 959 cases (680 criminal, 176 civil, 37 real estate transactions and 26 domestic as my sister has practiced domestic law exclusively. In the early years of my practice, there was a more equal division of caseload. During the past five years of my practice, I only handled domestic matters and real estate transactions for ongoing clients.

Judge Nettles reported that he has held the following judicial office:

Circuit Court for Twelfth Judicial Circuit, Seat 1. I was elected 2/2/05 and began serving 1/3/6. I have served continuously.

Judge Nettles provided the following list of his most significant orders or opinions:

- (a) *Coleman v Mariner Health Care, Inc.*, 407 S.C. 346, 755 S.E.2d 450 (S.C. 2013)

There is a movement in favor of arbitration in American Jurisprudence. This case sets forth that although arbitration is preferred, the South Carolina statutory and common law

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does not authorize a sister to execute a separate voluntary arbitration agreement presented to her by the nursing facility. This was a complex question where reasonable minds could differ. The Supreme Court affirmed my decision.

- (b) *Miranda C. v. Nissan Motor Co.*, 402 S.C. 577, 741 S.E. 2d 34 (Ct. App 2013)

The law of product liability is constantly evolving and this case provides clarity as to the proper charge in a defective design products liability case. The jury in this case rendered a verdict against Nissan for \$2,375,000.00, which was subsequently set aside by my order in the wake of the Supreme Court's ruling in *Branham vs. Ford Motor Company*, 390 S.C. 203, 701 S.E.2d 5 (2010). The *Branham* case was decided after the verdict and before my ruling on post-trial motions. *Branham* establishes that "the risks utility test" is the proper charge in a design defect case which requires the Plaintiff prove a "reasonable alternative design". Because *Branham* changed and/or clarified the proper test in a design defect case, I granted a new trial. My decision to grant a new trial was affirmed.

- (c) *State v. Senter*, 396 S.C. 547, 722 S.E.2d 233 (Ct. App 2011)

Defendant was convicted of assault and battery with intent to kill and criminal domestic violence of a high and aggravated nature. His conviction was affirmed and The Court of Appeals opined that my denial of the Motion for Directed Verdict was proper, reaffirming the law and my ruling that Defendant cannot waive a trial by jury unless the State consents to do so.

- (d) *Mitchell v. Fortis Insurance*, 385 S.C. 570, 686 S.E.2d 176 (2010)

In this case, a policyholder brought causes of action for Breach of Contract and bad faith rescission against insurance company. The jury awarded \$15,150,000.00. Numerous orders were issued and many evidentiary rulings were affirmed, however, the Supreme Court reduced the verdict to \$10,150,000.00.

- (e) *Willis v. Wukela*, 379 S.C. 126, 665 S.E.2d 171 (2008)

South Carolina Supreme Court affirmed my ruling, clarifying S.C. Code Section 7-13-350 and its application.

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Judge Nettles reported no other employment while serving as a judge.

(9) Judicial Temperament:

The Commission believes that Judge Nettles's temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Pee Dee Citizens Committee on Judicial Qualification found Judge Nettles to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability; and "Well-Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee had no summary comments.

Judge Nettles is not married. He has three children.

Judge Nettles reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar Association
- (b) Circuit Court Judges Association
- (c) Pee Dee Inns of Court Association
- (d) American Bar Association

Judge Nettles provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

My wife was employed with First Citizens Bank and they provided our family with a membership at The Florence County Club. Upon her death on August 26, 2014, my membership terminated.

Judge Nettles further reported:

I had a very active trial practice for nearly twenty years prior to taking the Bench. I handled civil, domestic and criminal matters. During my practice I have argued before the South Carolina Supreme Court, the South Carolina Court of Appeals and the Fourth Circuit Court of Appeals. During my practice, I handled four death penalty cases that were tried to their conclusion,

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including the death penalty phase. None of my clients were executed. I handled several capitol cases that were resolved short of trial.

My home town of Lake City, South Carolina is a town with a population of about 7,000 people. It's primary industry is agriculture. It was a great place to grow up, live, and practice law. The population is diverse with people from all socio-economic stations in life. Going to school, working and practicing law in Lake City has prepared me well for serving on the Bench.

During my years practicing law, I appeared before numerous judges. Judge Tommy Cooper (Manning) quite often presided in Florence, Clarendon and Williamsburg counties where the vast majority of my cases were handled. The way he conducts himself on the Bench is the standard to which I strive. He has the perfect judicial temperament, which is calm, kind, and courteous to litigants, lawyers and jurors.

(11) Commission Members' Comments:

The Commission complimented the demeanor of Judge Nettles, commenting on his respectful and courteous treatment of litigants and staff in his court room. They also noted his impartiality and even-handed treatment of all parties.

(12) Conclusion:

The Commission found Judge Nettles qualified, and nominated him for re-election to Circuit Court, Twelfth Judicial Circuit, Seat 1.

The Honorable Jessica Ann Salvini Circuit Court, Thirteenth Judicial Circuit, Seat 2

Commission's Findings: QUALIFIED AND NOMINATED

Pursuant to § 2-19-80(A), if fewer than three persons apply to fill a vacancy or if the Commission concludes that there are fewer than three candidates qualified for a vacancy, it shall submit only the names and qualifications of those who are considered to be qualified, with a written explanation for submitting fewer than three names.

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For the vacancy for Circuit Court, Thirteenth Judicial Circuit, Seat 2, two candidates applied for this vacancy, one candidate withdrew. Accordingly, the name and qualifications of one candidate is hereby submitted in this report.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Salvini meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Salvini was born in 1975. She is 48 years old and a resident of Greenville, South Carolina. Judge Salvini provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2001. She was also admitted to the California Bar in 2000.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Salvini.

Judge Salvini demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Salvini reported that she has made \$257.23 in campaign expenditures for postage, thank you notes, and printed announcements.

Judge Salvini testified she has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Judge Salvini testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

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(3) Professional and Academic Ability:

The Commission found Judge Salvini to be intelligent and knowledgeable.

Judge Salvini reported that she taught the following law-related courses:

Yes. To the best of my recollection, the following is a description of the continuing legal education programs that I have had the honor of participating in as a speaker.

- (a) On October 29, 2009, I was a speaker on a panel at the Federal Criminal Practice Seminar for the Criminal Justice Act Defense Bar. The topic was ethical dilemmas encountered by criminal defense attorneys.
- (b) On or about October 28, 2010, I was a speaker on a panel at the Federal Criminal Practice Seminar for the Criminal Justice Act Defense Bar. The topic was ethical issues confronting criminal defense attorneys.
- (c) On October 24, 2013, I was a speaker on a panel at the Federal Criminal Practice Seminar for the Criminal Justice Act Defense Bar. The topic was federal practice in US District Courts in South Carolina.
- (d) On October 20, 2016, I was a speaker on a panel at the Federal Criminal Practice Seminar for the Criminal Justice Act Defense Bar. The topic was the Criminal Justice Act and its potential revision resulting from Chief Justice John G. Robert, Jr.'s appointment of a Committee to review the Criminal Justice Act Program.
- (e) On February 3, 2017, I was a speaker at the Greenville County Bar's "Year-End CLE". The topic was the Fourth Amendment and providing an overview of search and seizure case law, focusing on the most recent cases decided by the Fourth Circuit Court of Appeals.
- (f) On October 4, 2019, I was a speaker at a SCUPA Seminar for paralegals. The topics included real world practice in Family Court for paralegals.
- (g) On January 31, 2020, I was a speaker at the Guardian ad litem Seminar. I participated as a speaker on a panel, with the topics being questions from Guardian ad litems for Family Court Judges.
- (h) On or about February 7, 2020, I was a speaker on a panel at the Greenville County Bar's "Year-End CLE" for the

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Family Law Section. The panel, which consisted of Family Court Judges, was given hypotheticals to consider and discuss related to Family Court matters.

- (i) On February 21, 2020, I was a speaker on a panel for “UMC’s Family Court Judges Q&A CLE.” The topics were questions from family court practitioners for Family Court Judges.
- (j) On June 12, 2020, I was a speaker at the New Family Court Judge’s Orientation. The topic pertained to providing guidance to new Family Court Judges from my perspective and experience as a newly elected Family Court Judge.
- (k) On or about January 26, 2023, I was a speaker at the Cass Elias McCarter Guardian ad litem Program. The topic pertained to providing guidance to lay Guardian ad litem’s in assisting the Court in Department of Social Services Cases.
- (l) On April 28, 2023, I was a speaker at the Family Court Judges Conference. The topic pertained to how to handle a juvenile waiver hearing (an evidentiary hearing where the primary consideration is whether a juvenile should be tried as an adult for an alleged crime) and was designed to assist judges who have not yet presided over such a hearing.
- (m) On May 4, 2023, I was a speaker at Law Week in Greenville County. The topic was attorney civility.

Judge Salvini reported that she has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Salvini did not reveal evidence of any founded grievances or criminal allegations made against her.

The Commission’s investigation of Judge Salvini did not indicate any evidence of a troubled financial status. Judge Salvini has handled her financial affairs responsibly.

The Commission also noted that Judge Salvini was punctual and attentive in her dealings with the Commission, and the

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Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Regarding a rating or membership status by any legal rating organization, Judge Salvini reported:

To my knowledge, I do not have a rating as a Family Court Judge.

Prior to being elected to serve as a full-time Family Court Judge, the following was my last rating(s) to the best of my knowledge:

- (a) Greenville Business Magazine Legal Elite in Family Law in 2012 and 2017.
- (b) National Academy of Criminal Defense Attorneys top 10 Criminal Attorneys 40 and under in 2014 and 2015.
- (c) South Carolina Rising Star in the practice of Criminal Law in 2014 and 2015.
- (d) Martindale-Hubbell – 5.0/5.0.
- (e) Lawyerratingz.com – 3.6/5.0.
- (f) Lawyers.com – 5.0/5.0.

Judge Salvini reported that she has not served in the military.

Judge Salvini reported that she has never held public office other than judicial office.

(6) Physical Health:

Judge Salvini appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Judge Salvini appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Judge Salvini was admitted to the South Carolina Bar in 2001.

She gave the following account of her legal experience since graduation from law school:

- (a) December 2000-August 2002: Law Offices of Jessica Salvini. After passing the California Bar exam, I opened

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my own law firm in San Francisco, California. My practice consisted of handling civil (including domestic) and criminal state and federal court cases. I handled pretrial and trial matters for contract disputes, simple divorces, consumer protection actions, bank fraud, various drug crimes and other criminal law matters. I handled these matters in my capacity as an independent contractor for Weinberg & Wilder and as a sole practitioner. As this was my own law firm, I managed the law firm, which included managing its finances. I did not have a trust account at that time as I did not accept retainers from clients that required me to do so.

- (b) August 2002-March 2019: Salvini & Bennett, Attorneys at Law, LLC. Upon relocating to the State of South Carolina, I continued my practice of law by opening a law firm with J. Bradley Bennett, Esq. Over the course of almost seventeen years, I acted as the senior partner in our firm, which had a general practice handling a wide variety of legal issues for individuals and businesses. While in private practice, I represented individuals and businesses in civil, criminal and family law matters. My practice areas included: all pretrial and trial matters for contract and real property disputes, all pre-trial and trial matters in domestic law cases; all pre-trial and trial matters in probate court; all pre-trial and trial matters in state and federal criminal court cases; appeals to the Fourth Circuit Court of Appeals and appeals to the South Carolina Court of Appeals. During the course of my practice, I served as one of Greenville County Probate Court's Commitment Proceedings Attorneys. I also served as a Criminal Justice Act Panel Attorney for the United States District Court for the District of South Carolina and the United States Court of Appeals for the Fourth Circuit. I also assisted our Criminal Justice Act Panel Representative in the Upstate. My law firm consisted of myself, my law partner and an associate attorney. My law partner and I managed the law firm, including the law firm's trust account.
- (c) August 2007 to March 2019: Municipal Court Judge for the City of Mauldin, South Carolina. In August 2007, I was appointed to serve as an Associate Municipal Court Judge for the City of Mauldin, South Carolina. In 2009, I sought

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and was appointed to serve as the Chief Trial Judge for the City of Mauldin. As both an Associate Municipal Court Judge and the Chief Municipal Court Trial Judge, I presided over numerous cases involving: violations and or enforcement of city ordinances, misdemeanor criminal matters, traffic violations, bond hearings and preliminary hearings for felony criminal matters. As the Chief Trial Judge, I held court for the City of Mauldin every Wednesday (excluding the fifth Wednesday in any given month), presiding over matters involving violations and or enforcement of city ordinances, traffic violations and misdemeanor criminal law matters. The aforementioned proceedings primarily involved motion hearings, guilty pleas and bench trials. Once a month I also presided over preliminary hearings for felony matters arising out of the City of Mauldin. During my tenure as the Chief Trial Judge for the City of Mauldin, I also presided over Domestic Violence Court for the City of Mauldin, which occurred once a month. Also, approximately once a quarter, I presided over jury trials for misdemeanor criminal law matters and city ordinance violations occurring in the City of Mauldin.

- (d) March 2019 to Present date: Family Court Judge, Thirteenth Judicial Circuit, Seat 6. I was elected to serve as a full-time Family Court Judge for the Thirteenth Judicial Circuit, Seat 6, in February 2019 and re-elected to this position in February 2022. I closed my law firm and began serving in this capacity at the end of March 2019 and I continue to serve as a Family Court Judge to date. As a Family Court Judge, I preside over cases in the following matters: those within the provisions of the Uniform Interstate Family Support Act; actions for divorce, separate support and maintenance, legal separation, any and all marital litigation between parties; actions related to the termination of parental rights and adoptions of both children and adults; annulments of marriages; the changing of names of adults and children; actions to correct birth certificates; actions to enable minors to engage in military service; actions related to the support of spouses and or children and or to enforce the same; actions to enforce support or compel support to be paid for spouses and or

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children; actions related to the protection, guardianship and disposition of neglected children; actions related to custody determinations; actions brought by the South Carolina Department of Social Services related to abused and or neglected children and or infirmed/vulnerable adults; and actions related to juveniles charged with various crimes. I preside over these proceedings on a full-time basis and have done so since taking the bench in this capacity.

Judge Salvini further reported regarding her experience with the Circuit Court practice area:

Prior to taking the bench as a Family Court Judge, for approximately eighteen years, I was privileged to have a private practice that included representing individuals in both criminal and civil matters at all stages of litigation. In 2002, I became a Criminal Justice Act (“CJA”) Panel attorney and I served in this capacity until my election to the bench in 2019. As a result of my service on the CJA panel, I was routinely appointed by the United States District Court for the District of South Carolina to represent individuals charged with federal crimes. Throughout my practice, I defended individuals charged with crimes in both federal and state courts at all stages of the criminal proceedings.

Focusing on the five years of my legal practice prior to my election to the Family Court Bench, I represented approximately 40-50 individuals in various criminal matters in state and federal court. My criminal practice included representing individuals at all stages of the criminal process – from bond hearings, preliminary hearings, guilty plea hearings and jury trials – for various crimes. For example, I represented individuals charged with: counterfeiting goods and money, various drug crimes including possession, trafficking, conspiracy to possess and distribute all types of illegal drugs in varying quantities, bank robbery, criminal sexual conduct with a minor, illegal entry into the United States, being a felon in possession of a firearm, possessing a firearm in relation to a drug trafficking crime, human trafficking and trafficking minors. In a majority of the cases, I represented the client from the commencement of the action to the conclusion of the case.

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Also, in such criminal matters, I had an extensive motions practice. In many criminal cases, the issues focused on the actions of law enforcement and their compliance with a defendant's constitutional rights; and I addressed those issues in the criminal cases I handled. For example, I filed and argued a motion to suppress based on certain Fourth Amendment violations. I successfully challenged the search of my client and the vehicle he was located in as a passenger based on a violation of my client's constitutional rights. The search revealed a firearm and illegal drugs, resulting in my client being criminally charged in both state and federal court. At the conclusion of an evidentiary hearing, the court granted my motion to suppress and the charges against my client were dismissed.

In the five years prior to my election to the Family Court Bench, I tried three criminal cases in the United States District Court for the District of South Carolina before a jury. In the first case, my client, along with others, was investigated by the Drug Enforcement Administration and charged with participating in a conspiracy to possess and distribute marijuana. The Drug Enforcement Administration identified several "grow houses" in the Upstate of South Carolina and alleged my client participated in maintaining one such house and or in assisting in the "grow operation." Over 100 marijuana plants were located. At the conclusion of the trial, the jury found my client not guilty. The second case involved a conspiracy to possess and distribute a quantity of methamphetamines. My client was charged with participating in that conspiracy, as well as possessing a firearm during a drug trafficking crime. At the conclusion of the jury trial, my client was convicted for his participation in the conspiracy, but acquitted of possessing a firearm in relation to his drug activity. The last case was an armed bank robbery, and at the conclusion of the trial, my client was convicted. I also handled a general sessions case in which my client was charged with committing a sexual crime and that matter ended with a guilty plea to a lesser charge, with a probationary sentence.

Serving as a Municipal Court Judge for approximately eleven years, I presided over hundreds of criminal matters at all stages of the criminal process – setting bonds, presiding over preliminary hearings, guilty plea hearings, bench trials and jury

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trials. A majority of those matters were misdemeanors ranging from minor traffic violations to shoplifting, larceny, alcohol related crimes, assaults, and domestic violence. While others involved presiding over preliminary hearings involving various felonies, including murder and attempted murder, breach of trust, criminal sexual conduct, and various drug crimes. My experience is unique in that I have not only argued various motions to suppress before the court during my practice as an attorney, I have been required to rule on them as a judge. In every instance, I have studied the facts and circumstances of each case, in conjunction with the applicable law, and issued a ruling consistent therewith.

Civilly, I practiced primarily in Family Court, with notable experience in Probate Court, Federal Court and Circuit Court. In Family Court, I represented both Plaintiffs and Defendants in all matters of domestic/family law. In Probate Court and Federal Court I primarily represented Plaintiffs in matters of tort and contract; and in Circuit Court I represented both Plaintiffs and Defendants primarily in personal and commercial contract matters, as well as construction and business dissolution disputes. My legal practice in this regard was dispute related (as opposed to transactional). Most of the matters I handled in the Court of Common Pleas resulted in a settlement and not a trial.

As a result of both my criminal and civil practices, I was fortunate to be in a courtroom litigating matters several times a week. It was my daily practice to employ and apply the South Carolina Rules of Evidence, Rules of Civil Procedure and Rules of Criminal Procedure in a manner that offered me what I believe to be unique qualifications for a candidate for the Circuit Court bench.

Judge Salvini reported the frequency of her court appearances prior to her service on the bench as follows:

- (a) Federal: Approximately 3-5 times per month;
- (b) State: Approximately 7-10 times per month.

Judge Salvini reported the percentage of her practice involving civil, criminal, domestic and other matters prior to her service on the bench as follows:

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- (a) Civil: 10%;
- (b) Criminal: 30%;
- (c) Domestic: 50%;
- (d) Other: 10%.

Judge Salvini reported the percentage of her practice in trial court prior to her service on the bench as follows:

- (a) 70-75% of her practice was in trial court, including cases that settled prior to trial
- (b) 10% went to trial and resulted in a verdict
- (c) 0 cases went to trial and resolved after the plaintiff's or State's case
- (d) 0 cases settled after a jury was selected but prior to opening statements

Judge Salvini provided that during the past five years prior to her service on the bench she most often served as sole counsel.

The following is Judge Salvini's account of her five most significant litigated matters:

- (a) *Justice vs. Justice*. This was a matter litigated in the Thirteenth Judicial Circuit Greenville County Family Court. The primary issue was whether a divorced parent could relocate to another state with the parties' minor children. The matter was tried for two days and the outcome not only affected the parties' three minor children, but the children's step-siblings and half-sister. It was a difficult and heart-wrenching case and the outcome impacted not only the parents, but the lives of their children. It was also a unique case as both parents were very involved in the lives of their children and neither wanted to change the custody order in the event the parent's request to move was denied. It required an examination of the law applicable to cases in which a parent seeks to relocate to another state with the parties' minor children. I represented the parent opposing the move and I was successful in obtaining an order that restrained and enjoined the relocation of the parties' minor children to another state. After the litigation, I kept in touch with my client and his family. I have personally observed the effect the court's decision had on this family.

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- (b) *United States vs. Minaya-Mena*. This was a criminal matter litigated in the United States District Court for the District of South Carolina. My client was charged in a conspiracy to possess, with the intent to distribute, marijuana. The case involved the possession of more than 100 marijuana plants found in several “grow houses” in the Upstate. The matter proceeded to a jury trial and my client was found not guilty. The matter is significant to me, not only because of the not guilty verdict, but because I litigated it against an excellent Assistant United States Attorney whose trial skills are exceptional. The matter required extensive preparation and an examination of the law to ensure that any issues to be appealed were properly in the Court’s record. I also mentored two of my colleagues during the trial. Being able to secure a not guilty verdict, while imparting knowledge to my colleagues, was phenomenal.
- (c) *United States vs. Twitty*. This was a criminal matter litigated in the United States District Court for the District of South Carolina. My client was charged with being a felon in possession of a firearm, as well as possessing with intent to distribute a quantity of crack cocaine and heroin. I was able to successfully apply search and seizure law to the facts of the case. After an evidentiary hearing, my motion to suppress the search of my client and his vehicle was granted resulting in a dismissal of all charges against him.
- (d) *Nicholas vs. Pate*. This was a civil matter in the United States District Court for the District of South Carolina. Parties in civil actions in District Court are not usually entitled to appointed counsel. However, the court asked if I would be willing to be appointed to represent the Plaintiff pro bono and I agreed. The Plaintiff had filed a civil action in the United States District Court for the District of South Carolina alleging violations of his Federal Constitutional Rights under 42 U.S.C. Section 1983, that is, that he had been subjected to cruel and unusual punishment while serving a state imposed sentence. The matter is significant to me as it required me to assess and try a case that was well into litigation by a pro se defendant. After examining the pro se filings to ensure my client was not in any danger

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of having his action dismissed, the matter proceeded to a jury trial. Although I lost after a jury trial, my client's gratitude was a reward. Handling the matter also reminded me to always examine the statutes and rules of law governing an action in light of the facts and circumstances one is presented before proceeding forward with litigation. This is a rule my mentor, a former Assistant United States Attorney and war crimes prosecutor, ingrained in me and is crucial to abide by in handling every legal matter.

- (e) *Collins vs. Murphy*. This was a civil matter litigated in Probate Court and Circuit Court. A colleague and I litigated this matter throughout the court process from its inception in Probate Court, motions in Circuit Court, appeals to the Circuit Court, to the Court of appeals and finally to a final resolution. The matter involved a question of the interpretation and application of a statute in a matter involving the rights of unmarried parents to the receipt of wrongful death proceeds of their deceased infant. The extreme differences in the rulings resulting from the Probate Court and Circuit Court make this case unique in that the South Carolina Court of Appeals addressed the interpretation and application of the relevant statutes in situations in which unwed parents have a child who dies at birth. Thus, making a determination as to who is entitled to the award of wrongful death proceeds.

The following is Judge Salvini's account of five civil appeals she has personally handled:

- (a) *Moore vs. Benson*, 390 S.C. 153, 700 S.E.2d 273 (Ct. App. 2010) (South Carolina Court of Appeals, 9/22/2010).
- (b) *Nestberg vs. Nestberg*, 394 S.C. 618, 716 S.E.2d 310 (Ct. App. 2011) (South Carolina Court of Appeals, 8/31/2011).
- (c) *McKinnon vs. Bray*, 2019 WL 3318077 (Ct. App. 2019) (South Carolina Court of Appeals, 7/24/2019)
- (d) *In the Matter of Tynslee Elizabeth Fields, et.al., vs. Collins*, C424 S.C. 627 (Ct. App. 2018) (South Carolina Court of Appeals 12/18/2018). I personally handled this matter, along with co-counsel.
- (e) *Clark v. Clark*, 423 S.C. 596, 815 S.E.2d 772 (Ct. App. 2018) (South Carolina Court of Appeals, 5/2/2018)

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The following is Judge Salvini's account of five criminal appeals she has personally handled:

- (a) *United States vs. Nicholson*, 676 F.3d 376 (4th Cir. 2012). (Fourth Circuit Court of Appeals 4/18/2012).
- (b) *United States vs. Shippy*, Unpublished Opinion. (Fourth Circuit Court of Appeals, 5/4/010).
- (c) *United States vs. Wilkins*, Unpublished Opinion. (Fourth Circuit Court of Appeals, 12/4/2009).
- (d) *State vs. Rivera*, Unpublished Opinion. (South Carolina Court of Appeals, 2/10/2006).
- (e) *United States vs. Cruz*, Unpublished Opinion. (Fourth Circuit Court of Appeals, 2/15/2006)

Judge Salvini reported that she has held the following judicial offices:

In August 2007, I was appointed to serve as an Associate Municipal Court Judge for the City of Mauldin in Greenville County, South Carolina. I served in this capacity until 2009 when I was appointed to serve as the Chief Municipal Court Trial Judge for the City of Mauldin in Greenville County, South Carolina.

The Mauldin Municipal Court adjudicates criminal, traffic and city ordinance violations that occur within the city limits of Mauldin, South Carolina. As a limited jurisdiction court, it can only hear cases subject to a fine and sentence not exceeding \$500.00 or imprisonment of not more than thirty days. The Mauldin Municipal Court may also hear cases that are remanded back from Greenville County General Sessions if the fine and sentence do not exceed \$5,500.00 or one-year imprisonment.

On February 6, 2019, I was elected to serve as a full-time Family Court Judge for the Thirteenth Judicial Circuit, Seat 6. I was re-elected to this position in 2022, and I currently hold this position and serve in this capacity. The Family Court, in general, has jurisdiction to hear the following cases: those within the provisions of the Uniform Interstate Family Support Act; actions for divorce, separate support and maintenance, legal separation, any and all marital litigation between parties; actions related to the termination of parental rights and adoptions of both children and adults; annulments of marriages; the changing of names of adults and children; actions to correct birth certificates; actions

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to enable minors to engage in military service; actions related to the support of spouses and or children and or to enforce the same; actions to enforce support or compel support to be paid for spouses and or children; actions related to the protection, guardianship and disposition of neglected children; actions related to custody determinations; actions brought by the South Carolina Department of Social Services related to abused and or neglected children and or infirmed/vulnerable adults; and actions related to juveniles charged with various crimes.

Judge Salvini provided the following list of her most significant orders or opinions:

- (a) *State vs. Minors Under the Age of 18*. Not reported. No appellate review. This matter involved the State prosecuting several juveniles for allegedly committing the crimes of Murder, Armed Robbery and Conspiracy to Commit Armed Robbery. The State filed a motion seeking to transfer jurisdiction of the juvenile cases to General Sessions, thereby resulting in the juveniles being tried as adults as opposed to minors. I was the judge assigned to hear the State's motion(s), requiring contested evidentiary hearings for each juvenile charged. The juveniles ranged in age from fourteen (14) years old to sixteen (16) years old at the time the offenses were allegedly committed.
- (b) *SCDSS vs. Sweatt*. Not Reported. Appellate review: *S.C. Dep't of Soc. Servs. v. Sweatt*, No. 2020-000908, 2021 WL 2104867 (S.C. Ct. App. May 24, 2021). This matter involved the termination of parents' rights to their minor child. The foster parents for the minor child were permitted to intervene in the action. A contested trial was held which resulted in the parents' rights being terminated. The order I issued terminating the parents' rights was affirmed on appeal.
- (c) *SCDSS vs. Mestler*. Not reported. No Appellate review. This matter also involved the termination of parents' rights to their minor child. A contested trial was held, which resulted in the parents' rights being terminated. To my knowledge the parents did not appeal.
- (d) *SCDSS vs. Reed*. Not reported. No Appellate review. This matter also involved the termination of parents' rights to their minor child. The foster parents for the minor child

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were permitted to intervene in the action. A contested trial was held, and I declined to terminate the parents' rights. To my knowledge no parties appealed my decision.

- (e) *SCDSS vs. Rogers*. Not Reported. Appellate review: S.C. Dep't of Soc. Servs. v. Rogers, No. 2019-001487, 2021 WL 832040 (S.C. Ct. App. March 3, 2021). This matter also involved the termination of parents' rights to their minor child. The foster parents for the minor child were permitted to intervene in the action. A contested trial was held which resulted in the parents' rights being terminated. The order I issued terminating the parents' rights was affirmed on appeal.

Judge Salvini reported the following regarding her employment while serving as a judge:

- (a) 2007-March 2019. Self-employed as the Senior Partner at Salvini & Bennett, Attorneys at Law, LLC. I, along with my former law partner, owned and managed the aforementioned law firm. During that time, I served as a part-time judge for the City of Mauldin as stated herein above. As the Senior Partner at Salvini & Bennett, Attorneys at Law, LLC, I handled a wide variety of legal issues for individuals and businesses. I represented individuals and businesses in civil, criminal and family law matters at all stages of the litigation process. My practice areas included: all pretrial and trial matters for contract and real property disputes, all pre-trial and trial matters in domestic law cases; all pre-trial and trial matters in probate court matters; all pre-trial and trial matters in state and federal criminal court cases; appeals to the Fourth Circuit Court of Appeals and appeals to the South Carolina Court of Appeals. I, along with my law partner, handled the administrative duties associated with operating a law firm, including the management of our law firm's trust account.

When I was elected to serve as a Family Court Judge for the Thirteenth Judicial Circuit, Seat 6, in February 2019, I closed my law firm in March of 2019. Since that time, I have not had any other employment other than elected judicial office.

Judge Salvini further reported the following regarding unsuccessful candidacies:

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- (a) On or around 2009, I applied for a U.S. Magistrate position in the United States District Court for the District of South Carolina. The selection process for Federal Magistrate Judges requires screening of candidates by a panel. The panel selects five finalists from the applicants. From there, the U.S. District Court Judges decide who will fill the vacancy.
- (b) In 2017, I applied for the Circuit Court Bench, Thirteenth Judicial Circuit, Seat 4. I was found to be qualified and nominated. However, I withdrew from the race prior to the vote on the candidates for this position.

(9) Judicial Temperament:

The Commission believes that Judge Salvini's temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Upstate Citizens Committee on Judicial Qualifications found Judge Salvini to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability; and "Well-Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee had no related or summary comments.

Judge Salvini is married to James Bethel Orders IV. She has two step-children.

Judge Salvini reported that she was a member of the following Bar and professional associations:

- (a) California Bar
- (b) South Carolina Bar
- (c) Greenville County Bar Association
- (d) United Housing Connections, Vice Chairperson 2017-2018, Board Chairperson 2019-2022.

Judge Salvini provided that she was a member of the following civic, charitable, educational, social, or fraternal organization:

United Housing Connections, Vice Chairperson 2017-2018, Board Chairperson 2019-2022.

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Judge Salvini further reported:

I have always had a passion for the law and the litigation process we employ to bring about fair and just resolutions to conflict. This passion is fueled by my desire to help others. While attending law school, I believed the best way I could help others was by representing them throughout the court process in all facets of the law. So, I focused my law school studies on trial advocacy. I began practicing law as a trial attorney, representing individuals, businesses, and families in a wide variety of legal matters in the courtroom. For almost twenty years before accepting a full-time position on the bench, I litigated matters throughout all stages of the court proceedings, helping my clients through the most difficult times of their lives. It was a rewarding career and my desire to help others served me well in the practice of law and as a Municipal Court Judge. However, since becoming a full time Family Court Judge, I have truly found that I make the most difference serving in the judiciary. As a full-time Family Court Judge, I have strived to be a judge that fairly resolves disputes in a way that gives the litigants, the public, the Bar and my fellow judges confidence in the integrity of the judiciary and the judicial process. I am now seeking to serve our community on the Circuit Court Bench as I believe it will enable me to use all of my experience and knowledge to help others in the most effective way possible.

(11) Commission Members' Comments:

The Commission commented that Judge Salvini brings great enthusiasm and a strong work ethic to the bench. She maintains a great reputation for how she conducts herself in the courtroom.

(12) Conclusion:

The Commission found Judge Salvini qualified, and nominated her for election to Circuit Court, Thirteenth Judicial Circuit, Seat 2.

Vernon F. Dunbar
Circuit Court, Thirteenth Judicial Circuit, Seat 4

Commission's Findings: QUALIFIED AND NOMINATED

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(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Dunbar meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Dunbar was born in 1961. He is 62 years old and a resident of Greenville, South Carolina. Mr. Dunbar provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1986.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Dunbar.

Mr. Dunbar demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Dunbar reported that he has not made any campaign expenditures.

Mr. Dunbar testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Dunbar testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Dunbar to be intelligent and knowledgeable.

Mr. Dunbar reported that he has taught the following law-related courses:

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- (a) Mediation Practice- Greenville County Bar Year End CLE. Discussed the issues of confidentiality and various ethical issues raised during mediations.
- (b) Civil Law Update-Greenville County Bar Year End CLE. Supplementing answer to provide date of CLE which was in February, 2021.
- (c) Are COVID Cases Compensable Under SC Workers' Compensation Law. Previous answer amended to include the word "Cases" and to include that such lecture was given in October 2021.
- (d) What MMI Really Means Addressed the SC Workers' Compensation Educational Association on November 6, 2023, Myrtle Beach, SC

Mr. Dunbar reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Dunbar did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. Dunbar did not indicate any evidence of a troubled financial status. Mr. Dunbar has handled his financial affairs responsibly.

The Commission also noted that Mr. Dunbar was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Dunbar reported the following regarding his rating by a legal rating organization:

Martindale-Hubbell, Peer-Review Rating-AV.

Best Lawyer's in America.

Greenville Business Legal Elite in Workers Compensation for Employers

South Carolina Elite Lawyer.

Mr. Dunbar reported that he has not served in the military.

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Mr. Dunbar reported that he has held the following public office:
I served on the South Carolina State Election Commission upon appointment by Governor David Beasley in 1996/1997.

(6) Physical Health:

Mr. Dunbar appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Dunbar appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Dunbar was admitted to the South Carolina Bar in 1986.

He gave the following account of his legal experience since graduation from law school:

First, I worked as an Assistant Solicitor in Aiken from August 1986 to January 1987. I was assigned defend the Department of Social Services and Department of Youth Services n/k/a the Department of Juvenile Justice in the counties of Aiken, Barnwell and Bamberg. It was during my representation of The Department of Youth Services that I learned the rudimentary aspects of the practice of criminal law.

Second, I served as a law clerk to The Honorable Ernest A. Finney, Jr., then Associate Justice of the South Carolina Supreme Court from January, 1987 to December, 1988. In that capacity, I wrote memoranda of law, proposed majority concurring and dissenting opinions on criminal, family and criminal law cases.

Third, Governor Carroll A. Campbell, Jr., along with the advice and consent of the Senate, appointed me to serve as a Workers' Compensation Commissioner in 1988. I was later appointed to serve as Chairperson of the Commission in 1993. I served as Chairperson until 1995. There are multiple duties of a Commissioner. The primary duty of a Commissioner is to adjudicate disputed workers' compensation claims and to award medical and disability benefits in accordance with the law. The other duty of a Commissioner is to direct and oversee the business and administrative operations of the Commission. The duty includes executing policies established by the Legislature;

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fulfilling the functions of the Commission's in its capacity as the governing body of the Judicial and Administrative Departments; qualifying employers and companies as self-insured entities; and promulgating rules and regulations governing the administration and execution of the workers' compensation laws of South Carolina.

The Chairperson of the Commission and the six Commission Board members were required to prepare a budget and submit an annual report to the Governor and the General Assembly showing receipts, expenditures and disbursements of the Commission.

Fourth, I entered into the private practice of law with the law firm of Turner, Padgett Graham & Laney. In the early years of private practice, I concentrated exclusively on building a workers' compensation practice with the firm. To this end, I litigated hundreds of workers' compensation cases primarily defending employers and insurance carriers. However, I also represented a number of injured workers.

Later, my practice evolved from 1997 to 2014 into one in which I was involved in general and business litigation. A litigation practice began defending automobile accident cases in Richland, Lexington, Aiken, Bamberg and Barnwell Counties. Representing clients in automobile accident cases was extremely high volume practice. I litigated at least 35 cases that resulted in jury verdicts either before Magistrate Courts or Circuits Courts of the aforesaid counties.

Eventually, my practice evolved in which I was involved in employment/discrimination cases, breach of contract claims, covenants not to execute, breaches of patent license agreements, personal injuries and business torts. These type of cases were litigated in state and federal courts from 1999 to the present. It was also during this time, I accepted criminal case appointment in Richland county.

Fifth, while actively litigating cases, I also served as lead counsel or sole counsel in a number of Appellate cases that were decided by our Court of Appeals and Supreme Court.

Sixth, my present practice with McAngus Goudelock & Courie involves litigating and defending occupational disease claims, ionizing radiation claims and complex bodily injury claims before the South Carolina Workers' Compensation Commission. I

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also represent a number of entities in subrogation claims which have been filed in Federal and State Circuit Courts.

Seventh, I have experience in representing clients before the Administrative Law Court, the Architectural and Physical Therapy Boards.

Eighth, I am a certified mediator and mediate civil and workers' compensation cases. Most recently as part of my mediation practice, I served as a Special Circuit Court Referee in a property rights case.

During my tenure at Turner Padgett Graham & Laney from 1995 to 2014, I served on the firm's management committee from 2004 to 2014. The Management Committee was responsible for the administrative and financial management of the firm. The administrative and financial management functions of the firm included budgeting, maintaining proper general and malpractice insurance for the firm; and managing growth of the firm.

Mr. Dunbar further reported regarding his experience with the Circuit Court practice area:

During my tenure as an assistant solicitor, I was involved in probable cause hearings. I was tasked with deciding the appropriate charges with respect to criminal offenses committed by juveniles. These charges most often involved malicious destruction to property, assault and battery, murder, petty larceny, grand larceny and trespassing. All of these matters were litigated before a Family Court Judge. Many of the cases resulted in plea agreements, while the remainder either resulted in probation or a referral to the Reception and Evaluation Center in Columbia. A small number of juveniles were placed in the custody of the Department of Youth Services.

I was involved in one Federal criminal case, USA v. Gerald McDuffie, 4:96-CR-00721-CMC2, in which Mr. McDuffie was charged with intent to distribute and traffic drugs. Gerald Malloy, Lead Counsel, and I were able to negotiate with the Assistant United States Attorneys in which a plea agreement was reached and approved by the Honorable Cameron McGowan Currie.

Thereafter, by virtue of a court appointment in Richland County I was appointed counsel in the case of State of South Carolina v. Frank Livingston, Indictment Nos.: 2003-GS-40-

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00550 & 2003-GS-40-0010 for trafficking Crack Cocaine with Intent to Distribute. A plea agreement which was approved by the Honorable Edward Cunningham.

Most recently, I was able to have a criminal charge dismissed against a friend of my family, who had been arrested for criminal domestic violence in 2019. Tommy L. King was 91 at the time and was suffering with dementia and early stages of Alzheimer's. Because of his mental incapacity, the Assistant Solicitor of the Aiken County Solicitor's Office requested the court dismiss of the charges of Mr. King during a hearing.

With respect to civil matters, I have tried countless cases to jury trial. However, the ability to recognize the strength and weaknesses of my case, as well as that of my opponents, have enabled me to resolve cases that were beneficial to my clients.

With regard to civil cases, I have litigated the following matters:

Herin et al. v. US Band and Orchestra Supplies, Inc et al, 0:11-cv-01164-JFA (breach of patent license agreement).

USF Holland et al. v. ResCare Inc., 3:07-cv-01339-JFA (subrogation case based upon negligence and violation of state and federal guidelines governing healthcare aides).

Equal Employment Opportunity Commission v. BF-Southeast, LLC, 6:10-cv-02538-JDA (sexual harassment and discrimination case involving a professional fitness center).

Durant v. Inner City, et al, 3:03-cv-01333-MJP (employment discrimination case and unlawful discharge).

Cox et al v. South Carolina Republican Party, Fox News et al., 3:07-cv-01339-JFA (Represented Defendant Fox News regarding a temporary restraining order and preliminary injunction with respect to Cox participating in South Carolina Republican televised presidential debate).

Dearybury Oil & Gas Inc. v. Lykins Companies Inc et al., (legal issue involved enforcement of a form selection cause enforceable pursuant to terms of contract).

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I have worked to achieve justice for both individuals and corporate entities. My jury trial experience is primarily the result of my representation of Allstate Insurance in motor vehicular accidents during the early part of my career when it was common practice to try two to three wreck cases in a week.

With the past five years, I have appeared before a circuit judge on approximately five occasions and appeared before a federal judge in 2022.

Mr. Dunbar reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: 1;
- (b) State: 5.

Mr. Dunbar reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 75%;
- (b) Criminal: 0%;
- (c) Domestic: 0%;
- (d) Other: 25% (mediation).

Mr. Dunbar reported that, during the past five years, their practice in trial court as follows:

- (a) 100% settled prior to trial
- (b) 0 cases went to trial and resulted in a verdict
- (c) 0 cases went to trial and resolved after the plaintiff's or State's case
- (d) 0 cases settled after a jury was selected but prior to opening statements

Mr. Dunbar provided that during the past five years he most often served as sole counsel.

The following is Mr. Dunbar's account of his five most significant litigated matters:

- (a) *Cunningham v. Mixon*, 2006 S.C.App. Unpub. LEXIS 172, 2006 WL 7285963 (2006).

Mixon had operated a successful daycare business for over 15 years without incident.

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Unfortunately, a minor child in her care and custody suffered scratches and bites over her body which were inflicted by another child during naptime. The child who inflicted the bites and scratches had exhibited some minor behavioral issues, but never had acted in an aggressive manner. Cunningham reported the incident to DSS and she took the case to a local television news station. Consequently, DSS immediately revoked Ms. Mixon's daycare license; and Cunningham filed a lawsuit for injuries sustained by the minor child. Although Ms. Mixon was unable to pay for legal services, I accepted her proposal that she would pay me \$100 per month for 18 months if I defended her in Circuit Court and assisted her in regaining her license.

Because Ms. Mixon had more than enough workers covering the small amount of children she cared for, DSS concluded that Mixon had not violated any DSS regulations. Thus, Mixon's license was reinstated.

Because Cunningham failed to meet her burden of proof, the court directed the verdict in Mixon's favor. Thereafter, the Court of Appeals affirmed the grant of a directed verdict.

(b) *Johnson v. Sonoco Products Co.*, 381 S.C. 172, 672 S.E.2d 567 (2009).

Mr. Johnson suffered with pulmonary failure due to exposure to toxic chemicals and other substances during his employment tenure. The case was denied by the Single Commissioner and the Full Commission Appellate Panel, but was reversed by the Circuit Court Judge on appeal. The South Carolina Court of Appeals affirmed the Circuit Court's reversal and remanded the case for benefits. Defendants denied an award of interest and a ten percent penalty pending the appeal was due to Mr. Johnson. The Supreme Court determined that absent a reasonable excuse by defendant to show why it did not pay benefits during the pendency of the appeal, Mr. Johnson was entitled to interest calculated from 30 days after the trial courts awarded benefits. This case verified that South Carolina Appellate Court Rule 225(a) expressly authorizes a trial court to order the payment of benefits during the pendency of a workers' compensation appeal.

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- (c) *Anderson v. Baptist Medical Center*, 343 SC 487, 541 S.E.2d 526 (2001).

Prior to this decision by the South Carolina Supreme Court, there was a question as to whether fringe benefits such as payment for disability and life insurance should be included in the calculation of an employee's average weekly wage. This issue had never been addressed by our courts. Anderson had argued that whenever allowances of any character are made to an employee in lieu of wages, they should be deemed a part of the employee's earnings. The Supreme Court concluded fringe benefits do not constitute wages or earnings under the plain and ordinary meaning of the terms. The case stands out because of the amount of research conducted with regard to other states in addressing the meaning of average weekly wage. Moreover, the undersigned's course work in tax law during law school came into play in reference to footnote 3 in the Decision.

- (d) *Crisp v. SouthCo, Inc.*, 401 627, 738 S.E.2d 835 (2013).

This case determined the legal difference between permanent physical brain injury and permanent physical brain damage. Permanent physical brain damage has been differentiated by a Court as falling into a catastrophic category in terms of injuries akin to injuries that renders a person or paraplegic and quadriplegic. A catastrophic physical brain damage injury must not only affect one's earning capacity, but also one's daily living activities. The Court further concluded that objective diagnostic tests such as a CT scan or a MRI are not totally reflective of whether an individual has suffered a permanent physical brain damage injury.

- (e) *Arrowpoint Capital Corp. v. S.C. Second Injury Fund*, 2017 S.C.App. Unpub. LEXIS 578 (S.C. Ct.App., August 18, 2017).

The Defendant Employer and Insurance Carrier had been improperly denied reimbursement from the South Carolina Second Injury Fund. The Single Commissioner, the Full Commission and the Circuit Court found that Arrowpoint Capital Corporation was not

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entitled to reimbursement from the South Carolina Second Injury Fund, despite overwhelming medical evidence and strict compliance with the statute in terms of the basis for reimbursement. The opinion reflect the South Carolina Workers' Compensation Commission abused its discretion in barring Arrowpoint Capital's request for reimbursement based upon a technological error and ignored the only evidence in the case.

The following is Mr. Dunbar's account of five civil appeals he has personally handled:

- (a) *Jones v. Wilbert Burial Vault, Inc.*, 2016 U.S. Dist. LEXIS 105487 (August 16, 2016).
- (b) *Anderson Baptist Medical Center*, 343 SC 487, 541 S.E.2d 526 (2001).
- (c) *Crisp v. SouthCo. Inc.*, 401 627, 738 S.E.2d 835 (2013).
- (d) *Transp. Ins. Co. v. S.C. Second Injury Fund*, 389 S.C. 422, 699 S.E.2d 687 (2010).
- (e) *Smith v. NCCI, Inc.*, 369 S.C. 236, 631 S.E.2d 268 (Ct.App. 2006).
- (f) *Brunson v. American Koyo Bearings*, 395 S.C. 450, 718 S.E.2d 755 (Ct.App. 2011).

Mr. Dunbar reported that he has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. Dunbar's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Committee on Judicial Qualifications found Mr. Dunbar to be "Well-Qualified" as to the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament; and "Qualified" as to the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee had no related comments.

Mr. Dunbar is married to Tarita A. Dunbar. He has three children.

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Mr. Dunbar reported that he was a member of the following Bar and professional associations:

- (a) Haynesworth-Perry Inn of Court
- (b) SC Chapter of the National Academy of Distinguished Neutrals (Mediators)
- (c) SC Black Lawyers Association-Circuit Representative (2018-2023)
- (d) Greenville County Bar-Member of the Executive Committee (April 2023-present)

Mr. Dunbar provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Poinsett Club-Board Member, Vice President and President.
- (b) Artisphere-Board Member and General Counsel
- (c) Greenville Local Development Corporation (GLDC) Board Member for City of Greenville.
- (d) SC Legal Elite in Insurance Law and Workers' Compensation.

Mr. Dunbar further reported:

Having appeared before judges in South Carolina and U.S. Appellate Courts and trial courts and having served as a Workers' Compensation Commissioner and State Election Commissioner, I truly value the importance of judicial temperament, fairness, impartiality and attentiveness. For the past 28.5 years, I have worked as an advocate for the working man, insurance companies and various business entities. As such, due process of law, justice and an understanding of the law are critical not only to doing what is right but also to promote and maintain the public's faith and unwavering confidence in the judiciary and the judicial system. Honesty, integrity, fairness and a willingness to work as a public servant for the citizens of South Carolina are the attributes that I shall carry. These attributes and characteristics serve to enhance the status and respect of this most vital and important institution in this great democracy.

My experience as a law clerk reviewing the finished product of a trial or an adjudicatory hearing; having my decisions appealed to the Court of Appeals and Supreme Court during my tenure as a Workers' Compensation Commissioner; and litigating cases and defending and challenging those decisions has provided me with a keen insight on the importance of legal knowledge,

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adequate preparation and the effectiveness of oral and written communication and skills in our judicial system.

Accordingly, while many may view the judicial role as simply moving cases through the system, the quick movement of cases cannot be accomplished at the expense of justice, fairness and equality under the law. The service judges are asked to perform clearly constitutes the highest and most difficult service in the mind of the public: exercising wisdom; knowing right from wrong; and judging mercifully and with justice.

(11) Commission Members' Comments:

The Commission Members commended Mr. Dunbar's diverse experience and excellent reputation in the legal community.

(12) Conclusion:

The Commission found Mr. Dunbar qualified, and nominated him for election to Circuit Court, Thirteenth Judicial Circuit, Seat 4.

Ken Gibson

Circuit Court, Thirteenth Judicial Circuit, Seat 4

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Gibson meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Gibson was born in 1967. He is 56 years old and a resident of Greenville, South Carolina. Mr. Gibson provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2001. He was also admitted to the Georgia Bar in 1995.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Gibson.

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Mr. Gibson demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Gibson reported that he has not made any campaign expenditures.

Mr. Gibson testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Gibson testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Gibson to be intelligent and knowledgeable.

Mr. Gibson reported that he has taught the following law-related courses:

- (a) I have lectured at various continuing education seminars for bondsmen throughout the state presenting on the topic of the legal issues involved in motions to be relieved on bond and estreatment hearings; and
- (b) I participated in a panel discussion regarding civility in the criminal defense profession at the 2021 Greenville County End of Year CLE.

Mr. Gibson reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Gibson did not reveal evidence of any founded grievances or criminal allegations made against him.

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The Commission's investigation of Mr. Gibson did not indicate any evidence of disqualifying financial issues.

The Commission also noted that Mr. Gibson was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Gibson reported that his rating by a legal rating organization, Martindale Hubbell, is AV.

Mr. Gibson reported the following military service:

May 24, 1989, to December 31, 1991

United States Army

First Lieutenant

Currently Separated

Honorable Discharge

Mr. Gibson reported that he has held the following public office:

Greenville City Council

Elected member representing Greenville, City District 3

December 1999 to Present

I have in the past missed filing reports with the State Ethics Commission, and it resulted in a penalty of \$300.00. The date that the penalty was assessed was April 10, 2023.

The missed filings occurred as a result of problems accessing my online account and misunderstandings on my part as to what reports needed to be filed and my mistaken belief that I had in fact filed the ones that did so need. The situation has been rectified, and now all of my filings are up to date.

(6) Physical Health:

Mr. Gibson appears to be physically capable of performing the duties of the office he seeks.

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(7) Mental Stability:

Mr. Gibson appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Gibson was admitted to the South Carolina Bar in 2001.

He gave the following account of his legal experience since graduation from law school:

(a) Jones, Day, Reavis & Pogue (Now Jones Day)

Atlanta, GA

1995 to 1999

Associate, Business Litigation

Worked as attorney representing major corporations in a wide range of business-related civil disputes. These included major tort litigation, product liability, contract disputes, medical malpractice, complex litigation to include class actions, defamation, false advertising, and other matters before the Federal Trade Commission.

(b) Greenberg Traurig

Miami, FL

1999 to 2000

Associate, Business Litigation

Worked as attorney representing major corporations in a wide range of business-related civil disputes. These included major tort litigation, product liability, contract disputes, bad faith insurance claims, complex litigation to include class actions, etc.

(c) Womble, Carlyle, Sandridge & Rice (Now Womble Bond

Dickinson)

Greenville, SC

2000 to 2002

Associate, Business Litigation

Worked as attorney representing various businesses in civil disputes. These included major tort litigation, product liability, contract disputes, employment matters including non-compete

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agreements, disputes with local governmental agencies, complex litigation to include class actions, etc.

- (d) The Law Office of Kenneth Gibson/Gibson Law
Greenville, SC
2002 to Present.

Owner

Worked as attorney and law practice owner as a sole practitioner representing businesses and individuals in both criminal and civil matters in State and Federal Courts throughout South Carolina. Responsible for all aspects of business including administrative, financial and any trust accounts.

Mr. Gibson further reported regarding his experience with the Circuit Court practice area:

Criminal Experience

Over the past 5 years I have handled hundreds of criminal matters in the State and Federal Courts of South Carolina. While I on occasion handle matters in Magistrate and Municipal Courts, the overwhelming majority of my experience has been in the State Circuit Courts and Federal Courts. While I maintain a private practice, a substantial portion of my workload involves helping indigent defendants in both the State and Federal systems. During the last 5 years I have appeared before the Court in hundreds of plea hearings, sentencing hearings, bond hearings, pretrial conferences, other motion hearings and trials. These cases have included charges covering pretty much the entire gamut of criminal matters including murders and other homicides, drug related crimes including trafficking, distribution and possession, rape and other sex crimes, forgery, counterfeiting, breach of trust, various forms of fraud, property crimes including robbery, larceny, and malicious injury to property, firearm charges, criminal domestic violence, assault and battery, stalking and harassment, etc. Over the last 5 years I have tried to jury verdict 5 cases in the State and Federal Courts. These trials include two murders. On Monday, July 17, 2023, I will be adding to this list another murder trial, which is special set for that date.

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In addition to my experience representing defendants in criminal matters, I also have extensive experience representing surety companies in bond related matters including off-bond hearings and estreatments.

What I have done in this regard over the past 5 years is essentially what I have been doing as well for the last 20 years. Over that time, I have handled probably thousands of warrants and charges in criminal matters. I also have the experience of trying a capital/death penalty case.

Civil Experience

My first 7 years as a lawyer were spent doing nothing other than major business-related litigation. After leaving law school I went to work for Jones, Day, Reavis & Pogue (now known simply as Jones Day). At the time I worked there, Jones Day employed roughly 1200 hundred lawyers in offices located throughout the United States and the world. It was known for its litigation department and its ability to handle bet your company type litigation. For four years I worked in Jones Day Business Litigation department handling all types of litigation. The most high-profile and arguably significant of the work I did was on behalf of at the time Jones Day's largest client, RJ Reynolds Tobacco company in the so-called tobacco wars. In addition to that work, I also represented a major financial company in complex class-action lawsuits throughout the Southeast, the Sealy mattress company in matters before the Federal Trade Commission involving allegations of false advertising, cases involving catastrophic personal injury, and other matters involving contract disputes and medical malpractice.

After Jones Day, I worked at Greenberg Traurig in its Miami office. At the time that I was at Greenberg Traurig, it employed nearly 700 lawyers with offices throughout the United States. There I continued handling civil related matters involving product liability and major tort litigation, breach of contract and bad faith insurance claims among other things.

In 2000, I moved back to Greenville and worked for Womble, Carlyle, Sandridge and Rice (now known as Womble Bond

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Dickinson) another major and national law firm. Over the two years I was there I handled nearly a hundred matters involving contract disputes, trademark litigation, litigation of non-compete agreements and theft of trade secrets, municipal government litigation, construction litigation, major tort litigation, product liability, complex cases, and class actions, etc.

In 2002, I opened my own law firm, and while the overwhelming majority of my practice has involved criminal matters, I have continued over the years to maintain a steady caseload of civil cases. These have involved breach of contract matters, employment discrimination, unlawful use of police force, conversion, fraud, forgery, civil conspiracy, collections matters, consumer protection, etc.

In the past 5 years, I have handled multiple civil litigation matters to include cases involving breach of contract, consumer protection, fraud, forgery, conversion, police excessive force, civil rights violations, civil forfeiture, and debt collection.

I have tried multiple civil matters to verdict and handled numerous motions hearings involving discovery issues, summary judgment, temporary and permanent restraining orders, and injunctions, etc.

Appearances Before a Circuit Court Judge

In the past 5 years, I have represented clients before Circuit Judges hundreds of times. In the past 20 years, that number is easily in the thousands.

Mr. Gibson reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: Semi-Monthly;
- (b) State: Weekly, and often multiple days within a week.

Mr. Gibson reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 5%;
- (b) Criminal: 90%;
- (c) Domestic: 0%;

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- (d) Other: 5% (Representation of Surety Companies on Off-Bonds and Estreatments – hybrid of criminal and civil).

Mr. Gibson reported his practice in trial court as follows:

- (a) 100% of his practice was in trial court, including cases that settled prior to trial
- (b) Over the last 5 years I have tried 6 cases to verdict. During that time frame I have also had numerous contested hearings involving witness testimony
- (c) 0 cases went to trial and resolved after the plaintiff's or State's case
- (d) 0 cases settled after a jury was selected but prior to opening statements

Mr. Gibson provided that during the past five years he most often served as sole counsel.

The following is Mr. Gibson's account of his five most significant litigated matters:

- (a) The Tobacco Wars. Representation of RJ Reynolds in cases involving claims that the cigarettes that it produced were unreasonably unsafe and violated product liability laws. These matters were significant as it was extremely high-profile work that was regularly reported in the national news. The litigation was extremely complex involving efforts on our part to defend and defeat class action litigation in multiple actions throughout the nation. It is most significant to me in that it was through this litigation that I learned how to prepare and try cases, particularly complex and intensive ones.
- (b) The Bowling Ball Commercial. Representation of Sealy, the mattress company, in an effort to prevent the Federal Trade Commission from forcing it to pull one of its most successful advertisements on the basis that it constituted false advertising. In the 1990s Sealy produced and aired in great rotation a commercial showing the dropping of a bowling ball onto its mattress while not disturbing a glass of red wine. Sealy's competitors cried foul and filed a complaint with the Federal Trade Commission alleging that the commercial constituted false

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advertising. In defense, our team at Jones Day employed experts to recreate the conditions in the commercial and prove that you could in fact drop a bowling ball on a Sealy mattress. We then prepared and submitted written briefs in the matter that convinced the Federal Trade Commission to allow Sealy to continue running the commercial. This case is significant because it involved a high-profile matter and complex arguments before a federal agency.

- (c) Buzz Trademark Litigation. Representation of Georgia Tech University to protect the trademark of its mascot, Buzz.

The Georgia Tech Yellow Jackets have a mascot named Buzz. It's a large yellow jacket that Georgia Tech employs to represent the school and its athletic teams in many various forums. In the mid 1990s, a minor league baseball team named itself the Salt Lake Buzz and employed as it's mascot a bumble bee. Ga Tech believed, rightly so, that the Salt Lake Buzz was diluting its trademark and requested the team to cease and desist.

When the team refused, Ga Tech initiated litigation in federal court to make them stop and hired our law firm to assist. I was assigned to the team. A major part of my effort was to travel throughout the Northeast and depose entities that could provide evidence as to the strength of Ga Tech's trademark and to the celebrity of its mascot Buzz.

One of the entities we subpoenaed was ESPN. But ESPN refused to comply. When they so refused, we immediately filed in federal court in their backyard of Connecticut to force them to comply. I represented Ga Tech at the hearing and despite being in their hometown, the Judge forced them to provide us all of the information that we requested.

After we obtained this information, we filed and argued a number of motions with the federal court in GA which placed us in a very favorable position. The matter was

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ultimately settled with the Salt Lake Buzz paying damages to Ga. Tech and ceasing to use the Buzz name or trademark.

This matter is significant because it involved complex trademark issues with litigation across multiple jurisdictions and courts.

- (d) SC v. LaChrisha Miller. LaChrisha was charged with multiple counts of obtaining prescription under false pretenses as a result of another woman who found LaChrisha's lost driver's license and then used it to obtain the drugs at issue. Despite LaChrisha's innocence, LaChrisha was tried and convicted at trial while being represented by another attorney. LaChrisha subsequently retained me to represent her in a Post-Conviction Relief (PCR) proceeding where we sought to overturn her conviction on the grounds of ineffective assistance of counsel. We were able to show at the hearing on our petition that there was credible evidence of third-party guilt that was not presented at trial. Accordingly, the PCR Court granted the application for post-conviction relief and vacated the conviction. The State appealed and petitioned for Certiorari, which was denied. This case is significant because LaChrisha was at the time the single mother of two small children. She had a pending jail sentence hanging over her head that had been suspended pending appeals but which she would have had to serve if her conviction had been affirmed. Having to leave her kids at this time in their life would have been devastating to both her and her children. The ruling in this case allowed her to fully put this matter behind her, avoid serving an unjust prison sentence and to proceed in her life without this wrongful conviction on her record.
- (e) SC v. Tatianna Kilgore. Tatianna Kilgore was a young girl raised by her mother in a broken household. When she reached 18, she became involved with a man who would manipulate and exploit her. This man slowly separated her from and poisoned Tatianna's relationship with her mother. As a result, she became more and more

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dependent upon him and as that occurred, he solidified his control over her by beating and otherwise abusing her. Once he was able to totally control her, he coerced Tatianna to assist him in a bank robbery.

The two were soon after caught. Tatianna was charged with Armed Robbery and Criminal Conspiracy. He was placed in jail and held there and that finally allowed Tatianna's mother to repair the damage that he had done and to help Tatianna to return to her old self.

I was appointed to represent Tatianna and despite my best efforts the Solicitor refused to dismiss the charges. In light of my arguments, she did agree however to reduce the armed robbery charge to an attempted armed robbery. This was significant because it removed the mandatory minimum sentence of an armed robbery and at least allowed the Court to not incarcerate Tatianna on the charges.

Tatianna ultimately pled to the attempted armed robbery and a criminal conspiracy. At the plea hearing we were able to present a compelling case through witnesses who knew Tatianna before, during and after her relationship with the abusive boyfriend of the effect that he had on her and how she was back to her old self. At the end of our presentation, the Judge agreed to spare Tatianna from incarceration and sentenced her to probation. At the end of the hearing, which was held in a crowded courtroom, the spectators stood and applauded the Judge's mercy.

Years after that plea I happened to see Tatianna at a restaurant. She came up and hugged me and thanked me for everything I had done for her. It had been over 8 years since I represented her, and she was doing great. Other than some traffic tickets she hadn't been in any trouble whatsoever. She was in fact married and had a child that she was raising on her own.

This case is significant, because it drove home to me why I represented the people I did in the manner in which I

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have for these past two decades. The Solicitor assigned to Tatianna's case initially demanded that she serve a sentence of 10 years in jail. Such a sentence would have destroyed her. There was no way she could have done that sentence and come out of the same sweet person that I saw at the restaurant that day. There are certainly matters that demand incarceration and even substantial incarceration. But wise judges are able, when presented with the right evidence, to know when mercy and a short leash is the better alternative. Luckily for us, Tatianna had such a Judge.

Mr. Gibson reported that has not personally handled any civil appeals.

The following is Mr. Gibson's account of the criminal appeal he has personally handled:

(a) United States v. Javier Alex Martinez-Turcio, United States Court of Appeals for the 4th Circuit, September 19, 2012.

(9) Judicial Temperament:

The Commission believes that Mr. Gibson's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Committee on Judicial Qualification found Mr. Gibson to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability; and "Well-Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee had no related or summary comments.

Mr. Gibson is married to Kimberly Michelle Gibson. He has three children.

Mr. Gibson reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar Association
- (b) Greenville Bar Association
- (c) Greenville Association of Criminal Defense Lawyers

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Mr. Gibson provided that he was not a member of any civic, charitable, educational, social, or fraternal organizations.

Mr. Gibson further reported:

Both of my parents dedicated their lives to public service. My father, Dr. W.F. Gibson, worked in civil rights fighting to ensure equal and fair treatment for all people. He worked his way up the ranks of the National Association for the Advancement of Colored People (NAACP) from President of the Greenville Branch to President of the South Carolina Chapter to being the Chairman of the National Board of Directors. My mother, Lottie Gibson, also worked in civil rights but later transitioned to elected office serving as a member of Greenville County Council for over 20 years. In addition to her service on County Council, she tirelessly worked through various boards, commissions, and non-profit agencies to help those who needed it most. She did this work without regard to race or any other factor. If you needed help, no matter who you were, she would be there for you.

I'm extremely proud to say that my parents instilled their dedication to help others, particularly the least among us, in me.

Over the years, I have served my community in multiple and varied capacities. As a graduate of West Point, I joined the Army as an officer and fought during Desert Shield/Storm in Saudi Arabia, Kuwait, and Iraq. Later, I served on various boards and commissions, and most recently I have served as a member of the Greenville City Council.

Through all of this I have learned that there is far more that binds us than divides us and that every person's perspective no matter how disparate from mine is legitimate and has value. I've also learned that everyone, no matter what your station in life or what you may have done deserves to be treated with respect.

I believe that we are better when we can come together and thus, I try to seek consensus and common ground whenever I can. But I also know what is right, and when such consensus can't be achieved, I have the courage to stay focused and determined to ensure that right is done.

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I believe that that the mix of the lessons learned from my parents, my education, my military service, and my extensive work in both the civil and criminal sides of the law make me uniquely qualified to serve as a Judge.

(11) Commission Members' Comments:

The Commission noted that Mr. Gibson has a great deal of experience in both civil and criminal law. Mr. Gibson was also found to have a great temperament and enthusiasm.

(12) Conclusion:

The Commission found Mr. Gibson qualified, and nominated him for election to Circuit Court, Thirteenth Judicial Circuit, Seat 4.

**Will Grove
Circuit Court, Thirteenth Judicial Circuit, Seat 4**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Grove meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Grove was born in 1983. He is 40 years old and a resident of Greenville, South Carolina. Mr. Grove provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2009.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Grove.

Mr. Grove demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

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Mr. Grove reported that he has made \$179.92 in campaign expenditures for stationary, postage, business cards, and name tags.

Mr. Grove testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Grove testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Grove to be intelligent and knowledgeable.

Mr. Grove reported that he has taught the following law-related courses:

- (a) I worked on the faculty for PD 103, a multi-day CLE for assistant public defenders aimed at improving trial advocacy, in 2019 and again in 2021.
- (b) I organized the criminal law afternoon session of the Greenville County Bar's Year End CLE in February 2023 and served as a moderator for a panel discussion on the new criminal docketing system.

Mr. Grove reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Grove did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. Grove did not indicate any evidence of a troubled financial status. Mr. Grove has handled his financial affairs responsibly.

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The Commission also noted that Mr. Grove was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Grove reported that he is not rated by any legal rating organization.

Mr. Grove reported that he has not served in the military.

Mr. Grove reported that he has never held public office.

(6) Physical Health:

Mr. Grove appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Grove appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Grove was admitted to the South Carolina Bar in 2009.

He gave the following account of his legal experience since graduation from law school:

- (a) November 2009 – August 2010. Litigation Attorney, Anastopoulos & Clore, LLC. I worked on civil cases which were in active litigation. I participated fully in the discovery process by requesting and responding to interrogatories, requests for production, requests to admit, conducting depositions, etc. I filed and argued motions and argued a civil case to verdict.
- (b) August 2010 – April 2012. Assistant Public Defender, Fourth Judicial Circuit. I represented clients in each county of the Fourth Judicial Circuit (Darlington, Dillon, Chesterfield, and Marlboro Counties), but my office and the majority of my clients were in Marlboro County. I handled all manner of General Sessions' offenses and represented clients at a variety of proceedings: bond

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hearings, preliminary hearings, motions hearings, arraignments, pleas, trials, etc.

- (c) April 2012 – July 2015. Assistant Public Defender, Twelfth Judicial Circuit. I represented clients in both counties of the Twelfth Judicial Circuit (Florence and Marion Counties), but my office and the majority of my clients were in Florence County. I handled all manner of General Sessions' offenses and represented clients at a variety of proceedings: bond hearings, preliminary hearings, motions hearings, arraignments, pleas, trials, etc.
- (d) July 2015 – February 2019. Assistant Public Defender, Thirteenth Judicial Circuit. Representing clients in Greenville County in both General Sessions' and Magistrate Court. Represented clients at a variety of proceedings: bond hearings, preliminary hearings, motions hearings, arraignments, pleas, trials, etc. Mentored incoming Assistant Public Defenders to the practice of law and, specifically, the intricacies of public defense.
- (e) February 2019 – May 2020. Senior Level Lawyer, Thirteenth Judicial Circuit. In addition to the duties described in section (d), I worked toward improving the efficiency with which our office handled court activities to include coordinating with the Thirteenth Judicial Circuit Solicitor's Office and the members of the judiciary for the Thirteenth Judicial Circuit. Served as a team leader on a team with up to 5 lawyers and a legal assistant. Teams were created to improve intra-office efficiency with collaboration through regular meetings and better organizational structure.
- (f) May 2020 – May 2021. Deputy Public Defender, Thirteenth Judicial Circuit. In addition to the duties described in sections (d) and (e), during this time I worked in a managerial capacity and handled some administrative tasks. Through regular meetings with the Circuit Defender, an administrative assistant, our office manager, and the Deputy Public Defender for Pickens County, we discussed, managed, and planned for the future of the office circuit-wide and tried to anticipate needs while maintaining a client-centered approach. I provided input on administrative and budgetary decisions.

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(g) May 2021 – present. Co-Founder/Member, Grove Ozment, LLC. Together with my law partner, Matt Ozment, we run a general litigation practice. My practice areas cover personal injury, criminal defense, and some complex civil litigation. Matt’s practice area is primarily employment law, both employee- and employer-based. He also handles general civil litigation as well as some complex civil litigation. We practice in both state and federal court. We employ an administrative assistant, Penny Singer, fulltime. As co-owners, Matt and I work jointly to manage the health of the firm, discuss budgetary decisions, and control the firm’s finances. We each handle matters which sometimes involve IOLTA funds, so we share in the responsibility of overseeing that the funds are received and disbursed in accordance with the Rules. We also share the responsibility for the regular reconciliation of our trust account.

Mr. Grove further reported regarding his experience with the Circuit Court practice area:

In my nearly 11 years as a public defender, I defended hundreds of clients and tried a multitude of different cases in the Court of General Sessions. The range of those charges tried to verdict as sole or lead counsel include: murder; armed robbery; burglary first degree; burglary second degree; criminal sexual conduct with a minor in the second degree; criminal domestic violence of a high and aggravated nature; felony DUI resulting in great bodily injury; reckless homicide; pointing and presenting a firearm; trafficking in cocaine base; and distribution of cocaine base, among others.

I have had the opportunity to present a number of different issues to the Circuit Court, including but not limited to: challenging the admissibility of clients’ statements under Jackson v. Denno; arguing for suppression based on violations of the Fourth Amendment; challenging an out of court identification pursuant to Neil v. Biggers; challenging the collection of DNA under Schmerber v. California; arguing for (and having granted) a mistrial based on comments made by a solicitor during closing

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arguments; challenging expert witnesses, and; preparing expert witnesses to testify.

While the middle of my career was dedicated exclusively to the practice of criminal law, my first year of practice and my past two years have included practicing in the area of civil litigation. I have had the opportunity to practice in the Court of Common Pleas arguing motions and trying a case to verdict. In my civil litigation practice, I also spend a significant amount of time managing files and either engaging in or preparing for litigation. I respond to discovery and conduct depositions. I interact with opposing counsel and discuss strategic legal decisions with my clients, my law partner and/or our co-counsels. In my civil practice, I have handled motor vehicle accidents, slip and falls, civil rights violations, civil forfeitures, and complex litigation including nuisance suits. In addition to handling primarily plaintiff's side civil litigation, my law partner and I have also represented defendants in civil litigation.

My practice in both civil and criminal law has created a multitude of different scenarios through which I have had to navigate. My experience has provided opportunities for me to establish an expansive base of knowledge from which I can draw if chosen to serve on the Circuit Court. In many instances, I have had to learn new areas of the law quickly to provide the best advice and representation to my clients. If selected to serve as a Circuit Court judge, I am sure I would draw upon this skill often to ensure I thoroughly assess the facts and apply the law appropriately in matters before me.

My practice over the past five years has required an appearance before the Circuit Court regularly. In addition to retained criminal defense work, I also work part time as an assistant public defender in the Pickens County branch of the Thirteenth Judicial Circuit Public Defender Office. Between my civil practice, my retained criminal practice, and my work as a part-time public defender, I appear in front of a Circuit Court judge several times a month. Prior to May 2021, when I was working as a full time public defender, I would appear in the Court of General Sessions as many as ten days a month.

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Mr. Grove reported the frequency of his court appearances during the past five years as follows:

- (a) federal: I have appeared in federal court a few times in the past two years, mostly as pro bono co-counsel to other lawyers in criminal matters.
- (b) state: As a full-time public defender, I appeared several times a week, almost every week. In Greenville County, General Sessions Court operates two weeks per month, on average. During weeks when General Sessions Court was not open, other appearances might include Magistrate Court, preliminary hearings, Transfer Court, and General Sessions non-jury matters. The same is true since entering private practice in 2021. I have some Magistrate Court appearances, some General Sessions appearances, and some non-jury appearances, so I find myself in court frequently.

Mr. Grove reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 15%;
- (b) Criminal: 80%;
- (c) Domestic: 0%;
- (d) Other: 5%.

Mr. Grove reported his trial court experience as follows:

- (a) 85% was in trial court, including cases that settled prior to trial;
- (b) One Circuit Court case, a trial in General Sessions, resulted in a verdict in the past five years.
- (c) 0 cases went to trial and resolved after the plaintiff's or State's case
- (d) 0 cases settled after a jury was selected but prior to opening statements

Mr. Grove provided the following about his role as counsel during the past five years:

Sole counsel, though on more significant cases it was common practice in the Thirteenth Judicial Circuit Public Defender Office for lead counsel to select a second chair, so I have also

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frequently acted as either lead counsel on my own cases or co-counsel on matters where I was assisting a coworker.

The following is Mr. Grove's account of his five most significant litigated matters:

- (a) *State v. Wayne Albeon Scott, Jr.*, 2013-GS-21-0391. Mr. Scott was charged, indicted, tried, and convicted of murder. As sole counsel on this case, I raised a claim of immunity under the Protection of Persons and Property Act (the Act). At the time of the pre-trial hearing, there was very little case law available regarding the Act, which proved challenging. Ultimately, our motion for immunity under the Act was denied and we proceeded to trial. At a trial which lasted several days, we were able to present a self-defense claim and were able to block the State's request to charge for Voluntary Manslaughter, effectively creating an "all or nothing" scenario for the jury in its deliberation. This case was significant as it gave me experience in researching and presenting to a judge a defense in a then-new area of the law. It also provided an opportunity for creativity and critical thinking, to anticipate how the State would respond to our actions in presenting their case and simultaneously making sure Mr. Scott's defense was as clearly presented to the jury as possible.
- (b) *State v. Brian Lewis*, 2016-GS-23-01737. I served as lead counsel in this case where Mr. Lewis was charged, indicted, tried, and convicted of Conspiracy, Armed Robbery, and Possession of a Weapon during a Violent Crime. Immediately prior to trial, the State notified me Mr. Lewis had, just a few days prior, been charged with Conspiracy and Solicitation of a Felony. Specifically, the State alleged Mr. Lewis was conspiring from the detention center to arrange a hit on a State's witness expected to testify against him in the trial (these new charges would later be transferred to federal court for prosecution where Mr. Lewis was tried and convicted). The solicitor, the judge, and I had a chambers meeting prior to trial. My main focus was making sure this new information did not compromise Mr. Lewis's 6th Amendment rights. I was also fortunate to witness firsthand the careful balancing given by the trial judge between allowing the State to maintain a

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heightened level of security in the courtroom due to the new allegations while also ensuring Mr. Lewis's rights to a fair trial were protected. An unpublished state court appeal affirmed Mr. Lewis's convictions.

- (c) *State v. Jason Lamont Andrews*, 2013-GS-21-0726. A case which began as a charge of Felony DUI Resulting in Death went to trial as a Reckless Homicide where I acted as sole counsel. I inherited this case from an assistant public defender who left to enter private practice. A great amount of effort had already been put into this case prior to my assignment, and Mr. Andrews and I built upon that work. We were ultimately successful in convincing the solicitor he would be unable, due to evidentiary issues, to successfully present the case as a Felony DUI and it was directly presented for indictment as a Reckless Homicide. Mr. Andrews elected to proceed to trial and, after a trial which lasted several days, he was acquitted. This case allowed me my first opportunity into the complex realm of DUI case law and the procedures required to acquire, preserve, and present evidence in a DUI case. This case also required me to call a witness and qualify him as an expert for the purposes of entering the deceased's toxicology report into evidence, which proved critical to our defense. My client in this case expressed continued confidence in my abilities, even after the trial as we waited for the verdict to be delivered. This, in turn, gave me confidence in myself as a young trial lawyer.
- (d) *State v. Estella Ruiz Gomez*, 2019-GS-01771A. This case involved an undocumented immigrant from a rural part of Mexico who was charged in the homicide of her newborn child. She was directly indicted for Voluntary Manslaughter and eventually entered a guilty plea and received an eleven year sentence. This case was significant as it was incredibly complex from many different angles: her native language was an indigenous Central American dialect which originally presented many challenges in our ability to effectively communicate; the nature of her original charge (Homicide by Child Abuse) is an incredibly sensitive charge with high emotions on every side, and; her undocumented status in this country created another challenge in advocating a suitable resolution for her and

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another layer of complexity to consider in terms of mitigation presented to the Court. As a parent of young children, I could have allowed the facts or circumstances of this case to interfere with my ability to advocate for my client or to pursue the best possible outcome on her behalf. Instead, this case proved I have the ability to focus my efforts on the facts and the law of a particular scenario, a trait I will gladly bring with me to the bench, if elected.

- (e) *State v. Dontavius H. Jackson*, 2010-GS-16-01974, -01975. Mr. Jackson was tried twice on these charges: I believe the first trial was in October 2010, which resulted in a hung jury, and again in December 2010, which resulted in a conviction for Burglary First Degree and Grand Larceny. I was a new assistant public defender in the Fourth Judicial Circuit and was allowed to serve as co-counsel in both trials. Having been a practicing attorney for about a year, and having worked as a public defender for only a couple months, I was initially intimidated at the thought of a trial of that magnitude. This trial gave me an opportunity to cross examine a State's expert, to vigorously defend my client, and to hold the State to its burden...twice. This case is also significant as it showed I have the ability to prepare for complex matters very quickly. This ability has only improved in the thirteen years since.

Mr. Grove reported he has not personally handled any civil or criminal appeals.

Mr. Grove further reported the following regarding unsuccessful candidacies:

Yes. I applied for election to the Circuit Court, Thirteenth Judicial Circuit, Seat #3 in 2020. Following the screening process, I was found qualified but not nominated.

(9) Judicial Temperament:

The Commission believes that Mr. Grove's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Committee reported Mr. Grove to be "Well-Qualified" as to the evaluative criteria of ethical fitness,

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professional and academic ability, character, reputation, experience, and judicial temperament; and “Qualified” in the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee had no related comments or summary statements.

Mr. Grove is married to Katheen Lyall Grove. He has three children.

Mr. Grove reported that he was a member of the following Bar and professional associations:

- (a) Greenville County Bar Association, member 2015-present; Legislative Liaison, 2018-present;
- (b) South Carolina Bar Association, House of Delegates, Member, 2020-present;
- (c) South Carolina Association of Criminal Defense Lawyers, Member 2010-present; Board Member, 2021-present;
- (d) Public Defender Association, Board Member, 2019-2021;
- (e) Haynesworth Perry American Inns of Court, Member, 2019-present;
- (f) Federal Bar Association, Member, 2023-present

Mr. Grove provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) The Poinsett Club
- (b) The Greenville Country Club

Mr. Grove further reported:

As a young public defender in the Fourth Judicial Circuit, I had a brief and altogether unremarkable experience which has positively impacted the way I practice law for well over a decade. In either 2010 or 2011, I was in the courtroom one morning making some last minute preparations before my trial resumed. The judge entered and, prior to calling for the jury, invited the assistant solicitor and me to approach the bench. “I just want to give you both an opportunity to straighten your ties before I bring in the jury,” the judge said, hand covering the microphone. I looked down and realized my top button was undone and my tie was loosened. The judge could have called

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out across the courtroom and dressed us down for being so casual with our appearance, but instead took the opportunity to remind us privately and discretely (and in one short sentence) that we should hold ourselves to a high standard and project the importance of our responsibilities with how we carry ourselves – to include not appearing disheveled in court. To this day, I cannot enter a courtroom without checking my tie, just to make certain I am presenting myself to everyone (clients, courtroom staff, other lawyers, judges, opposing parties, or even members of the gallery), as a person who appreciates the significance of their duties.

The lesson I learned that day, twelve or thirteen years ago, could have been delivered any number of ways. It could have been delivered with anger, with sarcasm, it could have been delivered flippantly, or in an overbearing way. The gracious way the judge handled it has permanently impacted the way I conduct myself in court for the better and has created a conscientiousness in me that I believe will remain with me my entire practice and will take with me to the bench. I hope to be able to be as thoughtful, practical, and effective a jurist as that judge was for me and many others.

(11) Commission Members' Comments:

The Commission commended Mr. Grove for his growth as an attorney and in expanding his practice areas to include civil matters as they recommended during a prior candidacy. Further, members of the Commission commended his peers' endorsements of his temperament.

(12) Conclusion:

The Commission found Mr. Grove qualified, and nominated him for election to Circuit Court, Thirteenth Judicial Circuit, Seat 4.

**The Honorable Robert Bonds
Circuit Court, Fourteenth Judicial Circuit, Seat 1**

Commission's Findings: QUALIFIED AND NOMINATED

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(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Bonds meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Bonds was born in 1963. He is 60 years old and a resident of Walterboro, South Carolina. Judge Bonds provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1990.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Bonds.

Judge Bonds demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Bonds reported that he has not made any campaign expenditures.

Judge Bonds testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Judge Bonds testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Bonds to be intelligent and knowledgeable.

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Judge Bonds reported that he has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

Judge Bonds reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Bonds did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Judge Bonds did not indicate any evidence of a troubled financial status. Judge Bonds has handled his financial affairs responsibly.

The Commission also noted that Judge Bonds was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Bonds reported that his last available rating by a legal rating organization, Martindale-Hubbell, was BV; and that he was included in The National Trial Lawyers Top 100: Criminal.

Judge Bonds reported that he has not served in the military.

Judge Bonds reported that he has held the following public office:

(a) Walterboro City Council from 2011-2019

(b) I was notified by the Ethics Commission in July 2011 that I had not timely filed my pre-election campaign disclosure. I was notified again in 2015 that I had not timely filed my pre-election campaign disclosure. Both times, upon reviewing my online account, the information had been entered and saved but not submitted. I immediately submitted the information and both times paid the One Hundred Dollar fine.

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(6) Physical Health:

Judge Bonds appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Bonds appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Bonds was admitted to the South Carolina Bar in 1990.

He gave the following account of his legal experience since graduation from law school:

- (a) 1990-1995 Bogoslow and Jones, Attorneys at Law: Associate attorney at an insurance defense firm located in Walterboro, SC. Handled all aspects of cases from intake through trial. Cases included among others, auto accident defense, defense of governmental entities sued pursuant to the State Tort Claims Act and alleged 42 USC §1983 violations. Tried cases in both State and Federal Courts. Served as Town Attorney for the Town of Cottageville, SC.
- (b) 1995-1996 Bonds and Wilkerson, LLC: Partner in the firm that focused on personal injury and criminal defense. I oversaw all operations of the firm to include management of the staff and monitoring both operating and trust accounts.
- (c) 1996-1998 Robert J. Bonds, Attorney at Law: Handled personal injury and criminal defense cases. I oversaw all operations of the firm to include administrative and financial management.
- (d) 1998-2000 John R. Hetrick, Attorney at Law: Associate attorney at the firm. I handled primarily personal injury and criminal defense cases. I assisted in all aspects of the administrative and financial management of the firm, including the trust account.
- (e) 2000-2021 Hetrick, Harvin and Bonds. LLC: Partner in the firm which handled personal injury matters including auto accident cases, nursing home negligence, and defective product cases. I also represented criminal clients in cases ranging from minor traffic violations to

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major felonies. I oversaw all operations of the firm to include administrative management and monitoring all firm accounts.

(f) 2021-Present Resident Circuit Court Judge, Fourteenth Judicial Circuit.

Judge Bonds reported that he has held the following judicial office(s):

2021-Present

Circuit Court Judge, Fourteenth Judicial Circuit

General Sessions and Common Pleas

Judge Bonds provided the following list of his most significant orders or opinions:

- (a) State of SC vs. Malik Jamal Bostick; Order denying Defendant's Motion for Immunity under the Protection of Persons and Property Act. Case# 2021-GS-27-00234-00236 and 2021-GS-27-00261
- (b) Shayla J. Bryan vs. State of SC; Order granting Applicant's application for post-conviction relief. Case # 2017-CP-07-01405
- (c) State of SC vs. Tiffany Rebecca Owens; Order denying Defendant's Motion for Immunity under the Protection of Persons and Property Act. Case # 2011-GS-25-00181 and 2021-GS-25-00346
- (d) MFM Properties, LLC and MFM Residential Properties LLC vs. Rotunda Land & Development Group, LLC and Calloway Title & Escrow, LLC; Order Granting Plaintiff's Motion for Summary Judgment. Case # 2021-CP-07-00482
- (e) State of SC vs. Faizon Syheen Speed; Order denying Defendant's Motion for Immunity under the Protection of Persons and Property Act. Case # 2020-GS-25-00164 and 2020-GS-25-00165

All of the above Orders were prepared for my signature by prevailing counsel.

Judge Bonds reported no other employment while serving as a judge.

