

JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE



Court, Position, and Seat # for which you are applying:

Administrative Law Court Judge, Seat 4

1. Name: The Honorable Deborah Brooks Durden

Name that you are known by if different from above
(Example: A Nickname):

Are you currently serving in some capacity as a judge? If part-time, please note.
(Includes Municipal, Magistrate, Etc.)

Yes. Administrative Law Court, Seat 4.

Home Address: [REDACTED]

Business Address: 1205 Pendleton Street
Columbia, SC 29201

E-Mail Address: [REDACTED]

Telephone Number: (home): [REDACTED]
(office): 803-734-0550
(cell): [REDACTED]

2. Date of Birth: [REDACTED] 1961
Place of Birth: Columbia, South Carolina
Social Security Number: [REDACTED]

3. Are you a citizen of South Carolina? Yes
Have you been a resident of this state for at least the immediate past five years? Yes

4. SCDL# or SCHD#: [REDACTED]
Voter Registration Number: [REDACTED]

5. Have you served in the military? If so, give the dates, branch of service, highest rank attained, serial number (if applicable), present status, and the character of your discharge or release. Please provide a copy of your DD214 concerning your discharge.

No

6. Family Status: In the space below, (a) state whether you are single, married, widowed, divorced, or separated; (b) if married, state the date of your marriage and your spouse's full name and occupation; (c) if you have ever been divorced or are in the process of obtaining a divorce, state the date, name of the moving party, court, and grounds; and (d) state the names of your children and their ages. If your children are old enough to work, include the occupation of each child.

(a) married

(b) October 10, 1992; Wiley Kevin Durden; Teacher, Richland District 2

(c) December 2, 1988 divorced from Charles Heins Burts in Richland County Family Court. Charles Burts was the moving party and the grounds were one year of continuous separation.



7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.

(a) Columbia College, Magna Cum Laude 1979-1983, Bachelor of Arts in English

(b) University of South Carolina School of Law, 1988-1991, Juris Doctorate

8. List the significant activities in which you took part during your attendance at law school. Give the years you were involved in these activities and list any leadership positions you held.

University of South Carolina School of Law 1988-1991

(a) Student Bar Association

(1) Legislative Council 1988-1990

(2) Committee Chairman/Editor of student facebook directory 1989-90

(b) Moot Court, Captain of Craven Competition Team

(c) American Jurisprudence Awards in Civil Procedure II and Trusts and Estates

(d) Wig and Robe Society

9. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. Please indicate the number of times you took the exam in each state.

(a) South Carolina, 1992 (1)

(b) Alaska, 1993 (1)

10. Describe chronologically, since graduation from law school, your legal experience. Please include a list of all positions held in which you worked in a legal capacity. Describe the

general character of your practice and divide it into periods with dates if its character has changed over the years. Please also describe the extent to which you were involved with the administrative and financial management of each of these entities, including management of trust accounts.

(a) 1991-1992 -- Judicial Law Clerk

After graduation from USC law school and sitting for the South Carolina bar exam, I moved to Anchorage, Alaska where I served as law clerk to Alaska Superior Court Judge Karen Hunt from August 1991 to September 1992. Judge Hunt handled complex civil litigation and I performed legal research related to those cases and wrote memoranda of law and proposed orders on all motions to dismiss and motions for summary judgment. I also evaluated motions for injunctive relief filed with the court.

I served as law clerk to Alaska Superior Court Judge John Reese from December 1992 to April 1993 handling family court matters. I reviewed motions filed with the court and recommended action on those motions. During this time I studied for the Alaska Bar exam and took that exam in January, 1993.

(b) 1993-1997 -- Private Practice

In April 1993 I became an associate at Faulkner, Banfield, Doogan and Holmes' Anchorage office. Faulkner Banfield was a large firm with offices in Juneau, Fairbanks and Anchorage, Alaska representing primarily business clients. During my association with the firm I worked on Workers Compensation matters, professional liability cases, and tort cases. Approximately 50% of the cases I worked on were in the Federal District Court. I also successfully argued an appeal of a constitutional issue before the Alaska Supreme Court.

In 1994 my husband's service commitment to the U.S. Air Force ended and I left Faulkner Banfield so that he and I could move to South Carolina. I became an Associate at Gergel, Nickles & Grant. During my association with the firm from 1994 to 1997, I represented teachers and other employees in employment matters and worked on motions and discovery in tort claims cases, Fair Labor Standards Act cases, and other civil litigation.

