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**PUBLIC HEARINGS**

*December 02, 2019*

**Judicial Merit Selection Commission, 2019**

REPORTER: Patricia Bachand

1 STATE OF SOUTH CAROLINA )

2 COUNTY OF RICHLAND )

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5 JUDICIAL MERIT SELECTION COMMISSION

6 TRANSCRIPT OF PUBLIC HEARINGS

7 \* \* \* \* \*

8 BEFORE: G. MURRELL SMITH, JR., CHAIRMAN

9 SENATOR LUKE A. RANKIN, VICE CHAIRMAN

10 SENATOR RONNIE A. SABB

11 SENATOR TOM YOUNG, JR.

12 REPRESENTATIVE CHRIS MURPHY

13 REPRESENTATIVE J. TODD RUTHERFORD

14 HOPE BLACKLEY-LOGAN

15 LUCY GREY MCIVER

16 ANDREW N. SAFRAN

17 J.P. "PETE" STROM

18 ERIN B. CRAWFORD, CHIEF COUNSEL

19 \* \* \* \* \*

20 DATE: December 2nd, 2019

21 TIME: 9:30 a.m.

22 LOCATION: Gressette Building, Room 105

23 1101 Pendleton Street

24 Columbia, South Carolina 29201

25 REPORTED BY: PATRICIA G. BACHAND, COURT REPORTER

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22 Court Reporter's Legend:  
23 dashes [--] Intentional or purposeful interruption  
24 ... Indicates trailing off  
25 [sic] Written as said

1                   CHAIRMAN SMITH: All right. We're going to  
2 get started. So if everybody will get in their seats.  
3 We've got Judge Goldsmith, who is in the middle of a murder  
4 trial, and so he needs to get moving. And if we could get  
5 -- who's got Judge Goldsmith? Who's the screening  
6 attorney, you?

7                   MS. CRAWFORD: Me. I need somebody to get  
8 him.

9                   CHAIRMAN SMITH: Good morning, Judge  
10 Goldsmith.

11                  JUDGE GOLDSMITH: Good morning.

12                  CHAIRMAN SMITH: I'll try and get you out of  
13 here. This is actually early for us, so I apologize for  
14 the delay.

15                  JUDGE GOLDSMITH: I appreciate you doing  
16 that.

17                  CHAIRMAN SMITH: Will you raise your right  
18 hand, please, sir.

19                  WHEREUPON:

20                  THE HONORABLE BROOKS P. GOLDSMITH, being  
21 duly sworn and cautioned to speak the truth, the whole  
22 truth and nothing but the truth.

23                  CHAIRMAN SMITH: Judge Goldsmith, before  
24 you, you have your PDQ and your sworn statement. Are both  
25 those documents that you submitted to the Commission?



1 JUDGE GOLDSMITH: Yes, they are correct. Is  
2 that what you're asking? I'm sorry.

3 CHAIRMAN SMITH: Yeah, you've submitted them  
4 to --

5 JUDGE GOLDSMITH: Yes.

6 CHAIRMAN SMITH: -- to the Commission. And  
7 are they correct? Any changes you may need to make?

8 JUDGE GOLDSMITH: Not that I'm aware of, no.

9 CHAIRMAN SMITH: Do you have any objection  
10 to use making those as exhibits to your sworn testimony  
11 here today?

12 JUDGE GOLDSMITH: I do not.

13 CHAIRMAN SMITH: All right. If you'll hand  
14 those to Lindi for me, please, sir. And we'll mark those  
15 as an exhibit to your sworn testimony.

16 (EXHIBIT NO. 1 - JUDICIAL MERIT SELECTION  
17 COMMISSION PERSONAL DATA QUESTIONNAIRE OF THE  
18 HONORABLE BROOKS P. GOLDSMITH)

19 (EXHIBIT NO. 2 - JUDICIAL MERIT SELECTION  
20 COMMISSION SWORN STATEMENT OF THE HONORABLE  
21 BROOKS P. GOLDSMITH)

22 CHAIRMAN SMITH: Judge, the Judicial Merit  
23 Selection Commission has thoroughly investigated your  
24 qualifications for the bench. Our inquiry has focused on  
25 nine evaluative criteria and has included a ballot box

1 survey, a thorough study of your application materials,  
2 verification of your compliance with state ethics laws, a  
3 search of newspaper articles in which your name appears, a  
4 study of previous screenings and checks for economic  
5 conflicts of interest.

6 We've received no affidavits today filed in  
7 opposition to your election. No witnesses are present to  
8 testify. Do you wish to make a brief opening statement to  
9 the Commission?

10 JUDGE GOLDSMITH: Only if the Commission  
11 requests it.

12 CHAIRMAN SMITH: Good answer, Judge. Answer  
13 any questions that Counsel may have for you, please, sir.

14 MS. CRAWFORD: Good morning, Judge.

15 JUDGE GOLDSMITH: Good morning.

16 EXAMINATION BY MS. CRAWFORD:

17 **Q. Judge Goldsmith, you're being screened for**  
18 **reappointment as a retired judge on the circuit court**  
19 **bench. Why do you want to continue to serve in this**  
20 **capacity?**

21 A. I just really enjoy the job, to be honest with  
22 you. You know, I guess there are people who don't enjoy  
23 their job, but in my mind it's the best job in the world.  
24 And when I retired, that was one of the things I told the  
25 new -- newly elected judges, is that it's just a great job.

1 And that's the reason.

2 **Q. And how much time do you spend per month now in**  
3 **your capacity as a retired judge?**

4 A. It seems to go on cycles. I'm not sure. I've  
5 been working in -- and this month I'm scheduled to work  
6 three weeks. And I've been working three weeks a month for  
7 the past -- either two weeks or three weeks for the past  
8 six months.

9 But the next scheduled six months, there's not  
10 much -- not much on my plate. And I don't think any of the  
11 active retired judges are being assigned to hold much court  
12 during the first six months of next year. And I don't  
13 really know why.

14 **Q. And what are you involved in currently.**

15 A. Currently.

16 **Q. Like right now what are you --**

17 A. Well, right now -- the reason that I'm going to  
18 try to get back as soon as I can to Greenwood, we have six  
19 young men charged with attempted murder in a mall in  
20 Greenwood, each of them having lawyers and each taking  
21 different positions on every issue. And so it took us  
22 three days to pick a jury who we think is -- we hope to be  
23 able to finish by Friday. But if not, we'll be doing this  
24 again next week.

25 **Q. Do you want to alter your current schedule? You**

1 said you're not being -- or you're not on a schedule. Do  
2 you want to alter that, or would you request that? Or do  
3 you want to stay as busy as you can?

4 A. I guess the real answer is I'd like to stay as  
5 busy as I -- as I can work -- work three months and take a  
6 month off. If you're -- if you can get me that, I'll be  
7 fine.

8 Q. I'll see what I can do, Judge. Judge Goldsmith,  
9 what do you think your reputation is among attorneys that  
10 practice before you?

11 A. Oh, I don't -- I don't know. I don't know if  
12 judges really ever know that. I don't think -- at any time  
13 when I was a family court judge, or otherwise, if I really  
14 knew. You know, lawyers smile at judges. They laugh at  
15 their jokes, but -- you know.

16 Q. Okay. Judge, the Commission received 39 ballot  
17 box surveys regarding you. Of these responses, 37 were  
18 positive and two were negative. They contain many positive  
19 comments: "Judge Goldsmith's many years of experience along  
20 with his very pleasant demeanor make him a wonderful  
21 jurist."

22 The two negative responses expressed concerns of  
23 impartiality and judicial temperament, as well as a comment  
24 regarding harsh sentencing. What response would you give  
25 to these comments?

1           A.    I'll bet you if you polled all of the lawyers  
2 that appeared before me, they would -- the vast majority  
3 would disagree about harsh sentences. But I've had to do a  
4 couple, mandatory minimum sentences. I had a homeless man  
5 who was 55-or-so years old, he got caught with his third  
6 burglary, which was 15 years ago, so he got a mandatory  
7 life sentence. And I couldn't do anything about it.

8                   I had to give a 65-year-old lady ten years  
9 because of her third selling of drugs to her neighbor who  
10 turned her in, who had bought drugs from her. They swapped  
11 back and forth when they were short. The solicitor  
12 wouldn't come off of the third offence and I had to give  
13 her ten years. Those are the ones that I can think of.

14           **Q.    Yes, sir. Thank you.**

15                   MS. CRAWFORD: Mr. Chairman, I would note  
16 for the record that any concerns raised during the  
17 investigation regarding the candidate were incorporated  
18 into the questioning of the candidate today. And I have no  
19 further questions.

20                   CHAIRMAN SMITH: All right. Any questions  
21 for Judge Goldsmith? Mr. Strom.

22                   MR. STROM: I just have a comment. I just  
23 want to read one of the comments that was submitted: "Judge  
24 Goldsmith is just an outstanding person and judge with tons  
25 of knowledge and experience. We miss him in the 6th

1 Circuit."

2                   And I think that's who you are. I just  
3 think you're an outstanding person. I don't know anybody  
4 who wears the robe, both in the courtroom and outside the  
5 courtroom, better than you do. You -- you know, you  
6 deserve the respect of the courtroom. But in a CLE and  
7 other places, you're jovial and kind to the lawyers, and I  
8 thank you for that. And I thank you for your continued  
9 service.

10                   JUDGE GOLDSMITH: Thank you, Mr. Strom.

11                   CHAIRMAN SMITH: Any further questions? Mr.  
12 Rutherford, you want to comment on the drug laws?

13                   REPRESENTATIVE RUTHERFORD: Yeah, that's  
14 ridiculous. We're working on it, Judge.

15                   CHAIRMAN SMITH: They seem to have a well-  
16 funded opposition in that regard, though.

17                   REPRESENTATIVE RUTHERFORD: That's right.

18                   CHAIRMAN SMITH: Judge, I appreciate you  
19 being here today. And I'd just echo what Mr. Strom has  
20 said. I'm just looking through your ballot box, and when  
21 some says something about harsh sentences, everybody else  
22 talks about your demeanor and knowledge, your temperament.  
23 And those are what, in my opinion, make a great judge.

24                   So I appreciate your service. I appreciate  
25 the way you conduct yourself. I presume you're doing

1 nothing but General Sessions now? Or are you doing common  
2 pleas also?

3 JUDGE GOLDSMITH: No, I'm doing common pleas  
4 also.

5 CHAIRMAN SMITH: Okay. And you drew the  
6 short straw over in the circuit where you've got to go and  
7 try a three-week murder case?

8 JUDGE GOLDSMITH: They did -- they did call  
9 me and -- ahead of time and told me how bad it was going to  
10 be. And they asked me -- asked me if I could agree to do  
11 it.

12 REPRESENTATIVE RUTHERFORD: And you showed  
13 up anyway.

14 JUDGE GOLDSMITH: I showed up anyway. I  
15 might not do the same thing if I had all to do over again.

16 CHAIRMAN SMITH: Well, I just hope they  
17 don't renew the Bruton Motion. How about that?

18 JUDGE GOLDSMITH: They haven't.

19 CHAIRMAN SMITH: All right. Judge, I  
20 appreciate you being here. Any further questions for Judge  
21 Goldsmith?

22 (Hearing none.)

23 CHAIRMAN SMITH: Judge Goldsmith, thank you  
24 for. This will conclude this portion of your screening  
25 process. I want to take this opportunity to remind you

1 that pursuant to the Commission's evaluative criteria, the  
2 Commission expects candidates to follow the spirit as well  
3 as the letter of the ethics law. We will view violations  
4 or the appearance of impropriety as serious and potentially  
5 deserving of heavy weight and screening deliberations.

6 As you know, the record will remain open  
7 until the formal release of the report of qualifications,  
8 and you may be called back at such time if the need arises.  
9 We appreciate you being here today.

10 Thank you for the service -- your service to  
11 the State of South Carolina and to the Bar. I appreciate  
12 you being here today.

13 JUDGE GOLDSMITH: Thank you, Representative  
14 Smith.

15 CHAIRMAN SMITH: Safe travels back.

16 JUDGE GOLDSMITH: I thank each of you.

17 (Candidate excused.)

18 CHAIRMAN SMITH: Senator Sabb moves that we  
19 go into executive session. All in favor say "aye."

20 (At this time the members audibly say "aye.")

21 CHAIRMAN SMITH: All opposed?

22 (Hearing none.)

23 CHAIRMAN SMITH: The ayes have it. We're in  
24 executive session.

25 (Off the record.)



1 CHAIRMAN SMITH: All right. Ms. McIver  
2 moves that we come out of executive session. All in favor  
3 say "aye."

4 (At this time the members audibly say "aye.")

5 CHAIRMAN SMITH: All Opposed?

6 (Hearing none.)

7 CHAIRMAN SMITH: The ayes have it. And let  
8 me state that while we were in executive session there were  
9 no matters decided and there were no votes taken. We're  
10 going to start with the first candidate. And I think  
11 somebody's getting Mr. Ferderigos.

12 Mr. Ferderigos, I appreciate you being here.  
13 And let me take care of some housekeeping issues before we  
14 get started, please, sir. Let me say that there was a vote  
15 that was to be scheduled for the seats that we screened  
16 last week. The Vice Chairman is not here right now, he had  
17 a hearing, so he requested that we postpone the vote until  
18 he gets here. Which was satisfactory to all Commission  
19 members, so we're not going to take a vote until such time  
20 as he gets here. So we anticipate that probably being  
21 sometime after lunch.

22 I appreciate you being here. We're actually  
23 on time now.

24 MR. FERDERIGOS: I see that, yes. Thank you  
25 very much.

1                   CHAIRMAN SMITH: Well, that's a record for  
2 us so far this screening. So glad you're here to witness  
3 it. I see you've got a guest with you. Would you like to  
4 introduce your guest?

5                   MR. FERDERIGOS: Yes, sir. I have my  
6 wonderful, beautiful wife, Laura Ferderigos.

7                   CHAIRMAN SMITH: Hey, Laura. Appreciate you  
8 being here today. And, Mr. Ferderigos, will you raise your  
9 right hand, please, sir.

10                  WHEREUPON,

11                  SPIROS TAVROS FERDERIGOS, being duly sworn  
12 and cautioned to speak the truth, the whole truth and  
13 nothing but the truth, testifies as follows:

14                  CHAIRMAN SMITH: All right. Before you, you  
15 have your PDQ and your sworn statement. Are those both  
16 documents that you've submitted to the Commission?

17                  MR. FERDERIGOS: Yes, sir.

18                  CHAIRMAN SMITH: Any changes or updates that  
19 need to be made at this time?

20                  MR. FERDERIGOS: No, sir.

21                  CHAIRMAN SMITH: Do you have any objection  
22 to those becoming an exhibit to your record of your sworn  
23 testimony today?

24                  MR. FERDERIGOS: No, sir.

25                  CHAIRMAN SMITH: If you'll hand that to

1 Lindi for me, please, sir. And we'll mark that as an  
2 exhibit to your testimony.

3 (EXHIBIT NO. 3 - JUDICIAL MERIT SELECTION  
4 COMMISSION PERSONAL DATA QUESTIONNAIRE OF SPIROS  
5 TAVROS FERDERIGOS)

6 (EXHIBIT NO. 4 - JUDICIAL MERIT SELECTION  
7 COMMISSION SWORN STATEMENT OF SPIROS TAVROS  
8 FERDERIGOS)

9 CHAIRMAN SMITH: The Judicial Merit  
10 Selection Commission has thoroughly investigated your  
11 qualifications for the bench. Our inquiry has focused on  
12 nine evaluative criteria and has included a ballot box  
13 survey, a thorough study of your application materials,  
14 verification of your compliance with state ethics laws, a  
15 search of newspaper articles in which your name appears, a  
16 study of previous screenings and checks for economic  
17 conflicts of interest.

18 We have received no affidavits filed in  
19 opposition to your election. There are no witnesses  
20 present to testify. Do you wish to make a brief opening  
21 statement to the Commission?

22 MR. FERDERIGOS: Sure. Thank you for having  
23 me here. Again, my name is Spiros Ferderigos. I've gotten  
24 to see a couple of you over the different times I've been  
25 before the Commission. It's always been a pleasure.

1                   First and foremost, I am a devoted husband.  
2 My wife here, Laura Ferderigos. We have three wonderful  
3 children, ages 12, 10, and 7. They are the loves of my  
4 life. And, you know, we do everything for them.

5                   But I have devoted my entire legal career to  
6 the practice of law in family court. Family court is my  
7 passion. I worked in civil litigation for a civil  
8 litigation firm in Charleston. I turned down a job at  
9 Nexsen Pruet in Columbia, across the street, to go back to  
10 a smaller firm in Charleston, so that I could practice in  
11 family law in a small firm and get my hands in and be able  
12 to run my own cases.

13                   The one thing I didn't know how to do was  
14 criminal work. I did none of it. Zero. So I went over to  
15 the prosecutor's office for public service, and I am now  
16 the Chief Prosecutor for the 9th Judicial Circuit. I'm  
17 Scarlett Wilson's right hand when it comes to that for  
18 family court.

19                   So I have devoted my entire 16-year career  
20 to family law. 'Cause that's my passion. And that's where  
21 I think I can do best for the community. Which is why I am  
22 here again today.

23                   CHAIRMAN SMITH: All right. Well, thank you  
24 very much. Answer any questions counsel may have for you,  
25 please, sir.

1 MR. FERDERIGOS: Thank you.

2 MS. FAULK: Mr. Ferderigos, please state for  
3 the record the city and circuit in which you reside,  
4 please.

5 MR. FERDERIGOS: Charleston, 9th Judicial  
6 Circuit.

7 MS. FAULK: Mr. Chairman, I note for the  
8 record that based on the testimony contained in the  
9 candidate's PDQ, which has been included in the record with  
10 candidate's consent, Mr. Ferderigos meets the statutory  
11 requirements for this position regarding age, residence and  
12 years of practice.

13 EXAMINATION BY MS. FAULK:

14 **Q. Mr. Ferderigos, why do you want to serve as a**  
15 **family court judge? And why do you feel that your legal**  
16 **and professional experience qualify and will assist you to**  
17 **be an effective judge?**

18 A. Well, the reason I want to be a family court  
19 judge is because that's where you can make the most  
20 difference. That's where I believe you can give back to  
21 the community.

22 When you're talking about domestic relations,  
23 it's all about the best interest of the child. The circuit  
24 court, all those things of course are extremely important,  
25 there's a lot of money going back and forth. But when

1 we're talking about children, that is the greatest asset  
2 that we all have in our community.

3           When you're talking on the juvenile delinquency  
4 side, again it is rehabilitation-based. I run the drug  
5 court program in Charleston County, and we are currently  
6 trying to create -- I guess we're calling it now the  
7 Charleston Community Center, is still a work in progress  
8 name, "One stop shop" for kids to go get services while  
9 they're on probation, so we can rehabilitate the children  
10 to become stewards of the community like we all are.

11           But the reason to be a family court judge is  
12 that's where I believe I can do the best and good for the  
13 community. I want my children to be able to see that when  
14 there's an opportunity that arises, that you have a duty to  
15 do something for your community. And that's the reason I'm  
16 doing that.

17           For my professional experience. Again, I have  
18 done both sides of family court. I've done the civil side.  
19 I've done the criminal side. And I did that on purpose,  
20 because when I was a one-L in law school, I clerked for  
21 family court judges in Charleston County. And I  
22 immediately fell in love with it.

23           People think I'm absolutely crazy when I say I  
24 fell in love with the family court process and the family  
25 court system. But I did. And everything I've done in 16

1 years was to try and get on the bench for the purpose of  
2 trying to help out the community.

3 I have been both an attorney representing clients  
4 in court. I have been a litigant in court. It is a  
5 completely different situation being in court from those  
6 two different perspectives.

7 One of the most frustrating things as a lawyer is  
8 when you go in court and the judge hasn't read anything,  
9 hasn't read any of the memoranda, hasn't read any of the  
10 affidavits, and they shoot from the hip. That's not  
11 something I will do.

12 I understand when people go in, it is their  
13 everything. It's not just one case on a docket of twenty  
14 or thirty that you have. Those people are waiting for  
15 months and months and months. And it means everything to  
16 them. And I want to be there to have a fair and equal  
17 trial that goes in, that the rules of law are applied, and  
18 that the judge applies the law.

19 **Q. Are there any areas of law in which you would**  
20 **need additional preparation in order to serve as a family**  
21 **court judge? And if so, how would you handle that**  
22 **additional preparation?**

23 A. No, ma'am. I've done, again, both the civil and  
24 the criminal side. I've done very little adoptions. I  
25 have done them in the past, but it was right at the

1 beginning. That is very statutorily-driven, and I am well  
2 capable of reading the statute and applying the statute,  
3 which is what I would do.

4 **Q. Please briefly describe your experience in**  
5 **handling complex, contested family court matters. And**  
6 **specifically discuss your experience of the financial**  
7 **aspects of family court work.**

8 A. Yeah, so I've -- as most practitioners in family  
9 court, we've had some crazy, crazy cases of that have come  
10 through. And I put a couple of those in the PDQ that I  
11 sent in and the responses.

12 But we -- when I was in private practice, we had  
13 cases where families could not afford to come to our  
14 office. They had to take taxis. They didn't have their  
15 own cars. We also had cases where parents would fly their  
16 kids in private jets for visitation. We've done everything  
17 across the board when it comes to that.

18 So I'm very comfortable with, you know,  
19 transmutation of property, divorces, whether they're short  
20 marriages or long marriages. I've done those trials. I've  
21 done those equitable distribution spreadsheets that are  
22 pages and pages long, and having to sift through the  
23 finances.

24 Cases I've had, you know, we've had cases -- I  
25 had a psychiatrist who was committing adultery, but he was



1 drugging individuals and taking sexual advantage of them.  
2 When we ended up finding all those things out, he left the  
3 country. So we had to go through all those different  
4 aspects to be able to bring justice for this poor woman who  
5 didn't know what was going on, and protect her children.  
6 And we were able to do that. But there's nonstop cases of  
7 those that we have done.

8           Finances, again I've -- numerous trials that  
9 we've had with very large equitable distribution for  
10 marital estates. Inheritance, trying to keep that out at  
11 the same time. The key is what a lot of family  
12 practitioners don't understand for family court division of  
13 property is that everything is not a 50/50 split. It's  
14 called an equitable distribution for a reason.

15           So you have to be able to balance those out with  
16 the different statutory requirements, which I'm confident  
17 and capable of doing.

18           **Q. The Commission received 257 ballot box surveys**  
19 **regarding you, with 29 additional comments. The ballot box**  
20 **survey, for example, contained the following positive**  
21 **comments:**

22           **"This candidate is a spectacular lawyer and a**  
23 **good person. His reputation for honesty and integrity is**  
24 **well known throughout the legal community. He would make**  
25 **an excellent judge." "Spiros exudes the highest moral and**

1 ethical fitness of any member of the Bar and would be of  
2 great judicial temperament. Spiros has extensive  
3 experience in the law and would make a very qualified  
4 judge. Spiros is deserving of the nomination based on his  
5 tireless dedication to his career." "This applicant is  
6 well rounded in both the civil and criminal aspects of  
7 family law. He is intelligent, motivated, takes initiative  
8 and has compassion."

9 Six of the written comments expressed concerns.  
10 Several comments expressed concern that you may lack the  
11 requisite experience to be a family court judge. What  
12 response would you offer to this?

13 A. First of all, I'm very humbled by the kind words.  
14 That's very touching. And I'm very grateful for that. For  
15 the few comments that said that they don't know if I could  
16 do the family court position, I would imagine those are  
17 newer lawyers who don't know me from the civil side.  
18 'Cause I've been a family court prosecutor now for -- going  
19 on 13 years.

20 Before that for a number of years, I did civil  
21 work. And did civil work with everybody across the board,  
22 with Robert Rosen and Frances Bleecker, which are the  
23 higher end lawyers that we -- those were the cases where  
24 they were flying in private jets back and forth. But also  
25 cases where they couldn't, you know, afford to come to the

1 office.

2 So I'd imagine the comments about concern  
3 regarding my knowledge on the family court side, those are  
4 newer lawyers that did not have the opportunity to practice  
5 with me in civil court. They probably know me as a  
6 prosecutor and not the civil attorney side.

7 **Q. Given your recent exclusive experience as a**  
8 **prosecutor, how would you refresh your knowledge of**  
9 **domestic matters should you be elected to the seat?**

10 A. Believe it or not, I still get calls from lawyers  
11 asking for advice for civil domestic cases. I've gotten a  
12 number of job offers as well, which I've turned down  
13 'cause, again, I wanted to be on the bench.

14 But I keep up with everything. I still have my  
15 Stuckey book. You know those of you who do family work  
16 know that's one of the go-to books that you have to go for  
17 that for Roy Stuckey. But I keep up with it.

18 I keep up with the family attorneys. I keep up  
19 with the family court judges. I makes sure I read all the  
20 advance sheets. Everything I've done is really and truly  
21 for the purpose of being here and trying to get on the  
22 family court bench to try to help out the community. So I  
23 have purposefully kept up.

24 When I went to the criminal side, I did not shut  
25 out the civil side. So I'm up-to-date with all the advance

1 sheets and all the laws and everything that goes on, on the  
2 civil side as well as the criminal side.

3 Q. You've been involved in four lawsuits, two as a  
4 defendant and two as a plaintiff. The first lawsuit filed  
5 in 2015 involved a dispute over a business plan pertaining  
6 to co-owned property. The cause of action was defamation.  
7 Please explain the nature and disposition of this lawsuit.

8 A. Sure. So all of those lawsuits are involving one  
9 inherited piece of property. So my brothers and I  
10 inherited 50 percent of a building on Kings Street downtown  
11 from our parents. An extended cousin got the other 50  
12 percent from his father.

13 We were looking to expand on the building above,  
14 'cause we make short-term rentals which have been very  
15 profitable. My cousin could not come up with his amount of  
16 money, so he filed a lawsuit against us trying to force us  
17 to basically be a co-signer on a \$2 million loan for him.  
18 I was not about to sign a \$2 million loan for anybody.

19 So he filed a lawsuit. I am very happy to say  
20 that they were dismissed, summary judgement. As soon as it  
21 could be dismissed, they were dismissed. When I was here  
22 last time those were all fresh. So we didn't know where  
23 those were going. But those have been dismissed.

24 As part of that he filed a defamation suit to try  
25 to get an upper hand on the loan lawsuit. And the

1     defamation suit was dismissed as well.

2             Currently, there are two lawsuits on some  
3 businesses that I'm involved in. Those were to clean up  
4 the mess from that. It's basically a business on the first  
5 floor of the property that's not paying fair market value  
6 rent. The business owners want fair market value rent.  
7 The law says you get fair market value rent. And those  
8 were the lawsuits. And those should be wrapped up any day  
9 now as well.

10            But it's all over an inherited piece of property,  
11 which I own a one-sixteenth percentage interest in. So  
12 that kind of fell upon me just because it came through  
13 inheritance. But those are -- I'm very happy to say that  
14 we won summary judgement on that through Judge Nicholson.  
15 And it got thrown out.

16            MS. FAULK: I would note that the Lowcountry  
17 Citizens Committee found Mr. Ferderigos well qualified in  
18 the evaluative criteria of ethical fitness, professional  
19 and academic ability, character, reputation, experience and  
20 judicial temperament.

21            The Committee found Mr. Ferderigos qualified  
22 in the evaluative criteria of constitutional  
23 qualifications, physician health, mental stability. The  
24 Committee report also noted that Mr. Ferderigos is superbly  
25 qualified, caring, passionate, knowledgeable, and called

1 him a superb candidate.

2 BY MS. FAULK:

3 Q. And now we'll move on to a couple of housekeeping  
4 issues, please, sir.

5 A. Yes, ma'am.

6 Q. Are you aware that as a judicial candidate you  
7 are bound by the Code of Judicial Conduct as found in Rule  
8 501 of the South Carolina Appellate Court Rules?

9 A. I am.

10 Q. Since submitting your letter of intent have you  
11 contacted any members of the Commission about your  
12 candidacy?

13 A. No, ma'am. There was one instance where I sent  
14 an e-mail accidentally. It was -- I saw an old list and, you  
15 know, I got an immediate response saying they're on the  
16 committee. And I responded immediately, saying, "Oh, my  
17 gosh," after my heart fell through my stomach all the way  
18 down to the floor, apologizing for that. And I never  
19 contacted again.

20 Q. Are you familiar with Section 2-19-70, including  
21 the limitations on contacting members of the General  
22 Assembly regarding your screening?

23 A. Yes, ma'am.

24 Q. Since submitting your letter of intent have you  
25 sought or received the pledge of any legislator either

1 prior to this date or pending the outcome of your  
2 screening?

3 A. No, ma'am.

4 Q. Have you asked any third parties to contact  
5 members of the General Assembly on your behalf, or are you  
6 aware of anyone attempting to intervene in this process on  
7 your behalf?

8 A. No, ma'am.

9 Q. Have you reviewed and do you understand the  
10 Commission's guidelines on pledging and S.C. Code 2-19-  
11 70(E)?

12 A. I have and understand them.

13 MS. FAULK: I would just note for the record  
14 that any concerns raised in the investigation regarding the  
15 candidate were incorporated into the questioning of the  
16 candidate today. Mr. Chairman, I have no further  
17 questions.

18 CHAIRMAN SMITH: All right. Any questions?

19 (Hearing none.)

20 EXAMINATION BY CHAIRMAN SMITH:

21 Q. Let me -- let me ask you this question. The two  
22 -- you've got two pending lawsuits. And let me make sure I  
23 understand this. One's for -- you're suing the tenant, is  
24 that it? Or they sued you? Or what --

25 A. No, sir. So there -- we have a building that we

1 own at 229 Kings Street. It is right across the street  
2 from the Omni. And that is a building that my brothers and  
3 I inherited 50 percent and an extended cousin inherited 50  
4 percent.

5 **Q. What's your extended -- extended cousin's the one**  
6 **that sued you?**

7 A. Originally. But we won that lawsuit. We won  
8 summary judgement.

9 **Q. What's his name -- his or her name?**

10 A. Athan Fokas. So he sued us trying to get us to  
11 co-sign -- not just me but my brothers as well, to co-sign  
12 a \$2 million loan for him, which we were not willing to do.  
13 'Cause \$2 million is a lot of money. So we did not do  
14 that.

15 And he sued, basically, alleging that we have to  
16 do it because it's a great business deal and everybody will  
17 make a bunch of money. Well, that's not how it works. We  
18 weren't interested in doing that. I'm very blessed where I  
19 had my portion in cash for what we needed to do. 'Cause  
20 again I own one-sixteenth, which is a very small percentage  
21 in it. So we won that lawsuit.

22 There is a tenant on the first floor, he owns --  
23 he is one of the owners of a business that's a first floor  
24 tenant, and it is paying pennies on the dollar. It's not  
25 paying a fair market value rent. So the lawsuit is for the



1 first floor tenant to pay fair market value rent. Which is  
2 what he's obligated to do. And that should be wrapping up  
3 here in a couple of months.

4 Q. They got copies of them here, so I can --

5 A. Yes, sir.

6 Q. -- see that now. All right. I was just confused  
7 on that.

8 CHAIRMAN SMITH: Any further questions?  
9 Representative Rutherford.

10 EXAMINATION BY REPRESENTATIVE RUTHERFORD:

11 Q. Good to see you again.

12 A. Yes, sir.

13 Q. Let me ask you about a question I saw in the --  
14 in the ballot box, and it said that you -- or a couple  
15 questions. It said that you had spent most of your time in  
16 the solicitor's office. But your response to that is that  
17 those are lawyers that have come to know you lately,  
18 because prior to being in the solicitor's office you did  
19 other family court non-criminal side; is that right?

20 A. Yes, sir.

21 Q. And how long have you been doing the prosecution  
22 for Scarlett?

23 A. Thirteen years.

24 Q. And that 13 years, I imagine that a number of the  
25 juveniles that you've seen in Charleston would have been

1 African-Americans. There's a comment about how harshly you  
2 treat African-American juveniles. Can you expand on that?

3 A. Sure. And I heard about that one comment when I  
4 went through. The best answer I can probably give to that,  
5 number one, I don't. Okay. That's number one. But to  
6 expand on that, every single public defender who represents  
7 maybe 98/99 percent of minorities coming through, every  
8 single one of them support my candidacy. Every single  
9 one.

10 I have three children of my own. I love kids.  
11 With hearings that we go through, I am always as fair as  
12 possible. Now, I have a duty as a prosecutor, obviously,  
13 to adjudicate crimes, to prosecute where appropriate. But  
14 everything is rehabilitation approach, which is where the  
15 drug court comes in and also this new program that we're  
16 working on, it's all about rehabilitating juveniles.

17 And whoever that individual is, I don't know if  
18 we had a trial and they lost, and they're upset about  
19 having -- I don't know who wrote that comment. But it is  
20 not true. And again, every single public defender is  
21 supporting my candidacy.

22 Q. And I bring it up, because oddly enough this is  
23 South Carolina, and I've been here for three or four years,  
24 and you rarely see race mentioned in these. So to see it  
25 was kind of odd. But I did want to bring it up and have

1 you respond to it, because it is troubling just from a  
2 perspective of how rare you see it, that it would come up  
3 as an issue.

4 And also, there was another comment about you  
5 denying a non-jailable alternative on a juvenile case and  
6 pushing for the maximum, because someone was convicted at  
7 trial. Do you -- can you address that?

8 A. If I had more information, I'd love to. I don't  
9 know anything about that. I know when we went through  
10 screening somebody brought up that I made a harsher  
11 recommendation post-trial as opposed to plea. And I don't  
12 know if that is what it's referring to.

13 But that's the process. So what happens is you  
14 come in for a plea offer, those are better than when you go  
15 to trial for this purpose and the purpose alone. Family  
16 court is about rehabilitation. Part of rehabilitation is  
17 accepting responsibility.

18 So if you come in and accept responsibility for  
19 the charge, you're that much further down the road for your  
20 counseling or for whatever else services need to be done.  
21 If you are not, then there's a little more work to go in  
22 order to get it done.

23 Q. But so a juvenile that comes in, that has made an  
24 offer, a plea offer, and he doesn't take it and he goes to  
25 trial, your belief is that the punishment should be

1 **harsher?**

2 A. Not necessarily, no. But for that case,  
3 whichever case that is that I'm not aware of, there is a  
4 possibility. It depends on the case. We have murders. We  
5 have armed robberies. We have rapes. We have a lot of  
6 crazy cases that go on. So when you come in on a plea  
7 circumstance, the charges are reduced that you're going to  
8 end up pleading on. And obviously the charges also get  
9 wrapped into all of that.

10 Q. If you could -- and not referring back to the  
11 ballot box surveys, but referring back to the comments that  
12 you made, where if someone pleads then the offer would be  
13 one thing, but if they go to trial and get convicted you  
14 believe that they should lose that offer and get a harsher  
15 sentence?

16 A. Not necessarily. It depends on --

17 Q. Well, then give me the scenario in which they --  
18 in which that is the case. And I only ask because if  
19 juvenile court is about rehabilitation, whether someone  
20 pleads or goes to trial, how does it -- what difference  
21 does it make whether they exercise their Constitutional  
22 right to a trial or not as to what they ultimate get? Is  
23 not what they get somewhat known from the get -- from the  
24 beginning?

25 A. I understand your question completely. To answer

1 that question is, a lot of these things depend on what  
2 charges you're found guilty on. So for a plea -- for a  
3 plea offer it may be a lower charge as opposed to you go to  
4 trial and then you have your higher charge that you're  
5 adjudicated on.

6 And when we're talking about differences, it may  
7 be a difference of five hours of community service. You  
8 know, it may be something like that. Because the whole  
9 point of juvenile court, like you said, is for  
10 rehabilitation. And that is the sole purpose and the  
11 focus. And that's the sole purpose and focus from the  
12 solicitor's office as well. Not just me, but from our  
13 entire division.

14 Q. Right. But I'm more focused on someone that --  
15 because in -- you know, I've always said that in juvenile  
16 court, juveniles really don't have any rights. I go back  
17 to that -- the case where the kid threatened to shoot all  
18 the black people at Cardinal Newman, and they said they  
19 couldn't charge him.

20 Well, I don't know why not. You can charge  
21 anybody with anything in family court, 'cause they don't  
22 have any rights. You make a motion to suppress. You make  
23 it in front of the same judge that you end up going in  
24 front of for sentencing. So even if it's suppressed, the  
25 judge knows about it anyway.

1           But I am concerned if there is a belief that a  
2 juvenile that goes to trial, even if he is convicted of a  
3 higher offense, as a solicitor you know in your head what  
4 he did from the outset and what his punishment should be.  
5 So now that he may be convicted of something higher, that  
6 he -- because he exercised his right to go to trial would  
7 thereby suffer a stiffer punishment. I mean, that's --

8           A. Yeah. So to answer that directly, it's as a --  
9 as a solicitor it's my job to take the charge that's in  
10 there. Because I don't think it's fair for me to sit there  
11 say, okay, regardless of the charge that's made, right,  
12 that it's going to be the same. Because my job is what are  
13 you guilty of.

14           So if you're guilty of assault and battery third  
15 degree versus an assault and battery high and aggravated  
16 nature, there's going to be a really big difference in  
17 recommendation. A really big difference. Because you have  
18 done something and have been proven to do something that is  
19 much more -- not outrageous, I would say, but that needs  
20 more counseling and needs more therapy. So that's where  
21 the difference is --

22           Q. But let me interrupt you if I could. Because  
23 remember, as a prosecutor you know what the action -- or  
24 the activity or the charge and what was related to it in  
25 the beginning. I mean, I can see if other evidence came

1 out at trial. But if no other evidence comes out at trial  
2 -- it's always been a vexing issue for me, why if a  
3 defendant exercises their Constitutional right to go to  
4 trial that there are those that believe that, that should  
5 mean that he gets a stiffer penalty --

6 A. Sure.

7 Q. -- at the end of trial. Now, mind you, federal  
8 court is different. Because obviously, they skewed it  
9 towards individual rights and against the Constitution.  
10 But in state court, and particularly in juvenile court, as  
11 a prosecutor if you even look at a case and say, "I can let  
12 you plead to an A and B third," if he gets convicted of A  
13 and B second, as a prosecutor when you saw it, it was still  
14 an A and B third.

15 A. Not necessarily. So it depends on what the  
16 victim has to say, how much the victim wants to be  
17 involved, whether -- how much the balance -- because of  
18 course we have beyond a reasonable doubt standard that we  
19 have to meet -- whether or not we can prove that at trial  
20 or not. And also very importantly, what is right, that  
21 goes into our plea offers very much.

22 Even if I can get somebody on the ABHAN, doesn't  
23 necessarily mean I'm going to go for the ABHAN, if I  
24 believe the kid can be rehabilitated beforehand. There's  
25 so many different factors that go into that.

1           But when we make recommendations, we make  
2 recommendations to the court. What the court looks at --  
3 the court looks at is what the charge is. So if I have a  
4 case that I believe is an ABHAN, and I believe the kid did  
5 it, I believe the kid stabbed somebody, whatever the case  
6 may be, but I can't prove it, I'm not going to go in for a  
7 plea or otherwise, or even a trial for that fact, and make  
8 a harsher recommendation just 'cause I believe the kid did  
9 it. It depends on what I can prove and what is  
10 appropriate.

11           So therein lies the difference. When we're  
12 making recommendations to the court, we have a duty to make  
13 the recommendations based upon the charges and the family  
14 dynamic and everything else that goes into play. It's not  
15 a matter of whether or not you exercise your right to  
16 trial.

17           I look at public defenders and defense attorneys,  
18 and I say, "Here's my plea offer. This is what I can do.  
19 This is the middle of the road. This is where the victim  
20 is happy as well. Let's get this done." And that's the  
21 recommendation.

22           But when I go to court, and if it goes from  
23 assault and battery third degree to an assault and battery  
24 of high and aggravated nature -- and when you're in court,  
25 a lot more things come out, things that you don't know



1 about. The court -- the things that come out while you're  
2 in court are insane, as you know, and you have to look at  
3 all of that and then make recommendations.

4 So when I go to court, I don't -- I make my  
5 recommendations, I send them out. I e-mail them out to  
6 defense counsel a week in advance. I e-mail them out to  
7 the public defender's office. It always says these are  
8 subject to change. They can go down. They can go up.  
9 'Cause you always learn new things right beforehand, so  
10 that is where it can change.

11 I had one case with a private attorney, it was a  
12 gun case. And at the 48-hour detention hearing, I said,  
13 "Listen, you know, this is the plea offer, but the  
14 juvenile's most likely going to go for a 45-day evaluation.  
15 Take a look at it. If he's -- you know, if he's not  
16 guilty, let's try it now immediately. If he -- if he is  
17 guilty, let's plead it."

18 So he chose not to plead it. He didn't want a  
19 trial. That kid got locked up for 60 days, I think -- 65  
20 days. And then he pled guilty and then he went off for  
21 detained evaluation. But it's because the attorney didn't  
22 push it one way or the other.

23 I was always right flat from the beginning, this  
24 is the recommendation. That recommendation wasn't going to  
25 change. And that attorney still talks about that, by the

1 way, when he runs into my brother at Christmas parties.  
2 But that -- that's what I'm talking about when I refer to  
3 that.

4 Q. All right. And that was interesting that you  
5 brought that up. Because I agree, and it goes into my  
6 theory, that you don't really have any rights in family  
7 court, and particularly if you're charged with a serious  
8 offense.

9 Because you would agree with me that if you're  
10 charged with a detainable offense, especially if you lose  
11 your initial detainer hearing as a defendant, that it's  
12 better for you to just plead guilty rather than wait on a  
13 trial. Because in that scenario, even if he was found not  
14 guilty -- he's detained for 60 days then found not guilty.  
15 But rarely is anyone found not guilty in family court.

16 But you understand my premise that someone that  
17 was charged with a serious offense in family court, and  
18 ends up getting detained, at that point really has no  
19 constitutional rights because they're detained.

20 Even if they're innocent they're going to be  
21 found innocent after they've been detained 60 days. Unlike  
22 an adult court where you get credit for it, they get no  
23 credit for it because they stayed out to go and do their  
24 evaluation.

25 Is there a solution that you can suggest as a

1 prosecuting for 13 years, that would actually provide some  
2 degree of constitutional rights back to juveniles in family  
3 court, that end up getting detained for a serious charge?

4 A. Respectfully, and I know I shouldn't say this, I  
5 agree with a portion of your premise. I do not agree with  
6 your whole premise.