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(9) Judicial Temperament:

The Commission believes that Judge Bonds's temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee on Judicial Qualifications found Judge Bonds to be "Well-Qualified" as to the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament; and "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee noted: "Good temperament, studied, great demeanor, conscientious—Great judge."

Judge Bonds is married to Harriet Anne Ashby. He has three children.

Judge Bonds reported that he was a member of the following Bar and professional associations:

- (a) Colleton County Bar Association, 1990-Present
- (b) South Carolina Bar House of Delegates, served two terms approximately twelve years ago
- (c) South Carolina Defense Lawyers Association, past member 1990-1995
- (d) South Carolina Association for Justice, 2010-2020
- (e) American Association for Justice, 2012-2015

Judge Bonds provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Walterboro Rotary Club – President 2020
- (b) Walterboro Elks Lodge
- (c) University of North Carolina Educational Foundation
- (d) Edisto Island Yacht Club
- (e) Best Elected Public Official 2012-2013, Press and Standard Readers Choice Award
- (f) Best Attorney 2012-2013, Press and Standard Readers Choice Award
- (g) Lowcountry Council of Governments 2011-2019, chairman 2018-2019

Judge Bonds further reported:

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I have lived and worked in Walterboro, South Carolina for over thirty-one years. I have raised my family, attended church, coached ball teams and held public office in those years. I have practiced law in Walterboro as a civil defense attorney and as a civil plaintiff's attorney, I have managed law offices, as well as a large volume of diverse cases for many different clients. I have tried civil jury cases to verdict in four of the five counties of the Fourteenth Judicial Circuit and have represented criminal defendants in both simple and complex cases. I know and understand the people of this circuit, and I understand the issues and problems litigants and attorneys face in this circuit.

I have enjoyed serving the citizens of the Fourteenth Judicial Circuit as a resident judge and believe that my experience in private practice over the years has helped me tremendously as a judge. I look forward to using both my professional and life experience as a husband, and father, to continue to guide me as a resident judge if I am fortunate enough to be re-elected to the position.

(11) Commission Members' Comments:

The Commission commented that Judge Bonds is proving to be an excellent and well-respected jurist since his election to the bench. The Commission noted that he is conscientious about giving his time and attention to the parties and commended him for his willingness to listen.

(12) Conclusion:

The Commission found Judge Bonds qualified and nominated him for re-election to Circuit Court, Fourteenth Judicial Circuit, Seat 1.

**The Honorable Marvin Dukes III
Circuit Court, Fourteenth Judicial Circuit, Seat 3**

Commission's Findings: QUALIFIED AND NOMINATED

Pursuant to § 2-19-80(A), if fewer than three persons apply to fill a vacancy or if the Commission concludes that there are fewer than three candidates qualified for a vacancy, it shall submit only the names and

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qualifications of those who are considered to be qualified, with a written explanation for submitting fewer than three names.

For the vacancy for Circuit Court, Fourteenth Judicial Circuit, Seat 3, one candidate applied for this vacancy. Accordingly, the name and qualifications of one candidate is hereby submitted in this report.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Dukes meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Dukes was born in 1961. He is 62 years old and a resident of Beaufort, South Carolina. Judge Dukes provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1987.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Dukes.

Judge Dukes demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Dukes reported that he has made \$243.00 in campaign expenditures for printing and postage.

Judge Dukes testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Judge Dukes testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

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(3) Professional and Academic Ability:

The Commission found Judge Dukes to be intelligent and knowledgeable.

Judge Dukes reported that he has taught the following law-related courses:

- (a) 10/12 Masters Bench/Bar
- (b) 06/13 Foreclosure Law CLE. HOA issues in foreclosure.
- (c) 10/15 Tips from the Bench CLE. Equity tips.
- (d) 02/17 Beaufort County Bar CLE. Better Order writing.
- (e) 11/19 Probate Bench Bar. The intersection of Probate and Equity
- (f) 10/22 Masters Bench/Bar. Online foreclosure sales (panel)

Judge Dukes reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Dukes did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Judge Dukes did not indicate any evidence of a troubled financial status. Judge Dukes has handled his financial affairs responsibly.

The Commission also noted that Judge Dukes was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Dukes reported that his last available rating by a legal rating organization, Martindale, was BV.

Judge Dukes reported that he has not served in the military.

Judge Dukes reported that he has held the following public offices:

- (a) I was an appointed member of the Beaufort County Planning Commission from 1995 until 1999.

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(b) I was an elected member of Beaufort County Council from 1999 until 2002. During my tenure on council I served as Vice-Chairman of the Council (1999-2002) and was Chairman of the Planning and School District Liaison committees. I also served as a member of many other committees including the finance committee.

(c) In 2005, I served as the appointed Chairman of the City of Beaufort Waterway Commission.

I believe that I timely filed all reports.

(6) Physical Health:

Judge Dukes appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Dukes appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Dukes was admitted to the South Carolina Bar in 1987.

He gave the following account of his legal experience since graduation from law school:

Upon graduation and admission to the bar in 1987, I was employed by the firm of Dowling, Sanders, Dukes, Williams and Svalina in Beaufort, SC. This firm changed in name and character a number of times over the years, finally dissolving in about the year 2000 (the name at that time was Dukes, Williams and Infinger), after which the remaining partners (including myself) opened individual P.A's and LLCs.

In my twenty years of practice prior to becoming Master, I worked in a primarily civil and domestic general practice with some criminal and contract work. In my early years of practice, I handled all the criminal appointments for all the attorneys in our small firm. Later, I transitioned into a primarily civil and domestic practice. During my career, I have handled a wide variety of cases, many with complex issues. My career experience includes virtually all aspects of litigation from

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mediation through the appellate level. During approximately 8-10 years of my practice, I operated as a sole practitioner and personally handled all aspects of administration, employment, financial management and trust accounts.

In 2007, I was appointed Master-in Equity and Special Circuit Judge for Beaufort County. The job of Master-in-Equity involves judicial, financial and administrative duties. In my 16 years as Master, I have handled thousands of cases, including criminal appeals from Magistrate's Court, partition actions, partnership matters and extremely complex business disputes. In my capacity as special circuit judge, I have presided over General Sessions guilty pleas.

Judge Dukes further reported regarding his experience with the Circuit Court practice area:

I have served as Full-time Master-in-Equity for Beaufort County since June of 2007. During my time as Master, I have also served, pursuant to Supreme Court Order, as a Special Circuit Court Judge. In addition to the broad experience that I have gained through my service as Master, my appointment as Special Circuit Judge has allowed me to hear countless jury-trial motions, non-jury cases, Magistrate's criminal appeals, General Sessions pleas and Equity matters. I regularly issue Circuit Court warrants. Historically, the Beaufort County Master-in-Equity has functioned as a full-time in-house non-jury circuit judge for those matters permitted. In my sixteen years of service, I have continued that tradition.

In a typical month, I will hear dozens of contested motions from both the jury and non-jury docket, contested non-jury cases, magistrate's appeals, and traditional equity cases. As the commission is aware, the primary difference in a jury and non-jury trial is that the non-jury judge has an additional duty as finder of fact.

I have extensive experience in all aspects of the work of a Circuit Court Judge, with the sole exception of criminal jury trials. I have, as Special Circuit Judge, set bonds, taken felony pleas and tried at least one non-jury General Sessions case. In

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my law practice, prior to my appointment as Master-in-Equity, I handled many jury trials and do not believe that the transition to Circuit Judge would be difficult.

Judge Dukes reported the frequency of his court appearances prior to his service on the bench as follows:

- (a) Federal: None;
- (b) State: Two to three days per week.

Judge Dukes reported the percentage of his practice involving civil, criminal, domestic and other matters prior to his service on the bench as follows:

- (a) Civil: 20%;
- (b) Criminal: 5%;
- (c) Domestic: 70%;
- (d) Other: 5%.

Judge Dukes reported his practice in trial court prior to his appointment as Master in Equity was as follows:

- (a) 75% of cases were in trial court.

The following is Judge Dukes's account of his five most significant litigated matters:

- (a) *Taylor, Cotton & Ridley, Inc. v. Okatie Hotel Group, LLC*, 372 S.C. 89, 641 S.E.2d 459 (S.C.App. 2007)

This was a very complex case involving a substantial mechanics lien, with several novel issues of set-off and cross-claim involving liquidated damages claims, materials shortages, interest disputes and a mold issue. The case originated in the year 2000, but due to the extensive testimony, the number of motions and finally the appeal, did not finally conclude until after the Appellate Court's ruling cited above. I was sole trial counsel. I assisted in the appeal.

- (b) *KJL v. LER, et al.* (99-DR-07-750) This was a very unusual Family Court case in which I was hired by the State of Ohio department of Insurance to preserve a multi-million dollar claim of the department in the disputed marital holdings of the Family Court litigants. The case involved a mix of Family Court and civil issues including Statute of Elizabeth claims.

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- (c) *TMR v PMR* (04-DR-07- 659) This was a divorce case in which the parties had been employed in the entertainment industry. It had a number of interesting valuation issues.
- (d) *JO v WBO* (2005-DR-07-699) This was a physician divorce case involving health issues which allegedly rendered the supporting spouse unable to assist in ongoing support.
- (e) *PAH v. LEH* (94-DR-07-0211) This was a complex equitable division case involving co-mingling of non-marital assets and property in the US Virgin Islands. Ultimately it was successfully appealed (327 S.C. 360, 489 S.E.2d 212).

The following is Judge Dukes's account of four civil appeals he has personally handled:

- (a) *Miller v. Miller* 92-DR-07-2005
- (b) *Warner Advertising v. The Cabral Company* 92-CP-07-1520
- (c) *Upchurch Timber v. SouthEast Timberlands* 92-CP-07-272
- (d) *SC Federal Savings Bank v. Atlantic Land Title, et al* 91-CP-07-853, 442 S.E.2d 630, 314 S.C. 292 (S.C. App., 1994)

Judge Dukes reported that he has not personally handled any criminal appeals.

Judge Dukes reported that he has held the following judicial office(s):

I have served as Beaufort County Master-in-Equity and Special Circuit Judge for Beaufort County from June 2007 to present (16 years).

Judge Dukes provided the following list of his most significant orders or opinions:

- (a) *Town of Hilton Head Island v. Kigre, Inc.* 408 S.C. 647, 760 S.E.2d 103 (S.C., 2014)

This case involved a Constitutional challenge to the application of Hilton Head's business license fee to sales of Kigre's military laser products sold outside Hilton Head. The South Carolina Supreme Court affirmed my ruling. Kigre petitioned for a writ of certiorari to the United States Supreme Court but was

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denied (*Kigre Inc. v. Town of Hilton Head Island*, 135 S.Ct. 959(Mem), 190 L.Ed.2d 832(Mem), 574 U.S. 1076 (2015)).

- (b) *Estate of Tenney v. South Carolina Dept. of Health and Environmental Control*, 393 S.C. 100, 712 S.E.2d 395 (2011)

This was a “title to marshlands” case in which the Supreme Court, in affirming my Order, overturned the Coburg precedent on title to marshlands.

- (c) *Wachovia Bank, N.A. v. Coffey, Wachovia Bank, N.A. v. Coffey*, 404 S.C. 421, 746 S.E.2d 35 (2013) This was a heavily-cited case involving the equitable defense of clean hands in a mortgage foreclosure where no attorney was used for the closing.

- (d) *Grays Hill Baptist Church v Beaufort County and the United States of America*, 431 S.C. 630, 850 S.E. 2d 29 (2020) This was a vested rights appeal from a zoning board. The United States intervened on behalf of the Respondent. My Order supporting the Appellant’s vested rights was reversed by the South Carolina Court of Appeals (427 S.C. 57, 828 S.E.2d 234 (S.C. App. 2019)), but was then was ultimately upheld on appeal to the South Carolina Supreme Court.

- (e) *H. Marshall Hoyler v The State of South Carolina, et al.*, 428 S.C. 279, 833 S.E. 2d 845 (S.C.App 2020) My Order invalidating the conveyance of marshland by the State was upheld on appeal.

Judge Dukes reported no other employment while serving as a judge.

Judge Dukes further reported the following regarding unsuccessful candidacies:

- (a) In 1997, I was an unsuccessful candidate for the 14th Circuit Family Court bench.
- (b) In 2002, I was defeated in a primary race for SC House seat 124.
- (c) In 2013, I was an unsuccessful candidate for an At-Large Circuit Judge seat.

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- (d) In 2017, I was an unsuccessful candidate for an At-Large Circuit Judge seat.
- (e) In 2020, I was an unsuccessful candidate for an At-Large Circuit Judge seat.

(9) Judicial Temperament:

The Commission believes that Judge Dukes's temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee on Judicial Qualifications found Judge Dukes to be "Qualified" in the evaluative criteria of constitutional qualifications, physical, and mental stability; and "Well-Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee committed that Judge Dukes has "tremendous civil experience with some criminal experience, excellent judicial disposition, personable, very well suited to be a circuit judge."

Judge Dukes is married to Laura Campbell Dukes. He has one child.

Judge Dukes reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar Association, November 1987 to present.
- (b) Master's Association 2007 to present. President 2012.

Judge Dukes provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Beaufort Yacht and Sailing Club
- (b) Jean Ribaut Society (debutante society)

Judge Dukes further reported:

I am the oldest of four brothers. Our parents emphasized the value of hard work, fairness, honesty and the golden rule. I have worked for 36 years on the bar and bench with the philosophy that following the core values our parents taught to us can never be wrong.

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In my legal career, I did my best to solve problems and seek fair and just outcomes of disputes.

I have run a successful small law firm and I know the burden and the satisfaction of small business ownership, including making payroll and regulatory compliance. I have developed and redeveloped properties and understand and appreciate the difficulties and rewards of such endeavors.

I have run for and served in public office as a County Council vice-chairman, a position that included serving on a number of committees on almost every government related subject.

I have sued and been sued and understand personally the value of a fair and just judicial system.

As Master-in-Equity I have done my best to live by the core values that have served me well in the past. I believe that due process is a combination of those values.

Because I believe that a settlement between litigants is always better than a ruling from a third party, I have always encouraged mediation wherever possible. In Court hearings, I insist on an atmosphere of “Disagree without being disagreeable”.

During my sixteen year service as Master, I have seen the fallout from the foreclosure crisis and the pandemic. Many of the decisions that I have made have been difficult, but they have not been made without careful consideration, due process and the exhaustion of all efforts to avoid forfeiture. In every case, I do my best to ensure that litigants and lawyers alike are treated with respect and fairness.

I believe that our entire judicial system rests on the people’s understanding and confidence that win or lose, they were given a fair chance. As a Master-in-Equity it has been my goal to always guarantee that fair chance. I strive to have all parties leave the Courtroom knowing that they were heard and that their concerns, claims and defenses were fairly considered.

Further, as Master, I have served in the role of president of the Master’s association and have assisted in the modification of Court rules regarding foreclosures. As Master I have handled tens of millions of dollars in foreclosure proceeds, and through collection of fees and commissions, my office been a profit center for the County.

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Finally, my greatest achievement and enjoyment has been that of a proud husband and father. My wife and I work every day to pass on to our daughter the core values that have guided us.

Thank you for your consideration,

Marvin H. Dukes III

(11) Commission Members' Comments:

The Commission commented that Judge Dukes has an excellent reputation as patient, courteous, and well-tempered. They noted his great intellect, which will serve him in discharging his responsibilities as a jurist on the Circuit Court bench.

(12) Conclusion:

The Commission found Judge Dukes qualified and nominated him for election to Circuit Court, Fourteenth Judicial Circuit, Seat 3.

**David Pierce Caraker Jr.
Circuit Court, Fifteenth Judicial Circuit, Seat 3**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Caraker meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Caraker was born in 1968. He is 55 years old and a resident of Myrtle Beach, South Carolina. Mr. Caraker provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2011.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Caraker.

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Mr. Caraker demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Caraker reported that he has made \$1.59 in campaign expenditures for postage.

Mr. Caraker testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Caraker testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Caraker to be intelligent and knowledgeable.

Mr. Caraker reported that he has taught the following law-related courses:

- (a) I have been an instructor at Prosecution Boot Camp, which is a program sponsored by the South Carolina Commission on Prosecution Coordination. This week-long seminar has many instructors, and is for newer prosecutors. The instructors cover many areas, to include trial advocacy, direct and cross examination, ethics, plea negotiations, sentencing, discovery obligations, and restitution.

Prior to arrival at Boot Camp, each student participant will be assigned a case, with a narrative, witnesses, photos, statements, and certain evidence. They are told to prepare openings, closings, direct and cross examination, and to admit evidence as if at trial. The students then attend lectures about certain subjects, and then break out into different, assigned groups, to put what they have learned into practice.

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The instructors listen and observe the presentations, and critique students on their performances, providing feedback in the form of constructive criticism and real world advice.

- (b) In addition to Boot Camp, I have lectured at countless Inservice trainings for several law enforcement agencies in our jurisdiction, including the Horry County Police Department, the Myrtle Beach Police Department, and the Conway Police Department. I have taught classes on courtroom presentation and etiquette, presentation of evidence, search and seizure, report writing, and Miranda issues. Moreover, I have given classes specifically on the legal issues surrounding drug interdiction.
- (c) I have also given talks regarding drug court, drug treatment, mental health court, and issues surround the incarceration of drug addicts to community and church groups in our area.

Mr. Caraker reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Caraker did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. Caraker did not indicate any evidence of a troubled financial status. Mr. Caraker has handled his financial affairs responsibly.

The Commission also noted that Mr. Caraker was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Caraker reported that he is not rated by any legal rating organization.

Mr. Caraker reported that he has not served in the military.

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Mr. Caraker reported that he has never held any public office.

(6) Physical Health:

Mr. Caraker appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Caraker appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Caraker was admitted to the South Carolina Bar in 2011.

He gave the following account of his legal experience since graduation from law school:

- (a) August 2011 – December 2013: The Hyman Law Firm, Florence, South Carolina. I was an associate attorney in this firm. My areas of practice focused on civil plaintiff's work, and representing injured workers in worker's compensation claims. I also represented people who were seeking Social Security Disability benefits. I was not involved in the administrative or financial management of this firm, nor did I handle the trust account.
- (b) January 2014 – present: Senior Assistant Solicitor, Horry County Solicitor's Office, Conway, South Carolina. I was hired at the Solicitor's Office to run the newly formed drug prosecution team. Although I have handled everything from misdemeanor drug possession to murder, my primary focus is on prosecuting drug cases of every description. With regard to administrative duties, in addition to my own caseload of approximately seven-hundred cases, I also supervise and train a team of prosecutors and paralegals, with a combined caseload of approximately another two thousand-eight hundred cases, who are also responsible for prosecuting all manner of drug cases. I am also brought in on some hiring and firing decisions, as well as disciplinary and personnel matters. Additionally, I train many newly hired prosecutors. I am not involved in the financial management of this office.
- (c) February 2016 – present: Special Assistant United States Attorney, United States Attorney's Office, Florence, South

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Carolina. As a Special Assistant U.S. Attorney, I am assigned to the Violent Crimes Division. In general, my practice in this capacity is to prosecute firearms cases against convicted felons who meet a particular declination threshold, in federal court. This necessarily also includes some measure of federal drug prosecution, as firearms and drugs are often found together. I am not involved in the administrative or financial management of this office.

- (d) February 2023 – present: Senior Assistant Solicitor, Georgetown County Solicitor’s Office. My duties at the Georgetown office mirror my duties and responsibilities in the Horry County office. Solicitor Richardson has recently tasked me with overseeing this caseload as well as the Horry County, and my federal caseload.

Mr. Caraker further reported regarding his experience with the Circuit Court practice area:

- (a) With regard to criminal matters, in the past five years, I have handled a range of cases from drug possession, distribution, and trafficking, to burglaries, to assaults, to murder. In addition, I have handled gun and drug cases and their associated issues in federal court. The vast majority of cases that I have handled, however, have been drug cases of all description, with the number of warrants disposed of being in the thousands. Because of the sheer number of cases that I have worked, it is impossible to discuss the issues in each case. Generally speaking, however, I have had occasion to deal with issues involving search and seizure (search warrants, reasonable suspicion, warrantless searches, *Terry* stops), traffic stops and their attendant concerns, *Miranda* and identification issues, and questions involving knowledge and possession of an object or substance. I have also had, on occasion, to deal with delineating between murder and manslaughter, issues of self-defense, and differing degrees of assault and battery. Although possibly not contemplated, one of the main issues in any drug case is that of sentencing or disposition. Working drug cases has allowed me to see and interact with the entire gambit of social, economic, and ethnic backgrounds. It gives me the opportunity to truly help those who are ready receive it. Although incarceration is

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appropriate in some cases, I often get to craft resolutions in cases that can result in people going into drug rehab or drug court of one description or another.

- (b) In the civil realm, I must go back further than five years. In my time at the Hyman Law Firm, I had an opportunity to represent plaintiffs on cases ranging from car and truck accidents, to premises liability, products liability, nursing home negligence, worker's compensation, and Social Security disability. I also was assigned two Post Conviction Relief matters, and handled one matter at the Court of Appeals. Issues that I commonly dealt with were that of determining liability or compensability, existence and extent of injury, the nature and extent of disability, and proving damages. Because of mandatory Alternative Dispute Resolution, the vast majority of cases were settled at mediation, or shortly thereafter. I tried cases in civil court, before the Worker's Compensation Commission, and before a Social Security Disability judge.

Mr. Caraker reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: Several times per month. It is very difficult to state a number, as my appearances depend greatly upon the number of cases that I have indicted at any given time. I appear before a magistrate judge, as well as a District Court judge;
- (b) State: When court is in session in our County, I am in court several times a week on one matter or another. In many weeks, I will often appear in both state and federal courts in the same week.

Mr. Caraker reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: No civil practice in the past 5 years;
- (b) Criminal: I have devoted 100% of my practice the past 5 years to criminal practice;
- (c) Domestic: No domestic practice the past 5 years;
- (d) Other: N/A.

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Mr. Caraker reported his practice in trial court as follows:

- (a) As to the percentage of his cases that were in trial court, including cases that settled prior to trial: This is difficult to ascertain, but likely around ninety-five percent. So as not to mislead anyone, we have dedicated non-jury terms of court, where we plead the vast majority of our cases, while at the same time preparing other cases for trial. Most of those cases also plead prior to trial. We also actively use diversion programs to try to help people get help with drug addiction, and to try to keep their records clean.
- (b) Approximately 5 cases went to trial and resulted in a verdict
- (c) 0 cases went to trial and resolved after the plaintiff's or State's case
- (d) Approximately 3 to 5 cases settled after a jury was selected but prior to opening statements

Mr. Caraker provided the following about his role as counsel during the past five years:

Although my role is difficult to categorize in these terms, I would say that I served most often as chief counsel - that being sole counsel on my own caseload, and co-counsel should any of my subordinates have a case go to trial. I would also have a younger attorney with me for training purposes should any of my cases go to trial, or go to a suppression hearing.

The following is Mr. Caraker's account of his five most significant litigated matters:

- (a) *State v. David Harold Campbell*. This case was on Trafficking Cocaine third or subsequent offense. It involved a defendant running from police in a high speed chase through Myrtle Beach. Once he stopped, he got out of his car and ran away, throwing a bag containing drugs up onto a balcony in an apartment building. A family member who may or may not have even been in the area took the stand and claimed that he was the one who had the drugs, and dropped the bag when he heard police chasing the defendant. At trial, we had to overcome, not only the fact that the defendant had no drugs on him when apprehended, but the family member's testimony.
- (b) *Jill Susan Wolfsie v. Social Security Administration*. Ms. Wolfsie suffered from a number of infirmities due to colon

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cancer, and was unable to work. This case was significant because it was imperative that it be decided “on the record,” which means without a hearing. I did not believe that she could physically make it through a hearing. We engaged in very intense study of her medical issues, with several doctors. I also devised a questionnaire that mirrored the requirements set forth by the Administration, such that, if answered truthfully by the doctors, we thought we would obtain a favorable decision. In the end, we were granted a decision on the record, in favor of Ms. Wolfsie.

- (c) *State v. Abel Gause*. This was a case of a third or subsequent Possession With Intent to Distribute Heroin. The main issue was the “intent” to distribute. During the course of the trial, I found out that another police agency had been investigating the defendant, and had numerous trafficking level buys on him. After the jury convicted the defendant, and he was sentenced, we dismissed the other pending charges.
- (d) *United States v. Byran Bromell*. This case involved a defendant who was a prohibited felon. He got caught with 2 guns and a significant amount of marijuana, after fleeing a traffic stop two days after being put on probation in state court for Attempted Armed Robbery, Failure to Stop, and PWID Marijuana. He pleaded guilty in District Court, and was sentenced to eighty months. Bromell filed a pro se motion, seeking relief pursuant to 28 U.S.C. §2255. Bromell argues that under *United States v. Taylor*, 142 S. Ct. 2015 (2022), his prior conviction for Attempted Armed Robbery is no longer a predicate crime of violence that can enhance his Guidelines range. This appeal was decided on the briefs that had been submitted by the parties. The Judge ruled in favor of the Government, and Bromell’s sentence remained at eighty months.
- (e) *Christiana Juaire v. United States of America*. I was co-counsel on this case where a United States Post Office truck struck our client while she was working on a road crew on the side of the roadway. She sustained injury to her spine to the point where she had to have a spinal cord stimulator implanted. The case was significant because we had to overcome a Harvard expert hired by the Government who said that her injuries could not have happened the way she

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described. The case was tried as a bench trial, and a verdict rendered for the plaintiff in the case.

The following is Mr. Caraker's account of the civil appeal he has personally handled:

Hembree v. One Thousand Eight Hundred Forty-Seven dollars (\$1,847.00), 404 S.C. 241, 743 S.E.2d 864, 2013 S.C. App. LEXIS 162, 2013 WL 2601574 (Ct. App. 2013)

This case was heard at the Court of Appeals, and decision rendered on June 12, 2013

The following is Mr. Caraker's account of three criminal appeals he has personally handled:

- (a) *United States v. Sean Patrick Murphy*, United States District Court, District of South Carolina. The case is still pending
- (b) *United States v. Byran Bromell*, United States District Court, District of South Carolina, decided on May 19, 2023
- (c) *United States v. Lenada Hunt*, United States District Court, District of South Carolina. The case is still pending.

(9) Judicial Temperament:

The Commission believes that Mr. Caraker's temperament would be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Committee on Judicial Qualification found Mr. Caraker to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee found Mr. Caraker "Well-Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee had no summary comments.

Mr. Caraker is married to Kari Jackson-Caraker. He has one child.

Mr. Caraker reported that he was a member of the following Bar association:

South Carolina Bar

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Mr. Caraker provided that he is not a member of any civic, charitable, educational, social, or fraternal organizations:

Mr. Caraker further reported:

My parents, both of whom worked the school system, instilled in me hard work, respect for others, and personal responsibility. I believe that my diverse background would be of great benefit to the people of South Carolina, should I be elected to serve as a Circuit Court Judge. Not only have I been in law enforcement, but I have practiced civil and criminal law at the state and federal level, and have been in business in the private sector. I understand the practice of law in the courtroom, and at the business level.

My father taught me that we are at our best when serving others. My entire adult professional life has been dedicated to public service. It is through that public service that I have come to realize that the court system impacts ordinary people in ways that no other branch of government can. Because of that, I will work hard every day to prepare myself for the task at hand. If I am elected, I believe that I will be the type of judge who embodies hard work, demonstrates respect for the law and the people before me, and who ensures that our judicial system remains worthy of esteem.

(11) Commission Members' Comments:

The Commission commented on Mr. Caraker's diverse experience including his extensive experience regarding civil matters at highly respected firms. The Commission further commended Mr. Caraker for his career and outstanding reputation at the Horry County and Georgetown County Solicitor's Offices, as well as his commitment to the administration of justice.

(12) Conclusion:

The Commission found Mr. Caraker qualified, and nominated him for election to Circuit Court, Fifteenth Judicial Circuit, Seat 3.

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Joshua D. Holford
Circuit Court, Fifteenth Judicial Circuit, Seat 3

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Holford meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Holford was born in 1984. He is 39 years old and a resident of Myrtle Beach, South Carolina. Mr. Holford provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2010. He was also admitted to the Virginia Bar in 2012.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Holford.

Mr. Holford demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Holford reported that he has not made any campaign expenditures.

Mr. Holford testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Holford testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

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(3) Professional and Academic Ability:

The Commission found Mr. Holford to be intelligent and knowledgeable.

Mr. Holford reported the following about teaching law-related courses:

I coached a middle school mock trial team in law school. I also coached a high school mock trial team for four years in Horry County.

Mr. Holford reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Holford did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. Holford did not indicate any evidence of a troubled financial status. Mr. Holford has handled his financial affairs responsibly.

The Commission also noted that Mr. Holford was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Holford reported that he is not rated by any legal rating organization.

Mr. Holford reported that he has not served in the military.

Mr. Holford reported that he has never held public office.

(6) Physical Health:

Mr. Holford appears to be physically capable of performing the duties of the office he seeks.

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(7) Mental Stability:

Mr. Holford appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Holford was admitted to the South Carolina Bar in 2010.

He gave the following account of his legal experience since graduation from law school:

(a) South Carolina Attorney General's Office, Senior Law Clerk (2010)

(i) Assisted attorneys in researching and drafting motions and memos for securities enforcement, civil, and administrative actions

(ii) I was not involved with the administrative or financial management of this entity, and I did not manage a trust account.

(b) Office of Disciplinary Counsel (2010)

(i) After being hired as Judge Cottingham's law clerk and leaving the Attorney General's Office, Judge Cottingham had surgery that prevented him from traveling and taking the bench. During those three months, between October and December, I was placed by the Judicial Department at the Office of Disciplinary Counsel.

(ii) I assisted other attorneys with disciplinary complaints on lawyers. I read complaints, researched the applicable rules of conduct, and drafted responses. I also assisted in interviews of lawyers responding to the complaints.

(iii) I was not involved with the administrative or financial management of this entity, and I did not manage a trust account.

(c) Law clerk to the Honorable Edward B. Cottingham, Circuit Court Judge (2010 – 2012)

(i) I performed the typical duties of a law clerk: researching, drafting jury charges and orders, and communicating with attorneys. In addition, I drove Judge Cottingham to and from whatever county he was holding court in each week, and to and from the courthouse each day. From September to May, he was typically assigned to Horry County. In the summer months, he held court in Lexington, Marlboro, and a few other counties. Those two

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years prepared me the most to be a trial lawyer, and the wisdom he shared during the numerous hours we spent in the car is invaluable. It wasn't until my clerkship with him that I decided to pursue criminal law.

(ii) I was not involved with the administrative or financial management of this entity, and I did not manage a trust account.

(d) Fifteenth Circuit Solicitor's Office, Assistant Solicitor (2012 – 2013)

(i) As an assistant solicitor in General Sessions, I tried nine cases to a jury verdict: (1) burglary, 1st degree, (2) armed robbery, (3) shoplifting, enhanced, (4) murder, (5) attempted murder and burglary, 1st degree, (6) burglary, 1st degree and larceny, enhanced, (7) criminal domestic violence of a high and aggravated nature, (8) burglary, 2nd degree, and (9) attempted murder, unlawful possession of a firearm, and burglary, 1st degree.

(ii) I disposed of over eight hundred other warrants by plea, diversion, or dismissal.

(iii) I was not involved with the administrative or financial management of this entity, and I did not manage a trust account.

(e) Goldfinch & Winslow, Associate Attorney (2013 – 2014)

(i) I mainly started and handled the criminal defense section. I tried one DUI case in Magistrate Court to a jury verdict.

(ii) I assisted with business formations, civil cases, and administrative hearings.

(iii) I volunteered as the defense attorney for Horry County Drug Court. I assisted participants in small personal matters (e.g. license reinstatement requirements), advocated for them at staff meetings, and represented their interests at termination hearings.

(iv) I was not involved with the administrative or financial management of this entity, and I did not manage a trust account.

(f) Johnny Gardner Law Group (2014)

(i) I mainly handled criminal defense, both retained and appointed cases. I was appointed to defend a person charged with murder, but that case did not come to a resolution until after I left private practice. I tried one case

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in General Sessions court to a jury verdict: burglary, 2nd degree (violent) and possession of a weapon during a violent crime.

(ii) I also assisted clients with civil matters, demand letters, and hearings.

(iii) I continued to volunteer as the defense attorney for Horry County Drug Court.

(iv) I was not involved with the administrative or financial management of this entity, and I did not manage a trust account.

(g) Fifteenth Circuit Solicitor's Office (2015 – Present)

(i) Assistant Solicitor (2015 – 2016)

(aa) I tried two cases to a jury verdict: (1) pointing and presenting a firearm, and (2) burglary, 1st degree, armed robbery, and kidnapping. I also did a stand your ground hearing; after which, the defendant pleaded guilty. I disposed of hundreds of other warrants by plea, diversion

(ii) CSC/Violent Crimes Solicitor (2016 – 2017)

(aa) I tried three cases to a jury verdict: (1) murder, (2) criminal sexual conduct in the first degree, kidnapping, armed robbery, and possession of a weapon during a crime, and (3) criminal sexual conduct with a minor in the first degree.

(iii) Senior Assistant Solicitor (2017 – Present)

(aa) I have tried eighteen cases to a jury verdict, including multiple murders, carjackings, attempted murders, homicide by child abuse, felony DUI, assault on an officer, obstruction of justice, armed robberies, joint trials with co-defendants, and others. Two other cases I took to trial resulted in guilty pleas after testimony by witnesses. I have also defended multiple stand your ground motions. I have disposed of over two thousand five hundred other warrants by plea, diversion, or dismissal.

(bb) I supervise and train assistant solicitors on my team. I sit with them in trials and teach them how to try cases. I also run court for my team's plea days.

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(cc) I handled the trial docket and the priority docket for the office for three years.

(dd) I have been the solicitor in charge of the Horry County Drug Court since 2015. Until this year, I met with the drug court team and attended court every Wednesday afternoon. Earlier this year, I brought another team member in to help, so now I attend court every other Wednesday.

(iv) I am not involved with the administrative or financial management of this entity, and I do not manage a trust account.

Mr. Holford further reported regarding his experience with the Circuit Court practice area:

- (a) I have practiced in criminal law, both as an assistant solicitor and as a defense attorney for the past eleven years. I have handled pleas, motions, trials, diversion programs, and bond hearings for thousands of cases. I have argued suppression motions, Jackson v. Denno motions, Neil v. Biggers motions, directed verdict motions, motions for new trials, and others. I have been solo counsel, lead-counsel, and co-counsel in trials. I have handled trial dockets, priority dockets, and managed the office's benchmark numbers. I have dealt with all types of crimes from DUI and unlawful carrying of a pistol to murder and criminal sexual conduct.
- (b) Criminal trials for the past five years (February 2018 – Present)
 - (1) State v. Deteris Bellamy; murder and attempted armed robbery.
 - (2) State v. Oswaldo Castaneda; failure to stop for a blue light
 - (3) State v. Brandon Davis; assaulting an officer while resisting arrest.
 - (4) State v. Edward Washington; felony DUI with death and hit and run resulting in death.
 - (5) State v. Shaquille Dozier; carjacking and failure to stop for a blue light.
 - (6) State v. Calvin Ford and Aliga Campbell; murder (x2), possession of a weapon during a violent crime, and possession of a firearm by a convicted felon.

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- (7) State v. Cleavon Dantzler; attempted murder and unlawful possession of a firearm. Dantzler pleaded guilty to ABHAN after witness testimony.
- (8) State v. Jerome Thompson; attempted murder and possession of a firearm by a convicted felon. Thompson pleaded guilty after testimony.
- (9) State v. Alyssa Dayvault; homicide by child abuse (x2).
- (10) State v. Zachary Stell; murder (x2).
- (11) State v. Earl Gaddis; murder, possession of a weapon during a violent crime, unlawful possession of a firearm, pwid marijuana, and possession of schedule I-V drugs (x2).
- (12) State v. Jamar Williams; murder, possession of a weapon during a violent crime, and possession of a firearm by a convicted felon.
- (13) State v. Quatase Jenrette; murder.
- (14) State v. Adriatik Hodaj; unlawful carrying of a pistol.
- (15) State v. Jeremy Jeffers; attempted murder and possession of a weapon during a violent crime.
- (16) State v. Dlanor Tilton and Mazar Sturdivant; armed robbery (x2).
- (17) State v. Tyshawn Brown; murder and attempted murder.
- (18) State v. Shaquille Blakeley; kidnapping, armed robbery, and possession of a weapon during a violent crime.
- (c) I have appeared in front of a Circuit Court judge nearly every week we have had a term of court, which is generally two or three weeks a month, for the past five years. Each week of a court term, I am typically in front of a Circuit Court judge at least one or two days for that week.
- (d) I have limited experience in civil matters. I realize this may be my biggest weakness. As a law clerk for two years, I observed, researched, and assisted Judge Cottingham with every term of civil court we had. It seems like a majority of the time those cases settled and the Chief Justice would convert the remainder of his week to a criminal term. He did preside over a few civil trials though, and he was the Chief Administrative Judge for the condemnation docket in Horry County. I also assisted in civil matters at both Goldfinch & Winslow Law and Johnny Gardner Law. I do know the rules of evidence, as well as courtroom and trial procedure, which would carry over for civil court. I am an avid reader of the advance sheets and e-

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blasts; I believe I have kept up on civil law and would continue to do so. I am adept at researching and reading caselaw and would be able to follow the law when adjudicating civil cases. I would also compensate for my lack of experience in civil court by making an extra effort to study civil opinions, the rules of civil procedure, and by checking the judicial listserv relating to civil matters. I believe my law clerk could also be a great help to me in this area. Finally, I know mock trial is not real court, but the law related education committee does an excellent job in trying to make it as realistic as possible. Typically every other year is a civil matter. I have been on mock trial teams, been coached by civil lawyers, coached a high school team for four years in the past, and judged—both as a juror and presiding judge—local and state competitions. I believe the foundation I already have from my prior experiences will allow me to hone in on and fine-tune the areas in which I am least experienced.

Mr. Holford reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: None
- (b) State: 100%; I have appeared in court at least one or two days a week during almost every term of court in Horry County the past five years. Typically we get two to three terms of General Sessions court a month.

Mr. Holford reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 0%;
- (b) Criminal: 100%;
- (c) Domestic: 0%;
- (d) Other: 0%.

Mr. Holford reported the percentage of his practice in trial court during the past five years as follows:

- (a) 95% of his practice was in trial court, including cases that settled prior to trial
- (b) 16 cases went to trial and resulted in a verdict

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(c) 2 cases resulted in a guilty plea after jury selection, opening statements, some witness testimony, but before the State rested.

(d) 0 cases settled after a jury was selected but prior to opening statements

Mr. Holford provided that during the past five years he most often served as chief counsel.

The following is Mr. Holford's account of his five most significant litigated matters:

(a) *State v. Kareem Harry*, 420 S.C. 290, 803 S.E.2d 272 (2017)

(i) This was my first murder trial in 2013; I acted as co-counsel. The shooter in the case had already pleaded guilty to voluntary manslaughter. Harry rejected all offers and proceeded to trial as charged. He was convicted of murder under the hand of one is the hand of all theory. He went out of his way to get his friends and a known shooter in order to reclaim a television. When he showed up at the victim's house, an argument ensued, and Harry's co-defendant, the known shooter who had a gun with him, shot the victim in his own driveway. The Court discussed circumstantial evidence and the theory of the hand of one in South Carolina. This case was later overturned on PCR grounds. I handled the plea *N.C. v. Alford* entered by Harry earlier this year.

(b) *State v. Sidney Moorer*, Op. No. 2020-UP-198 (S.C. Ct. App. Filed July 1, 2020)

(i) Moorer and his wife were charged in the kidnapping and murder of Heather Elvis. She is missing to this day. This case garnered national attention. I tried Moorer as co-counsel, along with Nancy Livesay, for his obstruction of justice charge prior to him being found guilty of kidnapping. The obstruction of justice charge was the first step in getting justice for the victim's family.

(c) *State v. Calvin D. Ford*, 439 S.C. 261, 886 S.E.2d 710 (Ct. App. 2023)

(i) Ford was convicted of murder. This case involved a lengthy stand your ground hearing and an argument at trial in regards to self-defense. Ford and the victim had prior bad blood. Ford armed himself illegally and went to the victim's house during his birthday party. An argument

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ensued and Ford shot the victim and another individual. Ford was convicted for one death and acquitted of the other, as the jury felt the latter killing was unintentional.

(d) *State v. Tyshawn Brown*

(i) Brown was convicted of murder and attempted murder. He followed the victim and the victim's girlfriend in a vehicle from a gas station. He was upset because the victim did not want to be a part of his gang. Brown ordered his co-defendant in the back seat to shoot the victim with an AR; the co-defendant refused. The co-defendant testified at trial. After refusing, Brown boxed in the victim's vehicle, exited his own vehicle and shot the victim and his girlfriend. The girlfriend suffered gun shot wounds, but she survived to call the police, tell what happened, and testify in trial.

(e) *State v. Edward Washington*

(i) Washington was convicted of felony DUI resulting in death. Washington was on his way home from a drug deal, intoxicated, and speeding. He struck a pedestrian, who was running across the street near Coastal Carolina University. The dispute in the case was over the speed at the time of the collision and the potential fault the victim had in crossing without a crosswalk. The defendant's ankle monitor and MAIT report showed and estimated different speeds than the car computer. Washington was also charged with hit and run resulting in death because he left the scene for a short time; he did return, angry and accusing people of throwing a bottle at his car; he was acquitted of hit and run resulting in death.

Mr. Holford reported he has not personally handled any civil or criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. Holford's temperament would be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Committee on Judicial Qualifications found Mr. Holford to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental

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stability; and “Well-Qualified” in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee had no related or summary comments.

Mr. Holford is married to Jenna Ann Holford. He has one child.

Mr. Holford reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar
- (b) Horry County Bar Association

Mr. Holford provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) The Dunes Golf & Beach Club, member, 2021 - Present
- (b) The Leadership Challenge class/workshop for assistant solicitors, 2023
- (c) Leadership Grand Strand
 - (i) In class thirty-seven, 2016 – 2017
 - (ii) Board of Regents, 2017 – 2022; Treasurer of BOR, 2018 – 2019; Vice Chair of BOR, 2019 – 2020; Chair of BOR, 2020 – 2021.

Mr. Holford further reported:

At a young age, my dad instilled in me the drive to work hard to achieve my goals. He sacrificed for our family by working two and three jobs so my mom could finish college. He always showed me how to be respectful, kind, and a man of integrity. He showed me how to love your family and that spending time, not buying things, was what mattered. We were poor when I was growing up, but I did not know that until I was much older. After my mom graduated college, she stayed home with me and my siblings. She showed me patience, kindness, and self-control; she never complained and found the good in all situations. I do not remember one time growing up when my parents had an argument, and I know there must have been many. They showed me how to respect others. My mom also read to me a lot as a child and encouraged me to read. I am an avid reader still, and I read to my son most nights. I am a better person for having the love and support from my parents. I am blessed that they raised me to do the right thing.

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I am the oldest of four. My parents named me Joshua David, a leader and beloved. I have always been a leader, to my siblings, in school, and in work. The earliest I remember telling my family I wanted to be a lawyer was in second grade. I am a typical Type A, so driven and dedicated that I never strayed from that path. I have vice president, president, chair, teacher, coach, supervisor in most organizations that I have been involved with since high school. My calling was and is to serve for the benefit of others and the public good. Although there have been bumps in the road, I have always tried to stay true to my calling.

I am not perfect. I have made many mistakes. I have been humbled. I believe those mistakes and hardships allow me to be more compassionate, fair, reasonable, and empathetic. My weaknesses and negatives have already been presented to you in previous questions. I know I am a better and stronger person having faced adversity, even hardships of my own causing, and come through to the other side intact. There is a book, *The Obstacle is the Way*, which has the basic premise that it is not our faults, mistakes, or hardships that define us, but the way in which we trudge through them and bounce back. I find that to be true. You can likely tell from my son's middle name that I have an affinity for Roman emperors. Marcus Aurelius is a favorite of mine. The book of his meditations show that even an emperor has stress, pressures, and doubts in life, but he always comes back to core principles of serving the public, doing what is right, not letting external circumstances dictate his reactions, and controlling his emotions. I have also found those principles to be a guide to success.

I believe the kind of judge I plan to be has been shaped by what I have been taught my whole life. I want to be wise like Solomon. I plan to be a leader and a public servant. I plan to work hard. I plan to follow the law. I plan to know the statutes and caselaw, and to apply the same to adjudicate disputes. I plan to not get in the way when parties are in agreement. I plan to show respect to all of those who appear in front of me. I plan to uphold the integrity and the honor of the office of Circuit Court judge. I plan to work diligently and cooperatively with other judges. And finally, I plan to strive to live by what the first Solicitor that hired me in 2012 would always say: do the right thing, at the right time, and for the right reason.

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(11) Commission Members' Comments:

The Commission found Mr. Holford to have an excellent temperament and to be a mentor within his community.

(12) Conclusion:

The Commission found Mr. Holford qualified, and nominated him for election to Circuit Court, Fifteenth Judicial Circuit, Seat 3.

Douglas M. Zayicek
Circuit Court, Fifteenth Judicial Circuit, Seat 3

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Zayicek meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Zayicek was born in 1965. He is 58 years old and a resident of Conway, South Carolina. Mr. Zayicek provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1996.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Zayicek.

Mr. Zayicek demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Zayicek reported that he has made \$850.94 in campaign expenditures for stationery and printing, postage, postcards, and magnetic name tags.

Mr. Zayicek testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;

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- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Zayicek testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Zayicek to be intelligent and knowledgeable.

Mr. Zayicek reported that he has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

Mr. Zayicek reported that he has published the following:

- (a) "Pursuing Payment under the Medicare as Secondary Payor Statute," Healthcare Financial Management Newsletter, December 1995
- (b) "The Use of Arbitration in Managed Care," Healthcare Financial Management Newsletter, May 1996
- (c) "Building a Better Guilty Plea," South Carolina Lawyer, January/February 1997
- (d) "False Light Invasion of Privacy-A New Tort in Town?," South Carolina Lawyer, July/August 1997

(4) Character:

The Commission's investigation of Mr. Zayicek did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. Zayicek did not indicate any evidence of a troubled financial status. Mr. Zayicek has handled his financial affairs responsibly.

The Commission also noted that Mr. Zayicek was punctual and attentive in his dealings with the Commission, and the

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Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Zayicek reported that he is not rated by any legal rating organization.

Mr. Zayicek reported that he has not served in the military.

Mr. Zayicek reported that he has never held any public office.

(6) Physical Health:

Mr. Zayicek appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Zayicek appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Zayicek was admitted to the South Carolina Bar in 1996.

He gave the following account of his legal experience since graduation from law school:

Law Clerk, Hon. John L. Breeden, Jr. (Ret.), Circuit Court Judge, 1996-1997

General Law Clerk duties included drafting of orders, review of orders submitted by attorneys, scheduling matters, researching various legal issues for the judge. I also co-authored two magazine articles with Judge Breeden while working for him.

Bellamy, Rutenberg, Copeland, Epps, Gravely & Bowers, P.A. (The Bellamy Law Firm) 1997-current, Shareholder

My practice since joining The Bellamy Law Firm has largely been devoted to four main areas: foreclosures, real estate litigation, collection matters, and landlord/tenant matters. However, I also have also done insurance defense work, personal injury work, defense of a municipality, and other types

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of litigation through the years. I have been a member of the Board of Governors, which runs the day-to-day operations of The Bellamy Law Firm, since 2014. I am also the Personnel Shareholder, and have responsibility for approximately 50 employees.

Mr. Zayicek further reported regarding his experience with the Circuit Court practice area:

Over the past five years, I have not handled any criminal matters. During my legal career, however, I have handled several guilty pleas. As a law clerk to a Circuit Court Judge, I witnessed multiple criminal trials and countless guilty pleas. I also authored an article for SC Lawyer magazine regarding guilty pleas. Sitting next to a Judge for one year, spending countless hours driving around the state with a Judge, and seeing how courts operate in various counties has provided me with invaluable experience. If I am elected to be a Circuit Court Judge, I intend to spend many days in General Sessions Court prior to being sworn in, as a spectator, to refresh the lessons learned while being a Law Clerk to a Circuit Court Judge.

Although I have not practiced any criminal law in the past five years, I was leaning toward working in the Solicitor's office and practicing criminal law after law school. My last paper in law school involved the death penalty under the Military Code of Justice. And as noted above, while a Law Clerk, I authored a magazine article discussing guilty pleas. Many of my most vivid memories of being a Law Clerk involve matters in criminal cases. So I have always had an interest for the practice of criminal law—but I got a job offer I couldn't refuse while clerking, and life chose a different path for me.

With regard to civil matters, my experience is extremely varied, and I have not been shoe-horned into any specific area of practice. I have represented individuals (including several attorneys), corporations, municipalities, and banks, in a wide spectrum of matters, from mortgage foreclosures and collection actions for banks, to individuals in personal injury matters, to attorneys in fee dispute matters, to defending the City of Myrtle Beach in several lawsuits. I have handled equitable matters such

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as foreclosures and quiet title actions, boundary disputes, mortgage reformations, supplemental proceedings, and accountings, to real property disputes, contract disputes, collection actions, insurance defense, and landlord/tenant matters, from start through the appeal process. Additional matters litigated include tax sale quiet title actions, earnest money disputes, business/accounting disputes, lease disputes, specific performance cases, real estate commission disputes, magistrate appeals, and even an appeal from the SC Board of Realtors (currently on appeal before the South Carolina Supreme Court).

Many of these matters have been in Circuit Court, but many have also been in Magistrate Court, and before the Master-in-Equity. In my first 10 years of practice, I worked directly with Howell V. "Skeets" Bellamy and Henrietta Golding on a number of complicated civil litigation matters.

Also, I have been a guardian ad litem in approximately 50 cases.

Further, I have handled countless landlord/tenant matters in magistrate court. I have been fortunate enough to represent many of the large landlords in the area, including Burroughs & Chapin, Barefoot Landing, Coastal Grand Mall, Magnolia Mall (Florence), Northwoods Mall (Charleston), and dozens of other strip malls, shopping centers, and commercial landlords.

Overall, I have been lucky enough to have a solid legal background on many areas of litigation, and appellate practice, all of which I feel, make me well suited to be a Circuit Court Judge.

Mr. Zayicek reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: 15%;
- (b) State: 85%.

Mr. Zayicek reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 100%;

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- (b) Criminal: 0%;
- (c) Domestic: 0%;
- (d) Other: 0%.

Mr. Zayicek reported his practice in trial court as follows:

- (a) 95% of his cases were in trial court, including cases that settled prior to trial;
- (b) 10 cases went to trial and resulted in a verdict;
- (c) 1 case went to trial and resolved after the plaintiff's or State's case;
- (d) 1 case settled after a jury was selected but prior to opening statements.

Mr. Zayicek provided that during the past five years he most often served as sole/chief counsel. Mr. Zayicek reported "[A]ll of my work in the past five years has been as sole/chief counsel. But I share an associate with another attorney, and have worked with her on many cases."

The following is Mr. Zayicek's account of his five most significant litigated matters:

- (a) *Catawba Indian Tribe of South Carolina v. City of North Myrtle Beach*, 2000 WL 770141 (4th Cir. 2000), No. 99-2177, CA-97-3000-4-22. This matter involved the interpretation and application of the Catawba Indian Claims Settlement Act, and the Tribe's ability to operate bingo facilities. Although we were not successful, the matter was significant in terms of the Tribe being able to maintain itself economically.
- (b) *Wooten v. S.C. Coastal Council*, 510 S.E.2d 716 (S.C. 1999). This was the first case I argued before the South Carolina Supreme Court. The fundamental issue involved whether the State obtains the right to land eroded via a natural disaster, or whether the property owner may reclaim property eroded via natural disaster, and the issues related thereto.
- (c) *City of Myrtle Beach v. Juel P. Corp. and Gay Dolphin, Inc.*, 543 S.E.2d 538 (S.C. 2001). This case involved a valuable rooftop billboard and the issues of abandonment, intent, nonconforming uses, and matters of statutory interpretation.

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- (d) *Brewer v. Myrtle Beach Farms Company, Inc. d/b/a Myrtle Beach Pavilion Amusement Park*, 2005-UP-508 (S.C. Ct. App.) This case involved an injury at the Pavilion Amusement Park, and the issues of proximate cause and assuming the risk of riding amusement park rides.
- (e) *Wachovia Bank of S.C. v. Thomasko*, 529 S.E.2d 554 (S.C. Ct. App. 2000). This case involved an honest mistake made during a currency exchange from pesos to U.S. Dollars, and whether the customer is entitled to an unjust enrichment based on that mistake.

The following is Mr. Zayicek's account of five civil appeals he has personally handled:

- (a) *Brenco v. S.C. Dept. of Transp.*, 609 S.E.2d 531 (S.C. Ct. App. 2005), *aff'd* 377 S.C. 124, 659 S.E.2d 167 (2008)
- (b) *Clear Channel Outdoor v. City of Myrtle Beach*, 602 S.E.2d 76 (S.C. Ct. App. 2004)
- (c) *Patricia Grand Hotel, LLC v. MacGuire Enterprises, Inc.*, 372 S.C. 634, 643 S.E.2d 692 (S.C. App. 2007)
- (d) *Taxi Cabvertising, Inc. v. City of Myrtle Beach*, 2002 WL 23165 (4th Cir. 2002)
- (e) *Pee Dee Stores, Inc. v. Doyle*, 381 S.C. 234, 672 S.E.2d 799 (S.C. Ct. App. 2009)

Mr. Zayicek reported that he has not personally handled any criminal appeals.

Mr. Zayicek further reported the following regarding unsuccessful candidacy:

I ran for Horry County Mater-in-Equity in 2021, upon the retirement of Judge Cynthia Graham Howe.

(9) Judicial Temperament:

The Commission believes that Mr. Zayicek's temperament would be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Committee on Judicial Qualification found Mr. Zayicek to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, mental stability,

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and judicial temperament; and “Well-Qualified” in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, and experience. The Committee had no summary or related comments.

Mr. Zayicek is not married. He does not have any children.

Mr. Zayicek reported that he was a member of the following Bar and professional associations:

- (a) SC Bar
- (b) Horry County Bar

Mr. Zayicek provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Grand Strand Humane Society, Board of Directors (may have been more than 5 years ago, but I will include just to be safe)
- (b) Commission on Lawyer Conduct
- (c) Horry County Disabilities and Special Needs Waccamaw Regional Foundation Board of Directors
- (d) Fee Dispute Resolutions Board
- (e) Yerger/Seawell Best Article Award, HFMA
- (f) American Jurisprudence Award, Contracts
- (g) Attorney to Assist Disciplinary Counsel

Mr. Zayicek further reported:

I believe life experiences are important to making a person well-rounded. I was a double major in college (computer science & mathematics), and worked for a defense contractor just outside of Boston for 2 years. While there, I was involved in classified projects for the US military. After two years, I decided to move to Columbia, SC, where both of my brothers were living. I then worked for two different companies as a computer programmer, before deciding to go to law school.

After law school, I had the honor and privilege of being the first Law Clerk for the Hon. John L. Breeden, Jr. (Ret.). Anyone who knows Judge Breeden will attest to how kind, generous, funny, and compassionate he is. Watching and learning from him was

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invaluable. If I am lucky enough to ever be elected to the bench, I will strive every day to approach the position as he did.

After clerking for Judge Breeden, I was hired by The Bellamy Law Firm in 1997, and have been there since. I had the honor of working under and learning from Howell V. Bellamy, Jr, and Henrietta U. Golding, two of the finest trial attorneys anywhere. They taught me how to be a litigator. While that mentality is far different from being a judge, the skills and work ethic they taught me are invaluable.

I also have the honor of being a member of the South Carolina Supreme Court Commission on Lawyer Conduct. That Commission, subject to the South Carolina Supreme Court's review, is the final decision maker on attorney discipline matters in South Carolina. It is an elite honor to be selected by the South Carolina Supreme Court to be a member of that Commission, and having a say in how the practice of law should be conducted in South Carolina. I replaced the Hon. Cynthia Graham Howe on the Commission, when she was elected to be the Horry County Master-in-Equity.

I have also provided a substantial amount of pro bono legal services to Horry County Habitat for Humanity. That wonderful organization provides families the opportunity and dream of home ownership. It has been a privilege to help them provide that opportunity to eligible families.

(11) Commission Members' Comments:

The Commission noted Mr. Zayicek's vast experience as a litigator, his advocacy skills, and diligent work ethic.

(12) Conclusion:

The Commission found Mr. Zayicek qualified, and nominated him for election to Circuit Court, Fifteenth Judicial Circuit, Seat 3.

Daniel J. Ballou
Circuit Court, At-Large, Seat 4

Commission's Findings: QUALIFIED AND NOMINATED

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Pursuant to § 2-19-80(A), if fewer than three persons apply to fill a vacancy or if the Commission concludes that there are fewer than three candidates qualified for a vacancy, it shall submit only the names and qualifications of those who are considered to be qualified, with a written explanation for submitting fewer than three names.

For the vacancy for Circuit Court, At-Large, Seat 4, two candidates applied for this vacancy. Accordingly, the names and qualifications of two candidates are hereby submitted in this report.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Ballou meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Ballou was born in 1965. He is 58 years old and a resident of Rock Hill, South Carolina. Mr. Ballou provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1994. He was also admitted to the Texas Bar in 1991.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Ballou.

Mr. Ballou demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Ballou reported that he made \$386.40 in campaign expenditures on printing and stationery, stamps, and envelopes.

Mr. Ballou testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

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Mr. Ballou testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Ballou to be intelligent and knowledgeable.

Mr. Ballou reported that he has taught the following law-related course:

SC Bar: Better Motion Practice—Tips, Suggestions and Ideas from the Court, Plaintiff and Defense Perspective Thursday, February 13, 2020 (Discovery Motions—Compel and Protection)

Mr. Ballou reported that he has published the following:

Courts Hack Away Claims Under the CFAA, South Carolina Lawyer, November 2012, p. 16.

(4) Character:

The Commission's investigation of Mr. Ballou did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. Ballou did not indicate any evidence of a troubled financial status. Mr. Ballou has handled his financial affairs responsibly.

The Commission also noted that Mr. Ballou was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Ballou reported the following about his rating by legal rating organizations:

by Martindale-Hubbell, AV® Preeminent™ Peer Review Rated;
by South Carolina Lawyer Weekly, Go-To Lawyer in Business Law;

by ALM in 2013, Top Rated Lawyer in commercial Litigation and Land Use and Zoning.

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Mr. Ballou reported that he has not served in the military.

Mr. Ballou reported that he has held the following public office:
Member, South Carolina Real Estate Commission, 1999 – 2004.
Appointed by Governor. All Ethics Reports timely filed.

(6) Physical Health:

Mr. Ballou appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Ballou appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Ballou was admitted to the South Carolina Bar in 1994.

He gave the following account of his legal experience since graduation from law school:

- (a) 1991-1993: Litigation associate. Following graduation from law school, I was hired as an associate with Leonard, March Hurt, Terry & Blinn, P.C., a litigation and banking law firm based in Dallas, Texas. I handled depositions and motions hearings, as well as assisting partners in jury and non-jury trials throughout Central Texas.
- (b) 1993-2004: I was hired as a litigation associate with Kennedy Covington Lobdell & Hickman, LLC, a Charlotte law firm that had recently opened a South Carolina office in Rock Hill. I worked on a variety of matters including insurance defense, workers' compensation defense, business litigation, probate litigation and land use matters. I tried numerous workers' compensation matters before single commissioners and handled appeals before appellate panels and the Court of Appeals. I also represented numerous business and commercial litigation clients, both plaintiffs and defendants, in circuit court cases, primarily in York, Chester and Lancaster counties. As an associate, I tried at least 3 jury trials in Circuit Court, either solo or as second chair, and handled

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numerous jury and non-jury civil matters in US District Court, including motions practice and second chair trial counsel. I became a partner with the firm in 2000 and continued to practice primarily civil litigation in state and federal court.

- (c) 2005-2015: In 2004, I co-founded Hamilton Martens & Ballou, LLC (later Hamilton Martens Ballou & Carroll, LLC) in Rock Hill, and became managing partner in 2008. I handled numerous business and real estate litigation matters, land use controversies, and general civil trials (jury and non-jury) primarily in York, Chester and Lancaster counties as well as in U.S. District Court and represented numerous parties in mediation. As managing partner, I did have involvement with the administrative and financial management of the firm, including management of trust accounts.
- (d) 2015- Present: In 2015, I joined the Morton & Gettys law firm in Rock Hill and led the creation of its Civil Litigation department, practicing primarily in real estate disputes, land use controversies, and civil litigation, as well as general business and probate matters. I have no specific administrative or financial responsibilities with the firm.

Mr. Ballou further reported regarding his experience with the Circuit Court practice area:

I have not represented any criminal defendants in the past 5 years. As an associate with Kennedy Covington in Rock Hill, I was tasked with handling many of the criminal indigent defense appointments in the South Carolina office and handled 20 to 30 such appointments between 1994 and 2000. Although only a few of those went to trial, representation generally involved extensive plea negotiations with solicitors and presentation of pleas in court. Most of the cases that I handled in General Sessions court involved drug offenses and property crimes. I was appointed in the middle of an armed robbery trial to represent a codefendant accused of aiding and abetting her husband in the robbery of a pharmacy. I also handled several Magistrate Court level criminal matters including several bench trials, and

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handled several post-conviction relief matters alleging the ineffective assistance of counsel.

I have had an extensive and varied civil litigation practice throughout my legal career and have tried numerous jury and non-jury matters during that time, representing both plaintiffs and defendants. In the last five years, I have handled dozens of matters in state and federal court, including business controversies, probate disputes, construction claims, real estate litigation and condemnation cases. I also handle appeals of land use matters to the Circuit Court involving zoning appeals and appeals of administrative decisions. Many of my cases resolve at or following mediation, but I have argued, responded to and briefed numerous summary judgment motions, motions for temporary injunction, and motions to dismiss.

The Rules of Evidence apply in civil court and criminal court alike, and my experience has involved direct and cross examination of witnesses, presentation and cross examination of experts, use of physical and demonstrative exhibits and oral argument, all of which are essential components of trial in either venue.

Mr. Ballou reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: 3-5 hearings per year
- (b) State: 10-12 hearings per year

Mr. Ballou reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 65%;
- (b) Criminal: 0%;
- (c) Domestic: 0%;
- (d) Other: Administrative, 35%.

Mr. Ballou reported the percentage of his practice in trial court during the past five years as follows:

- (a) Percentage of practice at trial court: 75% equally divided between jury and non-jury

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- (b) Cases that went to trial and resulted in a verdict: Almost all of my cases have been resolved at or following mediation or judgment entered based upon dispositive motions. I have had no jury verdicts the past five years.
- (c) Cases that went to trial and resolved after plaintiff or State's case: 0
- (d) Cases settled after a jury was selected but prior to opening statements: 0

Mr. Ballou provided that during the past five years he most often served as sole or chief counsel.

The following is Mr. Ballou's account of his five most significant litigated matters:

- (a) *Bronson v. Cray, Inc.*, 2021-CP-46-03234: I represented the owner of real property in York County that had been sold at a tax sale. My client prevailed against the high bidder at the tax sale based upon a timely statutory redemption that was more than 12 months after the tax sale. Although the General Assembly had extended the redemption period by 12 months because of concerns surrounding COVID, that extension was subsequently found to be unconstitutional by the Supreme Court. However, since the owner was entitled to strict compliance with the Tax Sale Act, we successfully argued that the redemption period had not lapsed, saving the property for the owner's children.
- (b) *Morningstar Fellowship Church v. York County*, 2013-CP-46-00246: I was retained by York County to defend a claim by a local church-based developer alleging that the County had breached a development agreement for the renovation of the former PTL hotel tower. Following extended litigation, the court granted summary judgment on behalf of York County, which order was sustained on appeal.
- (c) *Dereede v. Feeley-Karp*, 427 S.C. 336, 831 S.E.2d 435 (Ct. App. 2019): I successfully handled the appeal of the trial court decision finding that the trustee of a trust had failed to comply with the trust terms. The case was noteworthy as it clarified that the trustee of a trust in

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South Carolina is required to specifically follow the directives of the trust.

- (d) *Sloan Financial Group, LLC v. Coe, et al.*, USDC 0:09-cv-02659-CMC: I represented an individual insurance agent who had been sued by his former employer under the federal Computer Fraud and Abuse Act, 18 U.S.C. §1030, et seq. We successfully argued that the employee was not liable under CFAA and obtained summary judgment in his favor.
- (e) *Shortt v. Standard Pacific of the Carolinas, et al.*: 2009-CO-46-1944: I was co-counsel for the plaintiffs in this personal injury action alleging catastrophic injury resulting from the negligent construction and maintenance of a bicycle path located within a residential subdivision. The case involved complex issues of causation and contested testimony from multiple construction and design experts. The case was resolved at mediation for a substantial recovery for the plaintiff and his wife.

The following is Mr. Ballou's account of five civil appeals he has personally handled:

- (a) *Orr v. Elastomeric Prods.*, 323 S.C. 342, 474 S.E.2d 448 (Ct. App. 1996)
- (b) *Nash v. Tara Plantation Homeowners Assoc., Inc.*, 2010 UP 355 (Ct. App July 12, 2010)
- (c) *Settemeyer v. McCluney*, 359 S.C. 317, 596 S.E.2d 514 (Ct. App. 2004)
- (d) *Sonnenberg, et al. v. D&T Imports South Carolina, Inc.* South Carolina Court of Appeals, May 12, 2014.
- (e) *Bowles v. Bradley*, 319 S.C. 377, 461 S.E.2d 811 (1995)

Mr. Ballou reported that has not personally handled any criminal appeals.

Mr. Ballou further reported the following regarding unsuccessful candidacies:

- (a) SC House of Representatives, 2002
- (b) Rock Hill School District Board of Trustees, 2014

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(9) Judicial Temperament:

The Commission believes that Mr. Ballou's temperament would be excellent.

(10) Miscellaneous:

The Piedmont Citizens Committee on Judicial Qualifications found Mr. Ballou to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability; and "Well-Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee noted "The Committee was impressed by Mr. Ballou's academic record, depth and breadth of professional experience, and substantial service to the Bar and the community. Though Mr. Ballou does not have significant experience practicing criminal law, he is already working to deepen his experience in that area and has a detailed plan to continue those efforts."

Mr. Ballou is married to Joanne Vargas Ballou. He has two children.

Mr. Ballou reported that he was a member of the following Bar and professional associations:

- (a) Member, South Carolina Bar Association
 - House of Delegates, 2007 – 2017
 - Judicial Qualifications Committee
 - Pro Bono Committee
 - Nominations Committee
- (b) Member, York County Bar Association (President, 2000 – 2001)
- (c) Member, South Carolina Law Initiative
- (d) Member, Fee Dispute Resolution Board
- (e) Member, South Carolina Board of Law Examiners (2011-2016)
- (f) South Carolina Supreme Court, Attorney to Assist Office of Disciplinary Counsel
- (g) Volunteer, S.C. Bar Law Related Education Division, Middle and High School Mock Trial (2015-2020)
- (h) Member, State Bar of Texas

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Mr. Ballou provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Rock Hill Economic Development Corporation, Board of Directors
- (b) St. Mary's Catholic Church, Social Concerns Committee
- (c) NAMI Piedmont Tri-County, Board of Directors
- (d) Rock Hill Housing Authority, Board Member
- (e) York County Regional Chamber of Commerce Government Relations Task Force
- (f) Princeton University Alumni Schools Committee
- (g) Liberty Fellowship

Mr. Ballou further reported:

I have always considered being a lawyer a call to service and have tried to build my practice and reputation with a servant's heart. I would take this attitude with me to the bench if elected to the Circuit Court. I have been fortunate to practice before a number of judges who exemplify qualities of wisdom, compassion, wit and fortitude that I would hope to emulate. Judge John Hayes in particular embodied these qualities and made those of us who practiced before him better lawyers. His examples of civility, humility and a tireless work ethic are traits I take to heart.

I grew up in a large military family, where each of us was valued both as individuals and as parts of a greater whole. My parents were fiercely patriotic and devoted to God and their community and passed on to me fundamental respect for human dignity and a commitment to service. Whether sitting in General Sessions or Common Pleas, these values are universal and ones I would embrace as a trial judge.

(11) Commission Members' Comments:

The Commission commented that Mr. Ballou has demonstrated a superior intellect, work ethic, and temperament. His varied experience during his lengthy career, reputation amongst his

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colleagues, and his extensive charitable work demonstrate that he would make an excellent member of the bench.

(12) Conclusion:

The Commission found Mr. Ballou qualified and nominated him for election to Circuit Court, At-Large, Seat 4.

**William C. McMaster III
Circuit Court, At-Large, Seat 4**

Commission's Findings: QUALIFIED AND NOMINATED

Pursuant to § 2-19-80(A), if fewer than three persons apply to fill a vacancy or if the Commission concludes that there are fewer than three candidates qualified for a vacancy, it shall submit only the names and qualifications of those who are considered to be qualified, with a written explanation for submitting fewer than three names.

For the vacancy for Circuit Court, At-Large, Seat 4, two candidates applied for this vacancy. Accordingly, the names and qualifications of two candidates are hereby submitted in this report.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. McMaster meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. McMaster was born in 1969. He is 54 years old and a resident of Greenville, South Carolina. Mr. McMaster provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1996.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. McMaster.

Mr. McMaster demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

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Mr. McMaster reported that he made \$539.63 in campaign expenditures for name badges, business cards, rack cards, stationery, and postage.

Mr. McMaster testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. McMaster testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. McMaster to be intelligent and knowledgeable.

Mr. McMaster reported that he has taught the following law-related courses:

- (a) Presenter at our annual office in-house CLE program in 2023. The area of law I presented on was Foundation in the Criminal Case.
- (b) Served on a panel at the 2023 Greenville Bar CLE for a discussion concerning criminal docket issues in Greenville and possible solutions to those issues.

Mr. McMaster reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. McMaster did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. McMaster did not indicate any evidence of a troubled financial status. Mr. McMaster has handled his financial affairs responsibly.

The Commission also noted that Mr. McMaster was punctual and attentive in his dealings with the Commission, and the

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Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. McMaster reported that he is not rated by any legal rating organization.

Mr. McMaster reported that he has not served in the military.

Mr. McMaster reported that he has never held public office.

(6) Physical Health:

Mr. McMaster appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. McMaster appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. McMaster was admitted to the South Carolina Bar in 1996.

He gave the following account of his legal experience since graduation from law school:

(a) Graduated in 1996 and accepted a job with the Office of the Thirteenth Judicial Circuit Solicitor. Employment dates November 25, 1996 - June 29, 2001. I served as an Assistant Solicitor for Solicitors Joseph Watson and Robert Ariail. During this time period, I was a member of the Traffic, General Crimes, and Drug Units, where I managed a criminal docket with over six hundred warrants. Additional duties included managing office plea court operations, along with serving on the Office Interview Committee for hiring new attorneys.

(b) From June 30, 2001 - June 3, 2013, I was in private practice with my wife, Gina R. McMaster, at The McMaster Law Firm, L.L.C. in Greenville, South Carolina. My initial area of practice focused on criminal defense from 2001-2004. During this time period, I completed a one year criminal defense contract with the Office of Indigent Defense in Greenville,

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South Carolina. After completing my contract in 2002, I accepted a part-time public defender contract with the Greenville Public Defender's Office where I was employed until 2003. While actively engaged in my criminal defense practice, I was a charter member of the Greenville Association of Criminal Defense Lawyers and served in all executive positions including President.

In 2004, my area of practice began to shift to a bankruptcy law based practice, which focused on representing debtors in personal and small business bankruptcy cases. I continued my criminal defense practice with a smaller caseload.

In 2004, I was awarded the William S. Robinson Public Service Award by the South Carolina Bankruptcy Law Association for my contributions to the advancement of bankruptcy law.

While at my law firm, I was responsible for managing staff, payroll obligations, and paying monthly expenses. I also secured insurance, lines of credit, and vehicle loans. I was responsible for managing all operating and trust accounts, including all deposits and withdrawals/transfers.

(c) June 3, 2013, I was hired by Solicitor Walt Wilkins and returned to the Office of the Thirteenth Judicial Circuit Solicitor as an Assistant Solicitor. I initially served in the White Collar and Drug Units. In 2016, I was named Office Liaison and direct point of contact for all vice and narcotics units in Greenville County. In 2018, I was promoted by Solicitor Wilkins to Deputy Solicitor. In my current role as Deputy Solicitor, my responsibilities focus on managing a large staff of attorneys and administrative support personnel in our Greenville and Pickens offices. These duties include the evaluation of office staff members and attorneys concerning their work ethic and job performance. Based on these evaluations, staff members and attorneys could receive an increase in salary and/or an increase or decrease in their duties and responsibilities within our office. Additionally, as Deputy Solicitor I am responsible for the organization and management of all Circuit Court trial and plea court operations for the Thirteenth Judicial Circuit. To effectively perform my duties as manager of trial and plea court operations, I am in regular contact with members of the judiciary, the Clerk of Court's personnel, and the defense bar. My office financial duties

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include serving on the Office Budget Committee. Since 2018, I have participated as a member of the Office Interview Committee for hiring new attorneys.

In 2020, I was nominated for, attended, and graduated from the County of Greenville Leadership Development Series, a twelve month program focused on the development, training, and management of the workforce in Greenville County offices.

In April of 2023, I was named 2022 Greenville County Sheriff's Office Thirteenth Circuit Assistant Solicitor of the Year. I received this award from the Sheriff's Office in recognition of my ability to effectively organize and manage the criminal docket of Greenville County.

Mr. McMaster further reported regarding his experience with the Circuit Court practice area:

Criminal Experience

Since 1996, I have personally prosecuted numerous criminal matters in the Court of General Sessions and Magistrate's Court. From November 25, 1996 until June 26, 2001, I was employed as a full-time Assistant Solicitor in the Office of the Thirteenth Judicial Circuit Solicitor. During this time period, I was personally responsible for the prosecution and disposition of thousands of criminal warrants. The dispositions of these criminal warrants included numerous jury trials and guilty pleas.

Upon leaving the Solicitor's Office in 2001 and entering into private practice, my practice was primarily focused on criminal defense where I represented appointed and retained clients. My representation of clients charged with criminal offenses involved every aspect of the criminal process. Dispositions of these cases took many forms, including dismissal, diversion, guilty pleas, and verdicts of guilty and not guilty after trial.

I returned to the Solicitor's Office in 2013 as an Assistant Solicitor, and was assigned to the White Collar and Drug Units, where my duties again involved the prosecution of hundreds of criminal warrants. As part of my regular duties, I have evaluated cases, prepared discovery, attended and participated in bond

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hearings and preliminary hearings, presented pleas, prepared and argued motions, and participated in jury trials.

Since 2018, I have served as Deputy Solicitor for the Thirteenth Circuit. I continue to be responsible for the prosecution of criminal cases in our office and I regularly appear in court. Upon receipt of a criminal case, I evaluate each case for the potential of a successful prosecution. Discovery is prepared and provided, and in many instances a bond hearing and/or preliminary hearing is held. An offer is then extended to defense counsel or a pro se defendant and a guilty plea may be conducted and a sentence issued, or the case could be set for a jury trial.

As Deputy Solicitor and a senior member of the office staff, I have frequently consulted with and advised Assistant Solicitors in our office on how to handle issues in their own cases. My advice has addressed all areas of their cases, including but not limited to, how to conduct witness and victim meetings, evidentiary issues, trial strategy, general evaluation of cases, reasonable offers, and proposed dispositions.

During the past five years, I have tried two complex jury trials and received guilty verdicts in both trials. One trial involved a defendant charged with Murder. The defendant in the second jury trial was charged with Burglary First Degree. These trials were multiple days in length and involved numerous witnesses, pieces of evidence, and evidentiary issues. During these trials, I served as Chief Counsel.

One of the more complex cases I have prosecuted in past five years resulted in a guilty plea. This case involved a defendant charged with Leaving the Scene of an Accident Resulting in Death, and an unrelated Burglary First Degree charge. This tragic case involved a young mother of two from the Greenville community who was struck and killed while walking her dog along the sidewalk of one of the more popular streets in the city of Greenville. I was involved in this case from the beginning stages of the investigation, the arrest of the defendant, and all areas of the preparation of the case, and the prosecution of the defendant. My duties included preparing the case for trial, meeting with the victim's family, law enforcement, and defense

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counsel and analyzing the evidence and issues in the case. I represented our office during the defendant's guilty plea. The defendant pled guilty and received a twenty-five year active sentence.

Civil Experience

In 2004, I began to change the focus of my private practice to a debtor-based bankruptcy practice. This was the area of practice my wife/law partner concentrated her practice on since 1996. My bankruptcy practice primarily involved the representation of consumer debtors in personal and/or small business bankruptcy cases. Over the years, I represented hundreds of bankruptcy clients from all walks of life. The bankruptcy practice is civil in nature, and to be a successful practitioner you must understand and analyze issues involving civil, family, and probate law. Many potential clients have been served with or are facing various civil actions. To effectively represent bankruptcy clients, I was required to analyze the various legal issues my clients presented and provide counsel on how to manage their particular situation.

Since my 2013 return to the Solicitor's Office, my involvement in civil matters has been limited. However, from 2017-2018, I was responsible for filing civil asset forfeiture actions for Pickens County. During this time period, I drafted and filed summons and complaints focusing on the forfeiture of various items and amounts of currency related to criminal activity. In all of these cases, I represented the plaintiff. Due to being assigned new duties and responsibilities in the office, my forfeiture duties were reassigned.

For the past five months of 2023, I have again become more involved in the civil forfeiture division of our office. During this time, I have worked directly with our office's general counsel. I have attended roster meetings and tried one Common Pleas Jury Trial and four Common Pleas Non-Jury Bench Trials. All trials were civil forfeiture actions, and I represented the plaintiff in all actions. During these trials, I served as Chief Counsel.

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Recently, I drafted a summons and complaint and lis pendens in a complex forfeiture matter. This particular case involves the forfeiture of real property. Due to the fact that the property owner was not the target of the criminal investigation and was deceased at the time of the seizure of the property, this case presents a number of complex legal issues.

I plan to continue to work with our general counsel on forfeiture matters and attend, participate in, and observe as many civil trials and motion hearings as my duties allow. In the fall of 2023, I will attend CLEs that focus on civil practice and procedure.

Mr. McMaster reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: None;
- (b) State: a minimum of three weeks per month: Two terms of General Sessions in Greenville County per month and one term of General Sessions in Pickens County per month. Recently, I have also appeared for several terms of Common Pleas in Greenville County..

Mr. McMaster reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 5%;
- (b) Criminal: 95%;
- (c) Domestic: 0%;
- (d) Other: 0%.

Mr. McMaster reported the percentage of his practice in trial court during the past five years as follows:

- (a) What percentage of your practice was in trial court, including cases that settled prior to trial?
100% (This percentage includes defendants that pled guilty.)
- (b) What number of cases went to trial and resulted in a verdict?
7 Total = (2 General Sessions Jury Trials), (1 Common Pleas Jury Trial) and (4 Common Pleas Non-Jury Bench Trials)

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- (c) What number of cases went to trial and resolved after the plaintiff's or State's case?
0 (Resolved may include settlement, plea, by Judge's order during a motion hearing, etc.)
- (d) What number of your cases settled after a jury was selected but prior to opening statements?
0

Mr. McMaster provided that during the past five years he served as lead counsel and chief counsel for all 7 cases.

The following is Mr. McMaster's account of his six most significant litigated matters:

- (a) State of South Carolina v. Tristian Cummings (2019). Charges: Murder, Attempted Armed Robbery, Possession of Weapon during the commission of a violent crime, Conspiracy, and Burglary First Degree. This trial involved a home invasion and the murder of a homeowner in Greenville County. This trial is important to me based on the serious nature of the charges, the numerous witnesses, and the complex issues presented during the prosecution of the case. The defendant was found guilty of all charges.
- (b) State of South Carolina v. Aundra Hunter (2018). The defendant was convicted of Burglary First Degree, Kidnapping x 2, Discharging a firearm into a dwelling, and Possession of a Weapon during the commission of a violent crime. This trial involved a homeowner that was killed and a law enforcement officer that was shot while responding to the scene. This trial is significant due the nature of the charges and the complex issues presented during the preparation and prosecution of the case.
- (c) Young v Elite Financial Svcs., Inc. (In re Young) (2005). My wife and I represented the debtor against a creditor for the wrongful repossession of a motor vehicle after the debtor had filed for bankruptcy protection. United States Bankruptcy Judge John Waites presided over the trial and issued a verdict in favor of our client and damages, including punitive damages, were awarded to Mr. Young. This was my law firm's first trial in the United States Bankruptcy Court. During the trial, I served as Chief Counsel.

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- (d) State of South Carolina v. Edward James (2002). Charge: Assault and Battery of a High and Aggravated Nature. The defendant was found not guilty at trial. I was appointed to represent Mr. James and if convicted, he could have received a significant amount of active incarceration. This trial resulted in my first not guilty verdict as a criminal defense attorney in the Court of General Sessions.
- (e) State of South Carolina v. Anthony Johnson (1999). Charge: Trafficking in Cocaine 200-400 grams. This trial was my first jury trial involving a defendant who possessed a significant amount of narcotics. The defendant was found guilty and received a twenty-five year active sentence.
- (f) State of South Carolina v. Teresa Pirkle (1997). Charge: Driving under the Influence Third Offense. This was my first jury trial as sole counsel in the Court of General Sessions. The defendant was found not guilty. The defendant was represented by a very capable and seasoned member of the defense bar and this was a very challenging case to prosecute. Although the defendant was found not guilty, this case serves as a starting point in my career as a trial lawyer.

Mr. McMaster reported he has not personally handled any civil or criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. McMaster's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Committee on Judicial Qualifications found Mr. McMaster to be "Well Qualified" as to the evaluative criteria of ethical fitness, professional and academic ability, character, experience, and judicial temperament; and "Qualified" in the criteria of constitutional qualifications, physical health and mental stability.

Mr. McMaster is married to Gina Rossi McMaster. He has two children.

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Mr. McMaster reported that he was a member of the following Bar and professional association:

- (a) Greenville Bar Member

Mr. McMaster provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Bavarian Hunt Club (Past President) resigned for membership in C&M Hunt Club
- (b) C&M Hunt Club resigned for membership in Level Land Hunt Club
- (c) Level Land Hunt Club (Current)
- (d) Greenville Gun Club (Current)
- (e) Christ Church Episcopal School Booster Club (Current)
- (f) Highway 25 Hunt Club (Dissolved) property sold by the property owner

Mr. McMaster further reported:

Before entering into the legal profession, my family background was in the retail business. My grandfather, father, and uncle owned and operated two hardware and auto parts stores in Georgia. My earliest memories involved Saturdays and summers working in the family business. My father (age 78) and uncle (age 74) continue to own and operate one hardware and auto parts store. Even today, they work twelve hour days, six days per week. This work ethic, while extreme to some, was common in my household. I have attempted to apply their work ethic to my legal career. I have always taken great pride in my commitment to the legal profession, whether it is working for the citizens of Greenville and Pickens Counties at the Solicitor's Office or in my years in private practice.

In addition to a strong work ethic, another component of our retail business was the exposure to different types of customers. Our customers were an eclectic group of individuals. They were a true cross-section of our community and came from all walks of life. Our customers were from varying financial statuses, educational levels, genders, and races. Our job was to serve and treat our patrons equally regardless of their race, gender, or position in the community. This exposure and service to the people of our community gave me a unique insight into the

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different types of individuals that I would encounter throughout my twenty-six year legal career. These distinct personalities from varying backgrounds serve as an accurate representation of the many clients, witnesses, and victims I have had the pleasure to represent and interact with during my legal career.

If elected, I will continue to apply these life lessons, my strong work ethic, and my commitment to the legal profession in service to the citizens of South Carolina.

(11) Commission Members' Comments:

The Commission noted that Mr. McMaster has a reputation as a highly ethical attorney. The Commission further discussed Mr. McMaster's temperament and noted that, while known for being a zealous advocate, Mr. McMaster is also known to be fair and always collected.

(12) Conclusion:

The Commission found Mr. McMaster qualified, and nominated him for election to Circuit Court, At-Large, Seat 4.

**Kimberly V. Barr
Circuit Court, At-Large, Seat 8**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Barr meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Ms. Barr was born in 1970. She is 54 years old and a resident of Florence, South Carolina. Ms. Barr provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1995.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Barr.

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Ms. Barr demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. Barr reported that she has made \$240.00 in campaign expenditures for printing and mailing.

Ms. Barr testified she has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Ms. Barr testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. Barr to be intelligent and knowledgeable.