(c) 1997-2009 -- Government Service

In August, 1997 I accepted a position as Assistant Chief Counsel at the South Carolina Department of Transportation. While at SCDOT I handled a wide variety of legal matters including condemnation cases, contract matters, legislative issues, environmental matters, and administrative law. I handled contested cases at the Administrative Law Court for the department concerning environmental permits, the payment of relocation assistance benefits, and the certification of Disadvantaged Business Enterprises. I drafted and promulgated agency regulations. I counseled agency staff and associate counsel on condemnation and real estate law. My responsibilities at SCDOT also involved reviewing and analyzing legislation pending at the state legislature, drafting proposed legislation and amendments, and providing testimony before legislative subcommittees.

(d) 2009-Present -- Administrative Law Judge

Since February 2009 I have served as a judge on the South Carolina Administrative Law Court.

Justices/judges applying for re-election to their current position may omit Questions 11–17. If you are a full-time judge seeking a judgeship different than your current position, Questions 11-17 should be answered based on your experience prior to serving on the bench.

11. Please answer the following:
 - (a) If you are a candidate for Family Court, please provide a brief written description of your experience within each of the following Family Court practice areas: divorce and equitable division of property, child custody, adoption, abuse and neglect, and juvenile justice. Include information about cases you have handled in each of these practice areas, or if you have not practiced in an area, describe how your background and procedural knowledge has prepared you to preside over such matters as a Family Court Judge. Please also indicate the frequency of your appearances before a Family Court Judge within the past five years.
 - (b) If you are a candidate for Circuit Court, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five years and include a brief description of the issues involved. Further, please provide a brief written description of your experience in civil matters, including any cases handled over the past five years and include a brief description of the types of matters handled, issues involved, and procedural history. Please include information such as the primary areas in civil court in which you practice, whether you represent plaintiffs or defendants, or both. You may go back further than five years if you feel it would assist the Commission with its assessment of your experience. If you lack experience in an area, describe how your background and procedural knowledge has prepared you to preside over such matters as a Circuit Court Judge, or how you would compensate for your lack of experience in this area. Please also indicate the frequency of your appearances before a Circuit Court Judge within the past five years.
 - (c) If you are a candidate for Master-In-Equity, please provide a brief written description of your experience in the Master's court, including any cases handled over the past five years and include a brief description of the issues involved. Please include the frequency of your appearances before a Master-In-Equity or a Circuit Court Judge within the past five years.
 - (d) If you are a candidate for Administrative Law Court, please provide a brief written description of your experience before an Administrative Law Judge, including any

issues discussed and the frequency of your appearances before the Administrative Law or Circuit Court within the past five years.

12. What was the frequency of your court appearances during the past five years or in the five years prior to your election to the bench?
 - (a) federal:
 - (b) state:

13. What percentage of your practice involved civil, criminal, domestic, and other matters during the past five years or in the five years prior to your election to the bench?
 - (a) civil:
 - (b) criminal:
 - (c) domestic:
 - (d) other:

14. What percentage of your practice in trial court during the past five years or in the five years prior to your election to the bench involved matters that went to a jury, including those that settled prior to trial?
 - (a) jury:
 - (b) non-jury:

During the past five years, did you most often serve as sole counsel, chief counsel, or associate counsel?

15. List five of the most significant litigated matters you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.
 - (a)
 - (b)
 - (c)
 - (d)
 - (e)

16. List up to five civil appeals you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported.
 - (a)
 - (b)
 - (c)
 - (d)
 - (e)

17. List up to five criminal appeals you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported.
 - (a)
 - (b)
 - (c)

- (d)
- (e)

18. Have you ever held judicial office? If so, list the periods of your service, the courts involved, and whether you were elected or appointed. Describe the jurisdiction of each of the courts and note any limitations on the jurisdiction of each court.

From February 2009 to the present I have served as a Judge on the South Carolina Administrative Law Court. The Administrative Law Court has jurisdiction over contested cases, appeals of administrative agency decisions, regulation hearings, and certain petitions for injunctive relief. The jurisdiction of the Court is created by South Carolina statutes, most notably the Administrative Procedures Act. Judges are elected by the South Carolina General Assembly. The Court's jurisdiction is limited to those matters delineated by statute. The Court may consider the constitutionality of a statute or regulation only with respect to how that statute or regulation was applied in the matter at hand.