7 Q. Okay.

8 A. And I'll tell you why. And again, respectfully,  
9 juveniles do have constitutional rights in family court.  
10 So when you come in for family court, you have a hearing in  
11 48 hours to be released or not released. Ten days, 30  
12 days, 90 days. We have to try those cases within 90 days.  
13 Unlike General Sessions, where you can be locked up for  
14 three years whatever the case may be. We have to try them.

15 Now, I can't speak for other counties. I don't  
16 know. I can speak for Charleston County. We use home  
17 detention contracts. We use electronic monitoring. The  
18 vast, vast majority of juveniles end up getting released on  
19 some form of house arrest, if it's appropriate to do that.  
20 Now, if you end up violating your house arrest you go right  
21 back in.

22 But let me give you an example for that 45-day  
23 case that I was telling you about, where the kid ended up  
24 spending about 60, 65 days in jail. If that lawyer looked  
25 at me and said, "I'm ready to try it," we have a docket --

1 a trial docket every single month, that case will be on  
2 that trial docket. I have a number of trial dockets on my  
3 trial docket coming up in two weeks.

4 Q. All right. But if you back up a little bit, that  
5 same juvenile, had he been 17 and caught with a gun, he  
6 would have been out on bond.

7 A. And there's a difference --

8 Q. You understand my point?

9 A. No, I understand. I understand.

10 Q. A lot of the things that juveniles are detained  
11 for in juvenile court, if they were only 17, they'd be  
12 released on bond. And, you know, with the exception of  
13 murder and -- even armed -- armed robbery defendants in  
14 Richland County get bond every single day. Unless they're  
15 juveniles, in which case they're detained.

16 And if they're detained and the case is not tried  
17 right away, again they're sitting dead time until that  
18 trial can come up. And this is stuff we can talk about  
19 later. I just wanted to talk to you a little bit --

20 A. And I didn't mean to cut you off.

21 Q. Go ahead.

22 A. In Charleston County, I can tell you that if a  
23 defense counsel looks at me and says, "I want a trial,"  
24 it's on our next trial docket which is going to be in a  
25 couple of weeks. We take care of that. We move our cases

1 like crazy.

2 We had a bunch of people come down and audit what  
3 we do in Charleston County, the -- our numbers look  
4 amazing. We use probation much more, 'cause it's all about  
5 rehabilitation than in the rest of the state.

6 Now, we do indeterminate commitments. It is  
7 appropriate from time to time. Sometimes you do all the  
8 rehabilitation you can and it's just not -- it's not  
9 working and the community is not safe. Those are rare.

10 But that does happen. We waiver hearings. You  
11 know, we do those. Some -- some murders get waived. Some  
12 do not. It is a case-by-case basis. And the whole point  
13 is rehabilitation.

14 But for Charleston County and the -- our judges  
15 are very good about having -- the solicitor's office, we  
16 run the docket. And the clerk gives us a trial date every  
17 single month or two. So it's there.

18 And if there's a case like the one you mentioned,  
19 where a kid says -- you know, alleged of doing a drive-by  
20 shooting, let's say, and the kid says, "No, I didn't do  
21 that."

22 I have a case right now, some juvenile allegedly  
23 broke into somebody's house where they were inside  
24 sleeping. That is on my docket for this month on the 18th.  
25 He just had his 48-hour detention hearing. I'm not waiting

1 till the 90 days. We're trying it.

2 One of the letters of recommendation I have are  
3 from a Rick Buchanan. And if I recall -- well, let me back  
4 up. He represented two minorities in a murder case that I  
5 had. Now, these juveniles were found guilty of murder and  
6 were indeterminately committed to DJJ based on murder. And  
7 if -- and if recall correctly in the letter, he talks about  
8 how I met with his client's family.

9 The alleged suspect's family, I sat down with  
10 them and I told them, I said, "Listen," I said, "if the  
11 evidence is not going to lead to your son -- both of y'all's  
12 sons, I'm not going to prosecute it. I'm not going to do  
13 it. However, if it does, I'm going to prosecute to the  
14 fullest extent of the law."

15 And that's exactly what I did. And that family  
16 really appreciated that. And if I recall, it's been a  
17 while since I read his letter, I think he put that in the  
18 letter. The same token with the victims, I said the exact  
19 same thing.

20 And of course they're not happy, 'cause you can  
21 never bring back a loved one, but they were very pleased  
22 with how it went through and how we were open, transparent.  
23 My files as a prosecutor are open. I want justice. That  
24 is all I want. And that's why I believe I have all three  
25 public defenders supporting my candidacy.

1           'Cause I don't go in there like a jerk. I'm not  
2 going to go in there thinking that I have this power where  
3 I can hold somebody up for 90 days at all. I want to do  
4 what's right. And that's why I want to be a family court  
5 judge. Instead of making recommendations, be able to make  
6 the decisions.

7           **Q. Okay. Thank you.**

8           CHAIRMAN SMITH: All right. Any further  
9 questions?

10          SENATOR YOUNG: Mr. Chairman.

11          CHAIRMAN SMITH: Senator Young.

12          SENATOR YOUNG: Thank you.

13 EXAMINATION BY SENATOR YOUNG:

14          **Q. Good morning.**

15          A. Good morning.

16          **Q. I appreciate you being back before us and**  
17 **continuing your quest for serving on the family court. You**  
18 **ran in 2017?**

19          A. I ran in 2014 and 2015. Those are the last two  
20 Charleston County family court seats. I have not run for  
21 an At-Large seat. I've only run for the Charleston seats.

22          **Q. Okay. In reading your personal data**  
23 **questionnaire, and looking at your career in the law, I**  
24 **noted that you candidly responded in the questionnaire,**  
25 **that you believe that you maybe don't have enough -- or**

1 maybe are lacking some in the area of adoptions.

2 A. Yes, sir.

3 Q. Tell us how you intend to address that.

4 A. So I have done one adoption. One adoption is not  
5 many. I've done that. Adoptions are very statutorily  
6 driven. If there's one part that's missing on the adoption  
7 statute, it falls apart to the case law. So I would make  
8 sure to go over the statute. And I would make sure that  
9 every single part is addressed and adhered to. That's one  
10 of the good things about adoption is it's statutorily  
11 driven and it is all there.

12 Q. What about in the area of abuse and neglect  
13 cases?

14 A. I've done a number of abuse and neglect cases.  
15 So I was doing civil practice before the administrative  
16 rule where lawyers wouldn't be assigned to DSS cases. So I  
17 would do every single DSS case that came through the  
18 office. Every single one. It was me and one other  
19 attorney, Paul Tinkler. It was his law firm.

20 Basically what happened is, people would come in  
21 because of his name, and I would take the cases on as my  
22 own and run with them. We've had a number of abuse and  
23 neglect cases.

24 One of the most heart wrenching ones was one  
25 where a father, who was a really good dad, but he had a



1 child who had a hole in the heart. And he just couldn't  
2 take care of the child. And I represented the dad and went  
3 through all of these things and got him the treatment and  
4 got him the programs and got him everything he needed to be  
5 able to reunify with his son. Which we were successful in  
6 doing. So I've done those as well, yes, sir.

7 **Q. In your time in handling those cases, do you have**  
8 **any suggestions on how that process can be improved for**  
9 **children in the system?**

10 A. It's a scary process. Even now -- so as a  
11 prosecutor we have what are termed crossover youths, which  
12 are duly involved with DSS and with DJJ. A lot of  
13 individuals come through.

14 There's been some good legislation that's come  
15 through regarding DSS not being able to recommend that a  
16 juvenile stay detained because they don't have a placement.

17 One of the hardest things for me, and I think for  
18 the court, is even when you have a DSS kid on the docket,  
19 DSS representatives a lot of times don't show up to court.  
20 They don't show up. And when they do show up, they show up  
21 and it's someone who has -- who has no knowledge of the  
22 case and doesn't have a file.

23 So it takes the judge making that phone call from  
24 the bench, saying, "You better get down here right now.  
25 I'm holding that case in abeyance until they come down with

1 a file."

2 One thing that Judge Garfinkel used to do, that  
3 has fallen through the cracks, which I plan on bringing  
4 back if I'm blessed to make it on the bench, is once a  
5 month Judge Garfinkel had the solicitor's office, the  
6 public defender's office, the Department of Social  
7 Services, Department of Mental Health and DDSN, he would  
8 have them all in a room and have lunch, and say, "What's  
9 going on? What's happening? Where are the pitfalls?  
10 Where can we improve?"

11 And I can tell you our communication opened so  
12 much more from having that month-to-month meeting. It  
13 wasn't ugly, people weren't arguing back and forth, but it  
14 was, okay, "Well, we send dockets out and y'all didn't show  
15 up."

16 "Oh, my goodness. Let me fix that. Let me see  
17 what's going on."

18 We recently had an issue again with DSS not  
19 showing up. I contacted Tony Catone in Columbia, he is the  
20 head DSS lawyer down here, and we created a DSS  
21 distribution list.

22 There is one hub now where everything goes for  
23 DSS, that is your notice. If they don't show up for court,  
24 they could be held accountable by the court under agreement  
25 between my office and DSS that we've done. So we've made

1 strides on that.

2           Regarding placements for juveniles -- and by  
3 "juveniles," I also mean DSS kids, just young kids -- there  
4 are not that many. I mean, that's one of the biggest  
5 problems that we're having. It's sad. You have runaways  
6 who are getting locked up. Why are they getting locked up?  
7 Because we don't have runaway shelters for kids. We used  
8 to. We don't anymore.

9           And it would be wonderful if we could have a  
10 juvenile, who runs away who could go to a shelter that's  
11 specific for runaways, to get services so they don't keep  
12 running away.

13           But what's happening is, they're getting locked  
14 up at detention hearings and they can be released within 72  
15 hours. If they get released, what do they do? They run  
16 right back out the door again with no services. And now  
17 they have a contempt of court hanging over their head. So  
18 it's a snowball effect.

19           So if we could have more placements, obviously  
20 that would be helpful. But the communication aspect and  
21 holding DSS accountable, you have to hold DSS accountable.  
22 And many DSS people are my friends.

23           However, we need them in court. We need people  
24 who know what they're talking about and know the case. And  
25 a judge can facilitate that with a phone call.

1 Q. I appreciate your response. One final comment I  
2 have is, I want to commend you on the Lowcountry Citizens  
3 Committee report, they were -- they gave you very, very  
4 high ratings.

5 A. Thank you. It's very humbling. Thank you.

6 CHAIRMAN SMITH: Any further questions? Mr.  
7 Safran.

8 EXAMINATION BY MR. SAFRAN:

9 Q. I know you've been up there a lot longer than you  
10 would have liked, so I won't extend it any more than I have  
11 to. But I just wanted to ask a couple of things, following  
12 up on what Representative Rutherford said. I understand  
13 there are a ton of cases that you've been involved with.  
14 Nobody's trying to ask you to kind of go back and dig out  
15 of the memory of what it may be.

16 The only concern that obviously anybody would  
17 have is this, that somebody basically is saying -- and,  
18 please, we're going on what was put in here -- non-violent  
19 with a situation where there was clearly an opportunity for  
20 non-incarceration, and that it's almost as if somebody got  
21 punished for going to trial.

22 Is that a novel idea? No. Do we hear about it?  
23 I hear about it. And I don't even go to family court. I  
24 don't go to do criminal work. But has that been something  
25 that's been around at least, you know, in some circles for

1 as long as I've been practicing law? Absolutely.

2 That's a terrible thing, though, that happened.  
3 Assume that if you go in kid's situation like that, that  
4 it's more or less, "Hey, either take my deal or I'm going  
5 to bust your butt."

6 You know, it's vindictive and punitive. It's  
7 really contrary to everything you've said in terms of the  
8 purpose of juvenile trials of that type. So I just want to  
9 make sure that, that's not something that you condone,  
10 correct?

11 A. I can tell you that, that is nothing that has  
12 ever been done by me. And there was a key word you said in  
13 there, and I'm -- and thank you so much for bringing that  
14 up. Plea offer for non-incarceration, you go to trial and  
15 you're incarcerated. I give you my word that has never  
16 happened. I invite anyone to contact anybody in the Bar,  
17 to ask about that.

18 I don't know who wrote -- it's hard being up,  
19 'cause people make a comment and -- having gone through  
20 this unfortunately twice, there have been many things said  
21 about me, that depending on who you talk to, say it's the  
22 exact opposite. People have their agendas and want certain  
23 people on the bench than other people.

24 And I don't know who made that comment. And I  
25 wish I did so that I could say which case it is or not.

1 But I can tell you without a doubt, I have never offered a  
2 non-incarceration charge, gone to trial and incarcerated.  
3 That goes against every fiber of my being. That goes  
4 against the law. That is not something to do.

5 And that has never happened. And if anyone finds  
6 that, then disqualify now. 'Cause I can tell you, you're  
7 not going find it. It just simply did not happen.

8 Is it a case where someone was ordered to more  
9 counseling? Probably. Maybe. Is it a case where someone  
10 got some more community service, so they would have to give  
11 back to the community when they stole from somebody? Maybe  
12 yeah, and that kind of thing.

13 Did I add a weekly positive peer group, 'cause I  
14 think it's good to part of the Big Brothers program,  
15 because if I think that you're not taking this seriously,  
16 so I -- and we have the facts, I think it's good for you  
17 have a male mentor. Those sorts of thing. Yes, that is  
18 possible. That is possible.

19 But to go from non-incarceration to  
20 incarceration? Absolutely not. I would not be doing what  
21 I'm doing if that was the case. And I can promise you, I  
22 would not have the support of all three of my public  
23 defenders in my circuit.

24 We are like this many times, but we all look for  
25 the best interest of the juvenile. And again, I

1 wholeheartedly have their support. And I ask for anyone to  
2 contact them. And I've been very humbled by their support,  
3 and also surprised. Because it's an adversarial system.  
4 But we all get along and we all do what's best for the kids  
5 from what we believe is a proper perspective.

6 And other than that one comment that I heard, and  
7 I don't know what the basis of that is or the background,  
8 I'd be shocked if there's a whole bunch of those in there.  
9 Because there just can't be. Because that's not the way I  
10 practice.

11 Q. Well, and I appreciate your addressing it.  
12 Because obviously it was something that got attention. And  
13 I think your candor about this is very refreshing. Let me  
14 ask you also, there are times where we have people come in  
15 and -- say here, family court, you know, they make the  
16 comment that this is the end-all be-all, this is where I  
17 want to be, this is what I want to do, and the next thing  
18 you know, you see them running for circuit court the next  
19 year. Is that any type of long-term intention of yours?

20 A. I am very blessed for many reasons. One of the  
21 ways I am blessed is financially, whether I become a judge  
22 or don't become a judge, or go to private practice or stay  
23 in public service, I can feed my family. I have a very  
24 supportive wife here behind me. My goal is to stay on the  
25 family court bench.

1           Now, I remember when I said that last time, I had  
2 some -- one of the Commission members, not here, said, "You  
3 should never say that. What if you come back again?" And  
4 that's true, nobody knows what the future holds. But I  
5 have devoted my entire career to family court.

6           When I was in private practice, doing domestic  
7 relations, I was asked to go to the solicitor's office.  
8 And I remember I had this discussion with my wife, and I  
9 said, "Well, you know that's -- I'm on the uphill track.  
10 And I want to be a partner in a little bit." I said, "But  
11 I don't know how to do criminal law. I've never done it."

12           So I met with -- it was Ralph Hoisington at the  
13 time just before he passed away. Scarlett was really  
14 running the show, because he was unfortunately towards the  
15 end of his cancer, and I told Scarlett, I said, "I'll come  
16 over. I'll take the pay cut. It's fine. However, I don't  
17 want to leave family court. I will take this job if I stay  
18 in family court."

19           The next thing you know, time goes by and now I  
20 run the whole office. Which is great. And it's been  
21 refreshing. And I love it. It's a great job. And I love  
22 it because you can do the right thing while you're there.  
23 But there's a big difference in making recommendations to  
24 somebody, and then being the person who makes the  
25 decisions.



1           And I want to give back to the community by  
2 making decisions. And that's not an ego thing. That's one  
3 of the reasons I don't want to do it. Any kind of prestige  
4 that goes along with that -- I wear my emotions on my  
5 sleeve. What you see is what you get. That could be a  
6 good thing or bad thing, but what you see is what you get  
7 with me.

8           Again, having also been a litigant, there's  
9 nothing more frustrating than going in front of a judge who  
10 has not read anything, who hears from each lawyer, who of  
11 course has their own spin on things, and then they make a  
12 ruling shooting from the hip. That's not justice.

13           You have to read the memoranda. You have to read  
14 the affidavits. This is everything for people who go in  
15 court. And that's on the civil commercial side.

16           You're talking about kids, marital estates.  
17 People who come into family court typically are not in  
18 their right minds. They're using kids as weapons, their  
19 finances as weapons, and their in a bad state.

20           And if you don't have a judge who will make sure  
21 to keep the calm in court, if you don't have a judge who  
22 will apply the rules of evidence, then it's the Wild West.  
23 And you get crazy, crazy outcomes out here.

24           And as a lawyer going in, you should be able to  
25 know kind of where the case will go. But sometimes you

1 don't because some judges just let everything in whether  
2 it's admissible or not. It gets very convoluted, very  
3 confusing, and you don't get good outcomes.

4 Q. Well, I guess to close, one thing I think you're  
5 hitting on, which has been a big concern of mine, is that  
6 particularly on the domestic side when you're talking about  
7 the private actions, that initial hearing really dictates  
8 the outcome for the most part.

9 And yet, those hearings are so limited in terms  
10 of time, that, you know, the result is substantial. But  
11 what I'm hearing from you is, is you recognize that.

12 A. I do. I do.

13 Q. And that you realize maybe that the front end is  
14 really where your time needs to be directed as far as  
15 giving the lawyers an opportunity to talk, paying attention  
16 to the evidence, simply because of the consequences down  
17 the road.

18 A. Yes, sir. And reading what's filed. 'Cause  
19 what's filed is where everybody puts in all their work,  
20 where everything's listed with the exhibits and everything  
21 else. The lawyers have five minutes of -- you know, apiece  
22 or ten minutes to say what they're going to say, depending  
23 on how much time you have.

24 A judge who goes in and does not read the filings  
25 before goes in is doing a disservice. I truly believe

1 that. And I believe that as a lawyer. I believe that as  
2 someone who -- we talked before, being a litigant. And I  
3 was very blessed. We had a great judge. Judge Nicholson  
4 was awesome. He ended up granted summary judgement for us.  
5 It's so hard to do that.

6 But he read everything. He read everything. And  
7 that's the reason. And when you're talking about people's  
8 kids, you really have to read that.

9 **Q. Thank you for your time.**

10 A. Yes, sir.

11 REPRESENTATIVE MURPHY: Just briefly.

12 CHAIRMAN SMITH: Representative Murphy.

13 REPRESENTATIVE MURPHY: Spiros, thank you  
14 for your willingness to offer yourself again for service.  
15 And I just wanted to piggyback on something. I wasn't  
16 going to ask a question, but that you brought up in  
17 response to Mr. Safran's question is particularly during  
18 the 15-minute hearing, what has been my experience has  
19 been, particularly when you have visiting judges, not a --  
20 you know, not a judge from Dorchester County, maybe a judge  
21 from Florence, the rush is in that 15-minute hearing, when  
22 you get a packet -- not only the pleadings, but then you  
23 get a packet of information that has just been exchanged  
24 between the parties, five minutes before they walked in the  
25 door, that a visiting judge, particularly, will rush to a

1 decision and shoot from the hip, like you've stated.

2           So I would just ask you, if you're fortunate  
3 enough to be nominated -- or qualified and nominated and  
4 elected to the position, to remember that, that you do not  
5 have to rush to a decision. There is no -- there's no harm  
6 in taking a matter under advisement particularly when  
7 you're hearing twenty or thirty temporary hearings in one  
8 day in a county, and then the next -- the next week you're  
9 in a different county. There's no harm in taking that  
10 matter under advisement and getting the decision right.  
11 And so I would just ask you to keep that in mind, if you're  
12 fortunate to move on.

13           But I appreciate your willingness to come  
14 and offer yourself. And I made the comment to  
15 Representative Rutherford, that you didn't have the option  
16 that a lot of people that are being grilled by  
17 Representative Rutherford, particularly on the House floor,  
18 they have the option of walking away from the podium.  
19 Unfortunately, you had to sit there. And that's an  
20 uncomfortable feeling. 'Cause I've been at that podium.  
21 And I consider him a friend, but I couldn't walk away fast  
22 enough. So thank you for your willingness to serve.

23           MR. FERDERIGOS: Thank you. And I  
24 appreciate your questions, Representative Rutherford.  
25 They're taken. I understand exactly where you're coming

1 from. And I understand.

2 REPRESENTATIVE RUTHERFORD: Thank you.

3 CHAIRMAN SMITH: All right. Representative  
4 Murphy, I will note that speaks well of your legislative  
5 skills. We'll take it. And I second that.

6 EXAMINATION BY CHAIRMAN SMITH:

7 Q. Let me just ask you a couple of questions.

8 First, I want to congratulate you or commend you on your --  
9 on the Citizens Committee report. That's very glowing and  
10 that's well deserved. And I appreciate that. That helps  
11 me as we go through these issues.

12 And then I look at your ballot box surveys and  
13 other than, you know, some outliers, they're generally  
14 people who commend you with your temperament and your work  
15 ethic and your enthusiasm. And so I can see that coming  
16 from you.

17 One thing I do -- caught my eye, and help me  
18 understand this is, is it appears that you went and worked  
19 with Paul Tinkler's office in 2003, stayed there about four  
20 years, and then you've been with the solicitor's office  
21 ever since. Is that correct?

22 A. Yes, sir.

23 Q. All right. Now, during that time -- so for the  
24 last 13 years -- we've engaged in a lot of discussion about  
25 juveniles. And that's a -- that's a small portion of the

1 family court. Then you have obviously representative --  
2 Senator Young talked to you about DSS, which is a growing  
3 issue over there.

4 And then more importantly, how about the private  
5 work, what -- if you haven't practiced over there in 13  
6 years, a lot of things have changed since you last  
7 practiced. How are you keeping up with what's going on the  
8 -- on the domestic side? I'm talking about child custody,  
9 divorces, things of that effect.

10 A. Yes, sir. I keep up with all the advance sheets.  
11 I sit in on many hearings as well. Because one of things  
12 about being a prosecutor, there's a lot of waiting. You  
13 have to wait for the cases to get called ahead of you to go  
14 in.

15 So I go in court and I watch them. I still talk  
16 to all the judges. I still talk to other lawyers --  
17 domestic relation lawyers. They still call me for advice  
18 on calculating alimony and other things.

19 I was very, very fortunate where I worked with  
20 Paul Tinkler, that we did literally everything from one end  
21 to the other. And I was in there nonstop. So as the  
22 practice has grown -- the field of family court has grown,  
23 I have made sure to stay educated on that.

24 Now, have I been in court standing up here like  
25 I'm am with y'all, and making arguments to judges for

1 domestic relations? No, I have not. But I know the law.  
2 I know where it's gone.

3 And when I was in private practice, I was in  
4 court nonstop. Paul Tinkler rarely went to court. I ran  
5 the office when it came to that. He was the guy who would  
6 bring people in, and then I would take the case moving  
7 forward.

8 Now, there were some cases that were high  
9 profile, that of course he held on to. But even for those,  
10 I drew all the outline, I prepared the arguments, I  
11 prepared the discovery. I'd get it all wrapped up for him.  
12 So I'm still very comfortable doing that. But I've gone  
13 out of my way to make sure that I stayed up to speed on any  
14 changes in the law.

15 **Q. You've run for family court judge a couple times.**  
16 **I remember meeting over here. And so I look at your CLEs,**  
17 **and it doesn't appear to me that you've taken any CLEs**  
18 **other than solicitor's office. Why wouldn't you take some**  
19 **CLEs to gain some experience in domestic relations, Hot**  
20 **Tips or something like that?**

21 A. All of those incorporate the advance sheets that  
22 come out, so I read the advance sheets directly.

23 **Q. Yeah, but advance sheets don't take away from the**  
24 **practical aspect of practicing law, do they?**

25 A. They do not.

1           Q.    I mean, you know -- and I guess that's just --  
2 you know, it's not a concern. But you have -- obviously to  
3 me, you do not have any domestic relations experience. And  
4 you haven't had any for 13 years.

5                   And so what we've seen with people who come up  
6 here, who are in similar situated positions, you know, I'm  
7 prosecutor or vice versa, I'm a domestic lawyer and I don't  
8 -- and I don't practice in juvenile court, but they do  
9 spend some time trying to observe it and also trying to get  
10 some -- to get some CLEs and things of that.

11                   And I'm just trying to understand why you  
12 wouldn't do that as a -- as an attorney, why you wouldn't  
13 go and look and attend CLEs, when you know that's your goal  
14 to become a family court judge.

15           A.    I have observed court. I observe court quite  
16 often. All the time, actually, when we're in court. I'm  
17 in court three to four days a week. And I see all the  
18 private actions that go through. As it goes for CLEs, we  
19 have the solicitor's conference which are about 14 hours or  
20 so.

21                   I also have to budget taking time off work to go  
22 in and do that as well. But what I've -- and maybe I was  
23 wrong in doing this, but my aspect of it was if I keep up  
24 on the advance sheets, I go to court and I watch the cases  
25 that are happening live, then I will maintain that



1 experience.

2 But I focus on the advance sheets because of the  
3 CLEs. You're exactly correct. Hot Tips, you go over the  
4 advance sheets and then people will give war -- they trade  
5 war stories which are good to hear.

6 But that's what I focused on was the advance  
7 sheets. And maybe I was wrong in doing that. Now that I  
8 know, I won't do that. I'll do the CLEs as well. But I --  
9 that's how I maintained the domestic relations is the  
10 advance sheets, and also viewing court myself firsthand.

11 **Q. Do you feel that there's any more training you**  
12 **need in the -- in the divorce/child custody area in order**  
13 **to be a judge? Or you think you're sufficiently trained at**  
14 **this point?**

15 A. I believe I'm sufficiently trained. You can  
16 always learn more. You know, they say that you stop  
17 learning when you're dead. I mean, nobody knows  
18 everything.

19 However, going down and hitting -- hitting the  
20 ground running, I'm ready to go. I still have -- we have  
21 judges asking us as public defenders or prosecutors what  
22 the law is.

23 And the same thing with the domestic relations,  
24 I've gone out of my way to make sure to stay up to date on  
25 everything for this purpose, 'cause I knew I was going to

1 be here.

2 CHAIRMAN SMITH: All right. Any further  
3 questions?

4 (Hearing none.)

5 CHAIRMAN SMITH: All right. Mr. Ferderigos,  
6 thank you so much. This concludes this portion of your  
7 screening process. I want to take this opportunity to  
8 remind you that pursuant to the Commission's evaluative  
9 criteria, the Commission expects candidates to follow the  
10 spirit as well as the letter of the ethics law. And we  
11 will view violations or the appearance of impropriety as  
12 serious and potentially deserving of heavy weight in the  
13 screening deliberations.

14 As you know, the record will remain open  
15 until the formal release of the report of qualifications,  
16 and you may be called back at such time if the need arises.  
17 Thank you for offering for this position and thank you for  
18 your service to the state of South Carolina.

19 MR. FERDERIGOS: Yes, sir. And thank you  
20 all very much for your time and for doing this.

21 (Candidate excused.)

22 CHAIRMAN SMITH: Ms. Ferri, how are you  
23 doing?

24 MS. FERRI: Hey, Good morning. How are you  
25 all?

1                   CHAIRMAN SMITH: I'm going well. See you  
2 got some special guests with you. Would you like to  
3 introduce them to the Commission?

4                   MS. FERRI: Yes, I would. I'm so happy to  
5 be here this morning. Good morning, I hope you all had a  
6 great Thanksgiving. I'm Kathleen Ferri. I'm from  
7 Charleston. I'm running for the 5th seat in the 9th  
8 Judicial Circuit. And I'm really, really proud to be here  
9 today with my family. This is my husband, Michael Ferri.  
10 We've been married for 19 years. He's the managing partner  
11 at Grimball and Cabaniss in Charleston. It's an insurance  
12 defense firm. I also have with me my oldest -- my only  
13 son, Andrew. He just celebrated his --

14                  CHAIRMAN SMITH: Your mother got you mixed  
15 up.

16                  MS. FERRI: He just celebrated his 18th  
17 birthday last week. And he's taking U.S. Government, so I  
18 thought that this would be a great opportunity for him to  
19 see his government in action. We're going to visit the  
20 State House later today, and also he's going to have a  
21 chance to tour USC. He recently applied there. And then  
22 my daughter --

23                  CHAIRMAN SMITH: I hope he's not  
24 disappointed with the football team.

25                  MS. FERRI: We're not a big football family,

1 so it's okay.

2 CHAIRMAN SMITH: Well, that's a good thing.  
3 It's going to save a lot of misery there.

4 MS. FERRI: That's right. And my daughter,  
5 Emma, she's 13. She is in eighth grade at Blessed  
6 Sacrament Catholic School. And she's adopted from China.  
7 And I'm thrilled to have her here with me today as well.

8 CHAIRMAN SMITH: Great. Welcome everybody.  
9 I appreciate you all being here today. You know, if you're  
10 from Grimball and Cabaniss, you practice with Warren Moise;  
11 is that right.

12 MR. FERRI: I do.

13 CHAIRMAN SMITH: All right. So they're all  
14 from Sumter and I'm from Sumter. And I practiced with  
15 their great-grandfather's firm or something like that. So  
16 they're the longest law firm in the state of South  
17 Carolina. They came back and they started 1865, William  
18 Moise.

19 MR. FERRI: All he talks about is Sumter,  
20 so...

21 CHAIRMAN SMITH: Yeah, I'm sure. Yeah, it's  
22 the center of the universe. It's supposed to be the state  
23 capital. I still bring that up all the time. I'm going to  
24 make sure it's -- we're going to move the capital back to  
25 Sumter some day.

1 All right. Ms. Ferri, if you'll raise your  
2 right hand, please, ma'am.

3 WHEREUPON,

4 KATHLEEN MORASKA FERRI, being duly sworn and  
5 cautioned to speak the truth, the whole truth and nothing  
6 but the truth.

7 CHAIRMAN SMITH: All right. Before you, you  
8 have your personal data questionnaire and your sworn  
9 statement. Are those both documents you've submitted to  
10 the Commission?

11 MS. FERRI: Yes, they are, Your Honor.

12 CHAIRMAN SMITH: Are they correct and -- are  
13 they correct, or do you need to update anything at this  
14 time?

15 MS. FERRI: I do believe that I sent in one  
16 update, a change to my home address. We recently moved to  
17 Wadmalaw Island, South Carolina.

18 CHAIRMAN SMITH: All right. Other than  
19 that, are there any other items that need to be updated?

20 MS. FERRI: No, Your Honor.

21 CHAIRMAN SMITH: All right. If you will --  
22 do you have any objection to us making those as a exhibit  
23 to the -- your sworn testimony today?

24 MS. FERRI: No objection.

25 CHAIRMAN SMITH: Okay. Let Lindi get those

1 for us, please. And we'll make those a exhibit to your  
2 sworn testimony here today.

3 (EXHIBIT NO. 5 - JUDICIAL MERIT SELECTION  
4 COMMISSION PERSONAL DATA QUESTIONNAIRE OF  
5 KATHLEEN MORASKA FERRI)

6 (EXHIBIT NO. 6 - JUDICIAL MERIT SELECTION  
7 COMMISSION SWORN STATEMENT OF KATHLEEN MORASKA  
8 FERRI)

9 (EXHIBIT NO. 7 - AMENDMENT TO PERSONAL DATA  
10 QUESTIONNAIRE OF KATHLEEN MORASKA FERRI)

11 CHAIRMAN SMITH: Ms. Ferri, the Judicial  
12 Merit Selection Committee has thoroughly investigated your  
13 qualifications for the bench. Our inquiry is focused on  
14 nine evaluative criteria, and has included a ballot box  
15 survey, a thorough study of your application materials,  
16 verification of your compliance with the state ethics laws,  
17 a search of newspaper articles in which your name appears,  
18 a study of previous screenings and checks for economic  
19 conflicts of interest.

20 We have received no affidavits in opposition  
21 to your candidacy today, and there are no witnesses present  
22 to testify. Do you wish to make a brief opening statement  
23 to the Commission?

24 MS. FERRI: Sure. I just want you all to  
25 know that I've practiced in Charleston for about 26 years.

1 I've tried many cases in family court. I've done motions  
2 in the common pleas court, trials in probate court and the  
3 master in equity court.

4 I've represented folks in bond hearings, and  
5 I've been outside counsel for South Carolina Federal Credit  
6 Union for the past 12 years. I've served the Bar for the  
7 past 14 years as an attorney to assist the Office of  
8 Disciplinary Counsel.

9 I've also been a certified family court  
10 mediator for the past 20 years, and have mediated well over  
11 250 cases. I'm very proud to say my success rate for  
12 settling cases in mediation is about 93 percent. And I've  
13 also argued before the South Carolina Court of Appeals and  
14 the Supreme Court.

15 I'm very active in my church. I've served  
16 on the Stewardship Committee and been the VBS Director for  
17 the past 12 years. And I've spoken to numerous community  
18 groups about South Carolina's laws. But my proudest  
19 accomplishment is sitting right behind me, and that's my  
20 family. I'm happy to answer any questions that you have.

21 CHAIRMAN SMITH: Thank you very much. If  
22 you'll answer questions from Counsel for us, please, ma'am.

23 MS. FOSTER: Ms. Ferri, please state for the  
24 record the city and circuit in which you reside.

25 MS. FERRI: I live in the 9th Judicial

1 Circuit in Charleston, South Carolina.

2 MS. FOSTER: Mr. Chairman, I would note for  
3 the record that based on the testimony contained in the  
4 candidate's PDQ, which has been included in the record with  
5 the candidate's consent, Ms. Ferri meets the statutory  
6 requirements for this position regarding age, residence and  
7 years of practice.

8 EXAMINATION BY MS. FOSTER:

9 Q. Ms. Ferri, why do you want to serve as a family  
10 court judge, and why do you feel that your legal and  
11 professional experience qualify you and will assist you to  
12 be an effective judge?

13 A. Having practiced the majority of my 26 years in  
14 family court, I know that being in front of a family court  
15 judge is a highly emotional experience. I've been the  
16 witness to numerous divorces, many adoptions. I've seen  
17 children being taken from their parents. I've seen  
18 children being reunited with their parents.

19 I have watched spouses being charged with  
20 domestic abuse. I've been witness to spouses being freed  
21 from marriages that involved domestic abuse. All of these  
22 are highly emotionally-charged situations, but I feel that  
23 my experience in representing numerous types of parties  
24 before the family court would help me be an effective  
25 judge.



1           The very first time that I appeared in family  
2 court, it was because the attorney I was working with got  
3 sick. And it was a final hearing for an adoption. And I  
4 was terrified. But I brought the statute with me, and I  
5 simply followed the statute line by line. I probably took  
6 longer than the judge really wanted necessary, but I wanted  
7 to make sure that I did it right. And I'm grateful that  
8 our statute sets forth everything that's necessary to --  
9 for a new attorney to make sure they're doing their job  
10 well.

11           **Q. Ms. Ferri, are there any areas of the law for**  
12 **which you need -- you would need additional preparation in**  
13 **order to serve as a family court judge, and how would you**  
14 **handle that additional preparation?**

15           A. I think I relayed in my PDQ, that the area of  
16 family court that I have the least experience with is  
17 representing parties appearing for juvenile justice  
18 reasons. I have represented parties who were entering  
19 diversion pleas. I've worked with DJJ attorneys. I've  
20 worked with their therapists and counselors and the probate  
21 -- I'm sorry -- parole and probation officers.

22           So I'm aware of all the different parties that  
23 work with Department of Juvenile Justice, children, or  
24 teens. But that is the area that I probably have the least  
25 experience with. Attending CLEs, sitting in court and

1 watching other attorneys perform these activities would  
2 help me get up to speed on that, I believe.

3 **Q. Ms. Ferri, please describe your experience in**  
4 **handling complex contested family court matters, and**  
5 **specifically discuss your experience with the financial**  
6 **aspects of family court work.**

7 A. Well, a financial declaration is the most  
8 important document really in a divorce or a family court  
9 matter involving contested financial matters. And accurate  
10 preparation of that requires much, much preparation,  
11 getting documents from CPAs. I have worked with financial  
12 experts in preparing financial declarations, and I  
13 understand the importance of that.

14 I have also worked extensively with CPAs in  
15 preparing child support guidelines to assist the court in  
16 recognizing what parts of someone's income should be  
17 included in preparing the child support guidelines.

18 I have also mediated numerous cases involving  
19 paramours, sometimes second marriages, involving family  
20 businesses. And my experience in the mediation process  
21 with family businesses, partnerships, sometimes  
22 corporations, those have all helped me formulate sort of  
23 checklists in my mind of how to handle those things.

24 **Q. Ms. Ferri, the Commission received 85 ballot box**  
25 **surveys regarding you, with 16 additional comments. The**

1 ballot box survey for example contained the following  
2 positive comments: "Great attorney. Excellent  
3 temperament."

4 Another noted: "I have known Kathleen  
5 professionally for years and find her to be intelligent,  
6 compassionate, even-tempered, thoughtful and honorable.  
7 She would be an asset to the bench."

8 A third noted: "I have known this candidate for  
9 almost 30 years. She has frequently served as a guardian  
10 ad litem under the most difficult of circumstances. It  
11 would be hard to match her combination of calmness,  
12 knowledge, fairness and commitment."

13 Six of the written comments expressed concerns.  
14 All six of the negative comments expressed concerns  
15 regarding your experience, or lack of recent experience  
16 within the Family Court Bar. What response would you offer  
17 to this concern?

18 A. Well, part of the reason for my recent not being  
19 in family court is because I've expanded my practice to  
20 include cases that are heard before the master in equity,  
21 cases that are heard in the probate court, and also cases  
22 heard in the common pleas court.

23 As I said before, I have in the last twelve years  
24 gained South Carolina Federal Credit Union as a client.  
25 I'm their outside counsel for most of their claim and

1 delivery and repossession cases. And so a lot of my time  
2 has been spent furthering my knowledge of the law in  
3 general. And I believe that, that can be an asset in  
4 family court.

5 Representing a credit union, there are many  
6 procedural steps that need to be taken. There are lots of  
7 Fair Credit Reporting Act. There are lots of structural  
8 things that you have to do, and you cannot do, or you'll  
9 get sued. And I've made myself aware of those. I also  
10 gained them as a client in 2008/2009, right along the time  
11 of our financial crisis.

12 And so I didn't turn my back on family court.  
13 It's just that I had this new client that was taking  
14 enormous amounts of time, because I was assisting with  
15 them, cleaning up many of their bad loans. And it was a  
16 great new area that I was learning about. It was taking a  
17 lot of time.

18 But now I am -- I cut my teeth in family court.  
19 And I love family court. It's a -- it's a very emotional  
20 area, but I think that the vast experience I have in common  
21 pleas and also in probate court, the fact that I have  
22 represented numerous individuals before the Therapeutic  
23 Determination Division, which involves drug and alcohol  
24 cases.

25 I have also worked with numerous elderly adults,

1 having their families become guardians and conservators for  
2 them. So I think that has broadened by perspective of the  
3 law and broadened my experience, and that, that would  
4 actually be an asset to my family court work.

5 **Q. Ms. Ferri, given your recent practice has focused**  
6 **mostly on civil law, how would you plan to ensure that**  
7 **you're up to date on recent family law matters?**

8 A. Well, I have a number of friends who practice in  
9 family court, that write blogs. And I read them weekly. I  
10 enjoy them. I enjoy seeing the changes that have recently  
11 come about.

12 With the recent common law marriage being  
13 outlawed in South Carolina, I'm very happy about that.  
14 Because I've actually been very involved in two cases  
15 involving common law marriages, that were actually tried  
16 partially in probate court and partially in family court.

17 So I'm very aware of the intersection of those  
18 two courts involving common law. And they were -- the  
19 cases went on for years, because there was many disputes  
20 over what court actually had jurisdiction.

21 So just staying abreast and aware of the changes  
22 that happen in family court, reading blogs, reading the  
23 advance sheets, sitting in on trials being conducted by  
24 other judges in our state, all of these are ways to stay  
25 abreast of what's happening in family court.

1           Q.    Ms. Ferri, you reported on your personal data  
2 questionnaire that you were a development assistant at a  
3 school in Charleston, I believe, your children's school.  
4 Would you tell the committee -- I mean, the Commission  
5 about your work at Blessed Sacrament?

6           A.    You know, it's a funny thing when you're involved  
7 in church, they tend to try to get you more involved.  And  
8 I'm happy about that.  But when your priest comes to you  
9 and says, "I really need your help.  Our school is on the  
10 verge of closing."  And it was actually the school that I  
11 attended back in the '60s and '70s.  It's very difficult to  
12 tell your priest "no."

13                   And so I did get involved with helping with  
14 raising the amount of students at the school.  I assisted  
15 with marketing the school.  I assisted with giving tours at  
16 the school.  And one of the benefits -- if you've ever sat  
17 in a car line at your kid's school, you know that can be  
18 some of the -- the 45 minutes to an hour, sometimes twice a  
19 day, that you feel like is lost time.

20                   Well, one of the benefits of assisting in this  
21 area was that they actually gave me a key to the back door  
22 of the school, and I was able to take my daughter in.  And  
23 so that was just a fringe benefit of doing this.  And so I  
24 actually saved probably about two hours of time every day  
25 from sitting in the car line at my school.

1           But I also felt like by doing this, it gained --  
2 it helped me gain a perspective on seeing sort of normal  
3 families. You know, in family court you see families that  
4 are troubled, families that are going through very  
5 difficult times, and it sort of jades you and it makes you  
6 think that everyone is experience these -- experiencing  
7 these difficulties.

8           Sometimes when you're able to see normal, happy  
9 families it gives you a renewed faith in human nature, a  
10 renewed faith in the institution of marriage, and a renewed  
11 faith in children as a whole. Because South Carolina is  
12 blessed to have some of the most amazing teachers and some  
13 of the most amazing children on the planet. And I was  
14 happy to be a part of that.

15           MS. FOSTER: I would note that the Low  
16 Country -- Low Country Citizens Committee found Ms Ferri to  
17 be well qualified in the evaluative criteria of ethical  
18 fitness, character, reputation and judicial temperament,  
19 and qualified in the remaining evaluative criteria of  
20 constitutional qualifications, professional and academic  
21 ability, physician health, mental stability and experience.

22 BY MS. FOSTER:

23           **Q.    Just a few housekeeping issues.**

24           A.    Thank you.

25           **Q.    Ms. Ferri, are you aware that a judicial**

1 candidate -- as a judicial candidate you are bound by the  
2 code of judicial conduct as found in Rule 501 of the South  
3 Carolina Appellate Court Rules?

