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JUDICIAL MERIT SELECTION
COMMITTEE

IN THE MATTER OF:
THE HONORABLE FRANCES P. "CHARLIE" SEGARS-ANDREWS
JUDGE SEGARS-ANDREWS' REQUEST FOR RECONSIDERATION

WEDNESDAY, DECEMBER 2, 2009
ROOM 105, GRESSETTE BUILDING
COLUMBIA, SOUTH CAROLINA

COMMENCING AT 2:09 P.M.

COPY

REPORTED BY: SHERI L. BYERS,
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1 MEMBERS IN ATTENDANCE:
2 SENATOR GLENN F. MCCONNELL, CHAIRMAN
3 REPRESENTATIVE F.G. DELLENEY, JR., VICE CHAIRMAN
4 PROFESSOR JOHN P. FREEMAN
5 MR. JOHN DAVIS HARRELL
6 SENATOR JOHN M. "JAKE" KNOTTS, JR.
7 MS. AMY JOHNSON MCLESTER
8 REPRESENTATIVE ALAN D. CLEMMONS
9 REPRESENTATIVE DAVID J. MACK, III
10 MR. H. DONALD SELLERS
11 SENATOR FLOYD NICHOLSON

12
13 COUNSEL PRESENT:
14 JANE O. SHULER, CHIEF COUNSEL
15 PATRICK G. DENNIS
16 PAULA BENSON

17
18
19 (INDEX AT REAR OF TRANSCRIPT)

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1 SEN. MCCONNELL: We'll go on the record at
2 this point. This is the public hearing on judicial
3 qualifications. And the Judicial Merit Selection
4 Commission is called pursuant to Chapter 19 of Title
5 II, South Carolina Code of Laws requiring the review of
6 candidates for judicial office.

7 The function of the commission is not to
8 choose between candidates but rather to declare whether
9 or not the candidates who offer for position on the
10 bench are, in our judgment, qualified to fill the
11 position.

12 The inquiry we undertake is a thorough one.
13 It is centered around the commission's nine evaluative
14 criteria and involves a complete personal and
15 professional background check on every candidate.

16 This public hearing is reconvened for the
17 purpose to consider Judge Segars-Andrews' November 9,
18 2009, letter requesting the commission to reconsider
19 their finding of unqualified and allow the judge to
20 present additional evidence and testimony involving her
21 candidacy.

22 At the public hearing conducted on
23 November 4th, 2009, the commission screened
24 Judge Segars-Andrews for the family court, Ninth
25 Judicial Circuit, seat nine. At the end of her

1 screening, the record was left open for the submission
2 of new evidence, if applicable, until the commission's
3 report is published. It was on November 5th, 2009,
4 that the commission voted to find her unqualified. She
5 then submitted her request for reconsideration.

6 I would also remind you that this is merely a
7 reconvening of the public hearing for this candidate at
8 her request solely to deliberate on her motion for
9 reconsideration.

10 I am advised by counsel that -- staff counsel
11 that we need to go into a brief executive session to
12 take up some legal advice and procedural matters before
13 we go into open session to take up any business that
14 we're going to take up.

15 To you all, what we're going to do, normally
16 if we were in executive session, would be to ask the
17 sergeant to clear the room. We're not even going to
18 attempt that. We apologize for the inconvenience, but
19 there were so many meetings in the Gressette Building
20 today that we had to maneuver to finally get this room.
21 We were up on the second floor and it was obviously too
22 small.

23 So with that, what I would suggest, if the
24 commission votes to go into executive session, if we
25 just use a set of offices up here in the front of the

1 building and just let the public stay here, and we'll
2 come right back.

3 PROF. FREEMAN: So moved.

4 SEN. MCCONNELL: Motion is that we go into
5 executive session. Do I hear a second?

6 SEN. KNOTTS: Second.

7 REP. CLEMMONS: Second.

8 SEN. MCCONNELL: Moved and seconded. Floor
9 is now open for discussion.

10 Is there any discussion?

11 There being none, all in favor please raise
12 your right hand.

13 (Members respond.)

14 SEN. MCCONNELL: Let the record show that
15 every single commissioner voted to go into executive
16 session for the purposes stated.

17 We will go and we shouldn't take but a few
18 minutes and be back.

19 Thank you.

20 (The members went into Executive Session.)

21 SEN. MCCONNELL: All right. We'll go back on
22 the record at this point. We were in executive
23 session, and we have lifted the veil on the executive
24 session.

