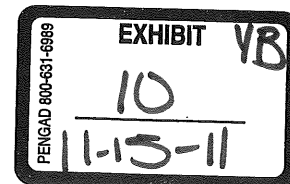


**JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE**

Court, Position, and Seat # for which you are applying:
Circuit Court, Fourth Judicial Circuit, Seat 2

1. NAME: John Michael Baxley
BUSINESS ADDRESS: 531 East Carolina Avenue
Hartsville, South Carolina 29550
TELEPHONE NUMBER: (office): 843-383-4114
2. Date of Birth: 1956
Place of Birth: Hartsville, South Carolina
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
5. Family Status: Single; Never divorced; no children.
6. Have you served in the military? No.
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) Clemson University, 1974 to 1978, BA, Political Science;
(b) University of SC Law School, 1979 to 1982, JD.
8. 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. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.
I was admitted to practice in South Carolina on November 5, 1982, have never taken the Bar exam in any other state, but was admitted to practice in North Carolina on a *pro hac vice* basis on three occasions.
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.
At Clemson, I participated in student government, serving in the Student Senate (freshman and sophomore), as student body vice-president (junior), and student body president (senior). During all four years, I also participated as a member of Clemson's delegation to the State Student Legislature, serving as Speaker of the Assembly during my junior and senior years. It was also my privilege to attend the National Student Congress during my junior and senior years at Clemson, serving as Speaker during the senior year. During law school, I was employed by the SC Senate Judiciary Committee as a law clerk during my second and third years.
10. Describe your continuing legal or judicial education during the past five years. Include only the title and date of any continuing legal or judicial education course completed.



<u>Conference/CLE</u>	<u>Date(s)</u>
(a) All Annual Civil and Criminal Law Updates; SC Bar Convention	(2006-2011);
(b) All Annual Circuit Judges' Conference Programs— Various subjects	(2006-2011);
(c) All Annual Judiciary Conference Programs— Various subjects	(2006-2011);
(d) Instructor, S. C. New Circuit Judges School	(2006 -2011);
(e) National Judicial College -- "Mental Health & Substance Abuse Disorders	(2007);
(f) National Access to Justice Commission Conference	
(g) National Judicial College Course -- "When Justice Fails"	(2011).

I have satisfied all continuing legal education requirements for 2010 and have earned an additional 30 carryover hours for 2011.

11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs?

Since being elected to the bench, I have conducted seminars on mental health issues at the Solicitors' and Public Defenders' annual conventions; have spoken to the circuit judges on mental health issues at our annual conferences; lectured on ethics and the case of In Re: Anonymous Member of the South Carolina Bar at the annual convention of the South Carolina Association for Justice; presented on the operations of the multi-week trial civil docket to the South Carolina Association of Defense Trial Attorneys; administered the new attorney's oath and discussed ethics and professionalism at Bar meetings and/or group conferences; participated as a discussion panel member before several legal groups on various issues; and, as of this writing, am preparing a distance learning presentation for the South Carolina Bar CLE division on the topic of "When Justice Fails," a study of the German justice system before and during World War II.

12. List all published books and articles you have written and give citations and the dates of publication for each. None.
13. 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) State Courts of South Carolina | November 5, 1982; |
| (b) United States District Courts | February 21, 1983; |
| (c) United States Supreme Court | February 21, 1989. |
14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated. Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.

I was employed with only one firm during my career as a practicing

lawyer, Driggers, Baxley & Moyd of Hartsville, SC. This partnership was a small town, general practice firm. For the first four years (1982-1986), my practice involved numerous areas of law including real estate, probate, workers compensation, domestic, criminal, corporate and business, and civil claims. During this time, I participated as a referral attorney for the local legal services office, for two years I served as chairman of the Darlington County Public Defender Corporation, and for three years served as prosecutor for the city of McBee, SC municipal court.

It was my privilege to be elected to the SC House of Representatives in 1986, which significantly changed my practice. Time constraints required that I withdraw from the Family and General Sessions Courts, and all other practice areas were curtailed in favor of a civil practice. The nature of my civil practice also changed, switching from general administration of tort claims to handling matters in litigation. This further developed into litigation referrals from other attorneys of cases that involved claims against governmental entities, unusual liability theories, and/or atypical damages issues.

Since July 1, 2000, I have served continuously as a state circuit judge.

15. What is your rating in Martindale-Hubbell? If you are not listed in Martindale-Hubbell, state the reason why, if known. If you are currently a member of the judiciary, list your last available rating.

22. Have you ever held judicial office?

I have served as a Circuit Court judge continuously since June 25, 2000, having been elected by the General Assembly to the fourth judicial circuit residential seat 2 position on February 8, 2000, and again on February 9, 2006. This is our state's trial court of general jurisdiction.

23. If the answer to question 22 is yes, describe or attach 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.

Cases are listed in chronological order.