Ms. Barr reported that she has taught the following law-related courses:

- (a) Speaker, "Civility/Professionalism" - Panel Discussion for the South Carolina Bar Leadership Academy in Florence, SC (03/10/2023)
- (b) Scoring Judge, High School Mock Trial Competitions in Conway, SC (02/2021)
- (c) Scoring Judge, Middle School Mock Trial Competition in Conway, SC (11/2019)
- (d) Speaker, "Social Security and Family Court" at the 2020 SC Bar CLE – Hot Tips from the Coolest Domestic Law Practitioners in Columbia, SC on 09/25/2020
- (e) Scoring Judge, High School Mock Trial Competitions in Conway, SC (02/2018)
- (f) Speaker, "Women in Law Enforcement" for Women's History Month at the Dept. of Justice/Bureau of Prisons - FCI Williamsburg in Salters, SC (03/23/2016)

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- (g) Speaker, “Juvenile Matters in the Family Court” for SC Bar Family Court CLE in Columbia, SC
- (h) Speaker, “Think Twice: A Lesson on Criminal Law and Collateral Consequences” - Panel Discussion at Hemingway High School for SC Bar YLD’s Public Service Project for Community Law Week (05/2014)

Ms. Barr reported that she has not published any books or articles.

(4) Character:

The Commission’s investigation of Ms. Barr did not reveal evidence of any founded grievances or criminal allegations made against her.

The Commission’s investigation of Ms. Barr did not indicate any evidence of a troubled financial status. Ms. Barr has handled her financial affairs responsibly.

The Commission also noted that Ms. Barr was punctual and attentive in her dealings with the Commission, and the Commission’s investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. Barr reported that she is not rated by any legal rating organization.

Ms. Barr reported that she has not served in the military.

Ms. Barr reported that she has never held public office.

(6) Physical Health:

Ms. Barr appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Barr appears to be mentally capable of performing the duties of the office she seeks.

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(8) Experience:

Ms. Barr was admitted to the South Carolina Bar in 1995.

She gave the following account of her legal experience since graduation from law school:

Following my admission to the bar in 1995, I began working as an associate attorney with the law firm of Newman & Sabb, P.A. in its Columbia office. During the previous year, I worked there as a law clerk. This partnership was formed by Clifton Newman and Ronnie Sabb, and it was a general practice law firm. I handled cases involving personal injury, domestic relations, real estate transactions and bankruptcy. In 1999, I left private practice and began working as a prosecuting attorney for the City of Florence, South Carolina following my move there. I prosecuted traffic offenses, including driving under the influence cases, domestic violence crimes and other municipal violations. In September 2004, I returned to private practice with Ronnie Sabb. His law firm's name was the Law Offices of Ronnie A. Sabb, L.L.C. I continued my work of handling personal injury cases (including automobile accidents and workers compensation matters), family court (including divorces, child custody disputes, adoptions, and name changes), social security disability claims, real estate transactions, contested and uncontested probate matters, and miscellaneous legal issues. I have sat as lead counsel to verdict/judgment in countless cases involving every area previously cited in magistrate's court, probate court, the workers compensation commission, family court, and circuit court. In addition to the general practice, I also worked as contract, part-time assistant solicitor in Williamsburg County. In that role, I handled prosecutions in general sessions court and in family court in juvenile delinquency proceedings. In January 2011, I assumed the role of the assistant solicitor-in-charge for Williamsburg County. I served as lead counsel on numerous felony trials, including prosecutions for drug offenses, property crimes, child and adult sexual assaults, burglaries, armed robberies, and murders. In addition, I was responsible for supervising and training new assistant solicitors and managing the criminal dockets. In 2016, I resigned from the solicitor's office after

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twelve years of service. In 2017, I became a partner with Ronnie Sabb and we formed the Sabb Law Group, L.L.C.

Ms. Barr further reported regarding her experience with the Circuit Court practice area:

I worked as contract, part-time assistant solicitor in Williamsburg County from September 2004 through December 2016. In that role, I was responsible for the prosecutions of cases in general sessions court. I served as lead counsel on numerous felony trials, including prosecutions for drug offenses, property crimes, child and adult sexual assaults, burglaries, armed robberies, and aggravated assaults, domestic violence, and murders. I routinely drafted indictments for consideration by the grand jury, drafted discovery responses and requests, handled motion hearings, bond hearings, arraignments, plea negotiations, and guilty pleas. As the assistant solicitor-in-charge during the last five years of my service in Williamsburg County, I was also responsible for supervising and training new assistant solicitors and managing the trial dockets. I have also testified in post-conviction relief hearings in cases I prosecuted. I have represented a few individuals charged with general sessions-level crimes since my resignation from the solicitor's office but due primarily to the Covid-19 pandemic, I have not had an occasion to try a criminal case as a defense attorney. The criminal cases that I have handled since 2016 involved guilty pleas and bond hearings.

In our law practice, I represented primarily plaintiffs in personal injury cases. Since 2004, I often second-chaired many civil trials in Common Pleas Court where Mr. Sabb served as lead counsel. The nature of these cases varied and included personal injury actions resulting from motor vehicle accidents, breach of contract claims, equitable claims, and real estate matters (i.e., actions to quiet title, to partition land, and to set aside a deed based on the incapacity of the grantor). As sole or lead counsel, I have also tried to verdict civil cases in the Court of Common Pleas that resulted from motor vehicle accidents. Those cases involved every aspect of trial, from jury selection to post-trial motions. I was co-counsel on an election dispute in Circuit Court involving a race for Clarendon County Coroner. The last case

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that I was involved in as lead counsel in Common Pleas Court occurred in 2022 in Florence County, but it was resolved subsequent to jury selection. I have not tried a case to verdict in the Common Pleas Court during the last five calendar years.

Ms. Barr reported the frequency of her court appearances during the past five years as follows:

- (a) Federal: I have not made any appearances in Federal Court during the last five years. However, in 2014 I tried to verdict as co-counsel a personal injury action in the Federal Court in Charleston, South Carolina. In addition, I tried as co-counsel a breach of contract claim in Federal Court in Florence, South Carolina. This case resulted from the refusal of an insurance company to proceeds to its insured following a loss of the insured's business due to fire;
- (b) State: If I include my appearances in Magistrate's Court, Probate Court, Family Court, before the Workers Compensation Commission, Common Pleas Court, General Sessions Court, and the Court of Appeals during the last five calendar years, I would conservatively estimate them to be fifty (50) on average per year.

Ms. Barr reported the percentage of her practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 55%;
- (b) Criminal: 5%;
- (c) Domestic: 25%;
- (d) Other: 15%.

Ms. Barr reported the percentage of her practice in trial court during the past five years as follows:

- (a) 35% of cases were in trial court.

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- (b) Approximately 50 cases went to trial and resulted in a verdict.
- (c) Approximately 10 to 15 cases went to trial and resolved after the plaintiff's or State's case.
- (d) 1 case in which she was lead counsel that settled after a jury was selected but prior to opening statements.

Ms. Barr provided that during the past five years she most often served as chief counsel or co-counsel.

The following is Ms. Barr's account of her five most significant litigated matters:

- (a) Gerone Epps was a disputed death case before the SC Workers Compensation Commission. We represented dependents of Mr. Epps, who worked in the maintenance department for the City of Lake City for eleven years. He was morbidly obese and had a pre-existing heart condition. He was involved in a motor vehicle accident during the early morning hours of April 21, 2006 while driving the city's dump truck and as a result, the vehicle overturned completely on its driver's side. Mr. Epps was trapped inside the vehicle for nearly two hours before being extricated. He lost consciousness during transport to the hospital and died later that day. The pathologist performing his autopsy opined that he died accidentally as a result of "morbid obesity, positional asphyxia that was complicated by the motor vehicle accident with probable hypoxic stress, and atherosclerotic coronary artery disease." The employer and carrier denied death benefits and maintained that his death was caused by his pre-existing conditions. The case was tried before a single commissioner, who denied death benefits and found that the decedent's death was due to natural causes unrelated to the accident. On appeal to the full commission, the judgment of the single commissioner was reversed, and full death benefits were awarded. Gerone Epps was the primary caretaker for his sister and her minor children, who suffered tremendously both emotionally and financially following his death. I believe that the ruling of the single commissioner was clearly erroneous given

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the undisputed findings of the physician who performed Mr. Epps' autopsy.

- (b) Another case that holds significance to me is a family court matter where I represented a childless couple who sought to adopt an infant child several years ago. While I've handled many adoption cases before and since, this case stands out to me because I met this child when she was only a day old. The birth mother used narcotic and illegal substances and as a result, the baby was born addicted to those drugs. Because of the nature of this adoption, policies of the hospital where she was born required that I be photographed with the child and further, that I would be the only person authorized to leave the facility with the child. As I first held that precious child, my heart broke as I saw her limbs shake uncontrollably from physical withdrawal symptoms she was experiencing as a result of her exposure to drugs in utero. My clients' adoption request was granted approximately six months later and that little girl has absolutely thrived in their care. My client periodically sends me photographs of the child via text messages. She shares photos with me of her birthday and holiday celebrations as well as her first day of school. I felt so honored to have been a part of taking her from the life she could have lived to the life she deserved to live.
- (c) Our firm represented Dr. Benjamin Cooper in an action in Common Pleas Court in Williamsburg County to set aside a deed based on undue influence, lack of consideration, and incapacity of the grantor. Dr. Cooper was an elderly man who had been diagnosed with depression and dementia. He and his family owned a sizeable tract of land, and he often allowed hunters to use the property to shoot game. However, instead of presenting Dr. Cooper with a hunting lease as in previous years, this individual had him to execute a deed transferring his ownership interest in the land for a nominal amount of money. Shortly thereafter, this individual filed a partition to purchase the remaining interest to the tract. Mr. Sabb and I tried this case together and we ultimately prevailed on our counterclaim to have that deed vacated.

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- (d) *The State vs. Jason Edwards, et al* was the first murder trial in which I took an active and significant role as a prosecutor. The trial took place in February 2006, roughly a year and a half after I began working part-time in the solicitor's office. This case stands out to me because of the variables and dynamics at play. Jason Edwards was accused of shooting two victims to death, execution-style. Prior to his death, one of the victims stabbed Jason in his abdomen and ran from the home. Jason chased the victim outside and a young, female relative of the victim observed the fatal shooting in the front yard of the victim's home. She recognized and identified Jason as the shooter. Due to his stab wound, Jason's brothers took him to York County for treatment to avoid detection. By the time the case was to be tried, the eyewitness to the murder had moved away and was afraid to come to court to testify. One of the key police officers in York County who assisted the Williamsburg County Sheriff's Office in the murder investigation had been fired from law enforcement and was, by then, a convicted felon. We had to contact and coordinate witnesses from the hospital who treated Jason, the law enforcement officials in York County, the pathologist at MUSC in Charleston who performed the autopsies on the victims, SLED agents in Columbia, local law enforcement officers, local family members of the victims, and our eyewitness. It was a stressful and grueling process but every member of the prosecution team stayed late at the office and came in early every day to prepare for court. Because of the commitment, we were able to obtain convictions for all of the defendants charged in connection with the case. After the verdict was announced and the sentence imposed, I wanted to celebrate our victory with our team. Mr. Sabb shared words with me that I will never forget in his very calm and deliberate manner. He kindly told me that he did not want to celebrate because two people were violently murdered, and all of the defendants were headed to prison for a very long time. This was the first time that I appreciated the weight and sometimes

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solemn nature of a criminal prosecutor. I am grateful that I learned that lesson early in my career.

- (e) Justin McBride was a young man I prosecuted for the criminal sexual assault in the first degree of a 9 year-old female victim. McBride was 16 years-old at the time of this crime. The parents of the victim and of the defendant knew each other. Given the 25-year mandatory minimum sentence that had to be imposed if the defendant was convicted as charged, the victim's parents authorized me to extend a plea offer to him via his attorney to the crime of lewd act on a minor child. This lesser offense carried a possible sentence range from probation to 15 years in prison, and would have required the defendant to register as a sex offender for life. The sexual registry requirement was apparently a bridge too far for him, and he declined the plea offer. I asked his attorney if I could meet with him and McBride so that I could explain to him the consequences of his decision to decline the plea. His attorney agreed, and the three of us met at the courthouse while McBride's mother was in attendance. Despite the advice of his attorney, the defendant insisted that he wanted a jury trial. Importantly, the police department that investigated the sexual assault lost the victim's clothing and consequently, those items of evidence were unavailable for testing. Perhaps, the defendant foolishly believed that because of that missing evidence, I would dismiss the case. However, I had the opportunity to speak with the victim and her mother on multiple occasions during the years that this case was pending, and I found them both to be credible and compelling. I believed that a jury would likewise find them credible and would be as troubled as I was by the young age of the victim when this crime occurred. At the same time, there was a small part of me that understood that the defendant (who was himself a child when he committed this crime) was gambling with his entire future in declining the plea offer so graciously extended with the blessing of the victim's parents. We tried the case in October 2013 and McBride was convicted and sentenced to 25 years in prison. I saw Mr. McBride

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years later at his PCR hearing, and I was surprised to see how much he has deteriorated in what appeared to be his physical and mental faculties. His conviction was upheld.

The following is Ms. Barr's account of three civil appeals she has personally handled:

- (a) *Gaddy Oil, Inc. vs. George Rishmawi, et al* (SC Court of Appeals Unpublished Opinion Number 2018-UP-308; July 5, 2018).
- (b) Gerone Epps – WCC File No. 0608969 (Appeal to the full panel of the SC Workers Compensation; May 2010).
- (c) *Bucky Mock vs. Clarendon County Board of Voter Registration & Elections, Lanette Samuels, et al.* (SC Supreme Court Appellate Case No.: 2018-001520 dated October 17, 2018).

The following is Ms. Barr's account of the criminal appeal she has personally handled:

- (a) *City of Florence vs. Jordan*, SC Court of Appeals Opinion No. 3909, Filed December 20, 2004. I, as a municipal prosecutor, appealed the trial court's dismissal of the breath test result in a DUI trial. The circuit court affirmed the decision, but it was reversed by the South Carolina Court of Appeals.

(9) Judicial Temperament:

The Commission believes that Ms. Barr's temperament would be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Committee on Judicial Qualifications found Ms. Barr to be "Qualified" in the evaluative criteria of constitutional qualification, physical health, and mental stability; and "Well-Qualified" as to the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee had no related or summary comments.

Ms. Barr is not married. She does not have any children.

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Ms. Barr reported that she was a member of the following Bar and professional associations:

- (a) South Carolina Bar member since 1995
- (b) Williamsburg Bar Association member since 2010
- (c) Pee Dee Inn of Court; President since July 1, 2022; Vice President from July 1, 2020 through June 30, 2022; and Secretary from July 1, 2018 through June 30, 2020.
- (d) South Carolina Association of Justice member since 2004
- (e) American Association of Justice member since 2004
- (f) Investigator – South Carolina Lawyers Fund for Client Protection from 2010-2012
- (g) Member, National Bar Association (2007-2013).

Ms. Barr provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) McLeod Health Foundation Fellows
- (b) Dancing With the Williamsburg County Stars (benefitting the Williamsburg Regional Hospital Foundation) – 06/03/2017
- (c) Board Member, Williamsburg Technical College Foundation (2019-present)

Ms. Barr further reported:

I was placed in the foster care system as a young child and was subsequently blessed to have been raised by a strong mother who instilled in me that I could be anything that I aspired to be, if I were willing to work hard. My very first experience inside a courtroom was at my adoption hearing in Richland County in or around 1979. I was simply fascinated by the presiding judge, who, in his robe, appeared to be sitting on a throne from the vantage point of my 9-year-old self at the time. The deference and respect shown to him by all those in the courtroom was equally matched by the courtesies he extended in return. I remember watching Perry Mason and Matlock episodes on television with my mother, and I became instantly intrigued with the legal profession. It is a love that has stood the test of time. Despite losing my mother during my high school years, I never forgot the lessons she taught. I committed myself to studying hard and focusing on my college classes, to the exclusion of other memorable college experiences. During my last year at law school, I met two men who have unquestionably and

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immeasurably impacted my legal career, Clifton Newman and Ronnie Sabb. I was, and remain, incredibly inspired by them and they have set by example what it means to reach the pinnacle of success in their respective roles. Having tried many criminal cases before Judge Newman, I have observed a measured, thoughtful, intelligent, and dignified jurist. Because of my association with Ronnie, I have gained immeasurable experience in the Courts of Common Pleas and General Sessions that I may not have otherwise received. I have tried to verdict nearly every criminal offense from traffic violations to murder cases. Ronnie taught me very early in my career the importance of hard work, zealous advocacy, and humility. I have spent twenty-three (23) of the nearly twenty-eight (28) years of my career in private practice, and I've represented thousands of clients from various financial, social, and educational backgrounds. That experience affords me an understanding and appreciation of the pressures and conflicts that trial lawyers face. I believe that cumulative effect of all my legal experiences would make me an asset to the judiciary as well as the citizens of our great state.

(11) Commission Members' Comments:

The Commission commented that Ms. Barr's exceptional reputation makes her uniquely qualified. They noted that Ms. Barr possesses all of the characteristics of an exemplary judge: keen intellect, great temperament, highly experienced, and knowledgeable. In sum, the Commission stated that Ms. Barr has a very bright future.

(12) Conclusion:

The Commission found Ms. Barr qualified, and nominated her for election to Circuit Court, At-Large, Seat 8.

**T. William "Billy" McGee III
Circuit Court, At-Large, Seat 8**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. McGee meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

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Mr. McGee was born in 1970. He is 53 years old and a resident of Columbia, South Carolina. Mr. McGee provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1996. He was also admitted to the North Carolina Bar in 2013, and he was admitted to practice in the District of Columbia in 2014 without having to take a separate bar exam.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. McGee.

Mr. McGee demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. McGee reported that he has made \$441.44 in campaign expenditures for business cards, stationery, and postage.

Mr. McGee testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. McGee testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. McGee to be intelligent and knowledgeable.

Mr. McGee reported the following about his teaching or lecturing at any Bar association conferences, educational institutions, or continuing legal or judicial education programs:

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Over the twenty-four years at my firm, I have helped with training and educating partners, associates, and law clerks regarding legal matters dozens of times at internal meetings and events. I have also served as a judge for mock trial competitions. However, I have not presented any CLEs or other formal bar events.

Mr. McGee reported that he has published the following:

- (a) *DRI – The Voice of the Defense Bar's 50-State Compendium on Covenants Not-To-Compete* (2007), Co-Author of South Carolina Section;
- (b) *DRI – The Voice of the Defense Bar's 50-State Compendium on Unfair Trade Practices Acts* (2005), Author of South Carolina Section.

(4) Character:

The Commission's investigation of Mr. McGee did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. McGee did not indicate any evidence of a troubled financial status. Mr. McGee has handled his financial affairs responsibly.

The Commission also noted that Mr. McGee was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. McGee reported the following about his rating by a legal rating organization: for Martindale-Hubbell, AV rating; for Best Lawyers, Commercial Litigation, Litigation – Banking and Finance, Qui Tam Law (2023); and for Best Lawyers, Lawyer of the Year, Litigation - Banking and Finance, Columbia, SC (2023).

Mr. McGee reported that he has not served in the military.

Mr. McGee reported that he has never held public office.

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(6) Physical Health:

Mr. McGee appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. McGee appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. McGee was admitted to the South Carolina Bar in 1996.

He gave the following account of his legal experience since graduation from law school:

- (a) Law Clerk for Hon. M. Duane Shuler, South Carolina Judicial Department, 1996 –1997: As Judge Shuler’s law clerk, I was heavily involved in the scheduling of criminal and civil matters (hearings and trials), legal research for the judge, drafting of proposed orders, and working with attorneys and court staff to coordinate proceedings with Judge Shuler;
- (b) Holmes & Thomson LLP, Associate 1997 – 1999: During my early associate career, I did a substantial amount of legal research, brief writing, and learning the practical skills of a litigator: taking depositions, arguing motions, sitting second chair at larger trials, acting as lead counsel in smaller trials, and developing skills needed to work with clients, other counsel, witnesses and retained experts. I did not have any responsibility for the administrative or financial management of Holmes & Thomson;
- (c) Nelson Mullins Riley & Scarborough LLP, Associate 1999 – 2004, Partner 2005 – Present: After Holmes & Thomson ceased operations in May 1999, I immediately received an offer to work at Nelson Mullins’ Columbia office. At Nelson Mullins I continued to develop as a litigator in state and federal court, with more of a focus on complex commercial litigation and cases involving banking and finance issues and class actions. With the expansion of my banking litigation practice, I took the North Carolina Bar Exam in 2013 and was licensed in the District of Columbia the following year. I made partner in 2005 and served on many firm committees and subcommittees. I later became

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certified as an arbitrator and mediator in South Carolina Circuit Courts and approved as a mediator by the United States District Court for the District of South Carolina. I am also an approved arbitrator with the American Arbitration Association, American Health Law Association, and FORUM. I do not have any responsibility for the administrative or financial management of Nelson Mullins.

Mr. McGee further reported regarding his experience with the Circuit Court practice area:

Experience in Criminal Matters

Even though the majority of my legal career has focused on civil matters, I have gained experience in prosecuting and defending a number of criminal matters as well. For more than a decade, I defended a substantial number of criminal clients in cases appointed to me and my partners by Circuit Courts in Charleston, Richland, and Chesterfield Counties. This pro bono work involved meeting with clients, conducting discovery, negotiations with solicitors, motions practice, and other court appearances. I also performed legal research, motions and brief writing, and advised and represented my clients in guilty pleas.

In addition to my work in defending criminal cases, I gained experience on the prosecution side of criminal cases as well. More specifically, in 2007 I was appointed a Special Assistant Attorney General by then Attorney General Henry McMaster. This was part of a pro bono program prosecuting first offense criminal domestic violence (“CDV”) cases in counties where those Magistrate Court offenses were handled by non-lawyers. After receiving specialized training in criminal procedure and evidence, I coordinated the interviewing of witnesses, conducted investigations, and prosecuted CDV defendants at trial. This was an especially important program and a rewarding experience.

Lastly, in my civil litigation practice, I have also worked with state and federal criminal courts and prosecutors, lawyers and investigators from state and federal law enforcement, and government agencies investigating potential criminal actions of my clients and others (i.e., FBI, FDIC, Federal Reserve, State Attorney General, South Carolina Office of the Inspector

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General, Special Investigator General for TARP, etc.). All of these experiences have given me a strong appreciation and understanding of the important aspects of criminal law matters. Moreover, I am currently enrolled in two criminal law CLE classes this summer: 2023 Criminal Law Practice Essentials (8.0 hours) and 32nd Annual Criminal Practice in South Carolina (6.5 hours). These detailed courses will provide me with additional knowledge and information about the most current developments in state criminal law practice and trends.

Experience in Civil Matters

In my 26 years in private practice, the majority of my experience has been in civil litigation. During this time, I have represented clients and tried jury and nonjury cases from simple matters in Magistrate's Court to complex disputes in Circuit Court and Federal Court, to arguing appeals in the South Carolina appellate courts and the Fourth Circuit Court of Appeals. In the past and in my current caseload, I represented clients as both plaintiffs and defendants. As my practice developed over time, I focused more on complex civil litigation between businesses, defense of class actions, and binding arbitrations (both as an attorney and as the presiding arbitrator). While I am licensed in South Carolina, North Carolina, and the District of Columbia, I have also appeared in many other jurisdictions, both in state and federal courts. I also frequently serve as local counsel for parties and lawyers who need advice on South Carolina law, court appearances before South Carolina courts, and developing case strategies.

While trials have decreased in frequency since COVID, I have appeared regularly before state and federal judges in-person or via remote video. While I prefer appearing in court to attending by video, the flexibility and efficiency of remote hearings, status conferences, and other proceedings has its benefits and I feel confident in my ability to work with this technology to maximize effectiveness.

Lastly, my work as a certified mediator and arbitrator has given me an excellent perspective on many of the skills needed by Circuit Court judges. In addition to being asked by other attorneys to serve in these capacities, I am also approved as an arbitrator by the American Arbitration Association, the American Health Law Association, and FORUM. In these cases,

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I have to consider and rule on discovery matters, dispositive motions, and ultimately serve as the trier of fact in rendering a decision on the merits after a trial.

I Completed the following two criminal law CLE classes:

- 2023 Criminal Law Practice Essentials (6.5 hours on August 11, 2023); and
- 32nd Annual Criminal Practice in South Carolina (6.5 hours on August 1, 2023).

Also, since my initial submission, I have had detailed discussions about many substantive and procedural issues with three sitting circuit court judges, one former circuit court judge, and three current deputy solicitors. I have also reviewed all of the 2023 South Carolina Advance Sheets for criminal appellate opinions and read Judge Daniel M. Cobles' *South Carolina Trial Evidence* (2021) in regard to evidentiary issues raised in criminal trials. In addition, I have had detailed meetings and discussions with a former solicitor and current criminal defense attorney regarding criminal procedure, evidentiary matters, motions practice, common pretrial hearings, and other important issues that are common in a criminal practice. Lastly, I have contacted both the solicitor and chief public defender for the Fifth Circuit in an effort to discuss and learn about their experiences, observations, and challenges.

Mr. McGee reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: Much more regular before COVID, but generally a dozen or more times a year;
- (b) State: Much more regular before COVID, but generally 30 or more times a year.

Mr. McGee reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 90% (including service as a mediator and arbitrator);
- (b) Criminal: about 3% (pro bono, appointed cases, work with matters involving Attorney General, state and federal law enforcement and similar agencies, etc.);
- (c) Domestic: about 2% (pro bono or appointed cases);

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- (d) Other: 5% (litigation in Probate Court, before governmental agencies, internal investigations, consulting/general advice, etc.).

Mr. McGee reported his practice in trial court during the past five years as follows:

- (a) Approximately 90% of my practice was in trial court, including settled cases;
- (b) 2 cases with trials that went to conclusion – this excludes arbitrations that went to full hearing on the merits;
- (c) 1 case went to trial and resolved after the plaintiff's or State's case;
- (d) 0 cases that settled after a jury was selected but prior to opening statements.

Mr. McGee provided that during the past five years he primarily served as chief counsel but occasionally as associate counsel when mentoring younger attorneys.

The following is Mr. McGee's account of his five most significant litigated matters:

- (a) *Fernando Contreras Alcala v. Claudia Garcia Hernandez*, 4:14-cv-04176-RBH (D.S.C. 2014)

This was my first case involving a claim in federal court under the Hague Convention, which allows a parent to seek redress when his or her child is removed from their home country by the other parent. In this matter I represented a father in Mexico who sought the return of his son, who was abducted by the mother and taken to the United States. The father had no resources to bring the case, so my firm and I took the matter on a pro bono basis. I tried the case – which involved several interpreters and remote testimony from Mexico – but we did not prevail. We then filed an expedited appeal to the Fourth Circuit, and I argued the matter before that court in Richmond, Virginia. The decision was affirmed and, because there is a split among the federal circuits on some of the legal issues involved, we filed an appeal with the United States Supreme Court. However, after full briefing to the Court, our petition for cert was denied and the trial court's ruling became final. While we were

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not the prevailing party in this matter, it served as an excellent learning experience on a complex case with the United States Department of State (I am one of a small number of lawyers on its referral list for Hague Convention cases in South Carolina). As a result of this case, a partner and I were asked by our State Department contact to come to Washington, D.C., to hear oral arguments in the Supreme Court for another Hague case involving some of the same issues we raised in our appeal.

- (b) *Jose Luis Vite-Cruiz v. Yadira Del Carmen Sanchez*, 3:18-cv-01943-DCC (D.S.C. 2018)

This was another Hague Convention case in which I represented a father from Brazil whose son was brought the United States without his knowledge or consent. I again tried the case in federal court and this time we prevailed on all counts. As a result, the child was immediately reunited with his father after the verdict in Columbia. A partner and I had the privilege of taking them to a minor league baseball game before they flew home together. I am not sure I have felt better after the conclusion of any case than that day.

- (c) *Gibson v. Bank of Am., N.A.*, 383 S.C. 399, 410, 680 S.E.2d 778, 784 (Ct. App. 2009)

I tried this case over a week in Florence County against an excellent attorney before one of the best Circuit Court judges in the state. Late Friday afternoon the jury returned a substantial verdict in favor of the Plaintiffs. However, during the trial we raised a statute of limitations argument that had been accepted in other states but not in South Carolina. We filed a timely appeal, and I argued the case before the South Carolina Court of Appeals, which reversed the verdict and judgment against my client based on our statute of limitations argument. Losing at trial and prevailing on appeal is difficult but rewarding because it requires close attention to error preservation during the trial and strong brief writing and oral argument on appeal.

- (d) *Synovus Bank v. Tracy, et al.*, 1:10-cv-00172-MR-DLH (W.D.N.C. 2010)

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After the stock market and real estate collapse in 2008, my banking litigation practice spiked for about five or six years. I represented many banks in dealing with the sudden, numerous, and sustained loan and mortgage defaults. These matters included claims in North Carolina, South Carolina, and Georgia. (In fact, I had so many cases in North Carolina that I had to take the bar exam there in 2013). These cases involved residential, commercial, and development loans and brought by single, multiple, and class representative borrowers. Many of these claims involved complex theories of recovery and defenses based on multiple states' tort and contract law. This case was brought by a number of plaintiff borrowers in North Carolina federal court and raised several common law and state and federal statutory claims, as well as defenses common to a host of other then-pending cases arising from a failed real estate development outside of Asheville, North Carolina. After extensive discovery and briefing, the District Court granted our motion for summary judgment on all grounds. Not only did this ruling resolve the claims against my client by the named plaintiffs, it established precedent as to the enforceability of certain common contractual provisions and limitations, as well as the validity of defenses that were common across dozens of other pending claims against the same client and other lenders in similar cases. Because of the far-reaching effect of the ruling, it was appealed to the Fourth Circuit Court of Appeals, which affirmed the order in a unanimous decision. *See Synovus Bank v. Tracy, et al.*, 14-1163, United States Court of Appeals for the Fourth Circuit, March 2, 2015. After the decision was affirmed, we were able to resolve almost all of the pending claims on terms very favorable to my client in a much more efficient manner.

- (e) *Grice v. Independent Bank*, 7:20-cv-01948-TMC (D.S.C. 2020)

This matter is currently pending in South Carolina federal court, and we are expecting an appeal to the Fourth Circuit shortly. It involves a proposed class action against a bank based in Michigan with no

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presence in South Carolina. The named Plaintiff is a South Carolina resident who has asked the court to certify a nationwide class against the bank. After extensive discovery and multiple motions involving disputes over jurisdiction and class certification, the federal magistrate recommended the denial of Plaintiff's proposed nationwide class based on, among other grounds, the South Carolina Door Closing Statute. Plaintiff's counsel are all from outside South Carolina and they are seeking to have this state statute declared void and contrary to federal law. If the denial of class certification is upheld, this case will reaffirm the South Carolina Legislature's right to limit the potential misuse of its courts by those with no connection to this state.

The following is Mr. McGee's account of five civil appeals he has personally handled:

- (a) *Fernando Contreras Alcala v. Claudia Garcia Hernandez*, 15-2471, United States Court of Appeals for the Fourth Circuit, June 15, 2016.
- (b) *Gibson v. Bank of Am., N.A.*, 383 S.C. 399, 410, 680 S.E.2d 778, 784 (Ct. App. 2009).
- (c) *TD Bank, N.A. v. Lalla*, Appellate Case No. 2015-000295 (S.C. Ct. App. August 26, 2016).
- (d) *Carew v. RBC Centura Bank, et al.*, 2014 WL 2579698 (S.C. Ct. App. February 19, 2014).
- (e) *Doherty v. PNC Mortgage*, 17-1350, United States Court of Appeals for the Fourth Circuit, August 21, 2017.

Mr. McGee reported that has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. McGee's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualifications found Mr. McGee "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability; and "Well-Qualified" in the evaluative criteria of

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ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee stated in summary, “Well qualified!”

Mr. McGee is married to Shannon Elizabeth Leonard. He has two children.

Mr. McGee reported that he was a member of the following Bar and professional associations:

- (a) Richland County Bar Association (1999-present);
- (b) South Carolina Bar Association (1996-present);
- (c) Mecklenburg County Bar Association (2003-present);
- (d) North Carolina Bar Association (2003-present);
- (e) District Of Columbia Bar Association (1999-present);
- (f) American Bar Association (1999-present);
- (g) International Association of Defense Counsel (IADC) (2007-present);
- (h) Defense Research Institute (DRI) (2000-present) (also have been member of Steering Committee, Lawyers Professionalism and Ethics Committee).

Mr. McGee provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

While I have handled dozens of pro bono matters and been an active supporter of several local and other charitable causes in the past five years, I have not held any formal memberships during this time period. In 2016, I received the Claude M. Scarborough, Jr. Award from Nelson Mullins, the highest award for the provision of pro bono services at the firm. Also, I have appeared on the South Carolina Supreme Court’s Pro Bono Honor Roll in 2019, 2020, 2021, and 2022.

Mr. McGee further reported:

I was born and raised in South Carolina and have worked here all my life. From bagging groceries and busing tables as a 15-year-old to becoming a partner at a large law firm today, I have always had a very strong work ethic and drive to do my best. During my 26-year legal career in private practice, I have represented large corporations in multi-million dollar class actions and homeless families seeking assistance with housing

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and employment issues. Since I joined Nelson Mullins in 1999, I have provided more than 3,500 hours in pro bono legal services to programs, individuals, and charitable causes here in South Carolina. I strongly believe that my experience in working with a broad spectrum of clients on a wide variety of legal matters gives me a unique perspective on the civil and criminal matters I would face on a daily basis as a Circuit Court judge. Lastly, at work and at home I have learned the importance of being patient, learning quickly, and working hard. If given the opportunity to serve South Carolina as a Circuit Court judge, I will apply these traits to my job every day and do my best to be a worthy representative of our judicial system.

(11) Commission Members' Comments:

The Commission commented that Mr. McGee enjoys an excellent reputation—both as a lawyer and as a person. They noted that he is the kind of person, with the kind of intellect, that they want to see on the bench.

(12) Conclusion:

The Commission found Mr. McGee qualified, and nominated him for election to Circuit Court, At-Large, Seat 8.

**William Vickery Meetze
Circuit Court, At-Large, Seat 8**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Meetze meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Meetze was born in 1968. He is 55 years old and a resident of Marion, South Carolina. Mr. Meetze provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1999.

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(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Meetze.

Mr. Meetze demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Meetze reported that he has made \$340.99 in campaign expenditures for postage and stationery.

Mr. Meetze testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Meetze testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Meetze to be intelligent and knowledgeable.

Mr. Meetze reported that he has taught the following law-related courses:

I have taught the Law School at Palmetto Boys State for the past twenty-one years.

Mr. Meetze reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Meetze did not reveal evidence of any founded grievances or criminal allegations made against him.

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The Commission's investigation of Mr. Meetze did not indicate any evidence of a troubled financial status. Mr. Meetze has handled his financial affairs responsibly.

The Commission also noted that Mr. Meetze was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Meetze reported that he is not rated by any legal rating organization.

Mr. Meetze reported that he has not served in the military.

Mr. Meetze reported that he has never held public office.

(6) Physical Health:

Mr. Meetze appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Meetze appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Meetze was admitted to the South Carolina Bar in 1999.

He gave the following account of his legal experience since graduation from law school:

- (a) Judicial Law Clerk for the Honorable James E. Brogdon, Jr.
During the year that I clerked for Judge Brogdon, he was Chief Administrative Judge in both the Twelfth Judicial Circuit and the Third Judicial Circuit. I was able to research many issues involving both General Sessions and Common Pleas. I was able to see many trials from each branch. Also, Judge Brogdon was assigned two complex litigation civil cases while I clerked for him and that provided valuable experience in dealing with pre-trial matters such as discovery issues and summary judgment motions.

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- (b) Assistant Solicitor Sixteenth Judicial Circuit, York County
I prosecuted a variety of criminal cases for just under three years. I handled both felony and misdemeanor cases. Began trying cases early on and served as lead attorney from the start.
- (c) Assistant Public Defender Sixteenth Judicial Circuit, York County
I began my career as a criminal defense lawyer in June of 2002. I worked in that office for a little more than four years. In that job, I represented criminal defendants charged with all manner of offenses from misdemeanors to murder cases. I served as lead counsel in many cases and I also helped other lawyers with their cases when necessary. During my time in the Sixteenth Judicial Circuit Public Defender Office, we were fortunate to have many experienced attorneys to work with and gain experience from.
- (d) Assistant Public Defender Twelfth Judicial Circuit, Florence County
My job responsibilities were the same in the Twelfth Judicial Circuit as they had been in the Sixteenth Judicial Circuit.
- (e) Assistant Public Defender Twelfth Judicial Circuit, Florence & Marion County
In the fall of 2011, my responsibilities expanded to where I worked as a public defender in both counties of the Twelfth Judicial Circuit. That meant more cases, more trials and more time in court in general. It was at that time that was appointed lead counsel on a death penalty case.
- (f) Deputy Public Defender for the Twelfth Judicial Circuit
In August of 2014, I was promoted to Deputy Public Defender for the Twelfth Judicial Circuit. I still have the same kind of case load but have also taken on some administrative duties and working with and advising younger attorneys in our office.

Mr. Meetze further reported regarding his experience with the Circuit Court practice area:

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I have been practicing criminal law in General Sessions Court since August of 1999. I was a prosecutor in the Sixteenth Judicial Circuit for a little under three years and during that time I prosecuted individuals charged with non-drug related criminal offenses that carried a penalty of up to fifteen years in prison. In June of 2002 I began work as an Assistant Public Defender in York County. As an Assistant Public Defender I represent indigent defendants charged with anything from lower level misdemeanors all the way up to armed robbery, burglary first degree and murder. In 2006, I was given an opportunity to come back home and work in the Twelfth Judicial Circuit. I accepted a position in the Florence County Public Defender's. In 2011 I expanded my responsibilities by also serving as a public defender for Marion County and I have served both Florence and Marion Counties in that capacity since that time. In 2014 I was promoted to the position of Deputy Public Defender for the Twelfth Judicial Circuit and I have served continuously in that capacity for the past six years. I have continued defending indigent defendants charged with all types of offenses; however, I have a much larger concentration of A, B, and C felonies at this point. I have defended people in cases involving all levels of criminal activity including major drug trafficking, criminal sexual conduct and murder.

My civil experience from a practical standpoint has been through my involvement in post-conviction relief matters. As a criminal defense lawyer in a public defender's office I have been involved in a number of those hearings in the past five years. As a Judicial Law Clerk, I helped my judge with a number of civil cases including complex litigation cases and observed a number of jury trials. I Also, as a trial attorney I am very familiar with the rules of evidence which are applicable to both branches of Circuit Court. Other than that I have taken two viewed two CLE's, one on E-Discovery and the other being the 2016 Tort Law Update. I have also viewed a civil trial from start to finish and have worked hard studying the Rules of Civil Procedure. I have also served as Co-Dean of the law school at Palmetto Boys State for the past eighteen years where the instruction includes civil court matters.

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Mr. Meetze reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: I have not appeared in Federal Court any during the past five years;
- (b) State: I have appeared in General Sessions Court at least twenty-six weeks a year for the past five years.

Mr. Meetze reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: Zero Percent;
- (b) Criminal: Greater than ninety-nine percent;
- (c) Domestic: Less than one percent;
- (d) Other: Zero Percent.

Mr. Meetze reported his practice in trial court during the past five year as follows:

- (a) 100% of cases in trial court.
- (b) 10 cases went to trial and resulted in a verdict.
- (c) 0 cases went to trial and resolved after the plaintiff's or State's case resolved.
- (d) Two cases settled after a jury was selected but prior to opening statements.

Mr. Meetze provided that during the past five years he most often served as sole counsel.

The following is Mr. Meetze's account of his five most significant litigated matters:

- (a) *State v. Syllester D. Taylor* (736 S.E. 2d 663, 2013): I handled this case at the trial level. It was trial in absence where I preserved all motions and eventually the conviction was reversed by the Court of Appeals. (694 S.E. 2d 60, 2010) The Supreme Court subsequently reversed the Court of Appeals in the above referenced site. However, even though Mr. Taylor eventually lost his appeal in the Supreme Court by a 3-2 decision, this case is an example of our legal system at work and even though Mr. Taylor was absent from his trial he was

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represented effectively and was not denied any opportunity or due process of law in spite of his absence.

- (b) *State v. Tavario Brunson*: This was a very high profile case in Florence County that I tried along with another attorney. The evidence against Mr. Brunson was quite overwhelming to include a recorded confession and a positive DNA match. Mr. Brunson was convicted of murder and that result was never really in question. I believe this is an important case because it is an example of our Constitution at work. Mr. Brunson exercised his right to a Jury trial and even though the evidence was overwhelming he was provided an excellent defense and to this day I believe it is one of the most well tried cases that I have had the opportunity to be involved.
- (c) *State v. Montez Barker* : This is a death penalty case in which I was appointed lead counsel. It is important by the nature of the offense and the fact that a man's life was literally on the line. Death Penalty cases take an extreme amount of work and dedication. You are working as a team with another attorney that has been appointed as second chair as well as fact and mitigation investigators not to mention my client's family was heavily involved as well. We were able to work hard and in the end were able to spare Mr. Barker's life by negotiating a plea for him where he would not face the death penalty. It takes a lot of work and relationship building to get a capital client to trust you enough to eventually agree that pleading guilty where you will be receiving a life sentence is in his best interest. That is what happened in this case and it is one of the most satisfying results I have ever had in a case.
- (d) *State v. Tyquan Jamar Johnson*: This was a case in Florence County that was tried in December of 2018. Mr. Johnson was charged with murder. This was a case where my client maintained his innocence throughout this process. The State had made what I considered a very favorable offer to Mr. Johnson and I advised him that it would be in his best interest to take the offer. He stood his ground and said he didn't do it and he wouldn't plead guilty to something he didn't do. At trial another attorney in my office made our opening statement and I examined all of

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the witnesses, did the closing argument and made all motions. Mr. Johnson was found not guilty in the face of an eye witness who identified Mr. Johnson as the shooter. Mr. Johnson's cell phone was recovered within a few feet of the deceased. I knew that I had worked hard on the case and that I was prepared and could try a great case; however, in our humbling business that doesn't guarantee a favorable result. There were no lesser included offenses charged to the jury so it was all or nothing once the jury got the case. The jury returned a verdict of not guilty. I believe this case is significant because it is an example why it is the client's decision as to whether or not to plead or go to trial. Had Mr. Johnson taken my advice, he would be in prison for a considerable length of time. Even when I was advising him that he should take his deal, I also made sure I reiterated that it is his decision and not mine. Many times clients don't stand their ground. Mr. Johnson did and it worked in his favor.

- (e) *State v. Calvin Jermaine Pompey* Unpublished Opinion Number 2015-UP-280:

This was a case where Mr. Pompey was charged with murder in a shooting outside of a night club in Marion, SC. There had been an altercation inside the club and Mr. Pompey and the people he came with left and went to their car. An individual from the club who was involved in the altercation ran towards Mr. Pompey's vehicle and appeared to be reaching under his shirt giving the appearance of reaching for a weapon. Mr. Pompey was sitting in the passenger seat but had not had the opportunity to close the door. The deceased began entering the car to attack Mr. Pompey. Mr. Pompey got a handgun out of the glove compartment of the car and fired one shot, killing the individual. I made a motion to dismiss based under the Protection of Persons and Property Act. A hearing was held before The Honorable D. Craig Brown and Judge Brown found that Mr. Pompey was justified in his actions and that the state was barred from prosecuting him pursuant to the act. The state appealed and the Court of Appeals upheld

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Judge Brown's ruling in the above referenced unpublished opinion.

Mr. Meetze reported he has not personally handled any civil or criminal appeals.

Mr. Meetze further reported the following regarding unsuccessful candidacies:

- (a) Candidate for Twelfth Judicial Circuit Public Defender, January 2008. I was not nominated for the position.
- (b) Candidate for Twelfth Judicial Circuit Public Defender, December 2011. I was not nominated for the position.
- (c) Candidate for Judge, Circuit Court At-Large, Seat 16, fall of 2012. Qualified but not nominated.
- (d) Candidate for Judge, Circuit Court At-Large, Seat 9, fall of 2014. Qualified but not nominated.
- (e) Candidate for Judge, Circuit Court, At-Large, Seat 10, fall of 2015. Withdrew.
- (f) Candidate for Judge, Circuit Court At-Large, Seat 1, fall of 2016. Qualified but not nominated.
- (g) Candidate for Judge, Circuit Court At-Large, Seat 13, fall of 2019. Qualified but not nominated.
- (h) Candidate for Judge, Circuit Court At-Large, Seat 12, fall of 2020. Qualified but not nominated.
- (i) Candidate for Judge, Family Court Twelfth Judicial Circuit, Seat 3, fall of 2021. Withdrew.
- (j) Candidate for Judge, Family Court Twelfth Judicial Circuit, Seat 1, fall of 2022. Withdrew.

(9) Judicial Temperament:

The Commission believes that Mr. Meetze's temperament would be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Committee on Judicial Qualification found Mr. Meetze to be "Qualified" as to the evaluative criteria of constitutional qualifications, physical health, and mental stability; and "Well-Qualified" as to the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee had no related or summary comments.

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Mr. Meetze is married to Anna Braddock. He does not have any children.

Mr. Meetze reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar Association
- (b) South Carolina Association of Criminal Defense Lawyers
- (c) Public Defenders Association Board

Mr. Meetze provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) President: United Methodist Men, First United Methodist Church, Marion, SC.
- (b) Member: Finance Committee, First United Methodist Church, Marion, SC.
- (c) Member of the Trustees, First United Methodist Church, Marion, SC.
- (d) Member of the Church Counsel, First United Methodist Church, Marion, SC.

Mr. Meetze further reported:

I grew up in a very supportive family and was fortunate to associate myself with friends that served as very positive influences. These influences from my friends and family played a significant role in shaping me as a person. They have taught me patience, respect and have instilled in me a tremendous work ethic. Most important, these influences and role models from my parents and family as well as friends both inside and out of the legal profession, taught me how to treat people and have instilled in me a tremendous sense of fairness. I have always believed that the best judges are the ones that treat people with respect and display the proper temperament for the job. I truly believe that these are the qualities that best lend themselves to effective judicial service. If I were to be elected, I would be the kind of judge that worked hard, made decisions on a timely basis and treat everyone that either appeared before me or worked in the court system with the respect they all deserve.

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(11) Commission Members' Comments:

The Commission commented that Mr. Meetze is well qualified with a great deal of criminal experience. He was noted to have a very good demeanor and judicial temperament.

(12) Conclusion:

The Commission found Mr. Meetze qualified, and nominated him for election to Circuit Court, At-Large, Seat 8.

**Joseph Bias
Circuit Court, At-Large, Seat 11**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Bias has met the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Bias was born in 1984. He is 39 years old and a resident of Lexington, South Carolina. Mr. Bias provided in his application he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2011.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Bias.

Mr. Bias demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to a judge, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Bias reported that he has spent \$53.98 in campaign expenditures for name tags, envelopes, and labels.

Mr. Bias testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;

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- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Bias testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Bias to be intelligent and knowledgeable.

Mr. Bias reported that he has spoken or lectured for the following class, programs, or seminars:

- (a) USC School of Law – Civil Litigation Capstone Course (Lead Adjunct Professor)
- (b) SC Bar CLE – Mental Health Problems in the Legal Profession & Connection to Lack of Diversity
- (c) FERPA and You – High Point University
- (d) Ethical Issues in Higher Education - Midlands Tech
- (e) COVID & the College – Midlands Tech
- (f) The Parking Lot is Full (of Risk) – Presentation at Claims Litigation Management Conference in Dallas, Texas
- (g) Volunteer Trial Advocacy Competition Attorney Coach at School of Law for past five years
- (h) Volunteer High School Mock Trial Attorney Coach since 2008

Mr. Bias reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Bias did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. Bias did not indicate any evidence of a troubled financial status. Mr. Bias has handled his financial affairs responsibly.

The Commission also noted that Mr. Bias was punctual and attentive in his dealings with the Commission, and the

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Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Bias reported the following about rating by legal rating organizations:

Not aware of any rating or membership status. I have been selected as "Legal Elite" by my peers in Insurance Defense and Education law. The past two years I was the leading vote getter in Education law.

Mr. Bias reported that he has not served in the military.

Mr. Bias reported that he has never held public office.

(6) Physical Health:

Mr. Bias appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Bias appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Bias was admitted to the South Carolina Bar in 2011.

He gave the following account of his legal experience since graduation from law school:

Judicial Law Clerk- Judge Alison R. Lee (August 2011- August 2012)

Served as a lawyer working for Judge Lee; drafted and reviewed judicial orders and legal memoranda for civil and criminal matters; assisted the Judge with trials, hearings, and motions

Richland County Public Defender (August 2012 – September 2013)

Represented clients in bond hearings, motions, preliminary hearings, pleas, and trials; appeared daily in front of circuit and magistrate court judges; regular caseload of over 250 clients

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- Duff, White and Turner (September 2013 - February 2016)
Civil defense litigation attorney representing school districts, governmental entities, and colleges; areas of practice include labor and employment, government, education, and litigation
- McAngus, Goudelock and Courie (February 2016 – October 2017)
Insurance defense attorney, areas of practice included construction law, premises liability, product liability, personal injury
- Vernis and Bowling of Columbia (October 2017 – September 2019)
Partner-level managing attorney practicing insurance defense; chaired Firm's Diversity and Inclusion Committee
- University of South Carolina School of Law (December 2018 to present)
Adjunct professor in Spring Semesters of Civil Litigation Capstone Course
- Midlands Technical College (September 2019 to January 2023)
General Counsel/Special Advisor to the President. Served as sole legal counsel for College, advising administration on a broad array of legal topics relating to College operations. Full time employment ended in January 2023. Contract employee as needed since then.
- Womble Bond Dickinson (January 2023 to present)
Serves as outside general counsel to colleges and universities.

Mr. Bias further reported regarding his experience in the Circuit Court practice area:

My first experience in criminal matters was as a clerk for Judge Lee, sitting beside her on the bench as she held General Sessions court in Richland County. In this role, I was responsible for working with solicitors to run court, reviewing paperwork on plea deals, and assisting the judge with judicial orders. The following year, I worked as a Richland County Public Defender, representing my clients in pleas, hearings, motions, and trials. In my time as a PD, I regularly kept a caseload of over 250 clients, appeared in court nearly every day, and gained much needed

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courtroom experience. I have not practiced criminal law since 2013.

Prior to going in-house, I was a civil litigator for six years, and I currently teach a well-attended and popular course at USC School of Law on Civil Litigation. My course goes through the lifeline of a case, from the initial client meeting to discovery to depositions and ending at mediation. Our course provides the prospective of both Plaintiff and Defense counsel to prepare our students for the real world of litigation.

In my position immediately before joining Midlands Technical College, I was the Litigation Managing Attorney for the Columbia office of Vernis and Bowling. In that role, I had a large caseload of insurance defense cases, regularly appearing in state and federal courts on behalf of my clients. I regularly handled personal injury cases, premises liability matters, products liability, and construction law issues across the state. Like many litigators these days, few of those cases went to trial, with most settling at or before mediation. Because I have been a General Counsel or Counsel attorney for most of the past five years, I have only a few court appearances in that time period (mostly roster meetings or trial observations).

I believe my intense practice as a public defender and my length of experience in Common Pleas court will give me the requisite procedural knowledge for this position.

Mr. Bias reported the frequency of his court appearances prior to his election to the bench as follows:

- (a) federal: "Probably once or twice in 2018 or 2019 before taking MTC position."
- (b) state: "Monthly in 2018, if not more."

Mr. Bias reported the percentage of his practice involving civil, criminal, domestic and other matters as follows:

- (a) Civil: 90%
- (b) Criminal: 0%
- (c) Domestic: 0%
- (d) Other: 10%

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Mr. Bias reported the percentage of his practice in trial court as follows:

- (a) I do not recall going to trial in 2018, I may have done a magistrate case. All of my cases were in trial court.
- (b) Upon information and belief, zero. A majority of that time I was in-house.
- (c) Upon information and belief, zero. A majority of that time I was in-house.
- (d) None

Mr. Bias provided that during the past five years he most often served as a sole counsel.

The following is Mr. Bias's account of his five most significant litigated matters:

- (a) *Pelzer v. GMRI Inc.* This is an example of a case where I did a significant amount of preparation to get ready for a trial or mediation. It was a slip and fall case where the story didn't add up. Through deposition, I was able to extract significant facts that resulted in a minimal loss for my client.
- (b) *Shields v. North American Title Loans (2016-CP-27-00463)*. This was a matter where I was able to use discovery to assist my client to result in an ultimate dismissal.
- (c) *Anderson v. Midlands Technical College*. I inherited this matter from a previous General Counsel while working for MTC. As in-house counsel, it was significant because it required me to work closely and actively with outside counsel to achieve a favorable result for the College.
- (d) *Dickerson v. John Doe (2015-CP-40-5692)*. Significant and memorable because it was an empty chair case. I was able to move for summary judgment (which I lost), but the information presented during that process resulted in dismissal with prejudice by the Plaintiff.
- (e) *Porter v. Laba (2018-CP-39-00204)*. Significant for me because the facts were horrible for my client and the case was a loser from the get-go. I use this case as an example to my students as one where we still owe the client a duty to represent them to our fullest extent and that sometimes we're going to lose (and that's ok).

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Mr. Bias reported that he has not personally handled any civil or criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. Bias's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualifications found Mr. Bias to be "Qualified" as to the evaluative criteria of constitutional qualifications, physical health, and mental stability; and "Well-Qualified" as to the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee noted: "Will do well on the Trial Bench."

Mr. Bias is married to Yasmine Bias (Gabr). He has one child.

Mr. Bias reported that he was a member of the following Bar and professional associations:

- (a) SC Bar Association – House of Delegates since 2019
- (b) SC Young Lawyers Division
- (c) Richland County Bar
- (d) Lexington County Bar
- (e) SC Black Lawyers Association

Mr. Bias provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) South Carolina Bar Young Lawyers Division "Young Lawyer of the Year" for 2019
- (b) Richland School District Two Black History Month Honoree for Community Contributions to Education in 2022
- (c) South Carolina Bar Leadership Academy Graduate, 2022
- (d) Jonathan Jasper Wright Award for service from USC School of Law Black Law Students Association, 2021
- (e) "Best and Brightest 35 and Under" from Columbia Business Monthly, 2020
- (f) Elected to SC Bar's House of Delegates, 2019

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- (g) South Carolina Supreme Court's "Pro Bono Honor Roll" 2019-2023
- (h) The State Newspaper's (Columbia, SC) "20 Under 40" in 2018
- (i) South Carolina Black Pages "20 Under 40" in 2019
- (j) Selected by peers as one of Columbia's "Legal Elite" by Columbia Business Monthly Magazine from 2018- 2022
 - Insurance Defense: 2018, 2019; Education: 2020, 2021, 2022
 - Leading vote getter among Midlands attorneys in Education Law for 2022 and 2023
- (k) South Carolina Lawyer Weekly's "Leadership in Law" Selection for 2018
- (l) 2017 Law Related Education Lawyer of the Year from the South Carolina Bar
- (m) Wofford College Young Alumni Leadership Council Member

Mr. Bias further reported:

I take very seriously our obligation as attorneys to be representatives of the Court at all times and have tried to live my life in preparation for this position one day. I have taught students, from middle school to law school, for years and have done my best to expose students to the legal system, the judicial process, litigation, and strategies relating to trial advocacy. In this position, I believe someone with my background would transition well to explaining to members of the general public, as well as attorneys, complex legal issues and to keep a steady demeanor (with the requisite amount of patience and humor) while doing so. I would be thrilled to continue to serve as a mentor for students and an example that if this son of a Polish immigrant and black school nurse can become a judge, anyone can.

(11) Commission Members' Comments:

The Commission respected and found admirable Mr. Bias's humility, and noted that his upbeat optimism for problem solving and public service should prove inspirational to those he mentors as well as to litigants in the courtroom.

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(12) Conclusion:

The Commission found Mr. Bias qualified, and nominated him for election to Circuit Court, At-Large, Seat 11.

**The Honorable Russell D. Hilton
Circuit Court, At-Large, Seat 11**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Hilton meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Hilton was born in 1978. He is 45 years old and a resident of Ridgeville, South Carolina. Judge Hilton provided in his application he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2005.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Hilton.

Judge Hilton demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to a judge, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Hilton reported that he has made \$207.73 in campaign expenditures for priority mailing, paper/stationery, postage, and nametags.

Judge Hilton testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

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Judge Hilton testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Hilton to be intelligent and knowledgeable.

Judge Hilton reported that he has taught the following law-related courses:

- (a) CLE presentation at the Dorchester County Bar Association. Representing and Communicating with Incarcerated Clients. CLE # 166303. August 14, 2016. Along with speaking about how best to represent and communicate with clients that are in jail, we also toured the newly built Dorchester County Detention Center.
- (b) Lectured at the Summerville Police Department on several occasions for the Officer Block Training Program. The classes focused on officers' testimony at preliminary hearings.
- (c) Taught basic criminal and legal principles to the Dorchester County Sheriff's Office cadet training program. This was an academy program created within the Sheriff's Department where students went through a multi-week training on law-enforcement fundamentals.
- (d) Lectured at the Charleston School of Law for the "Criminal Sentencing" class discussing real-world sentencing and reviewing recent sentencing examples and cases in South Carolina.

Judge Hilton reported that he has published the following:
Hilton, R 2014, "Stop Losing Clients Over Your Fear of Payment Plans", Lawyerist.com: <https://lawyerist.com/news/stop-losing-clients-fear-payment-plans/>

(4) Character:

The Commission's investigation of Judge Hilton did not reveal evidence of any founded grievances or criminal allegations made against him.

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The Commission's investigation of Judge Hilton did not indicate any evidence of a troubled financial status. Judge Hilton has handled his financial affairs responsibly.

The Commission also noted that Judge Hilton was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Hilton reported that his last available rating by legal rating organizations were as follows:

- (a) I have an Avvo rating of 10 out of 10.
- (b) I have a Martindale Hubbell Peer Review rating of 4.5 out of 5.
- (c) I have a Justia rating of 10 out of 10.

Judge Hilton reported that he has not served in the military.

Judge Hilton reported that he has never held public office other than judicial office.

(6) Physical Health:

Judge Hilton appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Hilton appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Hilton was admitted to the South Carolina Bar in 2005.

He gave the following account of his legal experience since graduation from law school:

- (a) Assistant Solicitor for the First Judicial Circuit Solicitor's Office (Dorchester), 2005-2011: I prosecuted General Sessions and many magistrate/municipal level cases. My prosecution duties included case review, communication with victims, handling preliminary hearings, indictments, and any guilty plea or trial for cases to which I was assigned. During much of this time, my office was in the

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Dorchester County Courthouse, where I managed and facilitated the scheduling of, and witness testimony before the Grand Jury. Additionally, I handled most of the bond estreatments, civil asset forfeitures, and represented the state on magistrate level appeals to the Circuit Court.

- (b) Senior Assistant Solicitor for the First Judicial Circuit Solicitor's Office (Dorchester), 2011-2013: In addition to a full General Sessions case load as described above, I assigned cases to other prosecutors, advised and directed other prosecutors with their cases, made most of the financial decisions on purchases or approval of spending funds, approved cases for Pre-Trial Intervention and other diversion programs, approved employee leave, resolved employee issues, and had signatory authority on all of the accounts held by the Dorchester Office of the First Circuit Solicitor's Office. As the Senior Assistant Solicitor, my caseload became more focused on most serious/serious and violent crimes. I handled countless murder cases, armed robberies, burglaries, sexual assault cases, and tried dozens of cases to jury verdict. During my time at the Solicitor's Office as a prosecutor, I handled thousands of felony criminal cases.
- (c) Member/Owner of Russell D. Hilton, Attorney at Law, LLC, 2013-Present: As a solo practitioner, I meet and contract with new clients and interact with them throughout their case. I manage all the firm accounts including the IOLTA, ensure all financial obligations such as taxes and professional fees are met, resolve any necessary employee issues, and manage all other business matters for my office. Additionally, I am the only attorney on the client's case and appear at any necessary court dates. I represent the client by providing legal advice and all other obligations resulting from the lawyer-client relationship. As a solo practitioner, my practice has intentionally consisted mainly of representing clients in criminal matters, but I have also handled civil cases involving property, construction, personal injury, contracts, statutory public road closure litigation, administrative appeals, and a myriad of civil, probate and other legal issues including trials and contested hearings. I have also been appointed as the guardian ad litem in probate guardian and conservator matters, as well

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as litigated other probate issues, in addition to drafting wills, powers of attorney, and other health care documents.

- (d) Contract Attorney for South Carolina Commission on Indigent Defense (SCCID), 2015-2016: As an indigent defense contract attorney, I received cases in which the public defender's office had a conflict of interest such that external representation was required. These cases were handled just as any private client, with the distinction of payment coming from SCCID instead of the client. I tried many of these cases to jury verdict or picked a jury before ultimately resolving the case in an agreeable plea offer for my client.
- (e) Dorchester County Bar Association, Bar President, 2017-2018: As president, I led the efforts in organizing and planning our meetings, events, and CLEs.
- (f) Special Referee, appointed by The Honorable Diane S. Goodstein, October 18, 2018: Section 14-11-60, of the SC Code of Laws, allows a Circuit Court judge to appoint a "special referee" when the Master-in-Equity is conflicted or unavailable. I was appointed by court order to serve as the special referee for a civil case in Common Pleas in Dorchester County. I was tasked with reviewing, in camera, documentation related to telephone records to determine which information would be discoverable to the adverse party.
- (g) Part-Time Municipal Court Judge for the Town of Moncks Corner, South Carolina, 2023-Present: In my role as the associate municipal judge, I sign search and arrest warrants as necessary, and preside over municipal court, including jury trials, bench trials, and any sentencing.

Judge Hilton further reported regarding his experience with the Circuit Court practice area:

Criminal: During my career as a prosecutor and now solo practitioner, I have handled thousands of varying criminal cases and continue to do criminal work on a daily basis. In the past five years, I have handled criminal matters including General Sessions and Magistrate/Municipal level offenses. These cases have included issues of the Protection of Persons and Property Act (16-11-410 et seq.), as well as multiple murder, burglary, and other

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complicated criminal offenses. Over my career, I have represented the State as a prosecutor, and as a private practitioner, I have represented defendants, and victims and their families in criminal court. On occasion, other attorneys have associated me to assist them in their criminal cases. Largely due to the COVID pandemic, I have not had any General Sessions trials in the past 5 years. However, over my career I have tried 27 felony cases to verdict as either a prosecutor or defense attorney. I have gone through numerous jury selections before coming to a resolution prior to a trial, and I have handled thousands of guilty pleas. One of my last General Sessions trials was State v. Edward Bonilla. I was appointed to represent the defendant on the charge of murder. The Public Defender's office was conflicted because his public defender revealed the location of the victim's body to law enforcement. This became one of the major issues in the case that was novel for South Carolina courts and is explained in more detail in question 15 below. I have also handled many bond hearings, preliminary hearings, and other matters that are commonly heard in General Sessions Court.

Juvenile: I have represented countless juveniles in criminal cases. While not directly in Circuit Court, I have handled waiver cases that originated in Family Court and one that incorrectly originated in the Circuit Court and was remanded to Family Court.

Civil: Though I have narrowed my practice to predominantly criminal matters, I have considerable experience in civil cases, as well. In the past 5 years, I have represented plaintiffs in quite a few personal injury cases involving automobile accidents, a case involving foreign matter in food, medical malpractice, false imprisonment, dog bite, negligent supervision, and many other torts. Some have involved wrongful death and minor settlement approvals by the court, as well as varying legal issues related to liability, insurance coverage, and other matters. While most have settled without the necessity of filing suit, I was co-counsel in a complex product liability case in Federal Court involving a defective climbing tree stand. The case had massive amounts of discovery, in-depth issues on choice-of-law and jurisdiction, as well as overcoming issues surrounding the proper use of a safety harness. In representing the plaintiff, we were seeking compensatory and punitive damages due to allegations of similar

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product failures and our belief the company was aware of the failures. The case lasted approximately 2 years and ended in 2019 with a settlement agreement being reached during jury selection. Presently, I am serving as local counsel for an Indiana attorney who has been admitted pro hac vice. The case involves some parallel criminal issues as well as civil causes of action for breach of contract, breach of trust, Unfair Trade Practice Act violations, and other causes of action. Beyond the past 5 years, I was the sole attorney on a prescriptive easement case that proceeded through discovery, mediation, and ultimately trial. I represented the defendants in that case, who obstructed a road by building a berm and were attempting a permanent closure of the road. The case involved property rights, along with damages claimed by the plaintiffs. It was resolved with a verdict by the Master-In-Equity after a multi-day trial. I also defended a client in the Court of Common Pleas where my client was being sued over an owner-financed home. The case ended with a trial resulting in a verdict for my client.

Over the past 5 years, except during the pandemic closures, I have appeared in Circuit Court multiple times per month. I would estimate I appear in Circuit Court between 4 to 8 times on an average month.

Judge Hilton reported the frequency of his court appearances as follows:

- (a) federal: Rarely
- (b) state: I often appear daily in state court (Circuit, Magistrate, or Municipal), sometimes multiple courts and appearances per day. There are usually 1 to 2 days per week where I do not have court appearances scheduled.

Judge Hilton reported the percentage of his practice involving civil, criminal, domestic and other matters as follows:

- (a) Civil: 10%
- (b) Criminal: 85%
- (c) Domestic: 0%
- (d) Other: 5%

Judge Hilton reported the following about his practice in trial court:

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- (a) 98% was in trial court, including cases that settled prior to trial;
- (b) 3 cases went to trial and resulted in a verdict;
- (c) 0 cases went to trial and resolved after the plaintiff's or State's case;
- (d) 3 settled after a jury was selected but prior to opening statements.

Judge Hilton reported that during the past five years, he most often served as sole counsel.

The following is Judge Hilton's account of his five most significant litigated matters:

- (a) *State v. Donsurvi Chisolm* (2015–UP–501, Unpublished Opinion). This was a Dorchester County case that I prosecuted. The defendant was charged with murder and the case proceeded to trial. The allegations were that he and two acquaintances were riding around when he produced a pistol and shot the front seat passenger, killing him. The defendant then threw the gun into a swamp and cut the seatbelt out of the SUV to attempt to eliminate any trace evidence among other things. After multiple hearings, the defendant chose to exercise his right to self-representation, and proceeded *pro se*. The case presented some unusual security issues in the courtroom in that the defendant was actually the one examining witnesses and speaking directly to the jury. Most interestingly, the defendant was former military, clearly educated, intelligent, and had studied the applicable law and facts in his case. The case presented an interesting problem for the prosecution, in that I, nor law enforcement, ever determined exactly why he shot the victim. While the back seat passenger participated in the prosecution, he also did not know why the victim had been shot. I was able to overcome the motive issue and catch the defendant attempting to present false testimony through his sister when she testified that she previously owned the car and had cut the seatbelt to avoid being trapped in the car with an abusive boyfriend. We had an expert testify that to remove the seatbelt in the manner in which it had been removed, the casing would have to be

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removed and then the seatbelt cut close to the reel with a razor. The case was won predominantly when the sister (sequestered during the expert's testimony) testified that she cut the strap with some scissors, allowing the remaining strap to coil up in the reel. The defendant was found guilty of murder and sentenced to life.

- (b) *State v. Edward Primo Bonilla* (reported as *State v. Bonilla*, 838 S.E.2d 1 (S.C. App. 2019)). This case was appointed to me on an indigent defense contract. I served as defense counsel for the defendant who had been charged with murder. The defendant was accused of meeting the victim on a dating app, killing her, and burying her body in a shallow grave in upper Dorchester County. Originally the case was handled by the public defender's office and there was a disclosure of the location of the victim's body by the defendant's attorney. This disclosure created a conflict with the public defender in that there then became an issue as to whether the disclosure was based on informed consent and if the consent was voluntary. This case presented a complex novel issue for South Carolina jurisprudence regarding the "Rule 1.6 Hearing." The case also involved many issues of expert testimony, search warrant issues, magistrate jurisdiction and other Fourth Amendment issues, as well as balancing media rights against the rights of the defendant. The case was heavily covered in the media as the "Kik" app murder and lasted a full week. Ultimately, the defendant was found guilty of murder at trial.
- (c) *State v. DR* (expunged, not reported). I served as defense counsel for the defendant. The case involved an individual who had pointed a firearm at someone who threatened to fight him. DR was in his 70s, of small stature, and was the homeowner's association president for his neighborhood. The HOA had issues with people coming to do "Pokémon raids" whereby they would appear in large groups at the HOA gazebo and search for digital caricatures placed via coordinates. DR was on his property, near the end of his driveway, when he told the individuals they needed to leave immediately. One of them took an intimidating stance, poured out his drink,

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and made threatening remarks towards DR. As the guy got in his car and drove approximately 100 feet to DR's driveway, DR reached in his car, grabbed a pistol, and held it by his side. When the individual pulled up and went to get out of his car, DR pointed the gun at him and told him to get out of there. Bystanders called police and law enforcement responded but did not arrest DR.

Instead, law enforcement created an incident report and returned DR's gun. Unknown to DR, law enforcement issued a warrant and six months after the event, DR was served and arrested for Pointing or Presenting a Firearm. I filed a motion to bar prosecution under the Protection of Persons and Property Act ("Stand Your Ground" law). The State argued that the act did not apply because he only "presented" deadly force and did not actually "use" deadly force. I argued that this was clearly contrary to public policy and against the intent of the legislature. The Court granted protection and the case was barred further prosecution. The charge was dismissed and expunged.

- (d) *Carter v. Kemmerlin* (not reported). I served as counsel for the defendants in a civil case involving the plaintiff's suit to establish a prescriptive easement over one parcel of property to an adjoining parcel. The case was significant because it involved in-depth property law and issues regarding adverse possession, prescription, property interests, chain of title, and other issues. The case began in Circuit Court and was referred to the Master-in-Equity by agreement. The matter progressed from discovery to mediation to trial. The case ended after a multi-day trial before the Master-in-Equity. The Court ruled in favor of the plaintiffs on the issue of the prescriptive easement, but significantly lessened the damages sought.
- (e) *State v. McCombs*, 762 S.E.2d 744 (S.C. App. 2014), vacated after Defendant's death by 772 S.E.2d 510 (S.C. 2015). *McCombs* was a case that I prosecuted while in the Solicitor's Office. The case involved a lewd act on a minor where the defendant had been charged and convicted previously on eerily similar conduct. Pretrial, I sought to introduce evidence of the prior bad act through testimony of the previous victim that we had located and brought in from out of state.

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Over a two-day period, I offered evidence and argued for the admissibility of the prior bad acts to show a common scheme or plan under Rule 404(b), SCRE. The trial judge held that the evidence of the prior lewd act was inadmissible despite the striking similarities in the details. I believed the decision was in error and contrary to the rule of evidence and case law. On behalf of the State, I appealed the Court's decision. The appeal was handled by the Attorney General's office, but the trial judge's decision was reversed by the Court of Appeals and a published opinion issued. However, the decision was later vacated by the Supreme Court after the defendant died during the pendency of the appeal.

Judge Hilton reported the following with regards to civil appeals that he has personally handled:

While I have never handled a civil appellate case in the Court of Appeals or the Supreme Court, I did handle a civil appeal to the Circuit Court involving a landlord/tenant dispute where I represented the landlord.

Judge Hilton reported the following with regards to criminal appeals that he has personally handled:

(a) I have filed appellate paperwork on behalf of the State and defendants but have never had to argue a criminal appeal in the South Carolina Court of Appeals. However, I have argued many criminal appeals to the Circuit Court for Magistrate or Municipal Court cases.

Judge Hilton reported that he has held the following judicial office(s):

- (a) Circuit Court Special Referee, appointed by The Honorable Diane S. Goodstein, First Judicial Circuit, October 18, 2018: As special referee, I had the statutory authority equivalent to the Master-in-Equity. I was appointed to review discovery in a civil matter regarding an automobile accident and determine which information would be discoverable to the adverse party.
- (b) Municipal Court Judge for the Town of Moncks Corner, part-time, appointed by Town Council, 2023 – Present: The

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municipal court's jurisdiction is typically limited by statute to criminal matters carrying a fine of up to \$500 and/or incarceration of up to 30 days in jail. There are some exceptions to this jurisdictional rule which allow the court to handle matters of greater penalty.

Judge Hilton provided the following information about his most significant orders and opinions:

As a municipal judge, I have not issued any orders that would be considered "significant".

Judge Hilton reported the following regarding his employment while serving as a judge:

While serving as the part-time Associate Municipal Judge for the Town of Moncks Corner (2023 – present), I am also the Owner/Member of Russell D. Hilton, Attorney at Law, LLC (2013 – present).

(9) Judicial Temperament:

The Commission believes that Judge Hilton's temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee on Judicial Qualifications reported Judge Hilton to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability; and "Well-Qualified" as to the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee noted: "Extremely well qualified, very deep trial experience, smart, personable, diverse experience, impressive in every way, would make a great circuit judge."

Judge Hilton is married to Elizabeth Brewer Hilton. He has no children.

Judge Hilton reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar – 2005 to Present.
- (a) Dorchester County Bar Association – 2005 to Present, President 2016-2017.

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- (b) Berkeley County Bar Association – 2013 to Present.
- (c) South Carolina Association of Criminal Defense Lawyers (SCACDL) – 2014 to Present.
- (d) National Association of Criminal Defense Lawyers (NACDL) – 2020 to Present.
- (e) DUI Defense Lawyers Association (DUIDLA) – 2018 to Present.

Judge Hilton provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Lowcountry Flying Club, Member since 2020. President, 2023-Present. Maintenance Liaison, 2021-2023.
- (b) Friends of the USVI National Park.
- (c) EAA (Experimental Aviation Association).
- (d) Cypress Church, Administrative Council and Chairperson of Trustees, approximately 1995 to present.
- (e) Mimms Lake Fishing Club (SC Audubon Society), Member since 2020.
- (f) DUI Defense Lawyers Association (DUIDLA).
- (g) South Carolina Association of Criminal Defense Lawyers (SCACDL).
- (h) National Association of Criminal Defense Lawyers (NACDL).
- (i) Berkeley County Bar Association.
- (j) Dorchester Bar Association.

Judge Hilton further reported:

Over the past 45 years of my life, I have spent over half of that time practicing law or working in the legal field. Fortunately, I have not limited myself to law and have done many other things along the way which I believe contribute to a skillset and personality that would be beneficial to a Judge. Over the years, I have done a tremendous amount of woodworking, became an avid fly-fisherman, a private pilot, a beekeeper, a musician, husband, homebuilder, uncle, and many other things to many people. I believe too much of one thing limits a person's ability to truly thrive. I have been fortunate enough to have family, friends, and a spouse support me in many endeavors, and this has all contributed to the attorney and person that I have become. I am more than grateful to be in the position to apply for this seat and would be truly humbled to have it.

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(11) Commission Members' Comments:

The Commission noted the glowing recommendation from the Lowcountry Citizens Committee regarding Judge Hilton. The Commission also recognized that while much of Judge Hilton's current practice is in the criminal area, he does have considerable past civil experience.

(12) Conclusion:

The Commission found Judge Hilton qualified and nominated him for election to Circuit Court, At-Large, Seat 11.

**The Honorable Milton G. Kimpson
Circuit Court, At-Large, Seat 11**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Kimpson meets the qualifications prescribed by law for judicial service as a Circuit Court Judge.

Judge Kimpson was born in 1961. He is 63 years old and a resident of Columbia, South Carolina. Judge Kimpson provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1986.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Kimpson.

Judge Kimpson demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to Judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Kimpson reported that he has made \$141.41 in campaign expenditures for postage and copying.

Judge Kimpson testified he has not:

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- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Judge Kimpson testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Kimpson to be intelligent and knowledgeable.

Judge Kimpson reported that he has taught the following law-related courses:

- (a) Presentation on *Travelscape v. SC Department of Revenue*, 391 S.C. 89, 705 S.E.2d (2011) to Multi-State Tax Commission Litigation Committee meeting in Nashville, TN, March 8, 2022
- (b) Presenter at SC Attorney General CLE; Department of Revenue Practice, June 17, 2021
- (c) State Tax Law Update, Columbia, Tax Study Group, October 16, 2012
- (d) SCDOR Case Law Update at State and Local Tax Seminar March 21, 2013
- (e) Presentation on SCDOR Data Breach at Cyber Security Seminar hosted by state of Wisconsin, Milwaukee, WI, October 2013
- (f) SCDOR Case Law Update Presentation to SC Bar Tax Section during SC Bar Convention, Jan 24, 2015
- (g) SCDOR Case Law Update presentation to Columbia Tax Study Group, February 14, 2015
- (h) Presentation on DHEC Certificate of Need Program and SCDOR Regulatory Practice at SC Black Lawyers retreat, September 17, 2015
- (i) Panelist, "Good Decisions for Your Legal Education and Career," USC School of Law, November 16, 2017
- (j) Panelist, "Appearing at the ALC – Dos and Don'ts", SCARLA CLE, February 21, 2020

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- (k) Panelist, Young Lawyers Division Mentoring Lunch on Administrative Law, January 21, 2020
- (l) Panelist, Judges Perspective on Advocacy or Oral Argument, Appellate Advocacy Workshop, SC Bar CLE Division, November 18, 2022,
- (m) Presenter, Administrative Law, On- Demand Video, SC Bar Administrative and Regulatory Law Committee, December 8, 2022.

Judge Kimpson reported that he has published the following:
South Carolina Practice Manual, Criminal Law, Volume Three (SC Bar CLE 2003), contributing author, Chapter on Military Law

(4) Character:

The Commission's investigation of Judge Kimpson did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Judge Kimpson did not indicate any evidence of a troubled financial status. Judge Kimpson has handled his financial affairs responsibly.

The Commission also noted that Judge Kimpson was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Kimpson reported that his last available rating by a legal rating organization, Martindale Hubbell, was Distinguished.

Judge Kimpson reported the following military service:
I served on active duty in the U.S. Army as an officer in the Judge Advocate General's Corps (JAGC) from January 1987 to December 1991 and continued service in the US Army Reserves from 1992 – 1995. My highest rank was Captain and I received an Honorable Discharge. I have no current duty status.

Judge Kimpson reported that he has held the following public office:

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Prior to election to ALC, from July 2010 to June 2017, I served as Deputy Director and General Counsel for Litigation at the SC Department of Revenue and filed annual reports with the State Ethics Commission. I have continued to file timely reports since becoming an ALJ in 2017.

(6) Physical Health:

Judge Kimpson appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Kimpson appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Kimpson was admitted to the South Carolina Bar in 1986.

He gave the following account of his legal experience since graduation from law school:

- (a) SC Department of Health and Environmental Control, law clerk and brief stint as a Staff Attorney practicing administrative law until entry into U.S. Army JAGC. No management responsibilities; no trust accounts.
- (b) JAGC, Fort Sill, Oklahoma; Legal Assistance Officer: General civil practice assisting military members, families and retirees with wills, powers of attorney and family law; March 1987 -June 1988; Trial Counsel (military prosecutor) prosecuting soldiers for crimes under Uniform Code of Military Justice; June 1988 – March 1990. No management or trust account responsibilities.
- (c) JAGC, Fort Jackson, SC; Chief Legal Assistance Officer: General civil practice assisting military members, families and retirees with wills, powers of attorney and family law; Military Magistrate – whether to impose pretrial confinement for military personnel accused of crimes under USCMJ; March 1990 – December 1991; administrative management (personnel) responsibilities but no trust accounting.
- (d) Johnson, Toal & Battiste, P.A. Jan 1992- Dec 1993; Associate at general civil practice firm doing civil litigation, real estate, family law, personal injury and

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- criminal law. No management or trust account responsibilities.
- (e) Glen Walers, P,A.: Jan. 1994 – March 1994; temporary position in a general practice firm in Orangeburg, SC; family law and personal injury; no management or trust account responsibilities. .
 - (f) Gerald & Kimpson, LLP; March 1994-December 1998; partner in general practice firm; civil litigation, criminal litigation, family law, personal injury and real estate. Shared administrative and financial management responsibilities, to include management of real estate trust account (IOTA).
 - (g) Richland County Department of Social Services; July 1995- December 1988. Contract attorney prosecuting abuse and neglect cases in Family Court. Performed contract work while in private practice as Gerald & Kimpson, LLP. No administrative, financial or trust account responsibilities.
 - (h) Milton G. Kimpson, P.A.; January 1999-Dec 2002. Solo practitioner in general practice, including civil litigation, family law, personal injury, real estate and criminal law. Performed administrative and financial management responsibilities to include trust accounting – general and IOTLA real estate accounts.
 - (i) SC Department of Labor, Licensing and Regulation. Contract attorney serving as counsel to contractors’ board. One or two hearings in December 2001-2002. Performed as contract attorney while in private practice as Milton G. Kimpson, PA. No administrative, financial or trust account responsibilities.
 - (j) South Carolina Department of Revenue; Jan. 2003 – 2010; staff attorney performing state tax and regulatory litigation before ALC, state and federal courts. In 2006, became Managing Attorney for Honors Litigation Program with administrative management responsibilities. No financial management or trust accounting responsibilities.
 - (k) South Carolina Department of Revenue; July 2010-June 2017. General Counsel for Litigation handling state tax and regulatory cases before ALC, state and federal courts. Performed administrative responsibilities with limited budget responsibilities for section. No trust accounting.

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- (l) SC Administrative Law Court; July 2017 to present; serve as Administrative Law Judge presiding over administrative cases – de novo trials and appeals – arising out of state agency decision under the Administrative Procedures Act. No administrative, financial or trust accounting responsibilities.

Judge Kimpson further reported regarding his experience with the Circuit Court practice area:

Since July 2017, I have served as an Administrative Law Judge so that I have not engaged in the practice of law since that time. However, prior to going to the ALC, I had a variety of experiences in the courts of this State and the Federal government. In terms of criminal law, I served in the U.S. Army as a Military Prosecutor handling criminal cases under the Uniform Code of Military Justice. While the majority of these cases were drug offenses and crimes such as assaults, I was able to obtain a conviction against a soldier in a rape case. After leaving the military and entering private practice, I handled magistrate court level criminal cases – assault and battery, traffic tickets - as well a few criminal cases in General Sessions (trespassing and murder) and Federal Court (co-counsel in a case in which my client was charged with arson and unlawful possession of gun) – all representing defendants. I ended my private practice in December 2002 and joined the SC Department of Revenue where I did not normally practice criminal law but did serve as co-counsel in one criminal trial in General Sessions involving tax evasion (which ended in a negotiated plea). As an ALJ, I am routinely confronted with sentencing issues in reviewing cases on appeal from the Department of Probation, Parole and Pardon Services. While my most recent criminal law experience has been limited, I believe that thorough research on the developments in criminal law at the State and Federal levels will help me to prepare for this position. I have learned as a ALJ that it is not only important to be well versed in the practice of law but also to understand the theory and precedents supporting it.

My background in civil court has included time in private practice where I tried cases before the Circuit Courts of this State and Federal District Courts involving a number of issues ranging

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from general civil matters, personal injury and employment discrimination. In this role, I developed years of experience in filing complaints, engaging in discovery and actual trial and appellate work. At the Department of Revenue, I litigated tax and regulatory (beer and wine permits, liquor licenses) cases at the ALC and argued appeals before the SC Appellate courts, as well as State and Federal trial and Appellate courts. I represented the Department in class action lawsuits in Circuit Court involving state sales tax issues and data breach issues. I believe that all of these experiences have prepared me to be an effective Circuit Court judge.

Judge Kimpson reported the frequency of his court appearances prior to his service on the bench as follows:

- (a) Federal: Two to three times a year;
- (b) State: Frequent appearances in Circuit Court and Appellate Courts – approx.. two to three times a month; before the ALC, approximately seven times a month.

Judge Kimpson reported the percentage of his practice involving civil, criminal, domestic and other matters prior to his service on the bench as follows:

- (a) Civil: Thirty (30%) in State courts while in private practice; 15% in State courts while at Department of Revenue;
- (b) Criminal: One criminal trial while at the Department of Revenue; infrequent criminal appearances in five years prior to joining the Department;
- (c) Domestic: While in private practice, approx.. 30% of time spent in Family Court;
- (d) Other: Prior to becoming an ALJ, approx. 70% of practice involved appearances before the ALC.

Judge Kimpson reported the percentage of his practice in trial court prior to his service on the bench as follows:

While in private practice, approx. 50% of my practice included work in State trial courts, to include Family Court; at Department of Revenue, approximately 30% of my work consisted of representing the agency in State trial courts on motions and trial work. Approx. 70% of time at the Department of Revenue was involved with representing the agency at the ALC.