4 A. Yes. Yes.

5 Q. Ms. Ferri, since submitting your letter of intent  
6 have you contacted any members of the Commission about your  
7 candidacy?

8 A. No.

9 Q. Since submitting your letter of intent have you  
10 sought or received the pledge of any legislator either  
11 prior to this date or pending the outcome of your  
12 screening?

13 A. No.

14 Q. Have you asked any third parties to contact  
15 members of the General Assembly on your behalf, or are you  
16 aware of anyone attempting to intervene in this process on  
17 your behalf?

18 A. No.

19 Q. Have you reviewed and do you understand the  
20 Commission's guidelines on pledging and South Carolina Code  
21 section 2-19-70(E)?

22 A. Yes.

23 MS. FOSTER: I would just note for the  
24 record that any concerns raised during the investigation  
25 regarding the candidate were incorporated into the



1 questioning of the candidate today. Mr. Chairman, I have  
2 no further questions.

3 CHAIRMAN SMITH: All right. Thank you very  
4 much. Any questions for Ms. Ferri? I can always count on  
5 you, Senator Young.

6 SENATOR YOUNG: Thank you, Mr. Chairman.

7 EXAMINATION BY SENATOR YOUNG:

8 Q. Mrs. Ferri, thank you for your interest in  
9 serving our state on the family court bench. I have a few  
10 questions. First, I want to commend you for your service  
11 to your church and your family. It's pretty evident from  
12 your materials that you've filed, how committed you are to  
13 your church and your family. And I commend you for that.

14 Some of the comments questioned how much you  
15 practice in family court. And candidly, I feel like I need  
16 to ask you about that. So can you tell us over the last  
17 ten years -- I mean, how much have you actually practiced  
18 in family court?

19 A. I believe my PDQ sets forth all the different  
20 types of cases that I've tried in family court. I've  
21 represented adoptive families. I've represented birth  
22 mothers in family court. I've represented parties  
23 involving interstate jurisdiction in family court, custody,  
24 child support. Divorce on all the different types of  
25 grounds, family court mediation. I have appeared before

1 the court of -- the South Carolina Court of Appeals, as  
2 well as the Supreme Court, and won both times after oral  
3 argument.

4 **Q. Were those family court matters?**

5 A. Yes. And I believe one of my writing samples is  
6 my brief that went to the Supreme Court.

7 **Q. One of the -- I mean, some of the comments say**  
8 **that the -- you know, obviously these are anonymous**  
9 **comments. But some of them say that the person that's**  
10 **providing the comment from the Bar says they practice**  
11 **regularly in the family court in Charleston, and they don't**  
12 **see you. How do you respond to that?**

13 A. Well, part of my practice involves mediation.  
14 And mediators don't come to court. They are assisting  
15 trial attorneys with settling the case so they don't have  
16 to go to court.

17 I also practice regularly as a guardian ad litem.  
18 Guardian ad litem typically help attorneys settle cases.  
19 I have tried cases as a guardian ad litem, representing the  
20 minor children. And some of those cases -- one of those  
21 cases was one of my five cases that I listed.

22 But again, part of my job as an attorney is to  
23 help people stay out of court, if at all possible. And I  
24 feel like I've done that job well.

25 **Q. So let me ask you another question. You**

1 mentioned abuse and neglect cases.

2 A. Yes.

3 Q. How many years do you think you've been involved  
4 with abuse and neglect cases?

5 A. I've been a lawyer for 26 years. The first 15  
6 years of my practice -- unfortunately, I was on their hot  
7 list. It seemed like I was getting appointed every week to  
8 a new case in Charleston, Berkeley, and Dorchester County.

9 I did eventually become appointed to the position  
10 of an attorney to assist the Office of Disciplinary  
11 Counsel, and I believe that service to the Bar kept me off  
12 the DSS list.

13 But I can tell you that I was one of the  
14 attorneys who represented a defendant in family court,  
15 where we tried a case for twelve days. And this was a  
16 termination of parental rights, based on children being in  
17 the department custody for over -- I believe 18 of the last  
18 24 months was the reason that the children were -- there  
19 was a TPR pending. We tried the case for twelve days, and  
20 the children were ultimately returned to the parents.

21 Q. From your observations having been in family  
22 court with abuse and neglect cases, what would you  
23 recommend on how to improve the system for children and the  
24 families involved in that system on abuse and neglect  
25 cases?

1           A.    I think that the system is getting better.  But I  
2 think that -- and I hate to put everything on money, but I  
3 think more social workers, more hands-on time with the  
4 children, more involvement with the guardian ad litem  
5 program.  More case workers would assist in getting  
6 children moved through the system.

7                    I'm very grateful that South Carolina's adoption  
8 law is pro-child.  So many of the children who are in DSS  
9 custody are freed up fairly quickly, as compared to many  
10 other states, so that they can be adopted.

11                   But I believe that more money to the Department  
12 of Social Services would be of assistance to them, so that  
13 they could hire additional attorneys and they could hire an  
14 additional -- additional social workers.

15           **Q.    Thank you for your responses.**

16                    CHAIRMAN SMITH:  Any further questions?  
17 Senator Sabb.

18                    SENATOR SABB:  Thank you, Mr. Chairman.

19 EXAMINATION BY SENATOR SABB:

20           **Q.    And Ms. Ferri, it's still morning.  Good morning.**

21           A.    Good morning.

22           **Q.    And thank you for offering for the position.  I'd**  
23 **like to direct my questions more so along the lines of**  
24 **juveniles in the family court.  I don't know that I saw**  
25 **anything in your PDQ or otherwise, that relates to you and**

1 appearing in family court, dealing with delinquents and  
2 those kinds of things. Can you tell me about your  
3 experience along those lines, please?

4 A. Yes. That is the area in which I probably have  
5 the least experience. I have represented juveniles in  
6 diversion pleas before the family court, where they have  
7 been sentenced by the Department of Juvenile Justice but  
8 they have pled out to, like, probation.

9 Maybe they were supposed to be -- had curfews,  
10 things like that, so that they were out of the DJJ system.  
11 They were out of -- they weren't in jail. They weren't  
12 incarcerated. They weren't in, you know -- but they were  
13 under the care of their parents. And I assisted in  
14 creating those pleas for them.

15 Q. And so in terms of your actual appearance in  
16 family court representing juveniles, shall we conclude that  
17 it's somewhat limited?

18 A. It is somewhat limited, yes.

19 Q. All right. And have you gone to CLEs or anything  
20 like that over the course of the past few years? I looked  
21 at some of your CLEs and did not see anything. But did I  
22 miss something as relates to you and --

23 A. I recently spent a day down at family court and  
24 watched Mr. Ferderigos, who was in front of me just a  
25 minute ago, and watched him handle a number of Department

1 of Juvenile Justice cases.

2 Q. How did he do?

3 A. He did well.

4 Q. Have you given any thought to -- and if this is  
5 not a fair question, then that's fine. But have you given  
6 any thought to sentencing as it relates to juveniles? Have  
7 you given any thought to the 45-day evaluation, whether  
8 they ought to be local or whether they ought to go abroad?  
9 Can you tell me about your thinking along those lines?

10 A. You know, that's a very difficult area. Because  
11 I'm a mother of a teenager and I have -- you know, I have  
12 acquaintances who are parents of teenagers. And I know the  
13 difficulties that teenagers can find themselves in, and I  
14 know the difficulties that parents can have when they are  
15 dealing with teens that are difficult children.

16 I believe that depending on what the teen is  
17 charged with, so you're balancing the safety of the  
18 community and the -- what the child has done. And I think  
19 that it's very important never to place the safety of the  
20 community below the child.

21 I mean, some of these children are capable of  
22 doing some very dangerous acts. And if the act warrants  
23 that they be sentenced or, you know, be evaluated for the  
24 45 days, that's a difficult thing. But sometimes it  
25 warrants that.

1           Whether they -- it depends on what they're  
2 charged with and it depends on what the underlying cause  
3 is. If they have mental health issues, if they have other  
4 issues that they're dealing with that need to be evaluated,  
5 and there's not someone locally who can do the evaluation,  
6 then I believe that it's completely appropriate for them to  
7 do an evaluation somewhere in the state.

8           **Q.    Okay. Thank you, ma'am.**

9                     SENATOR SABB: Thank you Mr. Chairman.

10                    CHAIRMAN SMITH: All right. Mr. Safran.

11           EXAMINATION BY MR. SAFRAN:

12           **Q.    And I'll try to be brief. Let me just ask you a**  
13 **few things. I think the question that came up earlier from**  
14 **Senator Young, which probably still needs to be addressed a**  
15 **little bit more, is that it looked like -- for good reason,**  
16 **in '07 you really kind of departed from the amount of**  
17 **family court work you might have been doing prior, to take**  
18 **on a big client that had needs.**

19                     **And certainly, you were faced with going into**  
20 **sole practitioner status and you certainly didn't want to**  
21 **turn that down. So I get it.**

22                     **As a practical matter, though, how much family**  
23 **court in terms of -- not the guardian work, but I mean**  
24 **getting in there and actually handling the case as a**  
25 **litigant. How much have you been doing over the last five**

1 years?

2 A. I've continued to represent parties in family  
3 court. The cases may not be as complex as what I have done  
4 in the past, but I have continued to try cases in family  
5 court.

6 Q. Well, and when you say that, I know it's hard --  
7 nobody's asking for an absolute certainty or any precise  
8 number. But I mean are you talking about a couple cases a  
9 month? A couple cases a year? I mean, roughly just your  
10 best estimate.

11 A. I would say fifteen cases per year.

12 Q. Okay. And so you've at least kept some hand in -  
13 -

14 A. I have kept a hand in the family court.

15 Q. And do you still have a diverse practice at this  
16 point, in terms of kind of what you inherited and what  
17 you've built since kind of going out on your own?

18 A. Yes, it is a diverse practice. And I'm enjoying  
19 that. But like I said, family court is my first love.  
20 Family court is where I gained the most of my trial  
21 experience. It's all I eat -- you know, ate, slept,  
22 breathed for the first fifteen years of my practice.

23 And I feel like it's kind of like riding a  
24 bicycle. You know, you learn it once. And things may have  
25 changed, but the basics are still there. And I haven't



1 forgotten those.

2 Q. And I'm not suggesting that you just all of a  
3 sudden one day woke up and you didn't know how to do it.  
4 That's not the case. And I'm sure you've maintained  
5 proficiency. That's not the issue either.

6 I guess what I get -- when I look at some of  
7 these comments, I would assume the Family Court Bar, still  
8 like most of the Bar, at least in your area, is relatively  
9 defined. So you're not having necessarily everybody doing  
10 a volume in family court.

11 And so, obviously, what would you say to the  
12 people who are saying, "Well, I don't ever see her. I  
13 don't really have anything with her"? And the question  
14 really is kind of how capable you are to kind of step onto  
15 the bench and be handling this stuff, literally day after  
16 day at such a high volume, what's your response to that?

17 A. I've done it before. I have tremendous energy.  
18 I have tremendous insight. The practice that I've had in  
19 other areas of the law have broadened my perspective. It  
20 has broadened my knowledge of the law.

21 I understand a lot more now about consumer  
22 finance, about bankruptcy, about the probe -- the workings  
23 of the probate court, and other areas of the law that would  
24 help me as a family court judge.

25 Q. You think that really kind of enhances --

1 A. I believe it enhances my experience.

2 Q. Okay. Thank you.

3 CHAIRMAN SMITH: Senator Sabb.

4 SENATOR SABB: Thank you, Mr. Chairman.

5 REEXAMINATION BY SENATOR SABB:

6 Q. I just wanted to follow up. You indicated that a  
7 percentage, and I don't know how you classified it, of what  
8 you do is family court mediation?

9 A. Yes.

10 Q. And so just following up on Mr. Safran's point,  
11 about quantifying how much you do, and I think your  
12 response was you do approximately fifteen or so cases a  
13 year, how many would you -- and when you mentioned cases,  
14 you are not including mediation as a apart of those, you  
15 were talking about the cases that you're actually trying  
16 and participating as a lawyer.

17 A. Right. That's correct.

18 Q. So if you would quantify your work -- the number  
19 of cases that you're mediating, let's say within in the  
20 last year, as you did just now for me, please.

21 A. Probably about twenty-five.

22 Q. Thank you.

23 CHAIRMAN SMITH: All right. Any further  
24 questions?

25 (Hearing none.)

1                   CHAIRMAN SMITH: Ms. Ferri, thank you so  
2 much. This will conclude this portion of your screening  
3 process. I want to take this opportunity to remind you  
4 that pursuant to the Commission's evaluative criteria, the  
5 Commission expects candidates to follow the spirit as well  
6 as the letter of the ethics law. We will view violations  
7 or the appearance of impropriety as serious and potentially  
8 deserving of heavy weight in the screening deliberations.

9                   On that note, the record will remain open  
10 until the formal release of the report of qualifications,  
11 and you may be called back at such time if the need arises.

12                   Thank you for offering for this position and  
13 I thank you for your service to the state of South  
14 Carolina. And I and wish you all a great success on  
15 navigating I-26 back to Charleston.

16                   MS. FERRI: Thank you so much. And thank  
17 you all for your time.

18                   CHAIRMAN SMITH: Enjoy your time over here  
19 in the State House tour, and it will be -- it will be  
20 informative for you.

21                   MS. FERRI: Yes. Thank you so much.

22                   CHAIRMAN SMITH: Thank you.

23                   (Candidate excused.)

24                   CHAIRMAN SMITH: We'll take a five-minute  
25 break, guys. And then we'll get the next candidate.

1 (Off the record from 12:01 p.m. to 12:12)

2 CHAIRMAN SMITH: All right. Let's go back  
3 on the record. And we'll conclude our 15-minute break so  
4 Representative Rutherford cannot be delayed any longer.

5 All right. Good afternoon, Ms. Jacobson. I  
6 see you have some guests with you. Would you like to  
7 introduce them to the Commission?

8 MS. JACOBSON: Good afternoon. Yes, with me  
9 today is my husband, Jack Landis. Also with me is my  
10 friend and colleague Hervery Young, Deputy Director and  
11 General Counsel for the South Carolina Commission on  
12 Indigent Defense.

13 CHAIRMAN SMITH: All right. Well, welcome  
14 guys. I appreciate you-all being here today. Ms.  
15 Jacobson, will you raise your right hand, please, ma'am.

16 WHEREUPON,

17 MARISSA K. JACOBSON, being duly sworn and  
18 cautioned to speak the truth, the whole truth and nothing  
19 but the truth.

20 CHAIRMAN SMITH: Before you, you have your  
21 personal data questionnaire and your sworn statement. Are  
22 those both documents that you've submitted to the  
23 Commission?

24 MS. JACOBSON: Yes.

25 CHAIRMAN SMITH: Are there any changes or

1 updates that need to be made at this time?

2 MS. JACOBSON: No, sir.

3 CHAIRMAN SMITH: Do you have any objection  
4 to us making those as exhibits to your sworn testimony here  
5 today?

6 MS. JACOBSON: No, sir.

7 CHAIRMAN SMITH: All right. Without  
8 objection they'll be made exhibits to your sworn testimony  
9 here today.

10 (EXHIBIT NO. 8 - JUDICIAL MERIT SELECTION  
11 COMMISSION PERSONAL DATA QUESTIONNAIRE OF MARISSA  
12 K. JACOBSON)

13 (EXHIBIT NO. 9 - JUDICIAL MERIT SELECTION  
14 COMMISSION SWORN STATEMENT OF MARISSA K.  
15 JACOBSON)

16 CHAIRMAN SMITH: Ms. Jacobson, the Judicial  
17 Merit Selection Commission has thoroughly investigated your  
18 qualifications for the bench. Our inquiry is focused on  
19 nine evaluative criteria, and has included a ballot box  
20 survey, a thorough study of your application materials,  
21 verification of your compliance with the state ethics laws,  
22 a search of newspaper articles in which your name appears,  
23 a study of previous screenings, and checks for economic  
24 conflicts of interest.

25 We have no affidavits filed in opposition to

1 your -- to your candidacy today, and there are no witnesses  
2 here to testify. Do you wish to make a brief opening  
3 statement to the Commission?

4 MS. JACOBSON: I have no opening statement.  
5 However, I'd like thank you all for your -- giving your  
6 time this morning and your consideration.

7 CHAIRMAN SMITH: I appreciate that. And  
8 then answer any questions that counsel may have for you,  
9 please, ma'am.

10 MS. BAKER: Good morning, Ms. Jacobson.  
11 Please state for the record the city and circuit in which  
12 you reside.

13 MS. JACOBSON: I live in Charleston, which  
14 is in the 9th Judicial Circuit.

15 MS. BAKER: Mr. Chairman, I note for the  
16 record that based on the testimony contained in the  
17 candidate's PDQ, which has been included in the record with  
18 the candidate's consent, Ms. Jacobson meets the statutory  
19 requirements for this position regarding age, residence and  
20 years of practice.

21 EXAMINATION BY MS. BAKER:

22 Q. Ms. Jacobson, why do you want to serve as a  
23 family court judge, and why do you feel that your legal and  
24 professional experience qualify and will assist you to be  
25 an effective judge?

1           A.    Being a family court judge is an opportunity for  
2 me to serve the public and the legal community. The public  
3 and the legal community have been good to my family and to  
4 me. I'm a third generation Charleston attorney. My  
5 father, Chuck Jacobson, still practices with Uricchio Howe  
6 and Krell in Charleston.

7           The way that I could best give back would be in  
8 the area of family law. I have dedicated my law practice  
9 of nearly fifteen years to the areas of child welfare and  
10 marital litigation. I enjoy family law. I like trying  
11 cases. I enjoy being in the courtroom. I'm in court three  
12 to four times a week when court is in session.

13           I believe that the experience and knowledge that  
14 I've gained throughout my law practice, coupled with the  
15 energy and enthusiasm that I have for family law, would  
16 make serving as a family court judge both rewarding and a  
17 fulfilling experience.

18           Additionally, I believe, that I have the  
19 appropriate temperament and demeanor necessary for a family  
20 court judge. I am patient. I am kind, considerate and  
21 understanding. I also believe I have the ability to be  
22 fair and impartial.

23           **Q.    Ms. Jacobson, are there any areas of the law for**  
24 **which you would need additional preparation in order to**  
25 **serve as a family court judge, and how would you handle the**

1 **additional preparation?**

2 A. The area in which I have the least amount of  
3 practice is DJJ. However, with that being said, the child  
4 welfare aspect of my practice often overlaps with DJJ.  
5 Specifically with duly indicated juveniles.

6 Since I put in my application to run for family  
7 court judge, I've begun observing delinquency proceedings,  
8 refamiliarizing myself with recent case law and the  
9 statutes that are applicable to juvenile proceedings.

10 **Q. Ms. Jacobson, please briefly describe your**  
11 **experience in handling complex contested family court**  
12 **matters, and specifically discuss your experience with the**  
13 **financial aspects of family court work.**

14 A. I've handled an extensive amount of contested  
15 family court matters in many different areas of family law.  
16 I have dealt with unique and complex issues that include  
17 consideration of the Indian Child Welfare Act and the  
18 Uniform Child Custody Jurisdiction Enforcement Act.

19 I've handled termination of parental rights and  
20 adoption matters, representing both the plaintiff and the  
21 defendant. Also serving as a guardian ad litem. In cases  
22 like that I have employed the use of parental fitness  
23 experts.

24 I've handled custody -- contested custody and  
25 visitation matters dealing with issues that include



1 parental alienation, Munchausen by Proxy, and children who  
2 have special needs. Those cases have called for the use of  
3 forensic psychologists, and often medical experts.

4 I've handled marital litigation involving  
5 accusations of alcohol abuse and drug abuse, where forensic  
6 toxicologists are needed. I've handled simple divorces for  
7 people who have no children and minimal assets.

8 I've also handed -- handled divorces and custody  
9 matters where litigants have large marital estates and a  
10 great deal of wealth, requiring forensic accountants,  
11 comparative market analyses, alimony, child support, non-  
12 marital asset consideration, equitable division and  
13 business valuations.

14 **Q. Ms. Jacobson, the Commission received 192 ballot**  
15 **box surveys regarding you, with 28 additional comments.**  
16 **The ballot box survey, for example, contained the following**  
17 **positive comments:**

18 **"Marissa would be an outstanding judge. She has**  
19 **ability, experience and integrity necessary for the bench.**  
20 **Our law firm has had the privilege of referring clients to**  
21 **Ms. Jacobson that have family law legal issues pending.**  
22 **Without fail, they have been very happy with her**  
23 **professionalism, her work ethic and her legal abilities.**  
24 **She would be an asset to our family court. Ms. Jacobson**  
25 **certainly exceeds all the qualifications required for a**

1 family court judge. She has experience dealing with all  
2 areas in family court. I know her to be intelligent,  
3 thoughtful, fair, respectful to all, and highly admired  
4 among her peers."

5 Eight of the written comments expressed some  
6 concerns. Several comments indicated that you have limited  
7 experience in family court. What response would you offer  
8 to that concern?

9 A. Well, my law practice has involved child welfare,  
10 marital litigation and every -- nearly every aspect of  
11 family law. My practice is probably 60 percent child  
12 welfare and 40 percent private matters. And I believe that  
13 I've had an opportunity to represent clients in nearly  
14 every area of the law.

15 Now, when people see me in court, it's very  
16 possible they may assume I'm there for a child welfare  
17 matter. However, I may also be there for one of my private  
18 cases. I don't announce when I go to court or what I'm  
19 going to be there for.

20 Q. Ms. Jacobson, another concern in some of the  
21 comments indicated you have a lack of diligence or  
22 motivation in your cases. What response would you offer to  
23 this concern regarding diligence and motivation?

24 A. I care very deeply for my clients. I'm  
25 accessible to them all of the time. I only have one number

1 for my law practice, it's my cell phone. And my clients  
2 and I communicate sometimes from 6 a.m. in the morning till  
3 eleven o'clock at night.

4 I think if the panel had an opportunity to speak  
5 to my clients, they would understand that I am very  
6 thorough, I'm constantly in contact with my clients, and do  
7 the best job for my clients, to achieve the outcome that  
8 they are hoping for.

9 **Q. Ms. Jacobson, you were named a party in a real**  
10 **property case filed in the Court of Common Pleas in 1995.**  
11 **Could you please explain the nature and disposition in this**  
12 **action?**

13 A. I believe that my parents had some property, and  
14 they had a quiet title action. And I think that's what  
15 that is in reference to.

16 **Q. Ms. Jacobson, what would you if you had to master**  
17 **a unfamiliar area of the law in a relative short period of**  
18 **time?**

19 A. I would review the case law. I would review the  
20 statutes. I would reach out to my peers and colleagues as  
21 a resource. I'm not afraid to ask questions. And I would  
22 try to gain as much knowledge and -- as I possibly could.

23 MS. BAKER: I would note that the Low  
24 Country Citizens Committee found Ms. Jacobson qualified in  
25 the evaluative criteria of constitutional qualifications,

1 physician health and mental stability. The Committee found  
2 her well qualified in the criteria of ethical fitness,  
3 professional and academic ability, character, reputation,  
4 experience and judicial temperament.

5 The Committee stated in summary, "Great  
6 demeanor, dedicated, good experience, thoughtful."

7 BY MS. BAKER:

8 Q. Ms. Jacobson, I have a few housekeeping matters.  
9 Are you aware that as a judicial candidate, you are bound  
10 by the code of judicial conduct as found in Rule 501 of the  
11 South Carolina Appellate Court Rules?

12 A. I am.

13 Q. Ms. Jacobson, since submitting your letter of  
14 intent have you contacted any members of the Commission  
15 about your candidacy?

16 A. I have not.

17 Q. Are you familiar with section 2-19-70, including  
18 the limitations on contacting members of the General  
19 Assembly regarding your screening?

20 A. I am.

21 Q. Since submitting your letter of intent have you  
22 sought or received the pledge of any legislator either  
23 prior to this date or pending the outcome of your  
24 screening?

25 A. I have not.

1 Q. Have you asked any third parties to contact  
2 members of the General Assembly on your behalf, or are you  
3 aware of anyone attempting to intervene in this process on  
4 your behalf?

5 A. I have not.

6 Q. Have you reviewed and do you understand the  
7 Commission guidelines on pledging and South Carolina Code  
8 section 2-19-70(E)?

9 A. I am.

10 MS. BAKER: I would just note for the record  
11 that any concerns raised during the investigation regarding  
12 the candidate were incorporated into the questioning of the  
13 candidate today. Mr. Chairman, I have no further  
14 questions.

15 CHAIRMAN SMITH: All right. Thank you very  
16 much. Does anybody have questions? Representative  
17 Rutherford.

18 EXAMINATION BY REPRESENTATIVE RUTHERFORD:

19 Q. Good morning.

20 A. Good morning.

21 Q. Thank you. Good afternoon. I'm sorry. Can you  
22 help me with why -- in listening to your presentation, you  
23 truly sounded like an experienced, well versed family court  
24 lawyer. But so many comments were regarding your lack of  
25 experience. Can you help me out with why that is?

1           A.    I don't know why I have given the impression to  
2 some members of the Bar that I'm inexperienced.  I work  
3 with a great deal of members of the Bar regularly in  
4 domestic matters.  My practice is exclusively family law.

5                    I don't know if these are people who have never  
6 had cases with me.  I really -- it's hard to respond to why  
7 people think that I lack experience.  I would assume it's  
8 just because they haven't had a case with me, or had the  
9 opportunity to work with me.

10           **Q.    Tell me about your representation of juveniles.**

11           **Did I hear you say that you have not represented?**

12           A.    I have -- that would be the area in which I have  
13 the least experience.  I have represented juveniles in the  
14 past, primarily for private clients, or when I've had  
15 overlap with child welfare cases.  But it would be an area  
16 I would need to continue to observe, as I have been, and  
17 continue to refamiliarize myself with the statutes and case  
18 law.

19                    REPRESENTATIVE RUTHERFORD:  No further  
20 questions.

21                    CHAIRMAN SMITH:  Representative Murphy.

22                    REPRESENTATIVE MURPHY:  Thank you, Mr.  
23 Chairman.  Ms. Jacobson, I just wanted to make it a point  
24 to -- not all the comments are negative.  Of course we have  
25 a duty to bring those out.  But reviewing the ballot box

1 survey, there are -- there are quite a number of candidates  
2 that talk about that you're an excellent lawyer, a great  
3 judge, they've had -- been an adversary against you, and  
4 that they think that you're a well qualified to be a family  
5 court judge.

6 I want to also just mention, looking through  
7 your references, the letters of references, I know of quite  
8 a number of those attorneys that spoke highly about you.  
9 And I -- not to bring up anything in your past, but I also  
10 noticed that your ex-husband also -- even though you all  
11 were divorced, also a practicing attorney, also wrote a  
12 letter of recommendation and spoke highly of you.

13 And so I just want to thank you for your  
14 willingness to serve and to go through this process.

15 MS. JACOBSON: Thank you.

16 CHAIRMAN SMITH: Senator Young.

17 SENATOR YOUNG: Thank you, Mr. Chairman.

18 EXAMINATION BY SENATOR YOUNG:

19 Q. Thank you for your quest to serve on the family  
20 court bench. I've read your materials, and one of the  
21 areas I want to ask you a question about is on the personal  
22 data questionnaire. It was a question that asked about  
23 your experience in family court matters.

24 And you gave a very detailed response, part of  
25 which states that you handled abuse and neglect matters as

1 a guardian ad litem, also as an attorney representing  
2 clients accused of abuse -- of abusing and neglecting their  
3 children, as well as hired by the Commission on Indigent  
4 Defense to represent parents and persons acting as  
5 caretakers for minor children accused of abusing and  
6 neglecting minor children.

7 If you had to try to improve the system for  
8 families and children in the family courts, with respect to  
9 abuse and neglect cases, based on what you've observed in  
10 your 14 years of working in the family courts, what would  
11 you do?

12 A. The short answer to that is I would encourage DSS  
13 to follow the law and to get in and out of peoples' lives.  
14 And by that what I mean is, that it has appeared to me in  
15 my experience, that DSS sometimes forgets the reason for  
16 their existence.

17 They were initially created to protect children  
18 and vulnerable adults. And the overarching goal that  
19 should be constantly worked towards is to reunify families  
20 and to maintain the integrity of the family unit. Strict  
21 statutory time lines were enacted to ensure that children  
22 would not languish in foster care.

23 Unfortunately, those time lines are not always  
24 met. Services need to be offered that effectively deal  
25 with the actual reason that the families come into the



1 system. There is not a one-size-fits-all service to fix  
2 families. Services need to be offered to address this  
3 specific reason that a family comes into the system, and  
4 then once parents are working towards that goal, the goal  
5 does not need to be continually moved.

6 The role of DSS is not to create perfect  
7 families. There is no such thing as a perfect family.  
8 It's to ensure that children and vulnerable adults are safe  
9 and they are not being abused or neglected.

10 If it appears that reunification is not possible,  
11 then we need to switch gears and move towards maintaining -  
12 - move towards obtaining permanency for these children,  
13 whether it be through adoption or permanent relative  
14 custody or another permanent plan living arrangement.

15 **Q. I appreciate your response. You raise some**  
16 **insight on some areas that we have not heard from other**  
17 **candidates. I would ask, too, that -- could you comment on**  
18 **your experience with adoption cases?**

19 A. I've handled adoption, termination of parental  
20 rights cases, both representing the plaintiff and the  
21 defendant, and serving as the guardian ad litem in abuse  
22 and neglect matters and in private matters.

23 **Q. Have you represented any juveniles in family**  
24 **court criminal matters?**

25 A. I have. Particularly, when their parents are the

1 victims, or the alleged victims of the crime, or their  
2 parents are not present.

3 Q. Thank you for your response.

4 CHAIRMAN SMITH: Ms. McIver.

5 MS. MCIVER: Thank you.

6 EXAMINATION BY MS. MCIVER:

7 Q. In discussing some of your experience, have you  
8 handled complex custody matters?

9 A. I have.

10 Q. You're experienced with temporary hearings, and  
11 do you know what I mean when I mention a temporary hearing?

12 A. I do know what a temporary hearing is.

13 Q. Okay. We heard some discussion about how  
14 difficult it is often to get court time, and that sometimes  
15 lawyers may ask for a 15-minute hearing in order to get  
16 into the courtroom sooner, to try and establish some  
17 normalcy for the children in the pendency, waiting for a  
18 final hearing but maybe 15 minutes is not quite enough.

19 Have you had any experiences with going to a  
20 temporary hearing and finding that the 15 minutes is not  
21 enough? And how would you handle it if you were on the  
22 bench and you had parties who may have requested 15  
23 minutes, showed up with a book of affidavits, but needed  
24 more than that time allotted?

25 A. Well, temporary hearings, the burden of proof is

1 prima facie, which is at first glance. So theoretically,  
2 15 minutes should be enough to get that first glance.  
3 However, that does not mean it would be enough time to make  
4 a decision.

5 Some cases are more simple than others. Fifteen  
6 may -- 15 minutes may be enough to hear both sides and  
7 review those affidavits.

8 The adverse to that is that 15 minutes may be  
9 only enough time to hear the attorneys, their argument, and  
10 then that matter may have to be taken under advisement.  
11 Because when parties show up with two notebooks that are  
12 this tall, there's no way that anyone can review that  
13 amount of information in that short period of time.

14 I have not had a problem getting into court for  
15 15-minute temporary hearings. They are generally to be  
16 scheduled within four weeks. And in my experience in the  
17 counties that I regularly work in, that does not -- that  
18 does not seem to be a problem for me.

19 However, like you said, with reviewing all that  
20 material, it would just depend on the case. But some  
21 matters may have to be taken under advisement.

22 **Q. Have you had instances where you've shown up with**  
23 **a book of affidavits and a family court judge has said, "We**  
24 **don't need to hear anything from the lawyers. I'll rule**  
25 **based on the affidavits?" And what are your thoughts on**

1 **whether or not that makes sense?**

2 A. I have. And that does not bother me. Because  
3 the rule -- the only evidence allowed to be presented at a  
4 temporary hearing are affidavits. I think often, judges  
5 give the courtesy to attorneys so they can speak on behalf  
6 of their clients. Because I believe that clients want to  
7 hear their attorney speak.

8 But I think what is being actually considered is  
9 what is being presented in the affidavits. And if someone  
10 -- if I were in a case with someone, and they were arguing  
11 outside of their affidavit, I would object. Because it's  
12 inadmissible.

13 **Q. Thank you.**

14 SENATOR SABB: Mr. Chairman.

15 CHAIRMAN SMITH: Senator Sabb.

16 SENATOR SABB: Thank you, Mr. Chairman.  
17 And thank you, Ms. Jacobson, for offering. I actually just  
18 wanted to make a comment. I read that you volunteer your  
19 services for mock trial. And I just appreciate lawyers  
20 that are doing that. It's an incredible experience for the  
21 middle school as well as the high school.

22 I tried to do it. I probably don't give  
23 enough time to doing it. But when I do it, I really enjoy  
24 it. And I don't know what your experience has been yet, I  
25 don't know how long you've been doing it, but to see those

1 kids want to be lawyers, and all of those kinds of things  
2 because of their experience, I think it's really having a  
3 good impact on our kids. And I think, ultimately, our  
4 profession will benefit from it.

5 So I just wanted to commend you for giving  
6 of yourself in that way. And if you care to comment on any  
7 of that, I'd be delighted to hear from you.

8 MS. JACOBSON: Thank you. The children that  
9 participate in the mock trial in middle school and high  
10 school, it is remarkable. Just the experience to get up  
11 and speak in front of that many people at that --  
12 especially middle school at that young age, it's  
13 unbelievable.

14 I began doing mock trial when I started dating my  
15 husband, Jack Landis. And we actually got married  
16 following a mock trial competition in March of this year.  
17 So we enjoy it and it's an opportunity to give back.

18 SENATOR SABB: Absolutely. So you've been  
19 doing it how long?

20 MS. JACOBSON: About two years.

21 SENATOR SABB: Well, continue, please.

22 MS. JACOBSON: Thank you.

23 CHAIRMAN SMITH: Any further questions?

24 (Hearing none.)

25 CHAIRMAN SMITH: Ms. Jacobson, let me just

1 make a comment and an observation, and that is I'm looking  
2 through this, and I look at your Citizens Committee report,  
3 and for those who gave you the negative comments on there,  
4 saying you didn't have experience, the Citizens Committee  
5 disagreed with them. And they listed you as a great  
6 demeanor, dedicated, good experience and thoughtful. So  
7 that is -- that's impressive, 'cause they don't give  
8 comments usually on those. So I want to congratulate you  
9 in that regard.

10 MS. JACOBSON: Thank you.

11 CHAIRMAN SMITH: All right. With no further  
12 questions, this will conclude this portion of our screening  
13 process. I want to take this opportunity to remind you,  
14 that pursuant to the Commission's evaluative criteria, the  
15 Commission expects candidates to follow the spirit as well  
16 as the letter of the ethics law. And will view violations,  
17 or the appearance of impropriety, as serious and  
18 potentially deserving of heavy weight in the screening  
19 deliberations.

20 As you know, the record will remain open  
21 till the formal release of the report of qualifications,  
22 and you may be called back at such time if the need arises.

23 Thank you for offering for this position and  
24 thank you for your service to the state of South Carolina.

25 MS. JACOBSON: Thank you.

1 CHAIRMAN SMITH: All right. You-all have a  
2 safe trip back to Charleston. Enjoy I-26.

3 MS. JACOBSON: Thank you.

4 (Candidate excused.)

5 CHAIRMAN SMITH: Ms. Stokes, how are you  
6 doing today?

7 MS. STOKES: I'm doing very well. Thank  
8 you.

9 CHAIRMAN SMITH: Will you raise your right  
10 hand, please, ma'am.

11 WHEREUPON:

12 JULIANNE M. STOKES, being duly sworn and  
13 cautioned to speak the truth, the whole truth and nothing  
14 but the truth.

15 CHAIRMAN SMITH: Ms. Stokes, before you, a  
16 personal data questionnaire and sworn statement. Are those  
17 documents you submitted to the Commission?

18 MS. STOKES: They are.

19 CHAIRMAN SMITH: Any changes or updates that  
20 need to be made at this time?

21 MS. STOKES: No.

22 CHAIRMAN SMITH: Do you have any objection  
23 to us making those two as exhibits to your sworn testimony  
24 here today?

25 MS. STOKES: No objection.

1 CHAIRMAN SMITH: All right. Without  
2 objection those become part of the record of your sworn  
3 testimony.

4 (EXHIBIT NO. 10 - JUDICIAL MERIT SELECTION  
5 COMMISSION PERSONAL DATA QUESTIONNAIRE OF  
6 JULIANNE M. STOKES)

7 (EXHIBIT NO. 11 - JUDICIAL MERIT SELECTION  
8 COMMISSION SWORN STATEMENT OF JULIANNE M. STOKES)

9 CHAIRMAN SMITH: Ms. Stokes, the Judicial  
10 Merit Selection Commission has thoroughly investigated your  
11 qualifications for the bench. Our inquiry has focused on  
12 nine evaluative criteria and has included a ballot box  
13 survey, a thorough study of your application materials,  
14 verification of your compliance with state ethics laws, a  
15 search of newspaper articles in which your name appears, a  
16 study of previous screenings and checks for economic  
17 conflicts of interest.

18 We've received no affidavits today filed in  
19 opposition to your election. There are no witnesses are  
20 present to testify. Do you wish to make a brief opening  
21 statement to the Commission?

22 MS. STOKES: I will waive that statement,  
23 but I am happy to answer any questions you might have.

24 CHAIRMAN SMITH: Thank you very much.  
25 Answer any questions Counsel may have for you.



1 MS. STOKES: Thank you.

2 MR. FRANKLIN: Thank you, Mr. Chairman.  
3 Good afternoon, Ms. Stokes. Please state for the record  
4 the city and circuit in which you reside.

5 MS. STOKES: Charleston, South Carolina.  
6 9th Judicial Circuit.

7 MR. FRANKLIN: Mr. Chairman, I would note  
8 for the record that based on the testimony contained in the  
9 candidate's PDQ, which has been included in the record with  
10 the candidate's consent, Julianne Stokes meets the  
11 statutory requirements for this position regarding age,  
12 residence and years of practice.

13 EXAMINATION BY MR. FRANKLIN:

14 **Q. Ms. Stokes, why do you want to serve as a family**  
15 **court judge, and why do you feel that your legal and**  
16 **professional experience qualify and will assist you to be**  
17 **an effective judge?**

18 A. Thank you. I'm a woman of faith. And I believe  
19 that God gives all of us talents and gifts that we can use  
20 to help others. I think that one of my -- one of the  
21 talents that I've been given is patience, an even  
22 temperament, diligence. And I would like to use all of  
23 those gifts to serve the people of South Carolina.

24 I came from a public serve-oriented family. My  
25 grandfather served as a circuit court judge. And I adored

1 him. I looked up to him. He was also in the State House  
2 of Representatives, and I enjoyed visiting him there.

3 My parents were both public servants, working for  
4 the Department of Juvenile Justice first, which is where  
5 they met, and then moving on to work for the school  
6 district in Laurens County.

7 So they instilled in me a desire to do good and  
8 to do something for other people, not just for myself. And  
9 so while I've enjoyed private practice, and if I continue  
10 private practice, I'll continue to enjoy it, I do think  
11 that this -- to me it feels like a calling.

12 It feels like a direction that I am being pulled  
13 as opposed to a direction that I'm running toward. And so  
14 I would like to serve the people of South Carolina.

15 As my PDQ indicates, I've been practicing  
16 privately for 13 years, solely in the family courts,  
17 handling anything from DSS to adoption to small family law  
18 cases and huge, complex family law cases, the financial  
19 aspects as well as the custody aspects of private  
20 litigation.

21 And so I think my experience renders me more than  
22 capable to serve on the family court bench. And I would  
23 hope for that opportunity at some point in time.

24 **Q. Are there any areas of the law for which you**  
25 **would need additional preparation in order to serve as a**

1 **family court judge, and how would you handle that**  
2 **additional preparation?**

3 A. At the time I submitted my application in late  
4 June, I did not have experience with DJJ juvenile  
5 proceedings. I have never served as a public defender,  
6 I've never served as a prosecutor, and so I didn't have  
7 experience in that vein.

8 So I proactively went and I observed days of  
9 different varying DJJ hearings to familiarize myself with  
10 that. It's interesting to watch each of the family court  
11 judges and how they handle the juveniles that come before  
12 them.

13 It is -- it is a -- it is certainly an area where  
14 a judge can make a huge difference, a huge impact on a  
15 young person's life. And so I enjoyed learning about that  
16 process. And I think if I were a judge, I could truly help  
17 the juveniles that come before me.

18 **Q. You touched on this a little bit, but please**  
19 **describe your experience in handling complex contested**  
20 **family court matters, and specifically discuss your**  
21 **experience with the financial aspects of family court work.**

22 A. When I originally graduated law school, I went  
23 straight into private practice with two very prominent  
24 Charleston litigators. They'd been litigating for years  
25 before I got there.

1           And so I was baptized by fire, so to speak. They  
2 immediately threw me into depositions and contested  
3 hearings. I'll never forget being told to show up at court  
4 one day, and I had no idea that the client for whom I was  
5 appearing had just tested positive for cocaine. So I, you  
6 know, had no idea what I was doing originally.

7           But through over a decade of practicing and being  
8 kind of boots on the ground, I did gain experience with all  
9 facets of family law, from folks who don't really have any  
10 assets, they just have debts, all the way to multi-million-  
11 dollar estates.

12           I frequently, currently work with forensic  
13 accountants, business valuers. And I think the level of  
14 expertise on that is important, because I have had to deal  
15 with tax issues. And there's a lot of complexity involved  
16 in small businesses.

17           And a lot of family law cases involves small  
18 business where a husband and wife may have been operating  
19 them together, and so there are so many nuances that are  
20 important. And if you've never done it before, you don't  
21 really know what to look for. So I've enjoyed -- I've  
22 enjoyed that aspect of my practice.

23           With regard to the custodial issues, I do a  
24 frequent amount of guardian work. I'm also the statewide  
25 moderator of the guardian seminar. And so I'm very aware

1 of issues that involve children, particularly with regard  
2 to high conflict custody cases, which we're seeing more and  
3 more of.

4 This issue of parental alienation, which is kind  
5 of a trending hot button issue, the most recent contested  
6 custody case I tried was last October. It was a six-day  
7 case deemed complex. DSS was involved. And so I tried  
8 that through completion. It's actually up on the court --  
9 of the Court of Appeals right now, because it is such a  
10 complex issue.