25 The commission has taken no formal actions in

1 executive session.

2 With that, we will now go to the pending
3 motion.

4 Judge Segars-Andrews, if you would come
5 forward, please, so I can explain to you and all of the
6 folks who are here. And I understand they've already
7 advised you of this, I'm kind of telling this publicly.
8 Under the rules of the commission, the precedence of
9 this body, we do not have attorneys appear before the
10 committee on behalf of somebody and ask questions. So
11 you would be making your presentation. And I wanted to
12 make that clear to all the folks in the room. That
13 hadn't been done. The matter before us, as I stated in
14 the opening statement, is your motion that is pending
15 before us to reopen the hearing for additional
16 testimony.

17 So I would ask you if you would be kind
18 enough to present to this body, and I remind you, of
19 course, you're still under oath, that you make your
20 presentation to the commission and tell the commission
21 why you think there's good cause for us to reopen the
22 hearing and take additional testimony, okay?

23 JUDGE SEGARS-ANDREWS: Thank you very much.

24 SEN. MCCONNELL: Yes, ma'am.

25 JUDGE SEGARS-ANDREWS: Mr. Chairman and

1 Members of the Committee, I want to thank you and your
2 staff for all the time that you all have put into the
3 issue of my qualifications.

4 I do understand how important and vital your
5 position is here to the people of South Carolina, and I
6 greatly appreciate the opportunity to be here today.

7 I'm asking you to allow me to provide you
8 with information that was not previously before you.
9 All of this information bears on my qualification to
10 serve as a family court judge.

11 I sincerely apologize to all of you and your
12 staff for anything I might have said at the last
13 hearing last month or thereafter. In addition, I wish
14 to apologize for anything that my family might have
15 said after the hearing last month.

16 I am very blessed to have a husband that
17 loves me, and I'm sure when he was confronted with your
18 position he rallied to my defense. And for that I
19 apologize.

20 But mostly what I want to do is apologize for
21 not being prepared at the hearing last month. After
22 I -- I had been assured that I did not need to present
23 witnesses or to have an attorney. Because of that
24 assurance, I felt that the committee must be satisfied
25 with the affirmation from the Court of Appeals and the

1 dismissal of Mr. Simpson's complaint from the judicial
2 conduct committee.

3 As stated in my letter to the commission, now
4 I can only apologize for that. And I can only
5 apologize to Mr. Simpson.

6 Mr. Simpson will probably never understand
7 that he got a fair trial, and I am truly sorry for
8 that. After hearing the Simpson matter for two days, I
9 spent at least two more days going through the evidence
10 and coming to my conclusion. I then issued a
11 memorandum that encompassed my entire decision in the
12 matter of Simpson versus Simpson.

13 I sent that to all the attorneys that were
14 involved in the case. Shortly after that, I did
15 receive Mr. Simpson's motion for recusal. I pondered
16 over that motion for a long time. If that motion had
17 been brought before me before the trial, it would have
18 been different. The only thing I would have had to
19 consider would have been the appearance of impropriety.

20 But at the stage I was in after hearing the
21 case for two days, taking up the judicial time, which
22 small counties have only a little of, I had to weigh in
23 on not only the appearance of impropriety but judicial
24 economy and also the delay of justice due clients or
25 Mr. and Mrs. Simpson.

1 After receiving Nathan Crystal's affidavit
2 regarding that matter, I weighed and weighed and
3 determined that I had a duty to sit.

4 Should I be faced with similar facts in the
5 future, if you give me a chance, I will certainly
6 handle the matter differently.

7 I have provided you with numerous affidavits
8 and exhibits which summarize the additional and new
9 evidence that I am asking this commission to consider
10 on my qualifications. I am asking the commission to
11 consider in the Simpson matter the affidavits of Nathan
12 Crystal; Mr. McLaren, Ms. Simpson's attorney; William
13 Howard Sr., Judge Howard, who has -- was previously on
14 the Court of Appeals; and David Gravely.

15 You've heard half of the story. Before you
16 make your decision, you should have the whole story.

17 In addition, I'm asking you to consider other
18 things I have done in my 16 and a half years on the
19 family court bench. Family court judge does hear
20 divorce cases, but more than that, most of the matters
21 we hear are state matters, children involved in the
22 Department of Juvenile Justice, children and litigants
23 involved in abuse and neglect cases and child support
24 enforcement cases. Those matters take up more than
25 half of my docket.