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The following is Judge Kimpson's account of his five most significant litigated matters:

- (a) *Travelscape v. SC Department of Revenue*, 391 S.C. 89, 705 S.E.2d 28 (2011). One of the first appellate court decisions in the United States subjecting on-line travel companies (Expedia) to state sales taxes for renting hotel rooms in the State. I was lead counsel at ALC; the taxpayer appealed from a decision in favor of the Department and I argued the appeal at the SC Supreme Court
- (b) *Home Medical v. SC Department of Revenue*, 382 S.C. 556, 677 S.E.2d 582 (2009). Home medical supply company sought sales tax exemption in contravention of Department of Revenue's longstanding interpretation of regulations. I handled case at the ALC and lost on summary judgement. I argued appeal at the SC Supreme Court; the Court reversed the ALJ's decision upholding principle that ALJs' lack the authority to disregard duly promulgated regulations. Also stands for proposition that motions for reconsideration are valid procedural tools at the ALC.
- (c) *SC Department of Revenue v. Anonymous Company A*, 401 S.C. 513, 678 S.E.2d 255 (2008). Nationwide sales tax issue whereby automobile finance companies were seeking sales tax refunds on installment sales contracts that had become uncollectable. The Department denied the refund request and the taxpayer appealed to the ALC. I was the lead counsel at trial at the ALC. The ALC ruled for the finance company on a novel question of statutory interpretation. I argued the Department's appeal at the SC Supreme Court. The Court reversed the ALC, bringing SC in line with other state courts that had addressed the sales tax issue.
- (d) *CSX Transportation v. SC Department of Revenue*, 2016 WL 3162178 (SC D.S.C. June 7, 2016), *vacated and remanded*, 851 F3d 320(4th Cir. 2017). Railroad filed suit against Department alleging unlawful discrimination in the application of South Carolina's property tax exemption statute. I served as lead counsel at trial. Federal District judge ruled in Department's favor. Case was significant because midway during discovery, the U.S. Supreme Court released a decision affecting the body of

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law; we amended our answer to assert new defenses. Furthermore, we were facing a law firm that had a great deal of experience litigating these issues nationwide so we were definite underdogs.

- (e) *Drummond v. SC Department of Revenue*, 378 S.C. 362, 662 S.E.2d 587 (2008). Class action civil lawsuit seeking sales tax exemption for certain diabetic supplies. The Department did not interpret the statute and regulation to allow the exemption. I acted as co-counsel in Circuit Court. The Circuit Court granted summary judgment in the Department's favor; thereafter, the plaintiff appealed. I argued the appeal to the SC Supreme Court; the Court affirmed on the regulatory issues and the principle that tax cases should be initiated under the Revenue Procedures Act. The Supreme Court remanded on a statutory issue - I served as lead counsel at subsequent trial. After several days, the Plaintiffs dismissed the case.

The following is Judge Kimpson's account of five civil appeals he has personally handled:

- (a) *Drummond v. SC Department of Revenue*, 378 S.C. 362, 662 S.E.2d 587 (2008).
(b) *CSX Transportation v. SC Department of Revenue*, 851 F.3d 320 (4th Circuit Court of Appeals, 2017).
(c) *SC Department of Revenue v. Anonymous Company A*, 401 S.C. 513, 678 S.E.2d 255 (2008).
(d) *Lexington County Health Services District v. SC Department of Revenue*, **CITE**
(e) *Travelscape v. SC Department of Revenue*, 391 S.C. 89, 705 S.E.2d 28 (2011).

Judge Kimpson reported that has not personally handled any criminal appeals.

Judge Kimpson reported that he has held the following judicial office(s):

SC Administrative Law Court, Seat #2; July 2017 to present.
Elected by SC General Assembly in July 2017 and reelected in 2022. The ALC is an administrative agency and court of record created by the General Assembly, SC Code Ann. 1-23-500, with

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jurisdiction limited by statute, to certain “contested cases...involving the departments of the executive branch of government ... “ and other matters, to include appeals from decisions in contested cases heard at the agency level.

Judge Kimpson provided the following list of his most significant orders or opinions:

- (a) *Begum v. Florence County Assessor*, 18=ALJ-0198-CC; 2019 WL 5208156 (SC Admin Law Court), *affirmed*, 2022 U.P. 069
- (b) *ADSI Holdings LLC, et al v. Florence County Assessor*, 21-ALJ-17-0243-CC; 2023 WL 2777265 (SC Admin Law Court)
- (c) *Minor Child Evinich v. SC Department of Health and Human Services*, 19=ALJ-08-0137-AP; 2021 WL 1054256 (SC Admin Law Court)
- (d) *T. Tree Farm R.V. Park v. South Carolina Department of Environmental Control, et al.*, 22-ALJ-07-0011; 2022 WL 17742418 (SC Admin Law Court), currently on appeal.
- (e) *Lorenzo Elmore dba Gullah W v SC Department of Health and Environmental Control*, 19=ALJ-07-0425-IJ, 2020 WL 1274293(SC Admin. Law Court)

Judge Kimpson reported no other employment while serving as a judge.

(9) Judicial Temperament:

The Commission believes that Judge Kimpson’s temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualifications found Judge Kimpson to be “Well-Qualified” in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament; and “Qualified” in the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee noted: “Exceptionally well qualified.”

Judge Kimpson is married to Audra Sabb Kimpson. He has two children.

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Judge Kimpson reported that he was a member of the following Bar and professional associations:

- (a) SC Bar Association
- (b) SC Black Lawyers Association
- (c) SC Administrative and Regulatory Law Association, Board of Directors 2012- present
- (d) Military and Veterans Law Section of SC Bar Association
- (e) Richland County Bar Association

Judge Kimpson provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Eau Claire Development Corporation, Secretary
- (b) Greater Columbia Community Relations Council. Chairmen , June 2016-June 2017; Board of Directors, 2016 – 2022; currently serve on Board of Advisors
- (c) Citizens for Public Life, Board of Directors
- (d) Cooperative Ministry, Board of Directors
- (e) Omicron Phi Chapter of Omega Psi Phi Fraternity, Inc., Parliamentarian
- (f) Promise Foundation, Treasurer
- (g) Alpha Iota, Sigma Pi Phi Fraternity, Secretary May 2002 to present
- (h) Saint John Baptist Church, Board of Deacons, May 2002 to present; Assistant Church Clerk
- (i) Wofford College Black Alumni Association
- (j) Omega Men of Columbia, SC, Inc., Secretary
- (k) Israel Brooks Foundation, Board of Directors
- (l) Life Member, NAACP

Judge Kimpson further reported:

My service on the Administrative Law Court has been an invaluable experience and among the highlights of my legal career. As a judge, I have tried to emulate the good characteristics of the many excellent judges before whom I have appeared. I strive to be prepared, knowledgeable about the law and importantly, to be attentive, respectful and courteous to litigants. I have always appreciated those judges who actively listened to the evidence and evaluated my legal arguments. Whether acting as a trial judge or acting in an appellate capacity, I do my best to fairly evaluate the evidence and fully address legal arguments when rendering decisions. I believe that as a Circuit Judge, I will bring these same

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attributes to a court with greater responsibility and a wider range of litigants as well as exposure to citizen juries.

(11) Commission Members' Comments:

The Commission commented that Judge Kimpson has an outstanding reputation as a jurist on the Administrative Law Court. The Commission is impressed with both his temperament and his intellect which would ably serve him should he be elected to the Circuit Court.

(12) Conclusion:

The Commission found Judge Kimpson qualified, and nominated him for election to Circuit Court, At-Large, Seat 11.

**Riley Maxwell
Circuit Court, At-Large, Seat 16**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Maxwell has the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Maxwell was born in 1979. He is 44 years old and a resident of Columbia, South Carolina. Mr. Maxwell provided in his application he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2006.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Maxwell.

Mr. Maxwell demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to a judge, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Maxwell that he has not made any campaign expenditures.

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Mr. Maxwell testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Maxwell testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Maxwell to be intelligent and knowledgeable.

Mr. Maxwell reported that he has spoken or lectured for the following matters:

- (i) October 2020 - I spoke at a CLE course (Prosecution and Victim Compensation) regarding restitution for crime victims.
- (j) May 2022 - I served as a faculty member at the 2022 Prosecution Bootcamp. This program, conducted by the South Carolina Commission on Prosecution Coordination, is a week-long program for new prosecutors. It focuses on trial advocacy with time dedicated to opening and closing statements and direct and cross examinations of witnesses.
- (k) February 2002 - I spoke at the South Carolina Coroner's Association annual conference. I discussed and answered questions about issues coroners may need to be prepared for when testifying at trial. I also led a mock witness examination.

Mr. Maxwell reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Maxwell did not reveal evidence of any founded grievances or criminal allegations made against him.

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The Commission's investigation of Mr. Maxwell does not indicate any evidence of a troubled financial status. Mr. Maxwell has handled his financial affairs responsibly.

The Commission also noted that Mr. Maxwell was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Maxwell reported that he has no ratings by any legal rating organization.

Mr. Maxwell reported that he has not served in the military.

Mr. Maxwell reported that he has never held public office.

(6) Physical Health:

Mr. Maxwell appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Maxwell appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Maxwell was admitted to the South Carolina Bar in 2006.

He gave the following account of his legal experience since graduation from law school:

(a) August 2006 - August 2007

Law clerk for the Honorable Edward Welmaker, Circuit Judge, Thirteenth Judicial Circuit

(b) October 2007 - January 2015

Assistant Solicitor, Sixth Judicial Circuit
I prosecuted crimes of all nature in General Sessions Court and juvenile matters in Family Court.

(c) January 2015 - present

Deputy Solicitor, Sixth Judicial Circuit
I currently handle the prosecution of crimes in General Sessions Court and Family Court. I supervise a staff of

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assistant solicitors and administrators and oversee the prosecution of all cases in Fairfield County. I assist and advise the Circuit Solicitor on personnel and other administrative matters. I have not managed any financial matters.

Mr. Maxwell further reported regarding his experience with the Circuit Court practice area:

I have served as a prosecutor for almost 16 years. In that time, I have been involved with the prosecution of thousands of cases, including murder, criminal sexual conduct, robbery, drugs, property crimes, and complex financial crimes. I have also served as lead or co-counsel for dozens of trials. I regularly conduct research of various legal issues, consult and advise law enforcement, meet with victims and witnesses, and prepare motions and briefs. I generally spend several days each month appearing before the Circuit Court for pleas, bond hearings, and motions. I am involved in trials before the Court four to seven times each year.

Since I have spent the majority of my career as a prosecutor, I have had limited involvement in civil court. I have filed civil lawsuits on behalf of the State under the drug forfeiture statute. In those cases, I drafted the complaints, oversaw the services of process, and litigated the cases before the Court of Common Pleas. I have also represented the State in Common Pleas Court in appeals from the summary courts.

While I served as a law clerk, Judge Edward Welmaker served as Chief Administrative Judge for Common Pleas in Greenville County. I regularly assisted Judge Welmaker in the preparation of civil matters including researching various issues. I prepared orders and reviewed proposed orders prior to the Judge's signing. I observed several trials during my clerkship including personal injury cases where liability was contested and other cases where only damages were at issue. I also sat as clerk during medical malpractice trials and a complex trial involving non-compete claims and trade secrets involving a major corporation headquartered in South Carolina.

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I continuously stay current with judicial opinions since I have been an attorney. I have also observed several civil trials in recent years and attended numerous sessions of Common Pleas Non-Jury terms.

With my extensive trial experience, I have adept knowledge of the South Carolina Rules of Evidence that I believe would be applicable in civil cases. If I encountered a matter I was unfamiliar with, I would extensively research the issue and/or consult other authorities.

Mr. Maxwell reported the frequency of his court appearances as follows:

- (a) federal: 0
- (b) state: I appear in state court 5-10 days each month.

Mr. Maxwell reported the percentage of his practice involving civil, criminal, domestic and other matters as follows:

- (a) Civil: 1%
- (b) Criminal: 99%
- (c) Domestic: 0%
- (d) Other: 0%

Mr. Maxwell reported their practice in trial court as follows:

- (a) 98% was in trial court, including cases that settled prior to trial;
- (b) 13 cases went to trial and resulted in a verdict;
- (c) 0 went to trial and resolved after the plaintiff's or State's case;
- (d) 1 settled after a jury was selected but prior to opening statements.

Mr. Maxwell reported the following about his role as counsel during the past five years:

As Deputy Solicitor, I oversee all General Sessions prosecutions in Fairfield County. I assign cases to assistant solicitors and personally handle my caseload as sole counsel. In most trials, I served as chief counsel. In a small number of trials, I assisted an assistant solicitor.

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The following is Mr. Maxwell's account of his five most significant litigated matters:

- (a) *State v. Charles Coleman*. This was a cold case prosecution of a woman who was raped and killed in 1976. The South Carolina Law Enforcement continued to investigate the case over the years. In 2020, Coleman's DNA was matched with a DNA profile developed from pieces of evidence. I researched the existing law in 1976 to ensure he was properly charged. Ultimately, Coleman pled guilty after the jury was seated but before opening arguments. He was sentenced to life. A challenge in the case was locating witnesses and developing a proper chain of evidence. I was the lead prosecutor.
- (b) *State v. Latroy Sampson*. This was a case that involved the strangulation murder of a woman by an acquaintance. The defendant fled the state and was apprehended a few weeks later in Rochester, New York. while in possession of a gun. The defendant was convicted and sentenced to prison in New York for the gun charge. I spent considerable time and effort working to have the defendant brought back to South Carolina. He was convicted of murder and received a life sentence. Because he had not completed his five year sentence on the gun charge, New York wanted Sampson transported back. After much discussion between authorities in both states, New York dropped their request and the defendant remained in the South Carolina Department of Corrections. I was the lead prosecutor.
- (c) *State v. Ricky Deel*. This was a Felony Driving Under the Influence case involving the death of one teenager and the paralysis of another on I-77. Others involved were also severely injured in the wreck. The victims were traveling with other family members from Michigan heading to Florida when the defendant lost control of his vehicle and struck the victims' vehicle. A blood draw collected from the defendant indicated a blood alcohol level above the legal limit. *Missouri v. McNeely*, 569 U.S. 141 (2013), a U.S. Supreme Court opinion decided after the incident, ruled that law enforcement generally must acquire a search warrant to collect a suspect's blood. During a hearing to suppress the blood draw evidence, the State argued exigent circumstances existed creating an exception to the search

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warrant requirement. The Circuit Court denied the suppression motion and the defendant subsequently entered a guilty plea and received a twenty year sentence. I served as sole counsel throughout the case.

- (d) *State v. Christopher Williams, et al.* This was a murder case where the victim was shot during a home invasion. Eight defendants were initially charged with murder under the theory of accomplice liability. Through the investigation, we were able to clarify the roles each defendant played in the incident. The defendant who fired the fatal shot pleaded guilty to murder, attempted armed robbery, and burglary and was sentenced to 30 years. Another armed defendant received a 30 year sentence for voluntary manslaughter. Another four of the defendants entered guilty pleas to various reduced charges and received sentences ranging from probation to 11 years. I made the decision to dismiss the charges against the remaining two defendants. I initially assisted the Circuit Solicitor before his retirement and handled the majority of the case thereafter.
- (e) *State v. Timothy Thompson.* This case initially began as an investigation into a hit and run of a pedestrian before further investigation showed it to be an intentional act. The South Carolina Highway Patrol began the investigation and uncovered evidence of an earlier altercation between the defendant and victim and witnesses provided statements detailing the defendant's intent to harm the victim. I was advising law enforcement early on in the investigation. The Highway Patrol wanted to turn the case over to the Fairfield County Sheriff's Office because they did not handle murder cases. I determined, as the lead prosecutor, there was enough evidence to proceed with the prosecution without the need to involve another agency. The defendant was found guilty of murder following a four day trial and was sentenced to life.

Mr. Maxwell reported that he has not handled any civil or criminal appeals.

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(9) Judicial Temperament:

The Commission believes that Mr. Maxwell's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualifications found Mr. Maxwell to be "Qualified" as to the evaluative criteria of constitutional qualifications, professional and academic ability, physical health, mental stability, and experience; and "Well-Qualified" as to the evaluative criteria of ethical fitness, character, reputation, and judicial temperament. The Committee noted: "Lack of experience on civil but otherwise qualified."

Mr. Maxwell is not married and has no children.

Mr. Maxwell reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar, 2006
- (b) Fairfield County Bar, 2007

Mr. Maxwell provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) F3 Columbia-F3 is an organization designed to plant, grow and serve small workout groups for men for the invigoration of community leadership. I have been involved for nearly 10 years and served in a leadership role. F3 regularly helps local charities with donations and volunteering.
- (b) South Carolina Bar House of Delegates-I served as representative for the Sixth Circuit beginning in 2015 and ending in 2017/2018.

Mr. Maxwell further reported:

Over my almost 16 year career as a prosecutor, I have always viewed part of my role as to act as a gatekeeper for the criminal justice system. I always strive to ensure that defendants are treated fairly and that their constitutional rights are protected. I speak with law enforcement officers on a daily basis to advise and make determinations of whether probable cause exists to make an arrest or get a search warrant. I assess cases on their

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merits to determine proper charges, whether a case should be dismissed, whether to divert the case to a diversion program, whether to reduce charges for plea purposes, and to devise a trial strategy.

I work to maintain a good working relationship with opposing attorneys. I try to respect their opinions and viewpoints and the role they play in defending their clients. I feel most defense attorneys respect the way I handle my role in return. I try to be helpful when the situation allows and find common ground in resolving cases.

Since I began as a solicitor, it has been my job to plan and organize court for nearly every General Sessions term in Fairfield County. This includes communicating with the presiding judge, the clerk of court, and court staff regarding logistical matters. I have always been open to new ideas and feedback on the operations of court from my staff, court personnel, and opposing counsel.

I have enjoyed and take pride in acting as a public servant, and would be honored to continue to do so as a circuit judge. I believe I possess the good temperament that is required from the bench. I believe it is important to treat all parties fairly no matter the situation.

(11) Commission Members' Comments:

The Commission noted that Mr. Maxwell's recommendations, coming from both sides of the criminal bar, spoke highly of him and his impartiality. In addition, his BallotBox surveys emphasized his fair dealing and efforts to respect attorneys' work schedules.

(12) Conclusion:

The Commission found Mr. Maxwell qualified, and nominated him for election to Circuit Court, At-Large, Seat 16.

Charles J. McCutchen
Circuit Court, At-Large, Seat 16

Commission's Findings: QUALIFIED AND NOMINATED

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(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. McCutchen meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. McCutchen was born in 1977. He is 46 years old and a resident of Orangeburg, South Carolina. Mr. McCutchen provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2002.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. McCutchen.

Mr. McCutchen demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. McCutchen reported that he has made \$480.87 in campaign expenditures for postage, printing, and parking.

Mr. McCutchen testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. McCutchen testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. McCutchen to be intelligent and knowledgeable.

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Mr. McCutchen reported that he has not taught or lectured at any Bar association conferences, educational institutions, or continuing legal or judicial education programs.

Mr. McCutchen reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. McCutchen did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. McCutchen did not indicate any evidence of a troubled financial status. Mr. McCutchen has handled his financial affairs responsibly.

The Commission also noted that Mr. McCutchen was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. McCutchen reported that he is not rated by any legal rating organization.

Mr. McCutchen reported that he has not served in the military.

Mr. McCutchen reported that he has never held public office.

(6) Physical Health:

Mr. McCutchen appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. McCutchen appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. McCutchen was admitted to the South Carolina Bar in 2002.

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He gave the following account of his legal experience since graduation from law school:

- (a) Hood Law Firm, LLC, Charleston, SC. Associate.
September 2002 – January 2004. My primary area of practice was general civil litigation defense, beginning with initial pleadings and conducting discovery, all the way through mediation, as well as trial preparation/trial. I was not involved in any management position in this role, including management of trust accounts.
- (b) Lanier & Burroughs, LLC, Orangeburg, SC. Non-equity member. February 2004 – Present. My areas of practice have always included personal injury litigation practice, including pretrial, trial preparation and trial, domestic litigation, criminal defense, workers compensation, as well as Social Security disability appeals and magistrate's Court civil and criminal litigation practice. Although I never managed the firm nor the trust accounts, I do oversee the trust account disbursements in cases that I personally handle.

Mr. McCutchen further reported regarding his experience with the Circuit Court practice area:

Over the past 5 years, and even prior, I have handled DUI/DUS cases, cases involving burglary and stolen goods, assault and battery, criminal domestic violence, various drug and firearm related charges, and also numerous traffic offenses. The usual issues presented in these cases pertained to probable cause or lack thereof, Miranda violations, failure of law enforcement to comply with South Carolina law, as well as mitigating facts and circumstances to be considered beyond just the charge(s) alone. The vast majority of my criminal cases concluded in negotiated plea agreements after completing the rule 5 discovery process.

As far as civil matters, I frequently and routinely handle an array of cases including automobile accidents and premises liability cases, primarily. These typically involve issues of proximate causation, damages and especially on the premises liability side, foreseeability issues and issues of actual and constructive notice, in addition to the proximate cause and damages issues. Again, the vast majority of my civil cases ended in an agreed upon

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settlement, whether it be at mediation or before; however, a few cases that included issues of causation/liability coupled with issues of causally connected damages, ended up proceeding to trial. Most of my practice is spent representing Plaintiffs, but from time to time I do represent individual defendants who have been sued.

I certainly am aware that my practice has been primarily on the civil side; however, I believe that the Rules of Evidence apply across the board, in any type of case, and the practice of one type of law familiarizes you with those same rules to be applied in other areas. I believe there would be a swift learning curve on the criminal side if I were elected, as there are usually more General Sessions terms of court compared to Common Pleas terms. As criminal matters involve the potential loss of rights most sacred to our State and U.S. Constitutions, I would most certainly ensure that I was well versed, by preliminary research, on any unfamiliar issue that may arise in a case before me. That would also hold true with civil matters, as I am a firm believer in proper preparation in both my professional life, as well as my personal life.

Mr. McCutchen reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: 5, or on average about 1 per year.;
- (b) State: 142 total, or on average about 28 times per year.

Mr. McCutchen reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 59%;
- (b) Criminal: 4%;
- (c) Domestic: 24%;
- (d) Other: 13%.

Mr. McCutchen reported his practice in trial court during the past five years as follows:

- (a) 87% of his practice was in trial court, including cases that settled prior to trial;
- (b) 4 cases went to trial and resulted in a verdict;

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- (c) 0 cases went to trial and resolved after the plaintiff's or State's case;
- (d) 2 cases settled after a jury was selected but prior to opening statements.

Mr. McCutchen provided that during the past five years he most often served as sole counsel.

The following is Mr. McCutchen's account of his five most significant litigated matters:

- (a) Sandra Canty, indiv. and as guardian of Andrea Gulley, an Incapacitated Adult v. Orangeburg County EMS, Case # 2018-CP-38-01354

This matter involved alleged breaches of the standard of care by EMS personnel in responding to a 911 call from the Plaintiff's daughter, which resulted in an anoxic brain injury. The case involved multiple experts in the areas of causation and damages, as well as issues surrounding protections under the SC Tort Claims Act. After discovery and expert preparation, the case was successfully mediated, wherein a substantial, yet limited recovery was obtained to assist in Ms. Gulley's lifelong care.

- (b) Shawn Hale v. Locals Pub of Orangeburg, SC, etal., Case # 2017-CP-38-00005

This premises liability case involved injuries sustained by the owner of a security company who was shot while checking on staff at a night club providing security services. The Plaintiff had extensive medical treatment requiring a month long hospitalization, multiple skin grafts and was permanently limited in function as a result of his injuries. The issues litigated were the duties owed by the landowner, and imputed notice from tenant to the landlord, assumption of the risk doctrines, and criminal acts of third parties. After extensive investigation, numerous depositions and surviving a defense motion for summary judgment, the case was successfully mediated.

- (c) William Rutland v. Hazel H. Fogle, Case # 2016-CP-38-01449

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This automobile accident case was one where liability was admitted, partly because the Defendant later became incapacitated due to age. Also, the case contained issues of pre-existing medical problems, exacerbation of a prior condition, causally connected medical expenses, and UIM offset due to failure to exhaust liability limits. After lengthy discovery, treating physician deposition(s), and subsequent consulting independent medical examiner testimony, the case was mediated twice (liability and UIM) and ultimately resolved prior to trial.

- (d) *Shayeata Taylor v. Wal-Mart Stores East, LP, et al.*, Case # 2013-CP-38-0650

Suit was commenced in this matter due to the wrongful arrest and subsequent prosecution of the Plaintiff for shoplifting. Plaintiff was a single mother who lost her job because of her detention and arrest. Significantly, the case involved issues of computer forensics and data stored on a gaming console which assisted in proving the allegations of wrongful arrest and malicious prosecution. Further, past economic loss was a substantial portion of the damages in the case. After multiple pretrial motions hearings, requiring amendment of the complaint itself, the matter settled prior to trial, after it was previously mediated unsuccessfully.

- (e) *Walter Proctor v. Admon Louis Moran d/b/a Moran Stumping Company, et al.*, Case # 2010-CP-14-124

This case, along with the companion loss of consortium case, arose out of an accident between a private vehicle and a tractor trailer hauling pine tree stumps. From the beginning, this matter contained issues and violations of the Federal Motor Carrier Safety Administration regulations, conspicuity analysis, accident reconstruction, comparative negligence, as well as substantial physical injuries sustained by the Plaintiff and his wife. The case was unsuccessfully mediated, yet settled prior to trial.

Mr. McCutchen reported he has not personally handled any civil or criminal appeals.

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Mr. McCutchen further reported the following regarding unsuccessful candidacies:

In 2021, I was a candidate for the Circuit Court, First Judicial Circuit, Seat One position. I was found Qualified and Nominated by the Judicial Merit Selection Commission in the Media Release dated November 23, 2021. I ultimately withdrew my candidacy on January 20, 2022.

In 2022, I was a candidate for the Circuit Court, At-Large, Seat Three position. I was found Qualified but Not Nominated by the Judicial Merit Selection Commission in the Media Release dated November 22, 2022 and the Final Report of Candidate Qualifications 2022, dated January 17, 2023.

(9) Judicial Temperament:

The Commission believes that Mr. McCutchen's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee on Judicial Qualifications found Mr. McCutchen to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability; and "Well-Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. Additionally, the Committee noted: "Good experience (not as much on criminal side), highly relational and likeable, compassionate, great disposition — would make a great circuit judge."

Mr. McCutchen is married to Tara Lovelace McCutchen. He has two children.

Mr. McCutchen reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar Association
- (b) Orangeburg County Bar Association, Treasurer 2008-Present.
- (c) First Judicial Circuit Fee Dispute Resolutions Board
- (d) South Carolina Association of Justice, member.

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Mr. McCutchen provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Orangeburg County Community of Character, Board of Directors, 2014 - Present.
- (b) 2018 Lawyer of the Year, as voted on by readers of the Times & Democrat Newspaper.
- (c) City of Orangeburg Dixie Youth Baseball Coach, 2012-2020

Mr. McCutchen further reported:

I was born and raised in a small community a few miles north of Kingstree, South Carolina. Growing up, my parents and grandparents taught me the importance of diligence and hard work. More importantly, they taught me how to be a person of good character, which includes how to treat people. I never once witnessed my parents mistreat another human being, not so much as to raise their voice at them. The opposite was more true: my parents would inconvenience themselves and go out of their way to help their peers and their community, indiscriminately. At age twelve, my father passed away, and I watched my mother work tirelessly to ensure our needs were met. Growing up, I held every job a teenager in rural Williamsburg County could possibly have: from country store clerk to farming or working the tobacco and gladiola fields, I did it all. I consider myself fortunate to have met so many people from various walks of life at such a young age. It keeps me grounded to this day. I have walked many miles in many different persons' shoes, and I believe this is extremely important when one day I may be asked to adjudicate matters involving those same people.

My humble beginnings in life have stayed with me throughout my career, and I believe that is partially what has prepared me to be a Judge. I pray that if I am ever fortunate enough to wear a black robe, I will be no different of a man than as I am today. No person is bigger than the system in which they operate, including the law. I have realized over my twenty years of practice that any case I have handled, although all important regardless of size and type, is the most important case to 1 person: the client that hired you. When an individual places that much trust in another individual, it is a very humbling experience. It is even more

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humbling to fathom that one day I may have to preside over matters where there are two sides having their most important, and sometimes only experience, within the judicial system. That is a responsibility that I do not, and will not take lightly. Having to preside and render judgment over an individual's life or livelihood is a sobering, serious responsibility, and that is a responsibility that I will gladly and humbly assume.

(11) Commission Members' Comments:

The Commission was impressed with Mr. McCutchen's reputation for professionalism and fairness. In addition, the Commission commented on Mr. McCutchen's excellent demeanor that would serve him well should he ascend to the Circuit Court bench.

(12) Conclusion:

The Commission found Mr. McCutchen qualified and nominated him for election to Circuit Court, At-Large, Seat 16.

**Jane H. Merrill
Circuit Court, At-Large, Seat 16**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Merrill meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Ms. Merrill was born in 1980. She is 43 years old and a resident of Greenwood, South Carolina. Ms. Merrill provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2007.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Merrill.

Ms. Merrill demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to

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judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. Merrill reported that she has made \$36.20 in campaign expenditures for name badges.

Ms. Merrill testified she has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Ms. Merrill testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. Merrill to be intelligent and knowledgeable.

Ms. Merrill reported that she has taught the following law-related courses:

- (a) On March 3, 2011, the Anderson County Sheriff's Department offered a training class for law enforcement officers about Large Animal Cruelty Investigations. I taught the section about criminal investigations and statutes.
- (b) On January 10, 2014, I taught a section of a probate CLE presented by the Greenwood County Bar.
- (c) On November 10, 2014, I taught the Criminal Law and Torts section for the South Carolina Bar's program, Legal Lessons: A Series for the Public.
- (d) On March 10, 2020, I spoke to the Clemson University Prelaw Society about balancing life, work, and other obligations.
- (e) On February 10, 2023, D. Nichole Davis and I presented "An Ounce of Prevention is Worth a Pound of Cure: Utilizing Mentoring to Elevate Professionalism" for the ethics hour of the Greenville County End of Year CLE.

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I taught the following 300-level courses at Lander University.

- (f) From August to December 2018, I taught Judicial Process at Lander University. The class met for one hour and fifteen minutes two times per week. During this course, three different judges served as guest lecturers for the class. The students enjoyed learning about the South Carolina courts from current jurists.
- (g) From January to May 2019, I taught Civil Rights and Civil Liberties at Lander University. The class met for one hour and fifteen minutes two times per week. During this course, students present oral arguments of pending US Supreme Court cases.
- (h) From August to December 2019, I taught Judicial Process at Lander University. The class met for one hour and fifteen minutes two times per week. During this course, three different judges served as guest lecturers for the class. The students enjoyed learning about the South Carolina courts from current jurists.
- (i) From January to May 2020, I taught Civil Rights and Civil Liberties at Lander University. The class met for one hour and fifteen minutes two times per week. During this course, the students present oral arguments of pending US Supreme Court cases.
- (j) From August to December 2020, I taught Constitutional Law at Lander University. The class met for one hour and fifteen minutes two times per week. The students wrote opinion essays and made presentations about recent legal events, including recent US Supreme Court opinions.
- (k) From January to May 2021, I taught Judicial Process at Lander University. The class met for one hour and fifteen minutes two times per week. During this course, three different judges served as guest lecturers for the class. The students enjoyed learning about the South Carolina courts from current jurists, including a South Carolina Court of Appeals Judge.
- (l) From August to December 2021, I taught Constitutional Law at Lander University. The class met for one hour and fifteen minutes two times per week. The students wrote opinion essays and made presentations about recent legal events, including recent US Supreme Court opinions.

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Ms. Merrill reported that she has published the following:

- (a) Jane Hawthorne Merrill, Comment, Multijurisdictional Practice of Law Under the Revised South Carolina Rules of Professional Conduct, 57 S.C. L. REV. 549 (2006).

(4) Character:

The Commission's investigation of Ms. Merrill did not reveal evidence of any founded grievances or criminal allegations made against her.

The Commission's investigation of Ms. Merrill did not indicate any evidence of a troubled financial status. Ms. Merrill has handled her financial affairs responsibly.

The Commission also noted that Ms. Merrill was punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. Merrill reported that her rating by a legal rating organization, Avvo, is 7.8.

Ms. Merrill reported that she has not served in the military.

Ms. Merrill reported that she has never held public office.

(6) Physical Health:

Ms. Merrill appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Merrill appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Merrill was admitted to the South Carolina Bar in 2007.

She gave the following account of her legal experience since graduation from law school:

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- (a) From November 2007 until December 2007, I served as an Assistant Solicitor in the Eighth Judicial Circuit in the Greenwood office. I managed all aspects of cases, including case and discovery review, theory development, case strategy, plea negotiations, guilty pleas, motion hearings, and jury trials.
- (b) From January 2008 to August 2008, I served as a Judicial Law Clerk for The (Late) Honorable Wyatt T. Saunders, Jr., a Circuit Court Judge for the Eighth Judicial Circuit. Being a judicial law clerk provided invaluable experience in developing and honing my legal skills.
- (c) From August 2008 until June 2010, I served as an Assistant Solicitor in the Eighth Judicial Circuit in the Greenwood office. I managed all aspects of cases, including case and discovery review, theory development, case strategy, plea negotiations, guilty pleas, motion hearings, and jury trials.
- (d) From July 2010 until February 2013, I worked as an associate attorney on the litigation team at McDonald Patrick Poston Hemphill & Roper, LLC. Most of my practice involved civil litigation matters, including drafting pleadings, engaging in discovery, preparing motions and memoranda, arguing motions, and trying cases to juries. A small portion of my practice involved domestic and criminal matters. I was not involved in the administrative and financial management at this firm.
- (e) From March 2013 to the present, I have practiced law in my own firm, Hawthorne Merrill Law, LLC. As a solo practitioner, I manage all aspects of civil, criminal, and domestic cases and claims, from intake and case evaluation to resolution. I draft pleadings, motions, memoranda and orders, engage in discovery, argue motions, reach settlements through negotiation and mediation, and try cases before juries and judges. In addition to representing clients through my private practice, I represent indigent clients in Greenwood County through a contract with the South Carolina Commission on Indigent Defense and in Abbeville County through a contract with the Eighth Circuit

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Public Defender's office. I occasionally represent clients for South Carolina Legal Services. I have represented veterans before the Court of Appeals for Veterans Claims. I am a certified Circuit Court Mediator, and mediate cases pending in circuit and family courts. I am solely responsible for the administrative and financial management of the firm, including compliance with the rule requiring attorneys to maintain monthly trial balances and reconciliations of client trust accounts.

Ms. Merrill further reported regarding her experience with the Circuit Court practice area:

I am uniquely qualified to be a Circuit Court judge. I have tried cases to juries as a criminal prosecutor, a criminal defense attorney, and a civil litigator representing both plaintiffs and defendants. The depth, breadth, and variety of my experience in the courtroom provides a strong foundation for the role of Circuit Court Judge. I regularly appear before Circuit Court Judges, including every day on numerous matters during Abbeville County general sessions terms.

In addition to my litigation experience, I was honored to serve as a judicial law clerk for The (Late) Honorable Wyatt T. Saunders from January 2008 to August 2008. My clerkship with Circuit Court Judge Saunders offered yet another perspective from which to learn and gain experience. While my primary responsibilities included researching and writing, I also observed numerous criminal and civil court proceedings. A summary of my experience in criminal and civil matters follows.

Criminal Experience:

I had the good fortune to begin my legal career as an Assistant Solicitor in the Eighth Judicial Circuit. Being a prosecutor provided significant and meaningful opportunities to gain courtroom experience. In that position, I was involved in all aspects of managing my significantly large caseload, including case and discovery review, theory development, case strategy, plea negotiations, presenting guilty pleas in court, motions hearings, jury selections, and trials as lead counsel and second chair. I worked on a variety of misdemeanor and felony charges, including armed robberies, kidnappings, burglaries, drug

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trafficking, child abuse, and animal abuse. Additionally, I communicated with victims, law enforcement officers, and witnesses. I found working with victims particularly meaningful. Even though each victim of a crime reacts and responds differently to their own experience, every victim needs the chance to be heard. Listening is an important part of being an effective attorney. Being a prosecutor provided significant and meaningful opportunities to gain courtroom experience.

Although I found it rewarding to serve as an assistant solicitor, I was interested in learning about other types of law. In July 2010, I began working for a law firm as an associate attorney on the litigation team which primarily focused on civil litigation which will be described in the Civil Experience section below.

In March 2013, I opened Hawthorne Merrill Law, LLC. At various times since opening my firm, I have participated in the Rule 608 Contract program, and represented defendants on both appointed and retained cases. Defending a criminal case presents different challenges than prosecuting one. It is imperative to communicate effectively with your client and earn your client's trust. Discovery is also reviewed from a different perspective as a defense attorney. For example, I analyze reports, warrants, indictments, statements, and evidence to develop issues affecting my client's constitutional rights, such as search and seizure, exigent circumstances, voluntariness of client's statement, Miranda protocol, immunity and privilege, and hearsay.

I have tried several serious criminal cases to juries, including murder, armed robbery, kidnapping, drug trafficking, and burglary. I tried a murder case as lead counsel in 2015 when the jury acquitted my client and tried another murder case as sole counsel in 2016 when the jury convicted my client of the lesser included offense of involuntary manslaughter. In August 2021, a jury found my client guilty of domestic violence, third degree after acquitting her of domestic violence, high and aggravated.

Knowing, understanding, and applying procedural and substantive criminal law is essential to effectively trying criminal cases. Being on both sides of the courtroom provides a unique perspective that would be helpful and informative as a Circuit Court Judge.

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Civil Experience:

In July 2010, I began working for McDonald Patrick Poston Hemphill & Roper, LLC, as an associate attorney on the litigation team. I litigated civil matters in both state and federal courts, primarily representing defendants. After opening Hawthorne Merrill Law, LLC in March 2013, I've represented plaintiffs more often than defendants, and most of my caseload is in state court, though I do some work in federal courts.

As part of my civil litigation duties, I manage complex civil cases from intake and case evaluation to resolution. I draft and answer complaints, engage in discovery, depose parties and witnesses, prepare, and argue motions, settle suits through mediation, and try cases to juries. I collaborate effectively with expert witnesses, and assist with the preparation of expert affidavits, reports, and testimony contesting causation. I have tried several civil cases to juries. I also represent veterans and appear by filings before the United States Court of Appeals for Veterans Claims.

Since 2016, I have been certified as a Circuit Court Mediator by The South Carolina Board of Arbitrator and Mediator Certification. I mediate cases pursuant to court appointments and parties' selection. During mediation, I analyze the facts and law, apply knowledge of wide range of substantive and procedural law, and assist litigating parties during settlement negotiations through the mediation process.

Ms. Merrill reported the frequency of her court appearances during the past five years as follows:

- (a) Federal: I am admitted to the federal bar and appear by way of motions and filings in the District of South Carolina, and in the Court of Appeals for Veterans Claims.
- (b) State: I appear in state court at least four times per week. Because the counties in the Eighth Judicial Circuit where I primarily practice do not have court every week of the year, this number is an average. Additionally, I appear before Circuit Court Judges every day on numerous matters during Abbeville County general sessions terms. This is an

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average for motion hearings and guilty pleas. Trials are detailed below.

Ms. Merrill reported the percentage of her practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 10%;
- (b) Criminal: 55%;
- (c) Domestic: 25%;
- (d) Other: 10%.

Ms. Merrill reported her practice in trial court as follows:

(a) Approximately 90% of my work is litigation in trial courts. This includes criminal cases in General Sessions and Family Court and civil cases in Common Pleas and Family Court.

(b) Twenty-nine cases went to trial and resulted in a verdict. This includes criminal jury trials in General Sessions and civil jury and bench trials in Common Pleas and Family Court.

(c) Approximately three cases resolved after (or during) the Plaintiff's or state's case. Specifically, there was a criminal case in General Sessions in Abbeville County in which the court declared a mistrial during the State's case when several jurors recognized the crime scene and/or a testifying witness. In another matter, the parties settled a family court case on the third day of trial after the Plaintiff rested. In the third matter, the court dismissed the case upon a defense motion after the State called its first witness.

(d) I recall one case which settled after the jury was selected before opening statements in a Greenwood County case in General Sessions. The Defendant pleaded guilty after jury selection and a full day of pretrial motions, outside the jury's presence, in which the court ruled the evidence admissible.

Ms. Merrill provided the following about her role as counsel during the past five years:

I most often served as sole counsel in the last five years. There were several trials in which I served as chief counsel with another attorney who served as second chair.

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The above questions are answered in good faith based on my recollection and after reviewing closed files for the last five years.

The following is Ms. Merrill's account of her five most significant litigated matters:

- (a) *State v. John Gregory Barnes*, 2006-GS-24-00153, 2006-GS-24-00154, 2007-GS-24-02020; Circuit Court, General Sessions, Greenwood County (Trial December 2007); I was sworn into the South Carolina Bar on November 13, 2007, and less than a month later I tried this case before the Honorable D. Garrison Hill. I was lead counsel with another attorney as second chair. I presented the opening statement, direct examined all witnesses, and argued the closing. The jury returned a guilty verdict for Unlawful Neglect of a Child and Possession of Methamphetamine. This case was significant because it was the first case I tried, and the defendant's attorney was, and still is, a seasoned and well-respected criminal defense attorney.
- (b) *State v. Jerome Chisholm*, 395 S.C. 259, 717 S.E.2d 614 (Ct. App. 2011); 2005-GS-24-01386; Circuit Court, General Sessions, Greenwood County (Trial June 2009); I tried this case as an Assistant Solicitor. The state indicted the defendant for criminal sexual conduct with a minor. The defendant sexually abused the minor child and infected the minor child with the HIV virus. I assisted in preparing the entire case for trial. I served as second chair for trial and had the delicate and challenging task of direct examining the minor child victim. I also direct examined the physician who served as the state's expert witness. The jury found the defendant guilty, and the court imposed the maximum sentence. I handled the case only at the trial level, and on appeal, it was affirmed. This case is significant because it was humbling to meet, interact with, and prepare the minor child for trial. Working with this child and trying this case significantly impacted and guided how I work on cases with children.
- (c) *State v. Zانquirious Hurley*, Indictment Nos. 2014-GS-24-0972, 2014-GS-24-0973; Circuit Court, General Sessions, Greenwood County (Trial September 2015); Mr. Hurley, at age 17, was accused of robbing and murdering his

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father. I represented Mr. Hurley and served as sole counsel throughout the process except trial. For the trial, I hired another attorney to sit second chair because this was the first murder case I tried as defense counsel. I conducted the opening statement, cross examined all witnesses except one, direct examined all defense witnesses, and presented the closing argument. The jury acquitted Mr. Hurley on all charges. This case was significant because after conducting an extensive investigation, including interviewing numerous witnesses no one else interviewed, I was firmly convinced of my client's innocence. As such, the jury's verdict was the proper result. Mr. Hurley and his family appreciated my dedication and diligence in representing him.

- (d) *State v. Marcus Manick*, 2014-GS-24-0746, 2014-GS-24-0747; Circuit Court, General Sessions, Greenwood County (Trial October 2016); Mr. Manick was charged with murder. The state alleged Mr. Manick murdered a man who was physically attacking Mr. Manick's "sister." Mr. Manick considered this woman like a sister because they grew up in the same household together, although they were not blood related. I represented Mr. Manick after his public defender discovered a conflict of interest. I was Mr. Manick's sole attorney and tried the case alone. Throughout the process and during the trial, Mr. Manick did not deny firing the weapon, but I believed and successfully argued there was no malice to support a murder conviction. The jury acquitted Mr. Manick of murder and found him guilty of the lesser included offense of involuntary manslaughter. The Court dismissed the remaining indictment for Possession of a Weapon During the Commission of a Violent Crime. This case was significant because it was a serious case that I tried alone, the jury returned a correct verdict, and my client was grateful for the effort and time I invested in his case.
- (e) *Richard Wilson, et al. v. Laura B. Willis et al.*, 426 S.C. 326, 827 S.E.2d 167 (2019); I represented Laurie Williams in Circuit Court (Common Pleas), the Court of Appeals, and the Supreme Court. Ms. Williams was seriously injured in 2012 when a driver operating an SUV struck my client who was walking for exercise. The case

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has numerous parties and a complicated procedural history, and Ms. Williams became involved in the larger case when the SUV's driver's insurance company sued Ms. Williams in federal court. The federal case was dismissed, and the insurance company then sued her in state court. Months after filing suit against Ms. Williams in state court, the insurance company moved to compel arbitration based on an arbitration clause in a contract between the insurance company and an insurance agency. The trial court denied the motion to compel, and the insurance company appealed. The Court of Appeals reversed. *Wilson v. Willis*, 416 S.C. 395, 786 S.E.2d 571 (Ct. App. 2016). The Supreme Court granted certiorari, heard oral arguments (my co-counsel and I argued separately) on December 13, 2018, and reversed the Court of Appeals in its decision issued April 10, 2019. This case is significant personally because it is the first case I argued before the Supreme Court and because it addressed a unique issue related to arbitration and insurance policies that provides guidance for the wider legal community.

The following is Ms. Merrill's account of five civil appeals she has personally handled:

- (a) *Singleton v. Shinseki*, Vet. App. No. 12-1084, U.S. Court of Appeals for Veterans Claims (2013). After the prebriefing conference, the VA Secretary conceded the Board of Veterans' Appeals erred because it did not provide an adequate statement of reasons or bases to support its finding that the Veteran "has not been shown to have a prostate disorder that is related to his military service." A joint motion for remand was filed, and the Court issued an Order remanding the case to the Board of Veterans' Appeals.
- (b) *Carroll v. Shinseki*, Vet. App. No. 12-2696, U.S. Court of Appeals for Veterans Claims (2014). Mr. Carroll was a Vietnam era Veteran who sought service connection for Hepatitis C. By the time I began representing him before the Court, his claim had been pending for twelve years. I represented Mr. Carroll for his entire case before the Court of Appeals for Veterans Claims. The Secretary would not

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agree to a consent joint remand, so I argued his position in a brief and reply brief. In an unpublished memorandum decision, the Court ruled favorably for Mr. Carroll, and vacated the Board of Veterans' Appeals decision and remanded the matter for further proceedings consistent with its opinion. About a year later, the Department of Veterans Affairs granted service connection to Mr. Carroll for his Hepatitis C.

- (c) *King v. McDonald*, Vet. App. No. 15-1983, U.S. Court of Appeals for Veterans Claims (2016). The Court affirmed the decision of the Board of Veterans' Appeals denying Mr. King's initial evaluation in excess of 10% for service-connected mechanical low back pain, and for a total disability evaluation based on individual unemployability (TDIU).
- (d) *Thompson v. Shulkin*, Vet. App. No. 16-3503, U.S. Court of Appeals for Veterans Claims (2018). After the prebriefing conference, the VA Secretary agreed to vacate and remand Mr. Thompson's case because the VA failed to provide adequate examinations in April 2008, August 2009, December 2010, and January 2015, and the Board of Veterans' Appeals relied upon the inadequate examinations in its decision. A consent joint motion for remand was filed, and the Court issued its order remanding the matter to the Board of Veterans' Appeals.
- (e) *Wilson v. Willis*, 426 S.C. 326, 827 S.E.2d 167 (2019). The Supreme Court decided that insureds were not required to arbitrate their claims, which was favorable to my client. More details about this case are included in the response to Question 15 (e) above.

The following is Ms. Merrill's account of the criminal appeal she has personally handled:

State v. Green, Court of Appeals, May 11, 2016; I represented Mr. Green in this appeal pursuant to an appointment through the Appellate Practice Project. The Court of Appeals affirmed in an unpublished decision filed May 11, 2016.

Ms. Merrill further reported the following regarding unsuccessful candidacies:

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I ran for Circuit Court Judge, At-Large, Seat 13, in the Fall of 2019. I ran for Circuit Court Judge, At-Large, Seat 3, in the Fall of 2022. Both times, I was found qualified though not nominated.

(9) Judicial Temperament:

The Commission believes that Ms. Merrill's temperament would be excellent.

(10) Miscellaneous:

The Piedmont Citizens Committee found Ms. Merrill "Well-Qualified" as to the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament; and "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee noted: "Ms. Merrill has appeared before this Committee before. Then and now, she has made a forceful impression on us as a skilled and talented lawyer, a dedicated community servant, and a person of great character and integrity. We believe that she would make a fine Circuit Court judge."

Ms. Merrill is married to Albert L. Merrill. She has two children.

Ms. Merrill reported that she was a member of the following Bar and professional associations:

- (a) South Carolina Bar, since 2007
- (b) Greenwood County Bar Association, since 2007
- (c) South Carolina Association of Criminal Defense Lawyers, since 2013
- (d) National Organization of Veterans' Advocates, former member

Ms. Merrill provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) South Carolina Bar Leadership Academy Graduate (2022)
- (b) G. Dewey Oxner, Jr. Mentor of the Year Award, South Carolina Bar (2019)
- (c) Greenwood Leadership Graduate (2018)
- (d) Star Under 40 Award, Greenwood Chamber of Commerce (2015)

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- (e) Phi Beta Kappa (inducted 2001)
- (f) Legislative Appointee, Board of Directors, Greenwood County First Steps (since March 2022)
- (g) Confirmed Communicant, Church of the Resurrection (Episcopal); Lay Reader (since 2005); Choir Member (since 2007); Delegate to Diocesan Convention (2021 to 2023 and 2013 to 2015); past Member of Rector Search Committee (2018 to 2019); past Senior Warden (2012); past Vestry Member (2010 to 2012)
- (h) Immediate Past Chair, Board of Directors, Greenwood Community Theatre (Chair, 2020 to 2022; Vice Chair, 2019; Member since 2015)
- (i) Board of Directors, Greenwood County Community Foundation (2015 to 2021)
- (j) Founding Member, Greenwood Women Care (2018 to 2022)
- (k) Volunteer Attorney Coach, High School Mock Trial Team (since 2013)
- (l) Member, Kiwanis International (2010 - 2022)

Ms. Merrill further reported:

As the daughter of a social worker and truck driver, I had little exposure to the legal world growing up. Nevertheless, my life experiences have prepared me in immeasurable ways to be a conscientious, courteous, compassionate, and committed judge.

“Hard work never killed anyone.” “If it’s worth doing, it’s worth doing right.” “Can’t never could.” These are some of my mother’s favorite phrases. My brother and I heard them all the time. Fortunately for us, my mother embodied these words in her own life, and we learned by her example.

My brother, older than me by only six months thanks to the gift of adoption, and I started kindergarten and graduated high school together. Our single mother working for DSS and our father, who was totally disabled by the time of our high school graduation, simply did not have the means to fund our college educations. So, I earned my college education through hard work and determination.

In high school I worked as a clerk at the local library and saved my minimum wage earnings. The summer before starting college, I kept my library job and added another waiting tables. Throughout college, I always worked at least one job, and most

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summers, I worked three. My jobs ran the gamut. I waited tables at three different restaurants, ran errands for two law firms, babysat, tutored student athletes, interned at an advertising agency, completed administrative tasks for a professor, and worked third shift at a radio station. When I walked across the stage at graduation, I had no student loan debt and a 3.95 GPA.

My mother learned the value of hard work from her parents. My grandfather worked multiple jobs to provide for his wife and five children. He started his own business, and steadily built a successful trucking company. My grandmother took care of their home and children and worked in her husband's business as it grew. Neither of my grandparents had a college degree, but I am grateful that at least my grandmother lived long enough to be there when I earned mine.

My parents divorced when I was twelve, but even before they separated, my father worked late hours and my mother was the primary parent. I am blessed to have an extended family that love and care about me. A few of my fond memories include winning "best presentation board" in fifth grade because my uncle cut an interesting shape from wood onto which I glued facts and figures; learning from another uncle how to drive a manual transmission car on back country roads; and, moving in and out of every college apartment with help from yet another uncle. Two of my aunts worked as school librarians, and they introduced me to new worlds, adventures, and ideas through books. Another aunt embraced technology and taught me to use a computer. Another aunt and uncle beautifully play the piano and organ and inspired my love of music. And yet another aunt and uncle who met at a Mensa convention challenged me to critically analyze important issues. Finally, my aunt and uncle who lost their son in 1984, and my other aunt and uncle who lost their son in 2012 exemplified compassion and strength of character.

Though none of them worked in the legal field, my family supported my dream of becoming a lawyer. They encouraged me, prayed for me, and kept my infant child while I commuted daily between Greenwood and Columbia during my last year of law school. Even though my family did not expose me to the legal field, there were events along the way that sparked my interest in the law.

A junior high school field trip to the Greenwood County Courthouse fascinated me. Writing a paper in high school about

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Sandra Day O'Connor and her ascension to the United States Supreme Court inspired me. Working for lawyers in college opened my eyes to the variety of areas in which a lawyer could practice. Helping my father, who had Multiple Sclerosis and was wheelchair bound the last ten years of his life, navigate legal, long-term care, and medical decisions taught me patience and further ingrained in me that all people, no matter their circumstances, deserve to be treated with respect and dignity.

Though I can never repay my family for all they have given me, I can pay it forward to the next generation. I give back to our community and the legal profession in various ways. For more than ten years, I have served as a volunteer coach for Greenwood High School's mock trial team. I serve on the boards of Greenwood County First Steps and Greenwood Community Theatre. I was honored to serve as a mentor to Daenayia Hudson through the South Carolina Bar's mentoring program, and then humbled to receive a 2019 Mentor of the Year award. There to celebrate the moment with me was my mother, sitting beside the Chief Justice of the South Carolina Supreme Court.

By example, my family taught me to be conscientious, courteous, compassionate, and committed. Just like an excellent judge, they paid attention and listened. They were patient, kept an open mind when I shared ideas and dreams, and encouraged my success. They knew that work worth doing was worth doing right. The life lessons I learned from them guided me through childhood, college, law school, and my career. I am grateful for them. All I learned from them, coupled with my broad, deep, and varied legal experiences, will serve me well as a Circuit Court Judge.

(11) Commission Members' Comments:

The Commission commented on Ms. Merrill's impressive scholarly background and her demonstrated commitment to public service throughout her professional career.

(12) Conclusion:

The Commission found Ms. Merrill qualified, and nominated her for election to Circuit Court, At-Large, Seat 16.

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FAMILY COURT
QUALIFIED AND NOMINATED

Jerrod A. Anderson
Family Court, First Judicial Circuit, Seat 4

Commission's Findings: QUALIFIED AND NOMINATED

Pursuant to § 2-19-80(A), if fewer than three persons apply to fill a vacancy or if the Commission concludes that there are fewer than three candidates qualified for a vacancy, it shall submit only the names and qualifications of those who are considered to be qualified, with a written explanation for submitting fewer than three names.

For the vacancy for Family Court, First Judicial Circuit, Seat 4, three candidates applied for this vacancy, and one candidate withdrew. Accordingly, the names and qualifications of two candidates are hereby submitted in this report.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Anderson meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Anderson was born in 1971. He is 52 years old and a resident of Orangeburg, South Carolina. Mr. Anderson provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1999. He was also admitted to the Georgia Bar in 2000.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Anderson.

Mr. Anderson demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

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Mr. Anderson reported that he has not made any campaign expenditures.

Mr. Anderson testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Anderson testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Anderson to be intelligent and knowledgeable.

Mr. Anderson reported that he has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

Mr. Anderson reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Anderson did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. Anderson did not indicate any evidence of disqualifying financial issues.

The Commission also noted that Mr. Anderson was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

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(5) Reputation:

Mr. Anderson reported that he is not rated by any legal rating organization.

Mr. Anderson reported that he has not served in the military.

Mr. Anderson reported that he has never held public office.

(6) Physical Health:

Mr. Anderson appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Anderson appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Anderson was admitted to the South Carolina Bar in 1999.

He gave the following account of his legal experience since graduation from law school:

(a) Glenn Walter's and Associates June 1998- August 1999, Associate Attorney;

(b) Law Office of Carl B. Grant August 1999- July 2004, Associate Attorney;

(c) South Carolina Department of Social Services Orangeburg and Calhoun County July 2004- September 2006, Attorney III

(d) Reeves Law, PA September 2006- June 2007, Associate Attorney

(e) Anderson Law Office, PA, June 2007-present, Sole Practitioner

Mr. Anderson further reported regarding his experience with the Family Court practice area:

I have had the privilege of representing clients in Family Court for over twenty-three (23) years. As to divorce and equitable division of marital property, I have completed dozens of divorces, and the issue of marital property or alimony is at issue before the Court. Generally, the parties had divided most of the personal property to their liking. The biggest assets were

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generally pension plans and equity in the marital home. I found that if both parties have a pension, we would work to keep each pension intact and make the division work out of the equity in the marital home. Custody of the minor children would be worked out by agreement; child support was paid by the non-custodial parent according to the South Carolina Child Support Guidelines. Alimony was usually waived and attorney fees if any would be the responsibility of the client who hired their attorney. I have established child custody by Court order for single parents who were not listed on the minor's birth certificate, grandparents who obtained physical custody of their grandchildren because the parent or parents, untimely death and aunts or uncles who have physical custody of their niece or nephew because of the parties untimely death. I get a great sense of satisfaction in protecting children and helping a family move towards peace in their time of need. I have handled a handful of adoptions, which have so many positives I recall in one instance my client asked the presiding judge to join in the first picture of family after the completion of the adoption proceedings. The Judge smiled and was so happy to be a part of the special moment. As to neglect and abuse cases, I have participated in dozens if not hundreds of hearings. I began my experience by covering pro bono appointments defending parents in abuse and neglect cases. Then I prosecuted on behalf of Orangeburg County and Calhoun County Department of Social Services (SCDSS) from July 2004 to September 2006. I resumed representing defendant parents from 2006 to 2016. I prosecuted cases again for SCDSS for a little over a year. Then I represented guardians appointed through the Cass Elias McCarter Guardian Ad Litem Program for 2019 to present. I have represented a handful of minors in three (3) to four (4) juvenile hearings. One thing I noticed about these cases is the children's behavior was linked to trouble at home, pressure at school or bad influences from peers. I was able to request access to resources for my client to help address problems that existed at home and/or school. The Court accepted negotiated pleas by my clients.

Mr. Anderson reported the frequency of his court appearances during the past five years as follows:

(a) Federal: No appearances.

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- (b) State: I was in Family Court generally weekly with South Carolina Department of Social Services docket.

Mr. Anderson reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 50%
- (b) Criminal:
- (c) Domestic: 50%
- (d) Other:

Mr. Anderson reported his practice in trial court as follows:

- (a) 35% settled prior to trial
- (b) 20% of cases went to trial and resulted in a verdict
- (c) 0 cases went to trial and resolved after the plaintiff's or State's case
- (d) 0 cases settled after a jury was selected but prior to opening statements

Mr. Anderson provided that during the past five years he most often served as sole counsel.

The following is Mr. Anderson's account of his five most significant litigated matters:

- (a) *SCDSS v. Latoya Greene, et. al.*, Case No.: 2022-DR-38-530: This case involved violence of a parent against his child which resulted in the child's death. There were other children in the household who witnessed the terrible and ultra traumatic killing. Helping the children find permanency demanded everyone's full attention.
- (b) *SCDSS v. Anwar Young, et. al.*, Case No.: 2012-DR-38-1169: This case involved the defense of a paramour in the household who denied the sexual assault allegations alleged against him. He was criminally charged with the allegations, and his situation was more precarious by his prior-criminal history involving the death of child.
- (c) *SCDSS v. Antar Jeter, et. al.*, Case No.: 2023-DR-38-897: This case involved an autistic minor the age of six, whose mother was murdered, and the biological father was criminally charged with the mother's death.

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Helping this minor child pick up the pieces, find family and have a healthy life is paramount.

- (d) *SCDSS v. LeeAnne Cattles, et. al.*, Case No.: 2019-DR-38-03111: This case involved nine children with a procedural history starting in the year of 2016. Children were returned to the custodial mother; however, the children came back in the care of DSS. In 2018 ultimately the fathers abandoned the children, and the mother was not able to remedy conditions for the return of the children. Seven of the children were placed with family and friends of the family. Two of the children remain in foster care.
- (e) *SCDSS v. LeeAnne Cattles, et. al.*, Case No.: 2022-DR-38-0019: Ms. Cattles' parental rights as to the two remaining children were terminated with the permanency plan of adoption. The two remaining children were housed separately, and each foster parent expressed a willingness to adopt. The children have all finally reached permanency.

The following is Mr. Anderson's account of two civil appeals he has personally handled:

- (a) *South Carolina Department of Social Services v. Melissa Wilson Evans, et. al.*, Unpublished Opinion No. 2006-UP-028.
- (b) *South Carolina Department of Social Services v. Sharon Smith, et. al.*, Unpublished Opinion No. 2006-UP-258.

Mr. Anderson reported that he has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. Anderson's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee on Judicial Qualifications found Mr. Anderson to be "Well-Qualified" as to the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament; and "Qualified" in the evaluative criteria of constitutional

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qualifications, physical health, and mental stability. The Citizens Committee stated in summary, “Dedicated, empathetic, calm, good integrity, tremendous desire to help and protect children, wide experience, would make a great family court judge (applied upon suggestion of Judge Dixon).”

Mr. Anderson is married to Nicole Lane Reedus Anderson. He has three children.

Mr. Anderson reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar Association
- (b) Georgia Bar Association.

Mr. Anderson provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Alpha Phi Alpha Fraternity Incorporated (Inactive)
- (b) Christian Evangelism Fellowship (CEF) (Committee member of the Orangeburg/Lower Savannah District, presently Vice Chairman).

(11) Commission Members’ Comments:

The Commission noted that Mr. Anderson has an impressive breadth of experience in Family Court.

(12) Conclusion:

The Commission found Mr. Anderson qualified, and nominated him for election to Family Court, First Judicial Circuit, Seat 4.

Deanne M. Gray
Family Court, First Judicial Circuit, Seat 4

Commission’s Findings: QUALIFIED AND NOMINATED

Pursuant to § 2-19-80(A), if fewer than three persons apply to fill a vacancy or if the Commission concludes that there are fewer than three candidates qualified for a vacancy, it shall submit only the names and qualifications of those who are considered to be qualified, with a written explanation for submitting fewer than three names.

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For the vacancy for Family Court, First Judicial Circuit, Seat 4, three candidates applied for this vacancy, and one candidate withdrew. Accordingly, the names and qualifications of two candidates are hereby submitted in this report.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Gray meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Gray was born in 1972. She is 51 years old and a resident of Summerville, South Carolina. Ms. Gray provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2000. She was also admitted to the Texas Bar in 2006.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Gray.

Ms. Gray demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. Gray reported that she has made \$95.24 in campaign expenditures for a name badge, postage, paper and envelopes.

Ms. Gray testified she has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Ms. Gray testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

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(3) Professional and Academic Ability:

The Commission found Ms. Gray to be intelligent and knowledgeable.

Ms. Gray reported that she has taught the following law-related courses:

- (a) In 2014, I taught a section for Law School for Non-Lawyers course at Trident Technical College regarding the topic of child protection law on behalf of the South Carolina Bar, public services division;
- (b) In 2019, I presented at the Charleston County bar program entitled “DSS Abuse & Neglect Cases” regarding child protection laws;
- (c) In 2020, I presented at the statewide guardian ad litem training seminar regarding guardian ad litem involvement with DSS including tips, tricks, and pitfalls;
- (d) In 2020, I presented at a DSS continuing legal training regarding utilizing data to manage cases specific to termination of parental rights cases;
- (e) In 2020, I presented at a legal training for advocates sponsored by My Sister’s House. My presentation was entitled, “Everything you wanted to know about DSS but were afraid to ask”;
- (f) In 2022, I taught a section for Law School for Non-Lawyers course at Orangeburg-Calhoun Technical College regarding child protection law on behalf of the South Carolina Bar, public services division;
- (g) I’m scheduled to teach another section for Law School for Non-Lawyers course at the Technical College of the Lowcountry regarding child protection law on September 18, 2023 on behalf of the South Carolina Bar, public services division.

Ms. Gray reported that she has not published any books or articles.

(4) Character:

The Commission’s investigation of Ms. Gray did not reveal evidence of any founded grievances or criminal allegations made against her.

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The Commission's investigation of Ms. Gray did not indicate any evidence of a troubled financial status. Ms. Gray has handled her financial affairs responsibly.

The Commission also noted that Ms. Gray was punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. Gray reported that she is not rated by any legal rating organization.

Ms. Gray reported that she has not served in the military.

Ms. Gray reported that she has never held public office.

(6) Physical Health:

Ms. Gray appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Gray appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Gray was admitted to the South Carolina Bar in 2000.

She gave the following account of her legal experience since graduation from law school:

- (a) Law Clerk, South Carolina Court of Appeals, August 1999-August 2002. Drafted opinions and orders, read and analyzed trial records and briefs, participated in pre-oral argument court conferences, performed legal research, and supervised two junior law clerks.
- (b) Assistant Solicitor, Charleston County Family Court, August 2002-February 2006. Prosecuted juvenile criminal offenses, including all sexually based offenses, worked closely with law enforcement agencies, prepared and presented training materials to law enforcement.

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- Conducted waiver hearings pursuant to Kent v. United States, 383 U.S. 541, 86 S.Ct. 1045, 16 L.Ed.2d 84 (1966).
- (c) Prosecuting Attorney, City of Fort Worth, Texas, June 2007-February 2008. Prosecuted state and local offenses in the City's municipal courts, prepared cases and pre-trial hearings, negotiated appropriate settlements with attorneys and un-represented defendants, represented the State in hearings regarding Emergency Protective Orders.
 - (d) Assistant City Attorney, City of Fort Worth, Texas, February 2008-June 2008. Researched legal questions and evaluated the impact of issues on city policies and procedures, provided advice to city management staff, filed charges, prosecuted and/or negotiated pending cases against violators, supervised staff responsible for providing legal assistance to the City.
 - (e) Managing County Attorney Dorchester County DSS, May 2013-January 2022. Represented SCDSS in Court and at administrative hearings, in addition to providing legal advice for county child protective services and adult protective services staff. Managed the county legal office and hired, fired, trained, and supervised the attorneys and paralegals within my office. Assumed final responsibility for maintaining good working relationships and communication between the county legal office and other system stakeholders. Managed workflow for timeliness and statutory compliance.
 - (f) Family Law Attorney, Cobb Dill & Hammett, LLC, January 2022-Present. Advise clients regarding family law matters. Represent private clients in actions involving divorce, custody, child support, and equitable division of property. Draft Settlement Agreements and Prenuptial Agreements for clients. Defend private clients in actions brought by the South Carolina Department of Social Services. Attend arbitration and mediation with clients.

Ms. Gray further reported regarding her experience with the Family Court practice area:

Divorce and Equitable Division – As a law clerk for the South Carolina Court of Appeals, I reviewed many divorce cases involving equitable division of property. In my current position

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as a family law attorney, I handle numerous divorce cases, both contested and uncontested. The divorce cases are based on fault and no-fault grounds and involve equitable division. I have also attended mediations and arbitrations dealing with the equitable division of marital property. I appear before a Family Court judge three to four times a month on divorce cases involving equitable division.

Child Custody – For almost a decade, I appeared on behalf of the South Carolina Department of Social Services when foster parents or other individuals filed private actions seeking custody. As a family law attorney, I represent parents seeking custody of their children or to modify existing child custody orders based on a significant change of circumstance. I typically appear before a Family Court judge at least once a week on cases involving child custody.

Adoption – On behalf of the South Carolina Department of Social Services, I appeared in cases when a private adoption action was consolidated with a pending SCDSS action and if SCDSS objected to the consolidation and opposed the private adoption action. In private practice, I have filed several termination of parental rights and adoption actions. These cases are typically step-parent adoptions or adoptions by relatives who gained custody of the children through a previous SCDSS action. I typically appear before a Family Court judge once every other month for adoption hearings.

Abuse and Neglect – I served as the managing attorney for SCDSS in Dorchester County for almost a decade. I appeared before the Family Court for probable cause, merits, permanency planning and termination of parental rights hearings. I also advised SCDSS staff regarding prior rulings of the Court in private actions. I now defend parents when their children have been removed by SCDSS due to allegations of abuse and/or neglect. In the past five years, I would appear several times a week before a Family Court judge as the managing attorney for Dorchester County DSS. I now handle numerous cases defending parents in abuse and neglect actions and appear in before a Family Court judge two to three times a month.

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Juvenile Justice – I served as an assistant solicitor in Charleston County and prosecuted juvenile offenders. I participated in detention, adjudicatory, and dispositional hearings. I developed a team to handle the prosecution of sexually based juvenile offenses to guarantee that the cases were handled with consistency and continuity. I handled several complex trials including having a five-years old victim testify via closed circuit video and a deaf victim testify with the assistance of interpreters from out of state. I was also the lead attorney in a waiver hearing. In the past five years, I appeared before a Family Court judge two to three times a month when juveniles, who were also involved with SCDSS, had hearings.

Ms. Gray reported the frequency of her court appearances during the past five years as follows:

- (a) Federal: None;
- (b) State: Weekly.

Ms. Gray reported the percentage of her practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 2%;
- (b) Criminal: 3%;
- (c) Domestic: 55%;
- (d) Other: 40%.

Ms. Gray reported the percentage of her practice in trial court during the past five years as follows:

- (a) 98% of my practice in the past five years was in trial court;
- (b) In the last five years, at least thirty cases went to trial and resulted in the Court's verdict;
- (c) In the last five years, at least five cases went to trial and resolved after Plaintiff's case;
- (d) I have not had any cases settle after a jury was selected as I primarily practice in Family Court.

Ms. Gray provided that during the past five years she most often served as sole counsel.

The following is Ms. Gray's account of her five most significant litigated matters:

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- (a) *SCDSS v. M.L., et. al.*: This emergency removal and termination of parental rights action involved birth parents who were arrested on federal charges of child sex trafficking. A great deal of time was spent getting information from the United States Attorney's Office regarding the federal charges to determine how best to present the case to the Family Court to show termination of parental rights was in the best interests of the minor child. In addition, a study of the maternal grandmother's home in New York was completed through the Interstate Compact for the Place of Children (ICPC) and was denied. The grandmother then relocated to South Carolina and filed a Motion of Intervene seeking custody of the minor child. After receiving testimony and evidence from all parties, the Family Court terminated the birth parents' parental rights and denied the grandmother's petition for custody.
- (b) *State v. R.S.*: I prosecuted a juvenile for several counts of criminal sexual conduct with a minor, first degree. The victim was just five (5) years old at the time of trial. After filing the appropriate motions, I prepared the victim and worked with the clerk's office to have the victim testify via closed circuit television. This case meant a great deal to me as I was able to prepare the victim to testify and make her comfortable enough in the courtroom that it was a positive experience for her. She felt that she had told the truth and people believed her and took steps to protect her. After the child victim testified, counsel for the juvenile accepted the State's plea offer to resolve the matter without further testimony being presented.
- (c) *State v. T.K.*, I was the lead prosecutor presenting the case to waive the juvenile offender to General Sessions court after he was arrested for criminal sexual conduct. This required me to present evidence as to the existence of probable cause that the juvenile committed the offense. Once the Family Court determined probable cause existed, I presented evidence as to the waiver factors as set forth in Kent v. United States, 383 U.S. 541, 86 S.Ct. 1045, 16 L.Ed.2d 84 (1966). Most family law attorneys have not had the opportunity to participate in a waiver

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hearing. It is an extensive process, but I was able to present the case from the first detention hearing through the waiver hearing where the Court waived the juvenile to General Sessions.

- (d) *SCDSS v. D.M., et. al.*: This termination of parental rights action involved a minor child with numerous allergies, medical conditions, and behavioral issues. Defendant's counsel argued that these conditions made the minor child "unadoptable" and therefore, termination of the mother's parental rights was not in the minor child's best interests. After working closely with the child's treating physicians and counselors, I was able to successfully argue that termination of the defendant mother's parental rights was in the minor child's best interests. The minor child was subsequently adopted and found a forever permanent home.
- (e) *Singh v. Singh*: I represented the defendant father in this divorce and custody matter filed by the birth mother. North Carolina had jurisdiction over the divorce as my client was a resident of North Carolina. The divorce was granted in by North Carolina and that issue was dismissed in the South Carolina matter. This matter was resolved with a one-day trial on the issues of child custody, visitation, and child support. In addition, a Rule to Show Cause against the mother based on her failure to pay child support as ordered by the Court. At the end of the trial, the Court found in my client's favor and granted the relief he requested.

Ms. Gray reported she has not personally handled any civil or criminal appeals.

Ms. Gray further reported the following regarding unsuccessful candidacies:

- (a) Family Court, At-Large, Seat 1 in 2019. I did not receive enough votes to be moved to the election.
- (b) Family Court, First Judicial Circuit, Seat 3 in 2021. I withdrew prior to the election.
- (c) Family Court, First Judicial Circuit, Seat 3 in 2022. I withdrew prior to the election.

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(9) Judicial Temperament:

The Commission believes that Ms. Gray's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee on Judicial Qualifications found Ms. Gray to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability; and "Well-Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee noted: "HIGHLY QUALIFIED!!! Would make a great family court judge. Organized, compassionate, great comments from her peers.

Ms. Gray is married to John William Gray Jr. She has two children.

Ms. Gray reported that she was a member of the following Bar and professional associations:

- (a) South Carolina Bar Association
- (b) Dorchester County Bar Association
- (c) Texas Bar Association
- (d) Dorchester County Bar Association, Family Court Liaison Committee (2018-2020).

Ms. Gray provided that she was not a member of any civic, charitable, educational, social, or fraternal organizations.

Ms. Gray further reported:

I have spent most of my legal career practicing in the South Carolina Family Court. I have been blessed to appear before a diverse group of judges that have shaped the type of judge I plan to be in the future. Deanne is tough, but fair. This was the way I was first described by a fellow member of the bar after I joined the Solicitor's office. It is a motto that I have spent my legal career upholding. I believe all members of the legal community need to hold themselves to a high standard, both at work and in the community.

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As a SCDSS attorney, I advocated on behalf of the Department. However, I had to remain open to the positions of all parties and respect their perspectives and positions. I was required to have a good temperament and the ability to communicate with pro se litigants as well as other attorneys. I have had the opportunity to mentor several attorneys during my time at SCDSS and hope I have passed those lessons on to new members of the bar.

The Family Court bench and bar deal with some of the most emotional and intimate areas of people's lives. I am a family law attorney who has experience practicing in all three areas before the Family Court, Department of Juvenile Justice (DJJ) cases, Department of Social Services (DSS) cases, and now private practice cases involving child support, custody, divorce, orders of protection, equitable division, and other issues in the Family Court. Each area has its own nuances and distinct challenges. They also require those appearing before the Family Court to understand the specific skills and knowledge required in each area. However, there are many times that these areas may overlap. A juvenile involved with DJJ may make allegations of abuse or neglect that trigger the filing of a DSS action. One of the parties in a divorce action may make allegations against the other party that requires DSS to initiate an investigation and take appropriate protective measures. Given the broad scope of issues involved in family law cases, some would argue that family law should be considered complex litigation.

I often told the high school students I tutored that they shouldn't assume things about individuals based on that person's appearance or the limited information they may have regarding that person. My experience on paper may not fully inform the reader of my past struggles and personal experiences that led me to this moment. As a military spouse, sister of a domestic violence survivor, aunt to a teen mom, working mother, prosecutor, and attorney, I have been exposed to a wide array of individuals, experiences, cultures, religions and circumstances. Professionally, I have handled cases that involve issues of substance abuse, extreme physical abuse and neglect, sexual abuse, and domestic violence. These experiences have allowed me to develop a professional demeanor when arguing cases and not let my emotions rule my judgement, decisions, and

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interactions. Every individual who appears before the Family Court deserves to be treated with dignity and respect no matter the allegations they are facing. I would be honored to carry on the fine traditions of the South Carolina Family Court judges that came before me.

(11) Commission Members' Comments:

The Commission noted that Ms. Gray had overwhelming positive comments from her peers in the BallotBox survey. They were impressed with her temperament and her experience, not only as an attorney with DSS, but more recently, in private practice.

(12) Conclusion:

The Commission found Ms. Gray qualified, and nominated her for election to Family Court, First Judicial Circuit, Seat 4.

Pete G. Diamaduros
Family Court, Seventh Judicial Circuit, Seat 4

Commission's Findings: QUALIFIED AND NOMINATED

Pursuant to § 2-19-80(A), if fewer than three persons apply to fill a vacancy or if the Commission concludes that there are fewer than three candidates qualified for a vacancy, it shall submit only the names and qualifications of those who are considered to be qualified, with a written explanation for submitting fewer than three names.

For the vacancy for Family Court, Seventh Judicial Circuit, Seat 4, two candidates applied for this vacancy. Accordingly, the names and qualifications of two candidates are hereby submitted in this report.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Diamaduros meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Diamaduros was born in 1961. He is 62 years old and a resident of Spartanburg, South Carolina. Mr. Diamaduros provided in his application that he has been a resident of South

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Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1986.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Diamaduros.

Mr. Diamaduros demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Diamaduros reported that he has not made any campaign expenditures.

Mr. Diamaduros testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Diamaduros testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Diamaduros to be intelligent and knowledgeable.

Mr. Diamaduros reported the following about teaching law-related courses:

- (a) I have not taught classes nor lectured at bar association conferences but have on occasion served on discussion panels at seminars with the South Carolina Association of Criminal Defense Lawyers.
- (b) I was a speaker in a continuing legal education program presented by the South Carolina Association of Criminal Defense Lawyers to young lawyers who had

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been admitted to the bar for only a few years. I spoke on how to successfully practice law in a small firm.

Mr. Diamaduros reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Diamaduros did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. Diamaduros did not indicate any evidence of a troubled financial status. Mr. Diamaduros has handled his financial affairs responsibly.

The Commission also noted that Mr. Diamaduros was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Diamaduros reported that he is not rated by any legal rating organization.

Mr. Diamaduros reported that he has not served in the military.

Mr. Diamaduros reported that he has never held public office other than judicial office.

(6) Physical Health:

Mr. Diamaduros appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Diamaduros appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Diamaduros was admitted to the South Carolina Bar in 1986.

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He gave the following account of his legal experience since graduation from law school:

- (a) November 14, 1986 - December of 1988, I was an associate/partner in the firm of Phillips, Guess and Diamaduros. This was a general practice firm but the other partners predominantly handled collections for local banks, real estate transactions and trusts and estates. I was allowed to expand my caseload to include civil, domestic, and criminal cases. I had no financial management involvement in this firm.
- (b) January 1989 - August of 1992, I was a partner in the firm of Whitney, White and Diamaduros. The firm was a general practice firm which predominantly handled criminal, domestic, civil, real estate, foreclosure and collection work. I became heavily involved in the financial management of this firm including the management of trust accounts.
- (c) August of 1992 - May of 2000, the previous firm added a partner and the name changed to Whitney, White, Diamaduros and Diamaduros. The firm continued its general practice mentioned above. I remained active in the administrative and financial management of this firm which included the management of trust accounts.
- (d) May of 2000 - June of 2014, I was a partner in the firm of White, Diamaduros and Diamaduros. This firm was a general practice firm which concentrated on domestic, civil, criminal, collections, foreclosure and real estate work. I was considered the office managing partner and handled the majority of the administrative and financial management of this entity including the management of the trust accounts. In 2002 I served as a part time county attorney along with the other partners in the firm.
- (e) June of 2014 - the present date, I am a partner in the Diamaduros Law Firm. This is a general practice firm which predominantly handles domestic, civil, criminal, collections and foreclosure. I often serve as special referee for common pleas cases in Union, Cherokee and Laurens County. I am considered the office managing partner and handle the majority of the administrative and financial management of this firm including the management of the

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trust accounts. I have continued to serve as part time county attorney along with the other partner in the firm.

Mr. Diamaduros further reported regarding his experience with the Family Court practice area:

- (a) Divorce and equitable division of property: I have represented clients in what I would estimate to be, nearly a thousand cases involving divorce and decree of separate support and maintenance since I started practicing in 1986. I have equally represented husbands and wives as both plaintiffs and defendants in family court. I have represented them on all grounds of divorce including one year's continuous separation, adultery, habitual drunkenness, physical cruelty, and one case of desertion. I have also represented clients seeking annulments and have represented clients seeking to establish common law marriages. Nearly every case I have handled has included the issue of equitable division of property. Many of these cases included issues involving transmutation of non-marital property into marital property, special equities in properties and property having been purchased in the name of a third party. The cases that I have handled included the issue of equitable division of property ranging from personal property of nominal value to multi-million-dollar estates.

I am familiar with the evidence required to meet the various burdens of proof for the grounds of divorce and division of assets. I have always worked hand in hand with my clients in identifying and valuing marital assets including, but not limited to, real property, businesses, retirement accounts, personal property and pensions. I have employed professionals to help with valuation of assets in some cases.

I have regularly appeared before the family court judges on all of these issues in the past five years. I would estimate I appear in family court fifty times per year.

- (b) Child Custody: I have represented the mother, father, third parties, grandparents, and other relatives in hundreds of cases in which custody was in dispute. I have handled

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initial custody disputes, modifications of custody based on a change in circumstances, issues involving parents relocating out of state, third party custody actions and cases where DSS has become involved and removed children from their homes.

Some cases I handled included the need for genetic testing to determine paternity. Physical and psychological abuse and neglect were issues in many cases. Parental alienation, psychological parenting and de facto custodians were often involved in these cases. Many, if not most, of these cases are resolved at mediation or shortly before trial. Throughout my practice I have litigated many custody cases that consisted of actual trials that lasted up to five days.

I have regularly appeared before the family court on this issue in the past five years. I would estimate I have handled approximately five seriously contested custody cases a year during the past five years.

- (c) Adoption: Throughout my career I have handled between fifty to one hundred adoption cases. Nearly all of these cases were relative adoption cases. I have served as guardian ad litem on many uncontested adoption cases and on a contested adoption cases.

I have handled cases that were tried to verdict that involved termination of parental rights and in some cases the termination of parental rights and adoption of the child.

I have appeared before the family court about two times per year on these issues in the past five years.

- (d) Abuse and Neglect: I have been involved in many DSS abuse and neglect cases. Those cases involved attendance at probable cause hearings, status hearings, motion hearings, removal hearings, intervention hearings, judicial review hearings, permanency planning hearings, and termination of parental right hearings. In many of these cases, I was actively representing third parties or relatives seeking custody in private actions that coincided with the DSS action.

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I have appeared before the family court multiple times on these issues in the past five years.

- (e) Juvenile Justice: In the past I was appointed to serve as attorney in many juvenile justice cases. I have been retained to represent juveniles in cases in the past. During my service on the Commission on Lawyer Conduct from 1993 to 2021 there was an order from the Supreme Court removing members on the Commission on Lawyer Conduct from the clerk of court's appointment list. This order removed me from the list that appointed me to many juvenile justice cases. Even though I have not appeared regularly before the court on juvenile cases, I have extensive experience in handling criminal cases for adults and am regularly before the court of general sessions, magistrate courts and municipal courts throughout the upstate of South Carolina.

Mr. Diamaduros reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: None;
(b) State: I appear frequently in general sessions, common pleas, family, magistrates and municipal courts. I regularly appear in court and would estimate that I appear seventy-five times per year.

Mr. Diamaduros reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 20%;
(b) Criminal: 35%;
(c) Domestic: 30%;
(d) Other: 15%.

Mr. Diamaduros reported the percentage of his practice in trial court during the past five years as follows:

- (a) What percentage of your practice was in trial court, including cases that settled prior to trial? 95%
(b) What number of cases went to trial and resulted in a verdict? Approximately ten

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(c) What number of cases went to trial and resolved after the plaintiff's or State's case? Zero (Resolved may include settlement, plea, by Judge's order during a motion hearing, etc.

(d) What number of your cases settled after a jury was selected but prior to opening statements? Zero

Mr. Diamaduros provided that during the past five years he most often served as sole counsel.

The following is Mr. Diamaduros's account of his five most significant litigated matters:

(a) State of South Carolina vs. Jerry Fox, 88-GS-181

This case involved an individual charged with three separate counts of Criminal Sexual Conduct in the Second Degree with a Minor. I had been out of law school for just shy of eighteen months. The defendant was arrested on April 12, 1988. I was hired as soon as he was released on bond. The grand jury issued indictments on May 2, 1988. I was immediately given discovery and told the case would be tried in May. The solicitor William "Red" Ferguson and his assistant Jack Flynn would not discuss or entertain a motion for continuance. I recall being told that the crime carried twenty years and that the state would try him on all three counts and put him away for sixty years. I met with my client and we frantically prepared for trial. I was not granted a continuance and trial started on May 3rd. The state rested after a day of trial and I put up three witnesses the next day. Closing arguments were held and a not guilty verdict was returned on May 4, 1988.

This case was significant in that it was my first felony trial. My client professed his innocence and was not open to a plea bargain. I tried this case alone and was very nervous knowing my client's freedom was resting in my hands. As the jury was deliberating, I was going back over every question I asked and everything I argued and was hoping I had done enough. The jury returned their verdict. Hearing the words "not guilty" and being able to walk out of the courtroom with a man wrongly accused of having sex with a thirteen-year-old

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girl made me know that I had chosen the right profession for me.