11 I also enjoy in my practice, currently, a lot of  
12 mediations. People trust me to impartial and look at all  
13 of the issues involved in their situation. And so I've had  
14 a lot of mediations settle, because I know what the issues  
15 are and what needs to happen.

16 Q. Thank you, Ms. Stokes. The Commission received  
17 251 ballot box surveys regarding you, with 34 additional  
18 comments. The ballot box survey, for example, contained  
19 the following positive comments:

20 "Julianne is smart and fair. She brings a strong  
21 background in family court work to her candidacy and would  
22 be an asset to our bench."

23 Second, "I have met few lawyers with as even a  
24 temperament as Julianne. She is reasonable to have as  
25 opposing counsel, and has had very sound judgement."

1           Third, "Julianne is a rising star among family  
2 court lawyers statewide, and we would be fortunate to catch  
3 someone of her talent on the upswing of her career."

4           Finally, "I've had the pleasure of working with  
5 Mr. Stokes on two incredibly complex matters that were high  
6 charged emotionally. Her ability to stay cool is  
7 unparalleled. She is smart, thinks strategically, and is  
8 fairminded."

9           However, three of the written comments expressed  
10 concerns that you lack experience when it comes to the  
11 criminal aspect of family law, specifically juvenile  
12 defendants in DJJ. What response would you offer to those  
13 comments?

14           A. Sure. I think -- and I think that's a fair  
15 assessment. I think people who know me, know what it is  
16 that I do, which is complex contested litigation and  
17 mediations and guardian work. As I said, I knew when I put  
18 my name in the hat, that it was important for me to get  
19 eyewitness experience with juvenile proceedings.

20           And so I've been to Charleston County family  
21 court, again on numerous occasions, to observe those  
22 hearings. And I think I've gotten a pretty good feel for  
23 what happens in each of those situations.

24           Q. Ms. Stokes, what do you view as a significant  
25 challenge facing the family court today, and how would you

1 address or attempt to address that challenge as a family  
2 court judge?

3 A. Having never served on the family court bench, I  
4 can only state it from my point of view. And I'm sure all  
5 of you are aware that the family court and the judiciary  
6 across the state is under attack, so to speak, by the  
7 media. I think they are being investigated thoroughly, the  
8 process is under intense scrutiny.

9 There was an article in the Post and Courier  
10 recently, relating to magistrate judges. There have been  
11 articles on FITSNews and various other news outlets about,  
12 you know, how are the judges picked, is it fair, is it --  
13 is it -- you know, is it really serving the people of South  
14 Carolina.

15 And I think the most important part of the  
16 process is getting the right people on the bench, getting  
17 people who, when they're on they bench, the people -- the  
18 litigants that come in front of them go, "Oh, well, I got a  
19 fair shake. Maybe I didn't get the result I wanted, but I  
20 was heard. I was understood. I was given an opportunity.  
21 That judge considered all of the facts, not just who the  
22 lawyers were, or was the lawyer wearing a fancy suit."

23 So I think -- I think that's the challenge for  
24 the judiciary, is appearing truly fair and impartial and  
25 unbiased. And I think the way to handle that is through a

1 respectful appearance as a judge.

2 Q. And as a family law attorney you've had a lot of  
3 experience dealing with highly emotional and demanding  
4 clients. Which strategies have you used to cope with the  
5 stress and demands inherent in practicing family law?  
6 Stated different, how do you remain professionally cool, as  
7 one of your ballot box responses noted, in your practice?

8 A. For me, again I think it's an issue of faith. I  
9 attend church every Sunday and every Wednesday. I don't  
10 say that to brag. I say that simply because it's such an  
11 integral part of my life. I conduct the chair choir at my  
12 church. I'm a first and second grade Sunday school  
13 teacher.

14 It is -- it is my second home, so to speak. And  
15 I have an amazing church family that I've been hearing from  
16 all day today. So I think that would be the first part of  
17 it would be my faith, prayer, and staying grounded.

18 I exercise. I drink moderately as opposed to  
19 heavily. I don't use drugs. I mean, all of the things  
20 that I think any -- any number of people could fall into a  
21 trap. And I tend to avoid all of those things.

22 Q. Thank you.

23 MR. FRANKLIN: I would note that the Low  
24 Country Citizens Committee found Julianne Stokes well  
25 qualified in the evaluative criteria of ethical fitness,



1 professional and academic ability, character, reputation,  
2 experience judicial temperament, and qualified as to the  
3 remaining evaluative criteria of constitutional  
4 qualifications, physical health and mental stability.

5 The Committee stated in sum, quote,  
6 "Considerable experience, very knowledgeable and  
7 personable. Extremely well qualified. A super candidate."

8 BY MR. FRANKLIN:

9 Q. Now for a few housekeeping issues. Ms. Stokes,  
10 are you aware that as a judicial candidate you are bound by  
11 the Code of Judicial Conduct as found in Rule 501 of the  
12 South Carolina Appellate Court Rules?

13 A. I am.

14 Q. Since submitting your letter of intent have you  
15 contacted any members of the Commission about your  
16 candidacy?

17 A. No.

18 Q. Are you familiar with Section 2-19-70, including  
19 the limitations on contacting members of the General  
20 Assembly regarding your screening?

21 A. Yes.

22 Q. Since submitting your letter of intent have you  
23 sought or received a pledge of any legislator, either prior  
24 to this date or pending the outcome of your screening

25 A. No.

1           Q.    Have you asked any third parties to contact  
2 members of the General Assembly on your behalf, or are you  
3 aware of anyone attempting to intervene in this process on  
4 your behalf?

5           A.    I have not.   And I am not aware of any.

6           Q.    Have you reviewed and do you understand the  
7 Commission's guidelines on pledging and South Carolina Code  
8 Section 2-19-70(E)?

9           A.    I do.

10                   MR. FRANKLIN:   I would note for the record  
11 that any concerns raised during the investigation by staff  
12 regarding this candidate were incorporated into the  
13 questioning of the candidate today.   Mr. Chairman, I have  
14 no further questions.

15                   CHAIRMAN SMITH:   Thank you very much.   Any  
16 questions of Ms. Stokes?

17 EXAMINATION BY CHAIRMAN SMITH:

18           Q.    Ms. Stokes, let me ask you a question that we've  
19 kind of been -- I want to make an observation and ask you  
20 some -- a couple questions.   But first, I -- as that  
21 candidate before you came, I think it's interesting that we  
22 look at the Citizen's Committee and we look at the Bar  
23 reports, and we look at the ballot box surveys, and I again  
24 want to point out where -- where a candidate has excelled.  
25 And you have with your Citizen's Committee.

1           And, you know, I just think it's interesting when  
2 you make an impression on them. And I know some of them  
3 down there, most of them are lawyers. Some are not. But,  
4 you know, they say considerable experience, very  
5 knowledgeable, personable, extremely well qualified. And  
6 then they put "super candidate."

7           So that's something you ought to be proud of.

8           A. That's very humbling.

9           Q. It is very humble -- it should be humbling. I  
10 haven't seen anyone referred to as a super candidate  
11 before. So you're the first to obtain that certification.

12          A. Thank you.

13          Q. But just a couple of questions. When you go  
14 through this, I'm impressed with the -- listening to you  
15 about your experience and your -- in family court. And one  
16 of the things we see from time to time are people who come  
17 to family court, and then offer themselves for circuit  
18 court a few years later. Would that be something you would  
19 be interested in? Or are you wanting to be a family court  
20 judge?

21          A. It is -- it is not in my bailiwick, so to speak.  
22 This is -- this is my love and my passion. And so family  
23 court is where I want to be and want to stay. And  
24 hopefully retired one day from the family court bench.

25          Q. As it relates to family court, you know, I'm

1 looking through this and you do a lot of private -- private  
2 work, I presume, from what I've heard from your testimony.  
3 How about the Department of Social Services, the abuse and  
4 neglect, some of those cases? I know we were all appointed  
5 to them, way back when, and now we've got the 608 and we  
6 got the contracts, and so we don't do that to the degree  
7 that we used to. Have you been involved in any of that?

8 A. That would be correct. When I started my career  
9 in '05/'06, I was appointed and dealt with those types of  
10 cases on a relatively frequent basis. I would say my most  
11 recent involvement with DSS was the high conflict, complex  
12 custody case that I tried last October.

13 Again, because from the outset DSS was involved,  
14 I had a lot of experience directly DSS and its attorney and  
15 its guardian and its -- its varied services. So I do feel  
16 that I've had plenty of experience with DSS.

17 And it's a little -- it's a little bit of an  
18 ever-changing creature, as you know. There are people who  
19 kind of come in and out, and you're not really sure who you  
20 might get on the phone on a daily basis. But I do  
21 frequently deal with DSS.

22 The other vein I would say is when I'm a  
23 guardian, a lot of cases, for whatever reasons start with a  
24 claim of abuse that also then involves DSS early on. DSS  
25 then eventually bows out. But for me on the front end of

1 the case as a guardian, or even as an attorney for a  
2 contested custody case, I have DSS involvement on the front  
3 end.

4 Q. And I also noticed that you do mediations.  
5 You're a certified mediator?

6 A. I am.

7 Q. And how has that -- your experience with that?  
8 Is it fairly successful in resolving cases? And how has  
9 that impacted the family court? I don't -- since there's  
10 mandatory mediation, I haven't been practicing in family  
11 court any longer.

12 A. Right.

13 Q. But I see a dramatic effect that it's had on the  
14 civil docket.

15 A. I would say -- I would say if I don't make it to  
16 the family court bench this go-round, my mediation practice  
17 will continue to be very successful. That is actually  
18 where I find most of my success lies.

19 I think it's difficult when you go in front of a  
20 family court judge, because you don't know what the  
21 outcome's going to be, every judge does something different  
22 on a different day. And so when litigants come in front of  
23 me as a mediator, I'm able to say, "You're rolling the dice  
24 if you go in front of a judge. Because there's 50-plus  
25 judges, and you don't know who you're going to -- who

1 you're going to be in front of, and they all have slightly  
2 different opinions."

3           So I've enjoyed the mediation practice. And I  
4 think it's also allowed me to see, kind of introspectively,  
5 that I'm pretty darned good at being neutral. And when  
6 people walk out and they're happy at the end of a  
7 mediation, that's almost unheard of.

8           'Cause nobody's really happy when they settled  
9 their case. Everybody gave up something. But when they  
10 walk out and they go, "Man, I think -- I think I just did  
11 the right thing," that's a pretty -- a pretty good feeling.

12           **Q. All right. I appreciate it.**

13           CHAIRMAN SMITH: Any further questions?  
14 Senator Young.

15           SENATOR YOUNG: Thank you, Mr. Chairman.

16 EXAMINATION BY SENATOR YOUNG:

17           **Q. Ms. Stokes, thank you for your interest in**  
18 **servicing our state on the family court. I'm reading your**  
19 **personal data questionnaire. One question I have is**  
20 **there's a question on the questioning that asks you to give**  
21 **in detail your experience in practicing in family court,**  
22 **the different areas. And do you remember that question?**

23           A. Vaguely.

24           **Q. I'm reading it. And there's a -- there's a --**  
25 **one area is under the area of adoption. Can you elaborate**

1 **on your experience handling adoption matters?**

2 A. Sure. I have -- I have handled adoptions from  
3 the standpoint of a step-parent adoption. I have been  
4 appointed as guardian in private adoptions and also in  
5 step-parent adoptions. And so I've been involved in the  
6 adoption process from soup to nuts, so to speak, on  
7 multiple different occasions.

8 I also recently, again, since I put my name in  
9 the ring for family court, went and have been observing a  
10 lot of the final hearings for adoption cases. It's very  
11 statutorily driven. And so at the final hearing, the judge  
12 essentially goes down a list of check-boxes and making sure  
13 everything is covered.

14 So I did kind of refamiliarize myself, since so  
15 much of my practice is the divorce and custody aspect. I  
16 refamiliarized myself with the adoption aspect as well.

17 **Q. Now, it also has an area where you put juvenile**  
18 **justice. And it looks like that you candidly wrote that**  
19 **you may not have appeared as counsel for juveniles in**  
20 **family court in the past. Is that correct?**

21 A. That is correct.

22 **Q. What do you intend to do to try to get experience**  
23 **in that area if you're elected to the family court?**

24 A. Sure. When I originally put my name in the -- in  
25 the running for this position, I immediately recognized

1 that, that was the one area that I didn't have courtroom  
2 experience in. And so I began observing the various judges  
3 down in Charleston County. They do kind of afternoon  
4 dockets, usually from two to five, and so I would go down  
5 and sit from two to five, and just kind of watch as the  
6 juveniles came through.

7 And so I've observed -- you know, the process is  
8 pretty much the same, regardless of the judge. The outcome  
9 is different based on who the judge is. And the judges all  
10 have different temperaments in terms of how they address  
11 the juveniles and the direction that they want to go with  
12 the juveniles.

13 So it was -- so it was nice to see the different  
14 ways that the judges handle it, because I think there are  
15 some who are -- who are really interested in helping the  
16 juveniles, and there are others who are just kind of ready  
17 to get their docket through the courtroom. But I did  
18 spend, you know, several days watching these hearings.

19 **Q. How about in abuse and neglect cases, can you**  
20 **elaborate on your experience with those?**

21 A. Abuse and neglect, my experience early on was as  
22 an appointed attorney for a parent. For example, if a  
23 parent was a defendant in an abuse and neglect case, I  
24 would represent that defendant. We almost always resolved  
25 it without a trial.



1           And so I haven't tried any DSS matters, because  
2 the vast majority of them do settle. It's the ones that --  
3 you know, and there was a recent one in Charleston, where  
4 the judge went to trial and actually returned the children  
5 to the parents when DSS was asking for the termination of  
6 those parents' parental rights.

7           So my experience with that has been on the side  
8 of representing defendants in DSS cases. And then again  
9 when I have contested custody cases, private case,  
10 frequently DSS is involved on the front end of those cases  
11 to investigate.

12           **Q. Based on your experience with abuse and neglect**  
13 **cases during the time that you've been a family court**  
14 **lawyer, you could -- what would you recommend on how we can**  
15 **improve the system for the children and the families in**  
16 **that area?**

17           A. How much money you got? I think it comes down to  
18 budget. It is -- I think the Department of Juvenile  
19 Justice and the Department of Social Services are overworked  
20 and underpaid. And as I mentioned to Mr. Smith earlier,  
21 you don't even know half the time who you're going to get  
22 on the phone, because there's such a rapid turnover.

23           So to the extent that you can fund it, to the  
24 extent that you can keep people there for longer than a  
25 year or a few months, I think that's the most important

1 thing. I do know that several of the judges in Charleston  
2 County work closely with those -- those organizations, to  
3 make sure that the children are able to stay on track, that  
4 got -- that time lines are met.

5 And I think that's important as well, is that the  
6 judge has to pay attention that there are these deadlines  
7 and time lines. And sometimes if the agency doesn't follow  
8 it, the judge needs to be proactive and call them in and  
9 say, "What's the status of this case?"

10 SENATOR YOUNG: That's all I have. Thank  
11 you.

12 CHAIRMAN SMITH: All right. Any further  
13 questions?

14 REPRESENTATIVE MURPHY: May I make a  
15 comment?

16 CHAIRMAN SMITH: Representative Murphy.

17 REPRESENTATIVE MURPHY: Ms. Stokes, thank  
18 you for your willingness to serve. And I just wanted to --  
19 a personal comment that I haven't had any cases against  
20 you, but I've been in the courtroom and in the courthouse.  
21 And I would have to echo the ballot box surveys that you  
22 are very well qualified for this position, and you're very  
23 well respected as well.

24 I just was looking through the family court  
25 docket in Charleston County, and put in your name and the -

1 - your Bar ID, and I stopped after I went through just the  
2 number of cases that you have filed in family court, or  
3 been associated with in family court. And I was just doing  
4 that, just for my own education. So I appreciate your  
5 willingness to serve. And thank you for coming up today.

6 MS. STOKES: Thank you. As I said, I'm very  
7 humbled to be here. And I do -- I do view this as an honor  
8 and a privilege to be part of this process. And I --  
9 again, I -- you know, my goal is to serve in the best way  
10 that I know how.

11 CHAIRMAN SMITH: Our own curiosity up here,  
12 you mentioned your grandfather was a member of the House of  
13 Representative, a circuit court judge. Who was that?

14 MS. STOKES: Jay Baggett.

15 CHAIRMAN SMITH: Okay.

16 MS. STOKES: Passed away about a month and a  
17 half ago. Practiced law until he was 90.

18 CHAIRMAN SMITH: Wow.

19 MS. STOKES: He was pretty amazing.

20 CHAIRMAN SMITH: Yeah. Well, all right.  
21 Any further questions?

22 (Hearing none.)

23 CHAIRMAN SMITH: All right. With that being  
24 said, this will conclude this portion of your screening  
25 process. I want to take this opportunity to remind you

1 that pursuant to the Commission's evaluative criteria, the  
2 Commission expects candidates to follow the spirit as well  
3 as the letter of the ethics law. And we will view  
4 violations or the appearance of impropriety as serious and  
5 potentially deserving of heavy weight and screening  
6 deliberations.

7 As you know, the record will remain open  
8 until the formal release of the report of qualifications,  
9 and you may be called back at such time if the need arises.

10 We appreciate you being here today

11 I thank you for offering for this position.  
12 And thank you for your service to the State of South  
13 Carolina.

14 MS. STOKES: Thank you all for your time.

15 CHAIRMAN SMITH: All right. Have a safe  
16 trip home.

17 MS. STOKES: Thank you.

18 (Candidate excused.)

19 CHAIRMAN SMITH: With that, Representative  
20 Murphy moves that we go into executive session. And we're  
21 going to take a lunch break during that time. All in favor  
22 say "aye."

23 (At this time the members audibly say "aye.")

24 CHAIRMAN SMITH: All opposed?

25 (Hearing none.)

1                   CHAIRMAN SMITH: The ayes have it. We'll be  
2 in executive session.

3                   (Off the record from 1:03 p.m. to 2:27 p.m.)

4                   CHAIRMAN SMITH: With that, we'll get  
5 started. If we can have the next candidate, Mr. Jarrett,  
6 please. Good afternoon, Mr. Jarrett? I appearance your  
7 patience. I see you have some guests with you today.  
8 Would you like to introduce them to us?

9                   MR. JARRETT: Yes, this is my wife, Josette,  
10 of 23 years. And my middle child, Katie.

11                  CHAIRMAN SMITH: Is she a Wofford grad, or  
12 at Wofford?

13                  MR. JARRETT: She's a Wofford grad. She  
14 graduated last year. And she's doing a gap year, and she's  
15 working for us at the law firm this year.

16                  CHAIRMAN SMITH: Well, I appearance y'all  
17 being here today. All right. Mr. Jarrett, will you please  
18 raise your right hand.

19                  WHEREUPON:

20                  ERNEST JOSEPH JARRETT, being duly sworn and  
21 cautioned to speak the truth, the whole truth and nothing  
22 but the truth.

23                  CHAIRMAN SMITH: And you have in front of  
24 you, your sworn statement and your personal data  
25 questionnaire. Are those both documents you submitted --

1 MR. JARRETT: Yes, sir.

2 CHAIRMAN SMITH: -- to the Commission? All  
3 right. Are they bought correct?

4 MR. JARRETT: That's correct, Mr. Chairman.

5 CHAIRMAN SMITH: Anything needs to be  
6 changed or updated at this time?

7 MR. JARRETT: No, sir, Mr. Chairman.

8 CHAIRMAN SMITH: And will you hand those --  
9 do you have an objection to us making those an exhibit to  
10 your sworn testimony?

11 MR. JARRETT: No, sir.

12 CHAIRMAN SMITH: All right. Without  
13 objection we're going to make those exhibits to the sworn  
14 testimony.

15 (EXHIBIT NO. 15 - JUDICIAL MERIT SELECTION  
16 COMMISSION PERSONAL DATA QUESTIONNAIRE OF ERNEST  
17 JOSEPH JARRETT)

18 (EXHIBIT NO. 16 - JUDICIAL MERIT SELECTION  
19 COMMISSION SWORN STATEMENT OF ERNEST JOSEPH  
20 JARRETT)

21 CHAIRMAN SMITH: Mr. Jarrett, the Judicial  
22 Merit Selection Commission has thoroughly investigated your  
23 qualifications for the bench. Our inquiry has focused on  
24 nine evaluative criteria and has included a ballot box  
25 survey, a thorough study of your application materials,

1 verification of your compliance with state ethics laws, a  
2 search of newspaper articles in which your name appears, a  
3 study of previous screenings and checks for economic  
4 conflicts of interest.

5 We've received no affidavits today filed in  
6 opposition to your election, and there are no witnesses are  
7 present to testify. Do you wish to make a brief opening  
8 statement to the Commission?

9 MR. JARRETT: Sure. I'm Ernie Jarrett. I'm  
10 from Kingstree. Been a lifetime resident of Kingstree,  
11 except for the four years I was at Wofford and the three  
12 years at law school. I returned back to Kingstree after I  
13 graduated from law school. Been practicing and been the  
14 managing partner for Jenkinson, Jarrett & Kellahan for the  
15 last 27 years.

16 And so I'm married with three children.  
17 Kyle is a graduate of The Citadel, and he works over in  
18 Lake City and is married. My middle child, Katie, is doing  
19 a gap year, hoping to go to law school next year. And  
20 Winston is a sophomore at Wofford College this year.

21 CHAIRMAN SMITH: All right. Will you answer  
22 any questions that Counsel may have for you, sir.

23 MR. JARRETT: Yes, sir.

24 MR. TRIPLETT: Mr. Jarrett, please state for  
25 the record, the city and circuit in which you reside.

1 MR. JARRETT: I reside in Kingstree, South  
2 Carolina. And that's the 3rd Judicial Circuit.

3 MR. TRIPLETT: Mr. Chairman, I would note  
4 for the record that based on the testimony contained in the  
5 candidate's PDQ, which has been included in the record with  
6 the candidate's consent, Mr. Jarrett meets the  
7 constitutional and statutory requirements for this position  
8 regarding age, residence and years of practice.

9 EXAMINATION BY MR. TRIPLETT:

10 **Q. Mr. Jarrett, why do you want to serve as a family**  
11 **court judge, and why do you feel that your legal and**  
12 **professional experience qualify and will assist you in**  
13 **being an effective judge?**

14 A. I've wanted to be a family court judge since law  
15 school. I interned with the late Bill Byers, my last year  
16 of law school, and just fell in love with family law and  
17 knew that's what I wanted to do early on.

18 And so I went back to Kingstree and started  
19 practicing with Billy and Bubba Jenkinson. And Bubba kind  
20 of trained me; he did the family law. And I've just  
21 established my practice in the area of family law, hoping  
22 one day to be a family court judge.

23 **Q. Mr. Jarrett, are there any areas of the law for**  
24 **which you would need additional preparation in order to**  
25 **serve as family court judge, and how would you handle that**



1 **additional preparation?**

2 A. Probably the weakest area that I would be in as a  
3 family court judge would be the area of juvenile justice.  
4 I've handled maybe five to seven of those cases in my  
5 career. As a contract attorney for DSS, I've sat in a lot  
6 of those hearings, but have not represented a lot of those  
7 defendants.

8 So I would probably have to bone up on juvenile  
9 practice. But I think I could do that by sitting in and  
10 watching other judges, and then just reading the statutes.  
11 I don't think that would be a problem.

12 **Q. Mr. Jarrett, please briefly describe your**  
13 **experience in handling complex contested family court**  
14 **matters, and specifically discuss your experience with the**  
15 **financial aspects of family court work.**

16 A. I've been in private practice, like I say, for 27  
17 years, and mainly concentrated on family court issues.  
18 I've handled all type of equitable division cases, some  
19 complex cases. I've represented doctors, lawyers,  
20 dentists, pharmacists, and the spouses of those people, and  
21 done business valuations for pharmacies or animal practices  
22 and those kind of things.

23 I mean, my average case in Williamsburg County,  
24 of course, doesn't involve those kind of -- kind of cases.  
25 I'm usually dividing up mobile homes and pickup trucks.

1 But I do handle the complex cases.

2 I also am a contract attorney for DSS, so I've  
3 done the DSS work as well as the family court litigation.  
4 But I've done all kind of cases: name changes, adoptions,  
5 equitable division, divorces, custody. I'm a guardian ad  
6 litem in a lot of cases. And I'm also a certified mediator  
7 for family court.

8 Q. Mr. Jarrett, the Commission received 308 ballot  
9 box surveys regarding you, with 71 additional comments.  
10 The ballot box survey, for example, contained the following  
11 positive comments:

12 "Ernie was made for this. Professional, bright  
13 and thorough. A wonderful, smart lawyer. He will have the  
14 best temperament on the family court bench."

15 Only one of the written comments expressed any  
16 concern. This comment expressed a concern with limited  
17 experience in family law. What response would you offer to  
18 that concern?

19 A. I'm not really sure where that would have come  
20 from. Maybe some that dealt with me in the DSS round,  
21 because I do so much DSS contract work. I think some  
22 people assume that I do all DSS work. But I've been in  
23 private practice for 27 years, and done all kind of family  
24 court cases.

25 As a contract attorney for DSS, my firm has a

1 contract and I do all the DSS for Williamsburg, Georgetown,  
2 and all the TPRs for Horry County. And so we do that on a  
3 contract basis, so maybe someone figured that's all I did,  
4 you know, they dealt with me on that. But I handle all  
5 types of private family court cases.

6 **Q. And, Mr. Jarrett, it appears that you've been**  
7 **involved in one lawsuit in 2007. That lawsuit was a 1983**  
8 **action filed in Federal District Court. Can you please**  
9 **explain the nature and disposition of that lawsuit?**

10 A. That lawsuit was brought by a local doctor, and  
11 he had his children taken by DSS. And he was an existing  
12 client of the firm, and so immediately I did not handle  
13 that case for DSS. And we had another attorney come in and  
14 handle that case.

15 Unfortunately, when a -- back in those days, we  
16 had blue backs. And my blue back with Jenkinson, Jarrett &  
17 Kellahan was put on his pleadings, and so the doctor  
18 assumed that I had something to do with his case because  
19 the paralegal over at DSS had that blue back. And so he  
20 brought a conspiracy, wrongful death, all these kind of  
21 action against us.

22 His wife ended up dying and it was -- eventually,  
23 his -- his rights to his three adoptive children were  
24 terminated in that case. And with our criminal case, he  
25 sued the governor and all -- everybody at DSS, all the way

1 down. So I was in good company. But it ended up we were  
2 granted summary judgement on that case by the -- by the  
3 Federal Magistrate.

4 MR. TRIPLETT: I would note that the Pee Dee  
5 Citizens Committee reported Mr. Jarrett qualified in the  
6 ethical criteria of ethical fitness, reputation and  
7 experience. The committee found him well qualified in the  
8 evaluative criteria of ethical fitness, professional and  
9 academic ability, character, reputation, experience and  
10 judicial temperament.

11 The committee state in summary: "Mr. Jarrett  
12 is an enthusiastic candidate who's been working his entire  
13 legal career with an eye towards the family court seat.  
14 And we believe he will be an asset to the bench."

15 BY MR. TRIPLETT:

16 Q. Mr. Jarrett, a few housekeeping matters. Are you  
17 aware that as a judicial candidate, you are bound by the  
18 Code of Judicial Conduct as found in Rule 501 of the South  
19 Carolina Appellate Court Rules?

20 A. I am aware.

21 Q. And, Mr. Jarrett, since submitting your letter of  
22 intent have you contacted any members of the Commission  
23 about your candidacy?

24 A. I have not.

25 Q. Are you familiar with Section 2-19-70, including

1 limitations on contacting members of the General Assembly  
2 regarding your screening?

3 A. I'm familiar with that.

4 Q. Since submitting your letter of intent have you  
5 sought or received a pledge of any legislator, either prior  
6 to this date or pending the outcome of your screening?

7 A. I have not.

8 Q. Have you asked any third parties to contact  
9 members of the General Assembly on your behalf, or are you  
10 aware of anyone attempting to intervene in this process on  
11 your behalf?

12 A. I have not.

13 Q. Have you reviewed and do you understand the  
14 Commission's guidelines on pledging and South Carolina Code  
15 Section 2-19-70(E)?

16 A. I do.

17 MR. TRIPLETT: I would note for the record  
18 that any concerns raised during the investigation regarding  
19 this candidate were incorporated into the questioning of  
20 the candidate today. Mr. Chairman, I have no further  
21 questions.

22 CHAIRMAN SMITH: All right. Thank you very  
23 much. Any questions? Mr. Safran.

24 MR. SAFRAN: Thank you, Mr. Chairman.

25 Mr. Jarrett, I just want to tell you that

1 after looking at these ballot boxes, I have to commend you  
2 for what this says.

3 MR. JARRETT: Thank you, sir.

4 MR. SAFRAN: I mean, we see a wide spectrum  
5 of things that come, people that obviously have been in the  
6 trenches. And, you know, being in litigation can be tough.  
7 And you're not always going to leave a favorable  
8 impression, at least for the moment.

9 Uniformly, it seems like everybody was very  
10 complimentary with the way you handle yourself, your  
11 knowledge and temperament. And so I just want to tell you,  
12 you put your dues -- or paid your dues, been there 27  
13 years, you had a passion for it.

14 I think you've obviously got a great start  
15 with Judge Byars. I had Judge Byers decide a case -- be  
16 one of the first ones I ever had, many, many years ago. So  
17 I can tell you he was a very capable man. And I'm sure you  
18 started with a good base by following him.

19 So I just want to tell you, you know, too  
20 often we are criticized by, you know, some that all we do  
21 is look for the bad. But I just want to tell you that we  
22 also see the good. And I can promise you that what came  
23 across here, based upon the peers' comments, is exemplary.

24 And I just wanted for you to -- that it's  
25 noted you are what we're looking for, basically, in terms

1 of a family court judge. Because, again, you've been in  
2 the trenches. You've paid your dues. You've learned.  
3 And, again, you've shown the people who are on the opposite  
4 side of you, that, you know, you know what you're doing.  
5 So I do think that it's high praise. And I just wanted to  
6 let you that.

7 MR. JARRETT: Well, thank you.

8 CHAIRMAN SMITH: Mr. Strom.

9 MR. STROM: Mr. Chairman, I want to second  
10 what Mr. Safran said. Just outstanding reviews. We never  
11 know what our peers are going to say about us, particularly  
12 when it's anonymous. A lot of people are jealous. But  
13 your reviews are just impeccable. And, you know, I know  
14 that you enjoy an excellent reputation statewide. I know  
15 you've stepped up and chaired the council -- the Bar  
16 Council on Family Court, and ran an excellent CLE. Thank  
17 you for that service. And I look forward to seeing on the  
18 bench.

19 MR. JARRETT: Thank you, sir.

20 CHAIRMAN SMITH: Senator Young.

21 SENATOR YOUNG: Thank you, Mr. Chairman.

22 EXAMINATION BY SENATOR YOUNG:

23 Q. Mr. Jarrett, I just want to echo what my  
24 colleagues have said. I mean, you're -- the comments and  
25 the reviews that we have seen in your file for your

1 candidacy are exemplary. And they were when you came  
2 before this Commission, previously, when I -- when I had  
3 the opportunity to serve on the Commission, as I recall.

4 And that just speaks volumes for the reputation  
5 that you have earned in your practice. And I have asked  
6 every candidate this, and I want to ask you this -- every  
7 candidate for family court.

8 And you are someone that I would be keenly  
9 interested in your comments, because of the area of  
10 practice that you have and the volume of the practice that  
11 you have, it involves the abuse and neglect cases.

12 What would you recommend we do to improve abuse  
13 and neglect cases for the children in the system in South  
14 Carolina?

15 A. That's kind of a loaded question. I'm excited  
16 about the new director. I'm hoping that we're going to --  
17 going to see some change. I've been to a couple of times  
18 where he's spoken. But I do think we probably need to  
19 overhaul the system totally. I think it's definitely  
20 broken.

21 And so working within it, I can probably say over  
22 the 27 years, the last year or two has been the worst as  
23 far -- just as high, high turnover of caseworkers. And the  
24 quality of candidates that we're getting for the  
25 caseworkers are just not stellar people in these positions.



1           And so the training needs to be overhauled. I  
2 just think that the whole system needs to be looked at and  
3 overhauled. I could probably talk days about it, but I  
4 don't really have anything specific. But I'm hoping that  
5 the new director will get in there and start changing  
6 things up. I've seen a couple of things.

7           **Q. Do you see the same problems in Williamsburg as**  
8 **you do in Georgetown as you do in Horry?**

9           A. Pretty much. I mean, Williamsburg is in a -- a  
10 lot of it's poverty, and people not being trained in more  
11 neglect issues. And that's the Andrews section of  
12 Georgetown.

13           As you get further to the beach and Myrtle Beach,  
14 it's a different -- there are no roots and transient  
15 people. And they seem to be a lot of -- just kind of worse  
16 people, that actually abuse children and do bad things to  
17 children. Whereas, the inward people it's more poverty and  
18 just kind of generation after generation, just growing up  
19 in it in the system.

20           And so you can kind of see a difference as you --  
21 as you go to the beach. I do a lot of termination cases,  
22 the TPRs, at the beach. We have a ton of those. But they  
23 don't -- they don't have the strong relationships and  
24 family connection.

25           Myrtle Beach is very transient. Whereas,

1 Williamsburg County, Andrews, there's always a good aunt or  
2 a good relative that we can place custody of children with.  
3 And a lot of times the caseworkers know who that good  
4 person is before they even go out on the case.

5 **Q. What is your view of parents who fail to pay**  
6 **child support timely?**

7 A. I mean, I think you've got to look at everybody  
8 with empathy and see -- you know, certain -- certain -- I'm  
9 Williamsburg County, there's not a lot of jobs available.  
10 And so it's very hard to make -- meet some of those  
11 obligations.

12 And then, you know, we bus them out to work in  
13 the hospitality industry at the beach, and have to leave  
14 very early and get back in the evenings, and then we expect  
15 them to be able to take care of their kids during all that  
16 time too.

17 But again, you know, if they have the ability to  
18 pay and they're capable of working, I think they need to  
19 work and pay their child support. I mean, I'm going to  
20 enforce court orders if elected. I really feel like the  
21 order should be followed.

22 **Q. Thank you.**

23 CHAIRMAN SMITH: Any further questions?  
24 Senator Rankin.

25 EXAMINATION BY SENATOR RANKIN:

1 Q. Mr. Jarrett, I well remember your screening the  
2 last time. And I dare say nothing has changed about your  
3 candidacy except that the good things that people were  
4 saying then, they've just been added to.

5 And so with the compliment first -- and not to be  
6 followed by a dig, I'll assure you -- but I think it is  
7 worth noting again by your peers, and as the Pee Dee  
8 Citizens Committee stated you're "an enthusiastic candidate  
9 who's been working his entire legal career with an eye  
10 towards a family court seat. We believe he will be an  
11 asset on the bench."

12 As Mr. Safran effectively said, you don't get any  
13 better than that. And Mr. Strom said it, by your peers you  
14 don't get any better than that. So you are well suited.

15 And your practice is 98 percent family law,  
16 presently, right?

17 A. Correct.

18 Q. You recall, perhaps, some questions in terms of  
19 the scheduling and the crush of cases that some areas have  
20 versus others, the motions hearing -- when you've got  
21 affidavits and you've got the decision of whether to grant  
22 to one parent or the other, temporary custody or altered  
23 visitation rights, and it's a -- it can't be mediated, it  
24 cannot be worked out. How do you anticipate your practice  
25 in terms of giving those litigants a fair hearing at the

1 **motion level in terms of allotment of time?**

2 A. Hopefully, the scheduling clerk is going to have  
3 given us enough time. And with the rules we have now with  
4 the limits of the page, it's set up so that you can  
5 actually have time to read those affidavits and make a  
6 ruling there that day. 'Cause I do think that the people  
7 need to know when they leave the courtroom, what the  
8 outcome is.

9 Certainly, if it's a more complicated case, and  
10 it doesn't appear there's enough time, I would take it  
11 under advisement and go back and actually study the  
12 documents.

13 The practice -- these days, if you're limited to  
14 eight pages -- limited to eight pages, but fifty -- put 52  
15 exhibits on the back and attach all the Facebook posts and  
16 those kind of things. So, you know, if it was a case like  
17 that, and very complicated, I'd take it under advisement,  
18 but try to go on back and do it quickly and get a memo out  
19 to the attorneys to let the ruling -- let the court -- let  
20 everybody know what the ruling is.

21 'Cause I think in those kind of situations, you  
22 don't need two or three weeks to get a temporary ruling.  
23 We need to know immediately what it is. But I -- you know,  
24 I don't mind working after hours or working on the weekends  
25 or -- I'm used to that kind -- based on the practice I

1 have, I'm used to those kind of -- kind of hours. And so I  
2 would -- I would do what it would take to get the job done  
3 in a timely manner.

4 **Q. Do those lend themselves to oral arguments --**

5 A. Some judges will let you do oral arguments. Some  
6 judges just want to go right on the affidavits.

7 **Q. How will you do?**

8 A. I would probably let them do some type of oral  
9 argument. But remember, you know, in the allotted times,  
10 it's a 15-minute hearing or a 30-minute hearing, you know.  
11 I've got to have time to read what you've put in the -- in  
12 the documents, so I wouldn't want to take up the whole  
13 time.

14 But sometimes a lot of the judges, I think, will  
15 let you say what the issues are. Then they will read, and  
16 then the judge will ask questions about the concerns after  
17 reading the affidavits, and so that the attorneys actually  
18 hit on the issues that are -- the judge is struggling with.  
19 And so those are the ones I've found most effective.

20 You know, I do think the client wants the  
21 attorney to be able to speak. And so if you just go and  
22 present paperwork, I think the client at the end of the day  
23 is kind of disappointed, "I paid all this money and my  
24 client -- my attorney didn't even open his mouth."

25 You know, so I think I would give them a chance

1 to speak, but maybe at the end of the hearing after you've  
2 read the affidavits, maybe for clarity or questions, or  
3 tell me what they thought was most important.

4 Q. And if there's a problem with the scheduling --  
5 not all hearings go the full time, necessarily. Some work  
6 themselves out before you even get to them, right?

7 A. Correct.

8 Q. And it would be a matter of just putting an  
9 agreement on the record so, you know, a 15-minute could  
10 become ten, a 30-minute could become ten. Do you -- will  
11 you allow for, again, that occasional case, or perhaps all,  
12 that just don't get the time request down right?

13 A. I would not -- I would not be one of those judges  
14 that say it's a mistrial, or you only requested 30 minutes  
15 and so you're out. I'd want to hear it to the end.

16 And as the DSS attorney you're responsible for  
17 the docket that day. So I would have like a whole six  
18 hours of court time, and then I'll schedule anywhere from  
19 12 to 24 cases during that docket time.

20 And so I'm charge of running the docket that day  
21 and calling the cases. And so I'm kind of used to putting  
22 the easier ones first and trying to get the attorneys in  
23 and out so they can go, and then putting the contested ones  
24 last. And that -- you try to keep the judges happy with --  
25 the attorneys happy, the DSS people happy.

1           And, you know, you've got your psychologists  
2 there and you're paying him by the hour, you don't want to  
3 make him last. You want to get him up and back. So I'm  
4 used to that kind of juggling from my DSS scheduling. So I  
5 think I could kind of work with the attorneys and make sure  
6 everybody was heard.

7           I think at the end of the day, you just want to  
8 make sure everybody's being heard and felt like they've had  
9 a fair opportunity to have their issues heard. And so I'd  
10 want everybody to go home at the end of the day feeling  
11 like the judge got the information that the judge needed.

12           **Q. You can identify a person, if you'd like, because**  
13 **it's going to be a -- what you most want to aspire -- you**  
14 **aspire to being like in terms of a judge, two or three, on**  
15 **the positive, and then what do you want to avoid in the**  
16 **negative. Because certainly you might have encountered a**  
17 **judge who didn't have a good day.**

18           A. Right.

19           **Q. But tell me the attributes of a judge you would**  
20 **like to be recognized as --**

21           A. Well, one of my mentors was Wright Turbeville.  
22 And when Judge Byars -- we interned that last semester, he  
23 came and -- it happened to be spring break, and Judge  
24 Turbeville sat on the bench with him. And so I got to  
25 spend the whole week with not only Judge Byars but Judge

1 Turbeville. So I developed that relationship early on with  
2 Judge Turbeville, and that was one of his first weeks on  
3 the bench.

4 And so he's kind of been a mentor of mine. And I  
5 really like how he handled himself on the bench. And I  
6 would kind of pattern, I think, what I did as the family  
7 court, kind of after him.

8 He ran a firm courtroom. He believed in the  
9 rules. But I think his overallness was he wanted to be  
10 fair and give people an opportunity to be heard, and felt  
11 like they were heard when they went to court.

12 'Cause, you know, you've got to remember you're  
13 seeing people at their very worst. And so family court is  
14 not a fun time for most people. And so I just feel like  
15 that it's important that they see a judge, you know, firm  
16 and running the courtroom, but also a judge with some  
17 empathy and that's going to hear what they have to say to  
18 present to the court.

19 The judges that are looking at the clock the  
20 whole time, or trying to rush you out, or telling you, you  
21 didn't request enough time so they're just going to  
22 continue the case over, are the judges that want to shoot  
23 the case on -- if it's a difficult case and they want to  
24 shoot it on down to the next judge.

25 I would not want to do that. I'd want to tackle



1 the hard cases and tackle the cases on my docket, and at  
2 the end of the day have completed my day's work.

3 SENATOR RANKIN: That's all I have.

4 CHAIRMAN SMITH: Ms. Logan. Did I get it  
5 right?

6 MS. BLACKLEY-LOGAN: You got it right.  
7 Having been a former clerk of court, it is completely  
8 refreshing to hear someone stand up, who is running for a  
9 judgeship, to talk about time wasted. And scheduling  
10 cases, having worked directly with DSS attorneys and  
11 scheduling 23 and 26 and 30 and 38 cases within a time  
12 frame which was really unreasonable, and having to go back  
13 and help reschedule all these cases over and over again, I  
14 think it's great decorum for one to think ahead, just as  
15 yourself.

16 And you give me hope. And you give a lot of  
17 other people hope who work in the court system, about your  
18 outlook on conducting court. And I appreciate that. I'm  
19 sure a lot of people do as well.

20 So thank you for your time. And you are to  
21 be commended for all the wonderful comments that you have  
22 received as well. I am very well pleased to have you  
23 before us.

24 MR. JARRETT: Well, thank you. And I'm on  
25 justice -- the Chief Justice's family court docketing

1 committee, you know. And we have clerks on there and  
2 judges on there and DSS attorneys and DJJ attorneys, and so  
3 we deal with those issues over and over and over, and try  
4 to come up with best -- get best practices.