1 I have tried to implement programs to help
2 the families and children in our state to move them
3 through the system more efficiently and in a better
4 fashion.

5 There are affidavits you will find in -- that
6 I have provided regarding the juvenile drug court. I
7 started the juvenile drug court in Charleston County
8 almost 12 years ago. The first one in South Carolina.
9 I am very proud of that program because through that
10 program I have seen juveniles change their lives, and I
11 have seen parents and juveniles redevelop
12 relationships.

13 That program requires a child and his
14 guardian or parent to appear before me once a week in
15 the -- 4:00 in the afternoon. And each afternoon we
16 have people from the school district, their parents,
17 positive peer group leaders and counselors appear, and
18 they report to me whether these children have followed
19 the rules of drug court, which are there to get them
20 back on the right track.

21 If they are following their rules, and the
22 most important rule as I tell them every week is to
23 follow the rules of your parents' home. If they are
24 doing that, they're rewarded. And that reward may just
25 be a clap. Many of these children have never received

1 affirmation for anything before, and positive
2 reinforcement does change behavior.

3 If they have not followed the rules, then
4 they will be punished. Just like we punish our own
5 children. And not six months after they've done
6 something wrong but immediately, and that's why the
7 drug court program works for these kids.

8 I have worked with members of the Medical
9 University's MTS program, multisystemic therapy. They
10 have received numerous federal grants to determine the
11 appropriate type of counseling to get these children
12 and their families back on their feet.

13 In addition to that program, I've started a
14 similar program with the school district regarding
15 truance. That is called the -- the attendance
16 accountability program. There are absent affidavits
17 and you will find information in your materials
18 regarding that program. The program works very much
19 like the drug court model. They only appear before me
20 once a month rather than once a week. But they have to
21 go to counseling. Parents have to go to parent
22 effective training once a week and the children have to
23 go through a life skills training once a week.

24 And they have to go to school. No tardies,
25 no unexcused absences, and no behavior problem.

1 So once a month, they're brought before me,
2 and we determine, as the same model as drug court,
3 whether they are rewarded or punished.

4 In addition to that, approximately ten years
5 ago with Diana Vaughn, who was the director of the
6 Department of Justice in Charleston at that time, she
7 and I started the auxillary probation officer program.
8 By the time that program ended, it had over 40
9 volunteers. That program was necessary because our
10 probation officers in Charleston County were overseeing
11 over one hundred children each. The ideal case load
12 for a probation officer is 25 children each. These
13 volunteers help tremendously.

14 Unfortunately, because of some funding
15 difficulties with the Department of Juvenile Justice,
16 the person that oversaw the volunteers was no longer
17 funded, so that program had to go away.

18 I'm still upset about that.

19 Most recently, since I have been the chief
20 administrative judge in Charleston for the last year
21 and a half, I have brought a program from -- that
22 started initially in Horry County to Charleston County.
23 It's a mediation program where all abuse and negligent
24 cases are mediated by volunteers. These are volunteer
25 attorneys in Charleston County that just give their

1 time to help the children and families of our state.
2 They're -- these mediations take place in the
3 courthouse every Friday anywhere from 3:00 to 9:00, and
4 they have tremendously reduced the cases that have to
5 be set for trial because they are able to provide so
6 many agreements.

7 I went to Horry County to discuss this
8 program with Department of Social Services there, and
9 Judge Kinon, who did the pilot program there, and then
10 brought it back to Charleston.

11 In addition, you will see numerous affidavits
12 from various attorneys in Charleston. These are
13 attorneys that I appear before routinely, and they can
14 speak to my demeanor on the bench, my judicial
15 temperament, the way I run my courtroom, my reputation,
16 and my experience and the fact that I'm not biased.
17 And that I am ethical.

18 I started an additional program ten years ago
19 for men that cannot pay their child support. The
20 father-to-father initiative came to South Carolina
21 about that time. It was about ten years ago. But they
22 wanted to keep their numbers up so they would not take
23 any father into their program that had a drug or
24 alcohol problem.

25 Along with a priest from St. Andrews Church,

1 we developed a program called Second Chance where
2 volunteers went into the jail for 30 days and provided
3 these men counselors, counseling on life skills and on
4 addiction. After that, they were brought before me,
5 this program is still going on. And I conditionally
6 released them from jail under conditions that they pay
7 their child support, that they pay an additional
8 20 percent per month towards their child support. That
9 they stay in touch with their mentor each week, that
10 they go to a meeting where all the participants take
11 place each week and that they're subject to random drug
12 screen.