- (b) Preston Brooks Carwile vs. Sharon Brickle Carwile 1992-DR-44-13
- Union County DSS vs. Brooks Carwile and Sharon Carwile 1997-DR-44-366
- Sharon Carwile-Smith vs. Preston Brooks Carwile 1996-DR-44-211

This case was a divorce and custody action filed by the husband against the wife. I represented the husband throughout many years of litigation. The cases listed above are only a few of the case names and numbers that I could locate regarding these individuals. In 1992, joint custody was agreed to and approved by the courts for these parents to share their children and both parents felt this was in the children's best interests. The litigants did not get along very well at all which led to more court appearances a few years later. The mother filed an action against the father in 1996 which led to a two-day trial in 1998 at which time the court granted custody of the oldest daughter to the mother and custody of the other two children to the father. Due to allegations made in this case the Department of Social Services also brought an action against the parents. A third case was filed by the mother against the father which led to an additional three-day trial wherein the court did not change the custody arrangement that was in place. As the years progressed, the parties would file contempt actions against each other and litigation seemed to go on for over ten years.

This case was significant because it was a case involving joint custody being allowed and then confirmed by courts after multiple trials between the parents. There were experts that did psychological evaluations and MMPI evaluations on the parents. There were allegations of alienation, verbal and mental abuse, coaching, etc. in all of these cases. I was representing the husband/father who was a childhood friend of mine which made juggling friendship and my responsibilities

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as his attorney a bit difficult at times. I was the only attorney that Mr. Carwile had represent him throughout all of these different actions. The wife had, to my recollection, five different attorneys representing her throughout this matter. It seems there were about six different judges that took part in the trials and/or contempt matters that were litigated. I would go to family court seminars and would be pulled aside by numerous judges wanting to know if these two parents were still litigating their differences. It seemed like each time the answer was “yes, they are”.

- (c) Danny William Dove vs. Dana Haddox, Leslie Haddox and Tamara Dove, 2008-DR-29-644
State vs. Danny William Dove (indicted in Chester County, South Carolina)

Danny Dove was arrested in Chester County with charges including illegal gambling machines in his home, possession of drugs, criminal conspiracy, distribution of controlled substances, operating a gambling establishment, two counts of child neglect and was accused of holding his wife and children captive for four years inside his home. The wife and two children were taken into protective custody by the Department of Social Services and turned over to state officials. This case was picked up by the internet and all facts such as the home being littered with human waste, food scraps, and animal waste was being reported and being put on the nightly news and on internet feeds every day, or at least for what seemed like every day. I had to navigate not only the criminal case against Mr. Dove, which led to a dismissal of all of the charges, but also had to defend him from what he would categorize as a “witch hunt” by the Department of Social Services. Approximately a year and a half later, we were in court in Lancaster County in the family courts and Mr. Dove was granted custody of the two minor children and the wife/mother was granted visitation as allowed by Mr. Dove.

This case was significant because, even though Mr. Dove was not guilty of any crimes, he had to accept

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responsibility for the condition of the home and complete classes required by DSS before he was able to obtain custody of the children. Those children have lived with him since he obtained custody in January of 2009. Since the family court and the Department of Social Services are always trying to protect children, it seemed like an impossible battle to overcome the criminal charges, the DSS investigation and a custody battle against the wife. The individuals that were granted custody of the minor children while the Doves were following a DSS treatment plan also caused issues in the case. The fact that Mr. Dove raised those two boys alone and was their sole provider until they reached the age of majority made all the hard work and pressure associated with this high publicity case worth every minute that we put into it.

- (d) South Carolina Department of Social Services vs. Kristin E. Williams, Matthew West and Donna Jean Sanders 2009-DR-42-2898

I got into this case when it was almost too late to make a difference. The Department of Social Services had removed a minor child, who was about five years old, from the mother due to the mother's addiction to, and abuse of, drugs. After the mother continued to fail in her attempts to convince the South Carolina Department of Social Services that she was overcoming her drug addiction and was able to care for her child, the Department of Social Services referred this case to an adoption review committee that recommended termination of the parent rights to the minor child and adoption by the foster parents. It was at about this time that Donna Jean Sanders, the maternal grandmother, retained my services. I was actually retained by the maternal grandmother just before the adoption review hearing. After that ruling and before the Department of Social Services started a termination of parental rights action, I filed a motion on behalf of the grandmother asking for an order of the court allowing the grandmother to be made a party to this action and to be granted custody of her granddaughter. A hearing was

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held on September 1, 2010 and the grandmother was made a party to the action and was granted actual and physical custody of her minor grandchild effective that same afternoon.

The reason this case was significant was that the court, after hearing the arguments made on behalf of my client, ordered the transfer of custody to the grandmother. There were a number of issues that did not allow SCDSS to place the child with my client throughout the proceedings, but as soon as she was made a party to the case, she was able to explain why those issues should not have been the sole determinative issues in the case. The court considered what was best for the child and reuniting the family was determined to be best. I will never forget how unbelievably happy and excited Ms. Sanders was to have been granted custody of her grandchild and to have been allowed to raise her granddaughter as her own.

- (e) Heather Marie Shaw vs. Robert Ryan Shaw, 2018-DR-42-1293

In 2018, the wife filed an action against her husband seeking emergency relief. The South Carolina Department of Social Services had become involved in this case based upon the wife's allegations of physical abuse towards the minor child of the marriage by not only the father, but also the paternal grandmother. Temporary hearings were held on June of 2018 and May of 2019. Pretrial conferences were held. During my representation of the husband, the emotional pain and heartache that he endured based upon the false allegations of abuse by the mother pushed my client close to an emotional breakdown. Ultimately, we were able to convince the Department of Social Service to close their case over the objection of the mother. During the period of time that the case was open, my client was only allowed supervised visitation for a few hours every other weekend with his mother-in-law as the "sight and sound supervisor" of the visitation. The child was evaluated by a child therapist and both parents had to

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subject themselves to psychological evaluations and co-parenting therapists etc. After a hearing with the court in May of 2019, the father was given “makeup” visitation and was allowed nearly the entire summer of 2019 with his child after having no meaningful visitation outside of supervision for a year. This case was ultimately litigated in a five-day trial in November and December of 2019. The father was granted custody and the mother was given “sight and sound” supervised visitation by the court. Over the course of the following three and a half years, the mother has retained three additional attorneys and my client has continued to have to litigate and defend himself from many different allegations of physical abuse, alienation, coaching, and mental abuse.

This case is significant because there was a point in this litigation when my client was so depressed and upset with all of the allegations being made against him that I honestly thought he was going to quit and give up on his fight to obtain custody of his child and thereby protect the child from his ex-wife’s manipulation.

The father was able to obtain custody, and to this day, I am pleased to report that the child is an honor student in school, excels in sports, is considered a leader among his peers, and has a wonderful and happy personality. None of this would have happened if I had not convinced my client to continue the fight and not give up on the court system.

The following is Mr. Diamaduros’s account of two civil appeals he has personally handled:

- (a) *Willie McBeth vs. TNS Mills, Inc.*, 318SC388, 458SE2d52 (1995) (appeal from common pleas court to S.C. Court of Appeals) (I was heavily involved in the trial of the case but most of the brief to the court was handled by co-counsel).
- (b) *Julie Sims vs. Paul Glenn*, 2001CP4400316 (2003)

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The following is Mr. Diamaduros's account of three criminal appeals he has personally handled:

- (a) *State of South Carolina vs. Woodrow Mozee*, 2015UP453 (appeal from court of general sessions to S. C. Court of Appeals).
- (b) *State of South Carolina vs. Gene Howard Vinson*, 400SC347(SC Ct. App. 2012), 734SE2d82 (appeal from magistrate court to common pleas court to S.C. Court of Appeals).
- (c) *Kenyotta Brandon vs. State of South Carolina*, 2003CP4400222 (2003).

(9) Judicial Temperament:

The Commission believes that Mr. Diamaduros's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Committee on Judicial Qualifications found Mr. Diamaduros to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability; and "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Mr. Diamaduros is married to Gia Konduros Diamaduros. He has two children.

Mr. Diamaduros reported that he was a member of the following Bar and professional associations:

- (a) Union County Bar Association
- (b) South Carolina Bar Association
- (c) Spartanburg County Bar Association

Mr. Diamaduros provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Supreme Court Commission on Lawyer Conduct 1993-2021
- (b) Union Rotary Club 1987-2023 (President 1999-2000)
- (c) Wofford Terrier Club Board of Directors (app 1995-2023) (President 2004-2005)

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- (d) South Carolina Association of Criminal Defense Lawyers
(founding member in 1992)
- (e) South Carolina Bar Association
- (f) Union County Bar Association, treasurer
- (g) Spartanburg County Bar Association
- (h) Family Law Section of South Carolina Bar Association
- (i) Criminal Section of South Carolina Bar Association
- (j) Workers Compensation Section of South Carolina Bar
Association
- (k) Westminster Presbyterian Church, Spartanburg, South
Carolina
- (l) St. Nicholas Greek Orthodox Church, Spartanburg, South
Carolina
- (m) Piedmont Club, Spartanburg, South Carolina
- (n) Debutante Club of Spartanburg, South Carolina
- (o) Spartanburg Country Club

Mr. Diamaduros further reported:

Born in Chester SC in 1961, I am the proud son of Gus and Helen Diamaduros, whose sacrifices afforded me the opportunity to be the first to go to college in my family. I graduated from Union High School in 1979, received a BA degree in accounting from Wofford College in 1983, and received my Juris Doctor degree from The University of South Carolina School of Law in 1986. My father owned and ran Heart's Restaurant in Union, SC from 1963-1995, managed it for many more years, and to this day can be found still making his secret hamburger sauce and greeting customers at 92. I watched him work eighty-hour weeks for most of my life and began working with him as a "curb hop" at age 7, happy to be near him. He instilled this same work ethic in me. During my thirty-six-year career, I have always been committed to my clients and have made myself available to them after hours and weekends as well. I would like to think that my work history has been one of consistency, stability, hard work and passion for my clients. One of my daily life habits is promptly and conscientiously returning phone calls and answering emails and letters. That being said, I am a family man, happiest when I am with my wife, children, new granddaughter, and extended family. I can usually be found at some point every week on the back of a tractor or working on our farm with my son.

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I moved my family to Spartanburg in 1995 when our son started kindergarten at Pine Street Elementary, and we have loved being a part of the Spartanburg community ever since.

I have been married to Gia Konduros Diamaduros for thirty-five years, and we have two married children and one precious grandchild. Gia has been on staff and the contemporary worship leader at Westminster Presbyterian Church since 2005, where we have worshiped as members for over 15 years.

I truly love the law and continue to pursue practicing with integrity daily. As my wife reminds me, it is how I live out my God-given calling. One thing I know to be true for me is that knowing and understanding the facts and law surrounding a case is needed, but spending the time to know the client and explain realistic expectations before taking on a case is the key to a successful practice. In addition to practicing law, I served on the Supreme Court Commission for Lawyer Conduct from 1993-2021 and the South Carolina State Ethics Commission from July 2000-May 2005. I have been a member of the Union Rotary Club (President 1999-2000) for approximately thirty-five years and the Wofford Terrier Club Board of Directors (President 2004-2005) for over twenty-five years. Some of the other organizations I have served are the St. Nicholas Greek Orthodox Church Board of Directors, the Workforce Development Board, the Union County United Way Board of Directors the Hillbrook Baseball Board of Directors, the South Carolina Bar Judicial Qualifications Commission 1999-2000 (Citizens Committee) and was a founding member of the South Carolina Association of Criminal Defense Lawyers started in 1992.

I feel that my personal life- my Christian faith and my family- and all the life and work experiences that I have touched on above, give me the skills and experience necessary to be an excellent and passionate family court judge- who I hope and pray could make a real difference. In my heart and mind, I would like to give back to this profession at this point in my career. I have been in the criminal, civil, and family courtrooms in over half of the counties in the state and have tried hundreds of cases to verdict or ruling. I have handled over 1500 domestic cases in one-third of the counties in this state, many of which involved

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trials lasting from two to five days in duration. I believe having the extensive litigation experience that I have had in my career, coupled with common sense, “street smarts”, knowledge of the statutory and case law of the family court, and passion for the law and the people involved, give me the ability to make a difference from the bench.

(11) Commission Members’ Comments:

The Commission commented that Mr. Diamaduros has a reputation that precedes him. They noted that he had many wonderful BallotBox comments that had been well earned due to his work ethic and his ability to work well with other attorneys. The Commission noted that they believe that Mr. Diamaduros would be a great asset to the Family Court bench.

(12) Conclusion:

The Commission found Mr. Diamaduros qualified, and nominated him for election to Family Court, Seventh Judicial Circuit, Seat 4.

Jonathan W. Lounsberry
Family Court, Seventh Judicial Circuit, Seat 4

Commission’s Findings: QUALIFIED AND NOMINATED

Pursuant to § 2-19-80(A), if fewer than three persons apply to fill a vacancy or if the Commission concludes that there are fewer than three candidates qualified for a vacancy, it shall submit only the names and qualifications of those who are considered to be qualified, with a written explanation for submitting fewer than three names.

For the vacancy for Family Court Seventh Judicial Circuit, Seat 4, two candidates applied for this vacancy. Accordingly, the names and qualifications of two candidates are hereby submitted in this report.

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Lounsberry meets the qualifications prescribed by law for judicial service as a Family Court judge.

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Mr. Lounsberry was born in 1980. He is 43 years old and a resident of Spartanburg, South Carolina. Mr. Lounsberry provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2009.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Lounsberry.

Mr. Lounsberry demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Lounsberry reported that he has made \$17.94 in campaign expenditures for a name tag.

Mr. Lounsberry testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Lounsberry testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Lounsberry to be intelligent and knowledgeable.

Mr. Lounsberry reported that he has taught the following law-related courses:

- (a) I was a moderator at the 2023 New York State Bar Association's "Advanced Topics and The Hague Abduction Convention";
- (b) I was a presenter on the topic of "1980 Hague Convention Litigation in Light of Monasky and Golan" at the 2022 SC

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Bar Program Hot Tips from the Coolest Domestic Law Practitioners;

- (c) I was a moderator and course planner at the 2022 SC Bar Program “CLE Essentials: Family Law”;
- (d) I was a moderator and course planner at the 2022 SC Bar Program “All About Alimony: An Intensive Workshop;”
- (e) I was a presenter on the topic of Evidence at the 2022 Massachusetts Chapter – AAML program “Sophisticated Family Law Topics”;
- (f) I was a panel member at the 2021 AAML Webinar “Technologies that are Built to Last”;
- (g) I was a moderator and course planner at the 2021 SC Bar Program “CLE Essentials: Family Law”;
- (h) I was co-presenter on the topic of “How to Try a Hague Case from Start to Finish” at the International Law Committee’s presentation at the 2021 SC Bar Convention;
- (i) I was a panel member on the topic of “International Child Recovery ... 13 B Hague Convention” at the IAFL-AIJUDEFA 2021 Latin American Family Law Webinar;
- (j) I was a co-presenter on the topic of “How to Try a Hague Case from Start to Finish” at the 2020 IAFL USA Chapter “coffee hour”;
- (k) I was a moderator and course planner at the 2020 SC Bar Program “CLE Essentials: Family Law”;
- (l) I was a co-presenter for the 2020 Strafford Webinars “Dividing High Value Items in Divorce”;
- (m) I was a panelist for “Trial Technology: Tricks of the Trade” panel at the 2019 American Bar Association Section of Family Law Fall CLE Conference in Austin, Texas;
- (n) I was a presenter on the topic of “Rule: What’s Going On?” at the 2019 SC Bar Program Hot Tips from the Coolest Domestic Law Practitioners;
- (o) I was a moderator, course planner, and lecturer at the 2019 SC Bar Program “CLE Essentials: Family Law”;
- (p) I was a co-presenter for “Judge, What Do You Want to Hear? Presenting a Bench Trial” presentation at the 2019 American Bar Association Section of Litigation & Section of Solo, Small Firm, and General Practice Annual Conference in New York City, New York;
- (q) I was a moderator, course planner, and lecturer at the 2018 SC Bar Program “CLE Essentials: Family Law”;

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- (r) I was a moderator, course planner, and lecturer at the 2017 SC Bar Program “CLE Essentials: Family Law”;
- (s) I assisted with the Legal Eagle Squares Game Show presentation at the 2017 Horry County Family Court CLE seminar;
- (t) I presented on the topic of investigative tools and their uses at the 2017 SC Bar Program “Guardian ad litem Annual Training and Update”;
- (u) I participated in researching and drafting the questions for and assisting with the Hollywood Squares presentation on domestic relations and mental health issues at the 2017 Annual SC Bar Meeting;
- (v) I participated in researching and drafting the questions for and assisting with the Hollywood Squares presentation on domestic relations and procedural and evidentiary issues at the 2016 Annual SC Bar Meeting;
- (w) I lectured at all three of the 2016 SC Bar Program “Bridge the Gap” for new lawyers;
- (x) I presented on the topic of tech tips for trial lawyers at the 2015 SC Association for Justice Annual Meeting;
- (y) I presented on the topics of proper procedure for filing and serving domestic relations actions and the litigation of contempt actions at the 2015 SC Bar Program “CLE Essentials: Family Law”;
- (z) I lectured at all three of the 2015 SC Bar Program “Bridge the Gap” for new lawyers;
- (aa) I presented on the topic of courtroom etiquette with the Honorable Dorothy M. Jones as part of the 2014 Professionalism Series at the Charleston School of Law;
- (bb) I presented a review of recent SCOTUS rulings that affected family law at the 2014 SC Bar Program “Hot Tips from the Coolest Domestic Law Practitioners”;
- (cc) I lectured at all three of the 2014 SC Bar Program “Bridge the Gap” for new lawyers;
- (dd) I was a program co-chair for a presentation on the topic of the 1980 Hague Convention on the Civil Aspects of International Child Abduction and its implementation in Asia for the 2014 ABA Section of International Law Program “International Families: Money, Children, and Long-Term Planning”;

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- (ee) I was a member of the planning committee for the 2014 ABA Section of International Law Program “International Families: Money, Children, and Long-Term Planning” Program;
- (ff) I assisted James T. McLaren with a presentation entitled “How Litigation Apps Can Make You a Better Trial Lawyer” at the 2013 SC Association of Justice Annual Convention;
- (gg) I assisted James T. McLaren with a presentation entitled “Using Technology to Present a Complex Equitable Division Case” at the 2013 American Academy of Matrimonial Lawyers Mid-Year meeting;
- (hh) I presented on the topic of marital agreements and whether parties can contract out of the jurisdiction of Family Court for a 2013 SC Bar Distance Learning CLE Program;
- (ii) I presented on the topic of being appointed a Juvenile Justice matter for a 2013 SC Bar Distance Learning CLE Program; and
- (jj) I assisted James T. McLaren with a presentation entitled “Technology for iPads and PC Laptops at Deposition and Trial” at the 2012 American Academy of Matrimonial Lawyers Annual meeting.

Mr. Lounsberry reported that he has published the following:

- (a) J. Benjamin Stevens and Jonathan W. Lounsberry, Family Law Essentials: A Primer for Private Practice Before the Family Court in SC (SC Bar CLE 2018);
- (b) Jonathan W. Lounsberry, The Family Court’s New Uniforms: Amendments to South Carolina’s Uniform Interstate Family Support Act and Adoption of the Uniform Deployed Parent Custody and Visitation Act (SC Lawyer January 2017);
- (c) James T. McLaren and Jonathan W. Lounsberry, Division of Assets Held by Third Party Legal Entities in Domestic Relation Cases (International Academy of Family Lawyers Online News, June 2016);
- (d) Jonathan W. Lounsberry, Tips for Using Technology Inside and Outside the Courtroom (Family Law Litigation Newsletter, ABA Section of Litigation, March 2016);
- (e) Jonathan W. Lounsberry, Using Technology Inside & Outside the Courtroom: Streamlining the Litigation Process

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and Enhancing the Impact of Evidence (Family Law Advocate, ABA Section of Family Law, Spring 2015);

- (f) Kathryn Barton, LBSW, et al., SC Children's Law Manual (Jonathan W. Lounsberry, Principal Editor, SC Bar CLE 2014); and
- (g) Jonathan W. Lounsberry, Marital Agreements: Can You Really Contract Out of Family Court Jurisdiction? (SC Lawyer 2013).

(4) Character:

The Commission's investigation of Mr. Lounsberry did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. Lounsberry did not indicate any evidence of a troubled financial status. Mr. Lounsberry has handled his financial affairs responsibly.

The Commission also noted that Mr. Lounsberry was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Lounsberry reported the following about his rating by a legal rating organization: for Martindale Hubbell, AV rating; for Super Lawyers, Super Lawyers, Family Law; for Greenville Business Magazine, Legal Elite, Family Law and International Law.; and SC Lawyers Weekly Power List: Family Law.

Mr. Lounsberry reported that he has not served in the military.

Mr. Lounsberry reported that he has never held public office.

(6) Physical Health:

Mr. Lounsberry appears to be physically capable of performing the duties of the office he seeks.

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(7) Mental Stability:

Mr. Lounsberry appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Lounsberry was admitted to the South Carolina Bar in 2009.

He gave the following account of his legal experience since graduation from law school:

- (a) Curphey & Badger, P.A. (Contract Attorney/Associate) (2009-2010): The general character of my practice was conducting real estate closings throughout the State of South Carolina. I was not involved in the administrative and financial management of the firm.
- (b) Hire Counsel (Contract Document Review Attorney) (2010): The general character of my practice was working on two document review projects for Nelson Mullins in Columbia, South Carolina, between July 2010 and December 2010. I was not involved in the administrative and financial management of the firm.
- (c) Carolina Legal Associates (Contract Document Review Attorney) (2011): The general character of my practice was working on a document review project for Motley Rice Charleston, South Carolina, in January 2011. I was not involved in the administrative and financial management of the firm.
- (d) McLaren & Lee (Contract Attorney/Associate) (2011-2013): The general character of my practice was assisting James T. McLaren and C. Dixon Lee, III, in litigating complex Family Court matters, including divorce, child custody, equitable division of property, multi-jurisdictional issues, 1980 Hague Convention matters, international family law issues, and the like. I was not involved in the administrative and financial management of the firm.
- (e) Melissa F. Brown, LLC (Associate Attorney) (2014): The general character of my practice was assisting Melissa F. Brown in litigating complex Family Court matters, including divorce, child custody, equitable division, multi-jurisdictional issues, and the like, as well as litigating my own Family Court matters. I was not involved in the administrative and financial management of the firm.

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- (f) The Stevens Firm, P.A. (Senior Associate Attorney) (2015-2021): The general character of my practice was litigating and trying complex Family Court matters, divorce, child custody, equitable division of property, multi-jurisdictional issues, 1980 Hague Convention matters, 2007 Hague Convention matters, international family law issues and the like. I was not involved in the administrative and financial management of the firm.
- (g) Harrison White/KD Trial Lawyers (Associate Attorney) (2021-Present): The general character of my practice is litigating and trying Family Court matters, including complex matters, in the areas of divorce, child custody, equitable division of property, multi-jurisdictional issues, 1980 Hague Convention matters, 2007 Hague Convention matters, international family law issues and the like. I am not involved in the administrative and financial management of the firm.

Mr. Lounsberry further reported regarding his experience with the Family Court practice area:

- (a) Divorce: I have acted as lead counsel and associate and/or co-counsel in matters involving divorce, as a single issue and as part of matters that involve alimony, child support, child custody, visitation, and equitable division of property. I have represented both plaintiffs and defendants in divorce actions involving statutory fault grounds, such as adultery, physical cruelty, and habitual drunkenness. I have not represented any litigants in a divorce action involving the statutory fault ground of desertion, but I have represented both plaintiffs and defendants in actions involving a divorce being granted on the statutory ground of one-year's continuous separation. In prosecuting and defending divorce actions, I am familiar with gathering requisite evidence to meet the various burdens of proof and with working with requisite experts necessary for the same.

My representation of litigants in divorce actions has included litigants who have been involved in common law, short-term and long-term marriages. I have regularly appeared before a Family Court judge on this issue in the past five years.

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- (b) Equitable Division of Property: I have acted as lead counsel and associate and/or co-counsel in matters involving equitable division of property. My experience with equitable division of property spans from the division of small marital estates to multi-million-dollar marital estates. In each of these instances I have dealt with the identification and valuation of various assets, including, but not limited to, real estate, closely held corporations, complex corporate structures, retirement accounts, pension plans, military retirement, stocks, professional practices, personal property, foreign property, and the like. In identifying and valuing these assets, I am also familiar with employing the services of various experts (e.g., forensic CPAs, appraisers, etc.), as well as reviewing both personal and business tax returns.

I have also acted as lead counsel and associate and/or co-counsel in matters involving non-marital property, including, but not limited to, real estate, personal property, and the like. In dealing with the issue of non-marital property, I have experience in identifying such assets, determining whether the assets have transmuted into marital property or whether a party has a special equity interest in that property. I also have experience in dealing with actions where one or both parties are the trustee and/or beneficiary of trusts.

I have regularly appeared before a Family Court judge on these issues in the past five years.

- (c) Child Custody: I have acted as lead counsel and associate and/or co-counsel in matters involving child custody for parents (both fathers and mothers, married and unmarried) in child custody actions, including determinations of biological and legal paternity. I have also represented third parties seeking custody of children, including the complicated issues of psychological parents and de facto parents. My experience includes initial actions for child custody and modification actions of prior orders. I have dealt with child custody issues involving healthy children, children with special needs, and children ranging in age from infancy to teenagers close to the age of emancipation. I have also prosecuted and defended

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litigants in matters involving the termination of parental rights.

I have experience in dealing with multijurisdictional issues under the Uniform Child Custody Jurisdiction Enforcement Act, including determining which State would have jurisdiction over the ensuing matter and the registration and enforcement and/or modification of foreign child custody orders.

I also have experience in litigating several 1980 Hague Convention on the Civil Aspects of International Child Abduction matters in both State and Federal Court.

Throughout the various types of matters discussed above, I have had to confront and address claims of physical abuse, neglect, parental alienation, parental gatekeeping, psychological parent, de facto custodians, and various jurisdictional issues. In doing so, I have worked with professionals (e.g., physicians, therapists, and teachers) and expert witnesses (e.g., psychological evaluators, forensic custody evaluators, counselors, etc.) in connection with these issues. I have also had to cross-examine expert witnesses regarding the above-referenced issues.

I have regularly appeared before a Family Court judge on these issues in the past five years.

- (d) Adoption: I have both a professional (as lead counsel and associate and/or co-counsel) and personal experience with adoption actions, which I believe gives a unique perspective on the issues involved from the perspective of a lawyer, as well as a litigant. These actions have involved both blood-relative/stepparent adoptions, as well as private adoptions. These matters have been both uncontested and contested, one of which was a trial that involved a termination of parental rights that lasted for five days (see below). I have also taken consent/relinquishments for several private adoptions as well.

I have appeared before a Family Court judge on several occasions regarding these issues in the past five years.

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- (e) Abuse and Neglect: I have served as counsel of record in abuse and neglect matters. I have also gained some knowledge and experience in this area through my work in private cases where the parties have made allegations warranting the involvement of DSS. In 2014, I acted as the Principal Editor for the SC Children's Law Manual, which covers the statutes and procedures involved in abuse and neglect cases. However, as this area has not been a large part of my practice, I would further educate myself in this area by reviewing relevant statutes, regulations and procedures; attending CLEs; meeting with DSS staff and observing DSS proceedings; and seeking the advice of other Family Court judges experienced in this area.

I have appeared before a Family Court judge on several occasions regarding these issues in the past five years.

- (f) Juvenile Justice: I served as counsel of record in several Juvenile Justice matters, where I was appointed under Rule 608, SCACR. These matters ranged from issues of simple assault to criminal sexual conduct. In representing these clients, I have been successful in utilizing discovery requests and motions to either reduce the number of charges or have the matter dismissed entirely. After being appointed my first juvenile justice matter, I worked with the SC Bar to develop a distance learning CLE regarding the representation of a juvenile client in an appointed matter as there were very few resources available regarding the same. While it has not been a large part of my practice, I would further educate myself in this area by reviewing relevant statutes, regulations and procedures; attending CLEs; meeting with DJJ staff and observing DJJ proceedings; and seeking the advice of other Family Court judges experienced in this area.

Mr. Lounsberry reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: 1% – My appearances in federal court have been limited to the litigation of 1980 Hague Convention on the Civil Aspects of International Child Abduction matters;

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- (b) State: 99% – I have regularly appeared in Family Court in the past five years regarding matters of divorce, child custody, visitation, support, and other related issues.

Mr. Lounsberry reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: N/A;
- (b) Criminal: N/A;
- (c) Domestic: 100%;
- (d) Other: N/A.

Mr. Lounsberry reported his practice in trial court during the last five years as follows:

- (a) 100% was in trial court, including cases that settled prior to trial;
- (b) An exact percentage of cases that went to trial and resulted in a verdict is difficult to estimate, most of the cases I handle (approx. 99% or more) are contested litigations in Family Court. These matters are resolved by settlement, court decision, Judge's order during a motion hearing, etc.;
- (c) See above for number of cases that went to trial and resolved after the plaintiff's or State's case;
- (d) 0 cases settled after a jury was selected but prior to opening statements.

Mr. Lounsberry provided that during the past five years he has most often served as follows:

During the past five years, I have carried a roster of clients where I served as sole counsel. During the past five years, I have also served as associate and/or co-counsel on various matters.

The following is Mr. Lounsberry's account of his five most significant litigated matters:

In effort to comply with Rule 1.6, RPC, Rule 407, SCACR, and existing court orders, the names of the parties have been reduced to initials or fictitious names. To the extent that I am able, I am happy to provide additional information, if such information is requested.

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- (a) *State v. O., A Minor Under the Age of Seventeen, Case No.: 2012-JU-18-09, 2012-JU-18-10, and 2012-18-JU-374 (Family Court, First Judicial Circuit, Dorchester County)*: I was appointed to represent a minor in a pending juvenile delinquency matter. My client was charged with criminal sexual conduct with a minor, lewd act on a minor, and assault and battery in the second degree. I was successful in having the charge for a lewd act on minor nol prossed, as my client did meet the statutory age requirement for that charge. There was a motion hearing to deal with evidentiary issues (e.g., whether there should be a separate hearing to suppress certain evidence and requiring DSS to provide its file on their investigation into the matter) and two adjudicatory hearings. This matter also involved my client submitting to a psycho-sexual evaluation. After the evaluation, the Solicitor and I structured a plea where my client would plead to assault and battery in the second degree and the criminal sexual conduct was nol prossed. The plea was conditioned such that if my client completed certain requirements, he would not be required to register as a sexual offender. The matter was not appealed, and there is no citation for this matter.
- (b) *A. v. S., 2015-DR-42-2977 (Family Court, Seventh Judicial Circuit, Spartanburg County)*: I represented the defendant in this matter, which was an action instituted by a third-party seeking custody of a minor child from the biological father. Prior to retaining me as his attorney in July 2016, my client was represented by two other attorneys.

Prior to the action being filed the child's mother committed suicide while living in South Carolina. The defendant was able to obtain custody of the minor child following the mother's death, which resulted in the child's maternal grandfather first filing an action in Florida and then filing an action in South Carolina. A Temporary Hearing was held, and the Court granted the minor child's maternal grandfather temporary custody and granted the defendant limited visitation, as well as appointing a guardian ad litem.

The matter was heavily litigated, with both parties propounding discovery. In July 2016, I was hired as co-counsel after the litigation began to assist with mediation and, if necessary, the trial on the merits. The parties were unable to

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reach a settlement during mediation, and a Pre-Trial hearing was requested.

I made my Notice of Appearance in August 2016. At the Pre-Trial hearing, the plaintiff requested the ability to take videotaped de bene esse depositions of the majority of his witnesses that resided in Florida. I was successful in arguing that the plaintiff should only be able to take a limited number of de bene esse depositions. Ultimately, the plaintiff was able to take nine videotaped de bene esse depositions (although the plaintiff only took six of these depositions over a period of two days, which were later used during the trial on the merits). Also, as a result of the Pre-Trial Hearing, I became the defendant's sole counsel of record.

Following the taking of the depositions, there were several other motion hearings prior to the trial. From March 20–30, 2017, the matter was tried over a period of nine days, with the appearances of approx. 18 witnesses. The trial of this matter involved complex child custody issues (e.g., psychological parent, de facto custodian, the constitutional right to parent), complex evidentiary issues (e.g., the minor child's mother was dead and the plaintiff sought the ability to use de bene esse depositions), and complex mental health issues (e.g., the plaintiff hired a nationally renowned mental health expert to conduct a parental fitness evaluation on the child's maternal grandfather). The court found in favor of my client and granted him a \$10,000.00 award in attorney's fees and costs. The matter was appealed, and I did not participate in the appeal. The citation for the Court of Appeals decision is *Alukonis v. Smith*, 431 S.C. 41, 846 S.E.2d (Ct. App. 2020).

- (c) *B. v. L. et al.*, Case No.: 2016-DR-42-1006 (Family Court, Seventh Judicial Circuit, Spartanburg County): J. Benjamin Stevens and I represented one of the defendants (the biological father) in this matter (the other defendant appeared pro se), which was an action for a termination of parental rights and adoption, or custody in the alternative. An Emergency Hearing was held, and the Court granted the plaintiffs temporary custody, with the defendants having visitation at the discretion of the plaintiffs, as well as appointing a guardian ad litem.

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We were hired to represent the biological father following the Emergency Hearing, at which he appeared pro se. The matter was heavily litigated, and there were several motion hearings over the course of the litigation, which, among other issues, concerned the application of certain case law to the matter, as well as whether the matter should have been bifurcated. Prior to the matter being set for trial, the defendant's father filed a motion to intervene in the action, which was granted.

From October 30, 2017–November 6, 2017, the matter was tried over a period of five days, where I acted as lead counsel for our client. The trial of this matter involved the testimony of one mental health expert and one counseling expert, as well as various other witnesses. The court found in favor of the plaintiffs. The matter was appealed, and I participated in the appeal. The Court of Appeals decision was unpublished, but the citation is *Burke v. Lusk*, No. 2019-UP-082, 2019 S.C. App. Unpub. LEXIS 82 (Ct. App. Feb. 13, 2019).

- (d) *T. v. A., Case No.: 8:18-cv-02862-TMC (United States District Court for the District of South Carolina):* J. Benjamin Stevens (Fellow, AAML/IAFL), Richard Min (Fellow, IAFL) and I represented the Petitioner as co-lead counsel in a 1980 Hague Convention matter seeking return of her minor child to Ireland (which was their last habitual residence).

The Petitioner is a citizen and resident of France and was married to the Respondent, who is a U.S. citizen in living in Ireland. The parties spent significant time living in both France and Ireland, and the Respondent ultimately filed a divorce action in Ireland. Prior to his filing a divorce action in Ireland, the Petitioner returned with the minor children to France.

As a result, the Respondent filed a 1980 Hague Convention in France seeking return on the minor children to Ireland. Following a lengthy trial-court process and appellate-court process, the minor children were ultimately returned to Ireland. Once the children were in Ireland, the Respondent absconded with the minor children to the United States,

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hiding in various States, until he was located in South Carolina.

After learning the minor children were in the United States, the Petitioner hired an attorney admitted to practice in New York and France, who associated Mr. Min based on his experience in trying 1980 Hague Convention matters. Mr. Min contacted Mr. Stevens and me, as he had determined that the Respondent was in South Carolina. We filed the appropriate pleadings in the U.S. District Court for the District of South Carolina, and the matter was tried over one day (December 2018), resulting in the minor children being returned to Ireland. The U.S. District Court also awarded the Petitioner an approximate total of \$67,247.46 in attorney's fees and travel costs. The matter was not appealed, and there is no citation for this matter.

- (e) *R. v. S., Case No.: 2:19-cv-02521-RMG (United States District Court for the District of South Carolina):* I

represented the Petitioner in a 1980 Hague Convention Matter seeking return of minor child to Germany.

This matter consisted of one pre-trial hearing, the filing of several motions, including Motions to Make a Determination of German Law; Motion for Expedited Consideration and Issuance of Show Cause Order; and Motion for Summary Judgment.

The Court, *sua sponte*, sealed the record in this matter and appointed a Guardian *ad Litem*. The matter was resolved by a 1-day trial (November 2019), where, after the direct and cross-examination of my client, the Respondent settled the matter by agreeing to return the minor child.

Following Respondent's agreement to return the minor child, she subsequently refused to comply with the U.S. District's Order and obtained German counsel, who advised the U.S. District Court that Respondent did not need to return the minor child to Germany. This resulted in several telephonic hearings following the issuance of the final order; and, as a result, the Court allowed the Petitioner to come to South Carolina and pick up the minor child. The matter was not appealed, and there is no citation for this matter.

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The following is Mr. Lounsberry's account of four civil appeals he has personally handled:

- (a) *Burke v. Lusk*, No. 2019-UP-082, 2019 S.C. App. Unpub. LEXIS 82 (Ct. App. Feb. 13, 2019).
- (b) I acted as a consultant on *Grano v. Martin*, 821 F. App'x 26 (2d Cir. 2020), which was a matter filed before the United States Court of Appeals for the Second Circuit.
- (c) *Golan v. Saada*, 142 S. Ct. 1880 (2022). I, along with Leah M. Ramirez, James Netto, and Katy Chokowry, filed an amicus curiae brief for the Child Abduction Lawyers Association (CALA) UK in support of the respondent. Copy of brief found here:
https://www.supremecourt.gov/DocketPDF/20/20-1034/214956/20220225094456311_CALA%20INTERVENTION%20IN%20USSC%20-%202022.02.24.pdf
- (d) W.K.S. v. J.K.S., Appellate Case No. 2022-001185, South Carolina Court of Appeals. This was an appeal from a Family Court matter decided in the Charleston County Family Court. Based on a Motion to Dismiss filed by myself and co-counsel, the matter was dismissed on March 24, 2023. The Court of Appeals dismissed the matter, and the Appellant has filed a Motion for Rehearing—as of the date of this application there has been no decision issued regarding said Motion. There is no published opinion.

Mr. Lounsberry reported that has not personally handled any criminal appeals.

Mr. Lounsberry further reported the following regarding unsuccessful candidacies:

I was a candidate in the 2018 judicial race for Family Court, Seventh Judicial Circuit, Seat 2, but withdrew from the race for personal reasons. Shortly after I withdrew from the race, my mother's battle with Stage 4 Pancreatic Cancer ended in December 2018.

I was a candidate in the 2020 judicial race for Family Court, Seventh Judicial Circuit, Seat 1, and was found qualified and nominated. I withdrew from the race prior to the election.

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(9) Judicial Temperament:

The Commission believes that Mr. Lounsberry's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Committee on Judicial Qualifications found Mr. Lounsberry "Qualified" in the evaluative criteria areas of constitutional qualifications, physical health, and mental stability; and "Well-Qualified" in the evaluative criteria areas of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee did not have related or summary comments.

Mr. Lounsberry is married to Liza Juliet Lounsberry (Malone). He has two children.

Mr. Lounsberry reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar
 - a. Delegate, Seventh Judicial Circuit, House of Delegates (2017-Present);
 - b. Chair, Practice & Procedure (2016-2020);
 - c. Chair, NextGen Committee (2018-2019);
 - d. Co-Chair, Technology Committee, Young Lawyer's Division (2017-2018);
 - e. Member, Young Lawyer's Division (2009-2018);
 - f. Member, Practice & Procedure Committee (2009-Present);
 - g. Member, Family Law Section (2009-Present);
 - h. Member, South Carolina Bar Leadership Academy Committee (2016-2019);
 - i. Member, Judicial Qualifications Committee (2015-2017);
 - j. Member, International Law Committee (2014-Present).
- (b) American Bar Association
 - a. Vice-Chair, Family Law Committee, ABA Section of International Law (2018-Present);
 - b. Member, Section of International Law, (2018-Present);
 - c. Subcommittee Chair/Newsletter Editor, Family Law Litigation Committee, ABA Section of Litigation (2016-2020);
 - d. Member, Section of Litigation (2015-Present);
 - e. Member, Section of Family Law (2010-Present).

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- (c) International Academy of Family Lawyers
 - a. Fellow (2020-Present);
 - b. Relocation of Children Committee (2021-Present);
 - c. Inter-Country Child Abduction and Protection Measures Interest Group (2021-Present).
- (d) American Academy of Family Lawyers
 - a. Fellow (2021-Present);
 - b. Member, AAML/AFCC Joint Committee (2021-Present);
 - c. Member, International Issues Committee (2021-Present);
 - d. Member, Practice and Technology Committee (2021-2022);
 - e. Member, National CLE Committee (2022-Present);
 - f. Member, Institute for Family Law Associates Committee (2022-Present).
- (e) Spartanburg Bar Association; and
- (f) Greenville Bar Association.

Mr. Lounsberry provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Leadership Spartanburg (2016-2017);
- (b) Board of Regents, Leadership Spartanburg (2017-2019);
- (c) Vestry, The Episcopal Church (TEC) of the Advent Spartanburg (2020-2023);
- (d) Liturgy Commission, TEC of the Advent Spartanburg (2020-2023);
- (e) Children and Young Families Commission, TEC of the Advent Spartanburg (2020-2023);
- (f) Sunday School Teacher, TEC of the Advent Spartanburg (2023-Present);
- (g) Alpha Leader, TEC of the Advent Spartanburg (2022-Present);
- (h) Board Member, Spartanburg Little Theater (2021-Present);
- (i) Member at Large, Executive Committee, Spartanburg Little Theater (2022-2023);
- (j) President-Elect, Executive Committee, Spartanburg Little Theater (2023-Present);
- (k) Seventh Judicial Circuit Pro Bono Committee (2017-2019);
- (l) Self-Represented Litigation Family Committee, South Carolina Access to Justice Commission (2017-2018);
- (m) I was awarded a Merit Award from the Charleston School of Law in 2008;

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- (n) I was invited to and attended the 2016, 2017, 2018, and the 2020 (virtual) Fall Leadership Meetings and Editor's Symposiums for ABA Section of Litigation;
- (o) I was selected and invited to participate in the ABA Collaborative Bar Leadership Academy;
- (p) I participated in the South Carolina Lawyer Mentoring Program in 2016-2017;
- (q) I participated in the 2016 MDA Lock-Up which raised funds for children with muscle-debilitating diseases.

Mr. Lounsberry further reported:

Throughout my career, I have been fortunate to work for very accomplished Family Court attorneys. Doing so has allowed me to improve my knowledge of and experience with Family Court law and the rules of procedure and evidence. As a result, my practice focuses on litigation of difficult, complex, and, sometimes, novel Family Court issues. It has also required me to stay abreast of changes and trends in family law, which in turn has allowed me to develop a passion for and a deep understanding of the same.

I have set high standards for myself and my practice, and I strive to attain these standards every day with every client. If elected, I would continue to stay abreast of changes and trends in family law, with the goal of increasing my passion for and deepening my understanding of family law.

Early on in my career, a mentor gave me the following maxim: If you take care of the law, then the law will take care of you. After being given that instruction, I have devoted a significant portion of my time to writing about and presenting on substantive family law issues and family court litigation. As a result of this work, I served as Chair of the South Carolina Bar Practice and Procedure Committee (2016-2020) and continue to as Vice-Chair for an American Bar Association committee. I feel very honored and humbled by these experiences. If elected, I plan to remain committed to bettering and/or improving the practice of law.

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(11) Commission Members' Comments:

The Commission noted that Mr. Lounsberry enjoys a good reputation among the Spartanburg Bar and has vast experience in family law.

(12) Conclusion:

The Commission found Mr. Lounsberry qualified, and nominated him for election to Family Court, Seventh Judicial Circuit, Seat 4.

**Blakely Copeland Cahoon
Family Court, Ninth Judicial Circuit, Seat 4**

Commission's Findings: QUALIFIED AND NOMINATED

Pursuant to § 2-19-80(A), if fewer than three persons apply to fill a vacancy or if the Commission concludes that there are fewer than three candidates qualified for a vacancy, it shall submit only the names and qualifications of those who are considered to be qualified, with a written explanation for submitting fewer than three names.

For the vacancy for Family Court, Ninth Judicial Circuit, Seat 4, three candidates applied for this vacancy, one candidate withdrew, and one candidate was found not qualified. Accordingly, the name and qualifications of one candidate is hereby submitted in this report.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Cahoon meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Cahoon was born in 1974. She is 49 years old and a resident of Summerville, South Carolina. Ms. Cahoon provided in her application she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2000.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Cahoon.

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Ms. Cahoon demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to a judge, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. Cahoon reported that she has not made any campaign expenditures.

Ms. Cahoon testified she has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Ms. Cahoon testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. Cahoon to be intelligent and knowledgeable.

Ms. Cahoon reported that she has spoken or lectured for the following matters:

I have spoken in the past regarding family law, elder law, estate planning and probate matters.

Ms. Cahoon reported that she has not published any books or articles.

(4) Character:

The Commission's investigation of Ms. Cahoon did not reveal evidence of any founded grievances or criminal allegations made against her.

The Commission's investigation of Ms. Cahoon did not indicate any evidence of a troubled financial status. Ms. Cahoon has handled her financial affairs responsibly.

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The Commission also noted that Ms. Cahoon has been punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. Cahoon reported that she is not rated by any legal rating organization.

Ms. Cahoon reported that she has not served in the military.

Ms. Cahoon reported that she has never held public office.

(6) Physical Health:

Ms. Cahoon appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Cahoon appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Cahoon was admitted to the South Carolina Bar in 2000.

She gave the following account of her legal experience since graduation from law school:

Young Clement Rivers and Tisdale, LLP, Charleston SC. From June 2000-May 2001, I was a first-year associate with the firm in the practice areas of estate planning, probate, state and federal taxation and nonprofit law. I was not involved with the administrative or financial management of the firm. I had no management over the trust account(s).

Berry Quackenbush and Stuart, PA, Columbia SC. From August 2001 – September 2006. I was a general practice associate with the firm practicing primarily in the areas of estate planning, state and federal taxation, probate, elder law, family law, nonprofit law and general business issues. I had no responsibility for the administrative or financial management of the firm. I had no management over the trust account(s).

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MerrittWebb, PLLC, Columbia SC. September 2006-March 31, 2011. I followed the managing partner of Berry Quackenbush and Stuart to MerrittWebb where I continued as a general practice associate with the firm practicing primarily in the areas of estate planning, state and federal taxation, probate, elder law, family law, nonprofit law and general business issues. I had no responsibility for the administrative or financial management of the firm. I had no management over the trust account(s).

Cahoon Law Firm, LLC, Columbia SC. April 1, 2011-present. I opened Cahoon Law Firm, LLC, on April 1, 2011. Since that time, I have primarily practiced in Family Court where I have handled clients matters related to all cases over which the Family Court has original jurisdiction. This includes divorce, child custody and child support, equitable apportionment of property, protective orders, alimony issues along with modifications of child custody and visitation, alimony and child support. I have been involved in all aspects of adoption. I have represented parents, grandparents and other caregivers. While I encourage my clients to try and resolve their issues without the need for a contested hearing, I have handled contested trials on these issues. I had a 608 contract with the State of South Carolina through the Office of Indigent Defense to represent indigent parties in abuse and neglect cases since the program's inception. I have a contract with SCDSS to represent the agency in Family Court. Currently, approximately eighty-five percent of my practice involves Family Court matters with the remaining fifteen percent of my practice related to estate planning, elder law, probate and general business work. As the owner and sole member, I am responsible for all administrative, accounting and financial management. The operating and trust account are held and operated in accordance with the required rules.

Ms. Cahoon further reported regarding her experience with the Family Court practice area:

Frequency of appearances: For the past twelve years my practice has primarily consisted of Family Court matters. Within the past five years I have appeared on average twice a week before a Family Court Judge. Many weeks I am in court at least two days

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with multiple hearings being scheduled on those days. I have experience in all areas of practice within the Family Court.

Divorce and Equitable Distribution of Property: I have handled divorces that dealt with the uncontested statutory ground of a one-year physical separation and those with fault grounds. I have represented individuals who were the victims of domestic violence and those who were alleged to have committed such domestic violence. I have tried cases that required my client to prove fault whether adultery or habitual drunkenness or drug use and I have defended clients who spouses alleged fault grounds. Many of these matters also involved contested equitable apportionment of property and division of debt. I have used experts to value homes, retirement accounts and other assets. I have dealt with the issues of non-marital property, inherited property and transmuted property. I have represented third party defendants in a divorce. In all my cases I encourage my clients to try to resolve the issues between my client and their spouse either through informal or formal mediation between the parties as this allows my client to determine what is best for their family and circumstances. When mediation does not resolve the issues then I have prepared for and tried multi-issue matters.

Child custody: In issues of child custody, I have represented parents, grandparents and other relatives in seeking custody or visitation. I have handled de facto guardian and psychological parent cases. I have helped new parents who are not married to long term married couples with teenagers. In each case, I encourage parents and other caregivers to work together to resolve their issues as they know what is best for their child(ren). I have helped families reach agreements that are flexible enough to grow with the child and hopefully allow the parents to work together with the need for additional legal action. The agreements generally involve schedules and parental conduct guidelines. In contested matters I have worked with both attorney and lay guardian ad litem appointed for the children. I have also served as guardian ad litem. When my clients have been unable to reach agreements often because of an issue such as mental health concerns or addiction issues with the other party then I have tried these issues before the Court. I have used experts regarding psychological evaluation and parenting

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evaluations. With custody issues I have also handled the accompanying visitation and child support issues. While child support is primarily set by the child support guidelines, I have worked with my clients to ensure accurate income figures as well child care and insurance credits are presented to the court. I have tried multiple day custody actions.

Adoptions: In the area of adoption, I have handled both contested and uncontested adoptions. This includes private adoptions and inner family adoptions. I have also assisted clients who were foster parents adopting their foster children from the custody of the Department of Social Services. I have also served as guardian ad litem in this type of matter. I have helped secure the appropriate pre and post placement investigations for my clients along with handling relinquishment of parental rights. I have assisted other attorneys by taking relinquishments from biological parents. I have represented parents who rights were terminated so that an adoption could occur.

Abuse and neglect: I currently represent Richland County DSS weekly in all types of abuse and neglect matters including termination of parental rights actions. As a former 608 attorney, I previously regularly defended parents or other caregivers who were alleged to have abused or neglected a child and parents whose children are brought into care because of the alleged inappropriate actions of the custodian. While many of my cases in this area were from a court appointment, I also was privately retained to represent parents dealing with these issues. I defended and assisted many parents who had issues such as poverty, lack of education, little work skills or experience, suffer from addiction, are involved abusive relationships, who grew up in foster care themselves and who were homeless. I handle all types of hearings including probable cause hearings, merit hearings, judicial reviews, permanency planning and termination of parental rights actions. I have handled matters that involved children subject to the Indian Child Welfare Act. I have helped non-offender parents get custody of their children from foster care. I have negotiated findings and appropriate treatment plans. I have helped my clients reach their treatment goals and defended their rights to visit their children. I have helped many clients reunite with their children after successfully

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completing treatment. On the other side I have also represented parents in abuse and neglect matters that are unsuccessful in completing their treatment plan. Those clients I then often represent in a termination of parental rights action where the court terminates their parental rights. I have handled severe cases including cases where a child died, and my client also faced significant charges on the criminal side of their case. I have filed actions to intervene on behalf of other relatives to obtain custody of children in foster care.

Juvenile justice: While in law school I represented juveniles through my work with the juvenile justice clinic. I also previously volunteered as arbitrator in juvenile cases while in law school. I am familiar with the statutes and the process juveniles who are involved in Family Court go through. I have had abuse and neglect matters that were also Department of Juvenile Justice matters. While I have no significant court experience in this area, I believe that I would be able to work with the solicitor, public defender, Department of Juvenile Justice, Department of Mental Health, Department of Social Services and other parties in handling these cases. I am a quick learner and the primary thing I learned while studying for my LL.M in taxation at the University of Florida was to how to read and interpret statutes as the law and accompanying regulations are always changing.

Ms. Cahoon reported the frequency of her court appearances as follows:

- (a) federal:
- (b) state: weekly in Family Court.

Ms. Cahoon reported the percentage of her practice involving civil, criminal, domestic and other matters as follows:

- (a) Civil: 0%
- (b) Criminal: 0%
- (c) Domestic: 85%
- (d) Other: Estate Planning, Probate, Elder Law, General Business Law: 15%

Ms. Cahoon reported the following about her practice in trial court during the past five years:

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- (a) What percentage of your practice was in trial court, including cases that settled prior to trial? 85%
- (b) What number of cases went to trial and resulted in a verdict? 45-50%
- (c) What number of cases went to trial and resolved after the plaintiff's or State's case? NA (Resolved may include settlement, plea, by Judge's order during a motion hearing, etc.)
- (d) What number of your cases settled after a jury was selected but prior to opening statements? NA

Ms. Cahoon provided that during the past five years she most often served as a sole or chief counsel.

The following is Ms. Cahoon's account of her five most significant litigated matters:

- (a) *SCDSS v. E.B. et al*, 15-DR-28-661. This was a four-day contested Termination of Parental Rights action where I successfully defended a father. The Court determined that SCDSS had not met its burden of proof and my client's parental rights were not terminated. There was expert testimony and many witnesses for the state. There was also a section 19-1-180 motion that was argued regarding the testimony of the minor child.
- (b) *D v. G&R*, 2020-DR-40-2387. This was a three-day contested custody and grandparent visitation action where my clients as defendants maintained custody of their niece who had been in their care for over seven years. This matter is currently set for appeal on other issues.
- (c) *O v F & W*, 2020-DR-40-0363. I represented the defendant grandmother who after multiple hearings and multiple day hearing maintained custody of her two grandchildren against her son, their birth father.
- (d) *DSS v MB*, 2018-DR-40-0661. I represented the defendant mother in a five day termination of parental rights action that also involved a private termination of parental rights action.
- (e) *DSS v W*, 2019-DR-40-3218. I represented the agency a one day contested termination of parental rights action that included the foster parents as intervenors was granted by the trial court.

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The following is Ms. Cahoon's account of three civil appeals that she has personally handled:

- (a) *SCDSS v. Carter*, Appellate Case No. 2019-001657 (unpublished), May 12, 2021. SC Court of Appeals reversed the trial court resulting in my client having no finding of abuse and neglect.
- (b) *SCDSS v. S.B.*, Appellate Case No. 2015-002008. Unpublished opinion affirmed the decision of the Family Court.
- (c) *SCDSS v CS*, Appellate Case No. 2019-000555. Case was remanded by agreement of parties and the Family Court vacated the termination of parental rights order against my client.

Ms. Cahoon reported that she has not personally handled any criminal appeals.

Ms. Cahoon reported the following regarding unsuccessful candidacies:

I ran for Family Court, Fifth Judicial Circuit, Seat 1 in 2019. I was found qualified and removed my name from consideration before the scheduled vote by the Legislature.

(9) Judicial Temperament:

The Commission believes that Ms. Cahoon's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee on Judicial Qualifications found Ms. Cahoon to be "Unqualified" as to the evaluative criteria of constitutional qualifications due to lack of residence. The Committee did not make findings on the other evaluative criteria. The Committee noted that Ms. Cahoon "[h]as not moved. Has not brought a property. Has not rented a property. She said it is likely 'her plan' to move here. Committee believes she did not meet the constitutional residency requirement at time of interview" in their related comments.

After being contacted by Commission staff regarding the language of the SC Code Section 63-3-30 (A) (1) which provides that a person must meet the residential requirements at the time

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of assuming office, the Citizens Committee confirmed their report. In any event, since meeting with the Lowcountry Citizens Committee, Ms. Cahoon has established a legal residence in Berkeley County. The Commission found that Ms. Cahoon meets the statutory qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Cahoon is married to Frank Ellwood Cahoon III. She has two children.

Ms. Cahoon reported that she was a member of the following Bar and professional associations:

- (c) South Carolina Bar
- (d) Richland County Bar Association
- (e) SC Women Lawyers

Ms. Cahoon provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Junior League of Columbia
- (b) Alala Cancer Society Board of Directors
- (c) Blythewood Soccer Club Board of Directors
- (d) Northeast United Methodist Church; Former Lay Leader, Former Chair of Administrative Counsel, certified lay servant for Columbia District
- (e) Sandhills Community Church – current co-third grade leader
- (f) Trinity Home School Academy Board of Directors
- (g) St. Peter's Catholic PTA - President

Ms. Cahoon further reported:

Family Court Judges have a tremendous impact on children and families. Family Court more than any other court is about personal issues that affect children and families. From my personal experience as a child of divorced parents, as a parent to two children, from my daughter's adoption through foster care and my professional work with clients in all aspects of Family Court I truly believe I can help other children and families who are navigating the Family Court system. With my personal history and work experience I understand the personal and legal issues that would be brought before me.

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Family Court is a frightening and stressful place for everyone. A courtroom where all parties feel safe, heard and respected can make a huge difference in how parties perceive and experience Family Court. This is an adversarial system so absent an agreement between the parties; one or both parties will disagree with my ruling as the decision maker. My biggest challenge would be wording my ruling in such a way to help parties who consider themselves the “loser” to understand that I did hear and consider their viewpoint when making my ruling. Words matter and taking time to ensure that address the issues before the Court from both sides in an impartial manner makes a difference. Addressing parties with respect throughout the process is important.

As a Judge I hope that my demeanor, courtesy, empathy, attention, knowledge and diligence would help facilitate a positive experience even when the parties disagree over the outcome. Even though they may not agree with my decision, I want the people who leave my courtroom, whether lawyers, pro se litigants, other parties or court personnel, to have felt that they were in a safe place, that their voice was heard, that they were respected and that their outcome was based on a thoughtful, deliberate decision which was issued within the confines of the existing laws that govern Family Court.

(11) Commission Members’ Comments:

The Commission commended Ms. Cahoon for the glowing comments she received in the BallotBox survey and congratulated her on being the kind of lawyer that other lawyers want in the profession.

(12) Conclusion:

The Commission found Ms. Cahoon qualified, and nominated her for election to Family Court, Ninth Judicial Circuit, Seat 4.

Gina J. McAlhany
Family Court, Ninth Judicial Circuit, Seat 6

Commission’s Findings: QUALIFIED AND NOMINATED

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Pursuant to § 2-19-80(A), if fewer than three persons apply to fill a vacancy or if the Commission concludes that there are fewer than three candidates qualified for a vacancy, it shall submit only the names and qualifications of those who are considered to be qualified, with a written explanation for submitting fewer than three names.

For the vacancy for Family Court, Ninth Judicial Circuit, Seat 6, two candidates applied for this vacancy, and one candidate withdrew. Accordingly, the name and qualifications of one candidate is hereby submitted in this report.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. McAlhany meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. McAlhany was born in 1967. She is 56 years old and a resident of Summerville, South Carolina. Ms. McAlhany provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1993.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. McAlhany.

Ms. McAlhany demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. McAlhany reported that she has not made any campaign expenditures.

Ms. McAlhany testified she has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

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Ms. McAlhany testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. McAlhany to be intelligent and knowledgeable.

Ms. McAlhany reported that she has taught the following law-related courses:

- (a) I gave a lecture in 2019 at Charleston Southern University to graduate and undergraduate students in the criminal justice program as to juvenile waiver proceedings;
- (b) I served as an adjunct professor for one semester at Trident Technical College in Charleston, teaching business law in their paralegal program in 1998;
- (c) I gave a presentation to foster parents in 1997 at their foster parent symposium.

Ms. McAlhany reported that she has not published any books or articles.

(4) Character:

The Commission's investigation of Ms. McAlhany did not reveal evidence of any founded grievances or criminal allegations made against her.

The Commission's investigation of Ms. McAlhany did not indicate any evidence of a troubled financial status. Ms. McAlhany has handled her financial affairs responsibly.

The Commission also noted that Ms. McAlhany was punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. McAlhany reported that her rating by a legal rating organization, Martindale-Hubbell, is Distinguished, Peer Rated

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for High Professional Achievement, Client Champion Silver 2023.

Ms. McAlhany reported that she has not served in the military.

Ms. McAlhany reported that she has never held public office.

(6) Physical Health:

Ms. McAlhany appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. McAlhany appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. McAlhany was admitted to the South Carolina Bar in 1993.

She gave the following account of her legal experience since graduation from law school:

- (a) November 1993 – current day. Solo practitioner and owner of Gina J. McAlhany, Inc. d/b/a Gina J. McAlhany Attorney at Law

I have been a solo practitioner from the day I began practicing law, maintaining my office in Summerville, South Carolina for the entirety of my practice. I have practiced as a private practitioner exclusively in family court and specifically in the Berkeley, Dorchester, and Charleston County Family Courts. I have handled all types of cases in the family court including divorce, actions for separate support and maintenance, equitable distribution, custody, visitation, paternity, name changes, termination of parental rights, adoptions, settlement agreements, abuse and neglect cases and juvenile defense work.

On March 23, 1999 I became a certified Family Court mediator, and began mediating more frequently over the past eight (8) years. In 2018, I decided I would no longer serve as an attorney for parties in contested custodial cases

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as I have grown my mediation practice and would characterize my current practice as fifty (50%) percent mediations and fifty (50%) percent family court litigation.

As of June 2023, I have opened one hundred sixty-eight (168) total domestic and juvenile cases, inclusive of eighty-four (84) mediations.

I have always been solely responsible for the financial management of my law firm, including payroll, as well as sole management of my IOLTA trust account. I have always had a full time legal secretary or paralegal regarding daily administration of my office and assistance with clients and cases.

(b) September 1, 1995 – November 30, 1997

I served as the Dorchester County DSS attorney, prosecuting abuse and neglect cases through a contract position. I maintained my own office and my private practice with my individual staff and had a court docket every week for one half day, exclusive of any additional trial time or emergency hearings and had staffings at least one day per week at the Department of Social Services Office to prepare cases with the caseworkers. I was involved in the administration of these cases regarding notices, drafting of pleadings, orders, and subpoenas to include arguing an appeal in the Court of Appeals. I was not responsible for the financial management of the Department of Social Services in any manner.

(c) 1998, Adjunct Professor of Business Law, Trident Technical College

For one semester, I taught students participating in the paralegal program a course in business law at Trident Technical College in downtown Charleston. The course was essentially one of court procedures. I was responsible for the preparation of the lectures and materials, as well as testing and grading the students' work. I was not responsible for the financial management in any manner.

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- (d) January 2, 2006 – June 30, 2008, South Carolina
Governor's Office, Attorney for Dorchester County
guardian ad litem program

I served as the attorney for the volunteer guardians through the Governor's program in the abuse and neglect cases in Dorchester County as a contract attorney. I maintained my own office and my private practice with my staff. I participated in the weekly court trial docket in the abuse and neglect cases, in addition to additional time for trials. My role was to advocate the position of the guardian ad litem appointed to represent the best interest of the children in the Department of Social Services cases. I was responsible for meeting with the volunteer guardians, preparing them for court, reviewing their written reports, and preparing them, as well as any evidence for trial. I was responsible for preparing legal motions and recall on one occasion preparing and successfully litigating a Rule to Show Cause against the Department of Social Services for failing to comply with a court order resulting in further harm to the children involved. I was not responsible for the financial management in any manner.

- (e) November 1993 – 1997 and 1998 to current, Juvenile
Public Defender for Dorchester County

I have served as the attorney representing indigent juveniles in the Family Court twenty-seven (27) of my thirty (30) years of practice. I have maintained my private practice and my own office and staff, and am responsible upon my notice of appointment for all further aspects of the juvenile proceeding, including Rule 5 Motions, letters to juveniles, meeting with juveniles, meeting with parents, interagency staffings, representation of the juvenile in all hearings from detention, full probable cause hearings, adjudications, disposition, and review hearings. I appear in court once weekly on the regular half-day docket, in addition to initial detention hearings as a courtesy and statutory detention hearings thereafter if I am appointed as counsel. Saving my initial appointment through the Public Defender's Office, I handle all further administration of the file until closure in

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the Defender data system. I am in no manner responsible for any financial management.

Ms. McAlhany further reported regarding her experience with the Family Court practice area:

I have practiced in all areas of Family Court since the beginning of my practice in November 1993, including cases of divorce, equitable division of property, alimony, child custody, termination of parental rights, adoption, abuse and neglect, and juvenile justice.

I have handled domestic cases which have been amicable under the circumstances from the inception, including the preparation of written settlement agreements with custodial and equitable division issues and thereafter filing and obtaining final court approval of the agreements. I have handled high conflict cases involving custody and modification of custody based on a substantial change in circumstances. I have handled contested domestic cases regarding issues of alimony and equitable distribution, as well as stepparent adoption cases by consent. The majority of my contested filings would include motions for temporary relief, which I have prepared and argued. I have filed and litigated actions regarding custody or visitation for a de facto custodian/psychological parent, contested termination of parental rights and adoptions, as well as actions for grandparent visitation due to the death of a parent. I have prepared prenuptial agreements. I have also handled adult name changes.

I prepare qualified domestic relations orders for equitable division of retirement accounts not only for my clients, but I am also hired to prepare these orders for attorneys and clients generally in the Lowcountry area. I handle approximately three (3) to five (5) QDROs a month at the current time.

In 2018, I made the conscious decision to step away from handling contested custody cases, as although I have been a licensed mediator since 1999, my mediation practice has grown tremendously, and I now mediate one hundred (100) to one hundred fifty (150) cases a year.

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As set forth above, I have not only represented defendants in abuse and neglect cases, but I have also been the county attorney in the prosecution of these cases as well as the attorney for the volunteer guardian ad litem program in the abuse and neglect cases.

I continue to maintain the juvenile public defender position, as I have for almost the entirety of my practice representing juveniles charged with status offenses to murder, including waiver hearings, one of which I have been recently assigned.

In the past five (5) years, I appear at least once or twice a week before a Family Court judge both for juvenile cases and for domestic cases.

Ms. McAlhany reported the frequency of her court appearances during the past five years as follows:

- (a) Federal: none;
- (b) State: I appear in Family Court once or twice per week on average.

Ms. McAlhany reported the percentage of her practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 0%;
- (b) Criminal: 0%;
- (c) Domestic: 100% (inclusive of juvenile proceedings and family court mediations);
- (d) Other: 0%.

Ms. McAlhany reported her practice in trial court during the past five years as follows:

- (a) 50% of her practice was in trial court, including cases that settled prior to trial;
- (b) 0 cases went to trial and resulted in a verdict;
- (c) In the past five years, as 50% of my practice is Family Court litigation and 50% is devoted to mediating family court cases, I would estimate 40% of my litigation Family Court cases resolved after a motion, plea, or settlement. The number of cases would be dependent on the number of files I handled each year.

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By example as of June 2023, I have opened one hundred sixty-eight (168) cases, eighty-four (84) which are mediations.

- (d) N/A regarding number of cases settled after a jury was selected but prior to opening statements.

Ms. McAlhany provided that during the past five years she most often served as sole counsel.

The following is Ms. McAlhany's account of her five most significant litigated matters:

- (a) *The State of South Carolina v. R.S.F., a minor*, 2015-JU-18-274, 2015-JU-18-275, and 2015-JU-18-276

My client, a juvenile, was charged in 2015 with murder, armed robbery, and burglary second when he was fourteen (14) years old. The State filed a waiver petition to seek to waive him to General Sessions court. There were a sixteen (16) and seventeen (17) year old co-defendants who were charged as adults and were each sentenced to approximately twenty-five (25) years in prison.

My client had not finished eighth grade, had never been adjudicated in the Family Court, was one of eight (8) children, whose mother although caring, had her own limitations. I hired my own psychologist as an expert witness for his waiver hearing regarding my client's treatability, risk, and rehabilitation. He was diagnosed with PTSD from the event. In the spring of 2017, after the first day and one-half day of trial, I was offered a plea to allow my client to remain and be adjudicated in Family Court. After almost two years in May 2017, his dispositional hearing was held, and he was given a suspended indeterminate commitment sentence with alternative placement for twelve (12) months. The victim's family had been present for all of his proceedings and did not object to his sentencing.

The resolution of this case prevented a fourteen-year-old from receiving an adult sentence in an adult prison system, and allowed him the opportunity to receive the services to rehabilitate and return to the community.

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(b) *South Carolina Department of Social Services v. Kimberly Love, Jason Buckley and Kelvin Mendoza*, 2012-DR-18-246

I was appointed by the Family Court to represent the Defendant Mother. Ms. Love was charged with murder of her special needs child and her three (3) other children were removed from her custody by the Department of Social Services. Early in the case, I was able to have her three children moved from foster care to a relative placement to allow her supervised visitation. Ms. Love's deceased son had a congenital condition which did not allow him to speak nor ambulate and he had a history of seizures. Ms. Love's three other children who were removed from her custody were straight "A" students and there was no prior Department of Social Services history, nor criminal history as to her and her children. After multiple hearings, deposition of the pathologist, review from a second pathologist, the case was concluded with no required treatment nor findings and her children were returned to her custody. Ms. Love's special needs child was loved and was cared for by his mother. It was later determined her son had a seizure and died in his sleep. Ultimately in January 2017, the murder charge against Ms. Love was also dismissed by the solicitor.

(c) *The State of South Carolina v. D.W., a minor*, 2021-JU-18-001, and 2021-JU-18-092

This juvenile came into the juvenile system in 2021, initially with assault and battery third degree charges, but continued to accrue multiple charges during the next twenty-four (24) months, although ultimately not adjudicated on the charges. I was aware that he had seizures in the past, but they had been in remission. Based on my multiple interactions with my client and based on his inability to control his actions or process his thoughts at times, although he was articulate, I believed there needed to be further evaluation. I appeared at approximately fifteen (15) hearings for this child, and ultimately was able to have a neuropsychological evaluation ordered by the Family Court. The neuropsychological evaluation found he had a cerebral condition that affected his executive functioning, and therefore his reasoning, if in a heightened or agitated state. As a result, in May 2022, I was able to have his adjudications vacated

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and my client committed to the Department of Mental Health for placement and treatment rather than remain in the juvenile system.

(d) *Steven Singletary v. Verlie C. Vanzant f/k/a Verlie C. Fender*, 2010-DR-08-893 and 2012-DR-08-871

I represented a father in a custody proceeding. In his initial Final Order, my client had represented himself, leaving him susceptible to the mother and his child relocating, which is what occurred with a relocation to Texas. Neither parent was unfit. An agreement was reached in mediation, which allowed the mother and child to remain in Texas; however, the mother withdrew and the case was scheduled for trial. At the commencement of trial, I was able to make motions regarding exclusion of witnesses based on the failure of counsel to comply with discovery and responsive pleadings, and as a result, settlement negotiations ensued which allowed the child to remain in South Carolina in the custody of my client, provided if the mother relocated back to South Carolina from Texas, the parties would share custodial time. Subsequent to the Final Order, the Mother filed a second action with a new attorney seeking to vacate the prior Final Order, as she did not want to return to South Carolina, claiming she was forced/coerced into the agreement due to her prior counsel's representation. I represented Father again in this action. My client maintained custody of his daughter in South Carolina.

(e) *Sherrie Winn v. Alicia Cates and Donald Winn, Sr. and Sean Rucker and Amanda Rucker v. George Cates v. Alicia Cates, Donald Winn, Sr. and Sherrie Winn*, 2011-DR-18-328

This was a complex custody case involving a paternal grandmother, maternal grandfather, mother, father, and my clients who were unrelated third-parties and had assumed significant caretaking responsibility for the child. I filed an action on behalf of my clients seeking custody of the child as psychological parents/defacto custodians and moved to intervene in the pending case with the parental grandmother and biological parents. Subsequently, the maternal grandfather moved to intervene and became a party in the case seeking

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custody. After multiple motions, pretrial hearings, and discovery, the case resolved with my clients maintaining primary physical and legal custody of the child until and unless the father completed a reunification plan and conditions. Provided the father was able to comply and maintain the conditions of the transition plan, primary custody would return to Father, however, my clients maintained joint custody with specific custodial rights, such as the child would continue care with the current pediatrician, my clients would continue as the childcare provider, and the child would attend private school of my clients choosing if they were financially responsible for same. Ultimately due to this case, this child was given a loving and stable home with my clients.

The following is Ms. McAlhany's account of three civil appeals she has personally handled:

- (a) *Dorchester County Department of Social Services, Respondent v. Clyde Mitchell and Krista Atkinson, Defendants, of whom Clyde Mitchell is Appellant*, (S.C. Ct. App. heard June 5, 1996);
- (b) *Department of Social Services v. Miller*, Court of Appeals, date of decision October 14, 1996, Case No. 324 S.C. 445, 477 S.E.2d 476 (Ct. App. 1996);
- (c) *S.C. Dept. of Social Services v. C.H.*, Court of Appeals, date of decision October 28, 2009, Case No. 386 S.C. 58, 685 S.E.2d 835 (Ct. App. 2009).

Ms. McAlhany reported that she has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Ms. McAlhany's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee found Ms. McAlhany "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability; and "Well-Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee stated in

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summary, “Super-qualified and experienced, well regarded and well liked. Excellent experience, wonderful disposition, empathetic, smart, dedicated – make GREAT FAMILY COURT JUDGE A+.”

Ms. McAlhany is married to Peter Them Thomason. She has one child.

Ms. McAlhany reported that she was a member of the following Bar and professional associations:

- (a) South Carolina Family Law American Inn of Court, Master;
- (b) Dorchester County Bar Association;
- (c) South Carolina Women Lawyers Association.

Ms. McAlhany provided that she was a member of the following civic, charitable, educational, social, or fraternal organization: United States Tennis Association.

Ms. McAlhany further reported:

In completing my application for my candidacy, it required me to reflect on my legal career as a family court practitioner. Throughout this process, it reminded me of the impact the Family Court has in the lives of not only the adult litigants, but on the lives of the children who are brought into the Family Court through custody actions, abuse and neglect proceedings, or as juveniles. I believe having practiced in all areas of the Family Court, I have a recognition of the tremendous responsibility I would have as a judge to those that appeared before me.

(11) Commission Members’ Comments:

The Commission noted that Ms. McAlhany had universally positive comments in the BallotBox survey, which is not frequently seen. Further, the Commission stated that she has earned a reputation that has distinguished her among members of the Bar, and that is something of which all members can be proud.

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(12) Conclusion:

The Commission found Ms. McAlhany qualified, and nominated her for election to Family Court, Ninth Judicial Circuit, Seat 6.

**David J. Brousseau
Family Court, Tenth Judicial Circuit, Seat 1**

Commission's Findings: QUALIFIED AND NOMINATED

Pursuant to § 2-19-80(A), if fewer than three persons apply to fill a vacancy or if the Commission concludes that there are fewer than three candidates qualified for a vacancy, it shall submit only the names and qualifications of those who are considered to be qualified, with a written explanation for submitting fewer than three names.

For the vacancy for Family Court, Tenth Judicial Circuit, Seat 1, three candidates applied for this vacancy, and one candidate withdrew. Accordingly, the names and qualifications of two candidates are hereby submitted in this report.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Brousseau meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Brousseau was born in 1976. He is 47 years old and a resident of Anderson, South Carolina. Mr. Brousseau provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2003.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Brousseau.

Mr. Brousseau demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

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Mr. Brousseau reported that he has not made any campaign expenditures.

Mr. Brousseau testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Brousseau testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Brousseau to be intelligent and knowledgeable.

Mr. Brousseau reported that he has taught the following law-related courses:

- (a) I taught an Introduction to Law course at Anderson University from 2015-2018.
- (b) I lectured on all topics at the Advanced Family Law Seminar CLE by NBI on March 18, 2015.
- (c) I lectured on the topic of appeals, alimony and equitable division for the 2023 Family Court Seminar by the Anderson County Bar on February 3, 2023

Mr. Brousseau reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Brousseau did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. Brousseau did not indicate any evidence of a troubled financial status. Mr. Brousseau has handled his financial affairs responsibly.

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The Commission also noted that Mr. Brousseau was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Brousseau reported that his rating by a legal rating organization, Martindale-Hubbell, is 4.4 out of 5.

Mr. Brousseau reported that he has not served in the military.

Mr. Brousseau reported that he has held the following public office:

2009-Curent: Anderson County Tax Assessor Appeals Board, Member. This is an appointed position by the Anderson County Council that serves as part of the assessor's office. No report is required with the State Ethics Commission for this position. I have never been subject to a penalty.

(6) Physical Health:

Mr. Brousseau appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Brousseau appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Brousseau was admitted to the South Carolina Bar in 2003.

He gave the following account of his legal experience since graduation from law school:

(a) 2002-2003, law clerk at McIntosh, Sherard & Sullivan; Anderson, South Carolina. I assisted the attorneys on their files while I awaited the results of the Bar Exam and getting sworn in. I did title searches for the real estate attorneys at the firm, and particularly assisted in discovery, legal research, and trial preparation on the litigation side of the firm.

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(b) 2003-2009, Associate attorney at McIntosh, Sherard & Sullivan; Anderson, South Carolina. During this time period my practice consisted of general litigation with a particular emphasis on civil litigation. By 2005, I took over all domestic relations cases at the firm. Over fifty percent of my caseload was in all facets of domestic relations law. Additionally, I was handling a number of cases involving personal injury, breach of contract, construction litigation, and real estate disputes in Circuit Court.

(c) 2009-Current, Partner at McIntosh, Sherard, Sullivan & Brousseau; Anderson, South Carolina. In 2009, I became a partner at my firm. My practice continues to be in civil litigation with an emphasis in domestic relations law, personal injury, real estate litigation, and construction litigation. I also handle criminal defense cases, but typically on the lower end of the penalty threshold. Over fifty percent of my caseload involves family court cases. Additionally, I serve as mediator on a number of family court cases by agreement of the attorneys. I am involved in the administrative decisions of the firm, management of trust accounts on my cases and other related financial matters directly related to the litigation side of my firm.

(d) 2015-2018, Adjunct Professor, Anderson University; Anderson, South Carolina. In 2015, Anderson University asked me to teach an Intro to Law course. It was offered every fall term. I lectured on the basics of American law and jurisprudence; including, but not limited to: constitutional law, criminal law, criminal procedure, civil law and civil procedure.

Mr. Brousseau further reported regarding his experience with the Family Court practice area:

In my 20 years of practicing law, I have handled cases of all types in the Family Court system. I appear before the Family Court on a weekly basis for motion hearings, contempt hearings and trials on the merits. I have handled countless divorce cases where issues of custody, support, alimony, and equitable division are often involved. Some of those matters may be complex and involve closely-held family businesses. Some of

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those matters may be emotionally charged due to custody issues or allegations of fault regarding the breakdown of the marriage. I have also represented clients in quite a few multi-state custody disputes involving 4 the Uniform Custody Jurisdiction and Enforcement Act (UCCJEA). I have represented clients in termination of parental rights (TPR) and adoption cases. Further, I have handled and tried a number of cases involving DSS. I have been involved in DJJ cases; however, those cases are much less frequent than my normal caseload. I also have an appellate practice, and have argued many of the issues that often are presented in Family Court to the appellate courts. Lastly, I serve as mediator on family court matters upon the agreement of the attorneys involved in those cases.

I believe that my experience in all areas of domestic relations law have prepared me to serve as Family Court judge. I am aware of the procedure and rules on all types of cases in Family Court. I am also familiar with the substantive law on the issues that often appear before the Family Court. I feel that the experience I could bring to the bench would be an asset to the attorneys and litigants that would appear before me.

Mr. Brousseau reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: have handled two federal court cases in the past five years
- (b) State: I appear frequently in state court. These appearances likely average, on an annual basis, at least once per week, if not more, when court is in session.

Mr. Brousseau reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 35%;
- (b) Criminal: 5%;
- (c) Domestic: 60%;
- (d) Other: 0%.

Mr. Brousseau reported the percentage of his practice in trial court during the past five years as follows:

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- (a) 100% of cases practiced in trial court including cases that settled prior to trial.
- (b) 8-10 cases went to trial and resulted in a verdict.
- (c) 0 cases went to trial and resolved after plaintiff's or State's case.
- (d) 0 cases settled after a jury was selected but prior to opening statements.

Mr. Brousseau provided that during the past five years he most often served as sole counsel.

The following is Mr. Brousseau's account of his five most significant litigated matters:

- (a) McDermott, et al v. Melvin, et al, CA No. 2020-DR-04-1105; Appellate CA No. 2023-000115 – This was my most recent trial. It was a three-day, TPR trial in which my clients, the foster parents, were successful in having the Family Court find that TPR was in the child's best interests. It is significant because DSS believed that reunification with the birth mother was in the child's best interests. The Guardian ad Litem in the DSS case recommended reunification. The Guardian ad Litem in the TPR case recommended TPR. We were able to convince the Court, by clear and convincing evidence, that TPR was appropriate and in the child's best interests despite DSS's position. The child in this case has only known the foster family as her family. She is 5 years old. I strongly believe that the Family Court correctly decided that TPR was in this child's best interests. This case is currently pending on appeal with The South Carolina Court of Appeals.
- (b) Holland v. Holland, 438 S.C. 69, 881 S.E.2d 766 (Ct. App. 2022) – This case established that there is no statute of repose on enforcement of a child support order. The Family Court dismissed a contempt action because the youngest child had been emancipated for over ten years at the time that the father was served with a Clerk's Rule to Show Cause for failure to pay child support. In doing so, the Family Court applied the general ten-year statute of repose on judgments as provided in S.C. Code Ann. § 15-39-30. The Court of Appeals reversed the Family Court and found

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that the general statute of repose on enforcement of judgments does not apply to child support orders. Initially, the opinion was unpublished. Father filed a petition for a writ of certiorari to the Supreme Court. The Supreme Court denied the Father's petition, and requested that the Court of Appeals publish Its opinion.

- (c) Miller Construction Co. v. PC Construction of Greenwood, 418 S.C. 186, 791 S.E.2d 321 (Ct. App. 2016) – This case established that the licensing statutes do not apply in contractor versus contractor claims. This was a three-day, non-jury trial between contractors related to the construction of the Lander University sports complex. My client, Miller Construction, sued for breach of contract for not being paid by the general contractor. The general contractor contended that my client, Miller Construction, was not properly licensed for its work. Additionally, the general contractor argued that my client owed the general contractor for delay damages it said was attributable to Miller Construction. The trial court disagreed with the general contractor, and my client was granted nearly all its damages except pre-judgment interest. The general contractor appealed, and we cross-appealed on the issue of pre-judgment interest. The Court of Appeals affirmed the decision of the lower court, and reversed the trial court's decision on the issue pre-judgment interest.
- (d) Hicks Unlimited v. UniFirst Corp., (Howard Advance Sheet, June 14, 2023) - I handled this case on appeal. This is a breach of contract case. UniFirst moved to compel arbitration pursuant to the Federal Arbitration Act (FAA). My client, Hicks Unlimited, moved to stay arbitration. The arbitration provision did not comply with the notice requirements of the South Carolina Arbitration Act. However, the FAA does not have the same notice requirements. The question was whether or not the contract implicated interstate commerce thereby triggering the FAA. The Circuit Court found that interstate commerce was not implicated, and therefore the FAA did not apply. As a result, the arbitration provision was unenforceable pursuant to the South Carolina Arbitration Act. The Court of Appeals reversed the Circuit Court, and found that interstate commerce was implicated and the FAA did

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apply. We filed a petition for a writ of certiorari to The Supreme Court. The Supreme Court granted the petition, and reversed the Court of Appeals in a recently published opinion.

- (e) SCDSS v. Johnnie B., 2014-UP-080 (Ct. App. 2014): DSS brought this case alleging abuse and neglect against my client's ex-wife and her boyfriend related to three children. My client was the father of the oldest child, and was a non-offending parent. However, DSS did not want the oldest child to go to my client. My client obtained a custody order for the child in Georgia where he lived and where the child was from. I argued that Georgia had jurisdiction over the issues related to the oldest child pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). The Family Court disagreed and found South Carolina had jurisdiction, not Georgia, and that DSS was to retain custody over the child. We appealed the decision. The Court of Appeals reversed the Family Court's decision, and found that Georgia did have jurisdiction over the issues related to my client's child. This resulted in my client being granted custody under the Georgia custody order.

The following is Mr. Brousseau's account of five civil appeals he has personally handled:

- (a) SCDSS v. Johnnie B., SC Court of Appeals, decision filed February 21, 2014, Unpublished Opinion 2014-UP-080.
- (b) Robin Carr Smith v. James Rory Smith, SC Court of Appeals, decision filed September 19, 2018, published opinion, 425 S.C. 119, 819 S.E.2d 769 (Ct. App. 2018),
- (c) Elizabeth Holland v. Richard Holland, SC Court of Appeals, initial decision filed August 4, 2021, as an unpublished opinion. The opinion was then re-filed as a published opinion on September 7, 2022, following an order from the Supreme Court denying the petition for a writ of certiorari, 438 S.C. 69, 881 S.E.2d 766 (Ct. App. 2022).
- (d) Miller Construction v. PC Construction of Greenwood, SC Court of Appeals, decision filed September 14, 2016, published opinion, 418 S.C. 186, 791 S.E.2d 321 (Ct. App. 2016)

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(e) Hicks Unlimited v. UniFirst Corp., SC Supreme Court, decision filed June 14, 2023, published opinion, Howard Advance Sheet, June 14, 2023.

Mr. Brousseau reported that he has not handled any criminal appeals.

