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JUDICIAL MERIT SELECTION COMMISSION

PUBLIC HEARINGS

Tuesday, November 15, 2011

9:16 a.m.

1101 Pendleton Street
Gressette Building, Room 308
Columbia, South Carolina

REPORTED BY: YVONNE R. BOHANNON
Registered Merit Reporter,
Certified Realtime Reporter

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1 MEMBERS IN ATTENDANCE:

2

SENATOR GLENN F. McCONNELL, CHAIRMAN

3

REPRESENTATIVE F.G. DELLENEY, JR.,
VICE-CHAIRMAN

4

5

REPRESENTATIVE ALAN D. CLEMMONS

6

PROFESSOR JOHN P. FREEMAN

7

JOHN DAVIS HARRELL, ESQUIRE

8

SENATOR JOHN M. "JAKE" KNOTTS, JR.

9

REPRESENTATIVE DAVID J. MACK, III

10

AMY JOHNSON McLESTER

11

SENATOR FLOYD NICHOLSON

12

H. DONALD SELLERS, ESQUIRE

13

14 COUNSEL:

15

JANE SHULER, CHIEF COUNSEL

16

PATRICK G. DENNIS

17

J. J. GENTRY

18

SARA PARRISH

19

BRADLEY S. WRIGHT

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(INDEX AT REAR OF TRANSCRIPT)

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1 SENATOR McCONNELL: We will call the public
2 hearing on judicial qualifications in session at this
3 point. The Judicial Merit Selection Commission is
4 called pursuant to Chapter 19 of Title 2, South Carolina
5 Code of Laws requiring review of candidates for judicial
6 office.

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

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

16 These public hearings are convened for the
17 purpose of screening candidates.

18 Today we will screen one vacancy for the
19 Supreme Court, one vacancy for the Court of Appeals, 12
20 vacancies for the Circuit Court, one vacancy for the
21 Administrative Law Court, and four retired judges.

22 I am informed by counsel that we have
23 certain legal matters that probably need to be taken
24 care of in executive session, so for that purpose, I
25 would ask if there's such a motion for us to go in and

1 receive a briefing from counsel on legal matters.

2 SENATOR KNOTTS: So moved.

3 SENATOR McCONNELL: All right. The motion
4 has been made. Is there --

5 SENATOR NICHOLSON: Second.

6 SENATOR McCONNELL: Now, been moved and
7 seconded.

8 The floor is open for any discussion.

9 There being no discussion, we'll go to a
10 vote.

11 All in favor, please raise your
12 right hand.

13 Opposed by a like sign.

14 Let the record show it's a unanimous vote
15 of those commissioners who are present.

16 With that, Sergeant, please seal the
17 chambers.

18 (The Judicial Merit Selection Commission
19 went into executive session from 9:18 a.m. to 9:48 a.m.)

20 SENATOR McCONNELL: All right. We're back
21 in open session. There's a few housekeeping matters we
22 need to tend to.

23 Ms. Shuler, do you have anything that needs
24 to be done before we get started with our first
25 candidate?

1 MS. SHULER: I would like to offer and have
2 made exhibits to the record the following: the Citizens
3 Committee Reports for the fall 2011. From the Low
4 Country Citizens Committee there are two reports; the
5 Midlands Citizens Committee, 12 reports; Pee Dee
6 Citizens Committee, six reports; Piedmont Citizens
7 Committee, three reports; and the Upstate Citizens
8 Committee, three reports.

9 SENATOR McCONNELL: All right. Is there
10 any objection to making those part of the record? There
11 being none, so ordered.

12 (EXH. 1, Citizens Committee Reports, marked
13 for identification.)

14 SENATOR McCONNELL: Anything else --

15 MS. SHULER: No, sir.

16 SENATOR McCONNELL: That's it.

17 All right. If you wish to bring in our
18 first candidate.

19 (Off the record.)

20 SENATOR McCONNELL: All right. We'll go
21 back on the record at this time.

22 We've got before us The Honorable Perry M.
23 Buckner, III, offering for Circuit Court, Fourteenth
24 Circuit, seat number one. Good morning.

25 JUDGE BUCKNER: Morning.

1 SENATOR McCONNELL: Good to see you, sir.
2 If you'd be so kind as to raise your right-hand.

3 (The Honorable Perry M. Buckner, III, was
4 duly sworn, after which testimony commenced at 9:49
5 a.m.)

6 SENATOR McCONNELL: Thank you.

7 Have you had an opportunity to review the
8 Personal Data Questionnaire?

9 JUDGE BUCKNER: I have.

10 SENATOR McCONNELL: Is it correct or does
11 it need any changes?

12 JUDGE BUCKNER: Other than the addendum
13 that I filed, it is correct.

14 SENATOR McCONNELL: Do we have that
15 addendum filed?

16 MS. SHULER: Yes, sir.

17 SENATOR McCONNELL: All right. Do you
18 object to us making this summary a part of the record of
19 your sworn testimony as if we'd asked you all those
20 questions here today and you give us those answers?

21 JUDGE BUCKNER: No objection.

22 SENATOR McCONNELL: All right. Without
23 objection, it will be done so at this point in the
24 transcript.

25 (EXH. 2, Personal Data Questionnaire of

1 Mr. Perry M. Buckner, III, marked for identification.)

2 (EXH. 3, Amendment to the Personal Data
3 Questionnaire of Mr. Perry M. Buckner, III, marked for
4 identification.)

5 SENATOR McCONNELL: The Judicial Merit
6 Selection Commission has thoroughly investigated your
7 qualifications for the bench. Our inquires focused on
8 the nine evaluative criteria. It has included a survey
9 of the bench and the bar, a thorough study of your
10 application materials, verification of your compliance
11 with state ethics laws, a search of newspaper articles
12 in which your name appears, a study of previous
13 screenings, a check for economic conflicts of interest.

14 We have received no affidavits filed in
15 opposition to your election. No witnesses are present
16 to testify.

17 So I'd ask you if you have any brief
18 opening statement, which is purely optional, that you
19 might like to make at this time?

20 JUDGE BUCKNER: Other than the fact that
21 it -- as I put in my sworn statement, I believe the
22 experiences that I've gained since I was first elected
23 in 2000 would serve me as an additional term as a
24 circuit judge -- court judge because I think if given
25 the opportunity I believe I could utilize my experience

1 in improving my performance as a judge.

2 SENATOR McCONNELL: Thank you, sir.

3 I'm going to turn you over to counsel. She
4 has a few questions for you. And then we'll see if any
5 member of the Commission has a question.

6 JUDGE BUCKNER: Very well.

7 SENATOR McCONNELL: Thank you.

8 MS. SHULER: Good morning, Judge Buckner.

9 JUDGE BUCKNER: Good morning, Ms. Shuler.

10 MS. SHULER: You have before you the Sworn
11 Statement and any -- that you provided with detailed
12 answers to over 30 questions regarding judicial conduct,
13 statutory qualifications, office administration, and
14 temperament. Are there any amendments that you would
15 like to make at this time to your Sworn Statement?

16 JUDGE BUCKNER: None.

17 MS. SHULER: Thank you.

18 Mr. Chairman, I would ask that Judge
19 Buckner's Sworn Statement be entered into the record as
20 an exhibit at this time.

21 SENATOR McCONNELL: All right. Is there
22 any objection? There being none, so ordered.

23 (EXH. 4, Sworn Statement of Perry M.
24 Buckner, III, marked for identification.)

25 MS. SHULER: Judge Buckner, I think you

1 alluded to this in your opening statement, but after
2 serving for 11 years on the Circuit Court, why do you
3 want to continue serving as a Circuit Court judge?

4 JUDGE BUCKNER: As I stated, I -- I believe
5 that there's no substitute in life for experience, and
6 although I practiced law for 25 years before I was
7 elected to the bench, I'm -- if given the opportunity, I
8 believe I could utilize my experience in improving my
9 performance as a judge.

10 The great thing about this profession is
11 you learn something new every day, Ms. Shuler. You
12 don't ever get satisfied, and the law is ever changing.
13 So I enjoy what I do and I believe I can continue to try
14 and improve my performance if given that opportunity.

15 MS. SHULER: Thank you, Judge Buckner.

16 Although you address this in your Sworn
17 Affidavit, could you explain to the members of the
18 Commission what you believe to be the appropriate
19 demeanor for a judge.

20 JUDGE BUCKNER: I can. I'm asked that
21 question a lot, not just when I appear before this
22 commission. I think a judge should be kind. I think a
23 judge should be patient. I think a judge should be
24 dignified. I do not believe a judge should take himself
25 too seriously. I believe a lazy judge is a poor judge.

1 I don't think a judge should fear reversal by the
2 appellate court when they're making decisions.

3 I think a judge should always remember that
4 there are no unimportant cases to somebody. It's the
5 biggest day in their life in what you're doing no matter
6 how many times you've ruled on the same issues. I think
7 a judge should be prompt, and I think a judge should use
8 common sense and also pray for divine guidance at times
9 as well.

10 MS. SHULER: Thank you, Judge Buckner.

11 Are there any changes to the criminal or
12 civil docket that you have assisted in implementing for
13 the Fourteenth Judicial Circuit in order to clear the
14 docket, and if so, can you explain the nature of those
15 changes?

16 JUDGE BUCKNER: Well, I think I put this in
17 my Personal Data Questionnaire. I think the biggest
18 change that I've instituted in the entire circuit -- my
19 circuit is the largest circuit in a number of counties
20 in the state of South Carolina. The Fourteenth has five
21 counties.

22 And the Fourteenth needed to have something
23 to assist other than the management tools that we have
24 with the civil docket. I instituted -- or was
25 instrumental in instituting mandatory mediation for the

1 entire circuit. You -- you cannot have a case placed on
2 the jury trial roster in the Fourteenth Circuit without
3 engaging in meaningful mediation.