19. If the answer to question 18 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported. Also list citations to any appellate review of these orders or opinions.

- (a) Emerson Electric Co. and Affiliates v. S.C. Department of Revenue, (Docket No. 08-ALJ-71-0351) not reported; affirmed by S.C. Supreme Court at 395 S.C. 481, 719 SE 2d 650 (2011). Held allocation statute applies to nonresident corporation for interest expense deductions where no taxable dividend income was earned, and rejected as-applied constitutional claims.
- (b) Carolina Walk LLC and Serrus Carolina Walk, LLC v. Richland County Assessor, reported at 2012 WL 529413; affirmed in unpublished opinion of the S. C. Supreme Court at 2014 WL 2575405. Held purchase price was not an arms-length sale that could be used to establish fair market value of real property. More contemporaneous sales within the same development were more compelling evidence of the value of the subject properties.
- (c) Cellular Sales of South Carolina, LLC v. S.C. Department of Employment and Workforce, reported at 3013 WL 173705; affirmed in unpublished opinion by S.C. Court of Appeals at 2014 WL 2586885. Held sales representative and others similarly situated were employees and not independent contractors.
- (d) Torrence v. S. C. Department of Corrections (docket No. 12-ALJ-04-0143-AP) not reported; Appeal to Court of Appeals dismissed as interlocutory in unreported decision. 2018 WL 6199185. Held the Department of Corrections must determine the prevailing wage for Prison Industries employment according to data collected by the Department of Employment and Workforce and remit difference in amounts paid to inmate. Held inmate serving a life sentence is entitled to designate persons or entities for distribution of escrowed wages.
- (e) Five Points Roost v. S.C. Department of Revenue reported at 2018 WL 1724696; Denied Liquor by the drink license where proposed business would strain law enforcement resources and is not primarily and substantially engaged in the preparation and serving of meals.

20. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.
- (a) South Carolina State Courts, October 12, 1992
 - (b) Alaska State Courts, June 22, 1993
 - (c) Federal District Court, District of Alaska, June 22, 1993
 - (d) Federal District Court, District of South Carolina, June 27, 1995
 - (e) United States Court of Appeals for the Fourth Circuit, March 20, 1997
21. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs? If so, briefly describe each course or lecture.
- (a) I lectured at the SC Bar “Bridge the Gap” programs for new lawyers giving an overview of practice before the Administrative Law Court from 2011-2016.
 - (b) I made presentations on the topics of accommodation taxes and bankruptcy sales in property valuation to judges attending the 2012 National Conference of State Tax Judges.
 - (c) I made a presentation on the topic of personal property valuation litigation to the 2010 Academy for County Auditors, Treasurers and Tax Collectors.
 - (d) I taught training sessions for SCDOT staff on the effect of S.C. Act 114 of 2007 which restructured the agency.
 - (e) I lectured at a SC Bar Government Law Section CLE concerning state legislative action related to eminent domain law.
 - (f) I lectured at a CLE hosted by the International Eminent Domain Institute on the topic of relocation assistance benefits, and how newly promulgated federal regulations would affect those benefits in the future.
 - (g) I taught a segment of a CLE for attorneys who handle condemnation cases for SCDOT explaining relocation assistance benefits available for landowners and displacees and the interplay between those benefits and just compensation payments made in condemnation litigation.
 - (h) I taught a segment of a CLE for attorneys who handle SCDOT condemnation cases for SCDOT on the subject of FOIA and Discovery Requests and strategies for avoiding surprise at trial.
22. Provide, as a separate attachment, your continuing legal or judicial education report from the past five years.
Reports attached as Exhibit A.
23. List all published books and articles you have written and give citations and the dates of publication for each.
None.
24. Please furnish as a separate attachment, two examples of legal articles, briefs, orders, or other legal writings for which you can claim sole or primary authorship. If you cannot claim

sole authorship, please explain the extent to which you are the primary author, to include a description of the other authors and their contributions. The writing samples are for the Commission's use only and will not be published. (If you are a judge and are not seeking a different type of judgeship, this question is inapplicable.)

Not Applicable.

25. What is your rating or membership status, if any, by any legal rating organization, such as, Best Lawyers, Chambers, Legal 500, Martindale-Hubbell, Who's Who Legal, Super Lawyers, Million Dollar Advocates Forum, etc.? If you are currently a member of the judiciary, list your last available rating, if any.
Not rated.

26. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.
(a) South Carolina Bar Association
(b) South Carolina Women Lawyers Association
(c) Richland County Bar Association

27. Have you ever held public office other than judicial office? If so, list the periods of your service, the office or offices involved, and whether you were elected or appointed. Also, state whether or not you have timely filed your report with the State Ethics Commission during the period you held public office. If not, were you ever subject to a penalty? If so, give details, including dates.
Not applicable.

28. For sitting or former judges, list all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor.
None.

29. Have you ever been an unsuccessful candidate for elective, judicial, or other public office? If so, give details, including dates.
I ran, unsuccessfully, for a seat on the Administrative Law Court in 2006. I was found qualified and nominated by the Judicial Merit Selection Commission, but withdrew from the race prior to the election in the General Assembly.

30. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office? If so, give details, including a description of your occupation, business, or profession, the dates of your employment, and the name of your business or employer.

Prior to attending law school I worked as a claims examiner and then as a technical writer at Colonial Life and Accident Insurance Company from 1983 to 1988. The only jobs I held prior to that time were part-time or summer jobs I held while in high school and college.

31. Are you now an officer or director or involved in the management of any business enterprise? Explain the nature of the business, your duties, and the term of your service.
No.
32. Are you now or have you ever been employed as a “lobbyist,” as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a “lobbyist’s principal,” as defined by S.C. Code § 2-17-10(14)? If so, give the dates of your employment or activity in such capacity and specify by whom you were directed or employed.
No.
33. Provide, **as a separate attachment**, a complete, current financial net worth statement that itemizes in detail:
- (a) the identity and value of all financial assets held, directly or indirectly, including, but not limited to, bank accounts, real estate, securities, trusts, investments, and other financial holdings; and
 - (b) the identity and amount of each liability owed, directly or indirectly, which is in excess of \$1,000, including, but not limited to, debts, mortgages, loans, and other financial obligations.

(A net worth statement form is provided with this questionnaire and you must use this format for submission of your financial statement.)

NOTE: The Commission may require written confirmation that financial obligations have been satisfied or that the parties have agreed upon a payment schedule.

Statement attached as Exhibit B.

34. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy? If so, give details.
No.
35. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist’s principal? If so, please specify the item or items you received, the date of receipt, and the lobbyist or lobbyist’s principal involved.
No.
36. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek. If you have spent over \$100, have you reported your expenditures to the House and Senate Ethics Committees?
None.

37. List the recipient and amount of all contributions made by you, a member of your immediate family, or by a business with whom you are associated, to members of the General Assembly within the past four years.
None.

38. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? If so, please specify the amount, solicitor, donor, and date of the solicitation.
No.

39. Describe any financial arrangements or business relationships you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek or currently hold. Explain how you would resolve any potential conflict of interest.
I don't have any business relationships or investments that I expect to result in a conflict of interest.

40. Describe any interest you or a member of your immediate family has in real property:
(a) in which there is a potential conflict of interest with your involvement in a South Carolina state or local public agency;
(b) in which there have been public improvements of \$200 or more that adjoins property in which there have been public improvements of \$200 or more; or
(c) which was sold, leased, or rented to a state or local public agency in South Carolina.

List the interest you hold and the value and location of the property. Identify as applicable the:

(a) nature of any potential conflict of interest;
(b) nature and value of any public improvements; and
(c) South Carolina state or local public agency which purchased or is leasing or renting such property.

Attach a copy of any contract or agreement.

None.

41. Identify any personal property interest you or a member of your immediate family sold, leased, or rented to a South Carolina state or local public agency. Identify the property, its amount or value, and the name of the agency. Attach a copy of any contract or agreement.
None.

42. For sitting judges, if you currently hold an interest in stock or other securities or have held such an interest, list each stock you currently own or owned during the prior calendar year. If you prefer, you may attach broker or account records containing the requested information instead of listing it here.
See attached Exhibit C.

43. For sitting judges, have you ever accepted anything of value from an attorney or litigant in a matter currently or previously before you or your court? If so, please give the details, including the name of the attorney or litigant and the thing of value you received.

No.

44. For sitting judges, have you used the services of your staff, for which you did not pay, while campaigning for this office?

No.

45. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law? If so, give details but do not include traffic violations which are subject to a penalty of \$125 or less. You must include any and all arrests, including, but not limited to, offenses for driving under the influence or similar traffic offenses. Include all arrests that resulted in expungement, which will be redacted. If you have questions regarding whether to include an offense, please contact the Commission.

[Yes and no responses have been received and considered by the Commission, and as noted above, any expunged matters are redacted from the record.]

46. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? If yes, explain.

No.

47. Have you ever been sued by a client? Have you ever been a named party (personally or professionally) in or had a pecuniary interest in any civil or criminal proceedings? If so, give details, including, but not limited to, dates, and resolutions.

No.

48. If you are in private practice, are you covered by malpractice insurance and, if so, how long have you carried malpractice insurance? If applicable, have you ever been covered by a tail policy? If so, please explain when you were covered by a tail policy. Also, if applicable, indicate your coverage and deductible for your current malpractice policy.

Not applicable.

49. Have you ever, in South Carolina or any other jurisdiction, as a lawyer, judge, or other professional, been sanctioned or disciplined for lawyer, judicial, or other professional misconduct or has any jurisdiction found that you committed any misconduct? If so, give the details and describe any final disposition. Include any and all confidential and public sanction, discipline, or finding of misconduct of any kind.

[Yes and no responses for all candidates are redacted unless there is a public discipline.]

50. Have you ever been investigated by the Department of Social Services? If so, give the details and the resolution. Has your name ever been enrolled on the Central Registry of Child Abuse and Neglect? If so, give the details.

No.

Note: The flash drive with your application materials contains (1) Section 2-19-70(c); (2) JMSC Rule 24, (3) Memo of Guidance, and (4) informal opinions and letters concerning pledging prohibitions, with which third parties acting on your behalf, as well as you, must comply.

51. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened or have you been offered a conditional pledge of support by any legislator pending the outcome of your screening? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? If so, give details.

No.

52. Have you requested any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Describe the campaigning you have done for this election and include a list of those individuals you have asked to campaign on your behalf and, to the best of your knowledge, those who have campaigned for you on their own initiative.

No.

53. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges until after the draft report becomes final, which occurs on the day and time specified on the Commission's published screening schedule?

Yes.

54. Since submitting your letter of intent to become a candidate, have you or has anyone acting on your behalf contacted any member of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate? If so, give details.

No.

55. List the names, addresses, and telephone numbers of five (5) persons from whom you are providing references. Also, provide the Commission with **original letters** of recommendation from each person listed herein, including their signature (preferably in blue ink). **The Commission will not accept a photocopy or electronic submission of a letter of recommendation and failure to include all five (5) original letters of recommendation in your packet when you submit it will render your packet incomplete.** Please **do not** have references mail your reference letters to the Commission directly. *You must return the five (5) original letters of recommendation to the Commission with your application packet.*

(a) Pamela L. Jenkins

[REDACTED]

(b) Deborah Shuler

[REDACTED]

[REDACTED]
(c) Linda C. McDonald

[REDACTED]
(d) Chelsea J. Clark

[REDACTED]
(e) Milton G. Kimpson

See Exhibit D for original letters of recommendation.

56. Are you active on or a member of a social media or Internet site or have you, to your knowledge, been featured or depicted on a social media or Internet site, such as, Facebook, LinkedIn, Twitter, etc.? If so, how would your use of social media or other similar types of Internet sites be affected if you were serving in a judicial capacity?
Yes. I use Facebook to keep up with personal friends and family. I never post anything on the internet related to my job as a judge and I do not have internet contact with South Carolina lawyers except for close personal friends who are unlikely to appear in the ALC and for whom I would be required to recuse myself. I conduct my social media activity so as not to affect my judicial duties.
57. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.
(a) Trenholm Road United Methodist Church, Hope Class President, Youth Core Team
58. Provide any other information that may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek. This information may include how your life experiences have affected or influenced the kind or type of judge you have been or plan to be.

YOUR SIGNATURE WILL BE HELD TO CONSTITUTE A WAIVER OF THE CONFIDENTIALITY OF ANY PROCEEDING BEFORE A GRIEVANCE COMMITTEE OR ANY INFORMATION CONCERNING YOUR CREDIT.

I HEREBY CERTIFY THAT MY ANSWERS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

Signature: _____

Sworn to before me this ____ day of _____, 2019.

(Notary Signature)

(Notary Printed Name)
Notary Public for South Carolina
My Commission Expires: _____