Mr. Brousseau further reported the following regarding unsuccessful candidacies:
Yes. I ran for Family Court judge in 2018. I withdrew my application.

(9) Judicial Temperament:

The Commission believes that Mr. Brousseau's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Committee on Judicial Qualifications found Mr. Brousseau to be "Well-Qualified" as to the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament; and "Qualified" in the evaluation criteria of constitutional qualifications, physical health, and mental stability

Mr. Brousseau is married to Amy Boggs Brousseau. He has one child.

Mr. Brousseau reported that he was a member of the following Bar and professional associations:

- (a) Anderson County Bar Association, member
- (b) South Carolina Bar, member
- (c) South Carolina Association for Justice, member 9
- (d) Anderson County Inns of Court, member
- (e) Tenth Circuit Fee Dispute Resolution Board, member

Mr. Brousseau provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Anderson County Inns of Court, member
- (b) Cobb's Glen Country Club, golf and social member

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Mr. Brousseau further reported:

In my twenty years of practice, I have handled all types of family court cases. Those cases have ranged from the court-appointed cases involving DSS to divorces involving millions of dollars in assets. Additionally, I often serve as mediator on family court cases by agreement of counsel. In addition to my family court practice, I have also tried a number of jury and non-jury cases, of all types, in the Court of Common Pleas. I am well-versed in the procedural and substantive law that is often presented in the Family Court. I have often witnessed the emotions that litigants experience going through a family court case, and I am mindful of how difficult the process can be for litigants in Family Court.

Over the years, I have appeared before some fantastic judges. I have seen how they handle their courtrooms, and I learned from them. A family court judge is often dealing with litigants who are going through the loss of a marriage, lost time with a child, or both. Those litigants are anxious about the amount of time they may get with their child, or how they are going to financially make ends meet without the support of their former partner. Litigants are always best served not only by a judge who is well-versed in the procedural and substantive law, but also a judge who will listen and understand.

My parents divorced when I was in middle school. I recall what it was like to be a child with parents going through the divorce process. My wife and I are parents of a middle schooler. I mention this because during custody cases, we often forget how hard it is to be a parent and how hard the litigation process can be for a child.

I try to stay calm under even the toughest of circumstances, as it is difficult to think clearly when you are upset. We want judges who know the law but also understand the difficulties and emotions that litigants may be experiencing. It is my belief that my legal experience, life experience, temperament, and attitude would all be an asset to parties who may appear before me as well as the Family Court bench and bar.

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(11) Commission Members' Comments:

The Commission noted that Mr. Brousseau enjoys a good reputation in his community for having a fair, even temperament. The Commission further commented that Mr. Brousseau's experience make him a good candidate for the bench.

(12) Conclusion:

The Commission found Mr. Brousseau qualified and nominated him for election to Family Court, Tenth Judicial Circuit, Seat 1.

**Heather Vry Scalzo
Family Court, Tenth Judicial Circuit, Seat 1**

Commission's Findings: QUALIFIED AND NOMINATED

Pursuant to § 2-19-80(A), if fewer than three persons apply to fill a vacancy or if the Commission concludes that there are fewer than three candidates qualified for a vacancy, it shall submit only the names and qualifications of those who are considered to be qualified, with a written explanation for submitting fewer than three names.

For the vacancy for Family Court, Tenth Judicial Circuit, Seat 1, three candidates applied for this vacancy, and one candidate withdrew before the public hearing. Accordingly, the names and qualifications of two candidates are hereby submitted in this report.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Scalzo meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Scalzo was born in 1974. She is 49 years old and a resident of Anderson, South Carolina. Ms. Scalzo provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2002.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Scalzo.

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Ms. Scalzo demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. Scalzo reported that she has not made any campaign expenditures.

Ms. Scalzo testified she has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Ms. Scalzo testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. Scalzo to be intelligent and knowledgeable.

Ms. Scalzo reported that she has taught the following law-related courses:

- (a) I taught the Juvenile Justice class (1 hour and a half) through the SC Bar's Law School for Non-Lawyers at Greenville Tech in fall 2023, spring 2023 and fall 2022. This class is an overview of juvenile justice.
- (b) I taught the Child Protection class (1 hour and a half) through the SC Bar's Law School for Non-Lawyers at Greenville Tech in fall 2023, spring 2023 and fall 2022. This class is an overview of child protection proceedings.
- (c) I presented "Waiver Hearings for Clinicians" to DJJ's psychologists in the spring of 2023. This presentation is an overview of the law relating to cases where the state is seeking to transfer or waive a juvenile to General Sessions for adult prosecution.
- (d) I presented "How Truancy, Suspensions, Expulsions, & Other School Issues Affect the Child Custody Case" at the

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2023 SC Bar's Annual Guardian ad Litem Training. This topic dealt with the mechanics of school issues and how they relate to child custody.

- (e) I presented "Motions Practice" with a co-presenter to juvenile public defenders at SCCID's Juvenile Defense Essentials Training in February 2023. This topic informs attorneys how to use motions to advocate for their client.

I have been a frequent presenter and trainer for juvenile public defenders and DJJ staff through my position with the Children's Law Center at the USC School of Law. I am also certified by the National Juvenile Defender Center in their Juvenile Training Immersion Program (JTIP) curriculum featuring forensic training exercises ("on your feet" practices and interactive break-out sessions). In 2014, I became the first certified JTIP trainer in the state of SC. As a trainer, I adapt the lessons to relevant South Carolina law. The following list is not exhaustive.

- (f) I taught the JTIP lesson "Motions Practice as a Juvenile Defender" on March 29, 2019 (1 hour and a half) with a co-trainer for defense attorneys.
- (g) I taught the JTIP lesson "Ethics Issues for Juvenile Defenders" on March 29, 2019 (1 hour) with a co-trainer for defense attorneys.
- (h) I taught the JTIP lesson "Challenging ID Testimony" on March 29, 2019 (2 hours) with a co-trainer for juvenile defense attorneys.
- (i) I was a guest lecturer for a family law class at Greenville Senior High Academy for Law, Business and Finance on March 15, 2019.
- (j) I presented "Pitfalls of DJJ Practice" in August 2018 at the South Carolina Association of Justice Annual Convention (15 minutes). This topic gave helpful hints on representing juveniles in criminal matters.
- (k) I presented "Competency to Stand Trial" (2 hours) on April 13, 2018 with a co-trainer for SC public defenders.
- (l) I presented a JTIP lesson, "Disposition Advocacy," (2 hours) on April 13, 2018 with a co-trainer for SC public defenders.
- (m) I taught, with a co-trainer, "Advanced Legal Training for Community Staff," a two-hour class on legal terminology, DJJ policies related to community intake and probation, testifying in a court hearing, and responding to subpoenas

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under DJJ policies, for DJJ staff on April 3, 2017 and May 15, 2018.

- (n) I was a break-out group leader on the JTIP lesson “Fourth Amendment Challenges” at the Southern Juvenile Defender Center Regional Summit on June 2, 2017 (45 min).
- (o) I taught, with a co-trainer, “Advanced Courtroom Training for Clinicians,” a two-hour class on legal terminology, testifying in a court hearing, and responding to subpoenas under DJJ policies for DJJ social workers and psychologists in February 2016 and February 2017.
- (p) I taught a class entitled “Waiver Training for Clinicians” on March 21, 2016 with a co-trainer for DJJ staff.
- (q) I taught “Role of Juvenile Defense Counsel: Ethics in Practice” with a co-trainer on March 6, 2017 for South Carolina public defenders. This topic dealt with the ethical pitfalls attorneys face when representing juveniles.
- (r) I taught the JTIP lesson “Dispositional Advocacy for Juvenile Defenders” with a co-trainer at the South Carolina Public Defender’s Conference in September 2016.
- (s) I presented juvenile defense basics at the Greenville County Bar End of Year CLE in February 2016.
- (t) I taught “Legal 101 for Juvenile Correctional Officers”, a three-hour class for new correctional officers at DJJ encompassing Constitutional issues, legal terminology, case law, statute and DJJ policies impacting officers about two to three times a year from 2016 to 2019.
- (u) I taught “Legal Update and Prison Rape Elimination Act,” a two-hour update certification class for correctional officers at DJJ encompassing statutes and policies impacting officers at DJJ about two to three times a year from 2015 to 2018.
- (v) I was on a panel with other juvenile justice attorneys at the 2015 SC Bar Convention in Columbia.
- (w) I was a co-presenter at the 2023 SC Public Defender Conference in Myrtle Beach on October 10, 2023. I presented on Preparing for a Juvenile Waiver Hearing.

Ms. Scalzo reported that she has not published any books or articles.

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(4) Character:

The Commission's investigation of Ms. Scalzo did not reveal evidence of any founded grievances or criminal allegations made against her.

The Commission's investigation of Ms. Scalzo did not indicate any evidence of disqualifying financial issues.

The Commission noted that the state tax lien for individual income taxes filed against Ms. Scalzo in 2004 has been satisfied.

The Commission also noted that Ms. Scalzo was punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. Scalzo reported that she has not sought membership or rating in any legal rating organization, and that she was selected by her peers as the *Greenville Business Magazine* "Legal Elite" in 2022 for Education Law and in 2023 Appellate, Education, and Family Law.

Ms. Scalzo reported that she has not served in the military.

Ms. Scalzo reported that she has never held public office.

(6) Physical Health:

Ms. Scalzo appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Scalzo appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Scalzo was admitted to the South Carolina Bar in 2002.

She gave the following account of her legal experience since graduation from law school:

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- (a) Attorney-Advisor, Social Security Administration Office of Hearings and Appeals, Greenville, SC, June 2003 – June 2005
I drafted disability decisions for Administrative Law Judges.
- (b) Attorney, Heather Scalzo Attorney at Law, Greenville, SC, June 2005 – June 2015
My practice was almost exclusively juvenile criminal defense, except for a short period of time (August 2005 to November 2006) when I also handled Social Security appeals cases on a contract with another lawyer. I managed the administrative and financial activities of my solo practice.
- (c) Juvenile Justice Resource Attorney, Children’s Law Center, University of South Carolina School of Law, December 2014 to December 2019
I did trainings and presentations on juvenile justice issues to public defenders and Department of Juvenile Justice staff. This was a part-time position.
- (d) Attorney/Partner, Byford & Scalzo, LLC, Greenville, SC, June 2015 to May 2022
During my seven years in this practice, I steadily increased my domestic relations practice from doing almost exclusively juvenile defense and school disciplinary hearings to doing 80% domestic relations (divorce, custody, adoptions, abuse and neglect) in 2022.
From March 2018 to December 2019, I had a contract with the Anderson County Public Defender’s Office to handle their probation violation cases. This necessitated my being in court an average of two to three days per month in Anderson County.
From July 2018 to June 2022, I had a contract with the SC Commission on Indigent Defense to represent clients in (DSS) abuse and neglect proceedings in Greenville County.
I assisted my law partner in the administrative and financial activities of the practice.
- (e) Counsel, Offit Kurman, Spartanburg, SC, June 2002 to April 2023, promoted to Principal April 2023 to present. Invited to open the Greenville SC office September 2023.
My practice is almost exclusively high conflict custody cases and high net worth equitable division cases. I have some abuse and neglect cases, juvenile delinquency cases, and the occasional probate litigation and school disciplinary case.

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Ms. Scalzo further reported regarding her experience with the Family Court practice area:

I am well-versed in all practice areas in Family Court.

Divorce/Custody/Equitable Distribution: Currently, my caseload is almost exclusively high conflict custody cases and high net worth divorce and equitable division cases. My cases involve financial experts, psychologists, custody evaluators, and therapists. As an example, I have the following pending trials for 2023-24: a five-day trial for divorce, child custody, and equitable distribution, a three-day trial for divorce and equitable distribution of property, a three-day trial for custody modification, a two-day trial for custody modification, a one-day trial for custody modification, and a one to two day trial for alimony modification. I had a three-day custody trial earlier this year. I have the requisite experience and knowledge to preside over divorce, custody, and equitable division cases.

Adoption: I have represented biological parents, foster parents, step-parents, and kinship caregivers in adoption proceedings as well as termination of parental rights proceedings. I have filed actions to withdraw consent to relinquish parental rights and had contested multi-day trials to resolve them. I have filed actions for private termination of parental rights and adoption and have represented foster parents in adoption cases where the Department of Social Services filed the termination of parental rights. I have the requisite experience and knowledge to preside over adoption cases.

Abuse and neglect: I had a contract with SCCID from 2018 to 2022 to represent indigent caregivers in DSS actions. I was in court two to three times a week during this four-year period. I averaged a trial about every month for merits hearings and termination of parental rights cases. I continue to handle abuse and neglect cases. This past year I had a five-day trial for an abuse and neglect action that was combined with a petition to withdraw consent to relinquish parental rights. I have the requisite experience and knowledge to preside over abuse and neglect cases.

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Juvenile Defense: I was a part-time juvenile public defender for 14 years. For 13 years (2005 to 2018) I was in Greenville County and for one year Spartanburg County (2021 to 2022). I have represented juveniles charged with all manner of offenses, from status offenses to drug offenses to criminal sexual assaults and homicides. I have handled five waiver cases, one as co-counsel and four as sole counsel. As a result, I have been asked to conduct juvenile waiver trainings for multiple organizations over several years. I have the requisite experience and knowledge to preside over juvenile cases.

From June 2005 to June 2022, I appeared before a Family Court judge on average two times a week. Currently, I appear in court a few times per month and have a statewide practice; at one point this year, I had cases pending in ten counties.

Ms. Scalzo reported the frequency of her court appearances during the past five years as follows:

- (a) Federal: none;
- (b) State: From June 2018 to June 2022, I was in court two to three times per week. For the past year, I have been in court a few times per month.

Ms. Scalzo reported the percentage of her practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 0%;
- (b) Criminal: juvenile criminal 18%, adult criminal 1%;
- (c) Domestic: 79%;
- (d) Other: school discipline, probate 2%.

Ms. Scalzo reported their practice in trial court during the past five years as follows:

- (a) Almost all [settled prior to trial]. I also handle school disciplinary hearings, which are not in trial court.
- (b) Because mediation is mandatory in family court, most of my cases settled. In the past five years, I have tried to verdict at least twenty cases.
- (c) Most of my cases that go to trial go to a verdict [after the plaintiff's or State's case].

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- (d) No jury cases [settled after a jury was selected but prior to opening statements].

Ms. Scalzo provided that during the past five years she most often served as sole counsel.

The following is Ms. Scalzo's account of her five most significant litigated matters:

- (a) *DSS v. [Redacted]*

In 2022, I was appointed (through the SCCID contract) to represent [Redacted] in an abuse and neglect action. [Redacted], a Texas resident, gave birth to a baby in Texas and placed her baby at birth with [Redacted], a South Carolina couple. Several weeks after the couple returned to South Carolina with the baby, they took the baby to the hospital and the baby was found to have serious injuries. DSS then brought an abuse and neglect action against the couple, who, at that time, were only prospective adoptive parents, and added [Redacted] as named party because the adoption was still pending. I reviewed the case and determined it was necessary to challenge [Redacted] consent to relinquish her parental rights in the adoption. The adoption action and DSS action were consolidated, and, after a five-day trial, I succeeded in getting [Redacted] baby returned to her. The court found [Redacted] consent was not freely and voluntarily given. This was based on several factors. One of those factors was that [Redacted], who did not speak English, was not provided a certified translator and she was not given copies of the consent in Spanish. This was a significant case because it was legally complex, in that it dealt with termination of parental rights, withdrawal of consent, and abuse and neglect. It was also a complex case to litigate, involving testimony by multiple medical professionals, law enforcement officers, DSS personnel, as well as the parties and their lay witnesses. In addition, the trial itself, while highly contested, was enjoyable because I worked alongside six other attorneys, each with their own position to advocate and a fabulous judge who ensured that we were able to get our respective positions on the record.

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(b) *Casea David v. Timothy Hall, Elizabeth Langley*

In 2023, I represented Ms. Langley, the aunt of two children who had been in her care for over seven years. Ms. David, the biological mother, was seeking to have the children returned to her because she'd recently gotten sober. After a three-day trial, the judge returned the children to their mother, finding that she was now fit to care for them again. This was a significant case for me. To start with, it was in a county several hours from my home and office, requiring me to navigate the challenges of trial preparation without the support of home and office. But more importantly, it was significant because, although she was not successful in the lawsuit, my client told me I was the first of the four attorneys she'd had in two years who fought for her.

(c) *State v. Juvenile A.*

In 2021, my juvenile client was charged with murder and attempted murder. The state was alleging my client shot two people during a drug transaction and moved to waive him to General Sessions to be prosecuted as an adult. My client, however, maintained he was defending himself because the two people were robbing him at gunpoint. After a two-day waiver trial, I was successful in keeping my juvenile client within the jurisdiction of family court. I was ultimately able to negotiate a guilty plea to one count of voluntary manslaughter and my client was given an indeterminate sentence. This case was significant because it was legally and factually complex. In addition to the complexity of any waiver hearing, this case presented a challenge on whether my client could maintain a self-defense claim despite defending himself from two armed robbers. It was also significant because the ramifications to my client being waived to adult court were at the highest ends of an adult criminal sentence but because he was a model inmate in detention with no write-ups for over a year while simultaneously earning his high school diploma, I was able to present a strong and successful case for him to remain in Family Court.

(d) *State v. Juvenile C.*

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In 2011, at age 14, my client was charged with the murder of a homeless man who had significant ties to the community. The state petitioned to waive jurisdiction to General Sessions and prosecute my client as an adult. I handled the waiver hearing as sole counsel and was successful in keeping the case in Family Court. I then negotiated an agreement to a plea of guilty to involuntary manslaughter for which my client received an indeterminate sentence as a juvenile. This case is significant because it was the first complex case I did as sole counsel. It is also significant because I had to examine a DSS caseworker and law enforcement officer, both of whom were reluctant witnesses for the defense, to provide the trial judge with the fullest picture of this child's experience and environment through his history with both DJJ and DSS involvement.

(e) *Does v. Does*

This is a case where my clients, who are the maternal grandparents of a child who has lived with them since birth, have filed for termination of parental rights of both parents, each of whom live outside of South Carolina. The mother filed an action in her home state (the father did not respond) seeking to withdraw a prior custody determination made by her home state's probate court. While that was pending, she filed a motion in our case contesting jurisdiction and seeking to dismiss my clients' action. This case required a UCCJEA conference because of the prior custody determination in mother's home state. Ultimately, I was successful in having the South Carolina Family Court terminate the parents' rights and allow the grandparents to adopt. This was a significant case because it had legal complexities stemming from the involvement and rulings of a second state but also because assisting grandparents with gaining stability for the grandchild they had raised since birth was personally rewarding.

The following is Ms. Scalzo's account of five civil appeals she has personally handled:

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- (a) *Reginald Swain v. Daniel Allen Bollinger and Jane Doe*, S.C. Supreme Court, January 5, 2022, 435 S.C. 280, 866 S.E.2d 923 (2022)
- (b) *Lani and Amanda Johnson v. Shianne Leigh Jarrett*, S.C. Ct. App., August 3, 2022, 2022-UP-324
- (c) *SCDSS v. Laci Smith*, S.C. Ct. App., April 1, 2022, 2022-UP-171
- (d) *SCDSS v. Heather Lynn Dean and Joseph Kasey*, S.C. Ct. App., May 14, 2021, 2021-UP-169
- (e) *SCDSS v. Danielle Gay and Samuel Ogg*, S.C. Ct. App., No. 2023-UP-273, July 19, 2023

The following is Ms. Scalzo's account of the criminal appeal she has personally handled:

State v. Gerald Haltiwanger, S.C. Ct. App., April 13, 2016, Appellate Court No. 2013-002460

Ms. Scalzo further reported the following regarding unsuccessful candidacies:

I ran for Family Court, At-Large Seat 1 in 2019-20. I was found Qualified.

(9) Judicial Temperament:

The Commission believes that Ms. Scalzo's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Committee on Judicial Qualification found Ms. Scalzo to be "Well-Qualified" as to the evaluative criteria of ethical fitness, professional and academic ability, character, experience, and judicial temperament; and "Qualified" in the evaluative criteria of constitutional qualifications, reputation, physical health, and mental stability. The Committee had the following comment: "The candidate currently does not live in Anderson County, and it is unclear when she may actually establish residence in that county. She lacks involvement in Anderson community affairs."

Ms. Scalzo is married to Christopher Dominic Scalzo. She has four children.

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Ms. Scalzo reported that she was a member of the following Bar and professional associations:

- (a) South Carolina Bar
- (b) Greenville County Bar
- (c) National Juvenile Defender Center (now, The Gault Center) certified trainer, 2014-present
- (d) South Carolina Supreme Court's Family Court Docketing Subcommittee, 2011-2019
- (e) Southern Juvenile Defender Center, Advisory Committee, 2013-2018
- (f) South Carolina Justice Act Task Force, 2012-2017
- (g) South Carolina Public Defender Association, 2005-2018, Juvenile Public Defender of the Year, 2012
- (h) South Carolina Association of Criminal Defense Lawyers, 2021-present

Ms. Scalzo provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Junior League of Greenville, Member, 2008 to present
Served on Board of Directors: Fund Development Vice President, 2015-2016 and Strategic Planner, 2018-2019
Nearly New Shop Chair, 2013-2014; Led a committee that oversees the business operations of the Nearly New Shop, a second-hand store with annual sales of over \$200,000. As Chair, I was involved in all aspects of running the business, including hiring and firing employees and managing store operations. I served on the committee for two years prior to becoming Chair.
Property Management Chair, 2014-2015, 2017-2018; Responsible for routine and emergency maintenance of the two buildings owned by the Junior League of Greenville. I was tasked with getting quotes for roofing, flooring, plumbing, security, etc. for presentation to the Board.
Advisor to the Property Management Chair, 2022-2023
- (b) Kappa Kappa Gamma, Alumni Chapter Advisor, Furman University Chapter; 2015-2019, I served as an advisor for the college chapter.
- (c) Buncombe Street United Methodist Church, Missions and Outreach Committee, 2019-2020; Greeter; Sunday School Teacher/Assistant

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Ms. Scalzo further reported:

About ten years ago, several people in the family court system told me that I should run for judge as they believed I had a good judicial temperament. As a person of faith, I contemplated this and asked God for a sign that I should run. What a surprise to pull into the Lowe's parking lot and see a bush on fire! Was this literal burning bush a sign? Of course, it wasn't but it was a reminder of my faith. So, I continued to prayerfully consider whether to run and decided in 2019 that I would run for an at-large Family Court seat. Although I was not elected, I have neither lost hope nor faith in the importance of the process of running for judge. There is value in the journey to being elected a judge, and having been through an election before, I believe I have what it takes to be an excellent family court judge.

As for my faith, the story of my life has been evidence that, regardless of wins or losses, God is at work in my life. My father died in June 1976. I was just shy of two years old and the youngest of three girls. My mother was a homemaker, having stopped working as a teacher when my oldest sister was born. My father had been a psychiatrist in Greenville. He was the first in his family to go to college (Furman) and then put himself through medical school (Wake Forest). His parents were sharecroppers in Horry County who later saved to buy their own land. Unfortunately, all the years of him working in the fields without sunscreen led to his getting melanoma, which took his life. When he was dying, my father told my mother he wanted his daughters to have a father. That dying wish gave my mother peace to move forward.

My mother was introduced to a widowed physician who was new to Greenville and had lost his wife around the same time my father had passed. He had two young girls, one older than me and one younger. This man and my mother married in January 1978 after dating a short six weeks! They have been married ever since. Fortunately, this man wanted to be a father to me and my two older sisters, and so he adopted us. My mother adopted his two girls. Altogether, we became a family of seven and then eight when, several years later, they had my youngest sister.

My life was forever changed by having an adoptive father who became "Dad." I am thankful that he chose me to be

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his daughter. He has been the most supportive and caring father I could ever have imagined. I would not be the person that I am without his wisdom and influence.

In my professional career, I am reminded often that children have little power to change their life situations; the adults do. My parents – my biological father, my mother, and my adoptive father – all wanted the very best for me. But that is not always the case for many children in South Carolina.

Family Court judges have immense power to make positive changes in children’s lives, whether it is through ordering termination of a parent’s rights, granting an adoption, requiring supervised visitation, granting a divorce, ordering sole or joint custody arrangements, finding a child delinquent and imposing services to assist the child, or any number of things. Many of these things have their beginnings in tragedy and trauma. So, when these cases come before the Family Court, the parties are looking for solutions, help, and even closure. It takes compassion, understanding, a sense of fairness, and a commitment to the law and to justice to exercise the role and responsibilities of a Family Court judge. I believe I possess these qualities. In my personal life and my professional life, I am the same: compassionate and fair, a rule-follower, a seeker of justice. I would be honored to serve the families of South Carolina as a Family Court judge.

(11) Commission Members’ Comments:

The Commission noted that Ms. Scalzo has significant past experience with family court matters in the public sector, and was impressed that she is now expanding her practice areas by joining a law firm.

(12) Conclusion:

The Commission found Ms. Scalzo qualified, and nominated her for election to Family Court, Tenth Judicial Circuit, Seat 1.

**Sammy Diamaduros
Family Court, Sixteenth Judicial Circuit, Seat 1**

Commission’s Findings: QUALIFIED AND NOMINATED

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Pursuant to § 2-19-80(A), if fewer than three persons apply to fill a vacancy or if the Commission concludes that there are fewer than three candidates qualified for a vacancy, it shall submit only the names and qualifications of those who are considered to be qualified, with a written explanation for submitting fewer than three names.

For the vacancy for Family Court, Sixteenth Judicial Circuit, Seat 1, one candidate applied for this vacancy. Accordingly, the name and qualifications of one candidate is hereby submitted in this report.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Diamaduros meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Diamaduros was born in 1965. He is 58 years old and a resident of Union, South Carolina. Mr. Diamaduros provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1991.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Diamaduros.

Mr. Diamaduros demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Diamaduros reported that he has not made any campaign expenditures.

Mr. Diamaduros testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

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Mr. Diamaduros testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Diamaduros to be intelligent and knowledgeable.

Mr. Diamaduros reported that he has not taught or lectured at any Bar association conferences, educational institutions, or continuing legal or judicial education programs.

Mr. Diamaduros reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Diamaduros did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. Diamaduros did not indicate any evidence of a troubled financial status. Mr. Diamaduros has handled his financial affairs responsibly.

The Commission also noted that Mr. Diamaduros was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Diamaduros reported that he is not rated by any legal rating organization.

Mr. Diamaduros reported that he has not served in the military.

Mr. Diamaduros reported that he has never held public office.

(6) Physical Health:

Mr. Diamaduros appears to be physically capable of performing the duties of the office he seeks.

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(7) Mental Stability:

Mr. Diamaduros appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Diamaduros was admitted to the South Carolina Bar in 1991.

He gave the following account of his legal experience since graduation from law school:

- (a) Assistant Solicitor Sixth Judicial Circuit; Criminal law; fall of 1990 to fall of 1992
- (b) Whitney, White & Diamaduros; I was in private practice with William E. Whitney, Jr., Thomas H. White IV and Pete G. Diamaduros; 1992 – 2000
- (c) White, Diamaduros & Diamaduros; I was in private practice with Thomas H. White IV and Pete G. Diamaduros; 2000 – 2014
- (d) The Diamaduros Law Firm; I am in private practice with Pete G. Diamaduros; 2014 – present

General nature of my practice: When I began my career from the fall of 1990 until the fall of 1992, I was an Assistant Solicitor for the Sixth Judicial Circuit which included Lancaster, Fairfield and Chester counties. I prosecuted cases in General Sessions Court and handled numerous trials and a large volume of guilty pleas. I also prosecuted juvenile cases in Family Court.

Thereafter, I went into private practice which the name of our partnership changed over the years, but the general character of my practice did not.

-I handle Family Court matters including DSS, DJJ, and all matters in Family Court such as divorce, child custody, child support, adoptions, termination of parental rights, equitable division of marital property, abuse and neglect cases and all other matters involved in Family Court. I have also served as a mediator and guardian ad litem numerous times in Family Court.

-I handle criminal matters in Magistrate Court, Municipal Court and General Sessions Court.

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-I handle general civil matters including personal injury cases in Magistrate and Common Pleas Court and workers compensation cases.

-I handle real estate matters, deeds, wills, power of attorneys, and other general matters.

-I have served as Union County Attorney for Union County, South Carolina since May of 2000 to present and handle a wide range of issues pertaining to County legal matters and County affairs.

Office management - When I began my law practice with Whitney, White & Diamaduros, I was hired as an employee and was not over management or escrow matters, but I did eventually become a partner with that law firm and thereafter, my partners and I were all equal managers, and we all participated in administrative decisions and management of trust accounts; however, Pete Diamaduros was mainly over balancing and reviewing the trust account and managing the finances of the firm. When our firm changed to White, Diamaduros & Diamaduros and The Diamaduros Law Firm, we equally did the same managerial, administrative and management of trust accounts as stated above.

Mr. Diamaduros further reported regarding his experience with the Family Court practice area:

When I graduated from law school, I served as Assistant Solicitor in the Sixth Judicial Circuit from the fall of 1990 until the fall of 1992 whereby I handled numerous Department of Juvenile Justice cases in Family Court in addition to General Sessions Court in Lancaster, Fairfield and Chester counties. The volume of cases we handled in both Family Court with juveniles and General Sessions Court was large due to the fact that we had a small staff and covered all three counties.

From 1992 until today, I have been in private practice for over 30 years and have vast experience in all areas of Family Court practice throughout my career. I estimate that I appear several times per month before a Family Court Judge. I will not attempt

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to estimate the number of cases I have handled because it would be extremely large due to the fact that I have continuously handled Family Court cases throughout my career. With respect to divorce and equitable division of property, I have handled a large volume of cases in these areas and have dealt with every ground for divorce and handled numerous equitable division cases with a wide variety of disputes covering virtually every issue. With respect to child custody cases, I have handled many child custody cases, some of which were contested, some agreed upon and some settled at mediation. With respect to adoptions, I have handled many adoptions during my career, and the vast majority were intra-family adoptions, but I have recently handled an adoption that was a more complex non-family adoption. With respect to abuse and neglect cases, I have handled many such cases, and I have been both retained and appointed to handle these cases. These cases have involved abuse and neglect of juveniles and cases dealing with vulnerable adults. With respect to juvenile justice, early in my career, I prosecuted a large volume of juvenile justice cases in Lancaster, Fairfield and Chester County, and I have handled juvenile justice cases as a defense attorney and had several trials in Family Court involving juveniles. I have also served as a mediator for Family Court cases, and I have served as a guardian ad litem many times.

As a result of serving as a general practitioner attorney throughout my career and handling a wide range of Family Court matters, I believe that my experience will allow me to do well as a Family Court Judge. I feel that I have handled the most common legal issues that are addressed day to day in Family Court. I have handled Family Court matters for in excess of 30 years in front of many different judges in numerous counties which has allowed me to have vast experience and see many different styles, tactics and opinions of different judges and attorneys throughout my career. I am also sure that there will be numerous complex issues that we rarely see or did not see in our day to day practice that I may not have experience in, but I do understand that there are numerous legal resources and research that will need to be utilized throughout my career if I become a Judge.

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In conclusion, I believe that my 30 year plus career of being a general practitioner lawyer and handling a large volume of Family Court matters throughout my career has allowed me to gain a legal knowledge and experience to move forward in any endeavor in Family Court.

Mr. Diamaduros reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: zero;
- (b) State: approximately 50 appearances per year.

Mr. Diamaduros reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 10%;
- (b) Criminal: 20%;
- (c) Domestic: 30%;
- (d) Other: 40%.

Mr. Diamaduros reported the percentage of his practice in trial court during the past five years as follows:

- (a) 50%
- (b) 5 – 10
- (c) Zero
- (d) Zero

Mr. Diamaduros provided that during the past five years he most often served as sole counsel.

The following is Mr. Diamaduros's account of his five most significant litigated matters:

- (a) SC DSS vs. Boulware, 809 S.E.2d 223, 422 S.C. 1 (2018)

This was a Family Court matter involving the abuse and neglect of a child brought by DSS and involved the natural parents, Ruth and Darryl Armstrong as relatives, and Edward and Tammy Dalsing as foster parents. This case went on for several years, and I was only involved in it for a short time, but I did represent Darryl & Ruth Armstrong at trial which lasted approximately three days and had numerous attorneys, guardian ad litem and parties involved. The Family Court found that the

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Petitioner/Foster Parents Edward and Tammy Dalsing did not have standing to go forward, so the case was a success for my clients. However, the case was appealed to the South Carolina Supreme Court and due to the fact that I do not have an extensive history in appellate work, I did not handle the appeals of this case to the South Carolina Supreme Court where it was later reversed. The Court concluded that Petitioners/Foster Parents did have standing to pursue a private adoption and the case continued from there with the Courts.

(b) Clark v. South Carolina Dept. of Pub. Safety, 362 S.C. 377, 608 S.E.2d 573 (2005)

This was a case that I handled with Suzanne E. Coe whereby we sued on behalf of the Estate of Amy Danielle Clark who was tragically killed in a head on collision by a drunk driver who was being pursued in a high speed chase by law enforcement. Suzanne E. Coe and I sued on behalf of the Estate of Amy Danielle Clark, and the jury returned a 3.75 million dollar verdict for Clark against the Department of Public Safety and Charles Clyde Johnson, the Defendant driver. The jury concluded that Johnson was 80% at fault and the Department of Public Safety was 20% at fault, and the department's liability was reduced to \$250,000.00 as was required by the Tort Claims Act. I was involved throughout the trial process and participated with my co-counsel Suzanne E. Coe for this case. Even though she was lead counsel at trial, I participated and handled the closing arguments. After the verdict, the State appealed to the Court of Appeals and eventually the Supreme Court with numerous law enforcement agencies joining in support of the Department of Public Safety. We eventually won the case on appeals and the verdict was upheld. I was involved with the appeal process, but Suzanne E. Coe prepared the documentation and made the arguments in front of the Court of Appeals and the Supreme Court. This was an extremely complex case and involved numerous parties that were in and out of the case throughout the case which began in 1997 and concluded with a Supreme Court decision in 2005.

(c) State vs. Rick Keisler (98-GS-44-160)

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This was a case where Mr. Keisler and other defendants were charged with lynching resulting from a fight where several defendants allegedly beat up one victim. This trial lasted approximately two days and had four defendants and four defense lawyers presenting evidence during this trial. At the end of the State's case, we obtained a positive verdict for Mr. Keisler and the judge granted a directed verdict and the case against Mr. Keisler was dismissed during the trial. I find this case interesting due to the fact that there were four defense lawyers and prosecutors all cross examining different witnesses and many different techniques and styles were used during that trial.

(d) Wille Edward Randall, Jr. & Heather Daum Randall vs. AGS, a minor under 14 years (22-DR-44-47)

This was a case where DSS had removed a child from the home of the parents due to neglect and placed the child with my clients, Willie and Heather Randall. After the Randalls had the child for over one year, we filed for adoption of this child and were successful in getting an adoption granted to them. This case was an outside adoption and required that we follow all procedures of the statute due to the fact that it was not an intra-family adoption. This case was important to me due to the fact that I have handled very few adoptions that were not intra-family adoptions and due to the fact that C4 Ministries, a Christian based group that helps people in Union County, was involved along with many others, and the result was joyous to all involved. When the adoption was granted, there was approximately twenty people in court to witness this wonderful event of the adoption being granted for this minor child. I received great joy in handling this case and learned a lot of details about adoption.

(e) State vs. Bailey (13CP44142)

This was a DUI case against the Defendant whereby he had a wreck in the front yard of the City of Union Police Department while they were in a meeting. He was subsequently arrested for driving under the influence with videotapes showing numerous sobriety tests that were not favorable to the Defendant. This case did not actually go to trial, but a motion hearing was set in

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Magistrate Court, which took several hours, and there was a large volume of complex arguments for dismissal including technicalities, video requirements, evidentiary matters, etc. The Magistrate subsequently dismissed the charge against the Defendant, and the State appealed, and the case was heard in Common Pleas Court in front of the Honorable John C. Hayes III, and he affirmed the dismissal, and I prepared a nine page Order. This case was memorable to me due to the fact of the complex issues involved and due to the fact that it was appealed by the State, and we were successful at both levels.

The following is Mr. Diamaduros's account of the civil appeal he has personally handled:

(a) *Clark v. South Carolina Dept. of Pub. Safety*, 362 S.C. 377, 608 S.E.2d 573 (S.C. 2005); Common Pleas Court; January 18, 2005;

The following is Mr. Diamaduros's account of three criminal appeals he has personally handled:

(a) *State of South Carolina vs. Bailey* ; Common Pleas Court Sixteenth Judicial Circuit; 09/03/2013; 2013CP4400142 (appeal from Magistrate Court)

(b) *State v. Melton*; Common Pleas Court Sixteenth Judicial Circuit; 1997; no citation (appeal from Magistrate Court)

(c) *State vs. Warren*; Common Pleas Court Sixteenth Judicial Circuit; 1994; no citation (appeal from Magistrate Court)

(9) Judicial Temperament:

The Commission believes that Mr. Diamaduros's temperament would be excellent.

(10) Miscellaneous:

The Piedmont Citizens Committee on Judicial Qualifications found Mr. Diamaduros to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability; and "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee noted: "Mr. Diamaduros was a member of this

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Committee for many years. He impressed us then, and impresses us now, as a lawyer with a deep commitment to his clients and his community, a deep knowledge of the areas of law required of Family Court practitioners, and deep reserves of humility and compassion. We think that he would make an excellent Family Court Judge.”

Mr. Diamaduros is married to Elizabeth Leigh Diamaduros. He has three children.

Mr. Diamaduros reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar Association
- (b) President of the Union County Bar Association; approximately five years

Mr. Diamaduros provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) University of South Carolina - Union Educational Board
- (b) Piedmont Citizen Committee on Judicial Qualification
- (c) Union Rotary Club
- (d) Union County Bar Association (current President)
- (e) St. Nicholas Greek Orthodox Church, Spartanburg, South Carolina

Mr. Diamaduros further reported:

I believe my experience practicing law for over 30 years and prosecuting cases in Family Court for two years will greatly benefit me if I became a judge. Also, I think it is important that for over 30 years now, I have been in private practice and have continuously handled Family Court cases during my entire career which has allowed me to have vast experience. Furthermore, I think being divorced in 2009 and having three children has made me understand the emotional aspect of going through a divorce in addition to the legal side of being involved in a divorce. During my divorce, we had joint custody, child support, division of property and assets, and I think it helped me understand both sides of the legal process and allows me to have more compassion for the true feelings that are involved while

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people go through divorces which are difficult for all parties involved.

(11) Commission Members' Comments:

The Commission commented that Mr. Diamaduros was very experienced and has handled nearly every type of case in the family court area. The Commission further noted Mr. Diamaduros has the high regard and esteem of his colleagues.

(12) Conclusion:

The Commission found Mr. Diamaduros qualified, and nominated him for election to Family Court, Sixteenth Judicial Circuit, Seat 1.

**R. Chadwick "Chad" Smith
Family Court, Sixteenth Judicial Circuit, Seat 3**

Commission's Findings: QUALIFIED AND NOMINATED

Pursuant to § 2-19-80(A), if fewer than three persons apply to fill a vacancy or if the Commission concludes that there are fewer than three candidates qualified for a vacancy, it shall submit only the names and qualifications of those who are considered to be qualified, with a written explanation for submitting fewer than three names.

For the vacancy for Family Court, Sixteenth Judicial Circuit, Seat 3, four candidates applied for this vacancy and two candidates withdrew. Accordingly, the names and qualifications of two candidates are hereby submitted in this report.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Smith meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Smith was born in 1971. He is 52 years old and a resident of Rock Hill, South Carolina. Mr. Smith provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2000.

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(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Smith.

Mr. Smith demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Smith reported that he has not made any campaign expenditures.

Mr. Smith testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Smith testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Smith to be intelligent and knowledgeable.

Mr. Smith reported that he has taught the following law-related courses:

- (a) I have taught the course section on Child Abuse/ Neglect and Child Protection at the 2023, 2022, 2017 and 2014 Law School for Non-Lawyers, York Technical College, Rock Hill, South Carolina.
- (b) I have presented an overview of child protection proceedings to students in 2017 in Dr. Kori Bloomquist's Social Work 533 course at Winthrop University, Rock Hill, South Carolina.
- (c) I have presented a session entitled "Overview of Child Protection Proceedings in South Carolina" at the Old English Consortium Professional Development

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Conference in 2017 to elementary and secondary educators who work in school districts within the north-central region of South Carolina.

- (d) I have presented a session entitled "SCDSS Information: Beyond Mandatory Reporting" at the Old English Consortium Professional Development Conference in 2016 to elementary and secondary educators who work in school districts within the north-central region of South Carolina.
- (e) I have presented a session to alternative caregivers and guardians for children enrolled in the Rock Hill School District at the Rock Hill School District Caregiver/Guardian Forum in 2016.
- (f) I have presented a session at the Rock Hill School District Secondary School Counselor's Forum in 2015 and discussed statutory child abuse/ neglect reporting requirements; various child custody arrangements; the scope and effect of safety plans implemented by SCDSS; and different court actions and the potential consequences of each action on child's custody status.

Mr. Smith has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Smith did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. Smith did not indicate any evidence of a troubled financial status. Mr. Smith has handled his financial affairs responsibly.

The Commission also noted that Mr. Smith was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Smith reported that he is not rated by any legal rating organization.

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Mr. Smith reported that he has not served in the military.

Mr. Smith reported that he has never held public office.

(6) Physical Health:

Mr. Smith appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Smith appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Smith was admitted to the South Carolina Bar in 2000.

He gave the following account of his legal experience since graduation from law school:

- (a) The Honorable John C. Hayes, III, Sixteenth Circuit Court of South Carolina, York, South Carolina. From August 1999 to August 2000, I served as law clerk to The Honorable John C. Hayes, III. During my tenure as Judge Hayes' law clerk, I researched case and statutory law; drafted bench memoranda; drafted proposed orders; prepared civil and criminal jury charges; and acted as liaison between the court, attorneys, and court personnel.
- (b) Sixteenth Judicial Circuit Solicitor's Office, York, South Carolina. From August 2000 to July 2001, I served as an assistant solicitor for Solicitor Thomas E. "Tommy" Pope. As an assistant solicitor, I evaluated law enforcement reports; researched statutory law, case law, the South Carolina Rules of Criminal Procedure, and the South Carolina Rules of Evidence; drafted indictments; interviewed and prepared witnesses for trial; and prepared and prosecuted cases in General Sessions, Transfer and Magistrate courts.
- (c) Harrelson, Hayes and Guyton, LLC, Rock Hill, South Carolina. From July 2001 to February 2004, I practiced as an associate attorney with the law firm Harrelson, Hayes and Guyton, along with firm partners Hugh L. Harrelson, Sr., Senator Robert W. Hayes, Jr., and David G. Guyton. I engaged in a general practice and represented clients of the

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firm in a variety of matters, including adoptions, child custody, divorce, equitable division of property and debts, separation and property settlement agreements, and child visitation; general civil litigation; criminal defense; residential real estate; and probate. The firm was dissolved when David G. Guyton was elected Judge of the Family Court, Sixteenth Judicial Circuit, Seat 2. As an associate attorney, I was not involved with the administrative and financial management of the firm.

- (d) R. Chadwick Smith, Attorney at Law, LLC, Rock Hill, South Carolina. From February 2004 to May 2013, I operated my own law office and practiced family law exclusively. I represented clients in a wide array of family law matters, involving abuse and neglect of children; adoptions; alimony and separate maintenance and support; child custody, child support; divorce; domestic violence, including petitions seeking orders of protection; equitable division of property and debts; mediation; minor and adult name changes; non-compliance of a court order; premarital agreements; separation and property settlement agreements; termination of parental rights; and child visitation. I served as guardian ad litem representing numerous children subject to custody disputes brought as part of divorce actions; modification of custody cases; visitation cases; adoption actions; and abuse and neglect cases filed by the South Carolina Department of Social Services. In 2009, I completed the South Carolina Bar's Family Court Mediation Certification Training Program and became a Certified Family Court Mediator. I mediated numerous cases involving complex marital litigation; child custody; child and spousal support; property and debt division; and child visitation. I was involved with the daily administrative and financial management of my office, including management of my trust account.
- (e) South Carolina Department of Social Services ("SCDSS"), Rock Hill, South Carolina. I joined the South Carolina Department of Social Services as a staff attorney in May 2013, and I am currently employed with SCDSS. In June 2021, I was named the managing attorney for the legal departments in York and Union counties. I manage the daily operations of the legal department, supervise work

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flow of four attorneys and four paralegals, ensure effective scheduling and docketing procedures, address human resources issues, assist in hiring and training new attorneys and staff, conduct employee performance evaluations, monitor all legal department operations, and handle a very active caseload. I represent SCDSS before the Family Court in York and Union counties in cases regarding alleged abuse and neglect of children and vulnerable adults. I advise SCDSS county directors, supervisors, and caseworkers regarding the status of cases and legal matters; research case and statutory law; draft pleadings for ex parte removal, removal, and intervention actions; prepare cases for court by conducting and responding to discovery, interviewing and preparing fact and expert witnesses for hearings and trials; review SCDSS documentation and reports; represent SCDSS at probable cause, merits, judicial review, permanency planning, and termination of parental rights hearings; represent SCDSS in private custody, visitation, and adoption actions in which SCDSS has been named as a defendant; draft proposed orders for the Family Court; assure that SCDSS complies with state and federal law, and agency policies; represent SCDSS at MultiDisciplinary Team Meetings at Carolinas Medical Center-Levine Children's Hospital, Charlotte, North Carolina, and Piedmont Medical Center, Rock Hill, South Carolina; utilize Legal Case Management System; and provide legal training for SCDSS attorneys and staff.

Mr. Smith further reported regarding his experience with the Family Court practice area:

I have significant experience in the private and public sectors representing and advising clients in the following Family Court practice areas: divorce and equitable division of property and debts; child custody; visitation; adoption; and abuse and neglect. Within the past five years, I appeared before the Family Court in approximately six hearings each week.

Divorce and Equitable Division of Property. I represented clients in prosecuting and defending actions for divorce based upon adultery, habitual drunkenness, physical cruelty, and the parties

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having lived separate and apart without cohabitation for a period of one year. I represented and advised clients in cases involving equitable division of property, including specifically the validity and effect of premarital agreements; property acquired by inheritance, devise, bequest, or gift from an individual other than the spouse; premarital property; non-marital property; transmutation of premarital or non-marital property; special equity interest in property; identification and location of property in the marital estate; valuation of marital and non-marital property; division of marital property, taking into consideration statutory apportionment factors; deviation from an equal division of marital property; personal injury claims; stock options; and retirement accounts.

Child Custody. I represented and advised clients in prosecuting and defending child custody cases, including initial child custody as part of a divorce action; modifications of child custody/visitation based upon changed circumstances such as the parties voluntarily modifying custody, the custodial parent being unfit, and the custodial preference of an older child; child custody/visitation sought by fathers who were never married to the child's mother; child custody sought by de facto custodians; child custody sought by foster parents; child custody sought by a non-parent over a natural parent; child custody based upon the psychological parent doctrine; and child custody actions when the custodial parent seeks to relocate with the child. I have served as guardian ad litem for children involved in contested custody and visitation cases; contested and uncontested adoptions; SCDSS abuse and neglect actions; and termination of parental rights cases.

Adoption. I represented and advised clients and their families in various adoption cases, including newborn, step-parent, grandparent, special-needs, uncontested, and contested adoptions. I have served as guardian ad litem for children involved in uncontested and highly contested adoption cases. I have represented SCDSS in contested termination of parental rights and adoption cases involving various intervening parties who wish to adopt children in foster care.

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Abuse and Neglect. I have represented SCDSS before the Family Court in cases relating to the abuse and neglect of children and vulnerable adults. While I was in private practice, I represented parents and caregivers who were involved in actions brought by SCDSS. I have handled numerous cases involving children who have been physical abused, physically neglected, sexually abused, and mentally injured. I have represented SCDSS in uncontested and contested probable cause, merits, judicial review, permanency planning, and termination of parental rights hearings. I often represent SCDSS in complex cases involving severe abuse and neglect of children and in cases involving the Indian Child Welfare Act and the Uniform Child-Custody Jurisdiction and Enforcement Act.

Juvenile Justice. I have represented several juvenile clients in proceedings before the Family Court who have been charged with criminal and status offenses. I have worked closely with assistant solicitors of the Sixteenth Circuit Solicitor's Office, attorneys with the Sixteenth Circuit Public Defender Office, and representatives of the South Carolina Department of Juvenile Justice when a child is placed in the emergency protective custody of SCDSS by the Family Court during a juvenile proceeding. I have represented SCDSS before the Family Court in cases involving dully-involved juveniles at detention hearings, adjudicatory hearings, and dispositional hearings. I am familiar with the statutory procedures concerning juvenile justice cases.

Mr. Smith reported the frequency of his court appearances during the past five years as follows:

- (a) federal: I have not appeared in Federal Court in the past five years.
- (b) state: I appear before the Family Court on a weekly basis in an average of six hearings. I often appear before the Family Court two to three days each week.

Mr. Smith reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) civil: 0%
- (b) criminal: 0%

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- (c) domestic: 100%
- (d) other: 0%

Mr. Smith reported his practice in trial court as follows:

- (a) 100% of his practice was in trial court, including cases that settled prior to trial;
- (b) 30% of cases went to trial and resulted in a verdict;
- (c) 30% of cases went to trial and resolved after the plaintiff's or State's case;
- (d) N/A

Mr. Smith provided that during the past five years he most often served as sole counsel.

The following is Mr. Smith's account of his five most significant litigated matters:

- (a) *S.C. Dep't of Soc. Servs. v. Brittany A. Thomas-Scibuola, Jeffrey Scibuola, Sr., Jeffrey Scibuola, Jr., and Tracy Scibuola, Defendants, of Whom Tracy Scibuola is the Appellant*, Unpublished Opinion No. 2022-UP-237. In 2022, I represented SCDSS in this appeal. Appellant asserted the Family Court lacked subject matter jurisdiction, within the context of an SCDSS action, to find a common-law marriage existed between the Scibuolas, and the Family Court erred in denying Appellant's Rule 60(b)(4), SCRCP. This case was unique because SCDSS is not typically involved in actions challenging the validity of a marriage. The Court of Appeals issued an unpublished opinion on June 1, 2022 which affirmed the Family Court's order denying Appellant's Rule 60(b)(4), SCRCP, motion to declare void a portion of a non-emergency removal order finding the Scibuolas were common-law married. The Court of Appeals stated that whether the Family Court lacked jurisdiction to declare the Scibuolas common-law married was moot and that the Family Court had the authority to order Appellant to pay attorney's fees.
- (b) *S.C. Dep't of Soc. Servs. v. Patricia Carter, Terry Barrow, and Gary James, Defendants, of Whom Patricia Carter is the Appellant*, Unpublished Opinion No. 2018-UP-290. In 2018, I represented SCDSS in this appeal. Appellant's three-year old child obtained an unsecured loaded handgun

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inside Appellant's residence and while in Appellant's custody and control. Appellant's child died tragically from a self-inflicted gunshot wound. Appellant's older child was inside the home at the time of the younger child's death. The Family Court found Appellant had physically neglected her older child, based upon the circumstances of the death of her younger child. Appellant appealed the Family Court's order and contended she had not physically neglected her older child. The Court of Appeals issued an unpublished opinion on June 27, 2018 which affirmed the Family Court's finding that Appellant had physically neglected her older child. The Court of Appeals stated that, under the specific circumstances of the case, Appellant's act of maintaining an unsecured, loaded, chambered firearm that was accessible to Appellant's child at the time of the death of her younger child constituted an act or omission that presented a substantial risk of physical injury to a child.

- (c) *S.B.H. v. W.B.H.* I represented S.B.H. ("Wife") in a divorce action from W.B.H. ("Husband"). At the time marital litigation was commenced, Husband and Wife had been married for fifteen years. Husband and Wife were the parents of two children and were well-educated professionals in the community. Wife sought a divorce from Husband based upon the grounds of Husband's habitual intoxication, custody of the parties' children, child support, equitable apportionment of property and debts, and attorney's fees. One of the most significant issues in this case was Wife's assertion that Husband had engaged in a pattern of economic misconduct during the parties' marriage which adversely affected the economic circumstances of the marital partnership and that, because of Husband's economic misconduct, the Family Court should consider Husband's economic misconduct when equitably apportioning property and debts. The case came before the Family Court for a highly contested final hearing. The Family Court ruled, in relevant part, that Wife was entitled to a divorce from Husband; that Wife would have sole custody of the parties' children; and that any visitation Husband may exercise with the parties' children would be strictly supervised. In relevant part as to the issue

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of Husband's economic misconduct, the Family Court ruled that Wife was entitled to exclusive use and ownership of the parties' former marital home valued at approximately \$450,000.00 and that Wife would receive sole ownership of her retirement account valued at approximately \$100,000.00, despite Wife's retirement account being marital property subject to equitable apportionment.

- (d) *T.J. v. H.J.* I represented H.J. ("Wife") in a divorce action filed by T.J. ("Husband"). At the time marital litigation was commenced, Husband and Wife had been married for six years. Husband and Wife were parents of two children. Husband sought a divorce from Wife based upon the grounds of Wife's adultery, custody of the parties' children, child support, equitable apportionment of marital property and debts, and attorney's fees. Wife filed an answer and counterclaim. Wife sought a decree of separate support and maintenance, child custody, child support, alimony, equitable apportionment of marital property and debts, and attorney's fees. The most significant issue in this case was Wife's assertion that she should be entitled to relocate to New Mexico with the parties' children. Husband vehemently opposed Wife's proposed out-of-state relocation. The case came before the Family Court for a contested final hearing. Wife was able to satisfy the requirements for a proposed out of state relocation, as articulated by the South Carolina Supreme Court in *Latimer v. Farmer*, 360 S.C. 375, 602 S.E.2d 32 (2004). Wife presented evidence of the potential advantages of the proposed move; the likelihood that the move would improve substantially the life of Wife and the parties' children and was not a random decision to relocate; the integrity of Wife's motives to relocate; and the availability of realistic substitute visitation arrangements to foster an ongoing relationship between the parties' children and Husband. The Family Court ruled, in relevant part, that Husband and Wife were entitled to a divorce based upon the grounds of the parties having lived separate and apart for a period in excess of one year; that Wife was granted custody of the parties' children; and that Wife could relocate to New Mexico with the parties' children.

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- (e) *R.R. v. J.S., et. al.* I represented R.R. ("Psychological Father") in a custody action, based upon the psychological parent doctrine. Psychological Father and the natural mother of Child A were never married to each other but resided together for over four years at the time litigation was commenced. Child A was five years old. Psychological Father was the only father Child A had ever known. The natural father of Child A allegedly resided in California, but his location in California was not known. Child A's father had never been involved in Child A's life. The natural mother of Child A died tragically, and at the time of the mother's death, she and Psychological Father resided together with Child A. Psychological Father sought an order of the Family Court granting him emergency custody of Child A. The significant issue presented by this case was the psychological parent doctrine. The South Carolina Court of Appeals' opinion in *Middleton v. Johnson*, 369 S.C. 585, 633 S.E.2d 162 (Ct. App. 2006), was issued on June 28, 2006, and adopted the psychological parent doctrine. Psychological Father commenced his action seeking custody of Child A on July 31, 2006. Psychological Father presented compelling evidence that Child A's natural mother consented to and fostered Psychological Father's establishment of a parent-like relationship with Child A; that Psychological Father and Child A had lived together in the same household; that Psychological Father assumed parental obligations by taking significant responsibility for Child 's care; and that Psychological Father had been in a parental role sufficient to have established a bonded, dependent relationship with Child A. I represented Psychological Father in an action seeking to terminate the parental rights of Child A's, natural father and to adopt Child A. In 2011, Psychological Father became simply "Father" when he successfully adopted Child A.

The following is Mr. Smith's account of five civil appeals he has personally handled:

- (a) *S.C. Dep't of Soc. Servs. v. Brittany A. Thomas-Scibuola, Jeffrey Scibuola, Sr., Jeffrey Scibuola, Jr., and Tracy*

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Scibuola, Defendants, of Whom Tracy Scibuola is the Appellant, Unpublished Opinion No. 2022-UP-237.

- (b) *S.C. Dep't of Soc. Servs. v. Patricia Carter, Terry Barrow. and Gary James, Defendants, of Whom Patricia Carter is the Appellant*, Unpublished Opinion No. 2018-UP-290.
- (c) *S.C. Dep't of Soc. Servs. v. Kimberly Bolin and Angela Gibson, Defendants. of Whom Kimberly Bolin is the Appellant*, Unpublished Opinion No. 2016-UP-016.
- (d) *Amanda Lake v. Jonathan Lake*, Unpublished Opinion No. 2014-UP-099.
- (e) *Kevin McCrowey v. The Zoning Bd. of Adjustment of the City of Rock Hill, South Carolina*, 360 S.C. 301, 599 S.E.2d 617 (Ct. App. 2004).

Mr. Smith reported that he has not personally handled any criminal appeals.

Mr. Smith further reported the following regarding unsuccessful candidacies:

- (a) I was an unsuccessful candidate for Family Court Judge, At-Large, Seat 8. On December 1, 2016, I withdrew as a candidate.
- (b) I was an unsuccessful candidate for Family Court Judge, At-Large, Seat 1. I was found qualified and nominated by the JMSC. On January 30, 2020, I withdrew as a candidate.

(9) Judicial Temperament:

The Commission believes that Mr. Smith's temperament would be excellent.

(10) Miscellaneous:

The Piedmont Citizens Committee on Judicial Qualifications reported Mr. Smith to be "Well-Qualified" as to the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament; and "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee made the following related comment: "Mr. Smith has many years of experience in Family Court handling a wide range of issues. He is well-versed in relevant areas of law and well-attuned to the particular challenges that face litigants and

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practitioners in that court. All of this experience has given him the judgment, insight and humility required of a successful Family Court judge, and the Committee believes that he would serve well in that role.”

Mr. Smith is married to April Edwards Smith. He has two children.

Mr. Smith reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar Association, Member, May 2000 to present.
- (b) Resolution of Fee Disputes Board for the Sixteenth Judicial Circuit, Member, January 2018 to present.
- (c) South Carolina Bar's Law Related Education Committee, Member, July 1, 2014 to present, Scoring Judge in numerous middle school and high school mock trial competitions.
- (d) South Carolina Bar's Children's Law Committee, Member, July 1, 2014 to June 30, 2015, July 1, 2016 to June 30, 2017.
- (e) York County Bar Association, Member, May 2000 to present, Secretary (2003) and Treasurer (2004)

Mr. Smith provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) First Associate Reformed Presbyterian Church, Rock Hill, South Carolina. My wife and I are active members of First Associate Reformed Presbyterian Church. On January 11, 2015, I was ordained and installed as a deacon, and served as a deacon for a three-year term. I served on the Board of Deacons, the Christian Education/ Preschool Committee, and the Transportation and Insurance Committee. For seven years, my wife and I have served as Sunday School teachers for three, four, and five-year- old children.
- (b) Kiwanis Club of Rock Hill, South Carolina. I am a member of the Kiwanis Club, and have been a member for approximately twelve years. I am an active volunteer with the Terrific Kids Program, which is a student-recognition program for elementary school students that

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promotes character development, self-esteem, and perseverance. I participated in monthly Terrific Kids recognition programs at The Palmetto School in Rock Hill. I have been involved with the Terrific Kids Program for ten years.

- (c) ROAR Sports League. Since 2016, I have been involved with ROAR Sports League through Westminster Presbyterian Church, Rock Hill, South Carolina. I have served as a volunteer soccer and basketball coach for children in kindergarten and first grade.
- (d) Rock Hill Country Club, Rock Hill, South Carolina. My family and I are members of Rock Hill Country Club. My children are members of the club's competitive swim team and junior golf team. My wife serves as an active parent volunteer and timer for swim meets.

Mr. Smith further reported:

I am a lifelong resident of South Carolina and of York County, and I am committed to public service. I was reared in a Christian home with parents who valued and demonstrated their commitment to public service. As I have practiced law in the private and public sectors for twenty-three years, I have practiced the habit of giving respect to any client whom I have represented. I have a deep admiration for judges who have earned the respect of practicing attorneys and citizens in their courtrooms, and I have had the privilege to practice before many of South Carolina's outstanding Family Court Judges. I admire greatly those judges who have control of their courtrooms, are well-organized, even tempered, and treat litigants, attorneys, and court personnel fairly, regardless of their social or financial standing. Judges with whom I have contact who have high ethical standards and are admired in the community have become role models for me.

My family and my faith define the purpose of my life. Two of the most important life experiences for me have been my marriage to my best friend and love of my life, April Edwards Smith, who serves our community as a School Psychologist in the Rock Hill School District, and the birth of our [children]. I will have lived a successful life if someday it is said, "Chad was

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a devoted and loving husband and father; a man of deep faith; and a well-respected Family Court Judge who applied the rule of law equitably."

(11) Commission Members' Comments:

The Commission commented that Mr. Smith's career path, was unique; from the Solicitor's office, to private practice, to now being with the Department of Social Services. The Commission appreciated Mr. Smith's affirmation of his desire for fairness to all parties in the Family Court.

(12) Conclusion:

The Commission found Mr. Smith qualified, and nominated him for election to Family Court, Sixteenth Judicial Circuit, Seat 3.

**Erin K. Urquhart
Family Court, Sixteenth Judicial Circuit, Seat 3**

Commission's Findings: QUALIFIED AND NOMINATED

Pursuant to § 2-19-80(A), if fewer than three persons apply to fill a vacancy or if the Commission concludes that there are fewer than three candidates qualified for a vacancy, it shall submit only the names and qualifications of those who are considered to be qualified, with a written explanation for submitting fewer than three names.

For the vacancy for Family Court, Sixteenth Judicial Circuit, Seat 3, four candidates applied for this vacancy and two candidates withdrew. Accordingly, the names and qualifications of two candidates are hereby submitted in this report.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Urquhart meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Urquhart was born in 1981. She is 42 years old and a resident of Rock Hill, South Carolina. Ms. Urquhart provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2006.

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(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Urquhart.

Ms. Urquhart demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. Urquhart reported that she has made \$2,015.75 in campaign expenditures for stationary, graphic design services, and photography services.

Ms. Urquhart testified she has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Ms. Urquhart testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. Urquhart to be intelligent and knowledgeable.

Ms. Urquhart reported that she has taught the following law-related courses:

- (a) 2006 SC Bar CLE. Hot Tips from the Coolest Domestic Law Practitioners; presentation titled "Continuing Benefit of Continuing Education"
- (b) 2008 York County Bar Association. Ethics Seminar, presentation on ethics opinion updates
- (c) 2008 Winthrop University Pre-Law Society. Presentation to students interested in legal careers
- (d) 2011 and 2014. York Technical College. Law School for Non-Lawyers, co-taught domestic relations section

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- (e) 2011 Domestic Relations Update, York County Sherriff's Department
- (f) 2011 SC Bar CLE. Hot Tips from the Coolest Domestic Law Practitioners; presentation titled "Hot Tips Index Update"
- (g) 2015 Winthrop University John C. West Forum on Politics and Policy. Panel discussion for NEW Leadership South Carolina (collegiate women's leadership and public affairs organization)
- (h) 2017 SC Bar CLE. Family Court Practice Management. Presentation on Financial Declarations, Rule 20, SCRFC.
- (i) 2021 Winthrop University Political Science Department. Zoom lecture and Q&A on career readiness with political science majors

Ms. Urquhart reported that she has not published any books or articles.

(4) Character:

The Commission's investigation of Ms. Urquhart did not reveal evidence of any founded grievances or criminal allegations made against her.

The Commission's investigation of Ms. Urquhart did not indicate any evidence of a troubled financial status. Ms. Urquhart has handled her financial affairs responsibly.

The Commission also noted that Ms. Urquhart was punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. Urquhart reported that she is not rated by any legal rating organization.

Ms. Urquhart reported that she has not served in the military.

Ms. Urquhart reported that she has never held public office.

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(6) Physical Health:

Ms. Urquhart appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Urquhart appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Urquhart was admitted to the South Carolina Bar in 2006.

She gave the following account of her legal experience since graduation from law school:

(a) Associate, Law Office of Thomas F. McDow (August 14, 2006 – June 31, 2015).

Provided direct representation of clients in in domestic relations matters both in the Family Court and South Carolina Court of Appeals as well as office management assistance, including all financial matters, including trust accounting.

(b) Partner, McDow & Urquhart, LLC (July 1, 2015 – present).

I represent clients in domestic relations matters both in the Family Court and South Carolina Court of Appeals, often as co-counsel with my partner. Aside from legal and ethical duties to my clients, I either personally manage or oversee many aspects of running the business including personnel, billing, collections, accounts payable, marketing, vendor relationships, and accounting, to include trust accounting.

Ms. Urquhart further reported regarding her experience with the Family Court practice area:

(i) Divorce and equitable division of property. Approximately 80% of the Family Court cases I handle include the division of marital property and debts. I have handled cases with negative value marital estates up to marital estates worth multiple millions. I have represented both primary breadwinners and supported spouses whose contributions to the marital estate were arguably minimal. I am familiar with valuation procedures and

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concepts such as transmutation and special equity interests. I take particular pride in preparing thorough, accurate, and helpful financial declarations.

(ii) Child custody. This is the bulk of my Family Court experience. Probably 85% of my practice involves the contested issues of custody and visitation. I manage these issues nearly every day of my professional life. I am familiar with the law on the subject matter, including handling appeals on these issues, and am comfortable with clients experiencing these legal issues.

(iii) Adoption. I have handled approximately a dozen domestic adoption cases, either representing the adoptive parent or parents, the terminating parent, or participating as guardian ad litem. I have handled one international adoption.

(iv) Abuse and neglect. Until the introduction of the Rule 608 Indigent Defense Contract Attorney program in York County (approximately 2013), I received approximately yearly appointments to represent defendants in SCDSS abuse and neglect cases in addition to private cases which have a collateral abuse and neglect case. I have also served as guardian ad litem in several SCDSS abuse and neglect cases where I was also serving as guardian in a collateral Family Court case. Since that time, I have represented Family Court clients in SCDSS cases collateral to their private cases, one or two per year on average.

(v) Juvenile justice. Minimal direct experience, however, I am familiar with South Carolina agency structure and its fundamental goals, limitations, and practical application within the local community.

In the past five years I have appeared before a Family Court Judge approximately once a week on average. Some hearings are as short as fifteen minutes; some are multi-day trials lasting as much as five days

Ms. Urquhart reported the frequency of her court appearances during the past five years as follows:

- (a) Federal: 0%;
- (b) State: 100%.

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Ms. Urquhart reported the percentage of her practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 0%;
- (b) Criminal: 0%;
- (c) Domestic: 99% (including appeals from Family Court);
- (d) Other: 1%.

Ms. Urquhart reported her practice in trial court as follows:

- (a) 99% of her practice was in trial court, including cases that settled prior to trial.
- (b) (Not Applicable) - cases went to trial and resulted in a verdict
- (c) (Not Applicable) - cases went to trial and resolved after the plaintiff's or State's case
- (d) (Not Applicable) - cases settled after a jury was selected but prior to opening statements

Ms. Urquhart provided that during the past five years she most often served as co-counsel. She provided the following information:

My law partner and I find that we are most effective for our clients when we each bring our strengths to a case. While one or the other of us will take the role as lead counsel, the other is heavily involved in evaluating facts, researching law, determining strategy, preparing clients and documents for court, and settlement negotiations.

The following is Ms. Urquhart's account of her five most significant litigated matters:

- (a) *Johnson v. Johnson*, File book # 2003DR4602259. This was my first trial, first contested case, first client with multiple issues, first case with emergency issues, and the case from which all my future Family Court case strategy decisions would be educated. It was tried for five days beginning February 26, 2007, only 105 calendar days from my swearing-in as a baby lawyer. But for my boss and mentor serving as co-counsel, I would not have had the courage to go forward. The custody and visitation issues were complicated, including findings of abuse and neglect in a collateral SCDSS case, relocation, and split custody where the parents who were incapable of communication

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outside of litigation each received primary custody of one of the two children. In total, there were three guardians ad litem appointed and five therapists during the litigation. The equitable apportionment of property, alimony, and child support issues were complicated by one spouse earning significantly more than the other spouse, despite our allegation that he was currently grossly underemployed. In the end, we did far better than we, the client, or the rest of the York County Bar thought we would do. That week I learned more lessons than I can share here, but the most important of which are these: (1) The reality of sixteen hour workdays before and during trial. Have a good paralegal, partner, and spouse...and maybe dog sitter. (2) I could be trusted to think on my feet. (3) Bad cases can be won and good cases can be lost. (4) Credibility is everything. And (5) Judges prefer civility between lawyers, but they also appreciate it between parents as parties.

- (b) *Hess v. Koziara*, file book # 2009DR4602493, and *Hess v. Koziara*, file book # 2014DR460294. The initial case in 2009 was a custody modification case with the mother seeking restricted visitation for the father who suffered mental health problems and who resided with his parents in Pennsylvania, approximately 550 miles from mother. My boss (later my law partner) and I represented the father. The Family Court decided in our favor, ruling that the child's relationship with father was important and needed protection just as much as the visitation guidelines to safeguard the child during visitation. Father was not deprived of the relationship because of his illness so long as he maintained treatment and crisis situations were met with appropriate responses. The visitation order promoted fewer and longer visitation periods over frequent and shorter visitation periods given the distance between parents. This case taught me a great deal about accepting bad facts with grace and admitting fault in order to maintain the ever-critical credibility. There are also lessons in parties accepting their co-parent as they are and avoiding short-term strategic gains when the damage to the co-parent relationship cannot be undone. The 2014 case taught lessons in the importance of learning your lesson

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from the Family Court the first time, and the award of attorney's fees as a significant method of leveling the playing field between parties.

- (c) *Pittman v. Pittman*, 407 S.C. 141, 146, 754 S.E.2d 501 (2014). This case was important in my career regarding the issues of marital fault, alimony, equitable apportionment of property, transmutation, and attorney's fees awards. My boss and I represented the husband, who committed pre-separation marital fault and lost nearly every substantive battle in the case all the way from the Family Court's temporary order to the Supreme Court of South Carolina finding intent for transmutation could be gleaned from the behavior of the non-owner spouse. Discovery rules and business appraisal were important in this case as well. I learned about losing with dignity and fighting until the final loss. Having a pleasant and grateful client does not affect the outcome of a case.
- (d) *Lester v. Sanchez*, No. 2015-000027, 2017 WL 4817527 (S.C. Ct. App. Aug. 30, 2017). Not reported. The Supreme Court of South Carolina granted cert, *Lester v. Sanchez*, No. 2017-002043, 2019 WL 1486760, (S.C. Apr. 3, 2019), but dismissed as improvidently granted. This case (cases) were my deep-end plunge into third-party (specifically grandparent) custody battles. I learned important concepts about the psychology of parenting and bonding, as well as the importance of expert witnesses.
- (e) *Atkinson v. Kinsler*, file book # 2020DR01439. This case is a custody and visitation case (child support being a minor issue) where the adverse party has been on a seemingly unstoppable campaign of hostility and, in my view, abuse of the system at every possible turn. The original contested litigation began before the child at issue was even a year old and he is now twelve. The father has filed grievances against medical and legal professionals. He has made unfounded allegations of abuse with SCDSS as well as criminal allegations against mother at local, state, and federal levels of law enforcement. He has been overtly critical of female professionals and females as a subset of rational human beings. There have been more than a handful of contempt proceedings; Father is currently incarcerated as a result of two of them, and is facing an

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upcoming hearing on our allegation of criminal contempt. This case is about perseverance, taking the high road, and believing the system will promote justice in the end.

The following is Ms. Urquhart's account of five civil appeals she has personally handled:

- (a) *Walrath v. Walrath*, 2023-UP-152 (S.C. Ct. App. Apr. 12, 2023). Not reported. The file book number is 2018DR4601773, and the Family Court just received the remittitur from the Court of Appeals.
- (b) *Stasi v. Sweigart*, 434 S.C. 239, 863 S.E.2d 669 (2021).
- (c) *Brown v. Brown*, 408 S.C. 582, 758 S.E.2d 922 (Ct. App. 2014).
- (d) *Schultze v. Schultze*, 403 S.C. 1, 741 S.E.2d 593 (Ct. App. 2013).
- (e) *Snipes v. Snipes*, 2013-UP-329 (S.C. Ct. App. 2013). Not reported.

Ms. Urquhart reported that she has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Ms. Urquhart's temperament would be excellent.

(10) Miscellaneous:

The Piedmont Citizens Committee on Judicial Qualification found Ms. Urquhart to be "Well-Qualified" as to the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, and judicial temperament; and "Qualified" in the evaluative criteria of constitutional qualification, physical health, mental stability, and experience. The Committee stated: "Ms. Massengale [Urquhart] struck the Committee as an enthusiastic and talented lawyer who has handled well a wide range of issues in the Family Court. The Committee rated her 'qualified' rather than 'well-qualified' in the area of experience, however, because we do not believe that her experience is as board [sic] as some other candidates running for this seat. Nevertheless, we believe that she is an able lawyer who would serve well as a judge."

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Ms. Urquhart is married to T. Ray Massengale Jr. She has two step-children.

Ms. Urquhart reported that she was a member of the following Bar and professional associations:

- (a) South Carolina Bar Association
- (b) York County Bar Association. Secretary (2008-2009) and Treasurer (2009-2010)
- (c) South Carolina Women's Lawyer Association

Ms. Urquhart provided that she was not a member of the following civic, charitable, educational, social, or fraternal organization.

Ms. Urquhart provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Camp Adam Fisher, Board member. For thirty years I have been heavily involved with CAF, the largest all-volunteer camp for children with Type I Diabetes in the Southeast. I started as a camper, have been a counselor-in-training (CIT), counselor, and currently serve as board member and CIT Coordinator.
- (b) Rock Hill Adult Soccer League. Until Covid, I was an active participant in RHASL having spring and fall seasons for co-ed adults looking to play competitive but recreational soccer.
- (c) My Legal BFF, FaceBook group offering support among a community of women lawyers, primarily in South Carolina or who attended school in South Carolina.

Ms. Urquhart further reported:

(a) To better show the extent of my appellate experience, my cases are included in bullet point fashion below: (Citations including "UP" were unpublished opinions and "MO" are memorandum opinions)

(I) SC Court of Appeals

- i. *Roberts v. Roberts*, 2009-UP-190 (S.C. Ct. App. 2009)
- ii. *Hicks v. Hicks*, 2011-UP-124 (S.C. Ct. App. 2011)
- iii. *Pittman v. Pittman*, 395 S.C. 209, 717 S.E.2d 88 (Ct. App. 2011)
- iv. *Jennifer K. v. Robert K.*, 2012-UP-489 (S.C. Ct. App. 2012)

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- v. *SC Dept. of Social Services v. Sandra G.*, 2012-UP-052 (S.C. Ct. App 2012)
- vi. *Fortenberry v. Fortenberry*, 2013-UP-364 (S.C. Ct. App. 2013)
- vii. *Schultze v. Schultze*, 403 S.C. 1, 741 S.E.2d 593 (Ct. App. 2013)
- viii. *Snipes v. Snipes*, 2013-UP-329 (S.C. Ct. App. 2013)
- ix. *Brown v. Brown*, 408 S.C. 582, 758 S.E.2d 922 (Ct. App. 2014)
- x. *Brown v. Brown*, 2014-UP-307 (S.C. Ct. App. 2014)
- xi. *Forman v. SC Dept of Labor*, 419 S.C. 64, 796 S.E.2d 138 (Ct. App. 2016)
- xii. *Miteva v. Robinson*, 418 S.C. 447, 792 S.E.2d 920 (Ct. App. 2016)
- xiii. *Lester v. Sanchez*, 2017-UP-241 (S.C. Ct. App. 2017)
- xiv. *Gay v. Gay*, No. 2016-001679 (S.C. Ct. App. 2019)
- xv. *Vitale v. Vitale*, 2019-UP-068 (S.C. Ct. App. 2019)
- xvi. *Whitesell v. Whitesell*, 431 S.C. 575, 848 S.E.2d 588, (Ct. App. 2020)
- xvii. *Hughes v. Corretjer*, 2022-UP-411 (S.C. Ct. App. 2022)
- xviii. *Walrath v. Walrath*, 2023-UP-152 (S.C. Ct. App.

2023)

(II) Supreme Court

- i. *Brunson v. Brunson*, 2009-MO-054, (S.C. 2009)
- ii. *Pittman v. Pittman*, 407 S.C. 141, 146, 754 S.E.2d 501 (2014)
- iii. *Lester v. Sanchez*, 2019-MO-020 (2019)
- iv. *Stasi v. Sweigart*, 434 S.C. 239, 863 S.E.2d 669 (2021)

(b) In addition to private practice of representing Family Court litigants, since 2011, I have been a certified Family Court mediator, mediating all types of Family Court cases. I have been appointed by Family Court Judges and stipulated to by lawyers. Since 2018, I serve as a self-represented litigant pro bono mediation volunteer with the Family Court of the Sixteenth Judicial Circuit.

(c) My time in law school primarily focused on the child protection system. I clerked my 1L summer for the DSS Attorney for

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Cherokee County (2004). In the spring of 2006, I received the Cali Award (American Jurisprudence) -- Child Abuse and the Legal System.

(d) Even my college experience helped to prepare for me for the judicial system. From 2002-2003 I served as the Winthrop University Model United Nations, Secretary General training committee chairs, editing conference resolutions, and interpreting and enforcing the conference rules of order.

(11) Commission Members' Comments:

The Commission questioned Ms. Urquhart about various situations that she would face as a Family Court judge if she was elected. In response, Ms. Urquhart demonstrated the depth of her knowledge and answered the questions to the Commission's satisfaction.

(12) Conclusion:

The Commission found Ms. Urquhart qualified, and nominated her for election to Family Court, Sixteenth Judicial Circuit, Seat 3.

**ADMINISTRATIVE LAW COURT
QUALIFIED AND NOMINATED**

**The Honorable Ralph K. Anderson III
Administrative Law Court, Seat 1**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Anderson meets the qualifications prescribed by law for judicial service as a Court of Appeals judge.

Judge Anderson was born in 1959. He is 64 years old and a resident of Columbia, South Carolina. Judge Anderson provided in his application he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1984.

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(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Anderson.

Judge Anderson demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to a judge, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Anderson reported that he has not made any campaign expenditures.

Judge Anderson testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Judge Anderson testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Anderson to be intelligent and knowledgeable.

Judge Anderson reported that he has spoken or lectured for the following classes, programs, or seminars:

- (l) USC School of Law Class (Jurisdiction before the ALC) on February 13, 2023.
- (m) SCAARLA (Administrative Law Court's New E-Filing System) on February 10, 2023.
- (n) USC School of Law Class (Law Practice Workshop) on February 7, 2022.
- (o) Recorded CLE for SC Bar & SCAARLA (How to Craft an Order) on December 13, 2021.
- (p) Seminar sponsored by the ABA Judicial Division & Commission on Disability Rights as a panelist concerning "Living with a Disability in the Profession on October 27, 2021

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- (q) SC Administrative Law Court (How to Craft an Order) on October 8, 2021.
- (r) How to Craft an Order (Pub. Serv. Comm'n) on June 8, 2021.
- (s) Recorded SC Judicial CLE (The Administrative Law Court: Overview and Judicial Considerations) on March 29, 2021.
- (t) USC School of Law Class (Jurisdiction before the ALC) on March 17, 2021.
- (u) USC School of Law Class (Law Practice Workshop) on February 8, 2021.
- (v) SC Bar Convention - Virtual CLE (Tales from Emails) on January 22, 2021.
- (w) Recorded CLE for SCAARLA (Appellate Jurisdiction before the ALC) on October 8, 2020.
- (x) SCAARLA (Tales from Emails) on February 21, 2020.
- (y) USC School of Law Class (Law Practice Workshop) on February 10, 2020.
- (z) SC Bar Convention (Case Law Update: Administrative Law) on January 24, 2020.
- (aa) SC Bar Diversity Committee (Panel: How ____ can I be?) on January 7, 2020.
- (bb) Central Panel Directors Conference (Asheville NC) - Report of the South Carolina ALC on November 1, 2019.
- (cc) USC School of Law Class (Law Practice Workshop) on February 25, 2019.
- (dd) SC Bar Convention (Case Law Update: Recent Supreme Court and Court of Appeals Cases from the ALC and Recent ALC Cases) on January 17-18, 2019.
- (ee) USC School of Law Class (Law Practice Workshop) on February 26, 2018.
- (ff) SCAAO Conference on October 6, 2017, concerning tax law cases and statutory construction.
- (gg) USC School of Law Class (Law Practice Workshop) on April 3, 2017.
- (hh) DHEC (What is Effective Regulation?) on October 28, 2016.
- (ii) Fifth Circuit's Spring Courthouse Keys event on April 1, 2016.
- (jj) USC School of Law Class (Law Practice Workshop) on February 8, 2016.
- (kk) SC Bar Convention for the Regulatory and Administrative Law Section on January 22, 2016.
- (ll) SC Bar (Fifth Circuit Tips from the Bench) on January 8, 2016.

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- (mm) USC School of Law Class (Law Practice Workshop) on February 9, 2015.
- (nn) A seminar for SC HHS Hearing Officers on April 13, 2015.
- (oo) An Administrative Law & Practice in S.C. Seminar on January 31, 2014.
- (pp) USC School of Law Class (Law Practice Workshop) on March 3, 2014.
- (qq) S.C. Bar Convention (Panel Discussion on Administrative Law) on January 25, 2013.
- (rr) A seminar for the Public Service Commission. (APA, Agency Decision & Ethics) on March 20, 2013.
- (ss) Two separate CLEs on Administrative Law on February 21 & 22, 2013.
- (tt) S.C. Bar CLE (Hot Topics in Administrative Law) on October 30, 2009.
- (uu) A panel discussion for the Judicial Merit Selection Commission CLE on July 31, 2009.

Judge Anderson reported that he has published the following books or articles:

- (a) "A Survey on Attributes Considered Important for Presidential Candidates," Carolina Undergraduate Sociology Symposium, April 17, 1980.
- (b) "An Overview of Practice and Procedure Before the Administrative Law Judge Division," South Carolina Trial Lawyer, Summer 1996.
- (c) The Majesty of the Lord's Prayer: An Analytical Review of Its Meaning and Implications (Murrels Inlet: Covenant Books, Inc., 2020).

(4) Character:

The Commission's investigation of Judge Anderson did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Judge Anderson did not indicate any evidence of a troubled financial status. Judge Anderson has handled his financial affairs responsibly.

The Commission also noted that Judge Anderson was punctual and attentive in his dealings with the Commission, and the

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Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Anderson reported that he is rated by one legal rating organization, Martindale-Hubbell, as AV Preeminent.

Judge Anderson reported that he has not served in the military.

Judge Anderson reported that he has held the following public office: from 1985 to 1995 Judge Anderson was appointed and served as an Assistant Attorney General

(6) Physical Health:

Judge Anderson appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Anderson appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Anderson was admitted to the South Carolina Bar in 1984.

He gave the following account of his legal experience since graduation from law school:

I began my legal career at the South Carolina Attorney General's Office in September 1984. During my career at the AG's office, I prosecuted numerous criminal cases of all types and handled a wide variety of civil litigation. My duties included:

- (a) Statewide criminal prosecutor
- (b) Assisting in the implementation of the Statewide Grand Jury
- (c) Extradition hearing officer on behalf of the Governor of South Carolina
- (d) Counsel to the State Ethics Commission
- (e) Representing the State in a variety of civil litigation matters
- (f) Representing the State in post-conviction relief matters
- (g) Committee Attorney for the State Employee Grievance Committee

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(h) Prosecutor for the Engineering and Land Surveyor's Board

I also prosecuted Medical Board cases, wrote Attorney General Opinions and handled Criminal Appeals.

On May 25, 1994, I was elected to Administrative Law Judge Seat No. 6 and re-elected to that position in 1996, 2001 and 2006. Administrative Law Judges hear appellate, injunctive and trial cases in a broad range of administrative matters involving governmental agencies and private parties.

On May 13, 2009, I was elected Chief Administrative Law Judge and re-elected to this position February 5, 2014, and February 6, 2019.

As an Assistant Attorney General, I did not have any significant administrative and financial management. As an Administrative Law Judge, I did not have any legal obligation regarding administrative and financial management but was occasionally assigned those duties by the Chief Judge. As Chief Administrative Law Judge, I am responsible for the administration of the court, including budgetary matters, assignment of cases, and the administrative duties and responsibilities of the support staff. See S.C. Code Ann. § 1-23-570. Also, Section 1-23-660 of the South Carolina Code (Supp. 2017) provides "The chief judge is solely responsible for the administration of the [Office of Motor Vehicle Hearings], the assignment of cases, and the administrative duties and responsibilities of the hearing officers and staff."

Judge Anderson reported that he has held the following judicial office(s):

I was elected by the General Assembly to serve as an Administrative Law Judge beginning February 1, 1995. On May 13, 2009, I was elected Chief Administrative Law Judge and have been serving continuously since that date.