4 We're a mutual party mediator, and I have
5 found that it has greatly reduced the time that I ask
6 members of a community to come and serve on a jury in
7 civil court. I believe it has been a tremendous aid.
8 I -- I actually believe that we ought to have mandatory
9 mediation statewide. I believe it's been such an
10 effective tool in reducing the backlog of civil cases.

11 So I -- I believe that has been a
12 tremendous benefit. I'll give you a perfect example,
13 Ms. Shuler. The first six years that I was a resident
14 judge in the Fourteenth Circuit, I would average in one
15 of my counties probably 100 to 125 civil cases for each
16 Common Pleas term. In that very same county now with
17 mandatory mediation, which I got started effective on
18 all summons and complaints that are filed after January
19 1st, 2008, I'm now having a roster with 20 cases. To
20 give you some idea of how effective I think it is, in
21 the very same situation it used to carry pending of 100.

22 Mediation is an extremely effective tool as
23 an alternative dispute resolution vehicle, and I -- I
24 think it ought to be mand -- we are now -- I think we
25 have 18 counties that have it. And I think it's a great

1 tool, and I'm proud that we -- I serve on the
2 Alternative Dispute Resolution Board where I've been for
3 the past ten years, and I believe it's a very effective
4 tool in reducing the backlog of civil litigation in
5 South Carolina.

6 MS. SHULER: Thank you.

7 Judge Buckner, since your last screening
8 your SLED report indicated that a civil rights lawsuit
9 was filed against Solicitors Kimberly Smith and McDuffy
10 Stone as well as you in 2008 by Thomas L. Davis. Please
11 explain the status of that lawsuit.

12 JUDGE BUCKNER: Well, Ms. Shuler, I have to
13 tell you that you brought that to my attention. And I
14 was never served with that lawsuit, but I had to go back
15 and do a little checking since I was never served with
16 it. It was brought by an inmate. It was dismissed and
17 there was never any service on me at all. So I was not
18 aware of it when I originally filled out my Personal
19 Data Questionnaire or my Sworn Statement.

20 But the case has been dismissed and ended,
21 and I was never served with it.

22 MS. SHULER: All right. Judge Buckner, the
23 Commission received one bench and bar survey which
24 raised a concern under the criteria of character and
25 experience. The surveyor contended that, quote, This

1 judge will tailor his rulings to win favor with sitting
2 legislators and their law partners.

3 Judge Buckner, what response would you
4 offer to this concern?

5 JUDGE BUCKNER: I don't treat lawyer
6 legislators any differently than I treat any other
7 lawyer that appears before me, Ms. Shuler.

8 It's amazing to me, if I rule with a lawyer
9 legislator, I favor the lawyer legislator. If I rule
10 against the lawyer legislator, then I hear that I'm
11 doing that -- being harder on the legislator than I
12 would a lawyer that wasn't ever a legislator.

13 I frankly, Ms. Shuler, don't know exactly
14 how a judge can respond to that other than to say
15 they're not treated any differently regardless of
16 whether they're members of the legislature or not.

17 MS. SHULER: Thank you, Judge Buckner.

18 Mr. Chairman, I have a matter that I'd like
19 to move for executive session, if I might.

20 SENATOR McCONNELL: All right. Do I have a
21 motion regarding executive session --

22 (Multiple speakers wherein there was a
23 second to go into executive session.)

24 SENATOR McCONNELL: -- at the request of
25 counsel?

1 So moved and seconded.

2 Any discussion?

3 If not, all in favor, please raise your
4 right hand.

5 Opposed by like sign.

6 Let the record show it was unanimous.

7 And, Sergeant, seal the chamber.

8 (The Judicial Merit Selection Commission
9 went into executive session from 9:59 a.m. to
10 10:03 a.m.)

11 SENATOR McCONNELL: Someone can publish out
12 to the hall that we're back in open session.

13 The doors have been opened. We have risen
14 from the executive session.

15 Ms. Shuler.

16 MS. SHULER: Judge Buckner, I have some
17 housekeeping matters to cover with you.

18 Have you sought or received the pledge of
19 any legislator prior to this date?

20 JUDGE BUCKNER: No, I have not.

21 MS. SHULER: Have you sought or have you
22 been offered a conditional pledge of support from any
23 legislator pending the outcome of your screening?

24 JUDGE BUCKNER: No, I have not.

25 MS. SHULER: Have you asked any third

1 parties to contact members of the General Assembly on
2 your behalf?

3 JUDGE BUCKNER: No, I have not.

4 MS. SHULER: Have you contacted any members
5 of the Commission?

6 JUDGE BUCKNER: No, I have not.

7 MS. SHULER: Do you understand that you are
8 prohibited from seeking a pledge or commitment until 48
9 hours after the formal release of the Commission's
10 report?

11 JUDGE BUCKNER: Yes, I am familiar with the
12 rule.

13 MS. SHULER: Have you reviewed the
14 Commission's guidelines on pledging?

15 JUDGE BUCKNER: I have.

16 MS. SHULER: Are you aware that the
17 penalties for violating the pledging rules is that it is
18 considered a misdemeanor, and upon conviction, the
19 violator must be fined not more than a thousand dollars
20 or imprisoned not more than 90 days?

21 JUDGE BUCKNER: I am aware.

22 MS. SHULER: I would note that the Low
23 Country Citizens Committee found Judge Buckner is
24 well-qualified in each of the nine evaluative criteria:
25 constitutional qualifications, ethical fitness,

1 professional and academic ability, character,
2 reputation, physical health, mental stability,
3 experience, and judicial temperament.

4 The Committee stated in summary, "The
5 candidate is highly regarded in the community and
6 well-respected as a judge not only in the Fourteenth
7 Circuit but statewide as well."

8 And I would note for the record that any
9 concerns raised during the investigation regarding the
10 candidate were incorporated in my questioning of the
11 candidate today.

12 Mr. Chairman, I have no further questions
13 for Judge Buckner.

14 SENATOR McCONNELL: All right. Does any
15 member of the Committee have any questions?

16 If not -- if not, Judge Buckner, this
17 concludes this stage of the screening process. As you
18 know, even if we close the record, we reserve the right
19 to reopen it should some matter come up that we feel we
20 need to look at. That doesn't mean that there's
21 anything there.

22 The second thing again is to remind you of
23 the 48-hour rule and ask you to be so mindful of that
24 that if anyone approaches you and says they wish to do
25 something for your candidacy before the 48-hour time

1 period, that you remind them also of that.

2 With that, this concludes this stage of the
3 process. We thank you for coming. Hope you have a
4 great day.

5 JUDGE BUCKNER: Thank you, sir.

6 SENATOR McCONNELL: And thank you for your
7 past service to the people.

8 JUDGE BUCKNER: Yes, sir.

9 SENATOR McCONNELL: We'll go off the record
10 pending arrival of the next candidate.

11 (Off the record.)

12 SENATOR McCONNELL: All right. We'll go
13 back on the record at this point.

14 Good morning.

15 JUDGE HUFF: Good morning, sir.

16 SENATOR McCONNELL: We have The Honorable
17 Thomas E. Huff with us. He's offering for Court of
18 Appeals, seat number eight.

19 If you would raise your right hand, please.

20 JUDGE HUFF: Yes, sir.

21 (The Honorable Thomas E. Huff was duly
22 sworn, after which testimony commenced at 10:07 a.m.)

23 SENATOR McCONNELL: Thank you.

24 Have you had an opportunity to review the
25 Personal Data Questionnaire?

1 JUDGE HUFF: Yes, sir.

2 SENATOR McCONNELL: Is it correct or does
3 it need any additions or deletions thereto?

4 JUDGE HUFF: Not that I'm aware of.

5 SENATOR McCONNELL: All right. Do you
6 object to our making this summary a part of your record
7 of your sworn testimony as if we had asked the questions
8 and you'd given us these responses today?

9 JUDGE HUFF: No, sir, I have no objection.

10 SENATOR McCONNELL: Without objection, it
11 will be done so at this point in the transcript.

12 (EXH. 5, Personal Data Questionnaire of
13 Mr. Thomas E. Huff, marked for identification.)

14 SENATOR McCONNELL: The Judicial Merit
15 Selection Commission has thoroughly investigated your
16 qualifications for the bench. Our inquires focused on
17 the nine evaluative criteria, and it has included a
18 survey of the bench and the bar, a thorough study of
19 your application materials, a verification with your
20 compliance with state ethics laws, a search of newspaper
21 articles in which your name appears, a study of previous
22 screenings, and a check for economic conflicts of
23 interest.

24 We have received no affidavits filed in
25 opposition to your election. No witnesses are present

1 to testify.

2 I would ask you if you have any opening
3 statement you wish to have, which is purely optional,
4 before I turn you over to counsel for a few questions,
5 and then we'll see if the commissioners have any
6 questions themselves.

7 JUDGE HUFF: I don't have an opening
8 statement, sir. Thank you, though.

9 SENATOR McCONNELL: All right. With that,
10 turn you over to counsel.

11 MR. DENNIS: Thank you, Mr. Chairman.

12 Good morning, Judge.

13 You also have before you a Sworn Statement
14 that contains answers to 30 questions regarding judicial
15 conduct, statutory qualification, office administration,
16 and temperament. Do you have any additional amendments
17 you'd like to make to that at this time?

18 JUDGE HUFF: No, sir.

19 MR. DENNIS: Mr. Chairman, I'd also ask
20 that that be made part of the record.

21 SENATOR McCONNELL: Is there any objection?
22 There being none, so ordered at this point in the
23 transcript.

24 (EXH. 6, Sworn Statement of Thomas E. Huff,
25 marked for identification.)