(a) South Carolina Department of Mental Health Forensic Evaluation Cases Statewide Jurisdiction commencing September 1, 2003

By Order of the Chief Justice, I was given oversight authority for operation of the forensic evaluation services of the Department of Mental Health with instructions to reduce and eliminate significant backlogs for criminal defendants awaiting mental evaluation for competency and criminal responsibility. S. C. Code Ann. § 44-23-410 allows thirty (30) days for a competency examination to be conducted and an additional five (5) days for a written report to be returned to the Court. At the commencement of the oversight period, some defendants were waiting in local jails over six months for evaluation. That period is now down to an average of less than thirty (30) days, and the Department is in statutory compliance. In the process of reducing the backlogs, new and more detailed evaluation commitment orders have been developed, new procedures for evaluation scheduling have been employed, and safeguards put in place to eliminate non-meritorious

requests for evaluation that may be attempted for delay, strategy, or some other tactic. The faster evaluation process has resulted in significant savings to county detention centers statewide and a more timely disposition of cases where the mental status of the defendant is at issue.

In May of 2011, the Chief Justice requested that this oversight process be expanded to develop a statewide uniform procedure for all circuit solicitors, the Department of Mental Health, and the Department of Disabilities and Special Needs to employ with regard to the monitoring and follow up for individuals who are found to be permanently not competent to stand trial or adjudged not guilty by reason of insanity. This process is currently ongoing.

(b) Waldrop vs. City of Greenville and Commissioners of Public Works
(Greenville, 02-CP-23-8070)

Trial date October 10, 2003. This civil claim involved the right of public access to lands owned by public entities. The defendants are owners of a large tract of pristine property that surrounds a watershed that provides drinking water for most of Greenville County. Previously no public access was allowed to the tract. The Defendants then entered into a use easement that allows hiker access to the mountainous property, connecting the Palmetto and Appalachian Trails.

Plaintiffs were neighboring landowners who sought to use a previous conservation easement granted by Defendants to the Nature Conservancy to prevent public access to Defendants' property. Judgment was granted for the Defendants on the basis that the Plaintiffs had no standing to assert the Nature Conservancy easement as a bar to prevent public access; further, reasonable use by the public of this beautiful and publicly held property is appropriate. The decision was not appealed.

(c) State of South Carolina vs. David and Darry Hanna
(Florence, 04-GS-21-1078) Murder

Trial date August 8, 2005. Two brothers were charged and tried jointly for the murder of David Hanna's wife, the town administrator for the city of Johnsonville, SC. The case was entirely circumstantial, and presentation of the state's case took nine (9) days. The state's theory of prosecution was that Defendant Darry Hanna shot David Hanna's wife at the direction and request of David Hanna. Because it involved the murder of a public official, allegedly killed by family members, the case was significantly reported in the press. The trial was hotly contested and involved multiple issues including evidence admissible against one defendant but not the other, third party guilt, exclusion/inclusion of inconclusive forensic evidence, proof thresholds in purely circumstantial cases, discovery disputes and allegations of failure to disclose witnesses, and many others. At the close of the state's case, I dismissed all charges in favor of the Defendants because of a

total failure of proof against Defendant Darry Hanna, and all other indicted charges were founded upon Darry Hanna being convicted of murder (conspiracy to commit murder, accessory before and after the fact of murder). Great controversy erupted over the dismissal of the charges; however, the law is clear—evidence that casts a mere suspicion and does not go to actual proof of murder is not sufficient to support a conviction, and if there is nothing more than suspicion at the conclusion of the state's case, the Court has a responsibility to dismiss the charges. See State v. Schrock, 283 S.C. 129, 322 S.E.2d 450 (1984). The decision was not appealable.

- (d) T.R., K.R., P.W., A.M., and the SC Protection and Advocacy for People with Disabilities vs. The State of SC and SC Department of Corrections (Richland, 05-CP-40-2925) Class Action Inmate Litigation

Currently scheduled for a 4 week non-jury trial in February, 2012.

This case is brought on behalf of all current SCDC inmates who suffer from serious mental illness, approximately 2,500 individuals. Plaintiffs allege that the lack of mental health treatment within the Department of Corrections, the lack of crisis stabilization procedures, the use of excessive force, and the insufficient number of mental health professionals results in cruel and unusual punishment in violation of the Eighth Amendment to the United States Constitution and Article I, §15 (cruel and unusual punishment) and Article XII, §2 (providing for health and rehabilitation of inmates) of the SC Constitution. The State vigorously denies these claims. Plaintiffs are represented pro bono by the Nelson Mullins Law Firm, and the state is represented by in house counsel from SCDC, the office of the Attorney General, and the firm of Davidson & Lindemann of Columbia.

- (e) Estate of McBryde, et. al. vs William Frank Davidson and Lancaster Recovery Center, et. al.