Administrative Law Judges hear appellate, injunctive, and trial cases in a broad range of administrative matters involving governmental agencies and private parties.

The Administrative Law Court's appellate jurisdiction includes appeals involving Medicaid; driver's license revocations and suspensions; licensing decisions from boards/commissions under the Department of Labor, Licensing and Regulation; Budget and Control Board's Employee Insurance Program; AFDC benefits; operation of day care facilities and foster home licensing;

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food stamps; and revocations or suspensions of teachers' certificates. The Administrative Law Court also hears appeals from final decisions of the Department of Employment and Workforce; the Department of Corrections in "non-collateral" matters; and appeals from final decisions of the South Carolina Department of Probation, Parole and Pardon Services permanently denying parole eligibility.

The contested case litigation includes hearings involving environmental and health permitting; Certificates of Need; State Retirement Systems' disability determinations; Disadvantaged Business Enterprises; state and county tax matters; alcoholic beverage issues; and wage disputes.

Judge Anderson provided the following list of his most significant orders or opinions:

- (a) *Travelscape, LLC v. S.C. Dep't of Revenue*, Docket No. 08-ALJ-17-0076-CC. Holding affirmed in *Travelscape, LLC v. S. C. Dept. of Revenue*, 391 S.C. 89, 705 S.E.2d 28 (2011)
- (b) *Duke Energy Corp. v. S. C. Dep't of Revenue*, Docket No. 10-ALJ-17-0270-CC. Holding affirmed in *Duke Energy Corp. v. S.C. Dep't of Revenue* 410 S.C. 415, 417, 764 S.E.2d 712, 713 (Ct. App. 2014), reh'g denied (Nov. 21, 2014), cert. granted (Apr. 9, 2015) and further affirmed by the Supreme Court in *Duke Energy Corp. v. S. C. Dep't of Revenue*, 415 S.C. 351, 782 S.E. 2d 590 (2016).
- (c) *Kiawah Dev. Partners, II v. S.C. Dep't of Health and Env'tl. Control*, Docket No. 09-ALJ-07-0029-CC and *S.C. Coastal Conservation League v. S.C. Dept. of Health and Env'tl. Control*, Docket No. 09-ALJ-07-0039-CC (February 26, 2010) (consolidated cases). Holding originally reversed by the Supreme Court, then affirmed and then reversed 3-2 in *Kiawah Dev. Partners, II v. S.C. Dep't of Health & Env'tl. Control*, 411 S.C. 16, 766 S.E.2d 707 (2014).
- (d) *Amazon Servs., LLC v. S.C. Dep't of Revenue*, Docket No. 17-ALJ-17-0238-CC (September 10, 2019) (Currently on appeal)
- (e) *Lexington Cty. Health Servs. Dist. Inc., d/b/a Lexington Med. Ctr. v. S.C. Dep't of Health and Env'tl. Control and Prisma Health-Midlands, Providence Hosp., LLC d/b/a*

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Providence Health, Providence Health Northeast, Providence Health Fairfield, and Kershaw Hosp., LLC d/b/a KershawHealth Med. Ctr., Docket No. 20-ALJ-07-0108-CC (December 7, 2020) (Originally appealed to the Court of Appeals, appeal later withdrawn by parties)

Judge Anderson reported no other employment while serving as a judge.

Judge Anderson reported the following regarding unsuccessful candidacies:

- (a) Administrative Law Judge, Seat 3 (February 23, 1994)
- (b) Fifth Judicial Circuit Court, Seat 3 (May 24, 2000) - Found qualified and nominated but withdrew prior to election.
- (c) Circuit Court, At-Large Seat 9 (January 16, 2003) - Found qualified but not nominated.
- (d) Court of Appeals, Seat 9 (March 10, 2008) - Found qualified but not nominated.
- (e) Supreme Court, Seat 2 (January 14, 2016) - Found qualified and nominated but withdrew prior to election.
- (f) Supreme Court, Seat 5 - Found qualified and nominated on November 15, 2016, but later found qualified and not nominated on December 5, 2016.
- (g) Supreme Court, Seat 4 - Found qualified but not nominated on January 17, 2023.

(9) Judicial Temperament:

The Commission believes that Judge Anderson's temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualifications found Judge Anderson to be "Well Qualified" as to the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament; and "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee had the following related comment, "Exceptionally experienced".

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Judge Anderson is married to Linda Corley Anderson. He has no children.

Judge Anderson reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar
- (b) Administration and Regulatory Law Committee of the SC Bar
- (c) South Carolina Administrative and Regulatory Law Association; President since 2009.

Judge Anderson provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Shandon Baptist Church. I am a member of the church but have not held any office with the church.
- (b) South Carolina Administrative and Regulatory Law Association (SCAARLA). I became a member and board member of SCAARLA following its formation in 2002. In 2009, I was elected President of SCAARLA and have been serving in that capacity since that date.

(11) Commission Members' Comments:

The Commission noted that Judge Anderson's intellect and organizational skills have made him a highly effective Administrative Law Judge and Chief Judge.

(12) Conclusion:

The Commission found Judge Anderson qualified, and nominated him for re-election to Administrative Law Court, Seat 1.

QUALIFIED, BUT NOT NOMINATED

**Grayson Lambert
Court of Appeals, Seat 9**

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Lambert meets the qualifications prescribed by law for judicial service as a Court of Appeals judge.

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Mr. Lambert was born in 1986. He is 37 years old and a resident of Columbia, South Carolina. Mr. Lambert provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2013. He was also admitted to the North Carolina Bar in 2012.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Lambert.

Mr. Lambert demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Lambert reported that he has made \$582.51 in campaign expenditures for paper, envelopes, stamps, and printing services.

Mr. Lambert testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Lambert testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Lambert to be intelligent and knowledgeable.

Mr. Lambert reported that he has taught the following law-related courses:

- (a) I planned and delivered, with another partner in the firm, a CLE for associates on legal writing at Burr & Forman in 2021.

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- (b) I planned the Trial & Appellate Advocacy Council's 2023 South Carolina Bar Convention CLE about legal writing, and I moderated a panel of four judges discussing how to be a better writer.

Mr. Lambert reported that he has published the following:

- (a) *Lawsuits and Legislative Leadership*, SC Lawyer 26 (July 2019) (with Brad Wright)
- (b) *Getting from Award to Judgment: Where to Confirm or Vacate Arbitration Awards*, SC Lawyer 26 (July 2018)
- (c) *The Necessary Narrowing of General Personal Jurisdiction*, 100 Marq. L. Rev. 375 (2016)
- (d) *Unmixing the Mess: Resolving the Circuit Split over the Brillhart/Wilton Doctrine and Mixed Complaints*, 64 U. Kan. L. Rev. 793 (2016)
- (e) *Focusing on Fulfilling the Goals: Rethinking How Choice-of-Law Regimes Approach Statutes of Limitations*, 65 Syracuse L. Rev. 491 (2015)
- (f) *Toward a Better Understanding of Ripeness and Free Speech Claims*, 65 S.C. L. Rev. 411 (2013)
- (g) *Keeping the Inference in the Adverse Inference Instruction: Ensuring the Instruction Is an Effective Sanction in Electronic Discovery Cases*, 64 S.C. L. Rev. 681 (2013)
- (h) Note, *The Real Debate over the Senate's Role in the Confirmation Process*, 61 Duke L.J. 1283 (2012)

(4) Character:

The Commission's investigation of Mr. Lambert did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. Lambert did not indicate any evidence of a troubled financial status. Mr. Lambert has handled his financial affairs responsibly.

The Commission also noted that Mr. Lambert was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

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(5) Reputation:

Mr. Lambert reported that his rating by a legal rating organization, Super Lawyers, is Rising Star: Appellate; and his rating by Best Lawyers, Ones to Watch, is Appellate, Commercial Litigation.

Mr. Lambert reported that he has not served in the military.

Mr. Lambert reported that he has never held public office.

(6) Physical Health:

Mr. Lambert appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Lambert appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Lambert was admitted to the South Carolina Bar in 2013.

He gave the following account of his legal experience since graduation from law school:

(a) Law Clerk, Hon. Dennis W. Shedd, United States Court of Appeals for the Fourth Circuit, 2012–2013

I handled traditional law clerk duties, including drafting bench memoranda, assisting in oral-argument preparation, and drafting and editing opinions. I was not involved in administrative or financial management in this role.

(b) Associate, McGuireWoods LLP, 2013–2017

My first job after clerking was focused on civil litigation. I was fortunate, while a young lawyer at a large firm, to have the opportunity to do substantive work on dispositive motions and discovery motions in significant matters. By the end of my time at the firm, about a quarter of my work was in appellate proceedings. I was not involved in administrative or financial management in this role.

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- (c) Partner (2021), Associate (2017–2020), McNair Law Firm, P.A./Burr & Forman, LLP, 2017–2021
My practice at McNair (which became Burr & Forman while I was there) was again almost exclusively civil. I had a goal to build an appellate practice, and my work grew from about 25% appellate work to almost exclusively appellate work by the end of my time there. The trial court work I did usually focused on novel or complex legal questions or high-value disputes. I was not involved in administrative or financial management in this role.
- (d) Senior Litigation Counsel, Office of Governor Henry McMaster, 2021–present
I joined the Governor’s Office specifically to handle his litigation. The majority of that litigation involves novel legal questions in high-profile cases. Many of those cases proceed quickly through trial court and into the appellate courts. I am not involved in administrative or financial management in this role.

Mr. Lambert reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: Given the nature of my appellate practice, most of my appearances are in written form. I have been counsel in 18 cases in federal courts of appeals in the past five years (typically as lead counsel), as well as counsel on three amicus briefs (again typically as lead counsel). I have argued three appeals in the Fourth Circuit during that time. In the U.S. Supreme Court, I have led two and participated in drafting three amicus briefs, and I was counsel of record in two U.S. Supreme Court cases.

In federal district court, my appearances in court have all been to argue major motions. I have typically handled several of those types of

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motions per year over the past five years.

- (b) State: My state court practice mirrors my federal practice. I have been lead counsel in 13 cases in the South Carolina Supreme Court in the past five years, and I have argued five of those cases. I have also led five amicus briefs in the South Carolina Supreme Court in the past five years. I have been lead counsel in 15 cases in the South Carolina Court of Appeals in the past five years, and I have led one and participated in another amicus brief in that time.

In circuit court, I have been co-counsel in one bench trial, and I have argued a wide range of motions, averaging between eight and ten per year, over the past five years.

Mr. Lambert reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 99%;
- (b) Criminal: 1%;
- (c) Domestic: N/A
- (d) Other: N/A

Mr. Lambert reported the percentage of his practice in trial court during the past five years as follows:

- (a) Cases that settled prior to trial: 10%
- (b) Cases that went to trial and resulted in a verdict: One
- (c) Cases that went to trial and resolved after plaintiff or State's case: None
- (d) Cases settled after a jury was selected but prior to opening statements: None

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Mr. Lambert provided that during the past five years he most often served as lead counsel in appellate proceedings and co-counsel in trial court proceedings.

The following is Mr. Lambert's account of his five most significant litigated matters:

- (a) *Andino v. Middleton*, 141 S. Ct. 9 (2020): This was the culmination of the COVID-related voting cases in which I represented the members of the S.C. Election Commission. After the district court enjoined the State's witness requirement for absentee ballots for the 2020 general election, we appealed. The Fourth Circuit initially granted our motion to stay the injunction, but the en banc court vacated that order and denied the motion. We sought emergency relief in the U.S. Supreme Court. The Supreme Court granted that relief, which meant the witness requirement remained in effect for the 2020 general election.
- (b) *Planned Parenthood South Atlantic v. State*, No. 2023-000896 (S.C.): This case involves a challenge to the 2023 Fetal Heartbeat and Protection from Abortion Act. The General Assembly enacted this statute in response to the divided Supreme Court decision that the 2021 Fetal Heartbeat and Protection from Abortion Act was unconstitutional. The circuit court quickly enjoined the 2023 Act, and we immediately appealed. I was the principal author of the Governor's brief, and I argued the case on his behalf on June 27, 2023. The case is pending, as we await a decision from the Supreme Court.
- (c) *Disability Rights S.C. v. McMaster*, 24 F.4th 893 (4th Cir. 2022): This case was a challenge to the budget proviso that prohibited school districts from using state funds to impose mask mandates on students. The district court enjoined the Governor and others from enforcing the budget proviso, and we appealed. We raised jurisdictional and merits argument. After I argued the case in the Fourth Circuit, that court held that the district court lacked jurisdiction to enjoin the Governor. After losing on appeal, the plaintiffs essentially gave up on the case on remand against other defendants. Therefore, the budget proviso protecting

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students from mask mandates enforced with state money remained in effect.

- (d) *Owens v. Stirling*, 438 S.C. 352, 882 S.E.2d 858 (2023): This case challenged the constitutionality of the firing squad and electrocution as methods of execution under article I, section 15 of the South Carolina Constitution. The circuit court held both methods were unconstitutional, and we appealed, arguing that the original understanding of the Constitution makes clear that both methods are constitutional. I argued the case in the Supreme Court, which remanded part of the case for more information on the efforts of the Department of Corrections to obtain lethal injection drugs while holding the remainder of the appeal in abeyance. Proceedings on remand are stayed in light of the recently enacted shield statute, as the Department of Corrections attempts to obtain the drugs necessary for carrying out an execution by lethal injection. This case is significant because it will determine whether and how the State can carry out lawfully imposed death sentences for convicted murderers.
- (e) *Brannon v. McMaster*, 434 S.C. 386, 864 S.E.2d 548 (2021): The Governor ended South Carolina's participation in federal unemployment benefits during the COVID pandemic in an effort to encourage people to fill the more than 80,000 open jobs across the State. People who had been receiving those benefits challenged the Governor's authority to end the State's participation in that federal program. I argued this case on appeal, and the S.C. Supreme Court held that the Governor did in fact have the authority under state law to make the decision he did. This case meant that people were incentivized to get back to work, rather than to stay at home and collect extra benefits from the federal government.

The following is Mr. Lambert's account of five civil appeals he has personally handled:

- (a) *Planned Parenthood South Atlantic v. State*, 438 S.C. 188, 882 S.E.2d 770, (2023)
- (b) *Pinckney v. Peeler*, 434 S.C. 272, 862 S.E.2d 906 (2021)
- (c) *League of Women Voters v. Andino*, 849 F. App'x 39 (4th Cir. 2021)

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- (d) *Bailey v. S.C. Election Comm'n*, 430 S.C.268, 844 S.E.2d 390 (2020)
- (e) *Pershing, L.C.C. v. Kiebach*, 819 F.3d 179 (5th Cir. 2016)

The following is Mr. Lambert's account of two criminal appeals he has personally handled:

- (a) *State v. Troutman*, No. 2017-002224, 2020 WL 2213643 (S.C. Ct. App. May 6, 2020)
- (b) *United States v. Rivers*, 576 F. App'x 282 (4th Cir. 2014)

(9) Judicial Temperament:

The Commission believes that Mr. Lambert's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualifications found Mr. Lambert to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability; and "Well-Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee noted: "Will be a great asset to the Court of Appeals!"

Mr. Lambert is married to Mary Elizabeth Ward Lambert. He has three children.

Mr. Lambert reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar
 - Trial and Appellate Advocacy Council, 2018–present
 - Immediate Past Chair, 2023–present
 - Chair, 2022–2023
 - Chair-Elect, 2021–2022
 - Secretary, 2020–2021
 - Young Lawyers Division
 - Community Law Week Co-Chair, 2019–2022
 - Out-of-State Representative, 2015–2017
 - iCivics Committee, 2013–2014
 - Practice and Procedure Committee, 2014–present
- (b) Federalist Society, 2013–present

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- (c) Fourth Circuit Rules Advisory Committee, 2017–2023
Chair, 2021–2023
- (d) New Lawyers Division, Duke Law Alumni Association
Board of Directors, 2012–2017
Chair, 2016–2017
Vice Chair, 2015–2016

Mr. Lambert provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) First Presbyterian Church
 - Deacon
 - Sunday School class moderator and teacher
 - Youth basketball coach
- (b) Forest Lake Club
- (c) Palmetto Club

Mr. Lambert further reported:

I am excited about the possibility of serving as a judge on the Court of Appeals for three reasons. First, it is an opportunity to serve the State. Public service is important—that is one of the primary reasons I left private practice to join the Governor’s Office. Serving on the Court of Appeals would provide a new and exciting way to continue my public service.

Second, serving on the Court of Appeals would allow me to use the skill set I have developed. I have been involved in more than 80 appeals in every context—from appellant to respondent to amicus to emergency motions to oral arguments. This has taught me how to carefully study the record, effectively analyze the case law, rigorously construct a logical argument, and precisely and concisely put pen to paper. These same skills are necessary as a judge.

Third, judges perform a critical role in society. The rule of law provides order and stability, and courts ensure that the rule of law always prevails. That said, the judicial role is limited to resolving only cases that are brought to the courts. It is not a policymaking role, and judges must be careful to respect the separation of powers.

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(11) Commission Members' Comments:

The Commission commented that Mr. Lambert has an excellent reputation and vast experience in appellate law. They noted his superb intellect and work ethic.

(12) Conclusion:

The Commission found Mr. Lambert qualified, but did not nominate him for election to Court of Appeals, Seat 9.

**Jason P. Luther
Court of Appeals, Seat 9**

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Luther meets the qualifications prescribed by law for judicial service as a Court of Appeals judge.

Mr. Luther was born in 1980. He is 43 years old and a resident of Columbia, South Carolina. Mr. Luther provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2009.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Luther.

Mr. Luther demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Luther reported that he has made \$161.07 in campaign expenditures for paper, envelopes, labels for introduction letters, and postage.

Mr. Luther testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;

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- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Luther testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Luther to be intelligent and knowledgeable.

Mr. Luther reported the following about teaching law-related courses:

I do not keep a list of speaking engagements, but these are the instances I have been able to recall to the best of my recollection:

- (a) I served as judge for USC School of Law's annual Kate Bockman Moot Court competition on numerous occasions since 2012
- (b) State and Local Tax Case Law Update, 2018 Annual SC Bar Convention
- (c) Update from the SCDOR, Council on State Taxation Southeast Regional State Tax Seminar (April 2018)
- (d) Top 10 Things OGC Learned at SCDOR, 2019 Annual SC Bar Convention
- (e) I was a panelist for a USC School of Law panel re: careers as an in-house attorney
- (f) Beware – the Taxman Cometh, 2020 Annual SC Bar Convention
- (g) I participated in an Alcohol Laws and Regulation Education Seminar with SLED and Columbia Police Department
- (h) State and Local Tax Case Law Update, 2021 Annual SC Bar Convention
- (i) OMG, I'm being audited! What do I do now?, recorded CLE as round table panelist for South Carolina Administrative and Regulatory Law Association seminar (December 2021)

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- (j) State and Local Tax Case Law Update, 2022 Annual SC Bar Convention
- (k) SALT Seminar, hosted by Nexsen Pruet (January 2022)
- (l) The Twelve Days of Taxmas, 2023 Annual SC Bar Convention
- (m) I presented at the SALT Seminar - South Carolina Association of CPAs, hosted by Nexsen Pruet (February 2023)

Mr. Luther reported that he has published the following:

- (a) A Tale of Two Cities: Is *Lozano v. City of Hazleton* the Judicial Epilogue to the Story of Local Immigration Regulation in Beaufort County, South Carolina?, 59 S.C. L. REV. 573 (2008).
- (b) Reflections on Professionalism: A Student Perspective, S.C. YOUNG LAW., February 2009 (Vol. 1, Issue 2)
- (c) Peer Review as an Aid to Article Selection in Student-Edited Legal Journals, 60 S.C. L. REV. 959 (2009) (co-authored with John P. Zimmer)
- (d) South Carolina Nonprofit Corporate Practice Manual (3rd Ed., forthcoming), contributing author/editor for chapter dealing with state taxes

(4) Character:

The Commission's investigation of Mr. Luther did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. Luther did not indicate any evidence of a troubled financial status. Mr. Luther has handled his financial affairs responsibly.

The Commission also noted that Mr. Luther was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Luther reported that his rating by a legal rating organization, Super Lawyers, is Rising Star.

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Mr. Luther reported that he has not served in the military.

Mr. Luther reported that he has never held public office.

(6) Physical Health:

Mr. Luther appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Luther appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Luther was admitted to the South Carolina Bar in 2009.

He gave the following account of his legal experience since graduation from law school:

- (a) From 2009 to 2010, I was in private practice with Nelson Mullins Riley & Scarborough LLP in Columbia. I worked primarily on a team that handled commercial litigation and business torts, with a focus on franchise & distribution litigation. However, because of my interest in appellate practice, I also had the opportunity to brief an appeal to the United States Court of Appeals for the Fourth Circuit and work on an amicus brief to the United States Supreme Court. No administrative or financial management.
- (b) From August 2010 to August 2012, I served as a judicial law clerk to the Honorable Dennis W. Shedd, United States Court of Appeals for the Fourth Circuit. While clerking for Judge Shedd, I reviewed briefs and records in a variety of different appeals, including criminal, civil, employment and labor, energy and utilities, environmental law, finance and banking, immigration, taxation, insurance, construction, intellectual property, government contracts, products liability, administrative law, civil rights, family law, etc. For each appeal, I researched legal issues and prepared bench memoranda for Judge Shedd, assisted him in preparing for oral arguments, attended oral arguments during each term of court in Richmond, VA, and drafted opinions. No administrative or financial management.

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- (c) After completing my judicial clerkship I returned to private practice to work for Murphy & Grantland, P.A. from September 2012 to May 2017. There, I was primarily a civil litigator focusing on general commercial and business litigation, insurance defense and coverage matters, and any appellate matters that arose out of my civil litigation practice. This included appeals both at the South Carolina Court of Appeals and the United States Court of Appeals for the Fourth Circuit. No administrative or financial management.
- (d) In May 2017, I accepted a job as the General Counsel for Litigation at the South Carolina Department of Revenue. In that role, I served as Deputy Director and the managing head of the litigation division, providing senior leadership, oversight, and direction on all legal matters impacting the agency, including civil and administrative litigation and criminal tax prosecutions, bankruptcy, and foreclosures. I also provided general legal advice and counsel on a variety of matters including Freedom of Information and alcohol beverage licensing. One of the reasons I chose to leave private practice and join the Department was because it presented a unique opportunity to be involved in more appellate work, and especially appeals that dealt with novel legal and constitutional issues. This job has not disappointed; since joining the Department six years ago I have had an active role in over 30 appellate matters at the South Carolina Court of Appeals or Supreme Court, as well as one matter at the United States Court of Appeals for the Fourth Circuit. No financial management.
- (e) In the summer of 2020, the Department of Revenue restructured and consolidated all of its legal services and functions in a single, centralized Office of General Counsel. My title changed to Chief Legal Officer. My duties also expanded to include oversight of the Department's Appeals Section, as well as advice and counsel on matters related to high-balance collections, contracts and procurement, and agency policy on wide-ranging tax, regulatory, and administrative law issues.

Mr. Luther reported the frequency of his court appearances during the past five years as follows:

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- (a) Federal: Infrequent. There was one case, *CSX Transportation, Inc. v. S.C. Dep't of Revenue*, 959 F.3d 622 (4th Cir. 2020), that was litigated and tried in federal court prior to my joining the Department. The Fourth Circuit vacated and remanded the case to the district court. I appeared as co-counsel in the remanded proceedings, a second appeal to the Fourth Circuit, and subsequent reversal and remand to the district court, all of which occurred between 2017–2020;
- (b) State: Frequent. The majority have been at the Administrative Law Court, with some Circuit Court and appellate court appearances.

Mr. Luther reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 15%;
(b) Criminal: 0%;
(c) Domestic: 0%;
(d) Other: 85% (administrative cases).

Mr. Luther reported the following about the percentage of his practice in trial court during the past five years:

I would estimate that during the past 5 years approximately 50% of my practice has been in trial court, 20% has been on appellate matters, and 30% has dealt with other non-trial matters. Nearly all of the Department's cases are non-jury contested case hearings (trials) in the Administrative Law Court, and therefore do not result in a jury verdict. To the best of my knowledge, in the past five years our criminal prosecutor has had four jury trial verdicts—three in favor of the State—and one case in which the defendant pled guilty after the first day of trial.

Mr. Luther provided the following about his role as counsel during the past five years:

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My practice at the Department of Revenue is unique. Our Office of General Counsel handles hundreds of administrative appeals, criminal cases, and civil matters each year. As Chief Legal Officer, I have supervisory responsibility for all of these cases, in addition to other non-trial legal matters.

I serve as co-counsel on many of the administrative cases, although my level of involvement varies widely depending on the complexity and policy implications of the case. In the majority of cases, my involvement is limited primarily to assisting with developing case strategy and reviewing significant pleadings and filings. I am more involved in the complex or significant matters, including actively participating in the discovery process and serving as part of the trial team. My other non-litigation duties as Chief Legal Officer prevent me from handling a full litigation caseload, but I do maintain a small caseload in which I serve as sole counsel or chief counsel. I am typically chief counsel on all circuit court matters. On the appellate matters where I am not the chief or sole counsel, I am heavily involved in the brief-writing process and conducting moot court sessions to prepare our attorneys for oral argument. We have a Special Assistant Attorney General in our office that has primary responsibility on all criminal matters; I supervise this attorney and we frequently collaborate on prosecution strategy.

With that as background, I would estimate that during the past 5 years approximately 50% of my practice has been in trial court, 20% has been on appellate matters, and 30% has dealt with other non-trial matters. Nearly all of the Department's cases are non-jury contested case hearings (trials) in the Administrative Law Court, and therefore do not result in a jury verdict. To the best of my knowledge, in the past five years our criminal prosecutor has had four jury trial verdicts—three in favor of the State—and one case in which the defendant pled guilty after the first day of trial.

The following is Mr. Luther's account of his five most significant litigated matters:

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- (a) *Dominion Energy South Carolina, Inc. f/k/a SCE&G v. South Carolina Department of Revenue*, Docket No. 19-ALJ-17-0170-CC.

This contested case hearing at the Administrative Law Court (ALC) arose out of South Carolina Electric and Gas Company's (SCE&G) abandonment of the two-unit nuclear project at the VC Summer Nuclear Station. The issue was whether SCE&G owed sales and use tax on all of the materials and equipment it had purchased tax-free during construction of the project, even though the project was never completed or operational. Ultimately, after several years of administrative appeals and litigation, we negotiated a settlement with Dominion Energy.

The case was significant for a number of reasons. The settlement allowed the State to recover \$165 million for the tax revenues it had foregone during the construction of the project. We also capitalized on a rare opportunity and negotiated for Dominion to transfer four unique and desirable properties to the State as part of the settlement amount. As a result, Ramsey Grove (a 2,600 acre plantation in Georgetown County); Misty Lake (191 acres in Aiken County); and Pine Island (27 acres) and Bundrick Island (94 acres) (both islands are on Lake Murray in Lexington County) will become new state parks or public lands that all South Carolinians will be able to enjoy for generations to come. I am grateful to have played a small part in this piece of South Carolina's history.

- (b) *Richland Cty. v. S.C. Dep't of Revenue*, 422 S.C. 292, 811 S.E.2d 758 (2018).

I was lead counsel in the "second half" of a case involving Richland County's expenditure of certain sales and use tax revenues, commonly known as the "Penny Tax." When I joined the Department in May 2017, the case had already proceeded through Circuit Court and was pending at the Supreme Court. After the Supreme Court issued its opinion in March 2018, there was over three years of subsequent litigation on remand to the Circuit Court (including an audit

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that was conducted in conjunction with discovery), as well as a companion case that Richland County filed in the Administrative Law Court. We also filed an amicus brief in a separate appeal that also dealt with Richland County's and the Central Midlands Regional Transit Authority's (CMRTA) use of penny tax revenues. Ultimately, in July 2021 we reached an agreement with Richland County and CMRTA that brought to a final conclusion a very public dispute that had been ongoing for over six years.

This case was significant because it established, as a matter of first impression, the Department's authority to review and audit a local government's use of penny tax funds. The case also resulted in the County and CMRTA reimbursing the penny tax program for improper expenditures, and led to the development of a uniform standard (Guidelines) to be applied to all local governments to ensure that transportation penny tax funds are spent only on transportation-related projects, in compliance with state law.

- (c) *Clarendon County et al. v. South Carolina Department of Revenue and Farmers Telephone Cooperative, Inc. et al.*, Docket No. 17-ALJ-17-0237-CC; Appellate Case No. 2020-000983.

This contested case hearing at the ALC dealt with the interpretation of S.C. Code § 12-37-220(B)(10), which provides a property tax exemption to any property of a rural telephone cooperative that is "used in providing rural telephone service." There were a number of issues in the case, but the primary dispute centered on whether the exemption extended to property used to provide rural *wireless* telephone service, or only rural *landline* telephone service. The ALC's final decision agreed with the Department's position that wireless assets qualify for the exemption, at least partially. During the pendency of the appeal at the Court of Appeals, the General Assembly amended section 12-37-220(B)(10) to clarify the exemption applies to modern facilities and technology as well as dual-use assets/property. This clarification confirmed the Department's interpretation of the exemption. As a result of

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the amendment, the counties and telephone cooperative reached a settlement, and the appeal was dismissed.

This case was significant to me because it concerned important issues relating to the provision of affordable and accessible telephone service in underserved rural areas, with implications for things like rural internet and broadband access. It also exposed me to many of the unique aspects of ad valorem property taxes and the interplay between the Department and counties concerning assessment and taxation of property in the state.

- (d) *Grange Mutual v. 20/20 Auto Glass*, Unpublished Opinion No. 2019-UP-419 (Dec. 31, 2019).

This case dealt with whether a unilateral contract is created when an auto glass repair company performs repair services after being told that performance constitutes acceptance of the offer to pay a certain amount for those services. I was sole counsel on this case through the bench trial; the trial court ruled in my client's favor. After the other party appealed and shortly before our brief was due at the Court of Appeals, I took a job with Department of Revenue and had to withdraw as counsel in this case. One of my former colleagues did a wonderful job handling the appeal. The Court of Appeals affirmed the trial court; after holding oral arguments, the Supreme Court dismissed the writ as improvidently granted.

The case was significant for at least two reasons: first, this same issue was being litigated around the country, and courts in other jurisdictions had diverged on how to resolve this particular unilateral contract issue. Second, the case had statewide implications relating to contract formation, and was the first time the Court of Appeals had addressed this issue since deciding *S. Glass & Plastics Co. v. Kemper*, 399 S.C. 483, 732 S.E.2d 205 (Ct. App. 2012), which dealt with a similar scenario as a matter of first impression.

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- (e) *Sidney Edwards Graham as Personal Representative of the Estate of Darrell Wayne Graham v. Allied Barton Security Services, LLC, et al.*, Civil Action No. 2015-CP-26-0426.

This case arose out of the drowning of a plastic surgeon at Broadway at the Beach (Myrtle Beach, SC). The decedent's wife brought a wrongful death and survival action against a number of defendants alleging theories of premises liability and negligence. My client had contracted with the property owners to provide security services at Broadway at the Beach. The plaintiff alleged my client had contributed to the decedent's death by failing to provide a reasonably safe premise and permitting the decedent to become inebriated on the property and drown in the lake.

I handled a number of litigation matters for this particular client and considered all of their cases to be important, but this case was especially important to them and therefore significant to me. The circumstances were tragic, but the case presented a number of unique factual issues and novel legal questions, including the extent to which a private security company owes a duty to monitor intoxicated patrons, and whether the attractive nuisance doctrine extends to adults. Unfortunately, the court never had an opportunity to answer those questions; we litigated the case for 2 years but it settled shortly after I filed a motion for summary judgment. Nevertheless, it remains one of the more memorable and interesting matters that I have handled.

The following is Mr. Luther's account of five civil appeals he has personally handled:

- (a) *Aiken v. South Carolina Department of Revenue*, 429 S.C. 414, 839 S.E.2d 96 (2020).
- (b) *Greenville Hospital System v. South Carolina Department of Revenue*, Op. No. 2020-UP-065, 2020 WL 1170173 (S.C. Ct. App. filed Mar. 11, 2020).
- (c) *Cramer v. Nat'l Cas. Co.*, 690 F. App'x 135, 2017 WL 2333591 (4th Cir. 2017). Personally handled briefing at trial level and on appeal, did not argue appeal.
- (d) *Pennsylvania National Mutual Casualty Insurance Company v. Lewis*, 650 Fed. Appx. 159 (4th Cir. 2016).

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Personally handled litigation and tried the case with co-counsel; personally handled appellate briefing, did not argue appeal.

- (e) *Lytle v. BI-LO, LLC*, Op. No. 2015-UP-027, 2015 WL 164323 (2015). Personally handled briefing, did not argue appeal.

I am currently lead counsel on three cases pending at the Court of Appeals that are on the preliminary list for the September or October 2023 terms: *Synovus Bank v. SCDOR*, Appellate Case No. 2020-000999; *Duke Energy Corporation v. SCDOR*, Appellate Case No. 2020-001542; and *Lowe's Home Centers, LLC v. SCDOR*, Appellate Case No. 2021-000031. I am also co-counsel on four other cases pending at the Court of Appeals and three at the Supreme Court.

Mr. Luther reported that he has not personally handled any criminal appeals.

All of our criminal appeals are handled by the Attorney General's office. We have had one criminal appeal involving felony tax evasion during my time at the Department, *see State v. Hughes*, 2018 WL 679482 (S.C. Ct. App. Jan. 24, 2018).

(9) Judicial Temperament:

The Commission believes that Mr. Luther's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualification found Mr. Luther to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability; and "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee noted, "Past experience makes him well qualified."

Mr. Luther is married to Emily Suzette Luther. He has three children.

Mr. Luther reported that he was a member of the following Bar and professional associations:

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- (a) South Carolina Bar Association (2009 to present)
- (b) Torts and Insurance Practices Section Council
(approximately 2015–2017)
- (b) Richland County Bar Association (2009 to present)
- (c) South Carolina Administrative Law Court Rules Committee
(2022 to present)

Mr. Luther provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) South Carolina Law Review Association, Board Member
- (b) Junior Achievement of Greater South Carolina, Midlands District Board Member
- (c) First Presbyterian Church, Elder (Columbia, SC)
- (d) Historic Columbia, Palladium Member
- (e) South Carolina Philharmonic Conductor's Cabinet
- (f) 20 Under 40 (The State Newspaper)
- (g) Leadership Columbia, Class of 2017
- (h) South Carolina Executive Institute, Class of 2023
- (i) School Improvement Council, Brennen Elementary (2022–2023)
- (j) I also volunteer as a coach for each of my sons' teams in the Palmetto Baseball League and Christian Youth Basketball League.

Mr. Luther further reported:

My first trial experience was at age 14; my first appellate argument came three years later. Both of those experiences changed the trajectory of my life.

The trial involved a friend of my father, who was the plaintiff and represented (pro bono, as I recall) by Rep. Terry Haskins, later the Speaker pro-tempore of the South Carolina House of Representatives. I come from a family of non-lawyers and did not understand most of the technical aspects of the trial. But that experience is what motivated me to pursue law. More importantly, I was inspired by Rep. Haskins' example of public service.

The appellate argument was part of a high school moot court competition, and I argued the final round in the Supreme Court

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of Georgia. Even as a teenager, I found in appellate advocacy the perfect intersection of my personality, abilities, and interests. Appellate practice remains the most rewarding and satisfying element of my law practice.

I am mindful of the many people who have supported, guided, and invested in my personal and professional development. I am grateful for those individuals; along with various life experiences, they have taught me valuable lessons, shaped my character and worldview, and given me unique perspectives—all of which will undoubtedly influence the type of judge I will be.

For example, as a byproduct of growing up the oldest of six children, when making decisions I typically consider all sides of a situation while remaining open to different ideas and viewpoints. My working class grandparents taught me the virtues of industriousness and selflessness. My parents (career missionaries) instilled in me a love for learning and self-development, and challenged me to find my purpose through serving others. I believe these are important traits for a judge.

Through a variety of internships, fellowships, my study of history in college, and a judicial clerkship I developed a profound appreciation for the exceptional nature of democracy in America and the role of our courts within our constitutional frameworks—both federal and state. I believe judges are duty bound to preserve and uphold our first principles like the rule of law and separation of powers, and that the province and duty of the judiciary is to say what the law is, not what it should be.

Life experiences—legal and non-legal—will undoubtedly affect my perspective as a judge as well. I have enjoyed a diverse practice: state and federal, jury and non-jury, trial and appellate, administrative and civil and criminal. I appreciate the immense time and effort that goes into presenting an effective appeal; I have also seen what it takes for the judge to be equally prepared, informed, and willing to engage (and actively listen). I understand the challenges unique to working in a firm representing multiple clients, or in-house with one organizational client. As general counsel for a state agency, I

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have gained experience in deciding specific controversies or issues against a backdrop of precedent and longstanding administrative practice—always with an eye on the long-term ramifications of each particular decision. Starting a roofing business in the aftermath of hurricane Wilma also gave me a glimpse into the world of entrepreneurship and small business. That experience regularly motivates me to ensure that our government works best for its constituents by being timely, responsive, and efficient.

It is said that to whom much is given, much is required. Throughout my career, I have tried to steward the talents entrusted to me and honor those who have invested in my life by working diligently and zealously for my clients and community. To pay it forward, in a sense. It would be a tremendous privilege and honor to serve my fellow citizens and our State as a judge on the Court of Appeals.

(11) Commission Members' Comments:

The Commission commented that Mr. Luther has significant experience in the appellate field. The Commission further commended Mr. Luther for his desire to serve on the bench in addition to his extensive service to South Carolina, and applauded his many other qualifications.

(12) Conclusion:

The Commission found Mr. Luther qualified, but did not nominate him for election to Court of Appeals, Seat 9.

Jason A. Daigle
Circuit Court, Ninth Judicial Circuit, Seat 4

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Daigle meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Daigle was born in 1976. He is 47 years old and a resident of Mt. Pleasant, South Carolina. Mr. Daigle provided in his

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application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2005.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Daigle.

Mr. Daigle demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Daigle reported that he has not made any campaign expenditures.

Mr. Daigle testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Daigle testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Daigle to be intelligent and knowledgeable.

Mr. Daigle reported that he has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

Mr. Daigle reported that he has not published any books or articles.

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(4) Character:

The Commission's investigation of Mr. Daigle did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. Daigle did not indicate any evidence of a troubled financial status. Mr. has handled his financial affairs responsibly.

The Commission also noted that Mr. Daigle was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Daigle reported that he is not rated by any legal rating organization.

Mr. Daigle reported that he has not served in the military.

Mr. Daigle reported that he has never held public office.

(6) Physical Health:

Mr. Daigle appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Daigle appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Daigle was admitted to the South Carolina Bar in 2005.

He gave the following account of his legal experience since graduation from law school:

- (a) Fish & Richardson, Dallas, TX (2004) –
Paralegal/unlicensed attorney – civil litigation
- (b) Robertson & Hollingsworth, Charleston, SC (2005-2006) –
associate attorney – civil litigation

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- (c) Anastopoulos & Clore, Charleston, SC (2006) – associate attorney – civil litigation
- (d) Pierce Herms Sloan & McLeod, Charleston, SC (2006-2009) – associate attorney – civil litigation
- (e) Maybank Law Firm, Charleston, SC (2009-2014) - associate attorney – civil litigation
- (f) Clement Rivers (formerly Young Clement Rivers) (2014 – 2019) associate attorney – civil litigation; (2020 - present) Partner – civil litigation
- (g) I was not involved with the administrative or financial management (including management of trust accounts) of any of those firms as an associate attorney. As a partner at Clement Rivers I have been involved with the administrative and financial management of the firm as a voting partner. I have had no involvement with the management of the trust account.

Mr. Daigle further reported regarding his experience with the Circuit Court practice area:

Civil Court – I have been a civil litigator for over 18 years. I have tried about 15 civil cases in state court – both jury trials and bench trials. I have arbitrated several other cases. I have argued and defended motions dozens and dozens of times in state court. Conservatively, I would estimate I have appeared in state court, one way or another, well over 200 times. I have handled a wide array of civil cases including: construction defects, termite claims, slip/trip and falls, premises liability, dram shop, trucking, civil rights, products liability, public nuisance, contract disputes, mechanic's liens, insurance disputes, professional liability, auto accident, tort claims act cases, business negligence, and commercial disputes. I have represented both plaintiffs and defendants over the course of my career. I would estimate that my practice has been 80% defense and 20% plaintiff. Although, of the cases I have tried the split was about 50/50 plaintiff and defense. The past 5 years has been slow for court appearances because of COVID. However, on average, I would still estimate have appeared at least monthly, if not several times a month, before a circuit court judge in the past five years.

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Criminal Court – I have never practiced criminal law. I have been involved in about five criminal matters that were related to civil cases that I was defending. Of those, I have only gone to General Sessions court a few times and was not actively involved in the process. As a judge in criminal proceedings, I would not be the one trying the case. My job in criminal cases is to ensure that everyone gets a fair trial and that the rules are followed. My civil practice has given me more than adequate experience with the rules of evidence and jury trials in general. Further, my experience in civil litigation has exposed me to all kinds of people. I have had to evaluate people regularly in depositions and trials. Knowing people and evaluating people is critically important in criminal proceedings, especially bonding and sentencing. I will have to go back and familiarize myself with criminal procedure, sentencing guidelines, and the criminal code in general. These are all things I had to in both law school and for the bar exam. I have no doubt I will be up to speed on criminal matters well before I would take the bench.

Mr. Daigle reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: about 1 case a year;
- (b) State: frequently – at least monthly, sometimes weekly.

Mr. Daigle reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 100%;
- (b) Criminal: 0%;
- (c) Domestic: 0%;
- (d) Other: 0%.

Mr. Daigle reported the percentage of his practice in trial court during the past five years as follows:

- (a) 100% settled prior to trial
- (b) 0 cases went to trial and resulted in a verdict
- (c) 1 case went to trial and resolved after the plaintiff's or State's case
- (d) 0 cases settled after a jury was selected but prior to opening statements

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Mr. Daigle provided that during the past five years he most often served as chief counsel.

The following is Mr. Daigle's account of his five most significant litigated matters:

- (a) *Andrew McIntire, et al vs. Sequest Development Company Inc. et al*
2016CP1001833 – Charleston County Circuit Court
This case was one of the first cases in South Carolina to use the Notice and Opportunity to Cure Act to dismiss a case. The case was appealed and the ruling was overturned on other grounds. We then had a week long arbitration where the same motion was made prior to openings and again at the conclusion of the arbitration. The case was settled prior to the arbitrator's ruling on the motion.
- (b) *Allan Dapore, et al vs. Upper Deck Tavern Limited, et al*
2016CP1002198 – Charleston County Circuit Court
This case involved a trip a fall inside a business that resulted in catastrophic injuries. The liability was complicated as the building was under a series of leases and subleases between the named defendants. Although I did not have to try the case, we were able to work through the complicated array of leases and obligations between the defendants to negotiate an excellent settlement for the plaintiff.
- (c) *Stephen Paul Young vs. STIHL Incorporated, et al*
2015CP0802283 – Berkeley County Circuit Court
This case involved a product defective design of a chop saw against an international company with \$5B in yearly revenue and defended by a high powered international law firm. Defective design cases are inherently complicated and involve legal issues unlike other civil cases. I had to litigate this case and avoid summary judgment and exclusion of experts in order to obtain an excellent settlement for the plaintiff.
- (d) *James E King vs. Santee Resort Condominium Association Inc., et al*
2011CP1400541 – Clarendon County Circuit Court
This was a defamation case that went to trial in Clarendon County. We obtained a jury verdict that, according to the Clerk, was the second biggest verdict in Clarendon County at the time.

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- (e) *Concord West Of The Ashley Homeowners Association, et al vs. Julian Lecraw & Company Holdings Inc., et al*
2008CP1001659 – Charleston County Circuit Court

This was huge construction defect case where I represented the developers that converted apartment buildings in to condominiums. This was one of the largest construction defect cases in the state at the time and involved complicated issues of original construction, conversion renovations, and the duties of conversion developers.

The following is Mr. Daigle’s account of the civil appeal he has personally handled:

Seaqwest Development Company, Inc., Third-Party Plaintiff/Appellant vs. Red Bay Constructors Corp., et al, Respondents

Case No. 2016-CP-10-01833 – Charleston County Circuit Court
Appellate Case No. 2021-001055 – SC Court of Appeals

Mr. Daigle reported that he has not personally handled any criminal appeals.

- (9) Judicial Temperament:

The Commission believes that Mr. Daigle’s temperament would be excellent.

- (10) Miscellaneous:

The Lowcountry Citizens Committee on Judicial Qualification found Mr. Daigle to be “Qualified” in the evaluative criteria of constitutional qualifications, physical health, mental stability, and experience; and “Well Qualified” in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, and judicial temperament. The Committee did not provide a summary statement or related comments.

Mr. Daigle is married to Kathy Aboe Carlsten Daigle. He has three children.

Mr. Daigle reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar
- (b) Charleston County Bar Association

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- (c) Federal Bar Association (formerly)
- (d) American Bar Association (formerly)

Mr. Daigle provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:
Academic Magnet High School Foundation Board - Chairman

Mr. Daigle further reported:

More than anything, my professional experiences as a litigator have influenced the kind of judge I plan to be. Throughout my 18 year career I have encountered many different kinds of lawyers and judges. I have learned from each of them. Some of them inform what I want to be as a judge, while others inform what I do not want to be as a judge. I feel very strongly about the integrity of the South Carolina Bar and our Oath of Civility. I feel very strongly about the impartiality and service of the judiciary. Judges perform a very important public service that ensures litigants get a fair shot at the legal system and that lawyers are able to properly represent their clients. Insisting on high standards of integrity and civility from lawyers goes a long way in that endeavor. I think being composed, engaged, and respectful from the bench encourages attorneys to maintain civility and builds confidence within the bar and the public in general.

(11) Commission Members' Comments:

The Commission commented that while Mr. Daigle has a lack of criminal experience, he also has vast experience as a civil litigator for over 19 years, and an excellent temperament.

(12) Conclusion:

The Commission found Mr. Daigle qualified, but did not nominate him for election to Circuit Court, Ninth Judicial Circuit, Seat 4.

**The Honorable Ittriss J. Jenkins
Circuit Court, Ninth Judicial Circuit, Seat 4**

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

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(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Jenkins meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Jenkins was born in 1972. He is 51 years old and a resident of Charleston, South Carolina. Judge Jenkins provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2007.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Jenkins.

Judge Jenkins demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Jenkins reported that he has not made any campaign expenditures.

Judge Jenkins testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Judge Jenkins testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Jenkins to be intelligent and knowledgeable.

Judge Jenkins reported that he has taught the following law-related courses:

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Contracts July 17 Orientation School for Magistrates and Municipal Judges- I described the basics of contract law.

Judge Jenkins reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Jenkins did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Judge Jenkins did not indicate any evidence of a troubled financial status. Judge Jenkins has handled his financial affairs responsibly.

The Commission also noted that Judge Jenkins was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Jenkins reported that his last available rating by a legal rating organization as follows:

The National Black Attorney Top 100 2016-present;

Premier Lawyers in America 2019;

American Institute of Legal Counsel 2018-2019;

American Association of attorney advocates 2021;

American Jurist Institute 2019

Judge Jenkins reported that he has not served in the military.

Judge Jenkins reported that he has never held public office other than judicial office.

(6) Physical Health:

Judge Jenkins appears to be physically capable of performing the duties of the office he seeks.

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(7) Mental Stability:

Judge Jenkins appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Jenkins was admitted to the South Carolina Bar in 2007.

He gave the following account of his legal experience since graduation from law school:

(a) Charleston County North Area 2

Magistrates Judge (5/2015-Present)

- Presides over cases involving civil matters under \$7,500.00, landlord- tenant issues, traffic tickets and claim and delivery disputes,
- Served as Judge in Domestic Violence Court,
- Sets bonds for individuals accused of a misdemeanor and felony crimes in Charleston County,
- Preside over preliminary hearings which establish probable cause for criminal cases,
- Serve as presiding judge in Transfer Court,
- Review and Issue warrants, based on the standard of the 4th amendment of the Constitution,

(b) Law Office of Itriss J. Jenkins LLC Charleston, S.C.

Managing Attorney (11/07-Present)

- Practicing Attorney, in the areas of Estate Planning, Probate Administration and Elder law,
- Serve as Special Administrator in probate cases,
- Prepare wills, trusts, power of attorneys, and other estate planning documents,
- Provide counsel relating to incapacity and asset protection planning,
- Serves as an attorney appointed by the State to represent committed patients under the mental health system
- Serve as Attorney- Guardian-at-litem in the Charleston County Probate Court,
- Represents criminal clients in Federal, Circuit, Magistrate and Municipal Courts,
- Certified Equal Employment Opportunity Investigator,

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- Presenter for continuing legal education courses in the area of trusts and HIPPA regulations
- Responsible for day-to-day operations of the office.

Judge Jenkins further reported regarding his experience with the Circuit Court practice area:

After I was appointed as a Magistrate Judge in Charleston, I was forced to terminate my representation in Circuit Court in Charleston. I did represent a defendant in Berkeley County whom was accused of operating an illegal repair shop and another individual whom had drug charges and flee from the police.

Prior to becoming a Magistrate, I represented criminal clients charged with a wide variety of charges ranging from trafficking to attempted murder.

In the Common Pleas Court, I represented Plaintiffs and Defendants. I have a lot of clients who own small businesses, so I have appeared in Circuit Court representing the Plaintiff and Defendant on different cases. In October 31st 2022, I won a jury trial in Allendale Court of Common Pleas. I represented the Plaintiff in that case on the issue was fraud.

As a Magistrate Judge, I have had the pleasure of hearing small claims actions where the amount in question is less than \$7500.00. Although the rules are slightly different when it comes to default hearings, most of the other rules are identical to Circuit Court.

Judge Jenkins reported the frequency of his court appearances prior to his service on the bench as follows:

- (a) Federal: quarterly;
- (b) State: every six months.

Judge Jenkins reported the percentage of his practice involving civil, criminal, domestic and other matters prior to his service on the bench as follows:

- (a) Civil: 10%;
- (b) Criminal: 30%;

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- (c) Domestic: 1%;
- (d) Other: 59% probate.

Judge Jenkins reported the percentage of his practice in trial court prior to his service on the bench as follows:

- (a) Jury: 10%;
- (b) Non-jury: 90%.

Judge Jenkins provided that during the past five years prior to his service on the bench he most often served as sole counsel.

The following is Judge Jenkins's account of his most significant litigated matter:

- (a) Riley vs. Riley. 2020-CP-03-0176 (involved fraud and statute of limitations)

The following is Judge Jenkins's account of one civil appeal he has personally handled.

Riley vs. Riley 2023-001281

Judge Jenkins reported he has not personally handled any criminal appeals.

Judge Jenkins reported that he has held the following judicial office(s):

Magistrate Judge, Charleston County April 2015-present

- Appointed
- This Court has jurisdiction in Charleston County

Judge Jenkins provided the following list of his most significant orders or opinions:

- (a) 2018CV1010500915- Clemons vs. Washington
- (b) 2017CV1010500447 – Valentine vs. Denham
- (c) 2016CV1010500760- Extended Stay vs Allen

Judge Jenkins reported the following regarding his employment while serving as a judge:

Law Office of Ittriss J. Jenkins LLC

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(9) Judicial Temperament:

The Commission believes that Judge Jenkins's temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee on Judicial Qualifications found Judge Jenkins to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability; and "Well-Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee noted: "Energetic, magnetic, smart, caring, insightful, diverse experience, personable, and serves as judge now."

Judge Jenkins is married to Loquita Sucaria Bryant Jenkins. He has two children.

Judge Jenkins reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar
- (b) Charleston County Bar
- (c) South Carolina Summary Court Judges Association
- (b) Better Business Bureau A+ rating

Judge Jenkins provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Historic Rotary Club of Charleston
- (b) North Central Neighborhood Association Member
- (c) One-80 Place Board member
- (d) Preservation Society of Charleston, Board Member
- (e) Children's Museum Charleston Board of Member
- (f) Carolina Voyager Charter School Inc. Board Member
- (g) Royal Foundation, Vice-Chair
- (h) City of Charleston Short-term rental task force

Judge Jenkins further reported:

I am a Deacon at the Royal Baptist Church. I take this role seriously. I feel it is important to show the love of Jesus Christ in my interaction with others. In showing love I will always be patient and kind to the people who appear in Court.

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(11) Commission Members' Comments:

The Commission commented that Judge Jenkins has an outstanding personality and energy that would serve him well as a Circuit Court judge.

(12) Conclusion:

The Commission found Judge Jenkins qualified, but did not nominate him for election to Circuit Court, Ninth Judicial Circuit, Seat 4.

**Elizabeth Morrison
Circuit Court, Ninth Judicial Circuit, Seat 4**

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Morrison meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Ms. Morrison was born in 1985. She is 38 years old and a resident of Charleston, South Carolina. Ms. Morrison provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2012.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Morrison.

Ms. Morrison demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. Morrison reported that she has not made any campaign expenditures.

Ms. Morrison testified she has not:

- (a) sought or received the pledge of any legislator prior to screening;

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- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Ms. Morrison testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. Morrison to be intelligent and knowledgeable.

Ms. Morrison reported that she has taught the following law-related courses:

2023 – PLUS Healthcare & MedPL Webinar: Sexual Abuse and Molestation Claims

Discussed trends and defense strategy for sexual abuse claims in the medical profession.

2020 - COVID-19: Current State of Immunity and Potential Liability For Healthcare Providers, DRI Webinar –

Discussed the PREP Act and its impact on liability for claims involving vaccines and other federal directives in response to Covid-19 .

Ms. Morrison reported that she has published the following:

“Time is Not on Your Side: Avoiding Pitfalls When Filing Motions to Alter or Amend under Rule 59(e), S.C.R.Civ.P.,” South Carolina Lawyer Magazine, March 2017

(4) Character:

The Commission's investigation of Ms. Morrison did not reveal evidence of any founded grievances or criminal allegations made against her.

The Commission's investigation of Ms. Morrison did not indicate any evidence of a troubled financial status. Ms. Morrison has handled her financial affairs responsibly.

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The Commission also noted that Ms. Morrison was punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. Morrison reported that her rating by a legal rating organization, Best Lawyers in America, is One to Watch; and her rating by Charleston Business Magazine, is Legal Elite of the Lowcountry, insurance law.

Ms. Morrison reported that she has not served in the military.

Ms. Morrison reported that she has never held public office.

(6) Physical Health:

Ms. Morrison appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Morrison appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Morrison was admitted to the South Carolina Bar in 2012.

She gave the following account of her legal experience since graduation from law school:

Whelan Mellen & Norris, LLC, Charleston, SC September 2023
– Present

Partner

Civil Litigation practice focused on landlord-tenant, general liability, transportation, insurance coverage, sexual assault, negligent security, and professional negligence. Also provide general representation and counseling to local businesses including contractors, property managers, landlords and those in the retail and hospitality industry.

Hall Booth Smith, P.C., Mount Pleasant, SC, December 2017 –
2023

Senior Associate / Partner (2020 – 2023)

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Civil Litigation practice focused on landlord-tenant, general liability, transportation, insurance coverage, professional negligence and medical malpractice. Also provide general representation and counseling to local businesses including contractors, property managers, landlords and those in the retail and hospitality industry. Since making partner, I am responsible for ensuring collections from clients, establishing scope of representation and payment. As a partner, I also participate in approving compensation for all employees and focus on staff hiring needs for the South Carolina office.

Pritchard Law Group LLC, Charleston, SC, April 2014 – December 2017

Associate Attorney

Litigation practice with a focus on general municipal and magistrate matters, business litigation, insurance coverage, including first party bad faith and contractual indemnity, appellate work, residential and commercial landlord tenant disputes, premises liability, personal injury, including exposure to toxic mold, workers compensation, and construction defects.

Corrigan & Chandler LLC, Charleston, SC, November 2012 – April 2014

Associate Attorney

Civil Litigation practice with a focus on construction defect litigation, insurance defense, business disputes, horizontal property regimes, and premises liability. Drafted subpoenas, minor settlements and discovery requests, including non-privileged document review.

Ms. Morrison further reported regarding her experience with the Circuit Court practice area:

Criminal Experience last five years: Early on in my career, I handled some criminal matters at the municipal court level, which required court appearances wherein the matter was either amicably resolved or the matter was adjudicated by a judge. In the last five years of my practice, which is nearly all civil, I have represented clients who either have criminal charges pending in connection with the civil matter, or another party in the case has

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criminal charges pending, which has required me to monitor the criminal action and/or collaborate with a client's criminal attorney. Generally, the criminal charges involved are criminal sexual misconduct, Felony DUI, reckless driving, and/or assault and battery. I am familiar with the discovery process in criminal court, and the differing evidentiary standards from circuit court as well as the procedural process prior to trial.

Civil Experience last five years: Over the last five years, my civil experience has become more expansive with cases ranging from landlord/tenant, motor vehicle accidents, premises liability actions, professional negligence, medical malpractice, first party insurance actions, dram shop actions, §1983 claims, education law, dog bites, mechanics liens, wrongful death, negligent security and sexual assault. In the last five years, I have tried three cases to verdict and resolved countless others at various stages in litigation, most often at mediation.

Parties Represented: Generally, I represent defendants (individuals, businesses, UIM carriers) but take on 1-2 Plaintiff cases a year, typically in commercial landlord tenant cases or life insurance bad faith cases.

Appearances before Circuit Court Judge in the last five years: I routinely appear before Judge Price and Judge McCoy in Charleston County. I also have several cases in the Fourteenth Circuit and have appeared before Judge Bonds and Judge Mullen. The last case I tried was before Judge McKinnon and I have an upcoming trial before Judge Young. Other judges I have appeared before include Judge Jocelyn Newman, Judge DeBerry, Judge Curtis, Judge Murphy, Judge Gibbons, Judge Pope, Judge Goodstein, Judge Dickson, Judge Culbertson, Judge Seals, and Judge Burch.

Ms. Morrison reported the frequency of her court appearances during the past five years as follows:

- (a) Federal: 1-2 times per year;
- (b) State: 1-2 times per month.

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Ms. Morrison reported the percentage of her practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 90 percent;
- (b) Criminal: 0;
- (c) Domestic: 5 percent (representing therapists and psychologists subpoenaed in domestic matters);
- (d) Other: 5 percent (business formation, LLR licensures, ABL licensing).

Ms. Morrison reported the percentage of her practice in trial court during the past five years as follows:

- (a) What percentage of your practice was in trial court, including cases that settled prior to trial? 90 percent
- (b) What number of cases went to trial and resulted in a verdict? 3 cases – 2018, 2019, 2022
- (c) What number of cases went to trial and resolved after the plaintiff's or State's case? 0 – However in 2017, 2 trials resolved after Plaintiffs tried their case. (Resolved may include settlement, plea, by Judge's order during a motion hearing, etc.)
- (d) What number of your cases settled after a jury was selected but prior to opening statements? 0

Ms. Morrison provided the following as to her role as counsel during the past five years: Magistrate Court: Sole Counsel – 2 times Circuit Court – Co-Counsel – 3 times

The following is Ms. Morrison's account of her five most significant litigated matters:

- (a) *Huck v. Oakland Wings, LLC*, 422 S.C. 430, 813 S.E.2d 288 (Ct. App. 2018)(representing the Plaintiffs, this case established procedures for disclosing pre-trial set-off/settlement of other parties)
- (b) *Charleston Elec. Services., Inc. v. Rahall*, 427 S.C. 317, 831 S.E.2d 122 (Ct. App. 2019)(On behalf of Defendant in a contribution/indemnity action, the Court of Appeals declined to find a "special relationship" exists between an adult child and their elderly mother to create a duty of care)
- (c) *Key v. Ansonborough House*, 732 F. App'x 224 (4th Cir. 2018)(affirming in an unpublished opinion that for purposes of HUD, a parking fee does not constitute rent as

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contemplated under 42 U.S.C. § 1437(a)(1), and Ansonborough House was allowed to collect the parking payment as a separate fee).

- (d) *Patti Silva v. Allstate Property and Casualty Insurance Company* (Civil Action No. 3:17-163-RMG, 2017) (Certified Question to the SC Supreme Court finding that absence of an eyewitness to the incident leading to death of Plaintiff's decedent barred recovery under S.C. Code Section 38-77-140 for uninsured motorist coverage).
- (e) *Fields v. Crane Transport, LLC, et. al* (C.A. No. 8:20-cv-00659)(D.S.C. – Anderson Division) (trucking fatality where the plaintiff burned alive at the scene after striking defendant's truck that was legally stopped on I-85. Liability was heavily disputed. This case involved several issues concerning discovery, specifically financial discovery, a motion to “trifurcate” and resolved within 2 weeks of trial).

The following is Ms. Morrison's account of five civil appeals she has personally handled:

- (a) *AML, et. al v. Wright Directions, LLC*, S.C. Court of Appeals, Case No. 2023-000791 (pending)
- (b) *Gregory Muxlow v. Natasha Anglin, et. al*, S.C. Court of Appeals, Case No. 2020-00129 (voluntarily dismissed on March 29, 2022)
- (c) *Charleston Elec. Services., Inc. v. Rahall*, 427 S.C. 317, 831 S.E.2d 122 (Ct. App. 2019)
- (d) *Huck v. Oakland Wings, LLC*, 422 S.C. 430, 813 S.E.2d 288 (Ct. App. 2018)
- (e) *Jonathan Barber v. Ansonborough House Corp.*, SC Court of Appeals, Case No. 2017-002150 (dismissed on November 21, 2017)

Ms. Morrison reported that she has not personally handled any criminal appeals.

Ms. Morrison further reported the following regarding unsuccessful candidacies:
2013 – unsuccessfully ran for Charleston County City Council, District 4

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(9) Judicial Temperament:

The Commission believes that Ms. Morrison's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee on Judicial Qualification found Ms. Morrison. to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, mental stability, and experience; and "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, and judicial temperament. The Committee had no related or summary statements.

Ms. Morrison is married to George Edmondston Morrison. She one child.

Ms. Morrison reported that she was a member of the following Bar and professional associations:

- (a) Charleston County Bar Association, 2012 - present
- (b) DRI, 2017 – 2019, Member Trucking Law Committee
- (c) South Carolina Bar Foundation, Ambassador, 2015 – 2020
- (d) South Carolina Bar House of Delegates, Ninth Circuit Delegate, 2018 – present
- (e) South Carolina Lawyers Fund for Client Protection, 2017 – 2021

Ms. Morrison provided that she was a member of the following civic, charitable, educational, social, or fraternal organization:
Lowcountry Street Grocery, Advisory Board Member 2018 – present

Ms. Morrison further reported:

I am not a native South Carolinian, and I have always been concerned that not being born and raised in this state could be a potential barrier to being elected to the bench. However, having lived here for the last 14 years and practicing law for the last 11 years, I have had an amazing opportunity to travel around South Carolina and represent clients in several different venues. Charleston has been my home since 2009 and I could not imagine living anywhere else. In fact, I unsuccessfully ran for

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City Council in 2013. That experience was very eye-opening as I had the opportunity to meet and hear from my fellow residents their opinions about issues that mattered to them and their less than cordial opinions about a then-28-year-old running for public office. Even though I did not win my race, I experienced a renewed faith in the electoral process as well as a renewed commitment to service to those in my community.

For me, the legal profession is not just a job, it is a calling. I do not come from a legal background, and I am proud to be the first lawyer in my family. My mom taught special education for thirty years and my dad was an intensive probation officer. Neither had much advice to give me about going to law school other than to be prepared for student loans. They have been happily married for 45 years and continue to be a great source of inspiration and provide great advice. They raised my older sister and I to work hard and to keep focus on personal and professional growth. This philosophy inspired me to put myself through law school, secure legal employment in an unfamiliar town with no connections during a recession, survive an apartment fire six months into my legal career, all of which ultimately led me to forging a life and career in South Carolina.

In the last 5 years, I have gotten married, survived breast cancer and become a mother. All of these life events have pushed me forward in my legal career and made me more empathetic and understanding of others. I always thought about running for a judicial seat as a “someday” goal, but with the creation of this new seat, I took it as a sign to throw my name in to the hat. I love being in the courtroom and I love trying cases. There is something about the entire process and then hearing the verdict, that always reinforces my faith in our society. Of course, I may not always agree with every verdict, but I have always understood them. Yet, some of my favorite days are when I attend a motion hearing where there are several attorneys present and you get the opportunity to observe and learn from others, which always includes the presiding judge. I have never had a bad experience before any circuit court judges, although I have received some pointed criticism that I have tried to learn from.

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I recognize that my criminal experience is lacking, but I am confident that I will be able to learn what is necessary to preside over these matters and will also make it a priority to do all that I can to ensure a more streamlined resolution of outstanding matters.

(11) Commission Members' Comments:

The Commission commented extensively on Ms. Morrison's enthusiasm, positive energy, and optimism, and commended her on her commitment to public service and the law. Ms. Morrison received admiration from the Commission for her personality and character, and the Commission appreciated her offering to serve.

(12) Conclusion:

The Commission found Ms. Morrison qualified, but did not nominate her for election to Circuit Court, Ninth Judicial Circuit, Seat 4.

**Maryann Blake
Circuit Court, At-Large, Seat 8**

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Blake meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Ms. Blake was born in 1968. She is 55 years old and a resident of Walterboro, South Carolina. Ms. Blake provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2006. Ms. Blake was also admitted to the Georgia Bar in 2009.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Blake.

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Ms. Blake demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. Blake reported that she has not made any campaign expenditures.

Ms. Blake reported that she has made \$1.11 in campaign expenditures for postage

Ms. Blake testified she has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Ms. Blake testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. Blake to be intelligent and knowledgeable.

Ms. Blake reported that she has not taught any law-related courses.

Ms. Blake reported that she has written the following:

- (a) "Hope for the Juvenile Criminal: A Review of the Manatee County Juvenile Boot Camp." September 1995 article included in the National Criminal Justice Reference Service (NCJRS) document database at call number 156752. (non-refereed)
- (b) "Brain Development and the Legal Rights of Children." Encyclopedia of Forensic and Legal Medicine. June 2005. Co-author Judge Frank Orlando. (Refereed)
- (c) "Worker Rights and Health Protection for Prostitutes: A Comparison of the Netherlands, Germany and Nevada."

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November 2012. Chosen as one of twenty from over 300 papers for publication in special conference edition for International Council on Women's Health Issues (ICOWHI), 19th International Congress. Women's Health 2012: Partnering for a Brighter Global Future." (Refereed)

- (d) "Worker Rights and Health Protection for Prostitutes: A Comparison of the Netherlands, Germany and Nevada." Health Care for Women International. 2015, 36: 784-796.

(4) Character:

The Commission's investigation of Ms. Blake did not reveal evidence of any founded grievances or criminal allegations made against her.

The Commission's investigation of Ms. Blake did not indicate any evidence of disqualifying financial issues.

The Commission also noted that Ms. Blake was punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. Blake reported that she is not rated by any legal rating organization.

Ms. Blake reported that she has not served in the military.

Ms. Blake reported that she has held the following public office:

- (a) I was appointed by Governor Henry McMaster for the term of September 2016-September 2020 to the Board of Voter Registration and Elections for Colleton County. I was reappointed and served until March 2022 when I withdrew to run for Colleton County Council. I have timely filed my reports with the State Ethics Commission. I had to pay a penalty of \$100.00 in 2018 because I missed the deadline.
- (b) I was appointed by the Colleton County Council for the term of September 2017-September 2022 to the Colleton County

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Board of Assessment Appeals. I am not required to file a report with the State Ethics Commission.

- (c) I was appointed by the Colleton County Council to the Planning Commission 2020-present and to the Lowcountry Community Action Agency Board 2022-23. I am not required to file a report with the State Ethics Commission.

(6) Physical Health:

Ms. Blake appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Blake appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Blake was admitted to the South Carolina Bar in 2006 and the Georgia Bar in 2009.

She gave the following account of her legal experience since graduation from law school:

- (a) Harvey & Battey, PA, Beaufort, SC. June –October 2004. I completed the field part of the Environmental Law Clinic at this firm during my last semester of law school and was asked to stay on as a temporary law clerk to W. Brantley Harvey, Jr. I researched issues involved with building docks in wetlands in Beaufort County for the clinical part of my stay with the firm. During my tenure as law clerk, I assisted with probate work including an estate involving over one hundred heirs.
- (b) Bogoslow, Jones, and Stephens, Walterboro, SC. October 2004-November 2007. I began working for the firm as a law clerk and then continued on as an associate attorney after passing the bar in 2006. The law firm's focus was insurance defense of governmental agencies through the Insurance Reserve Fund. My duties included extensive legal research and writing dealing with governmental regulations and liability, the South Carolina Tort Claims Act, and the public duty doctrine. I reviewed and drafted contracts and leases and established small corporations. A major project that was assigned to me was assisting the Jasper County Animal

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Rescue Mission to become a charitable nonprofit organization. I assisted the senior partner in being the attorney for Jasper County as well. I drafted appeal briefs, pleadings, Wills, and discovery responses. I assisted in developing and teaching a training course on courtroom procedures for law enforcement officer cadets. I also spoke to middle school students about the legal profession during career week.

- (c) Woodard & Butler, LLC, Walterboro, SC. June 2008-October 2020. I served as senior associate with this firm. The law firm's focus is on creditor's rights and does extensive debt collecting throughout South Carolina and Georgia. My main job focus was litigation with a strong emphasis on negating settlement before trial. The firm also does insurance subrogation work and was contract attorney for the Department of Social Services in child abuse and neglect cases.
- (d) City of Walterboro, October 2014-Present. I serve as part-time prosecutor for the City of Walterboro. I have prosecuted a wide range of offenses including minor traffic violations, drug charges, assault and battery cases and shoplifting. I have tried many cases before a jury and have never lost.
- (e) Maryann Blake, Attorney at Law, LLC, Walterboro, SC. October 2018-Present. I manage all aspects of my own solo practice including its trust accounts. While still at Woodard & Butler, with the encouragement of the senior partner, I established my own firm in early 2018 and became an LLC in 2019. I have a general practice focusing on personal injury, probate, property disputes, real estate, and family law. I am certified as both a Circuit Court and Family Court Mediator. I serve as court appointed counsel for the Colleton County Probate Court through SCCID.
- (f) Town of Edisto Beach, November 2022-Present. I serve as attorney for Edisto Beach. My duties include drafting resolutions, reviewing contracts, and responding to subpoena requests and FOIA requests.

Ms. Blake further reported regarding her experience with the Circuit Court practice area:

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Over the past five years my practice has focused on civil, probate, and family court matters. I have also served as part-time prosecutor for the City of Waltherboro since 2014. The majority of my civil work has been for the plaintiff. I have handled a wide variety of cases during the past five years including the following: debt collection, creditors' rights, personal injury, wrongful death, heirs' property, real estate closings, boundary disputes, HOA disputes, and establishing businesses. I have also represented a juvenile in court for the charge of assault. As prosecutor for Waltherboro I have handled over 100 cases including DUI/DUS, shop lifting, assault and battery, drug possession, and larceny. These cases were either settled or tried before a jury. While I was with Woodard & Butler, I appeared on average at least once a month before a circuit court judge or Master in Equity. My wide variety of experience has developed my procedural knowledge of how trials work from pretrial procedure through jury verdicts.

Ms. Blake reported the frequency of her court appearances during the past five years as follows:

- (a) Federal: 1%;
- (b) State: 99%

Ms. Blake reported the percentage of her practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 55%;
- (b) Criminal: 15%;
- (c) Domestic: 25%;
- (d) Other: 5%.

Ms. Blake reported her practice in trial court as follows:

- (a) Jury: 20%
- (b) Non-jury: 80%

Ms. Blake provided that during the past five years she most often served as sole counsel.

The following is Ms. Blake's account of her five most significant litigated matters:

- (a) *Wilmington Savings Fund Society v. James Edwin Hiott, et.al*, 2022CP1500284. I represented Beth Bolt, the personal

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- representative of the Estate of James Edwin Hiott in this matter. This was a foreclosure of a reverse mortgage. This case was significant in that it gave me experience in how estate matters also are tried in circuit court.
- (b) *Janie Singleton, et. al v. Connie Johnson, et.al*, 2020CP1500024. I represent the Plaintiffs in this matter. This is an heirs property case. This case is significant because of the decades of family strife involved. At issue is whether Mrs. Singleton's husband was adopted and thus, an heir.
 - (c) *Jon Attridge et. al v. The Board of Directors of Bull Point Plantation Property Owners Association, Inc., et. al*, 2018CP0702345. I represented two of the Defendants in this case. This was an exceptionally complex dispute over the declarancy to Bull Point. It was significant to me because I learned a lot about pretrial procedure and motion practice.
 - (d) *Estate of Mary Susan Crerar v. Jon Andrews, et. al*, 2021CP3700006. I represented The Estate and the personal representative in this wrongful death action. Since this was an Oconee County case the client also retained local counsel. This case involved the death of an 80-year-old woman resulting from the malfunction of a dumbwaiter. The case was significant for me because I learned how expert testimony can either make or break a case. This was settled at mediation against one defendant and with a \$1.5 million judgment against the other defendant.
 - (e) *State v. Marceia Sanders* No 5102P0331719. This is a jury case I tried for the City of Walterboro. Mrs. Sanders was charged with violation of a window tinting ordinance and resisting or obstructing an officer. The Defendant was the wife of a county deputy. There was some thought in the community that the charges should be dismissed because of that fact. The evidence supported the charges, so I had to try the case. This case was significant because laws should be applied equally and justly no matter the familial status of the Defendant.

Ms. Blake has not personally handled any civil appeals. She reports the following:

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None of the cases I have personally handled from start to finish have been appealed. However, I do have experience in the appeals process through work on the following two cases.

- (a) Bewersdorf v. South Carolina Department of Public Safety, 2001CP150677. Appeal from the Fourteenth Circuit Court of Common Pleas. I worked as associate counsel on this case while working at Bogoslow, Jones, and Stephens. We represented the Department of Public Safety who was the Respondent in the appeal. I completed all the research and drafting of Respondent's Brief. The trial court's directed verdict based on the public duty doctrine was affirmed.
- (b) Stancel E. Kirkland and El Cid Holdings, LLC v. Robert Wolfson, 2019-000203. Appeal from the Fourteenth Circuit. I was co-counsel for Respondent El Cid Holdings, LLC for a short while and assisted in drafting Respondent's initial brief.

Ms. Blake has not personally handled any criminal appeals. She reports the following:

None while being a practicing lawyer. However, during law school I assisted with several criminal appeals through my employer Bogenschutz & Dutko in Ft. Lauderdale Florida. I worked as a law clerk for the firm. My duties included researching and drafting briefs for both state and federal appeals.

Ms. Blake further reported the following regarding unsuccessful candidacies:

I ran for Colleton County Council at Large seat in 2022 but did not win the primary run-off. Also, I was a candidate for Circuit Court at large seat 13 in 2019. I withdrew to gain more experience.

(9) Judicial Temperament:

The Commission believes that Ms. Blake's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee on Judicial Qualifications found Ms. Blake to be "Qualified" in the evaluative criteria of

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constitutional qualifications, professional and academic ability, reputation, physical health, mental stability, and experience; and “Well-Qualified” in the evaluative criteria of ethical fitness, character, and judicial temperament.

Ms. Blake is married to Stephen Brian Blake. She has one child.

Ms. Blake reported that she was a member of the following Bar and professional associations:

- (a) South Carolina Bar Association
- (b) South Carolina Bar Association, Board of Governors 2020-23; Strategic Plan Implementation subcommittee
- (c) South Carolina Bar Association, House of Delegates, At-large seat 2017-19.
- (d) South Carolina Bar Association, House of Delegates Fourteenth Judicial Circuit 2023-25.
- (e) South Carolina Bar Association, Board of Fee Disputes Resolutions, Fourteenth Circuit, 2017-Present.
- (f) South Carolina Supreme Court Commission on Lawyer Conduct 2021-present.
- (g) South Carolina Bar Foundation Board Member 2023-24
- (h) Georgia Bar Association
- (i) South Carolina Women Lawyers Association
- (j) Colleton County Bar Association, Technology Committee, Chair, 2019-20
- (k) American Bar Association 2022-present
- (l) South Carolina Bar Solo and Small Firm Section member

Ms. Blake provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) I was a member of Civitans, Walterboro. I served as president elect 2016-17 and president 2017-18.
- (b) I attend Bethel United Methodist Church, Walterboro where I volunteer as church attorney and serve on the church council.
- (c) I am a board member of the Colleton County Chamber of Commerce and currently serve as vice-chair.

Ms. Blake further reported:

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I am the first college graduate and first lawyer in my family. Since moving away from my hometown I have had the opportunity to travel extensively throughout the United States, Canada, the Caribbean, and Thailand. I have been exposed to many different cultures and people from varied walks of life. I have worked in various areas of the justice system since entering college at American University. These jobs included secretary to a chief of police; assistant to the chair of the Department of Justice Law and Society at AU; litigation support services; volunteer at a victim witness program; and law clerk for one of the leading criminal defense firms in Fort Lauderdale. These jobs coupled with living in many different locations have allowed me to see the justice system from many different perspectives. I have seen people at their very worst and at their very best I have seen people suffer from court decisions and I have seen people rejoice as well. I learned from my various jobs in the justice system that all people, no matter where they live or who they are, come to the courts seeking to be treated fairly and justly. Using this knowledge and experience I would strive to be an impartial judge capable of firmness but compassion as well.

(11) Commission Members' Comments:

The Commission commented that Ms. Blake appears professional, prepared, and respectful.

(12) Conclusion:

The Commission found Ms. Blake qualified, but did not nominate her for election to Circuit Court, At-Large, Seat 8.

**The Honorable Russell A. Blanchard IV
Circuit Court, At-Large, Seat 8**

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Blanchard meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Blanchard was born in 1982. He is 41 years old and a resident of Orangeburg, South Carolina. Judge Blanchard

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provided in his application he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2007.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Blanchard.

Judge Blanchard demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to a judge, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Blanchard reported that he has made \$570.52 in campaign expenditures for business cards, letterhead, copies, and postage.

Judge Blanchard testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Judge Blanchard testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Blanchard to be intelligent and knowledgeable.

Judge Blanchard reported that he has never taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs.

Judge Blanchard reported that he has not published any books or articles.

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(4) Character:

The Commission's investigation of Judge Blanchard did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Judge Blanchard did not indicate any evidence of a troubled financial status. Judge Blanchard has handled his financial affairs responsibly.

The Commission also noted that Judge Blanchard was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problem with his diligence and industry.

(5) Reputation:

Judge Blanchard reported that he is not rated by any legal rating organization.

Judge Blanchard reported that he has not served in the military.

Judge Blanchard reported that he has never held public office other than judicial office.

(6) Physical Health:

Judge Blanchard appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Blanchard appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Blanchard was admitted to the South Carolina Bar in 2007.

He gave the following account of his legal experience since graduation from law school:

- (a) Attorney at Williams & Williams Attorneys at Law, LLC- November 2007 through present day. My practice involves personal injury, workers' compensation, real estate closings, deed transfers, family court, traffic court, general sessions,

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real estate litigation, probate court, drafting Estate planning paperwork, representing municipalities, and civil practice in circuit and magistrate court. I have had some involvement in the administrative and financial management of the firm. The administrative matters that I am involved in relate to the staff and paralegals that work directly with me. The financial management that I am involved in is making sure that best practices are followed for the money on cases that I am handling.

- (b) Municipal Judge for Allendale, South Carolina. 2019 through present. This is a part time position. I handle primarily traffic/criminal charges and preliminary hearings. I handle bond hearings when the other municipal judge is unable to do them.

Judge Blanchard further reported regarding his experience with the Circuit Court practice area:

I have handled criminal cases in Magistrate, Municipal, and Circuit Court since became an attorney in 2007. Two of the cases ended in jury trials, and the remaining cases ended in pleas or bench trials. The types of cases include traffic tickets, misdemeanor charges, and a wide range of felonies (for example- drug charges, domestic violence, financial crimes, murder, kidnapping, and breach of the peace of a high and aggravated nature). I have also represented clients in civil cases in Circuit Court and Magistrate Court throughout my career. I have handled evictions, quiet title actions, foreclosures, easement disputes, personal injury claims, contract disputes, and had at least two cases transferred from probate court to circuit court. In litigating these cases, I have dealt with a wide variety of motions on issues related to discovery, summary judgment, venue, and amendment of pleadings. The majority of the time I have represented plaintiffs, but there have been some cases where I represented defendants. All of my civil cases in Circuit Court were either settled, resolved by motion, or ended with a non-jury trial. I have not had a civil case go to jury trial in Circuit Court, but I have had sufficient experience litigating cases in various courts that I would be comfortable presiding over a trial. I have had civil cases go to jury trial in Magistrate Court. I appear in Circuit Court multiple times per month.

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Judge Blanchard reported the frequency of his court appearances as follows:

- (a) federal: I have had one case in federal court in the past five years. It resolved after jury selection but prior to trial.
- (b) state: I appear in state court about once a week.

Judge Blanchard reported the percentage of his practice involving civil, criminal, domestic and other matters as follows:

- (a) Civil: 40%
- (b) Criminal: 20%
- (c) Domestic: 1%
- (d) Other: 39%

Judge Blanchard reported his practice in trial court during the past five years as follows:

- (a) 60% was in trial court, including cases that settled prior to trial;
- (b) 1% of his cases went to trial and resulted in a verdict;
- (c) 0% went to trial and resolved after the plaintiff's or State's case;
- (d) 1% of his cases settled after a jury was selected but prior to opening statements.

Judge Blanchard reported that during the past five years, he most often served as sole counsel.

The following is Judge Blanchard's account of his five most significant litigated matters:

- (a) State v. Tawes- 2021GS380994. This case was significant because the State attempted to try Mr. Tawes three times (twice in Magistrate Court and once in General Sessions). The case ended when a jury in General Sessions found him not guilty of Breach of Peace of a High and Aggravated Nature and not guilty of Breach of the Peace.
- (b) Mederos v. Pifer dba Pure Gold Gentleman's Club- 1423068- This case was significant because it was the first Workers' Compensation case that I tried as sole counsel, and it involved an uninsured employer. One of the major issues was whether Ms. Mederos was an independent contractor. A single commissioner agreed

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with us that she was not an independent contractor, and an appellate panel agreed.

- (c) *State v. Houser*- This was my first general sessions jury trial, and I tried it as co-counsel with Charles H. Williams, III. Mr. Houser was charged with multiple felonies. We obtained a verdict of not-guilty on the murder charge, but Mr. Houser was found guilty of other charges.
- (d) *McCurry v. Robinson*- 5:17-cv-03156-JMC. This was my first wrongful death case, and it was in Federal Court. It involved a tractor-trailer, an individual on a bicycle, and disputed liability. The case was resolved in mediation after jury selection but prior to trial.
- (e) *Jones v. Jamison*- 2007-CP-38-883. When I took this case on, my client was in default, and I filed and successfully argued a Motion to Set Aside Default. This was one of the first motions I argued in Circuit Court, and it was against an attorney that had been practicing law longer than I had been alive. It taught me the importance of reading the rules, reading case law, and being prepared.

Judge Blanchard reported that he has never handled the following civil appeals:

- (a) *Riley v. Outlaw*, Court of Appeals, 2016-001867, decided 1/4/2019
- (b) *Fairey v. Gillespie*, Court of Appeals, 2021-000787, decided 5/31/2023

Judge Blanchard reported that he has not handled any criminal appeals.

Judge Blanchard reported that he has held the following judicial office(s):

Municipal Judge for the Town of Allendale. 2019 through present day. I was appointed to this position. This court has limited jurisdiction over traffic tickets, misdemeanor criminal charges, bond hearings, and preliminary hearings.

Judge Blanchard reported the following about his most significant orders or opinions:

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I have not had to prepare any Orders or opinions as Municipal Judge for Allendale other than form orders related to bonds and discharges.

Judge Blanchard reported the following regarding his employment while serving as a judge:

I have worked as an attorney at Williams & Williams Attorneys at Law, LLC, while serving as a Municipal Judge for the town of Allendale.

(9) Judicial Temperament:

The Commission believes that Judge Blanchard's temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee reported Judge Blanchard to be "Well-Qualified" as to the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, and judicial temperament; and "Qualified" in the evaluative criteria of constitutional qualification, physical health, mental stability, and experience. The Committee noted: "Personable, bright, good communicator."

Judge Blanchard is married to Jennifer G. Blanchard. He has two children.

Judge Blanchard reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar
- (b) American Bar Association
- (c) South Carolina Association for Justice
- (d) South Carolina Summary Court Judges Association
- (e) Orangeburg County Bar

Judge Blanchard provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) First Baptist Church of Orangeburg. I served as a Deacon, including Deacon Chair and Deacon Vice-Chair. I have also served on the Missions Committee and Stewardship Committee.