1 MR. DENNIS: Judge Huff, why would you like
2 to continue to serve as a Court of Appeals judge?

3 JUDGE HUFF: Quite frankly, I enjoy the
4 opportunity, and as I've gained further experience over
5 the years, it has even become more enjoyable and
6 pleasurable to some degree, albeit that may not seem the
7 case sometimes with the workloads that we have. But to
8 interact with the judges that we have and to see the
9 interplay within our times of court, it -- to me it's a
10 very rewarding opportunity. Very rewarding.

11 MR. DENNIS: Thank you, Judge.

12 And I know you addressed this some in your
13 Sworn Statement, but could you explain to the Commission
14 what you feel the appropriate demeanor for a judge is,
15 specifically a judge in the courtroom.

16 JUDGE HUFF: Well, considering the times
17 that we work in, it -- it's absolutely imperative I
18 think on the part of -- those that serve in the judicial
19 office to show and manifest courtesy, a temperament that
20 invites them to have trust in the decisional process
21 which occurs afterwards, in how we ask questions, how we
22 respond to arguments.

23 I think it's very important for us
24 considering the capacity in which we sit to show an even
25 temperament so as to ensure that the litigants feel that

1 there is no bias against them because of who may be
2 advocating on the other side or who may be taking a
3 position contrary to them. It's extremely important to
4 maintain the integrity of the judicial system to have
5 that type of an ending.

6 MR. DENNIS: Thank you, Judge.

7 Are there any changes to the docket that
8 you've assisted in implementing at the Court of Appeals
9 that you consider helping to clear the docket?

10 JUDGE HUFF: We -- we constantly go through
11 that process and being sensitive to the fact of the
12 delay in which decisions come. We are right now working
13 with how we conduct conferencing and how that can
14 involve itself in speeding the process of getting to
15 decisions, not to give slight to any decisions or issues
16 that are before us.

17 In the context of doing that, we're also
18 wrestling with the issue of oral arguments. We're in
19 the stage right now where we're giving oral arguments to
20 every case, every case. And having been there as long
21 as I have, I'm beginning to see how the wheel is turned
22 all the way around, and -- and what has I think been an
23 advantage for me now in the service of court is the
24 ability to tell them that we are not reinventing the
25 wheel. We're just putting the old wheels back on the

1 cart.

2 So from that standpoint I've been able to
3 bring to bear the experiences of what has worked before
4 and what hasn't. So just giving them advice in regard
5 to how we schedule -- how we divide cases and the
6 dispatch that we should give and -- and the fact of
7 rendering opinions and circulating opinions, those
8 where -- that's where I've been active quite frankly.

9 MR. DENNIS: Thank you, Judge.

10 I've got just a couple housekeeping matters
11 to run through with you real quickly.

12 Have you sought or received the pledge of
13 any legislator prior to this date?

14 JUDGE HUFF: No, I have not.

15 MR. DENNIS: Have you sought or been
16 offered a conditional pledge of support of any
17 legislator pending the outcome of your screening?

18 JUDGE HUFF: No, I have not.

19 MR. DENNIS: Have you asked any third
20 parties to contact members of the General Assembly on
21 your behalf?

22 JUDGE HUFF: No, I have not.

23 MR. DENNIS: Have you contacted any members
24 of this commission?

25 JUDGE HUFF: No.

1 MR. DENNIS: Do you understand that you are
2 prohibited from seeking a pledge or commitment until 48
3 hours after the formal release of the Commission's
4 report?

5 JUDGE HUFF: Yes, sir.

6 MR. DENNIS: Have you reviewed the
7 Commission's guidelines on pledging?

8 JUDGE HUFF: Yes.

9 MR. DENNIS: And as a follow-up, are you
10 aware of the penalties for violating the pledging rules,
11 and that is, that it is considered a misdemeanor and
12 upon conviction the violator must be fined not more than
13 a thousand dollars, imprisoned not more than 90 days?

14 JUDGE HUFF: Yes, sir.

15 MR. DENNIS: As an additional note,
16 Mr. Chairman, I would add that the Citizens Committee
17 reported that Judge Huff was well-qualified for all nine
18 of the evaluative criteria and specifically said that
19 they believed he is most eminently qualified to continue
20 his service on the Court of Appeals and we are confident
21 that he will continue to serve in an outstanding manner.

22 I would also note for the record that any
23 concerns raised during the investigation regarding the
24 candidate were incorporated into the questioning of the
25 candidate today.

1 And, Mr. Chairman, that is all I have.

2 SENATOR McCONNELL: All right, thank you,
3 sir.

4 Let's see if any member of the Commission
5 has a question.

6 The senator from Lexington.

7 SENATOR KNOTTS: Thank you, Mr. Chairman.

8 Judge Huff, how many cases are now pending
9 before the Court of Appeals for decisions?

10 JUDGE HUFF: We get updates. We have not
11 had one quite recently. I do know that we have advanced
12 a lot on disposition of our PCRs which were pending when
13 they ultimately came over to our court.

14 Senator Knotts, that is an issue that we
15 constantly discuss as a matter of fact, and in this
16 regard -- and I'll be very direct with you. It is
17 difficult to determine what is, I think, in some
18 instances a manageable pending caseload because it
19 varies. It seems like recently the harder we work, the
20 harder the filings and the greater the filings, and we
21 seem to be treading water.

22 I will be very forthright to tell you that
23 we do our best with what we have to try and move those
24 cases along, and I think by and large we have been able
25 to reduce the time between the filing -- between the

1 filings and the decision. There are administrative
2 problems from the time of filing until the time it is
3 assigned. To me that is where we are getting some
4 backlog.

5 Once it is assigned to chambers, we've been
6 pretty expeditious, I think, in hearing the cases and
7 disposing of the cases by an opinion, but the caseload
8 is significant.

9 SENATOR KNOTTS: I understand that in some
10 cases it takes some time, two to three years or longer,
11 to be heard in the Appeals Court, and it just seems like
12 to me the process that we set up years ago was to
13 expedite that, and it doesn't seem like it's being done.

14 What -- what do you perceive as a holdup
15 for anything that can be done to correct it?

16 JUDGE HUFF: I think some of the problem is
17 in the -- in the front end. From the time they file
18 that case, that is -- that it is processed, the time of
19 getting the transcripts and the final briefs, that is I
20 think where we see a lot of delay. Once it is assigned
21 to chambers, I think we're moving rather expeditiously.

22 We're looking at issues of electronic
23 filings that are -- that are coming along, the new case
24 management systems that are being implemented. We have
25 opened up the access of the judges themselves to getting

1 the G drives and see the opinions that are being
2 circulated to be more in tune and aware of the decisions
3 that are being arrived at that could impact us as we
4 deliberate on our decisions.

5 I don't know what the ultimate answer is.
6 I think a large degree relates to financial. It may
7 relate to staffing. I don't know that we're going to
8 cure the problems of society that have enhanced the
9 filings and the more litigious attitude of people. Two
10 years and three years is too long. I will say that.
11 One year in certain instances --

12 SENATOR KNOTTS: There was a case, Judge,
13 that just went to the Supreme Court that was over three
14 years, almost four.

15 JUDGE HUFF: I -- I would personally say
16 that is -- that is not acceptable.

17 SENATOR KNOTTS: What can be done in -- in
18 your Appeals Court as a judge? I believe you are one of
19 the administrative --

20 JUDGE HUFF: I'm the oldest serving judge
21 there now. I don't like to claim that, but I, you
22 know --

23 SENATOR KNOTTS: What can be done -- since
24 you're the oldest serving judge, you've been over there
25 for a long time. What's been done to speed it up, and

1 what can be done without -- I mean, within your power?

2 You say it's the --

3 JUDGE HUFF: Certainly our responsibilities
4 have been heightened with the advent of PCRs, workers'
5 compensation and the number of cases that -- the
6 administrative law cases that are coming to us. The --
7 the variety and the amount of cases and where they're
8 coming from has increased. There's no doubt about that.

9 As far as the stop cap measure, you, you
10 know, maybe enhancing the number of staff that we have
11 to assist in the secretary's office to -- to move cases
12 along. Ultimately -- and we go through this -- having
13 been in the legislature, Senator, we are always
14 approached whether or not we need additional judges. I
15 cannot, would not comment on that. I think that's --
16 our Chief Justice can certainly enlighten you on that.

17 I can assure you, though, from the time
18 that I have been there we are as lean and as mean as we
19 can be being disposing of cases. I don't think the --
20 you will see any significant increase in the speed and
21 the disposal of cases until you start addressing
22 financial and staffing problems. We are --

23 SENATOR KNOTTS: It just seems that some --
24 some cases zip right through and others get put on the
25 back burner over there and ends up on the -- on the long

1 trail, so --

2 JUDGE HUFF: Well, you know, the difficulty
3 and the number of issues that are in cases sometimes
4 lends themselves to being dealt with longer. You know,
5 there are some cases -- and I have said this within our
6 meetings -- that I don't think warrant oral argument and
7 could be disposed of a lot quicker. Now, there are
8 others that disagree with that.

9 But, you know, I find myself in situations
10 wondering why are we sitting here having oral argument
11 when the issues are fairly forthright. There's no
12 precedential impact on the decision. We have clear
13 lines of cases and they can be disposed of fairly
14 quickly.

15 But we also have to be sensitive to the
16 fact -- and I -- I have said this in panels. Those
17 litigants come here to South Carolina. They bring their
18 cases to us, and whether we decide it's a simple case or
19 a hard case, it's their case and they want to have an
20 opportunity through their attorneys to argue that case,
21 and I would not fault them for that at all. But there's
22 some cases where we really need to exercise our judicial
23 authority and say this is a case that doesn't warrant
24 oral argument.