13 This program, too, is run very similar to the
14 drug court model. They come before me once a month to
15 prove that they are doing what they're supposed to do.
16 If they fail to appear, we issue bench warrants. And
17 they will complete their sentence.

18 If they appear and they're almost current,
19 I'll give them a chance if they're really trying so
20 that they can try to support their family and get back
21 on their feet.

22 Years ago, I spoke at a program called
23 Changing Families program, which is a faith-based
24 program in Charleston. And I sat and listened to the
25 information that the participants were hearing. After

1 that, I went to the leaders of the program, Tom and
2 Helen Wheeler and I asked them, I said, "Can you make
3 this program a program that is not faith-based but
4 people can hear the same information so they can learn
5 when they're going through a custody dispute how their
6 anger affects their children?"

7 Because what I've really believed is that
8 most of these families, unless they have a severe
9 addiction or emotional issue, can get their anger out
10 of the way and put their children first if they are
11 just educated to the harm that they are causing their
12 children.

13 So they did that. They developed the program
14 without mentioning the Bible, and many people -- many
15 litigants all over the state have been in that program
16 and have helped to -- been helped to get through the
17 system easier with much less damage to their children.

18 In the information that has been provided to
19 you, there is also a resolution in my behalf from the
20 Charleston County Bar. There is a resolution in my
21 behalf from the South Carolina Chapter of the American
22 Academy of Matrimonial Lawyers. There is a resolution
23 from the Charleston County Family Court Lawyers. There
24 is a resolution from the South Carolina House of
25 Representatives that was issued to me in -- I believe

1 that was -- in June of 2008.

2 In addition, friends have developed a
3 petition that has been online where people have been
4 able to voice their opinion as to my candidacy, and I
5 understand that there are now well over 1,000 hits, as
6 they call it. And I have that information, as well,
7 showing who has weighed in and their comments.

8 I would like at this time to put all this
9 information into evidence and have you consider this
10 before you entertain my qualification.

11 SEN. MCCONNELL: All right. Right now we
12 just need you to state and then we'll come back to
13 exhibits and stuff.

14 JUDGE SEGARS-ANDREWS: Okay.

15 SEN. MCCONNELL: Is there anything else you
16 want to state to the commission?

17 JUDGE SEGARS-ANDREWS: May I speak to my
18 lawyers?

19 Thank you.

20 SEN. MCCONNELL: All right. Go ahead. I'm
21 sorry. I was speaking to the vice chairman.

22 JUDGE SEGARS-ANDREWS: I have no additional
23 information to present at this time.

24 SEN. MCCONNELL: All right.

25 REP. DELLENEY: Mr. Chairman.

1 SEN. MCCONNELL: Yes, sir.

2 REP. DELLENEY: At this time, I think it
3 would be proper if we went to executive session to
4 accept any advice from counsel as to how we should
5 proceed. So at this time I would move that we go into
6 executive session.

7 PROF. FREEMAN: Second.

8 REP. CLEMMONS: Second.

9 SEN. MCCONNELL: Now been moved and seconded.
10 The floor is now open for any discussion.
11 There being no discussion, we will go
12 immediately to a vote.

13 All in favor of going into an executive
14 session, please raise your right hand.

15 (Members respond.)

16 SEN. MCCONNELL: Let the record show, we'll
17 call for the nays, that it's a unanimous vote of the
18 commission.

19 With that, you can just sit at ease. You all
20 just stay here, and we will go back in the back room,
21 and we'll be back shortly.

22 (The members went into Executive Session.)

23 SEN. MCCONNELL: All right. We'll go back on
24 the record at this point and start out by going through
25 a couple of things.

1 Judge, if you would come forward, please,
2 ma'am.

3 JUDGE SEGARS-ANDREWS: Yes, sir.

4 SEN. MCCONNELL: First of all, I need to
5 clear for you and for the public out here the record
6 and the procedures of this body. This commission has
7 policies and procedures, which it has given you
8 numerous times copies of, every time you ran.

9 In that is addressed the question, witnesses,
10 attorneys, roles, any complaint that was given that
11 this commission was going to take up, staff informs me
12 they have given you copies of, and everything that we
13 had in regard to the material elements that we were
14 going to take up.

15 You probably noticed in there that by and
16 large this committee does not take witnesses dealing
17 with just coming to say that this judge is a good judge
18 and that I'm happy to appear before and that, we don't
19 take that kind of testimony. And that would be
20 reflected in those rules.