(Marlboro, 09-CP-34-72, 73, 74, and 113) Multiple Wrongful Death.

Trial Date December 10, 2009. This case arose from an automobile accident near Bennettsville, SC, in which three children were killed and a fourth permanently brain-injured. The wreck resulted when Defendant Davidson's vehicle crossed the center line on a rural road and struck Plaintiffs' vehicle head-on. The collision occurred on a Sunday evening, and Defendant Davidson had been refused entry to a Lancaster substance abuse treatment center earlier that day, although he had been a patient as recently as two days before, and although he allegedly informed the staff he was actively using crack cocaine in the facility parking lot. This case involved substantial and unusual questions of superseding and intervening negligence, professional negligence, proximate causation, spoliation of evidence in the destruction of Defendant Lancaster's treatment files, and the disappearance of evidence during trial. Verdict for Plaintiffs in the amount of \$10.5 million actual and punitive damages against all Defendants, case settled

post-trial.

24. Have you ever held public office other than judicial office?

It was my privilege to serve as a member of the SC House of Representatives, elected from District 65 (portions of Chesterfield, Darlington, Kershaw, Lee, and Sumter counties) from 1986-98. I did not seek re-election in 1998.

25. List all employment you have 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.

Although not traditional "employment," I am a fifty (50%) percent partner in a business venture that owns and rents residential property in the Hartsville community. In this capacity, my job responsibilities are sporadic and differentiated, but include landscaping, potential property location and acquisition, and some repairs and renovation. Day to day management of the properties is the responsibility of the other partner, who is employed full time in this capacity and in a similar capacity with other properties that he owns with other individuals.

26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office? No.

27. 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? No.

28. Are you now an officer or director or involved in the management of any business enterprise? No, other than the business venture disclosed in response to question 25.

29. A complete, current financial net worth statement was provided to the Commission.

30. Describe any financial arrangements or business relationships that you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. Explain how you would resolve any potential conflict of interest.

I am a minority, non-participating shareholder in the Kitco company which manufactures incorporation kits for use by attorneys in the states of North and South Carolina. I am also a minority, non-participating stakeholder in the ownership of one parcel of commercial property in Florence, SC. Neither of these business ventures has presented a conflict thus far in my tenure as a judge. I have chosen a non-managerial, non-participating, non-informed role in these two investments because there are four (4) attorneys among the other shareholders in the two ventures, and I wish to avoid any potential conflict arising from presiding over cases in which counsel that may have some connection to these entities are participating. In the event some conflict arose concerning these business relationships, I would recuse in the particular case in which the conflict exists.

31. 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? No.

32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No.
33. 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? No.
34. Have you ever been sued, either personally or professionally? No.
36. 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)? No.
37. 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? No.
38. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. None.
39. S.C. Code § 8-13-765 provides, in part, that "[n]o person may use government personnel, equipment, materials, or an office building in an election campaign." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. Include the disposition, if any, of such charges or allegations. None.
40. 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.

My only expenditures thus far are \$25.00 for clerical assistance and the costs of mailing this application to the Commission, estimated at less than \$3.00. I may incur additional minimal costs for delivering a letter advising of my candidacy, at the appropriate time, to each member of the General Assembly.

41. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship. None.
42. 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? 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? No.

43. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No.
44. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No.
45. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate? No.
46. 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) Darlington County Bar Association;
 - (b) SC Bar Association;
 - (c) American Bar Association.
47. 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) YMCA;
 - (b) Butler Heritage Foundation—former member, Board of Directors;
 - (c) Renofest sponsor (local bluegrass annual festival);
 - (d) Hartsville Community Players sponsor;
 - (e) Hartsville Civic Chorale sponsor;
 - (f) Hartsville Museum sponsor;
 - (g) Hartsville Community Concerts sponsor;
 - (h) Brookgreen Gardens—member, President’s Council.
48. Provide any other information which 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.

Thank you for the opportunity to seek re-election to the South Carolina judiciary. I am humbled by the confidence shown by the Judicial Merit Selection Commission and the South Carolina General Assembly in allowing me to serve two previous terms in this position.

49. References:
 - (a) Dr. Alison Y. Evans
612 West Home Avenue
Hartsville, South Carolina 29550
(843-383-0170)
 - (b) Richard A. Puffer
Director, The Byerly Foundation
P. O. Drawer 1925
Hartsville, South Carolina 29551
(843-383-2400)
 - (c) Marvin I. Lawson

108 N. Spain Street
Darlington, South Carolina 29532
(843-393-9888)

(d) Michael R. Vance
President, Mutual Savings Bank
330 W. Carolina Avenue
Hartsville, South Carolina 29550
(843-383-3050)

(e) Franklin Hines
Owner, Hines Funeral Home
833 South Sixth Street
Hartsville, South Carolina 29550
(843-332-1771)

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: J. Michael Baxley

Date: August 8, 2011