25 We -- the speed at which we render a

1 decision has as much of an impact in how people view the
2 integrity of the system as much as the correctness of
3 that decision. And I just don't want to get in the
4 business of spitting out cases to deal with numbers.
5 That's not justice.

6 SENATOR KNOTTS: Thank you.

7 SENATOR McCONNELL: Any other member of the
8 Commission have a question?

9 I'll just say I read your answer regarding
10 the use of an agency's interpretation of the
11 Constitution. It was an excellent answer.

12 JUDGE HUFF: I was worried about that one.

13 SENATOR KNOTTS: Mr. Chairman, let me ask
14 one more question.

15 SENATOR McCONNELL: Yes, sir, the senator
16 from Lexington.

17 SENATOR KNOTTS: Sitting here I just -- I
18 feel obligated to ask you the same question. Maybe the
19 same problem is existing in the Appeals Court that used
20 to exist on the bench -- on the Circuit Court.

21 When do y'all go to work? What's your
22 workday?

23 JUDGE HUFF: Some days I have short days.
24 Some days I have long days. My wife will ask me
25 sometimes, she says, "When do you work?" I said, "When

1 you're asleep."

2 SENATOR KNOTTS: We pay you for a week.

3 JUDGE HUFF: We -- we work literally -- I
4 can tell you this, Senator. From -- I work all week. I
5 work on the weekends quite a bit. You cannot help but
6 do that. Certainly with the tablets that we have now,
7 like iPads and things, we get in and do research just
8 about anywhere where we are, which is great. It -- it
9 takes away all your excuses.

10 SENATOR KNOTTS: That wouldn't be a
11 possibility of the work -- workday over there being a
12 possibility of why these cases are old, for two and
13 three years?

14 JUDGE HUFF: I -- personally I don't think
15 so. The interaction I have with the other judges, I can
16 tell you they are hard working members of the court
17 and --

18 SENATOR KNOTTS: Now, you work a full week,
19 right?

20 JUDGE HUFF: Yes, sir. Yes, sir.

21 SENATOR KNOTTS: Monday through Friday?

22 JUDGE HUFF: Unless I take a day off and
23 tell them where I am, which is not very often.

24 But we are different than the circuit
25 bench, I can tell you that. And, you know, we have our

1 assigned cases. I may have five cases assigned to me.
2 There are three members on our panel. That's 15 cases
3 assigned to me. I cannot just address the issues that I
4 find in the cases assigned to me. I've got to be aware
5 of what's in the other cases so that I can be prepared
6 to ask questions and so that I can interact with my
7 staff.

8 A lot of -- well, within my chambers one of
9 my clerks -- it's common knowledge that once I get on
10 the phone I'm there for two and a half, three hours in
11 constant conversation with her, and quite frankly I
12 enjoy it, the interplay and the conversations that I
13 have and the picking of our brains.

14 It's -- we are constantly involved in
15 research particularly. And that's the other advantage
16 of the computer systems. I mean, it fascinates me that
17 I can get into any law library in the country, and I can
18 read treatises and cases from around this country from
19 the Supreme Court.

20 To me that's ultimately going to be the
21 answer to the backlog, I think, is technology. And
22 hiring people is expensive, but technology can expand
23 the workload for the least amount of money, I think,
24 personally. And I think that's the way we'll ultimately
25 resolve some of the systems with our backlogs is the

1 technology we can bring there so that people can be more
2 productive.

3 But I can tell you now, you know -- and I
4 hate -- if we expanded just staff sometimes, I think you
5 would get a lot more work done, but that's me. My -- my
6 major was -- was management in my undergraduate degree,
7 and I try to bring that to bear particularly within my
8 chambers so I can be productive as possible.

9 SENATOR McCONNELL: All right. Any other
10 questions?

11 All right. If not, then that concludes
12 this portion of the screening process. As you know,
13 we've reserved the right, although we close the record,
14 to reopen it if any matter comes up the Commission feels
15 it needs to pursue. That's not to indicate there's
16 anything remaining.

17 I, again, would like to remind you about
18 the 48-hour rule and ask you to be so mindful of that
19 that if someone volunteers to assist you before the
20 48-hour period, that you remind them of the rule. If --

21 JUDGE HUFF: I haven't even mailed a
22 letter, Senator.

23 SENATOR McCONNELL: All right. With that,
24 we want to thank you for your past service to the people
25 of South Carolina and for offering, and have a nice day,

1 sir.

2 JUDGE HUFF: Thank you.

3 SENATOR McCONNELL: We'll now go off the
4 record pending arrival of the next.

5 (Off the record.)

6 SENATOR McCONNELL: All right. We'll go
7 back on the record at this time.

8 And we have before us The Honorable George
9 C. James, Jr., who is offering for Circuit Court, Third
10 Circuit, seat number two.

11 If you'd raise right hand.

12 (The Honorable George C. James, Jr., was
13 duly sworn, after which testimony commenced at 10:27
14 a.m.)

15 SENATOR McCONNELL: Thank you.

16 The Judicial Merit Selection Commission has
17 thoroughly investigated your qualifications for the
18 bench. Our inquires focused on the nine evaluative
19 criteria. It's included a survey of the bench and bar,
20 a thorough study of your application materials, a
21 verification of your compliance with state ethics laws,
22 a search of newspaper articles in which your name
23 appears, a study of previous screenings, and a check for
24 economic conflicts of interest.

25 We have received one affidavit filed in

1 opposition to your election. One witness is present to
2 testify.

3 I would ask you, do you have any brief
4 opening statement you'd like to make at this time before
5 I turn you over to counsel for some questions?

6 JUDGE JAMES: No, sir, I do not. I'm just
7 happy to answer any questions that you might have.

8 SENATOR McCONNELL: All right. Thank you.
9 Please answer any of counsel's questions.

10 MS. SHULER: Judge James, good morning.

11 JUDGE JAMES: Morning.

12 MS. SHULER: You have before you the
13 Personal Data Questionnaire you submitted as part of
14 your application. Are there any amendments that you
15 would like to make at this time to your PDQ?

16 JUDGE JAMES: No, ma'am.

17 MS. SHULER: Mr. Chairman, I would ask that
18 Judge James' Personal Data Questionnaire be entered as
19 an exhibit into the hearing record at this time.

20 SENATOR McCONNELL: Is there any objection
21 to that being entered into the record? There being
22 none, so ordered.

23 (EXH. 7, Personal Data Questionnaire of
24 Mr. George C. James, Jr., marked for identification.)

25 MS. SHULER: Judge James, you have before

1 you the Sworn Statement you provided with detailed
2 answers to over 30 questions regarding judicial conduct,
3 statutory qualifications, office administration, and
4 temperament.

5 Are there any amendments you would like to
6 make at this time to your Sworn Statement?

7 JUDGE JAMES: No, ma'am, there are not.

8 MS. SHULER: Mr. Chairman, I would like to
9 ask that Judge James' Sworn Statement be entered into
10 the hearing record as an exhibit at this time.

11 SENATOR McCONNELL: Is there any objection?
12 There being none, so ordered.

13 (EXH. 8, Sworn Statement of George Coggin
14 James, Jr., marked for identification.)

15 MS. SHULER: Judge James, after serving for
16 almost six years on the Circuit Court, why do you want
17 to continue serving as a Circuit Court judge?

18 JUDGE JAMES: Well, I believe I put this in
19 my responses in the questionnaire. It's a -- it's a job
20 I enjoy very much, and I've learned a lot. I think I've
21 grown a lot in the job, and I just would like to
22 continue to try to serve and have some type of positive
23 impact on the -- on the whole system.

24 MS. SHULER: Thank you.

25 Judge James, although you address this in

1 your Sworn Affidavit, could you please explain to the
2 members of the Commission what you think is the
3 appropriate demeanor for a judge.

4 JUDGE JAMES: Well, I don't remember
5 specifically what I put word-wise, but I think certainly
6 patience and firmness and overall a courteous approach
7 is appropriate. And the reason I think that is because
8 I think everybody would respond positively to that, and
9 sometimes it's hard to fulfill, but I think if you have
10 those -- or use those tools on the bench, I think it
11 makes for overall the better end result for everybody.

12 MS. SHULER: Judge James, are there any
13 changes to the civil or the criminal docket you have
14 assisted in implementing in the circuit where you reside
15 in order to clear the docket, and if so, what are the
16 nature of those changes?

17 JUDGE JAMES: On -- on the criminal side I
18 have not been appointed administrative judge yet, but on
19 that side or even concentrating on trying to deal with
20 the jail cases, in other words, folks who have been in
21 jail for an extended period of time, unable to make bond
22 or not receiving a bond, we try to handle those cases as
23 quickly as we can.

24 On the civil side since I took the bench in
25 2006, the trial of civil cases is less and less, and

1 that's less of a pressing issue, but we tried to -- at
2 least when I'm administrative judge tried to proactively
3 target cases ahead of the time they're ripe on the vine
4 for trial to make sure that everybody -- the lawyers
5 are -- have the cases ready when the time period comes
6 up.

7 MS. SHULER: Okay. Thank you, Judge James.

8 Mr. Chairman, a complaint has been filed
9 against Judge James. At this time I would ask that
10 Judge James step aside and allow Dr. Maria Faltas to
11 come forward and testify.

12 SENATOR McCONNELL: Dr. Faltas, if you'd
13 come forward, please.

14 Thank you. Please have a seat. And if you
15 would raise your right hand.

16 DR. FALTAS: For religious reason I cannot
17 swear.

18 (Marie-Therese H. Assa'ad-Faltas, duly
19 affirmed, after which testimony commenced at 10:32 a.m.)

20 SENATOR McCONNELL: Thank you.

21 DR. FALTAS: May I just a few initial
22 suggestions. I have a federal lawsuit pending against
23 the constitute -- challenging the constitutionality of
24 South Carolina's Judicial Merit Selection and also the
25 Home Rule Act.