21 I think the rules are very clear about the
22 procedure by which we follow.

23 That having -- that being the case, however,
24 you brought up affidavits of four people. And let me
25 refocus this motion hearing, if I can, for all of us.

1 This is about the question of whether or not there is
2 good cause for us to reopen the record. The focus is
3 on the Simpson case. It's not on all of these other
4 things.

5 So going back to the Simpson case, it's my
6 understanding that you -- I would ask you if you were
7 calling witnesses on the focus of this case, the
8 Simpson case, who are these -- would you identify for
9 me those witnesses that you would have called and then
10 tell me if you have an affidavit for them here today,
11 first of all. That's the easiest way I know for us to
12 proceed with you to try to get this thing focused.

13 JUDGE SEGARS-ANDREWS: Thank you, sir.

14 Yes, sir. Mr. Nathan Crystal would be one of
15 those witnesses, and there is an affidavit in your
16 packet from him.

17 SEN. MCCONNELL: All right. Now, let me stop
18 you with Mr. Crystal and ask -- we've got an affidavit
19 from him in our packet. All right.

20 Give me the next witness, and then I'll come
21 back to Mr. Crystal.

22 JUDGE SEGARS-ANDREWS: Mr. James McLaren
23 would be the second witness.

24 SEN. MCCONNELL: All right.

25 JUDGE SEGARS-ANDREWS: He was one of the

1 attorneys that represented Mrs. Simpson. And there is
2 an affidavit in the packet for him.

3 SEN. MCCONNELL: All right.

4 JUDGE SEGARS-ANDREWS: Third would be William
5 Howard Sr. He's a retired Circuit Court and Court of
6 Appeals judge who has reviewed the matter. Has no ties
7 to it and has voiced his opinion.

8 SEN. MCCONNELL: All right.

9 JUDGE SEGARS-ANDREWS: And David Gravely is
10 an attorney who practices in family court, and he has
11 reviewed the matter and voiced his opinion as to the
12 ruling.

13 SEN. MCCONNELL: All right. Now, let me go
14 back and take with each one of these witnesses, does
15 this affidavit fairly reflect what they would have
16 testified to?

17 JUDGE SEGARS-ANDREWS: Yes, sir.

18 SEN. MCCONNELL: And what you would have
19 called them to testify to?

20 JUDGE SEGARS-ANDREWS: Yes, sir.

21 SEN. MCCONNELL: So if we put them up today
22 as a witness, which we're not putting witnesses up
23 today, but if we call those people as witnesses today,
24 or you called them, you're representing that that's
25 what they would say before this commission?

1 JUDGE SEGARS-ANDREWS: Absolutely, sir.

2 SEN. MCCONNELL: And that's the material that
3 would be presented to this commission which you feel
4 constitutes good cause --

5 JUDGE SEGARS-ANDREWS: Yes.

6 SEN. MCCONNELL: -- for us taking that into
7 the record?

8 JUDGE SEGARS-ANDREWS: That's correct, sir.

9 SEN. MCCONNELL: Make sure counsel -- every
10 member of this commission right now has a copy of those
11 affidavits?

12 MS. SHULER: They're in this notebook that's
13 right before you.

14 SEN. MCCONNELL: All right.

15 I don't think I have any further questions at
16 this particular time. I think that the commission will
17 probably need to recede.

18 Is there an objection to receding back into
19 executive session?

20 There being none, let the record show that it
21 was unanimous vote of every single commissioner who was
22 here to recede back into executive session.

23 Have a seat. We'll be back shortly.

24 JUDGE SEGARS-ANDREWS: Thank you, sir.

25 (The members went into Executive Session.)

1 SEN. MCCONNELL: All right. We're back from
2 meeting with our attorneys on a procedure, as to how we
3 would now proceed. And having gotten the testimony
4 from Judge Segars-Andrews that the four -- the four
5 witnesses and the affidavits she identified she feels
6 are material to the question of good cause on the
7 Simpson case, which is the complaint that the body has
8 before it.

9 This body has not taken any official actions
10 in any executive sessions. Any official actions we
11 take will be in open session. So the question before
12 the body at this point would be four affidavits have
13 been identified, four affidavits have been offered to
14 this body on the question of good cause. Is there any
15 motion regarding those?