5 MS. BLACKLEY-LOGAN: Yeah, I was one of  
6 those former advisees. Not actually on that committee. I  
7 was on the docket -- the docket committee. But, you know,  
8 one of my biggest complaints was we had these cases  
9 scheduled, and it's eleven o'clock on Friday and it's time  
10 to go home, but you hadn't finished your docket.

11 You know, a lot of people take a lot of time  
12 out of their schedule to get these cases scheduled. And it  
13 makes the world better if we all to just stay and do what  
14 we're supposed to do --

15 MR. JARRETT: Yeah, I'm a workaholic. I'll  
16 get the job done at the end of the day. I want all the --  
17 all the files returned to the clerk, with none of those  
18 papers on the front saying they had to be continued.

19 MS. BLACKLEY-LOGAN: Thank you.

20 CHAIRMAN SMITH: Senator Sabb.

21 SENATOR SABB: I'd be remiss if I didn't  
22 share Ernie's journey, as I watched him as a young lawyer  
23 coming into Williamsburg County, and the way that he has  
24 grown and he has developed. When he mentioned Judge Wright  
25 Turbeville's name, it reminded me of a case that he and I

1 had together. And the thing about Judge Turbeville, that I  
2 think Ernie borrows is not only did Judge Turbeville run an  
3 orderly courtroom and all of that, he cared about the  
4 lawyers and how the lawyers presented themselves, and was  
5 interested in the growth and development of lawyers. And  
6 he was a good part of my growth and development. I'm sure  
7 he was a good part of Mr. Jarrett's growth and development  
8 as well.

9 But what I think what you see here is a  
10 culmination of a lawyer who has just worked at his craft  
11 over the years, and quite frankly, is so close to  
12 perfecting it, if there is such a term in the practice of  
13 law. I think he is near as anyone I've ever seen. And I  
14 couldn't be more proud of him and just delighted that he  
15 decided to offer himself. That was two minutes talking  
16 about you.

17 CHAIRMAN SMITH: Rutherford is the  
18 timekeeper, by the way. I do want to just ask a couple of  
19 questions, if I could, to wrap this up.

20 EXAMINATION BY CHAIRMAN SMITH:

21 Q. Tell me, I didn't realize you were doing DSS  
22 contract work. How long have you been doing that?

23 A. About 26 years.

24 Q. All right. So I want to commend you of doing  
25 that, for being that long, because what I've seen of late -

1 - and that's one thing Senator Young, and we've had  
2 discussions, is the turnover in DSS contract lawyers. And  
3 so how -- you have made it 26 years and not doing a  
4 turnover, I guess there's no -- the bench is sort of thin  
5 over in Williamsburg County. We got Mr. Sabb, if it wasn't  
6 going to be you, and I'll bet he'd start running if that  
7 was the case.

8           But I just see them hiring new lawyers. And  
9 that's been some of the concern we saw with the Department  
10 of Social Services, and what we've mentioned to the -- to  
11 the director in our meetings is, you know, you need some  
12 stability in your system -- in your attorney system.  
13 Because they're the ones who are interacting, they've got  
14 institutional knowledge, they got knowledge of families in  
15 a small town such -- or a county as Williamsburg County. I  
16 presume you've seen people over and over --

17           A. Right.

18           Q. -- in probably 26 years. You've seen the  
19 children turn into parents --

20           A. Unfortunately.

21           Q. -- and their children.

22           A. Right.

23           Q. Yes, sir. And so, you know, I do want to commend  
24 you and thank you. 'Cause that's a service. That's not a  
25 job. They don't pay you well, I know that. And they --

1 but it is a service to the state and to the profession.

2 And I really do appreciate that.

3 CHAIRMAN SMITH: And, likewise, I've known  
4 Ernie since we were in high school. We used to see each  
5 other at sporting events. And we followed him -- followed  
6 him to Wofford and law school and everywhere else. He was  
7 always one year ahead of me, so I -- and probably two steps  
8 ahead of me. But I'm proud of what you've done. So my  
9 compliments will be done there, Ernie. But I do appreciate  
10 --

11 MR. JARRETT: Thank you.

12 CHAIRMAN SMITH: I appreciate what you've  
13 done. I appreciate you offering for this position. With  
14 no further questions, that will conclude this portion of  
15 our screening process.

16 I want to take this opportunity to remind  
17 you that pursuant to the Commission's evaluative criteria,  
18 the Commission expects candidates to follow the spirit as  
19 well as the letter of the ethics law. And we will view  
20 violations or the appearance of impropriety as serious and  
21 potentially deserving of heavy weight and screening  
22 deliberations.

23 As you know, the record will remain open  
24 until the formal release of the report of qualifications,  
25 and you may be called back at such time if the need arises.

1 I thank you for offering this position -- for this  
2 position. And I thank you for your service to the State of  
3 South Carolina.

4 MR. JARRETT: Thank you all for your time  
5 today.

6 CHAIRMAN SMITH: All right. Safe travels  
7 home.

8 MR. JARRETT: Yes, sir.

9 (Candidate excused.)

10 (Off the record from 4:09 p.m. to 4:25 p.m.)

11 CHAIRMAN SMITH: The next candidate is Judge  
12 Tarita Dunbar. If we could get Judge Dunbar over here,  
13 please. Judge Dunbar, if you'd come on up to the podium.  
14 And I think is that your husband that's with you?

15 JUDGE DUNBAR: Yes.

16 CHAIRMAN SMITH: Would you like to introduce  
17 him?

18 JUDGE DUNBAR: Yes. This is my husband,  
19 Vernon Dunbar.

20 CHAIRMAN SMITH: Welcome.

21 JUDGE DUNBAR: Thank you. Good afternoon.

22 CHAIRMAN SMITH: Good afternoon. Before we  
23 get started, let me -- let me just talk about procedure,  
24 'cause we have some people here. We're going to go through  
25 the initial portion with you, and then Counsel's going to

1 have questions. And then we're going to hear from the  
2 witnesses and then -- and then you'll have a opportunity to  
3 respond to each witness, okay?

4 JUDGE DUNBAR: Okay. Yes, sir.

5 CHAIRMAN SMITH: And so that will be the  
6 process to which we go.

7 JUDGE DUNBAR: Okay.

8 CHAIRMAN SMITH: If you'll raise your right  
9 hand for me, please, ma'am.

10 WHEREUPON:

11 THE HONORABLE TARITA A. DUNBAR, being duly  
12 sworn and cautioned to speak the truth, the whole truth and  
13 nothing but the truth.

14 CHAIRMAN SMITH: You have before you, your  
15 personal data questionnaire and sworn statement. Are those  
16 both documents you submitted to the Commission?

17 JUDGE DUNBAR: Yes. Yes, sir.

18 CHAIRMAN SMITH: Are they correct?

19 JUDGE DUNBAR: Yes, sir.

20 CHAIRMAN SMITH: Any change or update or  
21 anything at this time?

22 JUDGE DUNBAR: No, sir.

23 CHAIRMAN SMITH: And do you have any  
24 objection to us making those as exhibits to your sworn  
25 testimony here today?

1 JUDGE DUNBAR: No, sir.

2 CHAIRMAN SMITH: Without objection we're  
3 going to make those documents. If you'll hand them to  
4 Lindi for us, please, ma'am.

5 JUDGE DUNBAR: Yes.

6 (EXHIBIT NO. 17 - JUDICIAL MERIT SELECTION  
7 COMMISSION PERSONAL DATA QUESTIONNAIRE OF THE  
8 HONORABLE TARITA A. DUNBAR)

9 (EXHIBIT NO. 18 - JUDICIAL MERIT SELECTION  
10 COMMISSION SWORN STATEMENT OF THE HONORABLE  
11 TARITA A. DUNBAR)

12 (EXHIBIT NO. 19 - AMENDMENT TO PERSONAL DATA  
13 QUESTIONNAIRE OF TARITA A. DUNBAR)

14 CHAIRMAN SMITH: Judge Dunbar.

15 JUDGE DUNBAR: Yes.

16 CHAIRMAN SMITH: The Judicial Merit  
17 Selection Commission has thoroughly investigated your  
18 qualifications for the bench. Our inquiry has focused on  
19 nine evaluative criteria and has included a ballot box  
20 survey, a thorough study of your application materials,  
21 verification of your compliance with state ethics laws, a  
22 search of newspaper articles in which your name appears, a  
23 study of previous screenings and checks for economic  
24 conflicts of interest.

25 We've received two affidavits today in



1 opposition to your election. And we have two witnesses  
2 present to testify. Do you wish to make a brief opening  
3 statement to the Commission?

4 JUDGE DUNBAR: Okay. Yes, just very  
5 briefly. I just want to say that -- to this commission,  
6 that it's an honor and a privilege for me to be here. And  
7 I enjoy serving the citizens of this state. It's an honor  
8 and a privilege for me to serve the citizens. I'm  
9 passionate about the citizens. And I hope to continue to  
10 do a great job for the citizens of this state. Thank you.

11 CHAIRMAN SMITH: Thank you very much.  
12 Answer any questions that Counsel may have for you, please,  
13 ma'am.

14 JUDGE DUNBAR: Yes, sir.

15 MS. DEAN: Thank you, Mr. Chairman.

16 EXAMINATION BY MS. DEAN:

17 **Q. Judge Dunbar, after serving for five years on the**  
18 **family court bench, why do you want to serve -- continue**  
19 **serving as a family court judge?**

20 A. Why I want to continue to serve is I'm very  
21 passionate about people. And my passion is driven by a  
22 love for the people and a love for this state. And I  
23 believe that I can do a -- make a good influence on the  
24 people of this state and the families of this state.

25 And my passion has not died, it's actually

1 increased. And I want to opportunity to do that. And I  
2 think I've been effective in a lot of circumstances.

3 **Q. Thank you, Judge Dunbar. Please explain one or**  
4 **two brief accomplishments that you feel you have completed**  
5 **during your tenure, and a goal you would like to accomplish**  
6 **if reelected.**

7 A. Some of my achievements have been -- I have been  
8 appointed by Chief Justice Pleicones, to the Judicial  
9 Commission on the Profession. That was a great honor. And  
10 I've also been appointed to -- or asked to serve on the  
11 Children's Best Legal Practices. And I take that very  
12 seriously.

13 I've been asked to serve on several prominent  
14 committees. I'm on the National Conference of Juvenile  
15 Family Court Judges. And also the most satisfaction that  
16 I've obtained is when I hear feedback from individuals that  
17 say, you know, "Thank you for listening to me" or you  
18 really -- "I could tell that you really cared about my  
19 child."

20 And so that's been a great achievement for me.  
21 And one of my goals is -- is really to understand more, how  
22 to be effective in the community as far as getting  
23 resources in the community. In particular to vulnerable  
24 juveniles and vulnerable parents of abuse -- in abuse and  
25 neglect cases.

1           Q.    Thank you, Judge Dunbar.  What do you think your  
2 reputation is among the attorneys that practice before you,  
3 and court personnel?

4           A.    I think definitely, first off, with court  
5 personnel I've always been told that they love me.  I'm  
6 being humble when I say that.  I speak to them.  I often go  
7 down to the clerk's office without the aid of my AA.  
8 Sometimes that's not a good thing, because you might see  
9 someone that says, "Wait a minute.  Isn't that the judge?"  
10 And they might want to ask you a question.

11                        But I think I'm very beloved by all the court  
12 personnel and staff.  And as far as the lawyers, I know  
13 that the first thing that I was told in the Bar selection  
14 process is that -- that I actually care.  And I was  
15 surprised at that comment, because I thought, well, that's  
16 why you're on this job is because you care.  Because you  
17 have to care in order to be effective in this job.

18                        And I know that lawyers think that I care, that I  
19 empathize with the litigants, that I'm patient, that I try  
20 hard, that I work hard, and that I'm accommodating.  In  
21 particular, I say that I'm accommodating because they feel  
22 confident -- comfortable, the lawyers do, in contacting me  
23 and saying, "Judge, will you -- I just settled this case.  
24 It's a nasty case.  Will you please hear this case so I  
25 won't have to go to the clerk's office?"

1           And I'll say set -- you can set it in front of me  
2 at nine o'clock. We start at 9:30 or 9:15, or on Fridays  
3 at 12:30, because we stop at 12:30. Any one of those days  
4 would be preferable -- any day during the week and those  
5 times would be preferable for me.

6           And I listen and I come prepared, and that I'm  
7 respectful and I'm courteous to all the litigants and  
8 everyone that comes in the courtroom, and that I commend  
9 the attorneys, they're thankful for me for that. And  
10 that's about it.

11           **Q. Judge Dunbar, the Commission received 590 ballot**  
12 **box surveys regarding you, with 82 additional comments.**  
13 **The ballot box survey, for example, contained the following**  
14 **positive comments:**

15           **"I've been in front of her many times. She is**  
16 **great. An excellent judge who is diligent and caring and**  
17 **compassionate."**

18           **Twenty of the written comments expressed**  
19 **concerns. Several comments indicated concerns regarding**  
20 **your ruling, specifically with the ability to make the**  
21 **tough calls with clarity and consistency. What response**  
22 **would you offer to this concern?**

23           **A. Okay. As far as the concern about the tough**  
24 **calls, you have to make the tough decisions. You have to**  
25 **make the final, ultimate decision. And I've made tough**

1 calls. It's not easy. And maybe my demeanor, I might have  
2 showed in the early years of my tenure, the nervousness  
3 that I felt. Because I weigh these things very heavily and  
4 I don't take them lightly.

5 As a matter of fact, on all of my -- and I got  
6 this from a very -- from a very well respected judge that  
7 says, "You're allowed to take these motions under  
8 consideration, under advisement, as long as you get them  
9 out, Tarita, before the end of the week."

10 And I do that now on all of my motions that deal  
11 with alimony or custody or support and those type of  
12 issues. And I give my ruling, I make sure that I give it  
13 the next day before nine o'clock. If not the next day, the  
14 next -- not later than two days later.

15 **Q. A concern was also raised regarding you**  
16 **interjecting your personal beliefs into hearings. What**  
17 **response would you offer for that?**

18 A. Now, as far as my personal beliefs, as far as  
19 with juveniles, I do interject a lot. Because I think it's  
20 important to say things to them that maybe move them and  
21 touch their heart in a way. So I do speak from my heart to  
22 the juveniles and in abuse and neglect cases.

23 And I do think because I do that, I get a good  
24 bit of feedback that say that they feel like that I care or  
25 that I touched them in a way. But other than that, I don't

1 -- I guess now I better not say anything. But I thought I  
2 was making an effective response in what I say.

3 **Q. Judge Dunbar, also the concern was raised**  
4 **regarding your legal knowledge regarding, for example,**  
5 **rules of evidence procedure, and with financial matters.**  
6 **What response would you offer for those concerns?**

7 A. I can tell you I have bought every book in the  
8 South Carolina Bar. They love me and know me 'cause I  
9 spent all my money there. And I've even bought CLEs.

10 And I can admit -- I can see how that perception  
11 can be in the beginning, in the first two years of my  
12 tenure. I was very nervous and -- and I took my time. And  
13 I think that based on my nervousness and my demeanor, I  
14 didn't try to hide it. And that maybe caused some concerns  
15 as to -- as to my knowledge.

16 However, I do -- and I didn't talk a lot. I  
17 listened a lot. And so I didn't try to get in a verbal  
18 argument with lawyers regarding rulings, because I didn't  
19 want to embarrass them in front of their clients.

20 But now in order not to tarnish my reputation, I  
21 bring my book in. And I have to -- when I have to, now I  
22 say, "Here's the rule right here. It says this."

23 And I don't like arguing, but I do. Because I  
24 know now that I have to.

25 **Q. Thank you, Judge Dunbar.**

1 MS. DEAN: The Citizens Committee writes in  
2 here -- the Upstate Citizens Committee found Judge Dunbar  
3 qualified in the evaluative criteria of constitutional  
4 qualifications, physical health and mental stability.  
5 The Committee found her well qualified in the evaluative  
6 criteria of ethical fitness, professional and academic  
7 ability, character, reputation and experience and judicial  
8 temperature.

9 The Committee stated in summary: "Members of  
10 the community had nothing but positive things to say about  
11 Judge Dunbar. All attorneys who were interviewed indicated  
12 the candidate has a wonderful temperament and meets the  
13 evaluative criteria in most areas. However, some attorneys  
14 were critical of her understanding of process and legal  
15 principles in family court. Other attorneys believe she  
16 has achieved a much higher level of competency due to her  
17 hard work and study. Based on our conversation with the  
18 candidate, the committee believes that she strives to be an  
19 excellent family court judge."

20 BY MS. DEAN:

21 Q. I was going to ask if you'd like to comment to  
22 that.

23 A. I do want to add one more thing. I think, too,  
24 that -- I think my record on appeal will speak to my legal  
25 knowledge. I think that I've done pretty well on appeal.

1 On my first -- when I first got on the bench, I had a case  
2 that dealt with equitable distribution, transmutation. And  
3 I got all of those -- well, I shouldn't say correct. But  
4 the Court of Appeals affirmed me on those decisions.

5 And also on the case that I was reversed on with  
6 the alimony issue of the 90 days, there was no published  
7 opinion or unpublished opinion on that issue. And that --  
8 that matter is still pending before the Supreme Court.  
9 They have not dismissed it yet.

10 And that's all I'm going to add on that. Thank  
11 you.

12 MS. DEAN: Mr. Chairman, I would now turn to  
13 the two complainants, one by Ms. Sellers and one by Cynthia  
14 Glenn. Both complainants are here to testify today. Mr.  
15 Chairman, if it feels appropriate, I'll ask Judge Dunbar to  
16 be seated and invite Ms. Sellers to the podium.

17 CHAIRMAN SMITH: Judge Dunbar, if you'll  
18 have a seat. And you can sit with your husband if you  
19 like, or you can sit on the front row. Whatever you  
20 choose. Wherever you're most comfortable. We're going to  
21 hear from the complainants. And I think we're going to  
22 take one up and then allow you to respond, if you wish to  
23 respond at that time, okay?

24 JUDGE DUNBAR: Thank you.

25 CHAIRMAN SMITH: And so we'll hear from the



1 first witness right now. Ms. Sellers -- is that who's  
2 going to be the first witness? Ms. Sellers, I appreciate  
3 you being here today. I think we'll place her under oath,  
4 like we do everything else, just like the judge. So will  
5 you raise your right hand, please, ma'am.

6 WHEREUPON:

7 LINDSAY SELLERS, being duly sworn and  
8 cautioned to speak the truth, the whole truth and nothing  
9 but the truth.

10 CHAIRMAN SMITH: Thank you very much. And,  
11 Ms. Sellers, we've got your submissions that you have given  
12 to us. We've got your affidavit and I think we received  
13 copies of these exhibits. So every member has been  
14 distributed one of those copies. So just so you know we  
15 got -- received those and we reviewed them, okay? So I'll  
16 be happy to hear from you.

17 MS. SELLERS: Sure. Yes, sir. I'd like to  
18 give --

19 CHAIRMAN SMITH: If you could speak into the  
20 microphone for us.

21 MS. SELLERS: I'd like to pass this up,  
22 maybe through Lindi. This is a picture of my children and  
23 myself, and then a note this morning that was left on my  
24 laptop, from my daughter.

25 And as she's passing those, I've prepared a

1 statement overnight, last night. Obviously, as you all  
2 probably know, this is a very anxious time for us as  
3 complainants.

4 I would like to begin by genuinely thanking  
5 each of you for attending today. I know the task of  
6 attending these types of hearings are quite demanding and  
7 daunting. However, I would like to share that I've  
8 patiently waited for this day, for this time and this  
9 public hearing, for over two years.

10 Some of you in this court -- courtroom, and  
11 on this commission, have heard my story. And some of you  
12 have not -- I have not had the pleasure of meeting.  
13 However, I would like for you to have an understanding of  
14 why I've traveled three and a half hours back to Columbia,  
15 today, to address the lack of ethical fitness of Ms.  
16 Dunbar, and why I take this so seriously.

17 Please know and understand that I'm not here  
18 as a scorned litigant. Let me repeat: I'm not here as a  
19 scorned litigant. I am here as a constituent, a lay  
20 guardian ad litem, a concerned parent, and above all else  
21 an advocate for two victims: my children.

22 This is a very difficult position to be in,  
23 because I am standing before the very commission that South  
24 Carolina entrusted four years ago to find the most  
25 competent candidate for the 13th Judicial Circuit. But

1 unfortunately, that chosen candidate failed me, failed my  
2 children, and the State of South Carolina.

3           After reviewing the judicial applications  
4 and summary for the votes selecting Ms. Dunbar, I am  
5 concerned. Deeply and severely concerned. I am eloquently  
6 pleading that each of you really hear and feel the  
7 ramifications, those being financial, emotional, physical,  
8 and the list goes on, that myself and children have  
9 endured, based on the lack of competence and ethical  
10 fitness that Ms. Dunbar displayed during her tenure as a  
11 family court judge for the 13th Judicial Circuit.

12           We know there are thousands more, but there  
13 are -- they are scared, misinformed about this procedural  
14 process, or gave up waiting to be heard. However, two  
15 complaints, two in one day for one candidate, speaks  
16 volumes, as you all know what this took to get here.

17           I mean, we all expect a judge to be as close  
18 to as an example of perfection as we can get, correct?  
19 Well, I -- please know I personally am not requesting that  
20 the Bar set -- or the Bar is set for perfection. But I am,  
21 however, setting a standard and expectation that we as  
22 constituents, citizens, and litigants in South Carolina  
23 demand the following: respect, compassion, intelligence,  
24 experience, competence. And above all else, integrity.

25           We are one of two states left out of fifty

1 that are electing our judges in this manner. Please know  
2 we are watching intently, as you yourselves are elected as  
3 the liaison to speak on our behalf. A majority of you  
4 sitting before me are elected officials and also private  
5 attorneys. No one is faulting you for making a living.  
6 But you, yourselves, know this is where the pavement turns  
7 to gravel road, and the perception is very much a reality  
8 as private litigants.

9 I invite you to listen to the Cliff Notes of  
10 my case, as I tell our story so you can understand why I  
11 have submitted the questions that I have for Ms. Dunbar to  
12 answer this afternoon. Since most of you before me are  
13 legal counsel, I challenge you to listen to my summary and  
14 time line of events as if you were, yourself, wearing the  
15 hat as my legal counsel during this time frame. I believe  
16 that you will find that most enlightening and beneficial  
17 for your determination.

18 The history of my case. I was married in  
19 2006 to 2014, to a police officer out of Myrtle Beach. We  
20 had two children. They are both now 8 and 11. The father  
21 is a local police officer in the Greenville area, and I was  
22 a district manager for Walmart. I was recruited into  
23 management at 19 years old.

24 I provided a bedroom -- a three-bedroom  
25 home, with bedrooms for both children, along with their own

1 bathroom. And Dad provided a one-bedroom apartment and  
2 allowed the children to sleep on the floor during their  
3 visitation, a week at a time.

4 Over the course of the divorce, the father  
5 repeatedly stalked me and harassed me. The chief of police  
6 at that time wouldn't investigate the formal complaint I  
7 was -- as he was personally being investigated and  
8 potentially being indicted.

9 I was covering at the time 17 Walmarts, had  
10 two small children and lived on a five-acre horse farm, all  
11 of which I maintained on my own. I subsequently asked to  
12 step down from my position to something that was more  
13 localized during my divorce, due to the stressful and  
14 contentious nature of the litigation. Walmart agreed but  
15 explained that after the divorce was finalized, that they  
16 wanted me to move back up into my position.

17 I mediated that case and we found -- it was  
18 50/50 placement and 50/50 custody. One week was with Mom  
19 and one week was with Dad. No alimony or child support was  
20 awarded -- awarded. However, due to being the  
21 breadwinner, I paid all daycare expenses and healthcare  
22 premiums.

23 After the divorce concluded, I started  
24 interviewing for advancement opportunities. And due to the  
25 ethical contradictions, home office wouldn't allow me to

1 move back up into my position in the Greenville area. I  
2 then filed a motion as a suggestion from Walmart, to move  
3 to the Columbia area to maintain the financial support for  
4 my children, as I was the only party doing so. I won the  
5 motion and was granted the ability to move to -- to move  
6 with the children to Lexington, immediately.

7 I did not receive a dime of child support,  
8 even though it was asked for in the pleadings. I didn't  
9 receive any financial assistance, not even one red cent,  
10 from Mr. Nichols during the time that the children stayed  
11 in my custody. And that was a second temporary hearing.

12 The children attended the best elementary  
13 schools in the state in Lexington, maintained honor roll,  
14 and were actively involved in extracurricular activities.  
15 The children were thriving in my home and they each had  
16 their own bedrooms and bathrooms.

17 Over the course of that time, Mr. Nichols  
18 still maintained and stalked me, and filed four DSS  
19 complaints which were immediately investigated and closed.  
20 The investigator showed up at my place of employment and  
21 interviewed me, a disruption to my work environment.

22 Mr. Nichols then had a GPS tracker placed on  
23 my car while I was at work. A customer saw this being done  
24 and thought it was a bomb being placed on my car. The  
25 customer then immediately went into Walmart and notified

1 us, not knowing what had been done.

2 I asked for a formal leave of absence from  
3 Walmart, due to panic attacks and the stress that I was  
4 under with the stalking that was enduring at the time. And  
5 over the course of that leave of absence, I ended up  
6 intercepting and meeting a woman by the name of Debra  
7 Russell.

8 Debra Russell was the attorney on this case,  
9 and had asked me -- well, she -- I ended up working for her  
10 and leaving Walmart, due to I wanted to make sure that I  
11 had an administrative scheduled versus a Walmart schedule  
12 for my children. Over the course of that, she agreed to do  
13 the case for a quid pro quo. And we were leading up to  
14 that time frame.

15 In October is when we had a hurricane here  
16 late in the season, and Mr. Nichols, the father who was a  
17 police officer, asked that if he could get the children  
18 back for that weekend. That was his weekend of visitation.  
19 But they were doing lane reversals and evacuations and --  
20 on a Wednesday. And so I agreed and allowed Mr. Nichols to  
21 have them early, so he was able to have his visitation with  
22 the children.

23 At that time, where this is important, is  
24 that I had my son put back on medicine for ADHD. I noticed  
25 when he was about 3 years old, the symptoms. Because my

1 brother suffered from it.

2 I had him diagnosed and Mr. Nichols pitched  
3 a fit about Brantley being on medicine. But when he was in  
4 my full custody, I went back to the pediatrician and they  
5 agreed that Brantley needed to be placed on medicine.

6 Where this is relevant is in October, when  
7 the hurricane happened, Brantley -- I wasn't able -- unable  
8 to go home and collect his medicine to send with him to his  
9 dad before the lane reversals happened. So he went five  
10 days without his medicine.

11 I picked him back up on Sunday evening for  
12 him to start school back again on Monday. And during that  
13 time, when I picked him up he was in excruciating pain.  
14 And I didn't know what was wrong. And I get him home and  
15 he would -- he just couldn't tell me, because he was 4  
16 years old, of what was happening.

17 And I had talked to Ms. Russell the next  
18 morning and -- as I was going to be late for work, handling  
19 this and getting him off to school. And she heard him in  
20 the excruciating pain, screaming. And she said, "Lindsay,  
21 what's wrong? Something is not right."

22 And I said, "Yeah, ever since I've picked  
23 him back up from Greenville, something is not right."

24 And so I ended up taking him to the doctor.  
25 And Debra, because there was a friendship formed at that



1 time, she said, "Let me come by the house and just see."  
2 Because she was a previous solicitor in Richland County.

3 And when she did so, she came out and she  
4 was talking to my son -- I was outside with my daughter --  
5 she then comes back into my kitchen, white as a ghost, and  
6 says, "We have to notify Greenville County of something."

7 And I said, "Well, what is it?"

8 And she said, "Brantley admitted that Dad  
9 had put something sour in his bottom." And you'll see that  
10 referenced in the affidavit. I didn't know what that  
11 meant. I was just a scared mother, because I didn't know  
12 what was wrong with my son.

13 I didn't see any signs of any abuse from my  
14 ex-husband in the past. We'd both been good parents.  
15 Didn't get along, we were going through a contentious  
16 divorce custody case, obviously, but I never had, had any  
17 signs of any issues with him. So I didn't know what to do.

18 And so she's the attorney, so I took her  
19 suggestion. And we had a pre-trial conference in  
20 Greenville that was scheduled later on that week. So we  
21 attend. She notifies -- Judge Alex Kinlaw was the  
22 administrative judge at the time, that was hearing the  
23 pretrial conference. And he says, "Well, we're going to  
24 put this on hold because we need to find out what's going  
25 to happen."

1                   And so I had -- Ms. Russell ending up  
2 putting an affidavit for Greenville County. They did an  
3 investigation of forensics, the ARC investigation was done  
4 here in Columbia, and was found out that Brantley had a  
5 side effect due to the medicine that no one knew about,  
6 because he was without it, so he had an impaction.

7                   And I -- and I think to Dad's defense, that  
8 he may have given him an enema. But Dad fails to  
9 communicate with me, so I didn't know what that was. But  
10 where that's relevant is we go through the pretrial  
11 conference, we come back, Judge Kinlaw ends up sending down  
12 something and reschedules the pretrial conference for us to  
13 make a determination as to what happens next.

14                   And during that time frame a motion was  
15 filed by Mr. Wes Meetze, Doug's attorney, disqualifying my  
16 attorney because she had made herself a witness to the  
17 case.

18                   As you know, I'm a mom. I was in the middle  
19 of a Catch 22, because if I didn't follow her advice and  
20 something was wrong and Brantley had endured abuse, I was a  
21 negligent mother. And then I -- there was no other way  
22 around it.

23                   So outside of that, Judge Kinlaw ends up  
24 disqualifying Ms. Russell. And we're three weeks from  
25 trial. She files a motion to continue. And we're in the

1 30-day time frame, and we're calling every attorney we can  
2 to have them on standby. But they're under protection  
3 because they're already on the docket to clear a court  
4 docket in December of that year.

5 We called 28 attorneys. It came down to the  
6 point that a retired family court judge prepped me to be a  
7 pro se litigant for this case. I ended up -- I waited and  
8 waited and waited. Judge Kinlaw did not, and failed to  
9 tell us what the determination was on the motion to  
10 reconsider. So I'm in limbo up until a week and a half  
11 prior to this three-day final hearing of custody of my two  
12 children.

13 I get into the courtroom and the first thing  
14 I asked for is that the courtroom is sequestered. She  
15 grants -- Ms. Dunbar grants that request. My second was to  
16 file a formal motion on the record for a continuance, based  
17 off of counsel.

18 Her response to me was that she knew -- that  
19 I knew that she couldn't do that. And the reason being is  
20 because Judge Kinlaw put in his order when he disqualified  
21 Ms. Russell, that the case would not be continued based off  
22 of counsel.

23 Well, I would love to know, Commission, how  
24 and what I was supposed to do. I had an attorney. I  
25 didn't have her taken away. Judge Kinlaw took her away

1 because she was doing what she thought was right for my  
2 son.

3                   And so then I'm the one and my children are  
4 the ones that are now victims of this case, because I am  
5 stuck in a courtroom pro se, and unable to have counsel  
6 present. Now, where we believe that, that's okay in the  
7 state of South Carolina is appalling.

8                   Then on top of that, we start the case, I  
9 was able to have multiple things admitted in evidence. And  
10 I think I did an okay job as a pro se litigant. But  
11 however, I don't feel like that the -- that the case was  
12 handled appropriately by Ms. Dunbar.

13                   And that's why we are here today. But I  
14 wanted you to know the background of what took place and  
15 why I was a pro se litigant. It was not because I wanted  
16 to be. It was because I was forced by the State of South  
17 Carolina to be.

18                   And so this case is under appeal and goes to  
19 oral argument sometime in the spring. And but what happens  
20 next, I don't know. But for here today, what I'm  
21 addressing is Judge Dunbar's personal biases that she  
22 placed on the record.

23                   ADHD in my household for my son has been a  
24 big, big, big controversy for a long time. Now I can say  
25 my son is being diagnosed again. with the help of his

1 father, and he's also been diagnosed with a second syndrome  
2 that affects him.

3 He was held back in the first grade due to  
4 this. Because in our final order, Judge Dunbar wrote that  
5 the parents have fifty -- 50/50 legal custody, but however  
6 in the -- due to the impasse, that Father has final say.  
7 Well, I can tell you that there's nothing in my court case  
8 that would allow her to make such a judgement call.

9 I never did anything wrong. I've never been  
10 convicted of a crime. Never. I don't think Walmart would  
11 allow me to cover 17 of their stores with a criminal  
12 record, or have that type of character flaw.

13 I'm asking for you, today, to take a stance,  
14 that you do the right thing. Yes, we are two of fifty  
15 states that are still electing our judges this way. But I  
16 promise you, that's not the right way. But we can't cure  
17 that problem here, right now immediately.

18 But what I am asking you to do today is  
19 don't allow this to continue. A personal bias, a judge  
20 that is unethical and allows that to happen should not be  
21 allowed to be on a Bar, to be a part of the USC Law School,  
22 to be continuously making decisions, permanent decision,  
23 for our children.

24 She failed me. She failed my children. And  
25 she failed the State of South Carolina. And I feel

1 confident in you, after waiting two years, that you will  
2 finally take a stance, today, and make sure that she is not  
3 allowed to continue. Thank you.

4 MS. DEAN: Thank you, Ms. Sellers. If  
5 you'll stay there, please. Just to summarize your  
6 complaint, it alleges that Judge Dunbar interjected a  
7 personal bias in a case, and it questions some of the  
8 decisions that the court made. Ms. Sellers, I plan to ask  
9 you some questions about each of these allegations.  
10 Commission members may have questions of their own.

11 MS. SELLERS: Sure.

12 MS. DEAN: Mr. Chairman, for the record, we  
13 again note that the Commission is focused on the nine  
14 evaluative criteria, and not relitigating any past  
15 proceedings.

16 First, Ms. Sellers, is your case under seal?

17 MS. SELLERS: No.

18 MS. DEAN: Thank you. Generally, this  
19 hearing is a three-day hearing in December of 2016,  
20 regarding custody of your children as you lived in the  
21 Columbia area and your ex-husband lived in the Greenville  
22 area; is that correct?

23 MS. SELLERS: Yes, ma'am.

24 MS. DEAN: Ms. Sellers, you allege that  
25 Judge Dunbar spoke about her personal experience regarding

1 ADHD at a point during the three-day hearing; is that  
2 correct?

3 MS. SELLERS: Yes, ma'am.

4 MS. DEAN: You mentioned that you were pro  
5 se during that time. And was the statement during the  
6 portion of the trial where you were questioning your mother  
7 about your son's health?

8 MS. SELLERS: Correct.

9 MS. DEAN: And is your mother in the  
10 healthcare profession?

11 MS. SELLERS: No. But my mother is a state  
12 employee and works at DJJ as an intensive supervision  
13 probation officer, and so she is very aware of all of the  
14 mental disorders on the DSM5.

15 MS. DEAN: And your mother is present here  
16 today?

17 MS. SELLERS: Yes, ma'am.

18 MS. DEAN: Mr. Chairman, for the  
19 Commission's benefit, on review of the transcript during  
20 her testimony, if Karen Sykes -- the Complainant's mother,  
21 correct?

22 MS. SELLERS: Yes.

23 MS. DEAN: -- the court stated -- an  
24 objection was made by Mr. Meetze. And you explained who  
25 Mr. Meetze was earlier? MS. SELLERS: Yes, he

1 was my ex-husband's -- he's the opposing attorney. The  
2 only attorney in the room.

3 MS. DEAN: Mr. Meetze stated, "Objection,  
4 Your Honor. Outside of her expertise." Her being the --  
5 your mother, Karen Sykes. Is that correct?

6 MS. SELLERS: Yes.

7 MS. DEAN: "She's asking for an expert  
8 opinion regarding an ADHD diagnosis."

9 And the Court stated, "I don't know that  
10 anybody can. I don't know that I can tell if somebody has  
11 ADHD. I think children are active. My kids are -- were in  
12 school and the teacher wanted to say my son had ADHD, took  
13 him and he got a test and he wasn't ADHD. So I don't know.  
14 Kids are active. Kids don't get to play outside as much as  
15 they used to. I mean, I don't know. It's really a  
16 flipping science to this whole ADHD. And I don't want to  
17 go into any testimony that I don't believe an individual  
18 lay -- individual can determine whether anybody has it. I  
19 mean, there's a controversy where some scientists are now  
20 saying that people are just making these diagnoses, and  
21 some are saying it's not ADHD. Who knows. And then they  
22 got all kinds of varieties of ADHD. It seems like  
23 everybody that I see come in the courtroom, they got it.  
24 Every little boy and no girls have it, though -- but no  
25 boys have it. And we can get some testimony from Ms.



1 Mobley, she's a guardian ad litem, she probably can testify  
2 that every case she got on little boys, they got ADHD. So  
3 I don't want to hear any -- I don't think she -- and I'll  
4 sustain. I don't think she got the expertise to determine  
5 if anybody has ADHD. All right."

6 And then you began questioning your mother  
7 further.

8 MS. SELLERS: So to clear --

9 MS. DEAN: Is that an accurate portrayal?

10 MS. SELLERS: I just want to make sure  
11 you're giving the dialog from Judge Dunbar? Is that  
12 correct?

13 MS. DEAN: When I said "the Court," yes.

14 MS. SELLERS: Okay. I missed that. Sorry.

15 MS. DEAN: Is that an accurate portrayal?

16 MS. SELLERS: Absolutely.

17 MS. DEAN: And so you also allege that Judge  
18 Dunbar made reference to a personal experience in  
19 discussing the lack of bedrooms for your children at your  
20 ex-husband's apartment; is that correct?

21 MS. SELLERS: Yes, ma'am.

22 MS. DEAN: Do you know when during the trial  
23 this occurred, this discussion from the court, regarding  
24 the bedrooms?

25 MS. SELLERS: I can't -- I mean, it was

1 three -- a three-day trial, Ms. Dean.

2 MS. DEAN: Sure.

3 MS. SELLERS: I honestly don't remember  
4 exactly, off the -- I can summarize it for you. I was  
5 contesting the fact that Mr. Nichols only provided a one-  
6 bedroom apartment, and we had a 50/50 one week with Mom,  
7 one week with Dad. I provided two bedrooms and a bathroom  
8 for my children. He provided sleeping bags on a floor for  
9 them, every other week.

10 I'm sorry. But as a mom, I did not feel  
11 that, that was a -- in the best interest of my children.  
12 And then Mrs. Dunbar went on to elaborate that her children  
13 slept together in a full-size -- I think it was a -- I  
14 think it was a full-size bed for over a year while her  
15 house was being remodeled, and that she didn't see that  
16 there was any problem with that.

17 MS. DEAN: And in reviewing the transcript,  
18 would it make -- would it be consistent with her  
19 recollection that the judge ruled and then you sought to  
20 give a closing argument, and then the Court responded to  
21 your --

22 MS. SELLERS: Yes. Yes.

23 MS. DEAN: -- closing argument?

24 MS. SELLERS: Yes. And I -- and I think I  
25 referenced -- I think I even submitted in exhibits, the

1 floor plans of my house, the pictures from the guardian ad  
2 litem, as well as the floor pans for -- floor plans from  
3 his apartment of what the children were living in.

4 MS. DEAN: And is it consistent with your  
5 recollection, that during this reply to -- the Court has  
6 already ruled, you have then made your closing statement,  
7 and then the Court responded to your closing statement, in  
8 part, saying, "Yes, these children might have slept on a  
9 air mattress. I don't see any harm with that. My husband  
10 and I and my three children, the three of them slept in the  
11 same bed -- in a queen-size bed while we were remodeling  
12 our house for over a year. I don't find any evidence that  
13 they were harmed in any way. People can grow closer. Yes,  
14 they might be better in a three-bedroom, but I don't find  
15 that as a reason to allow them to move to Lexington just  
16 because they can have a three-bedroom."

17 Is that consistent with your recollection?

18 MS. SELLERS: Yes. And I absolutely, a  
19 hundred and ten percent, disagree with that. I don't  
20 think, and would like to believe that every single one of  
21 you as commission members wouldn't allow your children or  
22 be okay with permanently allowing your children to sleep on  
23 an air mattress, a week on and a week off. Yet, Ms. Dunbar  
24 is up here telling us that she has the best interest of  
25 South Carolina children at heart. I disagree.

1 MS. DEAN: Ms. Sellers, you also allege that  
2 Judge Dunbar took breaks before ruling on issues. And you  
3 allege she spoke with other judges during these breaks.  
4 Would you like to address that matter?

5 MS. SELLERS: She was consistently -- well,  
6 first off, as I explained previously, when I went in and  
7 filed the formal motion on the record -- again, to  
8 reiterate that I did not want to be a pro se litigant, that  
9 I wanted an attorney there, but however, I was prepared to  
10 continue to move forward -- she was referencing, I believe,  
11 and I'll let her speak to that, that she said she couldn't  
12 allow that.

13 Well, I believe that, that was based off of  
14 Judge Alex Kinlaw's order, where he wrote that in that  
15 order. Now, I am under the belief, through going through  
16 that three-day hearing, that she was continuously getting  
17 up and going into chambers and taking breaks.

18 And, again, it's been over two years, but  
19 she was going back into chambers to research things and  
20 speak to people. And it was several times a day.

21 And if you have a competent judge, we  
22 shouldn't be getting up off the bench and going and having  
23 to converse with fellow judges and fellow people -- fellow  
24 people in chambers. Sure, she can ask for a break. But  
25 that's not what's referenced in the transcripts.

1 MS. DEAN: Lastly, Ms. Sellers, you question  
2 the soundness of Judge Dunbar's decisions. Without  
3 relitigating your case, could you please explain this  
4 concern?

5 MS. SELLERS: Judge Dunbar, in her order I  
6 have -- I submitted a financial declaration of what I  
7 thought. And, again, with me being a pro se litigant, what  
8 I thought was correct, it was incorrect. And she  
9 calculated child support based off of an incorrect number.  
10 With me being a pro se litigant, it was my mistake.

11 I will tell each and every one of you, I  
12 have paid for that dearly. I am paying over a thousand  
13 dollars a month for two children, and did that on a \$32,000  
14 salary. It is like I have been held at a ransom in a hell  
15 for two years, based off of what Judge Dunbar did.

16 She also put in her order, that I pay  
17 \$15,000 for the opposing counsel's legal fees within 90  
18 days of her final order. I believe she referenced  
19 something to that effect of 90 days, that dealt with a --  
20 an appellate case.