1 Both those federal lawsuits name you,
2 Senator McConnell, in your official capacity and Senator
3 Knotts as defendants. Also I was wondering, because
4 Senator Knotts was specifically contacted by an opponent
5 in the civil lawsuits of mine if it would be appropriate
6 for both you and Senator Knotts to disqualify yourselves
7 from this particular hearing.

8 SENATOR McCONNELL: What suit is this?
9 Just tell me what this suit is so I will know.

10 DR. FALTAS: Okay. As you are aware, there
11 is -- there are at least two federal lawsuits
12 challenging the constitutionality of --

13 SENATOR McCONNELL: The Home Rule Act?

14 DR. FALTAS: No, no, no. The Home Rule Act
15 is one that is only mine, but there are two other
16 federal lawsuits in Charleston challenging the
17 constitutionality of the immigration -- supposed
18 immigration law --

19 SENATOR McCONNELL: The immigration, okay.

20 DR. FALTAS: But --

21 SENATOR McCONNELL: That's different.

22 DR. FALTAS: That's different.

23 SENATOR McCONNELL: Yeah, I just want --
24 need to be make sure.

25 DR. FALTAS: And I'm trying to -- because

1 this seems procedurally complicated. So there are three
2 bases for which I'm suggesting that it may be
3 appropriate for you and Senator Knotts to recuse
4 yourselves from just the hearing where -- and I remember
5 last time I was before the -- this commission, Senator
6 Delleney recused himself because a candidate was -- and
7 he sought -- it's always -- in the recusal matters it's
8 always better to err on the side of caution.

9 And I think you, Senator McConnell, led a
10 charge against the former Family Court Judge Charlie
11 because in your opinion she didn't act on the side of
12 caution.

13 SENATOR McCONNELL: I don't know about
14 leading any charge, but --

15 DR. FALTAS: Whatever. I mean --

16 SENATOR McCONNELL: Yes, ma'am.

17 DR. FALTAS: So --

18 SENATOR McCONNELL: So the first thing is
19 the question of the constitutionality of the
20 immigration -- I just want to get them correctly on the
21 record so I understand which lawsuits you're talking
22 about --

23 DR. FALTAS: Yes. That --

24 SENATOR McCONNELL: -- that the Senate is a
25 party to.

1 DR. FALTAS: Yes.

2 SENATOR McCONNELL: And I am only a party
3 as the president pro tem.

4 DR. FALTAS: And -- and -- and so I can go
5 further.

6 SENATOR McCONNELL: Yes, ma'am. Tell me
7 the other lawsuit.

8 DR. FALTAS: The -- the other lawsuit
9 combines because I was not allowed to intervene in the
10 two existing Federal lawsuits. I filed my own federal
11 lawsuits for both in my own behalf and as an Egyptian
12 very proud Coptic orthodox Egyptian citizens whose
13 passport -- Egyptian passport which is the -- the
14 property of the Egyptian government was robbed from my
15 hands in a supposed court in this state.

16 So I have a lawsuit and it names you in
17 your official capacity and it also names Senator Knotts
18 because I have documents where an opponent in a civil
19 lawsuit that I have filed -- and I have presented in the
20 initial stages contacted in writing Senator Knotts
21 falsely claiming that I'm an illegal alien and asking
22 that I be deported for having dared filed a civil
23 lawsuit -- civil lawsuits against an American citizen
24 when that American citizen had been indicted for 145
25 counts for stealing from the U.S. Army.

1 SENATOR McCONNELL: All right. Those are
2 the two suits?

3 DR. FALTAS: No. There are three suits.

4 SENATOR McCONNELL: Three suits.

5 DR. FALTAS: Yes, sir.

6 SENATOR McCONNELL: All right. Now, tell
7 me about the third one.

8 DR. FALTAS: The third one is about the
9 Home Rule Act and the home -- and it challenges the
10 constitutionality of the Home Rule Act under the
11 provision of the federal Constitution that says no new
12 states shall be formed within existing states or parts
13 thereof without the consent of Congress.

14 And I'm saying that in effect when you all
15 passed the Home Rule Act you were in effect if not in
16 name creating 46 states within South Carolina even
17 though you didn't call them states.

18 SENATOR McCONNELL: Okay.

19 DR. FALTAS: And why is that? Because you
20 gave them power to pass ordinances without checks and
21 balances. You --

22 SENATOR McCONNELL: All right. So those --
23 I just need to make sure I've got the three cases
24 correctly.

25 All right. Just one second.

1 DR. FALTAS: Okay.

2 (Off the record.)

3 SENATOR McCONNELL: All right. We'll go
4 back on the record.

5 Senator Knotts.

6 SENATOR KNOTTS: Mr. Chairman, I don't have
7 any idea whatsoever what this lady is talking about as
8 far as a lawsuit. I haven't been served and I don't
9 know of anybody -- I've checked with staff, and they
10 haven't accepted any service or know anything about it.

11 I really don't know what you're talking
12 about. I'd like to know, but it's -- you know, I don't
13 have a problem with stepping out if you think that
14 that's the way it is, but it's not because of a lawsuit
15 or anything. Just that in fairness to make you feel a
16 little bit more comfortable in here I'll -- I'll step
17 out, but --

18 DR. FALTAS: It would --

19 SENATOR KNOTTS: When did you file your
20 lawsuit?

21 DR. FALTAS: Well, my civil lawsuit where a
22 party contacted you in writing, Senator Knotts, it was
23 filed in March 2009.

24 SENATOR KNOTTS: You contacted me?

25 DR. FALTAS: No, no, no, no. The

1 defendant.

2 SENATOR KNOTTS: Who?

3 DR. FALTAS: Larry William Mason who
4 contacted you asking that I be deported and falsely --

5 SENATOR KNOTTS: Asking that you be
6 deported?

7 DR. FALTAS: Yes, sir. And -- and falsely
8 claiming --

9 SENATOR KNOTTS: Ma'am, I don't even know
10 you except for coming here in these meetings and --

11 DR. FALTAS: That's fine. He -- he put my
12 name in the --

13 SENATOR KNOTTS: Did he get a response?

14 DR. FALTAS: He got a response from other
15 members of the legislature, but he and his concubine --

16 SENATOR KNOTTS: The concubine?

17 DR. FALTAS: Concubine, C-O-N-C-U-B-I-N-E.
18 That's defined under -- in other --

19 SENATOR KNOTTS: Somebody's girlfriend?

20 DR. FALTAS: Well, the concubine.

21 SENATOR KNOTTS: Okay.

22 DR. FALTAS: And the -- testified in other
23 hearings that they -- that they wrote to you and to --
24 to 16 other elected people, and in discovery in another
25 matter I was given written correspondence from them to

1 you. Did they get the response? Yes, they got the
2 response. In fact --

3 SENATOR KNOTTS: They got a response back
4 from me?

5 DR. FALTAS: Not from you.

6 SENATOR KNOTTS: Okay.

7 DR. FALTAS: Not from you.

8 SENATOR KNOTTS: Okay. Case closed.

9 DR. FALTAS: But they got the responses
10 from -- from -- from -- from other legislator --
11 legislator --

12 SENATOR McCONNELL: Thank you for
13 explaining that to him.

14 All right. Senator Knotts, do you have
15 anything else?

16 SENATOR KNOTTS: No, sir.

17 SENATOR McCONNELL: All right. For
18 purposes of -- I want to keep the -- the hearing
19 comfortable, the witness comfortable, and to make sure
20 that this matter proceeds forward without any question,
21 I'm just going to recuse myself from this and ask the
22 next officer to preside, Representative Delleney, and
23 with that I will recuse myself until this matter is
24 over.

25 SENATOR KNOTTS: And, Mr. Chairman, I'm

1 going to recuse myself also.

2 PROFESSOR FREEMAN: Can I ask a question
3 here?

4 Are you going to have the same objection
5 when you testify later today with the same request that
6 they recuse themselves?

7 DR. FALTAS: Yes.

8 PROFESSOR FREEMAN: Okay.

9 DR. FALTAS: So the second housekeeping
10 matter is that I not really -- I didn't file in
11 opposition of the can -- candidacy of The Honorable
12 Judge James, and my affidavit was that I do not wish him
13 disqualified. I wish that this be an opportunity for
14 His Honor and for this committee to examine the
15 collective conscious to see how it could happen that
16 someone could have objective evidence that perjury was
17 committed in the court that is supposed to be a temple
18 of truths and nothing be done about it for so long.

19 And it's very sad but almost fortuitous
20 that this comes at the same time that the nation is
21 gripped with what has been happening with Joe Paterno
22 and the football problem at Penn State.

23 And I tell you two things. I know nothing
24 about football and I'm very, very, very adamant about
25 the presumption of innocence. So we don't even know if

1 there was children abused or sex abuse going on. This
2 is only allegations. However, what was -- what was
3 there -- and that's why Joe Paterno and the president of
4 that university lost their jobs, were fired is that they
5 knew of some wrongdoing and they did nothing about it.

6 And, again, I want to be accurate there
7 is -- and, again, I was for the respect of the
8 presumption of innocence. There is a --

9 REPRESENTATIVE DELLENEY: Dr. Faultless --

10 DR. FALTAS: Yes.

11 REPRESENTATIVE DELLENEY: -- we're here to
12 examine the qualifications of candidates.

13 DR. FALTAS: Okay.

14 REPRESENTATIVE DELLENEY: And that's
15 what -- this is not a forum to air any other grievances
16 that you may have against any other system or whatever.
17 This is about the candidacy of The Honorable George C.
18 James, Jr.