16 Professor Freeman.

17 PROF. FREEMAN: Mr. Chairman, I move that we
18 receive into evidence the affidavits of
19 Professor Crystal, Mr. McLaren, Judge Howard and
20 Mr. Gravely, which have been brought to us by
21 Judge Segars-Andrews for the limited purpose of helping
22 inform us as to whether or not good cause is shown.

23 I also, as part of this motion, move that the
24 relevant parts of the Simpson matter record be included
25 in the record of this proceeding.

1 SEN. MCCONNELL: That would be any
2 transcript --

3 PROF. FREEMAN: Transcripts, briefs, and so
4 forth.

5 MS. SHULER: I second the motion.

6 SEN. MCCONNELL: All right. Read into the
7 record so the members understand what those
8 procedural --

9 Yes, sir.

10 REP. DELLENEY: These are already. That was
11 already part of the last hearing. They just weren't
12 entered into the record.

13 SEN. MCCONNELL: None of this is any
14 different from the last hearing. These are just the
15 official court documents?

16 MS. SHULER: Yes, sir.

17 SEN. KNOTTS: I second it, Mr. Chairman.

18 SEN. MCCONNELL: Senator from Lexington,
19 Senator Knotts has seconded it.

20 Would you read those documents out so we have
21 a record of them.

22 MS. SHULER: I would like to offer the
23 following exhibits and have them entered into the
24 record.

25 The Simpson complaint.

1 SEN. MCCONNELL: Go ahead. On the limited
2 basis.

3 MS. SHULER: On a limited basis. Noting that
4 we have redacted Social Security numbers and personal
5 bank account numbers related to Mr. and Mrs. Simpson.

6 Judge Segars-Andrews' November 9, 2009,
7 letter requesting this rehearing; the June -- the
8 April 25th, 2006, McKenzie letter to
9 Judge Segars-Andrews with the attachment of
10 Mr. McLaren's memorandum of law; an affidavit of Nathan
11 Crystal; also the affidavit of Kathy Snelling; the
12 grievance correspondence regarding
13 Judge Segars-Andrews, which she gave a signed
14 authorization for us to obtain it through disciplinary
15 counsel.

16 Judge Segars-Andrews' response to the Simpson
17 complaint; Judge Segars-Andrews' May 3rd, 2006, faxed
18 instructions for recusal order; the record on appeal
19 for Simpson 1, which deals with the recusal issue; the
20 subpoena by staff of Mr. McKenzie for the last hearing;
21 Mr. McLaren's proposed order; the May 11th, 2006,
22 McKenzie letter to Judge Segars-Andrews; the financial
23 declaration of Becky Simpson, which was used in that
24 case; the attorneys' fees affidavit; the Jan Warner fax
25 with Judge Segars-Andrews detailed instructions for her

1 order; Warner's proposed order on April 7th, 2006; and
2 lastly, the record on appeal for Simpson 2, which was
3 the merits of the Simpson case.

4 SEN. MCCONNELL: All right. Does everybody
5 understand the motion? Is there any discussion?

6 There being no discussion, we'll go into a
7 vote.

8 All in favor of the motion, please raise your
9 right hand.

10 (Members respond.)

11 SEN. MCCONNELL: Thank you.

12 Opposed by a like sign or abstentions.

13 Let the record show it was a unanimous vote
14 of the commission at this particular time.

15 It is my understanding -- Professor Freeman.

16 PROF. FREEMAN: I have a motion that we go
17 into executive session to consider these materials
18 which have been introduced today for the purpose of
19 informing us as to whether or not good cause has been
20 shown to reopen.

21 SEN. MCCONNELL: All right. Does everybody
22 understand the motion?

23 SEN. KNOTTS: Second.

24 SEN. MCCONNELL: Been moved and seconded.

25 Floor is open for discussion.

1 There being no discussion, immediately vote.

2 All in favor, please raise your right hand.

3 (Members respond.)

4 SEN. MCCONNELL: Thank you.

5 Opposed, none.

6 Let the record show it was a unanimous vote
7 of the commission.

8 We'll be back very shortly. Thank you.

9 (The members went into Executive Session.)

10 SEN. MCCONNELL: All right. We'll go back on
11 the record, and let the record show that we are arising
12 from executive session.

13 In executive session, we took absolutely no
14 formal actions. The only thing that the commission did
15 was have an opportunity to read all of the affidavits
16 that you identified for us and every member is
17 satisfied that they had plenty of time to read every
18 affidavit. Other than that, no formal actions were
19 taken in executive session.