21 I'm not sure if she was referencing mine,  
22 because that is under court -- under appeal. But I don't  
23 know where she's getting the terminology from or thinks  
24 that it's okay for 90 days. And as a parent that provided  
25 financial documents, there was not \$15,000 to be had in 90

1 days.

2                   And, again, I'm no criminal. And I don't  
3 understand why that my -- myself as a good, involved parent  
4 would be up for potentially going to jail, based off of her  
5 making such an erroneous ruling.

6                   MS. DEAN: Thank you, Ms. Sellers. Thank  
7 you, Mr. Chairman.

8                   CHAIRMAN SMITH: Let me ask you one  
9 question. I'll start off, if you don't mind.

10                  MS. SELLERS: Sure.

11                  CHAIRMAN SMITH: And I know you said -- how  
12 long did Judge Kinlaw give you to hire an attorney --

13                  MS. SELLERS: He didn't.

14                  CHAIRMAN SMITH: -- before this --

15                  MS. SELLERS: He didn't. That's why I'm  
16 here.

17                  CHAIRMAN SMITH: So if I get -- when did you  
18 receive notice of the order that he -- if I understood what  
19 you testified to earlier --

20                  MS. SELLERS: He never -- I'm sorry.

21                  CHAIRMAN SMITH: But what you testified  
22 earlier that he gave -- he provided an order that said the  
23 matter could not be continued? Is that correct?

24                  MS. SELLERS: Correct. And that was at the  
25 end -- I believe the end of November. The hearing for this

1 case was the middle of December. It was the 12th, 13th,  
2 14th range of December. So I didn't even have thirty days.  
3 So we called and reached out to fellow attorneys -- I was  
4 dating a public defender for three years at the time, and  
5 he reached out to every attorney that he knew possible, to  
6 try to get help for me. They were all protected because  
7 they were already on the docket and slated for court. They  
8 couldn't -- they couldn't get to me.

9 So then he reached out to a retired family  
10 court judge who prepped me for several hours and told me I  
11 was the best pro se litigant that he'd ever seen.

12 CHAIRMAN SMITH: But in that regard, how  
13 long had this case been pending before this final hearing?

14 MS. SELLERS: Oh, 365 -- we were -- we were  
15 on the 365 day rule. Which is -- it's fine. But again, I  
16 was prepared to move forward with my counsel.

17 CHAIRMAN SMITH: Your attorney.

18 MS. SELLERS: And she disqualified the  
19 counsel. It wasn't for any other reason.

20 CHAIRMAN SMITH: Right. And but he told you  
21 the hearing was going forward whether you had an attorney  
22 or not.

23 MS. SELLERS: Well, actually, we weren't  
24 present for the hearing. Because that was at the time -- I  
25 don't know if you remember, that was at the time we had the

1 South Carolina wildfires, right after that hurricane. It  
2 was --

3 CHAIRMAN SMITH: Is that --

4 MS. SELLERS: -- on the Asheville --

5 CHAIRMAN SMITH: -- Pamlico mountain?

6 MS. SELLERS: Correct.

7 CHAIRMAN SMITH: Yeah.

8 MS. SELLERS: And so all of the smoke and  
9 smog, we were six to -- I think six or nine minutes late to  
10 the court hearing. She had called the admin to let them  
11 know. We walked to the courtroom and the hearing was  
12 already over. So during her disqualification hearing, we  
13 never even made it. We were never even allowed in the  
14 courtroom. He said he wouldn't talk to her.

15 SENATOR YOUNG: Who's "he"?

16 MS. SELLERS: Judge Alex Kinlaw.

17 REPRESENTATIVE MURPHY: Mr. Chairman.

18 CHAIRMAN SMITH: Yes, sir. Representative  
19 Murphy.

20 REPRESENTATIVE MURPHY: Ms. Sellers, thank  
21 you for being here today. And I just wanted to follow up a  
22 little bit with what Representative Smith was asking.  
23 After the hearing, where your attorney was disqualified,  
24 was a motion for reconsideration --

25 MS. SELLERS: Yes.



1 REPRESENTATIVE MURPHY: -- filed?

2 MS. SELLERS: A rule -- a Rule 59 was  
3 submitted to Judge Kinlaw. And he kept it in abeyance and  
4 did not respond. We kept reaching out to this office,  
5 trying to get a determination, because she's still held as  
6 counsel and I wasn't released to go obtain new counsel,  
7 even though we were trying to get attorneys on the phone.  
8 We called 28 different attorneys.

9 REPRESENTATIVE MURPHY: And was that -- was  
10 an order ever filed on that motion to reconsideration? Is  
11 that --

12 MS. SELLERS: I think we got it -- if I --  
13 and, again, it's been a long time. And I don't have the  
14 documents right in front of me. I do believe it was  
15 within, like, several days of the final hearing. It was  
16 not within a notice of like ten days or anything to where  
17 you could have even had the time to --

18 REPRESENTATIVE MURPHY: So there was a  
19 ruling on the motion for reconsideration --

20 MS. SELLERS: I want to say it was --

21 REPRESENTATIVE MURPHY: A few days --

22 MS. SELLERS: -- within several days, yeah.

23 REPRESENTATIVE MURPHY: A few days prior to  
24 the final hearing?

25 MS. SELLERS: The final hearing of final

1 custody of my two children.

2 REPRESENTATIVE MURPHY: Thank you.

3 CHAIRMAN SMITH: Senator Rankin.

4 SENATOR RANKIN: Likewise, ma'am, I  
5 appreciate your being here. This is certainly not  
6 comfortable for you --

7 MS. SELLERS: No, sir.

8 SENATOR RANKIN: -- obviously, by your  
9 demeanor. I'm trying to divine what's gone on here. And I  
10 -- I've been a family court litigant one time. I pray I'll  
11 never be again.

12 MS. SELLERS: I'm sorry.

13 SENATOR RANKIN: So that's not -- thank God,  
14 the system exists. Does it need to be improved? Can it --  
15 can everything be improved? Certainly. What we have to do  
16 is work within the facts that you have in your case, and  
17 others that are filming -- my good friend and former  
18 neighbor here, and another fellow from Horry County, and  
19 others here that are looking for some reform, perhaps.

20 Your case, though, as the first on the  
21 docket, I guess, of complaints that have been filed, why --  
22 help me. Why does judge -- and this is in your brief --  
23 your attorney's brief. Your attorney is Brett Stevens --

24 MS. SELLERS: Yes, sir.

25 SENATOR RANKIN: -- is that correct? Why

1 does Judge Kinlaw grant the father's motion ordering  
2 father's counsel to put some strong language in the order,  
3 indicating in a case -- the case was not to be continued,  
4 quote, under any circumstances, end quote? What's going on  
5 with that? Help us --

6 MS. SELLERS: I assure you, you probably  
7 don't want me to summarize that or make an opinion. But I  
8 will tell you my personal opinion, because we weren't  
9 allowed to be in that courtroom. Because he wouldn't even  
10 see her that day. She was six minutes late due to --

11 SENATOR RANKIN: Your attorney was six  
12 minutes late getting to that hearing.

13 MS. SELLERS: Yes, sir.

14 SENATOR RANKIN: And so again there's a  
15 record, I assume -- and not opinions, but is there a record  
16 that -- from Judge Kinlaw, explains what you've included in  
17 your brief?

18 MS. SELLERS: They're in the appeal that's  
19 been submitted. She did -- we did get the transcripts from  
20 that hearing that we weren't even allowed to go in the  
21 courtroom. We did get the transcripts. And they were  
22 provided to the Court of Appeals.

23 SENATOR RANKIN: Is that transcript sealed?  
24 Or is that transcript --

25 MS. SELLERS: No, none of my documents in

1 any case that I've had with this action have ever been  
2 sealed. And you're more than welcome to go obtain them.

3 SENATOR RANKIN: So not that your opinion  
4 doesn't count, but what is in the record that warrants that  
5 discussion "under no circumstances"? Is there anything  
6 cited within that --

7 MS. SELLERS: Absolutely nothing. I think  
8 that he was -- my belief is that he was just agitated at  
9 the fact that he -- she was late for court. But however,  
10 again, I mean, we were dealing with wildfires. The state  
11 was under an emergency -- a state of emergency.

12 And she notified the court, letting them  
13 know that we were in route. We get there and she says,  
14 "I'm here."

15 And the bailiff's like, "The case is  
16 already, you know, done." It's amazing to me in six  
17 minutes, that we've already finalized a case, disqualifying  
18 my attorney on a final three-day hearing. I have no words.

19 SENATOR RANKIN: All right. Some  
20 allegation, again you've mentioned with your child,  
21 medication, and your prior attorney overhearing something  
22 that ultimately did not raise -- rise to the level of a  
23 crime.

24 MS. SELLERS: Correct.

25 SENATOR RANKIN: There was an investigation

1 of your husband?

2 MS. SELLERS: Yes. You see, my husband is  
3 an SRO at a middle school in Greenville County. And so  
4 when this arose, you know, I'm sitting there as a mom at my  
5 house, and she's looking at me like, "Oh, my God, what do  
6 we do?"

7 I've got a child who's bleeding -- I'm just  
8 going to be graphic. I apologize. But he's greeting --  
9 bleeding from his rectum, doubled over in pain. And he's 4  
10 years old and he can't tell me why. But the only statement  
11 that we know at that point is Dad put something sour his  
12 bottom.

13 SENATOR RANKIN: And you have said to us you  
14 give your ex-husband, the father, the benefit of the doubt  
15 --

16 MS. SELLERS: I do. I think -- you know,  
17 and I -- and we had all said that. I mean, I talked to my  
18 parents, I had talked with, you know, my significant other  
19 at that time, and I had no -- I had nothing to substantiate  
20 or even feel that Mr. Nichols had done anything like that -  
21 - of the sort.

22 But again, what if I didn't follow through  
23 with what my attorney, who is -- who is representing me,  
24 tells me to do? And what if something did happen? Now  
25 who's negligent? Who's the parent that could be held

1 accountable for that? Me. And he's around other children.  
2 So that's the way it's presented to me.

3 And so she said, "We just have to follow  
4 through. If nothing happens, nothing happens."

5 But in no way was that to spin the court in  
6 a different direction. I mean, there's medical records  
7 proving that my son had an impaction at that time in his  
8 intestine. That's what was caused by that.

9 So it's not something that's fabricated, you  
10 know, or -- yeah, fabricated on behalf of a private  
11 litigant trying to push a family court trial off, I assure  
12 you. It was my son was in pain. And when he says that at  
13 4, and you have nothing else to go on -- and the only thing  
14 that I would say that Mr. Nichols is guilty of is he  
15 doesn't communicate as the parent with me. So I didn't  
16 know that there was any problem with my child until he gets  
17 in the car and he's doubled over in pain.

18 SENATOR RANKIN: So that's -- that red flag  
19 was raised and then lowered. That concern was --

20 MS. SELLERS: Yes. ARC here in Columbia,  
21 because we lived in Lexington, completed a forensic  
22 investigation, and deemed that there was no fault at Mom's  
23 house or Dad's house. It was just -- it was what it was.  
24 And at that time after the interview, he was already fine.  
25 It was just we realized that the medicine, Tenex, causes

1 issues with the intestine.

2 SENATOR RANKIN: And you all had litigated  
3 this case for a year? You had, had -- did y'all do  
4 discovery depositions --

5 MS. SELLERS: Yes.

6 SENATOR RANKIN: -- of each other?

7 MS. SELLERS: We didn't do depositions.  
8 There was no discovery. Went through mediation. Mediation  
9 with him was not successful.

10 SENATOR RANKIN: You had an attorney at  
11 mediation.

12 MS. SELLERS: Uh-huh.

13 SENATOR RANKIN: "Yes"?

14 MS. SELLERS: Yes. Yes. We had attorneys  
15 up until that point. I mean, the only time that a pro se  
16 situation had happened during this custody action, was when  
17 my attorney was taken away from me and I was unable to  
18 obtain another one, was forced into the situation.

19 SENATOR RANKIN: So your former attorney is  
20 the one who is now representing you in this -- in this --

21 MS. SELLERS: No. I will -- I will go ahead  
22 and let you know she -- there's been some serious, serious  
23 unethical allegations about her, and I am turning over a  
24 15-page document to the ODC.

25 SENATOR RANKIN: Okay.

1 MS. SELLERS: I have that here, if you'd  
2 like to see it.

3 SENATOR RANKIN: No, that's not --

4 CHAIRMAN SMITH: No, we can't see that.

5 SENATOR RANKIN: So you've got an appeal --  
6 there's a brief that another attorney has prepared. And  
7 has your ex-husband replied --

8 MS. SELLERS: Responded? Yes.

9 SENATOR RANKIN: All right. And who is his  
10 attorney?

11 MS. SELLERS: Wes Meetze. He is the  
12 attorney -- the opposing attorney for this action as well  
13 as his appeal. I don't believe he has any experience in  
14 the Appellate Court. That's why I hired Brett to be the  
15 attorney on that, because she has extensive appellate  
16 experience.

17 SENATOR RANKIN: And you understand, again,  
18 rarely in family court, unless it's an adoption, does  
19 anyone walk out --

20 MS. SELLERS: Happy.

21 SENATOR RANKIN: -- happy.

22 MS. SELLERS: Absolutely.

23 SENATOR RANKIN: When a marriage goes south,  
24 when a child's home is broken up, no one is happy.

25 MS. SELLERS: Correct.



1                   SENATOR RANKIN: You agree with that. And I  
2 say that empathetic with you, because I've been there. I  
3 know that. But you do, likewise, understand that it is a  
4 call that a judge is given the discretion to make rightly  
5 or wrongly. And there's a process for that. You're not  
6 complaining about the appellate process, you're just  
7 complaining to us that it should never have gone to that  
8 point.

9                   MS. SELLERS: One, I should --

10                  SENATOR RANKIN: Correct?

11                  MS. SELLERS: I should have never been  
12 forced into a situation without legal counsel, just to  
13 appease a docket of administratively making sure this  
14 didn't go into the next year's fiscal docket.

15                  SENATOR RANKIN: All right. And on that  
16 point, tell me about the exchange with Judge Dunbar in  
17 refusing that.

18                  MS. SELLERS: I'll let her speak to that.  
19 But the response to me when I formally put it on the  
20 record, on day one, is that she says, "Now, Ms. Sellers,  
21 you know I cannot do that." Why?

22                  SENATOR RANKIN: And what --

23                  MS. SELLERS: Were you told that you weren't  
24 allowed to do it?

25                  SENATOR RANKIN: So not what she's going to

1 say, but what does the record say?

2 MS. SELLERS: That's exactly what the record  
3 says. And it's what's provided in the appeal.

4 SENATOR RANKIN: Thank you.

5 CHAIRMAN SMITH: All right. Any further  
6 questions of Commission members?

7 (Hearing none.)

8 CHAIRMAN SMITH: Ms. Sellers, thank you very  
9 much. And we're going to hear from Judge Dunbar now -- oh,  
10 I'm sorry, I'm getting ahead of the process.

11 MS. DEAN: Ms. Sellers, the document that  
12 Lindi should be handing to you right now is just a copy of  
13 your affidavit form?

14 MS. SELLERS: Yes, ma'am.

15 MS. DEAN: You're okay with that being made  
16 part of the record?

17 MS. SELLERS: Yes, ma'am.

18 MS. DEAN: The affidavit form itself without  
19 any exhibits. Okay. Thank you.

20 (EXHIBIT NO. 20 - WITNESS AFFIDAVIT OF  
21 LINDSAY ALISON SELLERS)

22 MS. DEAN: At this time, Mr. Chairman, I  
23 recommend that Ms. Sellers be seated and Judge Dunbar  
24 return to the podium.

25 CHAIRMAN SMITH: Ms. Sellers, thank you.

1 Now you can be seated. Judge Dunbar, if you'll come up  
2 here, please, ma'am. And I'll give you an opportunity to  
3 respond. And, Judge Dunbar, let me remind you, you're  
4 still under oath as we hear today. And then Counsel may  
5 have questions for you, and then any Commission members  
6 may.

7 JUDGE DUNBAR: Okay. All right. Thank you  
8 so much. Chairman Smith and members of the Honorable  
9 Commission, I just want to state that most of the issues  
10 that were raised, that I believe, with all due respect to  
11 Ms. Sellers, were somewhat mischaracterized.

12 She did mention that she had a prior  
13 attorney, Ms. Karen McManaway, who represented her  
14 initially in this case, and that case -- and that attorney  
15 asked to be relieved of servicing her.

16 Also, in her sworn affidavit I think she  
17 mischaracterized some of the statements that she attributed  
18 that I stated, where there is no evidence of the record to  
19 justify or explain that I actually made those statements.  
20 And I do want to mention that I think -- that there's no  
21 perfect trial. But I do believe that Ms. Sellers had a  
22 fair trial.

23 In the beginning of the case, Mr. Meetze --  
24 he goes by "Marcus Meetze" from what I know. And he -- and  
25 it was very difficult when you have a self-represented

1 litigant in a three-day trial. And I had never experienced  
2 that before. And in the beginning of the trial, I do  
3 notice that the order -- I went through the file, and in  
4 that order I do remember things a little bit -- from what I  
5 remember. And I didn't provide the file -- the whole file,  
6 it's not under state seal, that there were allegations made  
7 by Ms. Sellers against the father in this case, Mr. Nichols  
8 of -- that he sexually abused their son.

9 And she made a motion -- emergency motion  
10 that was heard by a judge. And it was denied. She did not  
11 mention that to the Commission.

12 And, also, I do want to state that -- and as  
13 far as her attorney, I believe that -- that is correct.  
14 Ms. Sellers was correct that Judge Kinlaw relieved her  
15 attorney, Ms. Debra Russell, who I believed Ms. Sellers was  
16 employed -- was her employer at that time, relieved her of  
17 services. And it was a quite proper ruling.

18 And the order stated that under no  
19 circumstances -- and it did say -- there was strong  
20 language, under no circumstances would there be a  
21 continuance based on not having an attorney in the case.

22 And I do believe -- and I could be -- have  
23 been wrong not to have grant a continuance, but I believe  
24 that is in my discretion. And I don't want to say too  
25 much. And I probably shouldn't have said what I said,

1 because it is on appeal.

2 And she has a right to appeal. And the Appellate  
3 Court will correct me if I'm wrong. And that's what  
4 they're there for. And I respect their rulings.

5 And I think that I was respectful to Ms.  
6 Sellers throughout -- throughout the trial. I tried my  
7 best. She did -- she's right, she did do a good job trying  
8 her case. She was excellent. And I commended her on that.  
9 I said she was a smart lady and that she was a good mother.  
10 I said all of that on the record.

11 And at the end of my ruling, she did ask me  
12 earlier, and I forgot, could she make a closing argument.  
13 And after, I had made my ruling. She says, "Ma'am, I  
14 thought I could make my closing argument."

15 So I said, "I'm sorry, Ms. Sellers. I'll  
16 allow you to make a closing argument." And she went --  
17 made her closing argument. In response to that closing  
18 argument, that's when I made those statements. And I had  
19 already made my ruling on the record as to what custody  
20 should be.

21 And I do think -- I don't want the  
22 Commission to be confused with what occurred. They had a  
23 divorce and they agreed on 50/50 custody, with no one  
24 having any type of determination as to who made final  
25 decision-making authority on any of the vital decisions of

1 the children. And less than a year later, this action was  
2 filed for a change of custody.

3 And in that change of custody, during the  
4 pendency of the change of custody trial, Ms. Sellers was  
5 allowed to move to Lexington with the children. And at  
6 that time it came to a final three-day hearing, and I was  
7 to determine whether or not the children were to remain in  
8 Lexington or remain with the father in Greenville. So  
9 somebody had to have primary placement. And if you're  
10 having primary placement, that parent had to have primary -  
11 - final decision-making authority.

12 If both parents were in the same county, I  
13 can't say that I would have made the decision that I made.  
14 But somebody had to get custody because they were both  
15 different -- and someone had to have final decision-making  
16 authority.

17 And, also, I think when I made my ruling on  
18 the objection, I think I did go a little far with my  
19 explanation. But by her being a self-represented litigant,  
20 I thought it was important for me to explain why a person  
21 could not -- a lay-person could not give an opinion as to a  
22 medical diagnosis, that an expert was needed. And there  
23 were no experts in the whole three days of trial.

24 And I think I best not say anything else.  
25 And I hope I didn't say too much. And I apologize because

1 I sort of forget sometimes that this in on appeal. And I  
2 would let my written statement stand. And if the  
3 Commission has any questions of me, I'll be happy to  
4 answer.

5 CHAIRMAN SMITH: Let me just clear up --  
6 I've got to understand this -- this late disqualification  
7 of an attorney. And I heard Ms. Sellers testify that she  
8 may have had a week or two to find a new attorney. Is that  
9 -- do you have any idea about that?

10 JUDGE DUNBAR: I don't -- I'll be honest, I  
11 don't recall that it was a week or two. I think I would  
12 have made a different decision if it was a week or two.

13 CHAIRMAN SMITH: I mean, do you --

14 JUDGE DUNBAR: And I -- oh, I'm sorry.

15 CHAIRMAN SMITH: And I don't want to talk  
16 about your decision, 'cause that's under appeal.

17 JUDGE DUNBAR: Yes.

18 CHAIRMAN SMITH: And we've got to respect  
19 that portion of it. But I do have concerns about a three-  
20 day trial, which I read in your order that says is complex  
21 and contentious, and that someone's got to go and try and  
22 pro se. And I don't know if -- you know, I see Judge  
23 Kinlaw making that order.

24 And so, you know, that is a little  
25 concerning to me. And, you know, I'm trying to understand

1 -- and, again, I don't want to get into your ruling, but  
2 I'm also trying to understand is -- you know, the old  
3 common law that one judge can't overrule another judge.

4 I mean, were you -- I presume you were given  
5 deference to -- or deference or following the order of a  
6 judge that had been -- a motion to reconsider had come  
7 before him, in which he was -- he denied it.

8 JUDGE DUNBAR: Yes.

9 CHAIRMAN SMITH: All right.

10 JUDGE DUNBAR: And I think because the judge  
11 -- that lawyer was recused -- or excused from the -- from  
12 the trial -- I mean, from representing Ms. Sellers, was  
13 because she was a witness -- going to be a witness in a  
14 criminal matter, because this -- criminal charges were, I  
15 believe, pending.

16 CHAIRMAN SMITH: Criminal charges against  
17 who?

18 JUDGE DUNBAR: The father, Mr. Nichols,  
19 based on the allegations that --

20 CHAIRMAN SMITH: I thought they were --  
21 found there was --

22 JUDGE DUNBAR: It was substantiate --  
23 unsubstantiated. But my understanding from reading the  
24 file was that there were criminal pending charges --

25 CHAIRMAN SMITH: While this was going on?



1 JUDGE DUNBAR: Right. And that's why -- and  
2 she would be a witness to it. And so, therefore, she could  
3 not represent someone, being a witness in a criminal  
4 matter.

5 CHAIRMAN SMITH: And, again, you know -- and  
6 I -- we all agree that this is -- we don't relitigate the  
7 case. We just hear the facts. And this goes as to your  
8 qualifications. So I just want to make sure I don't -- I  
9 don't want to cross that threshold where we get into an  
10 area that's -- that's, you know, under appeal and there --  
11 there's a body that's going to hear that and make a  
12 decision on that.

13 But what I do want to know is, is in that  
14 transcript -- and I don't want you to tell me what you're  
15 thinking. But in that transcript was there ever any  
16 discussion about this issue of maybe he was abused, and it  
17 was constipation and that's what caused it? Or was that  
18 issue just left alone throughout the trial?

19 JUDGE DUNBAR: No, that was brought out on  
20 the record. And I think that I made a finding as one of  
21 the reasons why I gave custody to the father.

22 CHAIRMAN SMITH: You found -- okay. All  
23 right.

24 JUDGE DUNBAR: Yes.

25 CHAIRMAN SMITH: I got the order. And I'll

1 review that again. So the way I'm looking -- the way I see  
2 it, if I look at the transcript, about November -- mid-  
3 November is when Judge Kinlaw had this hearing and  
4 disqualified the attorney? November 16th?

5 JUDGE DUNBAR: Chairman Smith, I can't --

6 CHAIRMAN SMITH: Well, I'm looking. They're  
7 telling me it's November 16th.

8 JUDGE DUNBAR: But I think the hearing was  
9 prior to the order.

10 CHAIRMAN SMITH: The hearing was on the 16th  
11 and the order was on the 17th. Okay. All right. Any  
12 further questions? Representative Murphy.

13 REPRESENTATIVE MURPHY: Mr. Chairman, I was  
14 just going to -- from my reading, just to clarify, it looks  
15 like the motion to disqualify was on November 17th, 2016.  
16 The merits hearing was held December 13th. So it's a  
17 period of about three weeks.

18 CHAIRMAN SMITH: Senator Rankin.

19 SENATOR RANKIN: Judge, I appreciate your  
20 response here as well. And you can -- you can certainly  
21 empathize, I know, not just with Ms. Sellers here, but  
22 obviously with the entire process. I'm curious not what  
23 might happen with the Appellate Court, but what is your  
24 understanding of the law for decision -- or deciding  
25 whether to grant someone a continuance based on their need

1 for counsel?

2 JUDGE DUNBAR: Well, my understanding that -  
3 - I didn't get that from her on the record. I didn't get  
4 that feeling that she was that forceful about wanting an  
5 attorney. If she -- if I believed that, I would have  
6 granted her that -- that continuance.

7 SENATOR RANKIN: How would you --

8 JUDGE DUNBAR: And it -- I'm sorry. Go  
9 ahead.

10 SENATOR RANKIN: And I'm interrupting you.

11 JUDGE DUNBAR: And I do believe that she had  
12 enough time to get the attorney, in my opinion.

13 SENATOR RANKIN: So how would one convey  
14 more forcefully, their inability to try the case? And it's  
15 not like a criminal case, you know --

16 JUDGE DUNBAR: She didn't tell me that she  
17 had the inability to --

18 SENATOR RANKIN: But I mean, what -- and I'm  
19 not trying to get too deep in the weeds here. But again,  
20 your sense is that it was not a primary concern --

21 JUDGE DUNBAR: No. It wasn't. As a matter  
22 of fact, Mr. Meetze had tried to get some of her testimony  
23 and some of her witnesses excused and be -- based on her --  
24 them not complying with discovery, and I wouldn't allow  
25 that so I thought she could have a fair trial.

1 I do believe that she was prepared. She  
2 wasn't as forceful, in my opinion, from what I can  
3 remember, about having a continuance. I don't believe  
4 there was much discussion that I can remember about it.

5 SENATOR RANKIN: Have you had any motions  
6 before with --

7 JUDGE DUNBAR: I never had been involved in  
8 the entire case. And there was several motions in this  
9 case. And I had never been involved. This was the first  
10 time I touched the file.

11 SENATOR RANKIN: And by Judge Kinlaw's prior  
12 orders --

13 JUDGE DUNBAR: And other judges as well.  
14 Several other judges.

15 SENATOR RANKIN: Okay. And you had made a  
16 comment about her having not one but two attorneys, one or  
17 both backing out of the case --

18 JUDGE DUNBAR: Right. And that kind of  
19 bothered me --

20 SENATOR RANKIN: So how did -- how do you  
21 know that? Or how do we know that?

22 JUDGE DUNBAR: It was in the file. The  
23 order was in the file. You know, when a judge -- when a  
24 lawyer wants to recuse -- when a lawyer wants to get out of  
25 the case, they have to come before the court. They just

1 can't get out of the case. They send a consent order where  
2 both the litigant and the attorney agree.

3 SENATOR RANKIN: And you've made -- and one  
4 other point I want to be clear I understand, that both  
5 parties had mediated and/or litigated a 50/50 split of  
6 custody before?

7 JUDGE DUNBAR: Right. During their divorce  
8 the parties had agreed for -- to the 50/50 custody, the  
9 week on/week off.

10 SENATOR RANKIN: And how --

11 JUDGE DUNBAR: And when Ms. Sellers filed  
12 this action --

13 SENATOR RANKIN: For a change in --

14 JUDGE DUNBAR: A change in custody.

15 SENATOR RANKIN: Okay.

16 JUDGE DUNBAR: Right.

17 SENATOR RANKIN: And then --

18 JUDGE DUNBAR: Or modifying the custody  
19 arrangement that they had agreed to, I think was less than  
20 a year, prior to they filing of this action, asking for  
21 modification of what they agreed to at their divorce.

22 'Cause I wasn't a party to their divorce or anything.

23 SENATOR RANKIN: All right. Now, did either  
24 party again -- and you've got to have a tie-breaker.

25 JUDGE DUNBAR: Yes.

1                   SENATOR RANKIN: I mean, we all know that.  
2 But was that a litigated issue, who should have --

3                   JUDGE DUNBAR: No, they --

4                   SENATOR RANKIN: -- a trump -- a trump card  
5 of the deciding factor if they couldn't agree? Is that --

6                   JUDGE DUNBAR: None of that was addressed in  
7 the order in -- in the -- the original order that ordered  
8 them to have joint custody. They just had joint custody.  
9 And the -- oh, there was one -- I think the one thing they  
10 did agree on was that, I believe, Ms. Sellers would have  
11 the decision-making authority of what daycare the children  
12 would go to.

13                   But other than that, no other decision-  
14 making authority. So I had to come up -- you know, I had  
15 to give primary placement to some parent. And when you  
16 give primary placement, that person usually has the  
17 deciding factor as far as decision-making authority.

18                   But I gave them -- I said specifically in  
19 the order, that they should consult with each other. And  
20 if they couldn't decide fairly on the issue, then the  
21 primary placement parent would have the final decision-  
22 making authority.

23                   SENATOR RANKIN: You mentioned also your  
24 success rate on appeal. My terms, not yours. Do you know?  
25 I mean, is that something that you can tell us about,

1 generally, or --

2 JUDGE DUNBAR: Yeah, I've heard --

3 SENATOR RANKIN: Do you keep up with that?

4 JUDGE DUNBAR: Yeah, I should have counted  
5 before I came in. But I do know that I've had over -- in  
6 Greenville County, probably at least 200 trials that don't  
7 include DSS, abuse and neglect, don't include juveniles,  
8 don't include out of county.

9 And in that, I would say -- okay, overall, I  
10 believe -- definitely, I've heard over 6,000 cases overall.  
11 That's just cases. That doesn't even include some DSS  
12 cases, bench warrants. But as far as trials, I think I've  
13 heard at least 200 in Greenville County.

14 SENATOR RANKIN: Well, that's not my  
15 question.

16 JUDGE DUNBAR: Oh, then -- oh, then the --

17 SENATOR RANKIN: Those that have been taken  
18 up on appeal --

19 JUDGE DUNBAR: Okay. I've had less than  
20 ten.

21 SENATOR RANKIN: Ten taken up on --

22 JUDGE DUNBAR: Less -- less than ten taken  
23 up on appeal.

24 SENATOR RANKIN: And of those ten --

25 JUDGE DUNBAR: That I've been affirmed on

1 one published opinion. And recently on a custody case, as  
2 a matter of fact, that asked for a change of custody --  
3 modifying custody.

4 And I've been affirmed in part and reversed  
5 on part -- in part on published opinion. And then I was  
6 reversed on the case where the 90 days -- the Court of  
7 Appeals ruled that -- that the wife circumvented the 90  
8 days in order to keep the alimony continuous. And that's  
9 pending before the Supreme Court.

10 And those are the only published opinions.  
11 And I've had several unpublished opinions that were  
12 affirmed, that were TPRs --

13 SENATOR RANKIN: That's all I have.

14 CHAIRMAN SMITH: Mr. Rutherford.

15 REPRESENTATIVE RUTHERFORD: Thank you, Mr.  
16 Chairman. Judge, let me ask you, you were not the chief  
17 administrative judge during that term of court, correct?

18 JUDGE DUNBAR: Correct, I have -- no, I was  
19 not.

20 REPRESENTATIVE RUTHERFORD: Do you know who  
21 was?

22 JUDGE DUNBAR: You know, as a matter of  
23 fact, I think it was Judge Kinlaw. That's right. I think  
24 it was Judge Kinlaw. And when he made that order, and that  
25 case was 365, you had to get the permission of the



1 Administrative Judge. And I couldn't get that -- give that  
2 permission to continue the case.

3 REPRESENTATIVE RUTHERFORD: And in fact --

4 JUDGE DUNBAR: The motion would have had to  
5 been made before the Administrative Judge.

6 REPRESENTATIVE RUTHERFORD: Let me -- let me  
7 just ask you this, because it gives me a great deal of  
8 concern to hear that anyone is forced to go forward in  
9 court without a lawyer. I think that people should always  
10 be able to avail themselves of an attorney.

11 But let me also state that I, like my cohort  
12 over here, Senator Rankin, try to stay out of family court.  
13 I'm unfamiliar with the 365 rule, and I'm unfamiliar with  
14 having to go to the administrative court to ask for a  
15 continuance if you're in front of another court.

16 But let me recount for you, page 4 of the  
17 transcript.

18 JUDGE DUNBAR: Page 4.

19 REPRESENTATIVE RUTHERFORD: You say,  
20 actually, in response to Mr. Meetze, it states, "Your  
21 Honor, I do have one pretrial issue to raise."

22 Line 9: "The Court: Okay. Yes, sir. And  
23 let me just say again, I spoke to Ms. Sellers, the  
24 plaintiff, regarding her ability, that she's here by  
25 herself without the benefit of counsel. And she indicated

1 to the court that she wanted to proceed without the benefit  
2 of any counsel. Is that correct, Ms. Sellers?"

3 "Ms. Sellers," line 13, "Yes, ma'am. But I  
4 would like to say that I did file for a motion for  
5 continuance for representation due to the fact of the  
6 disqualification within the 30-day time period of this  
7 trial."

8 So according to line 9, and further line 13,  
9 would it be your understanding that you entered into a Q  
10 and A with Ms. Sellers, about whether she wanted to proceed  
11 without the benefit of counsel? Would you like for me to  
12 send you the transcript?

13 JUDGE DUNBAR: Yes.

14 SENATOR RANKIN: Do you want to just read  
15 it?

16 REPRESENTATIVE RUTHERFORD: I did. But if I  
17 mean, the judge is like me, she may need to look at it  
18 while she reads. But so as much as I want to second-guess  
19 and make sure that someone has a lawyer, it appears as if -  
20 - at least on page 4, line 9, that, that is what you did.  
21 Is that right?

22 JUDGE DUNBAR: Yes, sir.

23 REPRESENTATIVE RUTHERFORD: And the Court of  
24 Appeals certainly could second-guess you and say that,  
25 although in family court, again is my understanding -- I

1 don't know this -- in family court, continuance orders must  
2 be made with the Chief Administrative Judge.

3 JUDGE DUNBAR: Yeah.

4 REPRESENTATIVE RUTHERFORD: And you did ask  
5 whether she wanted to proceed without counsel.

6 JUDGE DUNBAR: Yes.

7 REPRESENTATIVE RUTHERFORD: Is that what it  
8 indicates?

9 JUDGE DUNBAR: Yes, it does.

10 REPRESENTATIVE RUTHERFORD: And she  
11 indicated to you that she would; is that right?

12 JUDGE DUNBAR: Yes.

13 REPRESENTATIVE RUTHERFORD: Okay. So  
14 although, she is at that point a pro se litigant, she would  
15 be held to the same standard that anyone else would. And  
16 if she had objected and said she did not want to proceed,  
17 that could have kicked in some additional protections; is  
18 that correct?

19 JUDGE DUNBAR: Oh, correct. I mean, I would  
20 never want to jeopardize anyone.

21 REPRESENTATIVE RUTHERFORD: Right. But  
22 because it -- and I don't mean to interrupt you, but I  
23 probably will. But because she didn't say that, you can't  
24 sua sponte say, "Well, you go do it." Because she actually  
25 -- she actually has a right --

1 JUDGE DUNBAR: Right.

2 REPRESENTATIVE RUTHERFORD: -- to proceed on  
3 her own, does she not?

4 JUDGE DUNBAR: She does.

5 REPRESENTATIVE RUTHERFORD: Let me ask you  
6 this -- and as I recall from my conversation a couple of  
7 seconds ago, the lawyer, I believe, was Debra Russell --

8 JUDGE DUNBAR: Yes.

9 REPRESENTATIVE RUTHERFORD: -- that we had  
10 spoken about, that heard from the child stating that the  
11 father might have done something inappropriate. Do you  
12 remember when that was?

13 JUDGE DUNBAR: That was during the pendency  
14 of this case, an emergency motion --

15 REPRESENTATIVE RUTHERFORD: I need a date.  
16 I can give you the date.

17 JUDGE DUNBAR: Okay.

18 REPRESENTATIVE RUTHERFORD: It's October.  
19 So that was when the lawyer would have heard testimony from  
20 the child, indicating that something improper might have  
21 happened.

22 Based off of your experience as a lawyer,  
23 would that indicate to you, if you heard a statement from a  
24 child involved in this incident -- if you heard that very  
25 same statement, would it indicate to you that you had

1 transferred from a lawyer into a witness at that point?

2 JUDGE DUNBAR: Yes, sir.

3 REPRESENTATIVE RUTHERFORD: And so from  
4 October until December when the -- when this hearing was  
5 actually held, would that have been the time period  
6 allotted for someone to get an attorney, knowing that -- or  
7 possibly knowing that they would have transformed  
8 themselves from a lawyer into a witness?

9 JUDGE DUNBAR: Yes, sir.

10 REPRESENTATIVE RUTHERFORD: I have a trial  
11 pending in Federal Court as we speak, part of the issue is  
12 whether the client said something at a proffer. I am on  
13 notice that I may be called as a witness. The trial will  
14 be in January. And I was told that back in November, so my  
15 client was told as well. It's up to him how he proceeds.  
16 But certainly, the notice has been given. He can choose to  
17 go pro se. He can choose to go get another lawyer.

18 Was it indicated to you in that transcript,  
19 again, how much -- how many times she had spoken to other  
20 lawyers and just did not feel comfortable with proceeding  
21 without a lawyer?

22 JUDGE DUNBAR: No.

23 REPRESENTATIVE RUTHERFORD: And had a lawyer  
24 showed up and requested a continuance -- again, I don't do  
25 family court. Would that have violated the 365 rule? Am I

1 stating that correctly, Chris? Is it --

2 JUDGE DUNBAR: It's the 365 rule.

3 REPRESENTATIVE RUTHERFORD: Yeah, we don't  
4 have that in General Sessions. And, hopefully, we'll never  
5 get it.

6 JUDGE DUNBAR: Yeah.

7 REPRESENTATIVE RUTHERFORD: But so would  
8 that have violated the 365 rule?

9 JUDGE DUNBAR: Well, he could -- they can  
10 always ask for a continuance. But they -- but I can't make  
11 the ruling on the continuance. They have to make that  
12 motion in front of the Administrative Judge.

13 REPRESENTATIVE RUTHERFORD: Okay. And  
14 although this was a three-day, and I believe in your words,  
15 contentious, complicated hearing --

16 JUDGE DUNBAR: It wasn't. I don't think it  
17 was complicated. It was just --

18 REPRESENTATIVE RUTHERFORD: Well,  
19 complicated certainly for a pro se litigant. I mean, this  
20 is not -- pro se litigants in pleas can be difficult.  
21 Because again, understanding all of the issues that go into  
22 what it is they can, what it is they can't.

23 JUDGE DUNBAR: Right.

24 REPRESENTATIVE RUTHERFORD: And in this  
25 case, calling of -- calling of an expert witness on the

1 issue of ADHD or ADD can be very complicated for a pro se  
2 litigant. But the standard for calling an expert witness  
3 is no lower for a pro se litigant, is it?

4 JUDGE DUNBAR: The standard -- you can call  
5 it -- no, it's not.

6 REPRESENTATIVE RUTHERFORD: Right. So if --

7 JUDGE DUNBAR: No.

8 REPRESENTATIVE RUTHERFORD: -- the lawyer on  
9 the other side, Mr. Meetze, decided he wanted to challenge  
10 the qualifications of this expert witness, the pro se  
11 litigant would have had to go through --

12 JUDGE DUNBAR: Yes.

13 REPRESENTATIVE RUTHERFORD: -- that Q and A  
14 as well.

15 JUDGE DUNBAR: Exactly.

16 REPRESENTATIVE RUTHERFORD: So as it relates  
17 to the testimony regarding ADD, ADHD, and your not allowing  
18 the grandmother to give expert testimony -- and I  
19 understand that she's here -- was it presented to you, that  
20 the grandmother had information that would allow her to be  
21 called as an expert on ADD or ADHD?

22 JUDGE DUNBAR: Not at all.

23 REPRESENTATIVE RUTHERFORD: Had she been the  
24 grandmother but also a child psychiatrist, would she have  
25 that, then, allowed to testify on whether the child had ADD

1 or ADHD?

2 JUDGE DUNBAR: It depends on whether or not  
3 she met the qualifications and whether or not the -- it  
4 depends on a lot of factors. But more than likely, yes.

5 REPRESENTATIVE RUTHERFORD: So she would  
6 still have to meet the qualifications --

7 JUDGE DUNBAR: Exactly.

8 REPRESENTATIVE RUTHERFORD: -- the fact that  
9 she's a child psychiatrist who may specialize in something  
10 other than that subject area, would still not allow her to  
11 testify as an expert. Is that right?

12 JUDGE DUNBAR: That's right.

13 REPRESENTATIVE RUTHERFORD: Okay.

14 JUDGE DUNBAR: That's right.

15 REPRESENTATIVE RUTHERFORD: And, again, the  
16 ruling, I believe, was that a lay-person can't give expert  
17 testimony. Is that right?

18 JUDGE DUNBAR: Yes, sir.

19 REPRESENTATIVE RUTHERFORD: And the expert  
20 testimony in this case was rather -- was whether the child  
21 was ADD or ADHD.

22 JUDGE DUNBAR: Exactly.

23 REPRESENTATIVE RUTHERFORD: Was it fact-  
24 based that the child had been diagnosed and there was a  
25 prescription for ADHD medication? Was that the fact?



1 JUDGE DUNBAR: Well, I didn't -- if you look  
2 in my order, I didn't even address the ADHD. And that  
3 didn't come up in any other of my oral rulings or anything.  
4 That wasn't a big factor in -- well, I don't know how much  
5 I can say, but --

6 REPRESENTATIVE RUTHERFORD: I don't know how  
7 much you can say either. I assume that my lawyers over  
8 here will stop me if I ask you too much or you say too  
9 much, 'cause I don't know either.

10 JUDGE DUNBAR: It wasn't in my mind a big  
11 factor. And I didn't want -- and I did I think I said,  
12 "Well, does anyone have a doctor here to testify if they're  
13 going to make a big issue out of this?"