19 DR. FALTAS: Okay.

20 REPRESENTATIVE DELLENEY: So we would ask
21 you -- we've got a lot of work today. So we would ask
22 you to keep your comments applicable to the --

23 DR. FALTAS: Okay.

24 REPRESENTATIVE DELLENEY: -- reason that
25 we're here today.

1 DR. FALTAS: Okay. I first came before The
2 Honorable James on a civil matter, and His Honor was
3 very civil about it and he didn't get to hear it because
4 of my need to be with my very sick mother at that time
5 in Ohio.

6 And, again, I want to qualify that I -- I
7 would never, ever come and testify for or against a
8 candidate based on his judicial ruling. I think that's
9 not proper. The proper place to examine judicial
10 rulings is the upper courts. What I want to talk about
11 is what Judge James did not do just as a person, just as
12 an officer of the court, not judicial rulings.

13 And as I was about to say, the -- the
14 former clerk of the Spartanburg county court is under --
15 is arrest or something for allegedly taking drugs from
16 the evidence room and trying to sell them. And what I'm
17 asking is supposed -- suppose -- hypothetically had this
18 been Judge James's court and he was in on the clerk of
19 court taking those drugs from the evidence room or
20 making a deal to sell those drugs within the court --
21 I'm not talking about judicial rulings now. I'm talking
22 about --

23 REPRESENTATIVE DELLENEY: We're not here
24 dealing with hypotheticals. We want -- we want to know
25 what your specific --

1 DR. FALTAS: My specific --

2 REPRESENTATIVE DELLENEY: -- claims are
3 related to Judge James.

4 DR. FALTAS: My specific comment is that
5 Judge James was given objective evidence that perjury
6 was committed in his own court. And he did nothing
7 about it, and, again, that evidence wasn't I say, they
8 say and take my word against yours. It was they
9 testified something under oath in his court, and I
10 obtained transcripts and objective documents that they
11 testified 180 degrees opposite in another court about
12 the same matter. And he did nothing about it.

13 And that's why I was trying to -- and --
14 and I am not talking about judicial rulings and I am not
15 going to ever do that. And that's why I was given the
16 example of the -- if Judge James had worked on that
17 happening in his court, would he have had a duty to the
18 court system, to the public to do something about it and
19 what comes --

20 REPRESENTATIVE DELLENEY: Dr. Faltas, that
21 is not relevant here today. We want to know what
22 specific --

23 DR. FALTAS: The perjury. The perjury --

24 REPRESENTATIVE DELLENEY: Okay.

25 DR. FALTAS: -- of which he -- I made him

1 aware. And, in fact, His Honor complained that I had
2 sent him 60 megabytes of attachments and that clogged
3 his e-mail system and, you know, not have a chance for
4 that. But I provided him with the full transcripts with
5 the same person, same person under oath testified
6 something 180 degrees opposite what she testified under
7 oath before him in his courtroom about the same --

8 MS. SHULER: Dr. Faltas, can I just clarify
9 with you for the Commission when this all occurred and
10 what hearings this occurred at that you contend evidence
11 was procured by fraud and presented to Judge James.
12 And -- and it's clear and you have said that you don't
13 want Judge James disqualified, but you just want him to
14 answer some questions relating to this evidence.

15 Your allegations appear to relate to two
16 hearings that Judge James presided over, one in late
17 2009 to lift to a bond restriction forbidding you to
18 return to your apartment and then one in January 2010
19 for your motion for reconsideration when he didn't lift
20 that bond. So what -- is that correct?

21 DR. FALTAS: Yes, ma'am. But --

22 MS. SHULER: Okay. Then let me follow up.
23 Dr. Faltas, briefly what specific evidence -- and you
24 submitted and I have provided it to Judge James. With
25 your affidavit several days later, you submitted some

1 transcripts. What in those transcripts -- and the
2 Commission has those documents before them -- do you
3 contend was evidence that was presented -- procured by
4 fraud that was presented at your bond hearings to Judge
5 James? Just narrow and specific.

6 DR. FALTAS: Yes. Yes. Yes. The reason I
7 was put away from my apartment is that my first accuser
8 claimed that she was employed and that every day she was
9 unable to go to work because I blocked her in with my
10 car for a specific period of time.

11 In another lawsuit which she had filed
12 about somebody totally unrelated to me before she even
13 knew I existed, but the position was taken and she also
14 testified at trial, and in both those occasions under
15 oath she testified that she had been unemployed for that
16 very period of time, and she had been unemployed because
17 she was fired for negligence from her job. That very
18 same job that she under oath before Judge James said she
19 was still working. That is one thing.

20 The other thing -- another reason for that
21 bond condition that I do not return to my own apartment
22 is that there was an accusation claiming that there was
23 an apartment next door from it and that I had gone
24 out -- actually there was two supposed affidavits or
25 statements claiming that, one, there was this other

1 apartment for rent. I had gone out and told the
2 potential tenant that I am the landlady and there is no
3 apartment for rent.

4 In the first one again the supposed
5 signatory to that affidavit testified in my criminal
6 trial -- and parenthetically I represented myself every
7 pro se in that trial for five days before the judge. I
8 was not convicted which means I retained the presumption
9 of innocence. But in any event, that specific person
10 said that he -- this is not his signature on the letter.
11 He never signed that letter.

12 In addition, that person I had asked --
13 because there was an issue of, you know, forging
14 identity, I had asked that his driver's license be shown
15 to the Court and it was, and he said it's not even the
16 same signature on the driver's license.

17 I went to Sumter -- that person owns
18 insignificant piece of land in Sumter County and I got
19 the signature on the deed and compelled him, so it's not
20 even the same signature. So that's the second forged
21 document.

22 A third forged document that was presented
23 also before Judge James to support the idea that I
24 should not return to my own apartment, from my own
25 personal library and my own things out of there is that

1 I had gone and sent to somebody who was just driving by
2 looking to -- to rent an apartment and found the for
3 rent sign, that I'm the landlady and that there is no
4 apartment for rent.

5 Again, objective, that supposed signatory
6 was not some happenstance stranger. That was the
7 employee of Larry Mason who is long-time neighbor, and
8 he had also hired Larry Mason. So that does not work.
9 That person -- incidentally, that person was not called
10 to testify because he was under arrest for criminal
11 domestic violence.

12 So these are objective things. I didn't
13 ask Judge James to be -- to make an ability
14 determination. I say that I'm -- I put before him this
15 is what they said before you under oath, and this is
16 what came out in other trial in under oath. So because
17 they are related to the same transactions and because
18 they are hundred percent opposite, those people would
19 have had to have perjured themselves either before Judge
20 James or in the other proceeding.

21 And what I'm asking to come out of this is
22 for His Honor to continue his career but more sensitive
23 to the duty to do something about perjury that he
24 becomes aware of, and of course I be more than happy
25 to -- to answer any more questions that you would like,

1 and I would like if possible -- or if His Honor has a
2 response to be given and the portion you need to reply.

3 REPRESENTATIVE DELLENEY: Thank you,
4 Dr. Faltas.

5 Does any member of the Commission have any
6 questions for Dr. Faltas?

7 There being no questions, if you would, if
8 you don't mind, take a seat back where you were, and
9 we'll bring Judge James up to respond --

10 DR. FALTAS: Certainly.

11 REPRESENTATIVE DELLENEY: -- certainly as
12 you requested to respond, but that's our procedure.

13 Judge James, I'll remind you you're still
14 under oath.

15 JUDGE JAMES: Yes, sir.

16 REPRESENTATIVE DELLENEY: Do you have a
17 response?

18 JUDGE JAMES: Well, sir, I -- I believe I
19 did respond in writing, and what I put in writing to
20 Mr. Fiffick was that the first bond-related hearing that
21 I heard, it was simply a motion that Dr. Faltas had made
22 to relax a restriction placed on her when the magistrate
23 set her bond. I do not believe at that time she had any
24 issue with any perjured testimony or -- or otherwise
25 incorrect or false statements of any other -- any

1 supposed victim at that time.

2 I did relax the restriction about her
3 returning to her apartment, but I did not totally lift
4 it. Thereafter she did file a motion for
5 reconsideration, and as I related earlier in my letter,
6 I wasn't going to be back in Richland County for the
7 foreseeable future, so I asked Dr. Faltas and the
8 solicitor -- assistant solicitor to come to Sumter so I
9 could hear her motion for reconsideration.

10 I can tell you this, that if objective
11 evidence of perjured testimony, false statements were
12 under oath or not in front of me, if I had been given
13 that evidence, I certainly would take issue with it.

14 After that second hearing, the
15 reconsideration hearing, I refused to relax the
16 restriction any further or to remove it based on the
17 evidence that was presented to me. Now, thereafter --
18 and I put in my order specifically that I had no further
19 jurisdiction in the case because I was not going to be
20 back in Richland County anytime soon and that she could
21 take up any of those issues with the chief
22 administrative judge for General Sessions or whoever
23 might be assigned to hold a particular term of court.

24 Thereafter she did send me numerous
25 transcripts of what appeared to be other proceedings and

1 made a vague statement that there was proof therein that
2 somebody had said something to me during the bond
3 proceedings that weren't true. But I can tell you this.
4 I would not and did not in that instance rely on any
5 information that I knew to be false, nor in my mind was
6 there any objective evidence that anything that had been
7 told to me was false.

8 At a bond hearing you have necessarily --
9 you're necessarily to rely upon representations that are
10 made to you by the prosecuting authority and by people
11 who claim to be victims. Then you hear from the
12 defendant or the defendant's counsel, and in that
13 process you have to sift through to determine what bond
14 is appropriate, if any, and also what restrictions might
15 be appropriate.

16 And I can tell you that I'm very
17 comfortable with my rulings in the case, and I don't
18 know what the disposition of the criminal charge ended
19 up being. I know there was a hung jury after five days
20 of trial before Judge Newman, but thereafter I don't
21 know what happened with it. So with all due respect to
22 Dr. Faltas, I believe that my rulings in the case are
23 factually and legally sound.