20 We're now back in open session, and we have
21 before us the question of the affidavits.

22 Professor Freeman.

23 PROF. FREEMAN: Mr. Chairman, I move that the
24 hearings concerning Judge Segar-Andrews' qualifications
25 and directed particularly at the Simpson versus Simpson

1 matter be expanded to include Professor Crystal's
2 affidavit, Mr. McLaren's affidavit, Judge Howard's
3 affidavit, Mr. Gravely's affidavit, as well as the
4 materials referred to by Ms. Shuler earlier and read
5 into the record.

6 SEN. MCCONNELL: All right. Do I hear a
7 second?

8 MR. SELLERS: Second.

9 REP. CLEMMONS: Second.

10 SEN. MCCONNELL: Sellers. And who else
11 seconded?

12 Representative Clemmons seconded.

13 The floor is open now open for any discussion
14 on that motion.

15 There being none, all in favor please raise
16 your right hand.

17 (Members responded.)

18 SEN. MCCONNELL: Thank you. I'll now call
19 for the nos.

20 (EXHIBIT 1, Witness Affidavit Form, was
21 marked for identification and entered into the record.)

22 (EXHIBIT 2, Letter Dated November 9, 2009,
23 was marked for identification and entered into the
24 record.)

25 (EXHIBIT 3, Letter Dated April 25, 2006, was

1 marked for identification and entered into the record.)

2 (EXHIBIT 4, Affidavit of Kathy Snelling, was
3 marked for identification and entered into the record.)

4 (EXHIBIT 5, Fax Dated November 3, 2009, was
5 marked for identification and entered into the record.)

6 (EXHIBIT 6, Response to Mr. Simpson's
7 Complaint, was marked for identification and entered
8 into the record.)

9 (EXHIBIT 7, Instructions for Order, was
10 marked for identification and entered into the record.)

11 (EXHIBIT 8, Record on Appeal, was marked for
12 identification and entered into the record.)

13 (EXHIBIT 9, Subpoena, was marked for
14 identification and entered into the record.)

15 (EXHIBIT 10, Draft of Proposed Order Dated
16 May 8, 2006, was marked for identification and entered
17 into the record.)

18 (EXHIBIT 11, Letter Dated May 11, 2006, was
19 marked for identification and entered into the record.)

20 (EXHIBIT 12, Preliminary Financial
21 Declaration of Becky Hill Simpson, was marked for
22 identification and entered into the record.)

23 (EXHIBIT 13, Attorney's Fee Affidavit, was
24 marked for identification and entered into the record.)

25 (EXHIBIT 14, Instructions for Order, was

1 marked for identification and entered into the record.)

2 (EXHIBIT 15, Proposed Order Dated April 7,
3 2006, was marked for identification and entered into
4 the record.)

5 (EXHIBIT 16, Record on Appeal (Simpson II),
6 was marked for identification and entered into the
7 record.)

8 (EXHIBIT 17, Affidavit of Nathan M. Crystal,
9 was marked for identification and entered into the
10 record.)

11 (EXHIBIT 18, Affidavit of James T. McLaren,
12 was marked for identification and entered into the
13 record.)

14 (EXHIBIT 19, Affidavit of William L. Howard
15 Sr., was marked for identification and entered into the
16 record.)

17 (EXHIBIT 20, Affidavit of David R. Gravely,
18 was marked for identification and entered into the
19 record.)

20 SEN. MCCONNELL: Let the record reflect
21 that --

22 MS. SHULER: Can I correct something for the
23 record?

24 SEN. MCCONNELL: Yes, ma'am, please do.

25 MS. SHULER: We inadvertently handed all of

1 those exhibits to the court reporter so they were
2 previously marked, and I told her that they need to be
3 remarked. They were not officially in the record.

4 SEN. MCCONNELL: We will remark those
5 exhibits and make sure that they are supplemented into
6 the record now.

7 All right. Let the record show it was a
8 unanimous vote of the commission to received those
9 into --

10 SEN. KNOTTS: Mr. Chairman.

11 SEN. MCCONNELL: Senator from Lexington.

12 SEN. KNOTTS: The motion that we just had and
13 voted on, that was the affidavits -- the four
14 affidavits. And what else did it include?

15 SEN. MCCONNELL: It included those court
16 documents and things that were referred to in the
17 previous hearings.

18 SEN. KNOTTS: Okay.

19 SEN. MCCONNELL: And they were put in. Some
20 of them we tried to acquire and neither the judge nor
21 Mr. Simpson's attorney had these documents, and they
22 had to gotten from the courthouse, as I recall. Is
23 that correct, staff?