14 And that's why I was concerned as well, that  
15 we can't have lay-people talking about diagnosis --

16 REPRESENTATIVE RUTHERFORD: On either side.

17 JUDGE DUNBAR: Right.

18 REPRESENTATIVE RUTHERFORD: I mean, Mr.  
19 Meetze could not have gotten --

20 JUDGE DUNBAR: No.

21 REPRESENTATIVE RUTHERFORD: -- into it  
22 either, correct?

23 JUDGE DUNBAR: Right.

24 REPRESENTATIVE RUTHERFORD: Okay.

25 JUDGE DUNBAR: And that was a concern and a

1 frustration.

2 REPRESENTATIVE RUTHERFORD: Okay. I don't  
3 have any further questions at this time.

4 CHAIRMAN SMITH: Any further questions?  
5 Representative Murphy.

6 REPRESENTATIVE MURPHY: Judge Dunbar.

7 JUDGE DUNBAR: Yes, sir.

8 REPRESENTATIVE MURPHY: Regarding the --

9 REPRESENTATIVE RUTHERFORD: I'm sorry,  
10 Chris. I'm sorry. I need that -- I don't know where the -  
11 -

12 JUDGE DUNBAR: Oh, I'm sorry, the transcript  
13 back?

14 REPRESENTATIVE RUTHERFORD: If there's  
15 another copy of it. I just don't want to -- I got this  
16 from another member. And I don't want to get it confused  
17 either.

18 REPRESENTATIVE MURPHY: I'm looking at -- I  
19 was trying to find the administrative order that was issued  
20 regarding the 365 day rule, which was on August 27th.  
21 'Cause I wanted to clarify that once a case older -- was  
22 the case older than 365 days. And so my question to you is  
23 you -- the case had not reached the 365-day benchmark,  
24 correct?

25 JUDGE DUNBAR: No, it had. I think it had

1 on the docket -- they put it on -- placed it on the docket.

2 REPRESENTATIVE MURPHY: So it had it -- it  
3 had already exceeded 365 days?

4 JUDGE DUNBAR: Well, you know, we get an  
5 alert. And it's on the docket, itself, that says only  
6 Administrative Judge can continue. Three sixty-five, only  
7 Administrative Judge can request a continuance. And they -  
8 - I think they get notices beforehand as well.

9 REPRESENTATIVE MURPHY: Well, in Dorchester  
10 County, if a case is approaching the 365 day mark, the  
11 clerk will notate 365.

12 JUDGE DUNBAR: Right.

13 REPRESENTATIVE MURPHY: Everybody, this case  
14 is getting close to resolution.

15 JUDGE DUNBAR: Right.

16 REPRESENTATIVE MURPHY: So my question is:  
17 Do we know -- did this case pass the 365 day threshold?  
18 That's my question. Because I read the rule to say that if  
19 -- if you are the trial judge, and it has not reached the  
20 365 day threshold --

21 JUDGE DUNBAR: Yeah, I could grant a  
22 continuance.

23 REPRESENTATIVE MURPHY: -- you could grant a  
24 continuance.

25 JUDGE DUNBAR: You're right. You're right.

1 REPRESENTATIVE MURPHY: So my question is:  
2 Had we reached that threshold?

3 JUDGE DUNBAR: I want to -- and I want to  
4 believe that it was the three-sixty had already passed  
5 that, based on the fact that --

6 REPRESENTATIVE MURPHY: And it's 365 days,  
7 just so everybody knows --

8 JUDGE DUNBAR: From the filing date.

9 REPRESENTATIVE MURPHY: -- from the date of  
10 the filing.

11 JUDGE DUNBAR: Correct.

12 REPRESENTATIVE MURPHY: And what that is, is  
13 that a case has to be disposed of --

14 JUDGE DUNBAR: Right.

15 REPRESENTATIVE MURPHY: -- within one year -  
16 -

17 JUDGE DUNBAR: Yes.

18 REPRESENTATIVE MURPHY: -- of being placed  
19 on the docket.

20 JUDGE DUNBAR: Yes, sir.

21 REPRESENTATIVE MURPHY: And if it is not  
22 granted within one -- or if it's not heard on a final  
23 hearing within one year, if you have requested a final  
24 hearing and that final hearing, for whatever purposes, is  
25 scheduled after the 365, the case is still kept on the

1 docket --

2 JUDGE DUNBAR: Right.

3 REPRESENTATIVE MURPHY: -- because all  
4 parties had agreed this is going to be our trial date.

5 JUDGE DUNBAR: And, also, I want to point  
6 out, Representative Murphy, is that this case had already  
7 been set months in advance, and so it was known that it was  
8 coming up. It wasn't just a month or two.

9 REPRESENTATIVE MURPHY: Yes, ma'am.

10 JUDGE DUNBAR: They're set very far in.

11 REPRESENTATIVE MURPHY: And, Judge, I'm --

12 JUDGE DUNBAR: Especially when you're  
13 talking about three days on the docket.

14 REPRESENTATIVE MURPHY: And I'm not  
15 disagreeing with that, Judge.

16 JUDGE DUNBAR: Okay.

17 REPRESENTATIVE MURPHY: My concern, I think  
18 as the -- I can't speak for other members, is that it had  
19 been set and three, four weeks -- four weeks before a  
20 three-day contested hearing, an attorney is disqualified  
21 because she basically made herself a witness to the case,  
22 the attorney did, so she was disqualified. And we then --  
23 they filed a motion for reconsideration. Judge Kinlaw does  
24 not rule on that motion and --

25 JUDGE DUNBAR: I don't --

1                   REPRESENTATIVE MURPHY: So everybody's kind  
2 of in limbo. And we're still -- we're still waiting on  
3 that motion to be granted, and then it is not -- that was  
4 the original action. That was the original action. Sorry.

5                   JUDGE DUNBAR: No.

6                   REPRESENTATIVE MURPHY: That was the  
7 original -- that was the original action, correct?

8                   SENATOR SABB: I don't think so. 'Cause  
9 she's listed as Sellers.

10                  REPRESENTATIVE MURPHY: Because the -- okay.  
11 Well, I'm going to get the dates correct.

12                  JUDGE DUNBAR: Yes.

13                  REPRESENTATIVE MURPHY: Because I think  
14 that's important for this discussion. But if we had not  
15 reached the 365 day threshold, you would agree with me that  
16 you could have granted --

17                  JUDGE DUNBAR: Oh, yes, sir.

18                  REPRESENTATIVE MURPHY: Okay.

19                  JUDGE DUNBAR: Yes, sir.

20                  REPRESENTATIVE MURPHY: All right. Thank  
21 you.

22                  CHAIRMAN SMITH: All right. Any further  
23 questions? We've got another complainant, so we need to  
24 hear from her also. But any other questions of Judge  
25 Dunbar as it relates to Ms. Sellers' complaint? Yes, I'm

1 sorry, let's make a couple things exhibits to the record,  
2 please, okay?

3 JUDGE DUNBAR: Okay.

4 CHAIRMAN SMITH: Senator Sabb.

5 SENATOR SABB: Thank you, Mr. Chairman. Mr.  
6 Chairman, I was just trying to discern our dates. And I'm  
7 looking at pleadings that were filed on August the 21st of  
8 2015. Those pleadings allude to the fact that the  
9 plaintiff would show in its -- and it's captioned "Lindsay  
10 Alison Sellers f/k/a Lindsay Alison Nichols, Plaintiff v.  
11 Douglas Anthony Nichols, Defendant."

12 And it essentially says plaintiff would show  
13 that the parties were before the Honorable Court on June  
14 the 2nd of 2014, for final order and divorce decree. And  
15 it goes on to state that case number, which is 2013-DR-23-  
16 516. And so the first time parties filed their action in  
17 2013, and the final order was issued on June the 2nd of  
18 2014.

19 So on the issue of whether or not the 365  
20 day rule, whether or not we're talking before or whether or  
21 not we're talking after, it appears clear to me, based upon  
22 these documents, that the action was initialed on August  
23 the 21st of 2015, and that the final hearing was set for  
24 December the -- is it December the 13th? Yeah, for  
25 December the 13th. So I think it's clear, based upon the

1 records, that we were beyond the 365 days.

2 JUDGE DUNBAR: And I do believe that the  
3 order says it in the findings of fact. I did the order  
4 myself.

5 MR. STROM: What is a modification action?

6 JUDGE DUNBAR: It's a modification of  
7 custody. Custody actions are never final. You can always  
8 come back to court on the issue of custody, visitation or  
9 child support. But you've got to show a substantial  
10 material change in circumstances that affects the children.

11 MR. STROM: But there was a final order.

12 JUDGE DUNBAR: There was a previous final  
13 order that --

14 MR. STROM: A previous final order by  
15 agreement.

16 JUDGE DUNBAR: Correct.

17 MR. STROM: Mother moves to Lexington --

18 JUDGE DUNBAR: Well, she doesn't move --  
19 prior to her moving to Lexington, she files a modification  
20 for custody.

21 MR. STROM: A modification of custody.

22 JUDGE DUNBAR: And during the pendency of  
23 that action, she filed a motion and the court granted a  
24 temporary hearing to move to Lexington with the children.  
25 After she had already filed the action to modify the



1 custody. Yes. And then there were other motions filed.

2 MR. STROM: Wasn't Judge Gwendolyn Jones --

3 JUDGE DUNBAR: Yes. Judge Gwendolyn Jones.

4 MR. STROM: And so this comes up for the  
5 final three-day hearing on the modification.

6 JUDGE DUNBAR: Right. Her initial action.

7 MR. STROM: Okay. All right.

8 JUDGE DUNBAR: See, during the pendency of -  
9 - of any action, you're allowed to bring motions before the  
10 court. You can have a temporary hearing -- several  
11 temporary hearings, if the court grants them. And I  
12 believe in this case, the guardian ad litem filed the  
13 motion. And she -- because they had initial temporary  
14 hearing where I don't believe there was any change in  
15 custody.

16 Then there was a second temporary hearing,  
17 based on the guardian ad litem's motion, because Ms.  
18 Sellers was going to be moving to Lexington. So the court  
19 had to decide what to do. Because of course you couldn't  
20 do week-to-week, and Ms. Sellers was moving because of her  
21 job.

22 MR. STROM: Well, I think it bothers  
23 everybody up here that you have a pro se litigant dealing  
24 with this, whether it's short notice or not that -- and I  
25 confirmed Judge Kinlaw was the Chief Administrative Judge

1 in that circuit at the time. And I think, as I understand  
2 the rule, that's his discretion as to whether or not to  
3 grant continuances in a case as I understand it. It does  
4 bother me, the fact that there was a natural disaster and  
5 the lawyer as late, and that didn't get worked out. But  
6 that's not on any --

7 JUDGE DUNBAR: Yeah, I don't know that, that  
8 was the case. I don't --

9 MR. STROM: I don't either.

10 JUDGE DUNBAR: Yeah, I don't know. I can't  
11 say if that was accurate or not. I don't know. Nobody  
12 mentioned that to me. And Judge Kinlaw was --

13 MR. STROM: It does appear on the record --

14 JUDGE DUNBAR: -- the Administrative Judge.

15 MR. STROM: -- that you asked her -- asked  
16 the pro se litigant whether she was prepared and wanted to  
17 proceed at this time. And she indicated that she did.

18 JUDGE DUNBAR: And I've always granted  
19 continuances to self-representatives, on motions or  
20 anything. If they come -- and they only get five business  
21 days' notice. And a lot of times we have to move forward.  
22 And usually when -- on a custody on a temporary, I don't  
23 change anything. Because I think you do need to wait till  
24 the final and let a guardian ad litem come into play, to  
25 show me what you should do.

1 MR. STROM: Thank you. That's all I have.

2 CHAIRMAN SMITH: So let me make sure I'm  
3 clear on this, 'cause I don't practice in family court --

4 JUDGE DUNBAR: I know.

5 CHAIRMAN SMITH: -- and so this is a little  
6 foreign, but when I did practice in family court it was --  
7 there was a 365 day rule. But I guess they've gotten more  
8 stringent on how these cases are continuing after 365 days.

9 Tell me is this a Chief Justice order, or a  
10 court order by only the Chief Administrative Judge? 'Cause  
11 I am very, very concerned about a litigant having less than  
12 a couple weeks' notice and having to go -- a pro se  
13 litigant and go without a trial, especially who got their  
14 lawyer recently disqualified. I'm just going -- that  
15 concerns me.

16 But now I'm hearing that that's -- that's  
17 probably the Chief Administrative Judge that's -- he's the  
18 only one that can grant a continuance at that point?

19 JUDGE DUNBAR: Yes. They're pretty strict  
20 on that. I can't --

21 CHAIRMAN SMITH: So where is that derived  
22 from? Is that -- is that a court rule? Is that a --

23 JUDGE DUNBAR: That's a --

24 CHAIRMAN SMITH: -- Chief Justice order?

25 JUDGE DUNBAR: That's a Chief Justice rule,

1 that only the Administrative Judge, once it passes the 365,  
2 can grant that. And Judge Kinlaw was the Administrative  
3 Judge at that time. And he said that there would be no  
4 continuances.

5 CHAIRMAN SMITH: So you have --

6 JUDGE DUNBAR: And then if they're going to  
7 make a motion, they have to make -- they come before me on  
8 a 365, and I says, "Well, y'all, you know I can't grant the  
9 continuance. But y'all are allowed to make that motion in  
10 front of whoever the Administrative Judge is."

11 CHAIRMAN SMITH: And so if -- even if you  
12 wanted to grant a continuance, you're prohibited from doing  
13 that per the Chief Justice's order?

14 JUDGE DUNBAR: Yes. And they put it on the  
15 docket. And you don't -- you don't want to get into hot  
16 water by -- I mean, I'll go down there and run and -- but I  
17 think that they have plenty of time to make those motions  
18 in front of the Administrative Judge. And they do.

19 CHAIRMAN SMITH: Well, when I see that --  
20 that portion of the transcript where Ms. Sellers says, "I  
21 filed a motion" --

22 JUDGE DUNBAR: And there was no motion that  
23 I saw in the file.

24 CHAIRMAN SMITH: Okay.

25 JUDGE DUNBAR: There was no motion that I

1 saw in the file. And she didn't present it to me. I  
2 didn't -- I didn't see anything -- I still don't see  
3 anything in the file, that there was a motion filed for a  
4 continuance.

5 CHAIRMAN SMITH: All right. Any further  
6 questions?

7 (Hearing none.)

8 MS. DEAN: And, Judge Dunbar, you have in  
9 front of you, the written response without exhibits. Is  
10 that correct?

11 JUDGE DUNBAR: Yes. Yes, ma'am.

12 MS. DEAN: And you don't have any objection  
13 to that being made a part of the record?

14 JUDGE DUNBAR: No. No, ma'am.

15 (EXHIBIT NO. 21 - FORMAL RESPONSE AND  
16 MEMORANDUM OF TARITA A. DUNBAR)

17 MS. DEAN: Mr. Chairman, if it's  
18 appropriate, if we could now move to Ms. Glenn's  
19 complaints, and asking Judge Dunbar to be seated and invite  
20 Ms. Glenn to the podium.

21 CHAIRMAN SMITH: Ms. Glenn, will you come  
22 forward, please, ma'am.

23 MS. SELLERS: Mr. Smith, can I say  
24 something?

25 CHAIRMAN SMITH: Well, we were -- Ms.

1 Sellers, we were looking at the rule, and the rule allows  
2 you to speak and make your presentation, Rule 15(d). And  
3 then it allows Judge Dunbar to -- then it allows Judge  
4 Dunbar to make her presentation. It doesn't allow back and  
5 forth on that.

6 MS. SELLERS: The only thing that I'm  
7 concerned with, and I want it to be on the record, if I  
8 don't say anything I'll be in the same situation that I was  
9 in this.

10 REPRESENTATIVE RUTHERFORD: Mr. Chairman --  
11 I'm sorry. There are rules and then there are rules. And  
12 we either have rules or we don't. And I didn't write that  
13 rule. But if it's in there, then if we give her a chance  
14 to respond, then the judge gets a chance to respond --

15 MS. SELLERS: I'm only asking to --

16 REPRESENTATIVE RUTHERFORD: And I -- listen,  
17 I'm sorry. I'm sorry. There are rules and there are  
18 rules. And so if the rule doesn't mean anything, then  
19 fine. We just go back and forth. But there's Rule 15(d),  
20 which I've never heard of, I was wondering if it was (c) --

21 CHAIRMAN SMITH: C.

22 REPRESENTATIVE RUTHERFORD: I was wondering  
23 why y'all were all doing this. But if it's the rule, it's  
24 the rule.

25 CHAIRMAN SMITH: Read that into the -- let's

1 read the rule into the record so the Commission members  
2 have the understanding. Ms. Sellers, have a seat and we'll  
3 get back to you in a second, please, ma'am.

4 MS. CRAWFORD: 15(c) of the Procedural Rules  
5 for the Judicial Merit Selection Commission states: "The  
6 Chairman will call and swear in witnesses who have either  
7 submitted a sworn statement by the deadline established by  
8 the Commission prior to the hearing, or have been  
9 subpoenaed by the Commission to appear. Staff Counsel and  
10 Commission members will question the witnesses, and the  
11 candidate may submit proposed questions to the Commission  
12 for consideration. Upon the completion of testimony, the  
13 candidate may respond to the testimony given."

14 CHAIRMAN SMITH: So, Ms. Sellers, as I see  
15 it, unfortunately, and I apologize for this, the rule does  
16 not allow a rebuttal for complainants nor for the judges.  
17 We can't get into that. So we're going to have to --

18 MS. SELLERS: But the only thing that I'm  
19 saying is the rules to this is it's not a rebuttal to that.  
20 It's you asked her specific questions about the case that  
21 were not asked of me on the Commission. So there's no way  
22 that I was able to substantiate anything or make any type  
23 of comment, because those same questions weren't addressed  
24 to me. So how am I supposed to address those when you  
25 asked her subsequently after my testimony?

1                   CHAIRMAN SMITH: Yes, ma'am. I understand.  
2 We made a rule. And thank you very much. All right.

3                   REPRESENTATIVE RUTHERFORD: Mr. Chairman.

4                   CHAIRMAN SMITH: Representative Rutherford.

5                   REPRESENTATIVE RUTHERFORD: Again, I would  
6 imagine that 15(c) is in place because we have received the  
7 transcript, we have received the complaint, we have  
8 received proposed questions, we have received the response,  
9 and we have taken oral testimony as it relates to this  
10 complaint. So I don't want anyone to think that all of  
11 this material was not given to us, I think a month ago, to  
12 peruse, to go over.

13                   The bulk of the people on this panel are  
14 attorneys. Everyone has read this material and has gone  
15 through it, and has looked for not only that which was  
16 alleged in the complaint, but that could -- that which  
17 could be also alleged in the complaint, even if it was not.

18                   And so I don't want anybody to think that  
19 Rule 15(c) prohibits us from examining everything that is  
20 before us. And, in fact, we have all done that. So it's  
21 not, in my opinion, a rule -- I didn't know it existed --  
22 it's not a rule to stop us from getting testimony from  
23 individuals or to limit our understanding of the situation  
24 at hand. But it is the rule.

25                   And so I just don't want everybody to think



1 that we are ignoring them or limiting them or stopping  
2 their rights to free speech. But if we have rules, then we  
3 should obey them. Or we simply will disobey them at will,  
4 potentially impacting the people that are in front of us.

5 So I don't know why it exists, but it does.  
6 And if that's what it says, then that's simply what it is.  
7 But I would -- I want everyone to understand it is not to  
8 limit what we have done in this case to prepare for in  
9 listening to the complaints that we've heard today.

10 CHAIRMAN SMITH: All right. Thank you, Mr.  
11 Rutherford.

12 MS. DEAN: Thank you, Mr. Chairman. Mr.  
13 Chairman, for the record, I'd like to call -- would you  
14 like to call Ms. Glenn forward now?

15 CHAIRMAN SMITH: Yes, ma'am. Does anyone  
16 need a break? Y'all ready to keep on?

17 SENATOR RANKIN: Let's go.

18 CHAIRMAN SMITH: Court reporter -- Madam  
19 Court Reporter, you okay? All right. Ms. Glenn, if you'll  
20 come forward, please, ma'am. Raise your right hand,  
21 please, ma'am.

22 WHEREUPON:

23 CYNTHIA GLENN, being duly sworn and  
24 cautioned to speak the truth, the whole truth and nothing  
25 but the truth

1                   CHAIRMAN SMITH: I think we're going to  
2 allow you to make a statement, also, if you would, please.  
3 And we'll follow up with questions.

4                   MS. GLENN: Well, I appreciate this  
5 committee's diligence today. I would like to begin by  
6 admonishing the committee for qualifying Judge Dunbar as a  
7 candidate in 2013. Her application was sadly inadequate.  
8 It had been 25 years since she worked in any family  
9 practice law firm, and her application stated that she had  
10 handled only one actual divorce case.

11                   On the application one of her examples of a  
12 notable cause -- case was a case that she actually plead  
13 incorrectly, and determined it notable that she had to  
14 argue for the -- for the court to amend the pleading.

15                   As a pro se party, perhaps I would consider  
16 that notable. But as a judicial candidate, this  
17 application was embarrassing. So embarrassing, in fact,  
18 that the attorneys were laughing about her before and after  
19 our hearing.

20                   This committee's candidate qualifications  
21 report on Ms. Dunbar only consisted of four pages.  
22 Whereas, they submitted 13 pages regarding another well  
23 qualified candidate applying for the same seat.

24                   Remarkably, even though this committee  
25 deemed Ms. Dunbar as qualified, only two members of the

1 Judicial Merit committee even voted for her during General  
2 Sessions.

3           This committee is charged with the  
4 responsibility and honor of vetting judicial candidates  
5 that they believe will adequately serve the citizens of our  
6 fine state. That charge is no small responsibility. And,  
7 therefore, inadequate applicants should have been promptly  
8 discarded.

9           If ever there was a need for a body of  
10 people to be above reproach it is the Judicial Merit  
11 Selection committee. I noticed today that there were 20  
12 concerns from her peers, and I agree with those concerns.

13           Ms. Dunbar's personal beliefs did come into  
14 the hearing that I was a part of. And her legal knowledge  
15 and principles were far lacking.

16           To Ms. Dunbar, family court laws and rules  
17 are simple. So simple, in fact, that I believe you could  
18 have set them to memory. You filed an application on your  
19 own accord, and even though this committee shouldn't have  
20 qualified you, they did.

21           Therefore, it was your responsibility to  
22 know and uphold the laws and rules, to uphold the oath of  
23 office, to maintain a high standard of conduct and to rule  
24 with integrity.

25           Yet two years after your employ --

1 appointment during this case, you did not follow these  
2 simple tasks. Your lack of respect for the legal system  
3 and indebtedness to the families and children you were  
4 sworn to protect was not just a lack of experience. It was  
5 a lack of integrity.

6           While an inexperienced candidate could  
7 possibly learn from experience, if they were so inclined, a  
8 lack of integrity is a character flaw, a lifestyle choice  
9 that will not change over time. When the fate of our  
10 families and children are involved, there is no place on  
11 the bench for such a person.

12           I would like to introduce this particular  
13 case. This is a simple change of circumstance where the  
14 father had maintained the child since infancy but the  
15 mother had recently moved back to South Carolina and sought  
16 custody. The mother lived in Myrtle Beach and the father  
17 lived in Greenville.

18           Child One was a son abandoned by his mother,  
19 Ms. Abbott, and raised by his father, Mark Guion, from the  
20 age of 4 months old. Mark remarried and had two other sons  
21 in a ten-year marriage.

22           Thirteen years after Child One was left to  
23 be raised by Mark, his ex-wife coordinated an effort with  
24 Ms. Abbott to create a two-fold attack and gain an  
25 advantage in court. Her goal was to remove the mutual

1 consented 50/50 agreement she had for her children.

2           The two mothers filed complaints at the same  
3 time. Although, those two cases occurred simultaneously,  
4 they were dissimilar and should have been tried separately.

5           The case we will be discussing today was a  
6 drug-addicted mother who abandoned her infant and had  
7 exercised minimal involvement in his life. Brian Johnson  
8 was her attorney.

9           Case number two was a simple divorce with  
10 mutually-agreed upon 50/50 custody. Immediately following  
11 the divorce, she remarried and wanted to redact the 50/50  
12 agreement. Kimberly Dunham was her attorney.

13           In regard to the circumstances of Child One,  
14 there had been no change of custody in the initial  
15 temporary hearing. This was a second temporary hearing  
16 requested by the guardian ad litem. One month prior a  
17 second temporary hearing had also been requested by the  
18 mother, and had already been denied by a different judge.

19           The guardian ad litem requested that  
20 temporary hearing for school purposes. However, the  
21 guardian ad litem investigation had barely begun. The  
22 final hearings were not scheduled to occur until the end of  
23 the school year.

24           One hundred percent of the child's education  
25 had occurred in Greenville, where the child was already

1 placed with his father. When the guardian ad litem  
2 requested this hearing there were two contempt cases on the  
3 docket. Ms. Dunbar chose to put the second temporary  
4 hearing on the docket in the slot of a previously scheduled  
5 contempt hearing. We can see proof of this on page 1 of  
6 the transcript.

7 When opposing counsel requested that the  
8 contempt hearing be continued, on line 10, Ms. Dunbar  
9 actually thanks the attorney for continuing the contempt  
10 case because she only had 15 minutes to rule on custody.

11 Ms. Dunbar purposely decided to make a  
12 ruling on custody with full knowledge that there were  
13 contempt cases to be heard. In essence, Ms. Dunbar chose  
14 to rule on custody with full knowledge that there were  
15 extenuating circumstances, and she ruled before hearing the  
16 conditions of the case.

17 During this hearing Ms. Dunbar's lack of  
18 respect for the laws and fairness continued. She violated  
19 rules and Supreme Court orders for temporary hearings. She  
20 violated South Carolina Code of Laws regarding  
21 responsibility of private guardian ad litem. She allowed  
22 rules of evidence to be violated.

23 Ms. Dunbar allowed a handwritten, unsigned  
24 piece of paper to be submitted into evidence, with the  
25 claim that it was a counselor's note.

1                   While another judge had recused themselves  
2 for serving on both cases, unlike Ms. Seller's case, Ms.  
3 Dunbar actually allowed the opposing attorney to testify as  
4 a witness against the father in this case. Temporary  
5 hearings do not allow testimony, especially a lawyer as a  
6 witness.

7                   The opposing attorney's testimony was regard  
8 -- regarding pending accusations that were not findings of  
9 the court, and therefore, her testimony was hearsay. As  
10 the courtroom escalated into chaos, the attorneys felt safe  
11 enough to violate the rules of fairness and candor.

12                   Brian Johnson, Abbott's attorney, gave false  
13 testimony on behalf of a counselor who was not present.  
14 Kimberly Dunbar -- I'm sorry, Dunham -- Kimberly Dunham  
15 demanded that the judge write down the case number of her  
16 client and consult with it before reading -- before ruling.  
17 I'm going to say that again: Kimberly Dunham demanded that  
18 the judge write down the case number of her client's case,  
19 and consult with it before ruling. And astoundingly, Ms.  
20 Dunbar did as she was told.

21                   Ms. Dunbar is susceptible to coercion. The  
22 facts of the case were no mystery, and Ms. Dunbar  
23 acknowledged the several conflicting facts presenting in  
24 the hearing. A major fact in question was where the child  
25 had actually been living and who was his primary parent for

1 13 years. We were in court for 15 minutes when it hadn't  
2 even been decided where the child had been living for 13  
3 years.

4 She even acknowledged that the mother had  
5 been enticing the child and by promising to home school if  
6 he was moved to Myrtle Beach. Despite understanding these  
7 facts, she succumbed to the coercion tactics of the  
8 attorneys, and allowed them to run the courtroom. This  
9 shows a lack of personal integrity, ethics, and  
10 independence. They are qualities that are not compatible  
11 with the bench.

12 Ms. Dunbar's lack of respect for the  
13 courtroom escalated into a circus-type atmosphere. In a  
14 15-minute hearing, Ms. Dunbar allowed attorneys to  
15 interrupt her and each other more than ten separate -- on  
16 more than ten separate occasions, and she never called for  
17 order.

18 Now six years after the initial  
19 qualifications, we're no longer just talking about Ms.  
20 Dunbar's application. Today we are looking at actual  
21 hearings and broken laws.

22 I understand that family court operates  
23 behind closed doors, and that at times there may be a gap  
24 between what the rules state and how the courts function.  
25 But frankly, that is inconsequential today.



1 Ms. Dunbar has not upheld the integrity --  
2 integrity and independence of the judiciary. She did not  
3 treat us with civility, fairness, and respect. She was --  
4 she has allowed violates of rules. She has willfully  
5 violated orders of the South Carolina Supreme Court. She  
6 has allowed violates of the South Carolina Code of Laws,  
7 Code of Judicial Conduct, and Rules of Professional  
8 Conduct.

9 These are all grounds for discipline and  
10 sanctions, and most certainly deem her to be unqualified as  
11 a judicial candidate.

12 Additionally, in Ms. Dunbar's opening  
13 statements, she said, "That attorneys love me and they are  
14 comfortable contacting me," and asking her to -- instead of  
15 the docket, instead of asking her to review the case.

16 The conditions that I saw in that courtroom,  
17 I bet the attorneys do love her, and that they are  
18 comfortable asking her to review their case.

19 I want everyone to be aware of the full  
20 story and consequences of this case. During final  
21 hearings, Mark Guion, the father of the -- these boys had a  
22 stress-related heart attack and died from complications.  
23 Sadly, I doubt Ms. Dunbar even remembers this case, or  
24 Mark. But now my stepsons are fatherless.

25 They spent the last three years of their

1 father's life captive by a decision made in 15 minutes.  
2 They deserve better. All children deserve better.

3 It is this committee's responsibility to  
4 vote not qualified for Ms. Dunbar, so that her seat can be  
5 filled by someone who is competent, a person with a  
6 willingness to follow laws, rules, and the judicial canons.  
7 There is no place on the family court bench for a judge  
8 without integrity.

9 MS. DEAN: Thank you, Ms. Glenn. And just  
10 to kind of get our bearings here. I'm going to ask you  
11 some questions and I'm just going to remind the committee  
12 and everyone that the Commission is focused on the nine  
13 evaluative criteria and not relitigating any past  
14 proceedings.

15 And, again, just to help us catch our  
16 bearings here, is the Abbott v. Guion case that you've been  
17 referring to, is that under seal?

18 MS. GLENN: It is not.

19 MS. DEAN: Is there another case that is  
20 under seal, that's connected to this case?

21 MS. GLENN: Case number two was under seal  
22 for my protection. And I am a party and can share that  
23 case.

24 MS. DEAN: The case that you're being --  
25 you're talking about today is the Abbott case, which is not

1 under seal. Is the Abbott case under appeal at the Court  
2 of Appeals or the Supreme Court?

3 MS. GLENN: No, the Abbott case is not.

4 MS. DEAN: And by way of background, you  
5 alluded to this, but just for clarification how are you  
6 connected to the Abbott case?

7 MS. GLENN: I was married to Mr. Guion.

8 MS. DEAN: I'm just trying to help them all  
9 get their bearings. In the hearing -- the temporary  
10 hearing case and Abbott v. Guion case, in your -- in your  
11 affidavit, you allege that during this hearing the court  
12 lacked order and decorum, and failed to follow rules,  
13 making the Court susceptible to coercion. Is that a  
14 correct summary of your concerns?

15 MS. GLENN: Yes, it is.

16 MS. DEAN: And you witnessed the hearing on  
17 November 14th, 2016? You were there?

18 MS. GLENN: Yes, I was.

19 MS. DEAN: And can you please describe your  
20 concerns regarding the hearing -- regarding the attorneys  
21 behavior in the courtroom?

22 MS. GLENN: It was a circus. It was a free-  
23 for-fall. Everyone talked over everyone. Rules weren't  
24 followed. Motions for dismissal, you know, were denied  
25 based -- we show -- we didn't even know what we were

1 showing up for.

2 We didn't know if we were showing up for the  
3 contempt case that was on the docket -- the two contempt  
4 cases to be heard at once, or this guardian ad litem's  
5 second temporary hearing. We didn't find out till we got  
6 there, which one that she had decided it would be.

7 And then we get there and have a guardian ad  
8 litem report, which isn't even allowed in -- in the rules,  
9 you're only supposed to admit -- submit affidavits. He had  
10 a whole report that we heard about that morning, along with  
11 the piece of notebook paper they said was from a counselor,  
12 that you couldn't read.

13 MS. DEAN: And during this hearing on  
14 November 15th, 2016, did you -- did Judge Dunbar lose her  
15 temper with any of the parties?

16 MS. GLENN: Nope. She just sat there and  
17 let it all happen.

18 MS. DEAN: And so your concern is the  
19 attorneys' behavior at the hearing, and what was --

20 MS. GLENN: My concern is her inability to  
21 follow the rules and laws. And I believe that, that is why  
22 there was no decorum in the courtroom, because she allowed  
23 it to happen. And they ran over her.

24 CHAIRMAN SMITH: Any questions?  
25 Representative Murphy.

1                   REPRESENTATIVE MURPHY: Thank you, ma'am.  
2 Just briefly. So -- just so I'm trying to get -- follow  
3 the rule -- the order of the case, there was the temporary  
4 -- the second temporary hearing.

5                   MS. GLENN: Correct.

6                   REPRESENTATIVE MURPHY: And that is the one  
7 that you're testifying about.

8                   MS. GLENN: It was actually the second,  
9 second temporary hearing. The first request for a second  
10 temporary hearing was denied. And then this one just  
11 popped up and was put in the docket.

12                   REPRESENTATIVE MURPHY: Because the guardian  
13 -- the guardian requested it, correct?

14                   MS. GLENN: The guardian requested this one,  
15 yes.

16                   REPRESENTATIVE MURPHY: Okay. And your  
17 husband at that time was represented, correct?

18                   MS. GLENN: Correct.

19                   REPRESENTATIVE MURPHY: After the ruling,  
20 after the judge -- Judge Dunbar made her ruling, where --  
21 where did the case proceed after that second temporary  
22 hearing?

23                   MS. GLENN: Are you asking what the ruling  
24 was?

25                   REPRESENTATIVE MURPHY: No, no. But I mean,

1 what happened after the second hearing? Did the -- did the  
2 second hearing, was that the last order of the case?

3 MS. GLENN: No. No, the case had barely  
4 begun. It was the beginning of the school year, and we  
5 wouldn't have hit the benchmark rule until the end of the  
6 school year. So we didn't even understand why the guardian  
7 was asking for a second temporary hearing. We had just  
8 begun.

9 REPRESENTATIVE MURPHY: Okay. But he was  
10 represented by an attorney.

11 MS. GLENN: He was.

12 REPRESENTATIVE MURPHY: Okay. After the  
13 second temporary hearing, the one that we're here for, was  
14 there a final hearing in this case?

15 MS. GLENN: There was a final hearing a year  
16 and a half later, which extended the 365 day benchmark.

17 REPRESENTATIVE MURPHY: Okay. At that point  
18 was your -- was your husband represented by an attorney at  
19 that point?

20 MS. GLENN: He was.

21 REPRESENTATIVE MURPHY: Okay. Was the  
22 ruling in that final hearing similar to the temporary  
23 hearing?

24 MS. GLENN: They consented and mediated  
25 before that time.

1 REPRESENTATIVE MURPHY: Okay. So --

2 MS. GLENN: But I will let you know that the  
3 guardian ad litem was excused.

4 REPRESENTATIVE MURPHY: Okay. Thank you.  
5 But just so everybody understands, you had the second  
6 temporary hearing, which was at the request of the  
7 guardian, Judge Dunbar ruled. You then, as is required,  
8 the parties were required to go to mediation, correct?

9 MS. GLENN: Correct.

10 REPRESENTATIVE MURPHY: And during that time  
11 they went to mediation, they were able to settle their  
12 differences?

13 MS. GLENN: To my understanding, yes. I was  
14 not in mediation.

15 REPRESENTATIVE MURPHY: So they settled  
16 their differences and then a final ruling -- a final order  
17 ending the case was entered, correct?

18 MS. GLENN: Correct.

19 REPRESENTATIVE MURPHY: All right. Okay.  
20 Thank you. That's all I have.

21 CHAIRMAN SMITH: All right. Any further  
22 questions? Representative Rutherford.

23 REPRESENTATIVE RUTHERFORD: Just briefly. I  
24 believe that staff posed the question to you, about what  
25 you believe is the problem here. And you stated that she -

1 - in the hearing that you witnessed, that she allowed the  
2 lawyers to run over her?

3 MS. GLENN: That was one of the issues that  
4 I have, yes. My biggest issue was the inability to follow  
5 rules.

6 REPRESENTATIVE RUTHERFORD: The inability to  
7 follow rules?

8 MS. GLENN: Correct.

9 REPRESENTATIVE RUTHERFORD: What do you  
10 mean?

11 MS. GLENN: Well, she allowed an opposing  
12 attorney -- attorney to testify in a temporary hearing.

13 REPRESENTATIVE RUTHERFORD: Okay. If you  
14 would, stop right there. And the opposing attorney  
15 testified; is that correct?

16 MS. GLENN: correct.

17 REPRESENTATIVE RUTHERFORD: And that  
18 opposing attorney -- by "opposing," you mean on the other  
19 side of your then-husband. Is that correct?

20 MS. GLENN: The one in case number two.

21 REPRESENTATIVE RUTHERFORD: In case number  
22 two.

23 MS. GLENN: correct.

24 REPRESENTATIVE RUTHERFORD: Which was not  
25 regarding your then-husband?



1 MS. GLENN: Yes. Two -- okay. Remember the  
2 two mothers filed --

3 REPRESENTATIVE RUTHERFORD: No, I want to  
4 make sure we're talking about the same thing.

5 MS. GLENN: Right.

6 REPRESENTATIVE RUTHERFORD: You can go and -  
7 -

8 MS. GLENN: So, yes, it was against my  
9 husband.

10 REPRESENTATIVE RUTHERFORD: Right. So  
11 again, your then-husband was present and represented by  
12 counsel at that hearing as well, correct?

13 MS. GLENN: Correct.

14 REPRESENTATIVE RUTHERFORD: Did your then-  
15 husband's attorney object?

16 MS. GLENN: Oh, yes.

17 REPRESENTATIVE RUTHERFORD: And was that  
18 ruling addressed?

19 MS. GLENN: It was ignored.

20 REPRESENTATIVE RUTHERFORD: So there was no  
21 ruling on the objection?

22 MS. GLENN: It was ignored.

23 REPRESENTATIVE RUTHERFORD: So if we check  
24 the transcript, there is an objection. And that objection  
25 was ignored by the judge; is that right?

1 MS. GLENN: Yes, sir.

2 REPRESENTATIVE RUTHERFORD: Okay. And  
3 because that objection was ignored, what did that attorney  
4 do?

5 MS. GLENN: She continued to try to fight  
6 for his case.

7 REPRESENTATIVE RUTHERFORD: How did she  
8 continue to try and fight for his case?

9 MS. GLENN: She pointed out all of the  
10 flaws. I mean, I could read the transcript --

11 REPRESENTATIVE RUTHERFORD: In the  
12 objection, she pointed out all of the flaws? Or did she  
13 continue to object?

14 MS. GLENN: I haven't committed the  
15 transcript to error [sic]. I would have to look that up  
16 exactly.

17 REPRESENTATIVE RUTHERFORD: Well, there are  
18 actual cases on attorneys objecting and not objecting  
19 strenuously enough, and not renewing objections, and the  
20 obligations that are placed on the attorneys in a matter.  
21 But you don't remember exactly what your husband's attorney  
22 did to place that objection on the record and get a ruling;  
23 is that right?

24 MS. GLENN: I remember she objected quite a  
25 few times. We had a big problem in the courtroom. If

1 you'll recall --

2 REPRESENTATIVE RUTHERFORD: I'm sorry, let's  
3 -- let's go back to the objection. Because you stated  
4 that, that's the problem, there was an objection and a non-  
5 ruling. And then the attorney objected again; is that  
6 correct?

7 MS. GLENN: By this time, Kimberly Dunham  
8 had taken over the courtroom.

9 REPRESENTATIVE RUTHERFORD: Again, not the  
10 commentary. What happened? The attorney objected again;  
11 is that correct?

12 MS. GLENN: I would have to read the  
13 transcript in order to look for the word "objection." But  
14 I do know that his attorney tried many times to bring the  
15 situation into understanding.

16 REPRESENTATIVE RUTHERFORD: But by bringing  
17 it into understanding, the attorney objected again to try  
18 and make sure that the objection was on the -- on the  
19 record; is that right?

20 MS. GLENN: I would have to read the  
21 transcript again.

22 REPRESENTATIVE RUTHERFORD: And if you read  
23 it again, if the judge said "overruled" --

24 MS. GLENN: The judge never said  
25 "overruled."

1                   REPRESENTATIVE RUTHERFORD: Did the judge  
2 say "sustained"?

3                   MS. GLENN: I don't recall her saying  
4 anything.

5                   REPRESENTATIVE RUTHERFORD: So the judge was  
6 hearing the word "objection," and the attorney would say it  
7 once and then sit down?

8                   MS. GLENN: Everyone was standing and  
9 talking at the same time.

10                  REPRESENTATIVE RUTHERFORD: And so again,  
11 your point of contention is that everyone in the courtroom  
12 was standing and talking at the same time. The lawyer for  
13 your then-husband, did they file a complaint?

14                  MS. GLENN: I do not know.

15                  REPRESENTATIVE RUTHERFORD: So this was  
16 three years ago?

17                  MS. GLENN: Yes, sir.

18                  REPRESENTATIVE RUTHERFORD: Have you  
19 contacted that lawyer?

20                  MS. GLENN: Not in a while, no.

21                  REPRESENTATIVE RUTHERFORD: Did you ask  
22 whether they had a problem with how things went?

23                  MS. GLENN: I do know she had a problem with  
24 the way things went, because we talked about it after the  
25 hearing.

1 REPRESENTATIVE RUTHERFORD: Did she file a  
2 complaint?

3 MS. GLENN: I would not know.

4 REPRESENTATIVE RUTHERFORD: Is it under  
5 appeal?

6 MS. GLENN: No, it is not. Because they  
7 mediated.

8 REPRESENTATIVE RUTHERFORD: And you are not  
9 a lawyer, correct?

10 MS. GLENN: Correct.

11 REPRESENTATIVE RUTHERFORD: But you are  
12 aware that if a lawyer has a problem with the way that they  
13 are treated, they have a right to file an appeal; is that  
14 right?