24 REPRESENTATIVE DELLENEY: Ms. Shuler.

25 MS. SHULER: I would like to offer at this

1 time Dr. Faltas's affidavit and Judge James' two-letter
2 responses to her affidavit as exhibits into the public
3 hearing record.

4 REPRESENTATIVE DELLENEY: Any objection?
5 Without objection, those documents will be admitted in
6 the record at this point in the transcript.

7 (EXH. 9, Witness Affidavit Form and
8 November 3, 2011, Letter and November 7, 2011, Letter to
9 Laurie Traywick From George C. James, Jr., marked for
10 identification.)

11 REPRESENTATIVE DELLENEY: Does any member
12 of the Commission have any questions for Judge James?

13 There being none, at this -- Judge James,
14 if you would go back over there and have a seat.

15 JUDGE JAMES: All right.

16 REPRESENTATIVE DELLENEY: And at this time
17 we would ask Ms. Faltas if she has anything to say in
18 response, a brief reply as to what was said.

19 DR. FALTAS: Yes. Yes. Yes. If it
20 pleases, Mrs. Shuler had told me that if The Honorable
21 Judge James' response to my affidavit were put in the
22 record, I'd have a copy of it. It seems someone said
23 there were two letters.

24 (Ms. Traywick proffers documents.)

25 DR. FALTAS: Thank you very much.

1 And of course His Honor is correct that at
2 the time that evidence -- that perjury or evidence was
3 written -- I don't know that it would be technically
4 perjured, but it was false. The reason I say
5 technically, because it was not under oath, but it was
6 false. I did not have the objective proof that it was
7 false so that His Honor is correct. The hearings that
8 occurred before him, I did not present His Honor the
9 objective proof that he was given for knowing the false
10 information. But I did present that objective evidence
11 to His Honor later.

12 So let us be clear. So that evidence came
13 before His Honor over a year ago, and as I say, it was
14 by e-mail including the transcripts. And what I'm
15 saying is there should be an awareness that, first of
16 all, there is only one Circuit Court in South Carolina
17 and it's like a continuous court so it's not the
18 jurisdiction.

19 And then there should be the moral
20 obligation and -- and perjury and the bringing of false
21 witness against one's neighbor are very serious matters.
22 Historically and religiously in the Commandments -- and,
23 again, I would remind you there are ten Commandments
24 only in the Holy Word version, but in the Bible there
25 are either 14 or 15, but always, thou shall not take the

1 Lord's name in vein and thou shall not bear false
2 witness against they neighbor. They rank higher than
3 thou shall not kill and thou shall not steal and thou
4 shall not covenant and all the other things.

5 The other thing is that perjury is so
6 serious a matter that at one time Georgia had capital
7 punishment for perjury. So His Honor correctly said
8 that at the time there was a formal ruling no evidence
9 of perjury was presented to His Honor. But there are
10 sins of commission and sins of omission, and I don't
11 think His Honor contested that I presented him later
12 objective evidence that forced statements for -- used to
13 procure a certain result were presented to him and
14 nothing was done about it.

15 And that's not only a statement concerning
16 His Honor. It's concerning this entire system. And
17 that's why it's very appropriate I think for me to bring
18 it before the Judicial Merit Selection Commission
19 because something has to come out of this that any judge
20 who at any time gets at least prima facie evidence that
21 falsity was presented in a courtroom has a positive duty
22 to do something about it.

23 REPRESENTATIVE DELLENEY: Dr. Freeman, do
24 you have a question for Dr. Faltas?

25 PROFESSOR FREEMAN: Mr. Chairman, I just

1 want to say that we think -- I want to thank her for
2 bringing these matters to us, and I think I fully
3 understand where she's coming from.

4 DR. FALTAS: Thank you, Professor Freeman.
5 And --

6 REPRESENTATIVE DELLENEY: Are there any
7 other questions from any other member of the Commission?

8 There being none, thank you, Dr. Faltas.

9 DR. FALTAS: Thank you.

10 REPRESENTATIVE DELLENEY: Thank you for
11 your participation.

12 DR. FALTAS: Thank you.

13 REPRESENTATIVE DELLENEY: Judge James,
14 could you resume your position in the witness chair.

15 JUDGE JAMES: Yes, sir.

16 REPRESENTATIVE DELLENEY: And our counsel,
17 Ms. Shuler, has some more housekeeping questions.

18 JUDGE JAMES: All right.

19 MS. SHULER: Judge James, have you sought
20 or received the pledge of any legislator prior to this
21 date?

22 JUDGE JAMES: No, I have not.

23 MS. SHULER: Have you sought or have you
24 been offered a conditional pledge of support of any
25 legislator pending the outcome of your screening?

1 JUDGE JAMES: No.

2 MS. SHULER: Have you asked any third
3 parties to contact members of the General Assembly on
4 your behalf?

5 JUDGE JAMES: No.

6 MS. SHULER: Have you contacted any members
7 of the Commission?

8 JUDGE JAMES: No.

9 MS. SHULER: Do you understand that you're
10 prohibited from seeking a pledge of commitment until 48
11 hours after the formal release of the Commission's
12 report?

13 JUDGE JAMES: Yes.

14 MS. SHULER: Have you reviewed the
15 Commission's guidelines on pledging?

16 JUDGE JAMES: Yes, ma'am.

17 MS. SHULER: Are you aware the penalties
18 for violating them are a misdemeanor and, if convicted,
19 fined not more than a thousand and imprisoned not more
20 than 90 days?

21 JUDGE JAMES: Yes, sir.

22 MS. SHULER: I would note the Pee Dee
23 Citizens Committee found Judge James qualified with
24 respect to the following evaluative criteria:
25 constitutional qualifications, physical health, and

1 mental stability. The Citizens Committee found Judge
2 James well-qualified with respect to the following
3 evaluative criteria: ethical fitness, professional and
4 academic ability, character, reputation, experience, and
5 judicial temperament.

6 The Committee stated in summary, "Judge
7 James is known to come into the courtroom well-prepared
8 with the cases he is to hear, and he expects the
9 attorney on those cases to be prepared as well. We
10 believe this is a fine quality in a judge."

11 I would note for the record that any
12 concerns raised during the investigation were
13 incorporated -- incorporated into the questioning of the
14 candidate today.

15 And I have no further questions for this
16 candidate, Mr. Chairman.

17 REPRESENTATIVE DELLENEY: Thank you,
18 Ms. Shuler.

19 Judge James, this concludes this portion of
20 the screening process. As you well know, the record
21 will be closed today on your public hearing, but we
22 could reopen this case and recall you back up until the
23 time we issue the report which becomes a preliminary
24 report of the Commission after 48 hours. After it's
25 issued, it then becomes the report of the Commission.

1 Of course we wouldn't be able to reconvene and ask you
2 any other questions.

3 I would remind you about the 48-hour rule.

4 JUDGE JAMES: Yes.

5 REPRESENTATIVE DELLENEY: Thank you for
6 your service and thank you for your appearing before us
7 today and hope you have a safe trip back to Sumter.

8 JUDGE JAMES: Thank you, sir.

9 (Off the record.)

10 SENATOR McCONNELL: All right. We will go
11 back on the record at this time.

12 And we have before us The Honorable John
13 Michael Baxley who is offering for Circuit Court, Fourth
14 Circuit, seat number two.

15 Good morning. How are you doing?

16 JUDGE BAXLEY: Good morning, Mr. Chairman.
17 Thank you. I'm fine.

18 SENATOR McCONNELL: I'm sorry, we're
19 running a little bit behind schedule but trying to be
20 thorough.

21 So with that, would you please raise your
22 right hand.

23 (The Honorable John Michael Baxley was duly
24 sworn, after which testimony commenced at 11:17 a.m.)

25 SENATOR McCONNELL: Thank you.

1 Have you had an opportunity to review the
2 Personal Data Questionnaire?

3 JUDGE BAXLEY: Yes, sir, I have.

4 SENATOR McCONNELL: Is it correct or does
5 it need any additions or deletions thereto?

6 JUDGE BAXLEY: No, it is true. To the best
7 of my knowledge it is correct.

8 SENATOR McCONNELL: All right. Do you
9 object to our making this a part of the record of your
10 sworn testimony as if we had asked you those questions
11 and you had given those responses here today?

12 JUDGE BAXLEY: I do not.

13 SENATOR McCONNELL: All right. Without
14 objection, then it will be done so in the transcript.

15 (EXH. 10, Personal Data Questionnaire of
16 John Michael Baxley, marked for identification.)

17 SENATOR McCONNELL: The Judicial Merit
18 Selection Commission has thoroughly investigated your
19 qualifications for the bench. Our inquiries focused on
20 our nine evaluative criteria. It has included a survey
21 of the bench and the bar, a thorough study of your
22 application materials, a verification of your compliance
23 with state ethics laws, a search of newspaper articles
24 in which your name appears, the study of previous
25 screenings, and a check for economic conflicts of

1 interest.

2 We have received no affidavits filed in
3 opposition to your election. No witnesses are present
4 to testify.

5 I would ask you if you have any opening
6 statement you wish to give -- it's purely optional --
7 before I turn you over to counsel for a few questions,
8 and then we'll see if the commissioners have any
9 questions.

10 JUDGE BAXLEY: My opening statement would
11 be to thank you for allowing me to come today and to
12 serve as a circuit judge previously in South Carolina.

13 SENATOR McCONNELL: Thank you so much.

14 With that, I'll turn you over to counsel.

15 MS. SHULER: Judge Baxley, you have before
16 you your Sworn Statement and -- that you provided with
17 detailed answers to over 30 questions regarding judicial
18 conduct, statutory qualifications, office
19 administration, and temperament. Are there any
20 amendments that you with like to make at this time to
21 your Sworn Statement?