24 MS. SHULER: That's correct.

25 SEN. MCCONNELL: And they had to be redacted

1 of Social Security numbers and information that could
2 violate somebody's privacy.

3 Everybody understand? Everybody comfortable
4 they understood what we just did?

5 All right. Now, the matter that -- before us
6 is the question of the pending motion. The motion was
7 made for further hearings, that we reconvene to take
8 evidence on -- further evidence on the qualifications,
9 was there good cause shown for us to reconvene. And
10 that is where we are in these procedures at this point.

11 PROF. FREEMAN: Mr. Chairman, for purposes of
12 putting that on the floor, I move that the hearings be
13 reopened.

14 SEN. MCCONNELL: All right. Motion by the
15 professor is to reopen the hearings. Is there a
16 second?

17 There being none, the motion fails for lack
18 of a second.

19 All right. With that, under the procedures
20 of the commission, any member -- since there will not
21 be another hearing on the qualifications, the evidence
22 in the record is in.

23 I would advise any member who has voted that
24 the decision stands. Your recorded vote, you are at
25 liberty before you sink your signature on the document,

1 in a hearing that we have here, you can change your
2 vote. So we are in a public hearing.

3 If there's any member who wants to be
4 recorded differently on the question of qualifications,
5 now would be the time for each member who wishes to be
6 recorded differently, and they are already recorded, to
7 so speak.

8 Ms. McLester.

9 MS. MCLESTER: Mr. Chairman, I wish to change
10 my vote from unqualified to qualified and nominated of
11 Judge Andrews.

12 SEN. MCCONNELL: All right.

13 REP. MACK: Mr. Chairman.

14 SEN. MCCONNELL: Representative Mack.

15 REP. MACK: Mr. Chairman, I would like to
16 change my vote to qualified and nominated.

17 SEN. MCCONNELL: Any others?

18 All right. The procedure of the commission
19 is this: The staff will assemble the written record of
20 this commission. The members, we will have an
21 opportunity to go in and weigh whatever the -- whatever
22 statements you wish to enter into the record on your
23 vote and then we will issue a final report.

24 I need to address the question which has come
25 up to this commission, and the commission has asked me

1 to address this question publicly. So I will do it.
2 That is that it is our opinion that it is not proper to
3 be calling and contacting members of this commission
4 while we are deliberating on the question of
5 qualifications of a judge urging members to vote one
6 way or another. And we need to make that very clear
7 that that is the position of this commission. All of
8 us, no matter how we vote. If I have mistaken, any
9 commissioners speak up.

10 We wish to make that statement very clear.
11 The commission will issue a final report. The
12 commissioners have an opportunity to consider
13 everything that is in the record. And depending on
14 what a majority of this commission should decide to do,
15 it will do. Either issue a final report or it -- if a
16 majority of this commission decides it wants to do
17 something else, that's up to it.

18 But the record is complete at this point from
19 the standpoint of the decision making process. We have
20 taken a vote and for you to change your vote, you must
21 speak now or we will have to have another meeting.
22 Formal actions of this commission are taken in public.

23 There will be a report, and it will contain
24 the findings of this commission at some point in the
25 future. Whenever we get it all written. We will do

1 our best.

2 Is there any further matter to come before
3 this commission today?

4 MS. SHULER: I move we adjourn.

5 SEN. MCCONNELL: The motion is that we recede
6 until the next call. All in favor signify by saying
7 aye.

8 (Members respond.)

9 SEN. MCCONNELL: Opposed by nay.

10 Ayes have it.

11 Thank you. Thank you all for coming.

12 (The hearing concluded at 4:18 p.m.)

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CERTIFICATE OF REPORTER

I, Sheri L. Byers, Registered Professional Reporter and Notary Public of the State of South Carolina at Large, do hereby certify:

That the foregoing proceedings were taken before me on the date and at the time mentioned on page 1 and the proceedings were recorded stenographically by me and were thereafter transcribed under my direction; that the foregoing transcript as typed is a true, accurate and complete record of the proceedings to the best of my ability.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 4th day of December, 2009, at Columbia, Richland County, South Carolina.



Sheri L. Byers
Sheri L. Byers,
Registered Professional Reporter,
Notary Public
State of South Carolina at Large
My Commission expires:
January 5, 2014

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