15 MS. GLENN: She could have very well been  
16 one of the 20 complaints that were mentioned earlier today.

17 REPRESENTATIVE RUTHERFORD: Right. But she  
18 would have address her lack of being recognized in the  
19 courtroom by filing an appeal, correct?

20 MS. GLENN: She would file a complaint or an  
21 appeal.

22 REPRESENTATIVE RUTHERFORD: Well, either.  
23 But you said you did not know whether she filed a  
24 complaint, and so I'm asking whether you know whether she  
25 filed an appeal.

1 MS. GLENN: I do not know that. But I will  
2 speak for if I were an attorney --

3 REPRESENTATIVE RUTHERFORD: I'm asking you  
4 not to do that, because part of the problem is -- I just  
5 tried a week-and-a-half-long murder case, and sometimes I'd  
6 stand up and say "objection," and the judge knew that I --  
7 what I was objecting to, so did the other lawyer, and so  
8 there was no need to state my objection for the record.  
9 And the other lawyer just moved away.

10 What you're saying is that if that happened  
11 here, it would be your contention that, that would be Ms.  
12 Dunbar -- or Judge Dunbar letting her courtroom run amuck.

13 MS. GLENN: Can you rephrase that? I'm  
14 sorry.

15 REPRESENTATIVE RUTHERFORD: Meaning that if  
16 the lawyer objected, and the judge and the opposing  
17 attorney recognized the objection, the fact that Judge  
18 Dunbar did not rule on that object is in your opinion  
19 letting the courtroom run amuck. Is that correct?

20 MS. GLENN: Well, considering that we're  
21 talking about allowing Ms. Dunham -- Kimberly Dunham, the  
22 opposing attorney, to come in and speak at a hearing that  
23 was not her own, and that she continued to speak even  
24 afterwards, I do believe that Ms. Dunbar did not rule.

25 REPRESENTATIVE RUTHERFORD: Well, let me ask

1 you this: You further stated that Ms. Dunbar -- Judge  
2 Dunbar broke the law. What law did she break?

3 MS. GLENN: I said that she violated laws.

4 REPRESENTATIVE RUTHERFORD: Well, violating  
5 the law is breaking it. So what law did she break?

6 MS. GLENN: Well, she did allow an attorney  
7 as a witness. Which we had just talked about in a former  
8 case. She allowed the guardian ad litem to submit a report  
9 in a temporary hearing instead of an affidavit.

10 REPRESENTATIVE RUTHERFORD: So let me ask  
11 you again because --

12 MS. GLENN: Rules of evidence.

13 REPRESENTATIVE RUTHERFORD: You agree,  
14 though, that you are under oath.

15 MS. GLENN: Correct.

16 REPRESENTATIVE RUTHERFORD: You agree that,  
17 that oath means that you are bound to speak and tell the  
18 truth, correct?

19 MS. GLENN: Correct.

20 REPRESENTATIVE RUTHERFORD: You stated under  
21 oath, that Judge Dunbar broke the law, that she violated  
22 the law. So I'm asking you what law did she violate?

23 MS. GLENN: Well, the rules of evidence --

24 REPRESENTATIVE RUTHERFORD: What law? Not  
25 rules of evidence. What law?

1 MS. GLENN: So the guardian ad litem rule --

2 REPRESENTATIVE RUTHERFORD: Not rule. Law.

3 MS. GLENN: Law code --

4 REPRESENTATIVE RUTHERFORD: Because again,  
5 there are rules for everybody.

6 MS. GLENN: Uh-huh.

7 REPRESENTATIVE RUTHERFORD: Including this  
8 panel, as you can see, by Rule 15(c). But that also  
9 applies to witnesses who come up and take an oath. And if  
10 the oath means to tell the truth, we can't state thing that  
11 we don't have evidence to back. So if you stated that a  
12 judge has violated the law, that somebody's committed a  
13 crime, this panel wants to know. And I assure you that I  
14 do.

15 MS. GLENN: The South Carolina Children's  
16 Code of Law, Section 8.10 through 8.70.

17 REPRESENTATIVE RUTHERFORD: And what law did  
18 she break?

19 MS. GLENN: Well, that is the rules for the  
20 guardian ad litem.

21 REPRESENTATIVE RUTHERFORD: Those are rules  
22 --

23 MS. GLENN: I'm sorry.

24 REPRESENTATIVE RUTHERFORD: -- for the  
25 guardian ad litem.



1 MS. GLENN: Those are the laws for the  
2 guardian ad litem.

3 REPRESENTATIVE RUTHERFORD: Right. That's  
4 not for the court. What law did Judge Dunbar break?

5 MS. GLENN: I'm sorry, I don't understand  
6 your question. I can read the laws in South Carolina, and  
7 I see the rules for the guardian ad litem.

8 REPRESENTATIVE RUTHERFORD: But you agree  
9 that Judge Dunbar is not a guardian ad litem, correct?

10 MS. GLENN: She allowed the guardian ad  
11 litem to present --

12 REPRESENTATIVE RUTHERFORD: But Judge Dunbar  
13 is not a guardian ad litem. Do you agree?

14 MS. GLENN: I do agree. Well, I don't know  
15 if she's a guardian ad litem or not. Not in this case --

16 REPRESENTATIVE RUTHERFORD: Not in this  
17 case. And so as not being a guardian ad litem in this  
18 case, the rules that apply to guardians ad litem did not  
19 apply to Judge Dunbar during that hearing, correct? She  
20 would be honor-bound by the rules of evidence, by the  
21 general law in South Carolina, but not the laws that  
22 applies to guardians ad litem.

23 So if your statement that she violated the  
24 law is incorrect, it's fine. But otherwise, I'm asking you  
25 did she violate the law or not?

1 MS. GLENN: I believe that she did. I  
2 believe that --

3 REPRESENTATIVE RUTHERFORD: And so I'm  
4 asking --

5 MS. GLENN: -- she allowed --

6 REPRESENTATIVE RUTHERFORD: -- which law did  
7 she violate?

8 MS. GLENN: I believe that she allowed into  
9 her courtroom, violations of the children's code.

10 REPRESENTATIVE RUTHERFORD: But you  
11 understand that allowing someone, a guardian, to testify  
12 outside the rules is not the law as it relates to Judge  
13 Dunbar, correct?

14 MS. GLENN: No, I do not. I believe that  
15 she's in charge of the courtroom.

16 REPRESENTATIVE RUTHERFORD: And by being in  
17 charge of the courtroom, if someone testifies outside of  
18 where they're supposed to testify, you believe it's the law  
19 that Judge Dunbar has to do something about that.

20 MS. GLENN: I believe that she's in charge  
21 of the courtroom, and she should not allow violations of  
22 the law within her courtroom.

23 REPRESENTATIVE RUTHERFORD: No further  
24 questions at this time.

25 SENATOR SABB: Mr. Chairman.

1 CHAIRMAN SMITH: Senator Sabb.

2 SENATOR SABB: Thank you, Mr. Chairman. Ms.  
3 Glenn, good evening. And thank you for coming. I wanted  
4 to try to be clear on something. Because I know that as  
5 lawyers, when we hear certain things, we think certain  
6 things because of our training, that oftentimes lay-people  
7 are not saying exactly what we're thinking, because they're  
8 two different sort of a thing. And so I want to make sure  
9 that we're clear.

10 So as I understand it, you had -- I'll call  
11 them Case 1 and Case 2 going on, right?

12 MS. GLENN: Correct.

13 SENATOR SABB: Case 2 being the one under  
14 seal, correct?

15 MS. GLENN: Correct.

16 SENATOR SABB: There's a lawyer involved in  
17 Case 2, correct?

18 MS. GLENN: Correct.

19 SENATOR SABB: That lawyer comes to the  
20 hearing that we're talking about here, correct?

21 MS. GLENN: Correct.

22 SENATOR SABB: That lawyer doesn't actually  
23 go to the witness stand and take an oath and swear to tell  
24 the truth, the whole truth, and nothing but the truth;  
25 that's what we call a witness, the one that goes to the

1 witness stand. That's not what happened in this case.

2 What happened in this case was that the  
3 lawyer actually just addressed the Court, made certain  
4 comments to the Court. Is that right?

5 MS. GLENN: Correct. And then --

6 SENATOR SABB: Yes, ma'am. Go on.

7 MS. GLENN: And directed Ms. Dunbar to write  
8 down here case number and review it before ruling.

9 SENATOR SABB: Yes, ma'am. And so what you  
10 have, though, in terms of the case -- and I understand that  
11 reasonable minds and parties will differ as to what ought  
12 occur in a courtroom.

13 When I'm involved in litigation, I'd love  
14 for everything to go my way, believing that my way is the  
15 right way. Which is not always the way, although it might  
16 still be right in my mind.

17 But I guess the point that I want to make  
18 sure that the record is clear on, is your point of  
19 objection is really not so much in terms of the lawyer,  
20 quote/unquote, testifying, but it's the lawyer being  
21 permitted to address the Court as a part of the proceeding.  
22 Am I stating that correctly?

23 MS. GLENN: I believe so. Like you said, we  
24 have different terms for the same thing.

25 SENATOR SABB: Yes, ma'am. And what you're

1 really saying to us is, again, not so much the lawyer and  
2 going to the witness stand and -- but you're talking about  
3 the lawyer and being able to address the Court.

4 MS. GLENN: Correct. She did not --

5 SENATOR SABB: Talk to the Court.

6 MS. GLENN: -- go to the witness stand. But  
7 she did indeed talk to the Court and give them details and  
8 would not sit down with the objection.

9 SENATOR SABB: As a lawyer believing that,  
10 that's what she needed to do as a part of Case 2, right?

11 MS. GLENN: I cannot speak to what Ms.  
12 Dunham believed.

13 SENATOR SABB: Okay. So I thought you said  
14 that she asked Judge Dunbar to write down the number of the  
15 case, which was Case 2.

16 MS. GLENN: She did.

17 SENATOR SABB: So my point is, she's there  
18 advocating on some issue -- and please don't respond to  
19 what's going on Case 2, because it's under seal. And so  
20 that's not the purpose for my inquiry. But she is  
21 advocating to the judge, wanting the judge to look at  
22 something relating to Case 2, which is the case that she's  
23 involved in, right?

24 MS. GLENN: Correct.

25 SENATOR SABB: Okay. Thank you, ma'am.

1 CHAIRMAN SMITH: Mr. Safran.

2 MR. SAFRAN: Just a quick question. And I  
3 know you don't have the transcript in front of you, and I  
4 know you've been standing up here for quite a while, but  
5 let me just make sure. As I understood it, and I'm not  
6 trying to get into the merits of either of the two cases,  
7 particularly the one that's under seal, but I'm looking at  
8 the transcript, which obviously is something that's been  
9 submitted, that we all have access to. And you said, I  
10 guess, Ms. Dunham was there because of her involvement in  
11 the other case. Is that fair?

12 MS. GLENN: She was there.

13 MR. SAFRAN: Okay. I mean, she was the  
14 lawyer in the other case.

15 MS. GLENN: Correct.

16 MR. SAFRAN: Okay. And was there not some  
17 overlap in terms of the child, that had to do with both  
18 cases to some extent in terms of visitation? Wasn't there  
19 something going on with visitation, as to why Ms. Dunham  
20 was there in the first place?

21 MS. GLENN: Not that I'm aware of.

22 MR. SAFRAN: Well, if the transcript seems  
23 to say otherwise, if there was some need to coordinate the  
24 visitation, at least as I'm reading it, you don't remember  
25 that?

1 MS. GLENN: If you're referring to the  
2 guardian ad litem suggested that they should have  
3 visitation on the same days. But that wouldn't have had  
4 anything to do with Ms. Dunham.

5 MR. SAFRAN: Okay.

6 MS. GLENN: I can't answer that. I don't  
7 think she should have been there.

8 MR. SAFRAN: Okay. Well, but I guess it  
9 there was one party that was common to both cases, which  
10 was your late husband. Is that fair?

11 MS. GLENN: Well, yes.

12 MR. SAFRAN: Okay. All right. Thank you.

13 MS. GLENN: Can I point out that both of  
14 these cases were brand new? And pointing Ms. Dunham to  
15 look at her case, there were nothing but allegations there.  
16 There had been no rulings. So looking at a bunch of  
17 allegations really shouldn't have even been considered.

18 CHAIRMAN SMITH: Mr. Strom.

19 MR. STROM: Mr. Chairman, I just looked at  
20 this transcript, because I want to make sure we get this  
21 right. And it looks like on page 23 at the bottom, Ms.  
22 Dunham had finished. But anyway, "What I'm primarily here  
23 for, Your Honor, is that we seek these visitations --  
24 regardless of placement of P seek the visitations on the  
25 weekend. And we've tried to do that."

1                   So it looks like that was kind of the issue  
2 she was there for, was to get the visitation seen.

3                   MS. GLENN: I don't know why we needed a  
4 guardian ad litem if Ms. Dunham could come in.

5                   REPRESENTATIVE MURPHY: Mr. Chairman.

6                   CHAIRMAN SMITH: Representative Murphy.

7                   REPRESENTATIVE MURPHY: Mr. Chairman, I  
8 mean, the allegations -- I'm just looking -- reviewing the  
9 transcript. At no time did Ms. Medlin -- who was your  
10 husband's attorney, correct?

11                   MS. GLENN: Correct.

12                   REPRESENTATIVE MURPHY: At no time did he  
13 object to Ms. Dunham being there and, in fact -- that she -  
14 - that she object to Ms. Dunham being there. But in fact,  
15 she agreed, on page 24, that it was probably best that she  
16 be there so that they could get the issue regarding  
17 visitation synched up.

18                   And I just want to make the record -- you  
19 know, the transcript speaks for itself. But the  
20 allegations that -- that this was any -- anything other  
21 than a normal temporary hearing in my experience, I can't  
22 see anything that would lead me to believe that this was  
23 nothing but a normal temporary hearing.

24                   And guardian ad litem has a responsibility  
25 in the best interest of the child -- or the children to



1 file motions. Particularly in this case, because the  
2 school year was about to approach, and they needed to get  
3 the scheduling for the best interest of the children,  
4 particularly with the school year approaching. So I just  
5 wanted to make that clear.

6 CHAIRMAN SMITH: Senator Rankin.

7 SENATOR RANKIN: Ma'am, likewise, I want to  
8 thank you for being here. And I want to not belabor this.  
9 I think I understand your complaint. And it centers over -  
10 - one complaint centers over whether multiple hearings were  
11 granted, and apparently a guardian that might have not been  
12 up to speed, or in your view needed what, more time? Or  
13 have made a decision at only one hearing?

14 MS. GLENN: I'm not sure I understand your  
15 question.

16 SENATOR RANKIN: Well, and I'm not sure I  
17 understand your complaint. And so I'm not trying to be  
18 cute about it, but I'm -- has a guardian presented anything  
19 in your appeal, or before us --

20 MS. GLENN: There's no appeal in this case.

21 SENATOR RANKIN: Okay. So did a guardian  
22 ever express any of the same concerns that you have about  
23 your case?

24 MS. GLENN: The concerns that I have about  
25 what? What would be my concerns that would be the same as

1 a guardian's concern?

2 SENATOR RANKIN: Well, did a guardian ever  
3 complain about the decorum in the courtroom?

4 MS. GLENN: I would have no way of knowing  
5 that.

6 SENATOR RANKIN: Did a guardian -- and,  
7 again, was there a guardian in this case?

8 MS. GLENN: There was a guardian in this  
9 case. He's the one who called the second temporary  
10 hearing.

11 SENATOR RANKIN: Which you objected to, or  
12 did not object to, the second hearing?

13 MS. GLENN: I was not a party to the case.

14 SENATOR RANKIN: And this is the other one,  
15 correct? Yours is --

16 MS. GLENN: Are we talking about case one or  
17 case two?

18 CHAIRMAN SMITH: This is Case 1.

19 MS. GLENN: This is Case 1.

20 SENATOR RANKIN: All right. And so in Case  
21 1, do you -- does the guardian have any role in this  
22 complaint that you have before us?

23 MS. GLENN: Yes, he -- so we had the first  
24 temporary hearing and nothing was changed and the guardian  
25 ad litem was put into place. Not very long afterwards,

1 before finishing his complaint, there was a second  
2 temporary hearing that he set. Two contempt cases were put  
3 off for this second temporary hearing, because it was  
4 August and school was beginning to start.

5 But we already knew that school was going to  
6 start in August, and the final wouldn't happen until the  
7 school year, so this is a new case that all of a sudden  
8 came back up. All the contempt was pushed back and a  
9 ruling was made.

10 SENATOR RANKIN: And you're not appealing  
11 that ruling, 'cause you were not a party. That ruling was  
12 not appealed, correct?

13 MS. GLENN: The ruling on this case, no, it  
14 was not appealed. It wasn't a final ruling. The final was  
15 mediated. Can I respond to Mr. Murphy? I'm sorry I wasn't  
16 fast enough.

17 CHAIRMAN SMITH: Yes, ma'am. Go ahead.

18 MS. GLENN: So when we're talking about the  
19 courtroom, the transcript is very difficult to understand  
20 because people were all talking at once. Well, you do see  
21 Mrs. Medlin trying to speak and Ms. Dunham interrupts her.  
22 And stands up, on line 22 of page 23, which you had pointed  
23 me to, and she says, "Your Honor, let me finish before I  
24 was so." And there's blanks there. But I was in the  
25 courtroom and she said, "Before I was so rudely

1 interrupted."

2                   The case was just out of control. It wasn't  
3 a normal hearing. I would hope this wasn't a normal  
4 hearing. And I've never been in a hearing like that.

5                   CHAIRMAN SMITH: Representative Rutherford.

6                   REPRESENTATIVE RUTHERFORD: What rule are  
7 you citing that says that hearings have to be normal?

8                   MS. GLENN: I was referring -- I was --

9                   REPRESENTATIVE RUTHERFORD: But what he said  
10 is that when he looked at the transcript, that, that seemed  
11 to go the way that -- and he is a -- he does family court,  
12 that, that seemed to go the same way that other hearings  
13 go. But what you continue to cite is that decorum in the  
14 courtroom -- what rule mandates that she do anything other  
15 than what she did? What are you asking us to follow that  
16 she did not?

17                   MS. GLENN: It's my understanding that a  
18 courtroom --

19                   REPRESENTATIVE RUTHERFORD: No, I'm sorry, a  
20 rule. Show me the rule. Because this is a hearing.  
21 You're under oath. You have submitted to us that a judge  
22 has violated the rule. What rule exactly is it? And  
23 that's what everybody I think is searching for. We have to  
24 have something that says she violated the rules of conduct.  
25 And if she did, this panel will take that very seriously.

1                   And if she violated the law of this state,  
2 and committed a crime, we will remove her. That is our  
3 job. But when someone comes before us and says this person  
4 violated the rule, what rule did she violate by allowing  
5 the attorney -- the attorneys to talk? Even if sometimes  
6 they talk out of turn, as attorneys do, what rule is that?

7                   MS. GLENN: I believe I said she allowed  
8 rules to be violated.

9                   REPRESENTATIVE RUTHERFORD: But what rule  
10 did she allow to be violated that allows -- that mandates  
11 that attorneys can't talk and seek to advocate and be  
12 adversaries in a courtroom?

13                  MS. GLENN: Did you -- I mean, judicial  
14 decorum is not -- is something that --

15                  REPRESENTATIVE RUTHERFORD: Judicial decorum  
16 -- tell me the exact rule that you're alleging that she  
17 violated. Because again, please understand I'm not being  
18 hard on you. I mean, this has been three years that you've  
19 waited your turn, and we are here -- and, literally, we  
20 have gone over this. And it gets difficult because we're  
21 trying to make sure that we're not missing anything.

22                  And the last witness wanted to make sure  
23 that she said all that she wanted to say, and so we want to  
24 make sure, and I want to make sure, that Rule 15(c) is not  
25 used against you when she comes up to respond. So that's

1 why I'm pressing you to make sure that we have a complete  
2 understanding. What rule is it that you're alleging that  
3 she violated?

4 MS. GLENN: Rules of evidence.

5 REPRESENTATIVE RUTHERFORD: What rule,  
6 specifically, did she violate? The rules of evidence apply  
7 to the attorneys, and the judge gets to listen and decide  
8 what they're going to do. What rule did Judge Dunbar  
9 violate?

10 MS. GLENN: I don't believe that I said she  
11 violated a rule when they allowed each other to talk. I'm  
12 not sure that --

13 REPRESENTATIVE RUTHERFORD: But let me --  
14 let me be clear -- let me be clear: I don't need you to be  
15 -- it doesn't have to be allowing me to talk. Give me the  
16 rule number that we should look to, to say that she  
17 violated it.

18 MS. GLENN: The South Carolina Supreme Court  
19 order temporary hearings on what can be submitted.

20 REPRESENTATIVE RUTHERFORD: But remember,  
21 the other lawyer -- if you're speaking of hearing two, the  
22 other lawyer wanted the other lawyer to be present. And so  
23 --

24 MS. GLENN: I don't believe that's correct.

25 REPRESENTATIVE RUTHERFORD: Well, again,

1 it's on the transcript. So what rule are you alleging that  
2 she violated? Because we can't just say we don't like what  
3 happened. Because if that's the case, I got a whole bunch  
4 -- twenty-something-odd years of not liking things that  
5 happened to me in a courtroom. But what rule are you  
6 alleging that she violated?

7 MS. GLENN: So help me understand this,  
8 please. If one of the attorneys in the courtroom submits  
9 evidence that shouldn't be admissible, the judge is not in  
10 violation if she allows that?

11 REPRESENTATIVE RUTHERFORD: The cure for  
12 submitting evidence that should be allowed, is that the  
13 lawyers can appeal. Which they didn't do in this case.

14 MS. GLENN: You can't appeal in a temporary  
15 hearing.

16 REPRESENTATIVE RUTHERFORD: Again, the  
17 correction for things that are being submitted, that should  
18 not be allowed, according to a lay-person, is that it would  
19 be appealed. And again, there is a final order in this  
20 case that was not appealed.

21 So in that temporary hearing that there was  
22 -- and again later, a final hearing which was not appealed  
23 by either one of the lawyers, the lawyer representing your  
24 then-husband or the lawyer on the other side, you are  
25 asking us to say although the lawyers in the case felt like

1 they got justice, you want us to remove her because you  
2 didn't like what happened.

3 MS. GLENN: That's not true at all.

4 REPRESENTATIVE RUTHERFORD: Well, give me  
5 the rule.

6 MS. GLENN: I've got Canon 3: "Judge shall  
7 perform the duties of judicial office impartially and  
8 diligently."

9 REPRESENTATIVE RUTHERFORD: All right. So  
10 impartially decides -- says that she was on one side or the  
11 other. What side was she on, when neither one of the  
12 lawyers were advocates and adversaries, said that she had  
13 chosen a side? Which side had she chosen? And how do you  
14 know?

15 Because you're alleging under oath, that  
16 someone violated a rule. And you're asking us to remove  
17 them. But when you're pressed for details, you have to  
18 give them. Otherwise, people will walk out and blame us  
19 because we didn't listen. So I want to be clear --

20 MS. GLENN: So what --

21 REPRESENTATIVE RUTHERFORD: -- what rule?

22 MS. GLENN: Canon 3 goes on to say: "A judge  
23 shall require order and decorum in proceedings before the  
24 judge. A judge shall be patient, dignified and courteous  
25 to litigants, jurors, witnesses, lawyers and others with



1 whom the judge deals with an official -- in an official  
2 capacity, and shall require similar conduct of the lawyers  
3 and the staff and the court officials."

4 REPRESENTATIVE RUTHERFORD: And so in that  
5 hearing -- in either one of those hearings, can you point  
6 to a single point in that transcript where one of the  
7 lawyers who was speaking to the judge said, "Judge, you're  
8 not letting talk. You are cutting me off. You are  
9 violating a rule"? 'Cause that's what lawyers are also  
10 bound to do, advocate on behalf of their clients.

11 And so is there a portion in the transcript  
12 that you would like to point us to, where the lawyer said,  
13 one, "This is unfair. This has gone on far too long. I  
14 have objected you are ignoring me," or an appeal.

15 Because again, the fact that we don't like  
16 an outcome, the fact that we don't like how things go, does  
17 not meet with the requirement that we remove them from  
18 being a judge. Which is what you're asking us to do.

19 MS. GLENN: So the attorney tries to point  
20 out that this is a different set of circumstances while Ms.  
21 Dunham is speaking. She's trying to point out to the judge  
22 that these are a different set of circumstances. And that  
23 is in reference to Ms. Dunham continuing to talk.

24 REPRESENTATIVE RUTHERFORD: So I think that  
25 -- and, again, I don't know how many courtrooms people go

1 into and what they hear. And I've only been practicing for  
2 twenty-some-odd years, but there are attorneys in this room  
3 that have been practicing even longer than I have. I think  
4 that a visit to a courtroom on any given day, you will  
5 attorneys try to talk over one another. And for the most  
6 part, the judge cautions them. Because there simply can't  
7 be a record made, an accurate record, when people talk over  
8 one another. But you're asking us to remove a judge  
9 because she allowed an attorney to interrupt another  
10 attorney?

11 MS. GLENN: No. She also objected to the --

12 REPRESENTATIVE RUTHERFORD: But that would  
13 be number one, right? You're asking us to remove her  
14 because she allowed an attorney to talk over another  
15 lawyer; is that right?

16 MS. GLENN: I'm saying that she did not  
17 maintain decorum in her courtroom.

18 REPRESENTATIVE RUTHERFORD: Right. And by  
19 "maintain decorum," you mean because she allowed an  
20 attorney to talk over another lawyer; is that right?

21 MS. GLENN: I mean, the entire set of  
22 events.

23 REPRESENTATIVE RUTHERFORD: Okay. And  
24 what's number two?

25 MS. GLENN: So Ms. Medlin was objecting --

1 I'm sorry, I lost my train of thought. Give me a second.

2 She was objecting to the therapist notes  
3 that were submitted as evidence, which were on a  
4 handwritten piece of paper, without letterhead, and that  
5 were used -- we had never seen before. And she was  
6 objecting, saying that we have no way of knowing that this  
7 is the therapist's notes. It's not submitted in affidavit  
8 form and there's no therapist here.

9 REPRESENTATIVE RUTHERFORD: And so your cure  
10 for that would be to remove the judge that heard that; is  
11 that right?

12 MS. GLENN: I'm saying she allowed rules of  
13 evidence to be broken.

14 REPRESENTATIVE RUTHERFORD: And so your cure  
15 for that is to remove her from being a judge; is that  
16 correct?

17 MS. GLENN: I'm saying that she allowed  
18 rules of evidence to --

19 REPRESENTATIVE RUTHERFORD: I understand  
20 that.

21 MS. GLENN: -- be broken.

22 REPRESENTATIVE RUTHERFORD: But you're  
23 asking us to do something with the information that you're  
24 providing. And you're saying that because, in that case,  
25 when none of the lawyers objected or appealed --

1 MS. GLENN: No, she did object.

2 REPRESENTATIVE RUTHERFORD: Well, objected  
3 meaning they said, "Your Honor, you have violated Rule 3."  
4 And none of them appealed, you would like us, on our own,  
5 to remove the judge for violating those two issues that  
6 you've raised. Is that right?

7 MS. GLENN: Is it not this committee's job  
8 to find out if somebody is qualified and will continue to  
9 follow rules?

10 REPRESENTATIVE RUTHERFORD: That's a very  
11 interesting point. Did you know that lawyers are obligated  
12 to report violations of the rules?

13 MS. GLENN: I did not know that.

14 REPRESENTATIVE RUTHERFORD: You didn't. And  
15 so any of the lawyers in that case that observed what they  
16 thought was a violation of the rules, they are honor-bound  
17 to report that. Did you know that?

18 MS. GLENN: I did not know that.

19 REPRESENTATIVE RUTHERFORD: Do you believe  
20 that if they had done so, that they would have reported it?

21 MS. GLENN: I believe we wouldn't know about  
22 it, because they're confidential.

23 REPRESENTATIVE RUTHERFORD: Well, again, did  
24 anyone even raise it in the courtroom? Because you were  
25 there. There's a transcript.

1 MS. GLENN: Yes, she --

2 REPRESENTATIVE RUTHERFORD: Did anyone say -

3 -

4 MS. GLENN: -- raised that --

5 REPRESENTATIVE RUTHERFORD: -- "You violated  
6 Rule 3"?

7 MS. GLENN: She raised that it was not  
8 submitted into -- in property affidavit form.

9 REPRESENTATIVE RUTHERFORD: And, again, if  
10 she ruled and the lawyer disagreed with it, the proper  
11 remedy for that disagreement is appeal, right?

12 MS. GLENN: You can't appeal a temporary  
13 hearing.

14 REPRESENTATIVE RUTHERFORD: You can once it  
15 gets to be permanent. They get the whole transcript just  
16 like we have it.

17 MS. GLENN: Why would you appeal a settled  
18 case that was before a different judge?

19 REPRESENTATIVE RUTHERFORD: If you did not  
20 agree.

21 MS. GLENN: But they did --

22 REPRESENTATIVE RUTHERFORD: Just like the  
23 prior --

24 MS. GLENN: -- agree.

25 REPRESENTATIVE RUTHERFORD: -- complaint

1 before you, there is an appeal. They didn't agree. And  
2 all I'm asking you is to clarify, what you want us to do is  
3 remove a judge because you believe that she violated the  
4 rules of evidence. Not the Court of Appeals said she did,  
5 not even the lawyers involved in the case, but that you  
6 believe that she violated the rules of evidence and she  
7 violated the rule of decorum. Is that right?

8 MS. GLENN: I believe that those are two  
9 major infractions. Yes, sir.

10 REPRESENTATIVE RUTHERFORD: Okay. All  
11 right. No further questions.

12 CHAIRMAN SMITH: All right. Any further  
13 questions?

14 (Hearing none.)

15 CHAIRMAN SMITH: Emma.

16 MS. DEAN: Thank you, Mr. Chairman. Ms.  
17 Glenn, Lindi is bringing a document for you to put -- for  
18 you to review. And if you could keep the transcript near  
19 you, 'cause that is next. But that is your sworn affidavit  
20 without exhibits. Do you have any concerns with that being  
21 made part of the record?

22 MS. GLENN: No.

23 (EXHIBIT NO. 22 - WITNESS AFFIDAVIT CYNTHIA  
24 GLENN)

25 (EXHIBIT NO. 23 - TRANSCRIPT OF RECORD 2015-

1 DR-23-0184)

2 MS. GLENN: But I would like to state for  
3 the record that I would like for the exhibits to be made  
4 part of the record.

5 MS. DEAN: And Lindi also has the  
6 transcripts which we were referring to -- well, actually, I  
7 don't know. Did you get it back from her?

8 MS. PUTNAM: Yes.

9 MS. DEAN: That was what you were just  
10 holding, the transcript you were just holding. And do you  
11 have any problem with that being made a part of the record?

12 MS. GLENN: I do not.

13 MS. DEAN: At this time, Mr. Chairman, I'd  
14 ask Ms. Glenn could be seated, and Judge Dunbar could  
15 return to the podium.

16 CHAIRMAN SMITH: Judge Dunbar, if you'd come  
17 forward, please, and address these allegations. I want to  
18 remind you, you're still under oath, okay?

19 JUDGE DUNBAR: Yes, sir. First, I do want  
20 to extend my condolences, I don't know if Ms. Glenn will  
21 accept them, for the loss of her husband. I'm so sorry.

22 I just want to first say that I didn't grant  
23 the second hearing -- temporary hearing. Another judge  
24 ordered -- allowed that hearing to be set before. And it  
25 was set before me.

1                   And I also want to state that I only  
2 considered the affidavits that were submitted by the  
3 lawyers in the case, to make my decision. And I also want  
4 to state that I only considered those affidavits and  
5 nothing more.

6                   I usually allow attorneys to make arguments.  
7 I don't consider attorneys' arguments as evidence. I did  
8 not even look at the file on the other case. I didn't need  
9 to. I had the affidavits presented before me.

10                  And I do believe that the parties eventually  
11 agreed to the temporary decision that I made in this case.  
12 Which I gave mother temporary custody -- actually, I think  
13 I gave joint custody. And the parties agreed to mother  
14 having sole custody in the final decision in this case.

15                  And I'll just let the record speak for  
16 itself on the other allegations. And I'll take any  
17 questions that the committee -- Commission members have for  
18 me.

19                  And I do want to say this has been a  
20 humbling experience. It's been tough. But I do  
21 understand. And it's important that they -- that litigants  
22 and -- are able to complain. And I take them seriously.

23                  CHAIRMAN SMITH: Senator Sabb.

24                  SENATOR SABB: Thank you, Mr. Chairman.  
25 And, Judge, thank you for expressing your condolences.



1 That's actually one of the things that I thought we as a  
2 commission were remiss on, not expressing that, once Ms.  
3 Glenn indicated about the loss of her husband. I think  
4 that makes these situations even tougher, because we relive  
5 some of those moments. So thank you for expressing that.  
6 Some of us heard you. Others did not, but I knew that  
7 there was just an expression of sympathy.

8                   But I was looking at the transcript, and it  
9 was nearing the end of -- of the hearing, and it looks like  
10 you said -- and if you recall this, you could help me out,  
11 you said, "Well, let me ask Mr. Howard before we go. I do  
12 think Mr. Howard hit the nail on the head. He says the  
13 child needs therapy and also these parents need to co-  
14 parent. That's what I want to focus on. I know it's  
15 tough. And I pray that y'all will do that, work together  
16 because I'm telling you, the years are gonna go by. This  
17 child is gonna be grown. And he needs both parents. And  
18 y'all need to try to get along as best you can. I know  
19 it's tough, but this too shall pass. And you both are  
20 gonna be involved in your child's life. And you want him  
21 to be emotionally healthy, because before you know it he's  
22 gonna be graduating from high school and you want -- don't  
23 want to have these issues."

24                   And then you go on to say something like  
25 he's ready. But at that point it appears to me, Judge,

1 that you had looked at some of the affidavits, you had  
2 heard from all of the lawyers involved, and you're really  
3 trying to encourage the parents to do as best they can in  
4 co-parenting. Because, ultimately, both of them --  
5 obviously, it appeared that they both loved the child,  
6 wanted the best for the child, and then the question was  
7 how do you get there. Is that a fair assessment?

8 JUDGE DUNBAR: Yes, sir.

9 SENATOR SABB: I just wanted to point that  
10 out, Commission.

11 CHAIRMAN SMITH: All right. Any further  
12 questions of Judge Dunbar?

13 (Hearing none.)

14 MS. DEAN: I'm sorry, Lindi's got a document  
15 for you. I believe this is a copy of your response.

16 JUDGE DUNBAR: Yes.

17 MS. DEAN: Do you have any problem with that  
18 being made part of the record?

19 JUDGE DUNBAR: No, I do not.

20 (EXHIBIT NO. 24 - FORMAL RESPONSE AND  
21 MEMORANDUM BY TARITA A. DUNBAR)

22 MS. DEAN: Thank you, Judge. And I've got  
23 some housekeeping questions.

24 CHAIRMAN SMITH: Okay.

25 BY MS. DEAN:

1 Q. Judge Dunbar, since submitting your letter of  
2 intent have you contacted any members of the Commission  
3 about your candidacy?

4 A. No, I have not.

5 Q. Are you familiar with Section 2-19-70, including  
6 the limitations on contacting members of the General  
7 Assembly regarding your screening?

8 A. Yes.

9 Q. Since submitting your letter of intent have you  
10 sought or received a pledge of any legislator either prior  
11 to this date or pending the outcome of your screening?

12 A. No, not at all.

13 Q. Have you asked any third parties to contact  
14 members of the General Assembly on your behalf, or are you  
15 aware of anyone attempting to intervene in this process on  
16 your behalf?

17 A. No, not at all.

18 Q. Have you reviewed and do you understand the  
19 Commission's guidelines on pledging and South Carolina Code  
20 Section 2-19-70(E)?

21 A. Yes, ma'am.

22 MS. DEAN: I'd note for the record that any  
23 concerns raised during the investigation regarding this  
24 candidate were incorporated into the questioning of the  
25 candidate today. Mr. Chairman, I have no further

1 questions.

2 CHAIRMAN SMITH: All right. So this moves  
3 on to beyond the complaint. So any further questions?  
4 Representative Rutherford.

5 REPRESENTATIVE RUTHERFORD: Judge, you know,  
6 I want you to understand this is your first time coming up  
7 for reelection, and I hope you know this committee takes  
8 violations of the rules extremely seriously. And I hope  
9 that everyone who complained about the way that this system  
10 operates, appreciates the fact that lay-people, non-lawyers  
11 were able to come in and air their grievances in front of a  
12 panel of people who could inject the ultimate punishment on  
13 those that violated it.

14 And I don't know any other system that  
15 allows that. Other systems where the governor simply picks  
16 the appointees, or they're elected publicly, I don't know  
17 any other system that allows people to come in and air  
18 their complaints.

19 But I don't want you to feel like as a  
20 judge, the fact that somebody complained about you being  
21 nice, the fact that they complained about the decorum in a  
22 courtroom, that, that means that you as a judge are  
23 obligated, duty-bound or honor-bound to change any of the  
24 things that you may have been doing, that make lawyers and  
25 litigants happy.

1           I know that you know that in family court,  
2 people are always upset. That's why most of us stay out of  
3 family court. Judge Eppes, one of the long-serving circuit  
4 court judges before he passed away, said that his time on  
5 the family bench was some of the worst; that he sentenced  
6 people to life in prison, they walked out the door and  
7 never complained, but he took a lady's child one time and  
8 she hated him for the rest of his life.

9           It's real. And we get it. And the issues  
10 in family court are very, very sensitive and very touching,  
11 and sometimes require that extra bit of compassion.

12           One of the best family court judges I know  
13 is Judge Leslie Riddle, and I can tell you that her kids  
14 were wrestlers, that they -- that she thought that  
15 wrestling was the greatest thing since sliced bread, and  
16 that every child that came through her courtroom ought to  
17 go wrestle. And every time I pled a child in front of her,  
18 you had to sit down and wait on her to give every single  
19 child that lecture. And I think that was what was -- that  
20 was what made her so good.

21           So I don't want you to think that because  
22 somebody complains about something, that you automatically  
23 have to change. I do believe that this body is going to  
24 make sure that all judges follow the rules and follow the  
25 law. And I think that we're going to do that today. But I

1 don't want you to believe that just because you read a  
2 complaint, that, that means, oh, I got to change that.

3           Because people complain about everything.  
4 We implore all the judges: don't break the law, don't break  
5 the rules, and if you do so there's a penalty to be paid.

6           But I think there's a great deal to be said  
7 that this is an open forum, that people get to air their  
8 grievances, and that questions are posed to those people to  
9 make sure that we don't have judges run amuck, or people  
10 taking advantage of the process.

11           But again, I don't want that to go as far as  
12 to make you stop what you're doing, being mean to people,  
13 cutting people off if you don't feel like that's  
14 appropriate, as long as it's within the rules. So I just  
15 wanted to make sure of that.

16           JUDGE DUNBAR: Thank you very much,  
17 Representative Rutherford.

18           CHAIRMAN SMITH: All right. Thank you. Any  
19 further questions, comments?

20                           (Hearing none.)

21           CHAIRMAN SMITH: Judge Dunbar, I appreciate  
22 your patience with us. And for all those out in the  
23 audience, your patience also. I appreciate everyone coming  
24 here and conducting themselves in a civil and respectful  
25 manner. That makes this a lot easier for us. And I know

1 these -- these hearings are not easy for you, Judge, nor  
2 are they easy for the complainants who came before us. And  
3 like Representative Rutherford said, we're going to take  
4 these serious and we're going to review those.

5           But again, you know, it's a tough job. And  
6 people have to perform their job duties, and that's why  
7 people are elected to do it. And so don't let that deter  
8 you from your obligations in the oath that you took, but  
9 also to be mindful of the complaints as you go forward,  
10 too, and make sure that you understand -- and I always say  
11 this, practicing law is a -- is a exercise in trial and  
12 error, unfortunately. And it's how you respond when you  
13 make the errors, and it's how you -- it's how -- what type  
14 of lawyer you turn out.

15           And I'm not saying you made any errors, but  
16 I'm certainly -- you've been through a process, today,  
17 where you heard that there's some -- that there was some  
18 disagreement with some of your conduct in the courtroom.

19           So I appreciate the way you've handled this  
20 and the way that those out here in the audience have  
21 handled. And that's the way it should be, in a dignified  
22 setting in which everybody is heard and everybody is  
23 allowed to speak, and they are listened to by this  
24 commission.

25           Sorry, I got a cold, too, over the weekend.

1 I cheered the Gamecocks too hard for their losing victory  
2 over there.

3                   So with that being said, this will conclude  
4 this portion of your screening process. I want to take  
5 this opportunity to remind you that pursuant to the  
6 Commission's evaluative criteria, the Commission expects  
7 candidates to follow the spirit as well as the letter of  
8 the ethics law. And we will view violations or the  
9 appearance of impropriety as serious and potentially  
10 deserving of heavy weight and screening deliberations.

11                   And as you know, the record's going to  
12 remain open until the formal release of the report of  
13 qualifications, and you can be called back for any reason  
14 up until that release of the qualifications.

15                   I appreciate you being here this afternoon.  
16 And thank you for offering for this position. And thank  
17 you for your service to the State of South Carolina.

18                   JUDGE DUNBAR: And I want to thank the  
19 Commission members. And this has been a humbling  
20 experience. It's been difficult. But I do believe it's a  
21 healthy process for me. If I'm fortunate enough to go  
22 forward to be a -- to continue on my -- as a judge, that  
23 I'm mindful of those and to be a better judge. Thank you.

24                   CHAIRMAN SMITH: Thank you very much.

25                                   (Candidate excused.)



1                   CHAIRMAN SMITH: Representative Murphy moves  
2 that we go into executive session. All in favor say "aye."

3                   (At this time the members audibly say "aye.")

4                   CHAIRMAN SMITH: All opposed?

5                   (Hearing none.)

6                   CHAIRMAN SMITH: The ayes have it. We're in  
7 executive session.

8                   (Off the record from 7:09 p.m. to 7:34 p.m.)

9                   CHAIRMAN SMITH: We moved to come out of  
10 executive session. We're going to adjourn for the evening.  
11 And we will reconvene and vote on candidates tomorrow.

12                   (OFF THE RECORD AT 7:35 P.M.)

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I, PATRICIA G. BACHAND, COURT REPORTER AND NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA AT LARGE, DO HEREBY CERTIFY THAT THE FOREGOING TRANSCRIPT CONSISTING OF 296 PAGES IS A TRUE, ACCURATE, AND COMPLETE RECORD TO THE BEST OF MY SKILL AND ABILITY.

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IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL THIS 5TH DAY OF DECEMBER 2019.



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