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- (b) Catch the Vision International. I assisted in creating this non-profit, and I served on the Board of Directors. I am not currently on the Board.
- (c) Rotary. I served as President in 2019. I am also a Paul Harris Fellow.
- (d) Orangeburg Country Club.

Judge Blanchard further reported:

I believe that my knowledge of the law, experience dealing with a wide variety of legal issues, ability to relate to people with different backgrounds and life experiences, and empathy for people gives me the necessary skill set to serve as a Circuit Court Judge. The only types of cases that I have not handled are income tax, social security, and employment law. In my 15 years of practicing as an attorney, I have helped clients or other attorneys with a wide array of legal issues. While I have not tried a civil case before a jury in Circuit Court and only had two General Sessions cases go to jury trial, I have the necessary knowledge of procedural, evidentiary, and substantive law to preside over these types of cases as a Circuit Court Judge. I have litigated numerous cases in Circuit Court which resolved prior to a jury trial, and I have had cases resolved by bench trial before a Circuit Court Judge or Master-in-Equity. I have had civil and criminal cases go to jury trial in Magistrate Court, and I have served as sole counsel on numerous bench trials in Magistrate and Municipal Court. I have also presided over jury trials in Municipal Court in Allendale. All this experience makes me confident that I have the knowledge of the Rules of Evidence, Rules of Civil Procedure, and other rules needed to preside over trials in Circuit Court. When I become a Circuit Court Judge and am no longer in private practice, I will keep my knowledge sharp by continuing to study the rules while serving as a Judge.

My time spent working in Woody's Pawn and Jewelry prior to becoming an attorney gave me additional skills that I believe will be important when serving as a Circuit Court Judge. This job exposed me to people from all walks of life outside of the bubble that I grew up in. It helped me become a better listener which has served me in my job as an attorney and will serve me in my work as a Circuit Court Judge. I took this experience into my practice as a lawyer in a small town firm and used it to help

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in relating to my clients and the various people that were involved in the cases I handle.

My faith also plays an important role in my law practice and would play a role in how I handle my duties as a Circuit Court Judge. I believe that I am required to do all things in a manner that is pleasing to the Lord and that includes how I carry out my responsibilities at work. I strive to treat everyone with respect, kindness, grace, and truthfulness.

(11) Commission Members' Comments:

The Commission noted that Judge Blanchard has a great reputation as evidenced by many positive comments from the BallotBox survey and noted that his letters of recommendation were also very complimentary.

(12) Conclusion:

The Commission found Judge Blanchard qualified, but did not nominate him for election to Circuit Court, At-Large, Seat 8.

Ashley A. McMahan
Circuit Court, At-Large, Seat 8

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. McMahan meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Ms. McMahan was born in 1978. She is 45 years old and a resident of Columbia, South Carolina. Ms. McMahan provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2004.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. McMahan.

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Ms. McMahan demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. McMahan reported that she has not made any campaign expenditures.

Ms. McMahan testified she has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Ms. McMahan testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. McMahan to be intelligent and knowledgeable.

Ms. McMahan reported that she has taught the following law-related courses:

- (a) I taught law-related courses while an adjunct at South University between 2010-2018. I taught Environmental Law, which was an overview of the more significant federal environmental law as well as an overview of South Carolina's environmental laws. I also taught Introduction to Paralegalism, which was a basic overview of the court system in the United States as well as South Carolina, basic legal terms, and how to find cases online, etc.

I also taught Real Estate (an overview of property rights and types of deeds), Trust and Estates (an overview of wills, intestacy, etc.), and Intellectual Property (an overview of trademarks, copyright, patents, etc.).

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I taught Introduction to Information Literacy (LIBR 101) at the University of South Carolina from August 2013 through December 2016. While this is not specifically a legal or law type course, the course does relate to the legal field as it teaches basic research and information literacy skills, which apply to all fields. This course teaches the basics of how to do competent research online by analyzing the source, date of publication, the author, etc., while also teaching the differences between opinions (most blogs) to news and periodicals.

(b) I have lectured at the following:

1. Post-Conviction Relief and Habeas Corpus: Preserving the Conviction
South Carolina Bar Continuing Legal Education Seminar - September 18, 2009
Columbia, South Carolina
2. Protecting Convictions from Collateral Attack
South Carolina Solicitors' Association Annual Conference - September 29, 2009
Hilton Head Island, South Carolina
3. Environmental Statutes and Related Crimes & Preparing a Case for the Prosecutor
Southeastern Environmental Enforcement Network - June 28-30, 2010
Columbia, South Carolina
4. Environmental Crimes in South Carolina
South Carolina Bar Continuing Legal Education Seminar – January 21, 2011
Columbia, South Carolina
5. Natural Resources & Environmental Law
South Carolina Bar Continuing Legal Education Seminar – August 22, 2014
Columbia, South Carolina
6. Advanced Environmental Crimes Training Program
Federal Law Enforcement Training Center – July 2015 & April 2016
Glynco, Georgia
7. Environmental Law in South Carolina

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South Carolina Bar Continuing Legal Education
Seminar – June 3, 2016
Columbia, South Carolina

8. Thirty-First Annual Criminal Practice in South Carolina
South Carolina Bar Continuing Legal Education
Seminar – February 18, 2022
Columbia, South Carolina
9. Prosecution CLE Series - Case Round Up
South Carolina Commission on Prosecution
Coordination – October 11, 2022
Zoom Webinar.

Ms. McMahan reported that she has published the following:

- (a) Environmental Law in South Carolina, Fourth Edition, (SC Bar CLE 2016)
Contributing author, Chapter 12 –
Environmental Crimes in South Carolina
- (b) The South Carolina Post-Conviction Relief Manual, Second Edition, (SC Bar CLE 2008)
Case law update through December 31, 2009
published March 2010

(4) Character:

The Commission's investigation of Ms. McMahan did not reveal evidence of any founded grievances or criminal allegations made against her.

The Commission's investigation of Ms. McMahan did not indicate any evidence of a troubled financial status. Ms. McMahan has handled her financial affairs responsibly.

The Commission also noted that Ms. McMahan was punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. McMahan reported that she is not rated by any legal rating organization.

Ms. McMahan reported that she has not served in the military.

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Ms. McMahan reported that she has never held public office.

(6) Physical Health:

Ms. McMahan appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. McMahan appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. McMahan was admitted to the South Carolina Bar in 2004.

She gave the following account of her legal experience since graduation from law school:

(a) McMahan Law, LLC – Columbia, SC

Owner, January 2022 - present

(formerly McMahan & Taylor Attorneys, LLC -
Owner/partner, July 2016 – Dec 2021)

Defends criminal matters across the midlands.

Handles family based immigration matters such as
fiancé(e) visas, spousal visas, etc.

Files and handles naturalization cases.

Prosecutes post-conviction relief matters across the
state.

Files and handles civil matters in magistrate and
Common Pleas courts

Handles appeals in the South Carolina Court of Appeals
and the South Carolina Supreme Court.

Files pardons and expungements on behalf of clients.

Litigates vital record amendment matters in both
Common Pleas and Family Court.

Litigates simple divorce matters in Family Court.

Handles all financial and administrative management of
law firm, including trust accounts.

(b) Sixth Circuit Solicitor's Office - Lancaster, SC

Assistant Solicitor, February 2017 – present

Lancaster & Fairfield Offices

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Tried at least five cases to jury verdict.
Handled prosecution of special victims' crimes:
sexual misconduct, domestic violence, etc.
Prosecute felony level offenses including murders,
armed robbery, etc.
Handle juvenile criminal cases in Family Court.

- (c) South University - Columbia, SC
Adjunct Professor, June 2010 – May 2018

Taught Environmental Law; Intro to Paralegalism;
Intellectual Property; Real Estate; Trusts & Estates.

- (d) South Carolina Attorney General's Office - Columbia SC
Assistant Attorney General August 2006 – July 2016
Special Assistant United States Attorney, May 2011 –
July 2016

Prosecution & State Grand Jury Section (2008-2016)
Handled State Grand Jury cases, including
appeals and PCRs.
Sworn Delegate to the South Carolina State
Grand Jury, with statewide jurisdiction.
Prosecuted South Carolina criminal
environmental matters and other matters as
assigned.
Handled all State Grand Jury post-conviction
relief matters.
Indicted the first-ever State Grand Jury
environmental criminal case.
Provided guidance and interpretation of laws to
investigators.

Post-Conviction Relief & Criminal Appeals Section
(2006-2008)
Handled approximately 550 Post-Conviction
Relief and State Habeas Corpus cases.
Wrote approximately seven Petitions for Writs
of Certiorari to the state Supreme Court and
approximately 110 Returns to Petitions for

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Writs of Certiorari, and handled other Appellate Court briefings

- (e) The Honorable Clifton Newman - Kingstree, SC
Judicial Law Clerk, November 2004 – July 2006
Wrote orders, handle scheduling, liaison between the judge and members of the Bar, organized the office, saved judge's life from a heart attack.
- (f) Rogers, Townsend, & Thomas, PC - Columbia, SC
Law Clerk/Title Reviewer, June 2004 – November 2004
Reviewed title abstracts for title insurance binders.
- (g) Anderson & Brown, LLC – Hampton, SC
Law Clerk, June 2004 – November 2004
General law clerk duties, drafting deeds, abstracting, assisting with court matters, etc.

Ms. McMahan further reported regarding her experience with the Circuit Court practice area:

My experience with criminal law started once I graduated from law school and started clerking for Judge Newman back in 2004. I have been handling criminal law matters for eighteen years now. Most of my criminal law experience has been as a prosecutor; however, in private practice I have had criminal defense clients with cases in Summary Court as well as in General Sessions. I also work with the Sixth Circuit Solicitor's Office prosecuting all kinds of criminal matters from domestic violence court, to juvenile court, to high level felonies.

The issues involved in my criminal cases are all over the board. It could be a juvenile waived up to General Sessions, it could be issues related to the chain of custody for drugs, it could be a statement made by a child in a forensic interview setting. I've had all of these issues come up before and then some. I am in Circuit Court at least five days a month, usually more.

My civil practice consists mostly of post-conviction relief matters, a few personal injury matters, as well some immigration cases. While most people probably don't think of post-

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conviction relief as a civil matter, these cases are civil and are filed in Common Pleas. Instead of a Summons & Complaint, the Applicant files an Application. Instead of an Answer, the State files a Return. Otherwise, all the same civil rules of procedure apply. I have been doing post-conviction relief matters since 2006. I continue to do them now via appointment or by being retained. I have probably handled close to 400 of these cases. Most of the issues involved in these cases related to ineffective assistance of counsel of their prior criminal attorney since these cases are collateral attacks on criminal convictions.

In addition, my civil practice also consists of general civil matters in magistrate courts as well as appeals from magistrate court, some family court matters, probate, and civil cases in federal court. Some of the types of cases I have handled/filed in magistrate courts include breach of contract type matters, restraining orders, etc. My family court experience has been with simple divorces, name changes, gender marker changes, as well as juvenile prosecution matters. In probate court I have mostly dealt with death certificate amendments, while in federal court I have filed federal habeas corpus cases and writs of mandamus related to immigration matters. I have also handled vital records litigation in Circuit Court.

Ms. McMahan reported the frequency of her court appearances during the past five years as follows:

- (a) Federal: 1%;
- (b) State: 99%

Ms. McMahan reported the percentage of her practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 45%;
- (b) Criminal: 45%;
- (c) Domestic: 3%;
- (d) Other: 7%.

Ms. McMahan reported her practice in trial court as follows:

- (a) The vast majority of my practice is in trial court. I would estimate at least 85% of what I do is in trial court. (I am including both jury trials and bench trials.) If I were to

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split between jury and non-jury practice, I would estimate that 20% of my criminal cases end up as a jury trial, while the remainder of my cases are bench trials or are matters that are generally handled short hearings. (i.e. Juvenile trials, post-conviction relief matters, and family court matters.)

- (b) This is a hard number to quantify as I handle both jury and non-jury matters but over the past five years I estimate I have tried to verdict at least five jury trials. (This includes during the COVID shut down.)
- (c) Again, difficult to quantify simply because record management does not distinguish between a matter that started as a trial and ended up with a guilty plea. I estimate I have had at least another five cases where a jury was pulled and/or opening statements or the State's case was presented and then the Defendant decided to plead guilty.
- (d) Please see the above answer.

Ms. McMahan provided that during the past five years she most often served as sole counsel, occasionally co-counsel.

The following is Ms. McMahan's account of her five most significant litigated matters:

- (a) *State of South Carolina v. David Matthew Carter* (Lancaster County 2016-GS-29-00036, 37, 38) – Criminal Sexual Conduct with a Minor, First Degree. A week-long trial involving a minor who was the step-daughter of the defendant. Judge allowed the defendant to be in secondary courtroom while the minor victim testified. Matter is currently on appeal and oral arguments were recently held at the Supreme Court. <https://www.heraldonline.com/news/local/crime/article/211857364.html>
- (b) *Ivis Ahimara Reyes Yedra v. State of South Carolina* (Lexington County 2017-CP-32-04132) – Post-Conviction Relief matter stemming from a State Grand Jury conviction. Applicant was not properly advised of immigration consequences, among other things. Was denied relief in lower court. Certiorari was denied. Remittitur sent on March 23, 2023.

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- (c) *State of South Carolina v. George W. Smolen* (State Grand Jury 2013-GS-47-0003) – First and only State Grand Jury environmental case. Defendant was an armchair chemist and was attempting to create biodiesel. Contaminated large areas of land and runoff seeped into Lake Hartwell. <https://regionalassociations.org/upstate-businessman-target-of-first-sc-state-grand-jury-pollution-indictment/>
- (d) *State of South Carolina v. Charlie Tillman* (Abbeville County 2013-GS-01-00175, 176, 177) – Calhoun Falls town councilman was arrested for driving under the influence and threatening a public official. Trial was started but after two days of testimony, defendant decided to plead guilty. Very contentious matter within that community, defendant was the reason the entire police force of Calhoun Falls quit. <https://www.wyff4.com/article/upstate-councilman-charged-with-dui-takes-plea-deal/7009388>
- (e) *State of South Carolina v. George Ralph Bobo* – (Greenville County, 2013-GS-23-08476, 08477) – Defendant was former police officer for Simpsonville. During a job interview with SLED, he admitted to destroying evidence in a murder case. Charged with misconduct in office and obstruction of justice. <https://www.greenvilleonline.com/story/news/local/golden-strip/2015/06/16/bobo-guilty-misconduct-investigation-murder/28839239/>

The following is Ms. McMahan's account of five civil appeals she has personally handled:

- (a) *Simuel v. State of South Carolina*, 390 S.C. 267, 701 S.E.2d 738 (Sup. Ct. 2010)
- (b) *Robinson v. State of South Carolina*, 387 S.C. 568, 693 S.E.2d 402 (Sup. Ct. 2010)
- (c) *Edwards v. State of South Carolina*, 392 S.C. 449, 710 S.E.2d 60 (Sup. Ct. 2011)
- (d) *Barber v. State of South Carolina*, 393 S.C. 232, 712 S.E.2d 436 (Sup. Ct. 2011)
- (e) *Yedra v. State of South Carolina*, Appellate Case No.: 2019-1309. Remittitur sent on March 23, 2023. Not reported.

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The following is Ms. McMahan's account of two criminal appeals she has personally handled:

- (a) *State of South Carolina v. Whitesides*, 397 S.C. 313, 725 S.E.2d 487 (Sup. Ct. 2012).
- (b) *Rosetta Miller v. State of South Carolina*, criminal appeal from magistrate court to Common Pleas. Not reported. (2022-CP-20-00253)

Ms. McMahan further reported the following regarding unsuccessful candidacies:

I ran for a Circuit Court, At-Large Seat 3 in 2022. I withdrew from the race mid-November 2022.

(9) Judicial Temperament:

The Commission believes that Ms. McMahan's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualification found Ms. McMahan to be "Qualified" in the evaluative criteria of constitutional qualifications, character, reputation, physical health, mental stability, experience, and judicial temperament; and "Well-Qualified" in the evaluative criteria of ethical fitness and professional and academic ability. The Committee commented "Needs more past experience, but willing to prepare for future application."

Ms. McMahan is not married. She does not have any children.

Ms. McMahan reported that she was a member of the following Bar and professional associations:

- (a) Richland County Bar Association
- (b) Lexington County Bar Association – Executive Committee 2020 & 2021
- (c) Lancaster County Bar Association
- (d) American Immigration Lawyers Association – CLE Committee 2019 to present
- (e) Trial & Appellate Advocacy Committee – Executive Committee 2022 to present
- (f) Practice & Procedure Committee
- (g) South Carolina Association for Justice

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- (h) Solo & Small Firm Section
- (i) Fairfield County Bar Association
- (j) Young Lawyers Division – YLD Executive Committee, 5th Circuit Representative
July 2009 – June 2013
- (k) South Carolina Women Lawyers’ Association – 2005 to 2007 (approx..)

Ms. McMahan provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) SQ Rescue – SBT (pet rescue)
- (b) Carolina Hearts Aussie Rescue
- (c) South Carolina Bar Leadership Academy, Inaugural Class 2008-2009
- (d) South Carolina Bar YLD Star of the Quarter – FY 2010-2011
- (e) John R. Justice award – 2018 Solicitor’s Conference
- (f) SC Women Lawyer’s Association – Young Lawyer to Watch, September 2006
- (g) Series 6 & 63 securities licenses – 2000 to 2001
- (h) SC Life, Accident, & Health Insurance License – 2000 to 2001
- (i) Certified Circuit Court Mediator – August 2023.

Ms. McMahan further reported:

Upon information and belief, I have no other information at this time.

(11) Commission Members’ Comments:

The Commission commented that Ms. McMahan has a plethora of experience and presented as a professional and knowledgeable candidate.

(12) Conclusion:

The Commission found Ms. McMahan qualified, but did not nominate her for election to Circuit Court, At-Large, Seat 8.

**R. Bruce Wallace
Circuit Court, At-Large, Seat 8**

Commission’s Findings: QUALIFIED, BUT NOT NOMINATED

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(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Wallace meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Wallace was born in 1971. He is 52 years old and a resident of Mt. Pleasant, South Carolina. Mr. Wallace provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1996.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Wallace.

Mr. Wallace demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Wallace reported that he has made \$5.00 in campaign expenditures for postage.

Mr. Wallace testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Wallace testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Wallace to be intelligent and knowledgeable.

Mr. Wallace reported the following about teaching law-related courses:

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I have taught continuing legal education courses for National Business Institute in the past, but it has been more than 15 years since I last taught a course.

Mr. Wallace reported that he has published the following:

- (a) Co-Author, Roadmap to Collection – How to Navigate Debtor Exemptions in South Carolina, approved for publication, S.C. Lawyer, September 2018
- (b) Co-Author, Show Me the Money – Collecting Judgments Against the Savvy Judgment Debtor, S.C. Lawyer, September 2016
- (c) Author, Serving the Master: Challenging the Authority Power or Jurisdiction of the Master-in-Equity, S.C. Lawyer, January 2015
- (d) Contributing Author, Federal Consumer Credit Protection Statutes (DRI 2015)
- (e) Co-author, Strategies to Obtain Early Settlement of General Aviation Claims, Skywritings (DRI 2014)
- (f) Author, With Friends Like These, Who Needs Enemies? Getting Out of Default is Never Easy, S.C. Lawyer, November 2013
- (g) Author, SC Chapter, The Collateral Source Rule: A Compendium of State Law (DRI 2012)
- (h) Author, SC Chapter, Professional Liability Insurance: A Compendium of State Law (DRI 2012)
- (i) Co-author, Using Non-reliance Clauses in Defense of Fraud Claims, The Business Suit (DRI March 2006).
- (j) Regional Editor, Unfair Trade Practices: A Compendium of State Law (DRI 2005).

(4) Character:

The Commission's investigation of Mr. Wallace did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. Wallace did not indicate any evidence of a troubled financial status. Mr. Wallace has handled his financial affairs responsibly.

The Commission also noted that Mr. Wallace was punctual and attentive in his dealings with the Commission, and the

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Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Wallace reported the following:

- (a) I am listed as AV "preeminent" rated, Martin Hubbell.
- (b) I am listed in Best Lawyers in America for Commercial Litigation (since 2015) and Litigation – Insurance (since 2016). I was named Lawyer of the Year in Litigation – Insurance, for 2017 and 2020.
- (c) I have been listed in SuperLawyers 2008-2009, and 2016-2022.

Mr. Wallace reported that he has not served in the military.

Mr. Wallace reported that he has never held public office.

(6) Physical Health:

Mr. Wallace appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Wallace appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Wallace was admitted to the South Carolina Bar in 1996.

He gave the following account of his legal experience since graduation from law school:

- (a) 1996-1998. Law Clerk, the Honorable C. Weston Houck, United States District Court. Served as a judicial law clerk, assisting the court with orders, trials, motions, and other administrative tasks.
- (b) 1998-2002. Wallace and Wallace (formerly Wallace and Tinkler). I was an associate attorney then a partner in a personal injury law firm. We handled domestic cases, criminal defense cases, personal injury, legal malpractice defense, probate and trust litigation. I was not involved in the financial management of this entity, nor did I manage trust accounts.

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- (c) 2002-present. Maynard Nexsen PC (formerly Nexsen Pruet, LLC). I am a shareholder in the law firm. I handle matters involving commercial litigation (plaintiff and defense), insurance coverage (mostly defense), legal malpractice defense, probate and trust litigation (plaintiff and defense), and real estate disputes (plaintiff and defense). I have been a signatory on several trust accounts, but have no involvement in the management of the firm.

Mr. Wallace further reported regarding his experience with the Circuit Court practice area:

During my 27-year career, I have actively appeared before the Circuit Court in at least 20 counties in South Carolina. In the past five years, I have appeared before a Circuit Court judge on a regular basis.

(a) I have limited experience in criminal matters in the Circuit Court during the past five years. However, I practiced criminal law from 1998 to approximately 2011 in all courts, including the Circuit Court. I studied criminal procedure and substantive criminal law during those years, and I plan to draw on that experience to preside over criminal matters in Circuit Court. Additionally, I plan to study each case and each matter as they come before me, researching the statutes, case law, and applicable Rules of Criminal Procedure.

(b) I have extensive experience in civil matters before the Circuit Court in the past five years. I have served as lead counsel or sole counsel in all of those matters. I regularly file and argue motions, and I have tried cases in Circuit Court, both bench and jury trials. I represent individuals and companies in a wide variety of commercial litigation claims. I have handled insurance coverage disputes, mostly representing insurance companies, but several times I have represented the insureds. I have handled numerous real estate matters in Circuit Court, involving Homeowner Association rules, boundary disputes, and restrictive covenants. I have defended lawyers in legal malpractice actions. I have handled other general civil matters, including litigation involving financial institutions, where I mostly represent the financial institutions. I have represented landowners in condemnation proceedings, both in the proceedings to fix the award and proceedings to challenge the condemnation. I have

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handled personal injury matters, both large and small, usually representing defendants.

Mr. Wallace reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: 30%;
- (b) State: 70%.

Mr. Wallace reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 90%;
- (b) Criminal: 5%;
- (c) Domestic: 0%;
- (d) Other: 5% (probate).

Mr. Wallace reported the percentage of his practice in trial court during the past five years as follows:

- (a) 90% of my practice is in trial court. About 10% involve appeals.
- (b) Three (3) cases went to trial and resulted in a verdict.
- (c) No cases went to trial.
- (d) No cases settled after a jury was selected but prior to opening statements.

Mr. Wallace provided that during the past five years he most often served as sole counsel or chief counsel.

The following is Mr. Wallace's account of his five most significant litigated matters:

- (a) *Christina Jones v. Mary P. Miles*, Case No. 2022-CP-32-00867 (Eleventh Judicial Circuit). I defended a lawyer in a legal malpractice action. After a jury trial, the jury found the plaintiff to be forty percent (40%) comparatively negligent.
- (b) *MAC Coastal Properties, Inc. v. Shoestring Retreat, LLC*, Case No. 2020-CP-22-0072 (Fifteenth Judicial Circuit). I represented a homeowner in a restrictive covenant enforcement action that involved complex legal principles and significant equitable defenses. The court

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ruled against my client, and my client appealed the final order. The case remains on appeal.

- (c) *SM Charleston, LLC v. Daniel Island Riverside Developers, LLC*, Case No. 2020-CP-08-00914 (Ninth Judicial Circuit). I represented a developer in a contract dispute with another developer, involving complex contractual issues, development ordinances, and equitable defenses.
- (d) *City of Folly Beach, et al. v. State, et al.*, Case No. 2019-CP-10-00717 (Ninth Judicial Circuit). I represented a homeowner in a civil action where the municipality offered a novel legal theory to prevent development of the homeowner's lot. The trial court dismissed the complaint and the municipality appealed the dismissal. The case is pending on appeal.
- (e) *Brown, et al. v. Richardson, et al.*, Case no. 2018-CP-26-3173 (Fifteenth Judicial Circuit). I represented several members of the board of directors for a homeowners' association. We obtained partial summary judgment on plaintiffs' main cause of action for declaratory relief. The case is highly contested and involved the complex interplay of recorded homeowner documents, statutes, and case law. Plaintiffs appealed the Order granting summary judgment, and the case is pending on appeal.

The following is Mr. Wallace's account of three civil appeals he has personally handled:

- (a) *Accident, Injury & Rehab., PC v. Azar*, 943 F.3d 195 (4th Cir. 2019).
- (b) *Regions Bank v. Owens*, 402 S.C. 642, 741 S.E.2d 51 (Ct. App. 2013).
- (c) *Charleston Trident Home Builders, Inc. v. Town Council of Town of Summerville*, 369 S.C. 498, 632 S.E.2d 864 (2006).

Mr. Wallace reported that has has not personally handled any criminal appeals.

Mr. Wallace further reported the following regarding unsuccessful candidacies:

- (a) I withdrew from consideration for Circuit Court, At Large Seat No. 9 in 2014.

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(b) I was an unsuccessful candidate for a United States Magistrate Judge position in 2015.

(9) Judicial Temperament:

The Commission believes that Mr. Wallace's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee on Judicial Qualification found Mr. Wallace to be "Well-Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, and judicial temperament; and "Qualified" in the evaluative criteria of constitutional qualifications, physical health, mental stability, and experience.

Mr. Wallace is married to Sally M. Wallace. He has four children.

Mr. Wallace reported that he was a member of the following Bar and professional associations:

- (a) S.C. Bar Association, 1996 to present
 - (1) Board of Governors, 2017-2020.
 - (2) House of Delegates, 2004-2017.
 - (3) Chair-Elect, Trial and Appellate Advocacy Council, 2016.
- (b) Federal Bar Association, SC Chapter, Board of Directors, 2008-2012.
- (c) Defense Research Institute (DRI), Program Chair, Professional Liability Committee, 2019.

Mr. Wallace provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Member, St. Andrews Church, Mt. Pleasant.
- (b) Secretary and Director, North Charleston Dental Outreach, 2020-present.
- (c) Standing Committee, Diocese of the Carolinas, 2019-2022.
- (d) Mentor, USC School of Law 1L Professionalism Series, 2020.
- (e) Mentor, Supreme Court Lawyer Mentoring Program, 2022-present.

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- (f) Recipient, Compleat Lawyer, USC School of Law, Gold, 2020.
- (g) Legal Elite of the Lowcountry, Charleston Business Magazine Insurance, 2018-2019.
Estate and Trust – Litigation, 2022.

Mr. Wallace further reported:

My grandfather, O. T. Wallace, served as master-in-equity in Charleston County. My father, Robert Wallace, served as the Ninth Circuit Solicitor from 1968 to 1976. I learned from both of these men the value of the rule of law, the integrity of the judicial system, and the effort it takes to maintain both. I hope to serve as a Circuit Court judge consistent with the highest principles embraced and demonstrated by these two men.

(11) Commission Members' Comments:

The Commission was impressed by Mr. Wallace's vast litigation experience, his intellect, and his temperament. The Commission noted that the BallotBox survey overwhelmingly reflected in a positive manner his skills as a lawyer as well as his qualities as a person.

(12) Conclusion:

The Commission found Mr. Wallace qualified, but did not nominate him for election as Circuit Court, At-Large, Seat 8.

**Christian G. Spradley
Circuit Court, At-Large, Seat 16**

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Spradley meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Spradley was born in 1969. He is 54 years old and a resident of Batesburg-Leesville, South Carolina. Mr. Spradley provided in his application that he has been a resident of South Carolina

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for at least the immediate past five years and has been a licensed attorney in South Carolina since 1997.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Spradley.

Mr. Spradley demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Spradley reported that he has made \$807.69 in campaign expenditures for printing business cards, resumes, magnetic name badges, and hand cards and note cards.

Mr. Spradley testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Spradley testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Spradley to be intelligent and knowledgeable.

Mr. Spradley reported that he has taught or lectured at the following bar association conferences, educational institutions, or continuing legal or judicial education programs:

- (a) I lectured at the March 18, 2002 DUI Trial Advocacy From Arrest to Verdict presented by the South Carolina Prosecution Commission, the South Carolina Department of Public Safety, and the South Carolina Sheriffs' Association.

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- I lectured at the March 17, 2008 Magistrate Orientation School.
- (b) I lectured at the July 21, 2008 Magistrate Orientation School.
 - (c) I lectured at the March 16, 2009 Magistrate Orientation School.
 - (d) I lectured at the July 20, 2009 Magistrate Orientation School.
 - (e) I lectured at the August 17, 2009 Annual Intensive Training for Magistrate and Municipal Judges.
 - (f) I lectured at the August 16, 2010 Annual Intensive Training for Magistrate and Municipal Judges.
 - (g) I lectured at the May 1, 2012 Criminal Litigation from A to Z CLE.
 - (h) I lectured at the February 20, 2014 “May it Please the Court” Effective Case Presentation at Trial CLE.
 - (i) I lectured for SDDOR in 2015 to County Auditors, Treasurers, and Tax Collectors on FOIA issues.
 - (j) I lectured at the August 15, 2016 Annual Intensive Training for Magistrate and Municipal Judges
 - (k) I lectured at the August 4, 2019 SCACA Annual Conference.
 - (l) I lectured at the March 6, 2020 Sex Crimes: Getting Serious about Sex Crime Defense.
 - (m) I lectured at the October 13, 2021 SCMA Conference.
 - (n) I have lectured at the SCFFA Leadership Institute for multiple year on legal issues.
 - (o) I have lectured at the SCFFA Officer’s Academy for multiple years on legal issues.
 - (p) I have lectured at multiple fire departments throughout the state for years on legal issues.

Mr. Spradley reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Mr. Spradley did not reveal evidence of any founded grievances or criminal allegations made against him.

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The Commission's investigation of Mr. Spradley did not indicate any evidence of a troubled financial status. Mr. Spradley has handled his financial affairs responsibly.

The Commission also noted that Mr. Spradley was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Spradley reported that he is not rated by any legal rating organization.

Mr. Spradley reported that he has not served in the military.

Mr. Spradley reported that he has never held public office.

(6) Physical Health:

Mr. Spradley appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Spradley appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Spradley was admitted to the South Carolina Bar in 1997.

He gave the following account of his legal experience since graduation from law school:

- (a) 1997 Law Office of John Harte – Only employed for a period of weeks
- (b) 1998-1999 Aiken County Public Defenders' Office – Defense of Indigents on matters ranging from DUI to Murder.
- (c) 1999-2002 Lexington County Solicitors' Office – Prosecution of Criminal Cases from DUI to Murder. First Prosecutor for the LCMANET.
- (d) 2002-Present Moore Bradley Myers Law Firm P.A. (with preceding names excluded). – Hired as an Associate, became Partner in 2005 and became Managing Partner in

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2021. My practice is a General Practice covering many areas of the law. In operating the Saluda office, I personally have been responsible for the day to day operation, administrative operation and financial management of the office since it opened. Since becoming Managing Partner, I am responsible for the overall operation of the firm. All attorneys are responsible for the management of trust accounts. In Saluda, I have a trust account for which I am responsible.

Mr. Spradley further reported regarding his experience with the Circuit Court practice area:

Criminal Experience: During my employment with the Aiken County Public Defenders' Office and the Eleventh Judicial Circuit Solicitors' Office I both prosecuted and defended cases ranging from DUI to Murder. I learned valuable lessons from both positions.

As a Public Defender I learned how to deal with large caseloads while ensuring that each client received both the legal and personal time needed for their cases. It was driven home that every case is important to ensure that rights are not infringed upon. The time management skills that I learned have been a great help to me in my practice.

As an Assistant Solicitor I was hired to originally run Transfer Court. This entailed setting a docket and running the Court. I was later moved to General Sessions where I eventually became the prosecutor for the Lexington County Narcotics Enforcement Team. I spent time with law enforcement and directed them as to what was expected from them from a prosecution standpoint. I learned how to determine which cases were worthy of prosecution and which defendants were worthy of second chances. In essence, dispensing justice does not equate to obtaining a conviction in every case. I learned that certain cases required rehabilitation, while others called for housing a defendant.

In private practice I have solely defended accused individuals. I handle cases in both city/magistrate courts as well as General

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Sessions. I have handled cases ranging from traffic tickets to Criminal Sexual Conduct with a Minor and Murder.

Civil Experience: Once I entered private practice I began obtaining experience in the civil realm. Most of my civil practice has revolved around Plaintiffs' cases, but I have also had a few cases on the defense side as well as appearing often in Family Court. I have also served as County Attorney for a number of years as well as representing municipalities and a Special Purpose District. I have handled probate matters as well as cases before Masters-In-Equity/Special Referees.

From a Plaintiff's standpoint, I have dealt with wreck cases, property cases, contractual disputes, fiduciary issues, election issues, as well as others. My defense practice has been limited to auto and civil issues over property.

Mr. Spradley reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: Very infrequently. Once in total;
- (b) State: Depending on time of year, weekly.

Mr. Spradley reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 33%;
- (b) Criminal: 33%;
- (c) Domestic: 25%;
- (d) Other: 8%.

Mr. Spradley reported the percentage of his practice in trial court during the past five years as follows:

- (a) 90% was in trial court including cases that settled prior to trial;
- (b) 3% went to trial and resulted in a verdict
- (c) 6% went to trial and resolved after the plaintiff's or State's case
- (d) 1% settled after a jury was selected but prior to opening statements

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Mr. Spradley provided that during the past five years he most often served as sole counsel.

The following is Mr. Spradley's account of his five most significant litigated matters:

- (a) *State v. James Michael Lucas* – As an Assistant Solicitor I was assigned this case which was originally charged as Involuntary Manslaughter by another Assistant Solicitor. When I received the case to prosecute, the fact pattern led me to believe that something other than an accident took place. I requested that a SLED Crime Scene team perform a blood spatter analysis nearly a year after the incident. Based on newly discovered evidence I was able to prove that Mr. Lucas shouldered his weapon and fired it killing a 13 year old mentally handicapped girl. Mr. Lucas was Straight Indicted for and convicted of Murder. He received a Life Sentence.
- (b) *State v. Johnny West* – Mr. West was charged with Driving with an Unlawful Alcohol Concentration when the law was first adopted. A ticket was never written for the original DUI which negated law enforcement's ability to request a breath sample. The order that I obtained dismissing my client's charges and the theory I used has been utilized by numerous defense attorneys in the State.
- (c) *State v. Donnie Brown* – As a Public Defender I represented Mr. Brown who was charged with Murder in Aiken County. His defense was self-defense. At the end of the State's case, Mr. Brown was offered a plea to involuntary manslaughter with a negotiated sentence which would have resulted in time served. Mr. Brown declined the offer and was later convicted of Murder. This case is significant in that though my vigorous defense was able to obtain an offer which would have afforded Mr. Brown a life outside of prison.
- (d) *Durst v. Koontz* – This case involved property on Lake Murray where the Defendant claimed ownership of portions of land deed to Plaintiff. In representing Plaintiff I was able to establish ownership in my client and defeat Defendant's claim of acquiescence in the property line.
- (e) *Wisowati v. Republican Party* – Client was a candidate for a South Carolina House seat and was removed from the

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ballot on the Saturday before the primary. I was able to have my client remain on the ballot.

The following is Mr. Spradley's account of three civil appeals he has personally handled:

- (a) *Lambries v. Saluda County Council*, 760 S.E.2d 785 (S.C. 2014) – June 18, 2014. This case dealt with the Freedom of Information Act issue as to whether it was proper for a County Council to amend its agenda during a regular meeting. I was successful in having the Circuit Court uphold the amendment as proper and Plaintiff appealed. In a split decision the Court of Appeals held that it was not proper. The case was argued before the Supreme Court of South Carolina which overturned the Court of Appeals and affirmed the Circuit Court.
- (b) *Perry v. Perry*, Unpublished – January 5, 2009. Family Court post-divorce custody action. Representing the Mother/Plaintiff we requested the Court name a primary custodian in a split custody situation due to significant discord in the decision making process between the parents. We argued that no change in circumstance was necessary because we were not changing the custodial situation, only clarifying it. Trial Court ruled that a change in circumstance was necessary and refused to make any changes. We appealed and the Court of Appeals upheld the Trial Court's ruling.
- (c) *Clark v. Irving et al* – September 26, 2013. This is a partition action in which I represent the Plaintiff. Several different people own smaller shares of a large tract of land. After obtaining the results desired by my client, one of the defendants appealed. The Appeal was dismissed.

The following is Mr. Spradley's account of the criminal appeal he has personally handled:

State v. Fayth Leann Dickson – September 15, 2010. Client was convicted of DUI in Magistrates Court. We appealed based on eight separate grounds. In the case the proper advising of Miranda, chain of custody, proper foundation for admission of evidence, and Rule 5 of the Criminal Rules of Procedure were major issues. The Circuit Court granted the appeal and dismissed the charges against the Defendant.

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(9) Judicial Temperament:

The Commission believes that Mr. Spradley's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualification found Mr. Spradley to be "Qualified" in the evaluative criteria of constitutional requirements, physical health, and mental stability; and "Well-Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee noted: "Well qualified all the way around. Pleasant and endearing."

Mr. Spradley is married to Christina "Christy" Reece Spradley. He has two children.

Mr. Spradley reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar
- (b) Tri-County Bar
- (c) Saluda County Bar – President 2019 – Present
- (d) Lexington County Bar
- (e) South Carolina Association of Criminal Defense Lawyers – Board Member 2016-2018
- (f) SC Bar Ethics Advisory Committee 2022-Present
- (g) SC Bar Convention Committee 2022-Present
- (h) SC Bar House of Delegates 2018-Present
- (i) SC Association of Justice
- (j) 11th Circuit Fee Dispute Board Member

Mr. Spradley provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) B-L Rotary Club – Member 2017-Present, President 2019-2020, Board of Directors 2020-2021
- (b) Town of Saluda Fire Department – Firefighter 2012-Present
- (c) F3 Nation – F3 Lexington – F3 Smokehouse

Mr. Spradley further reported:

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I have learned that attorneys that work in trial courts deal with people who are at the lowest point of their lives. They have either lost someone, been injured, been victimized, accused of a crime, going through a divorce, or some other life altering event. Most of the time, if these individuals feel that they have been heard and have been treated fairly, they may not like it but will accept the result. In many cases, how the result is delivered can make all the difference in how it is perceived. Harsh results can be handed down with a velvet glove. I would aspire to be the kind of judge that may not rule a way that everyone likes, but in a way that everyone understands and hopefully can live with.

I have been blessed with a great family. My father instilled in me the belief that public service and giving back to my fellow man are cornerstones of society. My wife has been very supportive of my desire to serve our State as a Circuit Court Judge. I am offering myself out of pure desire to continue a lifelong commitment to my fellow man.

(11) Commission Members' Comments:

The Commission commented that Mr. Spradley has outstanding knowledge of the law and diverse experience in handling civil and criminal matters, including as a prosecutor, that would serve him well as a jurist.

(12) Conclusion:

The Commission found Mr. Spradley qualified, but did not nominate him for election to Circuit Court, At-Large, Seat 16.

**S. Boyd Young
Circuit Court, At-Large, Seat 16**

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Young meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

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Mr. Young was born in 1974. He is 49 years old and a resident of Columbia, South Carolina. Mr. Young provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1999. He was also admitted to the Georgia Bar in 2005.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Young.

Mr. Young demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Young reported that he has not made any campaign expenditures.

Mr. Young testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Young testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Young to be intelligent and knowledgeable.

Mr. Young reported that he has taught the following law-related courses:

- (a) I have lectured and taught at the National Criminal Defense College annually since 2009. It is a two-week trial advocacy program for criminal defense attorneys with various levels of experience.

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- (b) I have lectured and taught at the National College of Capital Voir Dire annually since 2007. It is a program dedicated to teaching constitutional voir dire requirements to attorneys.
- (c) In 2010 I founded a public defender training program for South Carolina, and it has since been turned into a mandated training program for all new public defenders. I continue to teach and lecture in the program.
- (d) I am on the National Association of Criminal Defense Attorneys, Capital Committee where I serve as Co-Chair. I put on an annual continuing legal education seminar regarding capital defense.
- (e) I participate annually in the South Carolina Bar Mock Trial competition.
- (f) In 2009 South Carolina Solicitors and defense lawyers received a joint grant to host training programs for capital cases. I managed the defense lawyer training and over the course of three years held multiple training events around the state. This was a joint effort to combat South Carolina's near 80% reversal rate in capital cases.

Mr. Young reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Young did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. Young did not indicate any evidence of a troubled financial status. Mr. Young has handled his financial affairs responsibly.

The Commission also noted that Mr. Young was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

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(5) Reputation:

Mr. Young reported that he is not rated by any legal rating organization.

Mr. Young reported the following military service:
May 1993 – February 5, 1996. United States Navy, Midshipman.
Honorable Discharge, February 5, 1996

Mr. Young reported that he has never held any public office.

(6) Physical Health:

Mr. Young appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Young appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Young was admitted to the South Carolina Bar in 1999.

He gave the following account of his legal experience since graduation from law school:

- (a) 1999-2000 I was hired as a law clerk to A. Victor Rawl, Circuit Court Judge in Charleston, SC. My duties included assisting Judge Rawl with both criminal and civil matters throughout South Carolina.
- (b) 2000-2005 I was hired at the Charleston County Public Defender's Office. I was an assistant public defender for five years and promoted to senior trial attorney. I handled all levels of criminal cases.
- (c) 2005-2008 I joined the newly formed Georgia Capital Defender Office in Atlanta where I handled trial level capital cases throughout the state of Georgia.
- (d) 2008-2017 I returned to South Carolina to help form the Capital Trial Division for the South Carolina Commission on Indigent Defense. I was initially hired as the Deputy Attorney of the office.
- (e) 2017-Present I have served as the Chief Attorney of the Capital Trial Division. I supervise two other attorneys, a paralegal, and numerous interns and externs. We handle

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trial level death penalty cases throughout the state and have been directly responsible for saving South Carolina over \$1 Million annually.

Mr. Young further reported regarding his experience with the Circuit Court practice area:

As the Deputy and Chief Attorney for the Capital Trial Division for the South Carolina Commission on Indigent Defense, I have been involved in almost every death penalty trial conducted in South Carolina in the past fifteen years. I appeared before a Circuit Court Judge at least once a month during the past five years. Recently I was lead counsel on the longest capital trial ever held in South Carolina, State v. Timothy R. Jones, Jr. in Lexington County. This case involved numerous forensic and legal issues. It included everything from DNA to serious mental health claims, and Fourth, Fifth, Sixth, and Eighth Amendment Constitutional issues. In preparation for the trial there were over one hundred pretrial motions litigated and a multi-state investigation conducted over the course of several years. Witnesses from all over the country had to be coordinated and brought to Court by the State and Defense for the trial. The central issue was whether Mr. Jones suffered from a mental illness, and if so, was it to the extent that he could not form the criminal intent necessary to be found guilty of murder. It was an extraordinarily complicated case that involved hundreds of witnesses and lasted for almost eight weeks including several weeks of jury selection.

Throughout my 23 year career as a trial lawyer, I have handled every type of criminal case at all court levels, from parking tickets in Municipal Court to death penalty cases in General Sessions Court. I have also handled cases involving every possible defense, from mistaken identification to insanity. I have dealt with every type of forensic issue from multi-source DNA statistics to tire track comparisons.

My civil court experience is limited to quasi-civil matters such as PCR and appeals from Magistrate Court. While my direct experience with Common Pleas Court is limited, capital cases often involve ancillary matters that must be dealt with, both for clients and their family members. I have dealt with these matters throughout my legal career and I am always quick to review the rules of civil procedure and help guide people

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through the process. Putting together a mitigation case for a capital case is not all that different from a civil case in which you are seeking a “but – for” causation. I feel that my extensive capital trial background makes me well suited for constantly learning and staying up to date on the law and its many changes. I would bring this same dedication to civil matters. Being a good capital trial attorney means that you have to be knowledgeable and well-versed in all aspects of the law – civil, criminal, appellate, domestic, and administrative.

Mr. Young reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: None;
- (b) State: Monthly.

Mr. Young reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 1%;
- (b) Criminal: 97%;
- (c) Domestic: 1%;
- (d) Other: 1%.

Mr. Young reported his practice in trial court as follows:

- (a) 97% of his cases were in trial court, including cases that settled prior to trial
- (b) 15 cases went to trial and resulted in a verdict
- (c) 0 cases went to trial and resolved after the plaintiff’s or State’s case
- (d) 0 cases settled after a jury was selected but prior to opening statements

Mr. Young provided that during the past five years he most often served as chief counsel.

The following is Mr. Young’s account of his five most significant litigated matters:

- (a) *State v. Timothy R. Jones, Jr.* 2023 WL 2671754 (March 29, 2023) This was a death penalty trial in Lexington, SC in 2019. The case is currently pending in the South Carolina Supreme Court for direct review. This was the

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longest, most complicated death penalty case in recent history. This case was significant for a multitude of reasons, but I think it was an important example of how our mental health facilities and social institutions fail to protect our most vulnerable citizens. While there were several open Department of Social Services investigations, Mr. Jones continued to spiral out of control, and it eventually resulted in the killing of five innocent children. I was lead counsel for Mr. Jones. The trial was tremendously impactful on me, both as a person and a lawyer.

- (b) *Kenneth Simmons v. State*, 416 S.C. 584, 788 S.E.2d 220 (2016). A Post Conviction Relief case in which I became involved based on my knowledge and experience with DNA evidence. My representation at Mr. Simmons' PCR resulted in a reversal of his conviction, and ultimately Mr. Simmons pleaded guilty for a reduced sentence. The Solicitor in the case had presented false DNA results implicating Mr. Simmons. The case demonstrates the necessity of attorneys and judges being well educated on the forensic issues that impact jury trials.
- (c) *State v. Todd Kohlhepp*. A 2017 case involving a serial killer from Spartanburg. Mr. Kohlhepp was charged with seven murders and the kidnapping and sexual assault of a woman found chained in a storage container on his property. This case demonstrated that early and adequate representation for the accused leads to better outcomes for all involved. Because of my early involvement I was able to ensure that all of Mr. Kohlhepp's personal property went into receivership, resulting in the victims' ability to recover, monetarily, some small part of their losses. Through the early cooperation of Mr. Kohlhepp, and with the consent of the victims, we were able to negotiate life without parole sentences for Mr. Kohlhepp - saving the State significant expense and the victims the emotional impact of a long, drawn out process. I was lead counsel for Mr. Kohlhepp.
- (d) *State v. Crystal Johnson*. A murder case out of Spartanburg in 2016. Ms. Johnson was already in prison serving a sentence for child neglect when the Sheriff identified her as a suspect in a double murder that occurred several years prior. The State's intention to seek the death penalty was

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announced at a press conference. Once warrants were drafted I was able to get involved and conduct a thorough investigation. I was able to prove that Ms. Johnson was not involved in the murders. Additionally, I was able to uncover the identity of the actual murderer which I forwarded to the Solicitor's Office. This case is important to show why a thorough investigation is necessary, how devastating a rush to judgement can be, and why attention to detail is crucial in the administration of justice.

- (e) *State v. John Edward Weik*. This was a 2016 death penalty retrial in Dorchester County. Mr. Weik was tried, convicted, and given the death penalty. His sentence was affirmed in 2004. The PCR Judge found that his counsel was deficient for failing to investigate and present Mr. Weik's extensive mental health history to the jury. Weik v. State, 409 S.C. 214, S.E.2d 757 (2014). I was able to provide the Solicitor with proof that Mr. Weik was schizophrenic. He then received an offer to plead to life without parole which he accepted. The case is significant because it demonstrates the value of the appointment of qualified counsel in complicated cases to avoid costly retrials.

Mr. Young reported that he has not personally handled any civil or criminal appeals.

Mr. Young further reported the following regarding unsuccessful candidacies:

In 2020 I was screened as a candidate for Circuit Court, At Large, Seat 12. I was found to be well qualified but was not selected as a final candidate by the Committee.

In 2021 I was screened out as a candidate for Circuit Court, Fifth Circuit, Seat 2. I was submitted to the legislature as one of 3 well qualified candidates but withdrew prior to the election. In 2022 I was screened out as a candidate for Circuit Court, At-Large, Seat 3, and withdrew prior to the election.

(9) Judicial Temperament:

The Commission believes that Mr. Young's temperament would be excellent.

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(10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualifications found Mr. Young to be “Qualified” in the evaluative criteria of constitutional qualifications, physical health, and mental stability; and “Well-Qualified” in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee stated: “No doubt well-qualified”.

Mr. Young is married to Laura W. Young. He has two children.

Mr. Young reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Association of Criminal Defense Lawyers - Member
- (b) National Association of Criminal Defense Lawyers – Capital Trial Committee – Co-chair
- (c) South Carolina Public Defender Association – Board Member
- (d) Richland County Bar Association – Member
- (e) South Carolina Association for Justice - Member

Mr. Young provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Recognized by the Red Cross as a Platelet Donor
- (b) I run an annual charity yard sale at my house to support children with an incarcerated parent at Christmas.
- (c) My wife worked with Achieve Columbia – a group dedicated to providing support services to at risk youth in local schools – which resulted in us getting an educational guardianship for a minor and having her live with us for her last two years of High School, there was a recognition by Achieve Columbia.

Mr. Young further reported:

I had the great fortune of clerking for a Judge that was respected by all parties that came before him. He taught me how to maintain poise even when others could not, the value of always being prepared, and treating others with dignity and respect no matter the circumstances. I have spent my career as a trial lawyer in courtrooms across South Carolina applying these lessons. I

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have appeared in front of great jurists, and some not so great, but we have always managed to get along and get the work done. I have managed some of the most complex cases in South Carolina and maintained a case budget that saves the citizens of South Carolina money. At the same time, I have maintained good relationships with not only opposing counsel, but also with many of the victims in cases that I was defending. If selected, I will make a good addition to the South Carolina Judiciary.

(11) Commission Members' Comments:

The Commission commented that Mr. Young has an outstanding reputation, noting his intellect, demeanor, and reputation. The Commission also noted his years of service to the state and extensive experience and knowledge handling criminal matters.

(12) Conclusion:

The Commission found Mr. Young qualified, but did not nominate him for election to Circuit Court, At-Large, Seat 16.

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Paul F. LeBarron
Family Court, Ninth Judicial Circuit, Seat 4

Commission's Findings: NOT QUALIFIED

Pursuant to § 2-19-80(A), if fewer than three persons apply to fill a vacancy or if the Commission concludes that there are fewer than three candidates qualified for a vacancy, it shall submit only the names and qualifications of those who are considered to be qualified, with a written explanation for submitting fewer than three names.

For the vacancy for Family Court, Ninth Judicial Circuit, Seat 4, three candidates applied for this vacancy, one candidate was found not qualified, and one withdrew. Accordingly, the name and qualifications of one candidate is hereby submitted in this report.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. LeBarron meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. LeBarron was born in 1970. He is 53 years old and a resident of Ladson, South Carolina. Mr. LeBarron provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1995. He was also admitted to the North Carolina Bar in 1995.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. LeBarron.

Mr. LeBarron demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. LeBarron reported that he has made \$97.18 in campaign expenditures for postage, and cards.

Mr. LeBarron testified he has not:

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- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Mr. LeBarron testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. LeBarron to be intelligent and knowledgeable.

Mr. LeBarron reported that he has taught the following law-related courses:

- (a) I have lectured at the New Family Court Judge Orientation School every year since 2017, discussing the Division's supplementary processes and remedies in the framework of support obligation enforcement.
- (b) I have presented regarding the income-shares model of support determination at the Lake County (IL) Family Law Conference held in Charleston in 2019.
- (c) I have presented at the 2019 Hot Tips for the Coolest Domestic Law Practitioners seminar regarding the rollout, implementation, and immediate anticipated effects of the new Palmetto Automated Child Support System.
- (d) I have presented regarding the child support guidelines and impacts of PACSS to the Charleston County Bar Association (2019), Berkeley County Bar Association (2019), Horry County Bar Association (2023), with the Cooperative Family Law Association (2023), and as part of a Hot Topics from the Bench in the Fourteenth Circuit (2022).

Mr. LeBarron reported that he has not published any books or articles.

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(4) Character:

The Commission's investigation of Mr. LeBarron did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission's investigation of Mr. LeBarron did not indicate any evidence of a troubled financial status. Mr. LeBarron has handled his financial affairs responsibly.

The Commission also noted that Mr. LeBarron was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. LeBarron reported that he is not rated by any legal rating organization.

Mr. LeBarron reported that he has not served in the military.

Mr. LeBarron reported that he has never held public office.

(6) Physical Health:

Mr. LeBarron appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. LeBarron appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. LeBarron was admitted to the South Carolina Bar in 1995.

He gave the following account of his legal experience since graduation from law school:

- (a) 1995-March 1, 2000: sole practitioner with general practice. Handled individual tax issues along with some domestic practice and estate planning. I handled all administrative and financial functions of the practice, including the trust account.

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- (b) March 2, 2000 – present: state attorney with the Department of Social Services Child Support Services Division. Practice limited to the establishment of paternity and the establishment, modification, and enforcement of child support obligations for both in-state orders as well as those from other states and countries. I have no involvement with the financial management of the agency, and I maintain no trust account. I have little involvement with the administration in the Division, limited to improvement or implementation of case processing for efficiency.

Mr. LeBarron further reported regarding his experience with the Family Court practice area:

Divorce and equitable division of property: Prior to joining the Child Support Division in 2000, I handled a very simple divorce where parties pretty much had all of their property divided and only wished the divorce be granted. Since then, I did assist a co-worker in her divorce where all property, custody, and support issues had already been resolved by agreement. Because child support deviations can be granted based upon equitable division, I am aware and have been exposed to hundreds of cases to review the equitable division to see if deviations would apply. This exposure to these end results has provided me an insight as to how such decisions are made, which I can apply to pursue similar results.

Child custody: The Child Support Division does not handle issues of custody or visitation, so my practice has been limited to recognizing the custody vested in unmarried mothers, or accepting and incorporating the agreement of the parties. As custody determinations primarily dictate the application of the child support guidelines, I have reviewed and applied many different custody arrangements to child support calculations, and have seen some of the factors rising to the determinations by the Court.

Adoption: As a fellow division of the Department of Social Services, I have access to Adoption Services and have addressed the related child support cases from that office's activities. I am

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frequently consulted both before and after adoptive cases to address child support issues, but have never handled such a case before.

Abuse and neglect: The county Abuse and Neglect offices of DSS are separate from the Child Support Division, but there is significant overlap of Child Support in the cases pursued by County DSS. I have worked with my counterparts in the counties for literal decades, so I have been exposed to many different aspects of the cases in addition to child support. On one rare occasion, I stood in for my colleague on a simple placement case due to conflict.

Juvenile justice: I have had no direct involvement with juvenile justice, but my contested child support dockets are held along with those of the Department of Juvenile Justice, which has given me the opportunity to observe many, many juvenile hearings and the manner in which the various judges arrive at their determinations.

My background is analytical, beginning with my college degree in mathematics, continuing with my initial practice of tax and estate planning, and throughout my practice in calculating and analyzing child support issues. Presiding as a judge is an exercise in problem-solving, just with a different set of tools. Having limited or no prior experience as an advocate gives me the ability to develop these tools as a neutral, without any bias or predisposition that adversarial exposure may have given another practitioner.

Mr. LeBarron reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: 0%
- (b) State: 100%

Mr. LeBarron reported the percentage of his practice involving civil, criminal, domestic and other matters during the past five years as follows:

- (a) Civil: 0%
- (b) Criminal: 0%
- (c) Domestic: 99.50%;

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(d) Other: 0.5%

Mr. LeBarron reported the percentage of his practice in trial court during the past five years as follows:

- (a) Percentage of practice at trial court: 100%
- (b) Cases that went to trial and resulted in a verdict: 0 - all in family court;
- (c) Cases that went to trial and resolved after plaintiff or State's case: 0 - Other side always allowed opportunity to be heard in family court;
- (d) Cases settled after a jury was selected but prior to opening statements: 0 - No juries in family court.

Mr. LeBarron provided that during the past five years he most often served as sole counsel.

The following is Mr. LeBarron's account of his five most significant litigated matters:

- (a) *SCDSS v. Donellevin Polite*. Family Court. At a hearing to reduce child support brought by the Division based on emancipation of one of three children, the judge ordered the reduction retroactive to eighteen months earlier. I appealed this decision as a violation of statutory and case law. This case was significant as it provided the opportunity to properly prepare an appeal and pursue it to its conclusion. It involved not only the initial hearing, but also a lengthy reconsideration hearing in anticipation of the appeal. Without oral argument, the appellate court agreed that the retroactive application was improper. *SCDSS v. Polite*, 391 S.C. 275, 705 S.E.2d 78 (S.C.App. 2011).
- (b) *SCDSS v. John Hicks*. Family Court. In this 2004 matter, I was seeking to register a 1992 Florida order for enforcement in South Carolina. However, in 1993, Florida sent the order with a petition to establish an order, which South Carolina established for a lesser amount. The new registration involved a significant amount of arrears that had accrued under the Florida order. At the confirmation hearing, the judge initially ruled that the South Carolina order prevailed, as Florida could not ask for something one day and then ask for something different years later when the laws changed. Upon my request, the Court allowed

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briefs to be submitted. My brief summarized the changes in the interstate law while persuading the Court that the result I sought was not only correct, but intended by the changes. This matter is significant as it was the first time I was able to change a judge's mind with my argument, outside of an appeal.

- (c) *In Re Sammie Webb, Debtor*. Bankruptcy Court. I joined a motion with the Trustee to have this debtor's Chapter 13 plan dismissed for failure to comply with the plan. This was the first time I had to appear and pursue relief directly with the Bankruptcy Court. Mr. Webb had several child support cases totaling several thousand dollars, and has used the bankruptcy court to stay enforcement of those arrears several times. Of his ten previous filings, this was the fifth I personally handled. This case was significant because it was the first time I argued in the Bankruptcy Court, leading to a dismissal of the filing, with prejudice, preventing further enforcement delays.
- (d) *SCDSS v. Nathaniel Roberts*. Family Court. At a Rule to Show Cause in the early part of my practice with the Division, it was brought out that two of the three children under the support order had emancipated. The judge sua sponte ordered that the support obligation was to be reduced retroactively to the 18th birthday of each child. I objected and declared my intent to appeal. This case was significant to me because I failed to properly create the record with the proper arguments that the law supported. I was a hard lesson learned, and a situation I would not allow to repeat.
- (e) *In Re the Estate of Henry Picard*. Probate Court. This was the only probate matter I litigated while still in private practice. I represented one of the living children, who believed his father wished only to provide for the surviving children, and not the heirs of the deceased child. The hearing was for interpretation of the will as there was no mention or other clear indication of provision for the predeceased child. I pursued a rather novel theory of determining intent through the constructed design of the will itself. It was significant to me as it was the first opportunity I had as a new lawyer to argue before a judge as well as prepare and conduct cross-examination.

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The following is Mr. LeBarron's account of three civil appeals he has personally handled:

- (a) *SCDSS v. Donellevin Polite*, Court of Appeals of South Carolina, January 19, 2011, 391 S.C. 275, 705 S.E.2d 78.
- (b) *SCDSS v. Nathaniel Roberts*, Court of Appeals of South Carolina, June 21, 2005. Not reported.
- (c) *Theon Smith v. SCDSS*, Court of Appeals of South Carolina. Still pending.

Mr. LeBarron reported that has not personally handled any criminal appeals.

Mr. LeBarron further reported the following regarding unsuccessful candidacies:

- (a) Family Court At-Large seat 3, 2012, withdrew before screening completed
- (b) Family Court Ninth Circuit seat 2, 2014, withdrew before screening completed
- (c) Family Court Ninth Circuit seat 3, 2015, withdrew before screening completed

The Commission noted that while Mr. LeBarron has extensive experience with child support issues while working with the Department of Social Services, he lacked the necessary experience in most other areas of family law including divorce, adoption, and juvenile justice.

(9) Judicial Temperament:

The Commission believes that Mr. LeBarron's temperament would not be acceptable for a position on the bench. Mr. LeBarron demonstrated questionable judgment evidenced by his involvement in an organization and its corresponding website that publicly celebrated unsavory humor and proposals of unethical behavior that could suggest or bring disrepute upon a member of the judiciary.

(10) Miscellaneous:

The Lowcountry Citizens Committee on Judicial Qualifications found Mr. LeBarron to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, mental stability, and experience; and "Well-Qualified" in the evaluative criteria

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of ethical fitness, professional and academic ability, character, reputation, and judicial temperament. The Committee noted: "Extremely qualified in DSS Child Support, but has no experience representing clients in other family court matters. Sterling individual."

Mr. LeBarron is married to Barbara Ann Cyrek. He has three children.

Mr. LeBarron reported that he was a member of the following Bar and professional associations:

- (a) South Carolina Bar
- (b) North Carolina Bar (inactive)

Mr. LeBarron provided that he was not currently a member of any civic, charitable, educational, social, or fraternal organization.

Mr. LeBarron further reported:

I have been exclusively practicing establishment and enforcement of child support orders, and have been present for several hundred Rules to Show Cause. In my years, I have seen many, many individuals detained for failure to pay support obligations. I believe that there are situations where incarceration is necessary to reinforce the authority of a court, and especially the importance of complying with a support order. There have been many times that this power has been abused by payees seeking to punish individuals for reasons other than non-support. I have become very aware of the philosophy behind contempt, and the need to wield the power responsibly.

I have been privileged to have a good working relationship with the Father-to-Father program in the Charleston area. I have been educated firsthand that having a relationship with a child makes even the most deadbeat parent a responsible parent. Parents that previously had been serving a life sentence of contempt one year at a time turned themselves around and became responsible role models because of their time with their children. The benefit is mutual: children need both their parents. Although families may not share the same household, both

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parents can and should remain a large part of their children's lives.

I have been a public servant for over two decades, in a capacity that is not specifically as an advocate. The Child Support Enforcement Division is able to participate in legal matters pursuant to an assignment given to us by the party entitled to receive support. In representing the State of South Carolina in these cases, I have developed a working framework where I try to find the best scenario to provide for the child or children given the resources of the parties. I aim to benefit all parties, even if it means going against the wishes of the party that granted the assignment. I look to use this neutral persona as a base upon which I'll expand to encompass all matters before me as a judge.

(11) Commission Members' Comments:

The Commission commented that Mr. LeBarron has an outstanding reputation as an attorney for the Department of Social Services in the Child Support Services Division for over 20 years. However, they noted that he lacked experience in most additional subject matters within the Family Court purview. Further, several questions arose during his screening regarding his character and temperament to be a member of the judiciary.

(12) Conclusion:

The Commission found Mr. LeBarron not qualified for election to Family Court, Ninth Judicial Circuit, Seat 4.

CONCLUSION

The Judicial Merit Screening Commission found the following candidates QUALIFIED AND NOMINATED:

SUPREME COURT

CHIEF JUSTICE The Honorable John W. Kittredge

COURT OF APPEALS

SEAT 8 The Honorable Jerry Deese Vinson Jr.

SEAT 9 Whitney B. Harrison

The Honorable Jan B. Bromell Holmes

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The Honorable Matthew Price Turner

CIRCUIT COURT

SECOND JUDICIAL CIRCUIT, SEAT 2

Grant Gibbons

David W. Miller

Martha M. Rivers Davisson

THIRD JUDICIAL CIRCUIT, SEAT 1

The Honorable S. Bryan Doby

Christopher R. DuRant

Samuel L. Floyd

THIRD JUDICIAL CIRCUIT, SEAT 2

The Honorable Kristi Fisher Curtis

FOURTH JUDICIAL CIRCUIT, SEAT 2

The Honorable Michael S. Holt

FIFTH JUDICIAL CIRCUIT, SEAT 1

James Smith

Justin T. Williams

FIFTH JUDICIAL CIRCUIT, SEAT 2

The Honorable Daniel McLeod Coble

SEVENTH JUDICIAL CIRCUIT, SEAT 1

J. Derham Cole Jr.

SEVENTH JUDICIAL CIRCUIT, SEAT 2

The Honorable Grace Gilchrist Knie

EIGHTH JUDICIAL CIRCUIT, SEAT 2

The Honorable Eugene Cannon Griffith Jr.

NINTH JUDICIAL CIRCUIT, SEAT 4

The Honorable Daniel E. Martin Jr.

Thomas J. Rode

The Honorable Dale E. Van Slambrook

TENTH JUDICIAL CIRCUIT, SEAT 2

The Honorable R. Scott Sprouse

ELEVENTH JUDICIAL CIRCUIT, SEAT 1

The Honorable William Paul Keesley

ELEVENTH JUDICIAL CIRCUIT, SEAT 2

The Honorable Walton J. McLeod IV

TWELFTH JUDICIAL CIRCUIT, SEAT 1

The Honorable Michael G. Nettles

THIRTEENTH JUDICIAL CIRCUIT, SEAT 2

The Honorable Jessica Ann Salvini

THIRTEENTH JUDICIAL CIRCUIT, SEAT 4

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Vernon F. Dunbar

Ken Gibson

Will Grove

FOURTEENTH JUDICIAL CIRCUIT, SEAT 1

The Honorable Robert Bonds

FOURTEENTH JUDICIAL CIRCUIT, SEAT 3

The Honorable Marvin Dukes III

FIFTEENTH JUDICIAL CIRCUIT, SEAT 3

David Pierce Caraker Jr.

Joshua D. Holford

Douglas M. Zayicek

AT-LARGE, SEAT 4

Daniel J. Ballou

William C. McMaster III

AT-LARGE, SEAT 8

Kimberly V. Barr

T. William "Billy" McGee III

William Vickery Meetze

AT-LARGE, SEAT 11

Joseph Bias

Russell D. Hilton

The Honorable Milton G. Kimpson

AT-LARGE, SEAT 16 Riley Maxwell

Charles J. McCutchen

Jane H. Merrill

FAMILY COURT

FIRST JUDICIAL CIRCUIT, SEAT 4

Jerrold A. Anderson

Deanne M. Gray

SEVENTH JUDICIAL CIRCUIT, SEAT 4

Pete G. Diamaduros

Jonathan W. Lounsberry

NINTH JUDICIAL CIRCUIT, SEAT 4

Blakely Copeland Cahoon

NINTH JUDICIAL CIRCUIT, SEAT 6

Gina J. McAlhany

TENTH JUDICIAL CIRCUIT, SEAT 1

David J. Brousseau

Heather Vry Scalzo

SIXTEENTH JUDICIAL CIRCUIT, SEAT 1

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Sammy Diamaduros
SIXTEENTH JUDICIAL CIRCUIT, SEAT 3
R. Chadwick “Chad” Smith
Erin K. Urquhart

ADMINISTRATIVE LAW COURT

SEAT 1

The Honorable Ralph K. Anderson III

Respectfully submitted,

/s/Sen. Luke A. Rankin	/s/Rep. Micajah P. “Micah” Caskey, IV
/s/Sen. Ronnie A. Sabb	/s/Rep. J. Todd Rutherford
/s/Rep. Scott Talley	/s/Rep. Wallace H. “Jay” Jordan, Jr.
/s/Ms. Hope Blackley	/s/Mr. Andrew N. Safran
/s/Mr. J.P. “Pete” Strom, Jr.	/s/Ms. Lucy Grey McIver

APPENDIX

**Report from the South Carolina Bar Judicial
Qualifications Committee**

**The Honorable John W. Kittredge
Supreme Court, Chief Justice**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding The Honorable John W. Kittredge’s candidacy for the Supreme Court, Chief Justice, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**The Honorable Jerry Deese Vinson, Jr.
Court of Appeals, Seat 8**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding The Honorable Jerry Deese Vinson, Jr.'s candidacy for the Court of Appeals, Seat 8, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**Whitney B. Harrison
Court of Appeals, Seat 9**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Whitney B. Harrison's candidacy for the Court of Appeals, Seat 9, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**The Honorable Jan B. Bromell Holmes
Court of Appeals, Seat 9**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding The Honorable Jan B. Bromell Holmes' candidacy for the Court of Appeals, Seat 9, is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Qualified
Experience	Qualified
Reputation	Qualified
Judicial Temperament	Well-Qualified

**Grayson Lambert
Court of Appeals, Seat 9**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Grayson Lambert's candidacy for the Court of Appeals, Seat 9, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**Jason P. Luther
Court of Appeals, Seat 9**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Jason P. Luther's candidacy for the Court of Appeals, Seat 9, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**The Honorable Matthew Price Turner
Court of Appeals, Seat 9**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding The Honorable Matthew Price Turner's candidacy for the Court of Appeals, Seat 9, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**Grant Gibbons
Circuit Court – 2nd Circuit, Seat 2**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Grant Gibbons’ candidacy for the Circuit Court, 2nd Circuit, Seat 2, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**David W. Miller
Circuit Court – 2nd Circuit, Seat 2**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding David W. Miller’s candidacy for the Circuit Court, 2nd Circuit, Seat 2, is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Qualified
Character	Qualified
Professional and Academic Ability	Qualified
Experience	Qualified
Reputation	Qualified
Judicial Temperament	Qualified

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**Martha Rivers Davisson
Circuit Court – 2nd Circuit, Seat 2**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Martha Rivers Davisson’s candidacy for the Circuit Court, 2nd Circuit, Seat 2, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**The Honorable S. Bryan Doby
Circuit Court – 3rd Circuit, Seat 1**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding The Honorable S. Bryan Doby’s candidacy for the Circuit Court, 3rd Circuit, Seat 1, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**Christopher R. DuRant
Circuit Court – 3rd Circuit, Seat 1**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Christopher R. DuRant’s candidacy for the Circuit Court, 3rd Circuit, Seat 1, is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**Samuel L. Floyd
Circuit Court – 3rd Circuit, Seat 1**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Samuel L. Floyd’s candidacy for the Circuit Court, 3rd Circuit, Seat 1, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**The Honorable Kristi Fisher Curtis
Circuit Court – 3rd Circuit, Seat 2**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding The Honorable Kristi Fisher Curtis’ candidacy for the Circuit Court, 3rd Circuit, Seat 2, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**The Honorable Michael S. Holt
Circuit Court – 4th Circuit, Seat 2**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding The Honorable Michael S. Holt’s candidacy for the Circuit Court, 4th Circuit, Seat 2, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**James Smith
Circuit Court – 5th Circuit, Seat 1**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding James Smith’s candidacy for the Circuit Court – 5th Circuit, Seat 1, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**Justin T. Williams
Circuit Court – 5th Circuit, Seat 1**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Justin T. Williams’ candidacy for the Circuit Court – 5th Circuit, Seat 1, is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Qualified
Character	Qualified
Professional and Academic Ability	Qualified
Experience	Qualified
Reputation	Qualified
Judicial Temperament	Qualified

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**The Honorable Daniel McLeod Coble
Circuit Court – 5th Circuit, Seat 2**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding The Honorable Daniel McLeod Coble’s candidacy for the Circuit Court – 5th Circuit, Seat 2, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**J. Derham Cole Jr.
Circuit Court – 7th Circuit, Seat 1**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding J. Derham Cole Jr.’s candidacy for the Circuit Court, 7th Circuit, Seat 1, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**The Honorable Grace Gilchrist Knie
Circuit Court – 7th Circuit, Seat 2**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding The Honorable Grace Gilchrist Knie’s candidacy for the Circuit Court, 7th Circuit, Seat 2, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**The Honorable Eugene Cannon Griffith Jr.
Circuit Court – 8th Circuit, Seat 2**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding The Honorable Eugene Cannon Griffith Jr.’s candidacy for the Circuit Court, 8th Circuit, Seat 2, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**Jason A. Daigle
Circuit Court – 9th Circuit, Seat 4**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Jason A. Daigle’s candidacy for the Circuit Court, 9th Circuit, Seat 4, is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**The Honorable Ittriss J. Jenkins
Circuit Court – 9th Circuit, Seat 4**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding The Honorable Ittriss J. Jenkins’s candidacy for the Circuit Court, 9th Circuit, Seat 4, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**The Honorable Daniel E. Martin Jr.
Circuit Court – 9th Circuit, Seat 4**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding The Honorable Daniel E. Martin Jr.’s candidacy for the Circuit Court, 9th Circuit, Seat 4, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**Elizabeth Morrison
Circuit Court – 9th Circuit, Seat 4**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Elizabeth Morrison’s candidacy for the Circuit Court, 9th Circuit, Seat 4, is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**Thomas J. Rode
Circuit Court – 9th Circuit, Seat 4**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Thomas J. Rode’s candidacy for the Circuit Court, 9th Circuit, Seat 4, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**The Honorable Dale E. Van Slambrook
Circuit Court – 9th Circuit, Seat 4**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding The Honorable Dale E. Van Slambrook’s candidacy for the Circuit Court, 9th Circuit, Seat 4, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**The Honorable R. Scott Sprouse
Circuit Court – 10th Circuit, Seat 2**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding The Honorable R. Scott Sprouse’s candidacy for Circuit Court, 10th Circuit, Seat 2, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**The Honorable William Paul Keesley
Circuit Court – 11th Circuit, Seat 1**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding The Honorable William Paul Keesley’s candidacy for the Circuit Court, 11th Circuit, Seat 1, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**The Honorable Walton J. McLeod IV
Circuit Court – 11th Circuit, Seat 2**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding The Honorable Walton J. McLeod IV’s candidacy for the Circuit Court, 11th Circuit, Seat 2, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**The Honorable Michael G. Nettles
Circuit Court – 12th Circuit, Seat 1**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding The Honorable Michael G. Nettles’ candidacy for the Circuit Court, 12th Circuit, Seat 1, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**The Honorable Jessica Ann Salvini
Circuit Court – 13th Circuit, Seat 2**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding The Honorable Jessica Ann Salvini’s candidacy for the Circuit Court, 13th Circuit, Seat 2, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**Vernon F. Dunbar
Circuit Court – 13th Circuit, Seat 4**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Vernon F. Dunbar’s candidacy for the Circuit Court, 13th Circuit, Seat 4, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**Ken Gibson
Circuit Court – 13th Circuit, Seat 4**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Ken Gibson’s candidacy for the Circuit Court, 13th Circuit, Seat 4, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**Will Grove
Circuit Court – 13th Circuit, Seat 4**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Will Grove’s candidacy for the Circuit Court, 13th Circuit, Seat 4, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**The Honorable Robert Bonds
Circuit Court – 14th Circuit, Seat 1**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding The Honorable Robert Bonds’ candidacy for the Circuit Court, 14th Circuit, Seat 1, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**The Honorable Marvin Dukes III
Circuit Court – 14th Circuit, Seat 3**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding The Honorable Marvin Dukes III’s candidacy for the Circuit Court, 14th Circuit, Seat 3, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**David Pierce Caraker Jr.
Circuit Court - 15th Circuit, Seat 3**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding David Pierce Caraker Jr.'s candidacy for the Circuit Court, 15th Circuit, Seat 3, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**Joshua D. Holford
Circuit Court - 15th Circuit, Seat 3**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Joshua D. Holford's candidacy for the Circuit Court, 15th Circuit, Seat 3, is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**Douglas M. Zayicek
Circuit Court - 15th Circuit, Seat 3**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Douglas M. Zayicek's candidacy for the Circuit Court, 15th Circuit, Seat 3, is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Qualified
Character	Qualified
Professional and Academic Ability	Qualified
Experience	Qualified
Reputation	Qualified
Judicial Temperament	Qualified

**Daniel J. Ballou
Circuit Court – At-Large, Seat 4**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Daniel J. Ballou's candidacy for Circuit Court – At-Large, Seat 4, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**William C. McMaster III
Circuit Court – At-Large, Seat 4**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding William C. McMaster III’s candidacy for the Circuit Court, At-Large, Seat 4, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**Kimberly V. Barr
Circuit Court – At-Large, Seat 8**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Kimberly V. Barr’s candidacy for the Circuit Court, At-Large, Seat 8, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**Maryann Blake
Circuit Court – At-Large, Seat 8**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Maryann Blake’s candidacy for the Circuit Court, At-Large, Seat 8, is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Qualified
Professional and Academic Ability	Qualified
Experience	Qualified
Reputation	Qualified
Judicial Temperament	Well-Qualified

**The Honorable Russell A. Blanchard IV
Circuit Court – At-Large, Seat 8**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding The Honorable Russell A. Blanchard IV’s candidacy for the Circuit Court, At-Large, Seat 8, is as follows:

Overall	Well-qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**T. William “Billy” McGee III
Circuit Court – At-Large, Seat 8**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding T. William “Billy” McGee III’s candidacy for the Circuit Court – At-Large, Seat 8, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**Ashley A. McMahan
Circuit Court – At-Large, Seat 8**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Ashley A. McMahan’s candidacy for the Circuit Court – At-Large, Seat 8, is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Qualified
Character	Qualified
Professional and Academic Ability	Well-Qualified
Experience	Qualified
Reputation	Qualified
Judicial Temperament	Qualified

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**William Vickery Meetze
Circuit Court – At-Large, Seat 8**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding William Vickery Meetze’s candidacy for the Circuit Court, At-Large, Seat 8, is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Qualified
Experience	Qualified
Reputation	Qualified
Judicial Temperament	Well-Qualified

**R. Bruce Wallace
Circuit Court – At-Large, Seat 8**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding R. Bruce Wallace’s candidacy for the Circuit Court, At-Large, Seat 8, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**Joseph Bias
Circuit Court – At-Large, Seat 11**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Joseph Bias’ candidacy for the Circuit Court – At-Large, Seat 11, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**The Honorable Russell D. Hilton
Circuit Court – At-Large, Seat 11**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding The Honorable Russell D. Hilton’s candidacy for the Circuit Court, At-Large, Seat 11, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**The Honorable Milton G. Kimpson
Circuit Court – At-Large, Seat 11**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding The Honorable Milton G. Kimpson’s candidacy for the Circuit Court – At-Large, Seat 11, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**Riley Maxwell
Circuit Court – At-Large, Seat 16**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Riley Maxwell’s candidacy for the Circuit Court – At-Large, Seat 16, is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Qualified
Character	Qualified
Professional and Academic Ability	Qualified
Experience	Qualified
Reputation	Well-Qualified
Judicial Temperament	Qualified

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**Charles J. McCutchen
Circuit Court, At-Large, Seat 16**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Charles J. McCutchen's candidacy for the Circuit Court, At-Large, Seat 16, is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Qualified
Experience	Qualified
Reputation	Qualified
Judicial Temperament	Well-Qualified

**Jane H. Merrill
Circuit Court, At-Large, Seat 16**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Jane H. Merrill's candidacy for the Circuit Court, At-Large, Seat 16, is as follows:

Overall	Qualified
Constitutional Qualifications	Well-Qualified
Physical Health	Well-Qualified
Mental Stability	Well-Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Qualified
Experience	Well-Qualified
Reputation	Qualified
Judicial Temperament	Well-Qualified

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**Christian G. Spradley
Circuit Court – At-Large, Seat 16**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Christian G. Spradley’s candidacy for the Circuit Court, At-Large, Seat 16, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**S. Boyd Young
Circuit Court, At-Large, Seat 16**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding S. Boyd Young’s candidacy for the Circuit Court, At-Large, Seat 16, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**Jerrod A. Anderson
Family Court – 1st Circuit, Seat 4**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Jerrod A. Anderson’s candidacy for the Family Court, 1st Circuit, Seat 4, is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Qualified
Experience	Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**Deanne M. Gray
Family Court – 1st Circuit, Seat 4**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Deanne M. Gray’s candidacy for the Family Court, 1st Circuit, Seat 4, is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Qualified
Experience	Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**Pete G. Diamaduros
Family Court – 7th Circuit, Seat 4**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Pete G. Diamaduros’ candidacy for the Family Court, 7th Circuit, Seat 4, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**Jonathan W. Lounsberry
Family Court – 7th Circuit, Seat 4**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Jonathan W. Lounsberry’s candidacy for the Family Court, 7th Circuit, Seat 4, is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Qualified
Professional and Academic Ability	Well-Qualified
Experience	Qualified
Reputation	Qualified
Judicial Temperament	Qualified

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**Blakely Copeland Cahoon
Family Court – 9th Circuit, Seat 4**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Blakely Copeland Cahoon’s candidacy for the Family Court – 9th Circuit, Seat 4, is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Qualified
Experience	Qualified
Reputation	Qualified
Judicial Temperament	Well-Qualified

**Paul F. LeBarron
Family Court – 9th Circuit, Seat 4**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Paul F. LeBarron’s candidacy for the Family Court, 9th Circuit, Seat 4, is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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Gina J. McAlhany
Family Court – 9th Circuit, Seat 6

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Gina J. McAlhany’s candidacy for the Family Court, 9th Circuit, Seat 6, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

David J. Brousseau
Family Court – 10th Circuit, Seat 1

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding David J. Brousseau’s candidacy for Family Court, 10th Circuit, Seat 1, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**Heather Vry Scalzo
Family Court – 10th Circuit, Seat 1**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Heather Vry Scalzo’s candidacy for the Family Court, 10th Circuit, Seat 1, is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Qualified
Character	Qualified
Professional and Academic Ability	Qualified
Experience	Qualified
Reputation	Qualified
Judicial Temperament	Qualified

**Sammy Diamaduros
Family Court – 16th Circuit, Seat 1**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Sammy Diamaduros’ candidacy for Family Court – 16th Circuit, Seat 1, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

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**R. Chadwick Smith
Family Court – 16th Circuit, Seat 3**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding R. Chadwick Smith’s candidacy for Family Court – 16th Circuit, Seat 3, is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Qualified
Experience	Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

**Erin K. Urquhart
Family Court – 16th Circuit, Seat 3**

The South Carolina Bar’s Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Erin K. Urquhart’s candidacy for Family Court – 16th Circuit, Seat 3, is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Qualified
Character	Qualified
Professional and Academic Ability	Qualified
Experience	Qualified
Reputation	Qualified*
Judicial Temperament	Qualified

** The Judicial Qualifications Committee has concerns about the candidate’s reputation.*

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**The Honorable Ralph K. Anderson III
Administrative Law Court, Seat 1**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding The Honorable Ralph K. Anderson III's candidacy for The Administrative Law Court, Seat 1, is as follows:

Overall	Well-Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well-Qualified
Character	Well-Qualified
Professional and Academic Ability	Well-Qualified
Experience	Well-Qualified
Reputation	Well-Qualified
Judicial Temperament	Well-Qualified

MOTION ADOPTED

On motion of Senators JACKSON, ADAMS, ALEXANDER, ALLEN, BENNETT, CAMPSÉN, CASH, CLIMER, CORBIN, CROMER, DAVIS, DEVINE, FANNING, GAMBRELL, GARRETT, GOLDFINCH, GROOMS, GUSTAFSON, HARPOOTLIAN, HEMBREE, HUTTO, KEVIN JOHNSON, MICHAEL JOHNSON, KIMBRELL, LOFTIS, MALLOY, MARTIN, MASSEY, MATTHEWS, McELVEEN, McLEOD, PEELER, RANKIN, REICHENBACH, RICE, SABB, SENN, SETZLER, SHEALY, STEPHENS, TALLEY, TEDDER, TURNER, VERDIN, WILLIAMS and YOUNG, with unanimous consent, the Senate stood adjourned out of respect to the memory of Ms. Barbara Morris of Columbia, S.C. Barbara was a beloved Senate staff member who lead of the custodial team for fifteen years. She had a great love for the Benedict College band program where she devoted countless hours of volunteer service. Barbara had an infectious personality and forever touched the lives of all she knew. Barbara was a loving mother and devoted grandmother who will be dearly missed.

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and

MOTION ADOPTED

On motion of Senator McELVEEN, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mrs. Sallie Singleton Ortman of Sumter, S.C. Sallie taught physiology and anatomy at Lexington High School where she had a great commitment to and love for her students. She was an active member of the American Legion Auxilliary Palmetto Girls State program and enjoyed mentoring young people. Sallie was a loving daughter and devoted sister who will be dearly missed.

ADJOURNMENT

At 11: 58 A.M., on motion of Senator MASSEY, the Senate adjourned to meet tomorrow at 11:00 A.M. under the provisions of Rule 1 for the purpose of taking up local matters and uncontested matters which have previously received unanimous consent to be taken up.

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