22 JUDGE BAXLEY: No, there are none.

23 MS. SHULER: Mr. Chairman, I would ask that
24 Judge Baxley's Sworn Statement be entered into the
25 hearing record as an exhibit at this time.

1 SENATOR McCONNELL: Is there any objection?
2 There being none, so ordered.

3 (EXH. 11, Sworn Statement of John Michael
4 Baxley, marked for identification.)

5 MS. SHULER: Judge Baxley, why do you want
6 to continue serving as a Circuit Court judge?

7 JUDGE BAXLEY: Well, I find that it is a
8 great privilege to serve as a circuit judge and I'm
9 honored to have served for two terms now, 12 years. I
10 would hope that the experience I have gained in this
11 past two terms will continue to help me do my job
12 capably and represent not only the legislature that has
13 elected me but the citizens of South Carolina.

14 MS. SHULER: Thank you.

15 Judge Baxley, although you address this in
16 your Sworn Affidavit, what do you believe to be the
17 appropriate demeanor for a judge?

18 JUDGE BAXLEY: Well, I think at all times
19 it is to be considerate, that is, polite to those that
20 are around you and before you, not only the litigants
21 and lawyers but also staff, jurors and others who may
22 have only the opportunity as a juror to interact with
23 the justice system. I think the judge should be
24 even-tempered and should be fair and courteous.

25 MS. SHULER: Thank you.

1 Judge Baxley, are there any changes to
2 either the civil or criminal docket you have assisted in
3 implementing for the Fourth Judicial Circuit in order to
4 clear the docket, and if so, could you explain the
5 nature of those changes?

6 JUDGE BAXLEY: Well, one potential change
7 I -- I would put in the Fourth Circuit we may be able to
8 better implement is that when our -- on the civil side
9 when our jury terms break down, that we would be able to
10 better use our time for Common Pleas nonjury cases or
11 motions after being heard perhaps on a speedy docket on
12 a short notice to attorneys and parties. I think that
13 would maximize the use of our time to make it more
14 efficient. Other than that, I really don't have other
15 suggestions.

16 MS. SHULER: Thank you, Judge Baxley.

17 Since your last screening you have been
18 sued by a criminal defendant who is currently under
19 indictment for the unauthorized practice of the law.
20 Please explain the nature and disposition of that
21 lawsuit.

22 JUDGE BAXLEY: I was sued by Mr. Robert
23 Steve Jolly. This was in Horry County. As in --
24 fortunately, as in many other -- all counties in South
25 Carolina, Horry County has a particularly bad economic

1 situation which has resulted in thousands of foreclosure
2 suits. When I left there as administrative judge, there
3 were 12,000 cases pending on the civil docket, and of
4 that 12,000, 3,600 were foreclosures of course. We're
5 well-aware of the economic situation there.

6 A gentleman named Robert Steve Jolly had
7 formed an entity -- it really wasn't a company. It
8 wasn't a corporation -- that would go to individuals who
9 are being foreclosed upon, ask them to give him a
10 quitclaim deed that would convey ownership to him, and
11 then tell those individuals that he would fight the bank
12 and be able to defeat the foreclosure.

13 When all -- he was involved in probably 50
14 cases in Horry County and the Master-in-Equity came to
15 me and said, "I've been sued by Mr. Jolly." This is the
16 Master-in-Equity speaking, Judge Strom. "I've been sued
17 by Mr. Jolly. I've had difficulty with Mr. Jolly. He's
18 filed grievances against me and I need to recuse in
19 these cases. Would you take these cases?" And I agreed
20 I would, which is how I -- how I came to work with
21 Mr. Jolly.

22 In determining what was happening, I
23 learned through multiple hearings that unfortunately
24 Mr. Jolly was receiving money from individuals who were
25 in foreclosure but was not paying that to the banks. He

1 was keeping that for himself, and people were losing
2 their homes, and those who were already in difficult
3 straits found themselves in worse straits.

4 I sanctioned Mr. Jolly for that because I
5 felt he was using illegal processes to commit a crime.
6 And when I sanctioned him, which was to sentence him to
7 six months in the county detention center, he sued me
8 and felt that what happened was in his opinion unfair.
9 And that was the genesis of the lawsuit.

10 To my knowledge that lawsuit has been
11 dismissed in my favor, but I have not attended any
12 hearings and I'm not certain whether there still may be
13 motions or some action pending.

14 MS. SHULER: Thank you, Judge Baxley.

15 JUDGE BAXLEY: Thank you.

16 MS. SHULER: The Commission --

17 JUDGE BAXLEY: Thank you for the
18 opportunity to explain it.

19 MS. SHULER: The Commission received one
20 bench and bar survey indicating partiality that you had
21 for certain litigants or their attorneys and that you
22 may have certain preconceived notions about certain
23 litigants. How would you respond to that survey?

24 JUDGE BAXLEY: Well, first of all, thank
25 you for the opportunity to reply to it.

1 I work very diligently every day in the
2 courts to ensure that people are treated fairly and with
3 respect no matter what their station, whether they be
4 the lowest of the low or the highest of the high,
5 whether they're represented by counsel, whether counsel
6 is well-known or whether counsel is brand new. I try to
7 ensure that people of different sexes are treated
8 equally. I try to make sure that people of different
9 races are treated equally and that no one would have the
10 perception that certain individuals or certain groups of
11 individuals or types of individuals are getting either a
12 better deal or a worse deal from the Court.

13 I'm always cognizant of the people who come
14 before me because I don't want those in the audience as
15 well as others to somehow feel that they got an unfair
16 shake because of the color of their skin or their sex or
17 whatever the case may be.

18 I don't have any specifics from what you're
19 saying, so I'm not aware of the exact incident to which
20 the complainant is referring, but I will say I work
21 diligently to make sure that everyone is treated fairly
22 and is treated fairly in the courtroom.

23 MS. SHULER: Judge Baxley, some
24 housekeeping matters to cover with you.

25 Have you sought or received the pledge of

1 any legislator prior to this day?

2 JUDGE BAXLEY: I have not.

3 MS. SHULER: Have you sought or have you
4 been offered a conditional pledge of support of any
5 legislator pending the outcome of your screening?

6 JUDGE BAXLEY: I have not.

7 MS. SHULER: Have you asked any third
8 parties to contact members of the General Assembly on
9 your behalf?

10 JUDGE BAXLEY: No, I have not.

11 MS. SHULER: Have you contacted any members
12 of the Commission?

13 JUDGE BAXLEY: No, I have not.

14 MS. SHULER: Do you understand you're
15 prohibiting from seeking a pledge of commitment until 48
16 hours after the formal release of the Commission's
17 report?

18 JUDGE BAXLEY: I do.

19 MS. SHULER: Have you reviewed the
20 Commission's guidelines on pledging?

21 JUDGE BAXLEY: I have.

22 MS. SHULER: Were you aware that if you
23 violated them and are convicted, it's a misdemeanor and
24 you could be subject to imprisonment of not more than 90
25 days and fined not more than a thousand dollars?

1 JUDGE BAXLEY: I'm well-aware.

2 MS. SHULER: I would note that the Pee Dee
3 Citizens Committee found Judge Baxley qualified in the
4 evaluative criteria of constitutional qualifications,
5 physical health, and mental stability. The Committee
6 found Judge Baxley well-qualified in the areas of
7 ethical fitness, professional and academic ability,
8 character, reputation, experience, and judicial
9 temperament. The Committee stated, "In summary, Judge
10 Baxley is an extremely conscience judge who understands
11 the law well and is willing to apply it fairly to all
12 litigants appearing before him."

13 I would note for the record that any
14 concerns raised during the investigation regarding this
15 candidate have been incorporated in my questioning of
16 the candidate today.

17 And I have no further questions for this
18 candidate, Mr. Chairman.

19 SENATOR McCONNELL: All right. Does any
20 member of the Commission have any questions?

21 REPRESENTATIVE CLEMMONS: Mr. Chairman.

22 SENATOR McCONNELL: Yes, sir,
23 Representative Clemmons.

24 REPRESENTATIVE CLEMMONS: I have no
25 questions really, but I would like to thank you, Judge

1 Baxley. You've -- you spent a big deal of time in Horry
2 County, and while the nature of my practice doesn't take
3 me to the courtroom, ever, being a real estate attorney
4 your reputation for the respect of the litigants is
5 well-known within Horry County, and we appreciate that.

6 And that -- that really is a necessity from
7 the bar. There must be respect for litigants in order
8 for justice to be properly served, and we thank you for
9 that.

10 JUDGE BAXLEY: Thank you, Representative
11 Clemmons.

12 SENATOR McCONNELL: The senator from
13 Lexington.

14 SENATOR KNOTTS: Thank you, Mr. Chairman.

15 Judge, I just want to tell you I've been in
16 your courtroom un -- uninvited, unexpected over in
17 Lexington County and you are very punctual. You're a
18 hard working judge, and we really like to have judges
19 like you come to Lexington County because it moves our
20 docket well, and it's a pleasure to have you over in
21 Lexington every time you come.

22 JUDGE BAXLEY: Thank you, Senator. It's a
23 pleasure to serve you.

24 SENATOR KNOTTS: If we could have a model
25 for a judge, I'd certainly like for you to be the model.

1 JUDGE BAXLEY: Thank you, sir.

2 SENATOR McCONNELL: Representative Mack.

3 REPRESENTATIVE MACK: Thank you,
4 Mr. Chairman.

5 Judge Baxley, I just wanted to say that
6 joining with -- with Senator Knotts and what was already
7 said by my colleague also, Representative Clemmons, I --
8 I also think very highly of you and your time in the
9 legislature. One of the things that sticks in my mind
10 is you treated me nice as a freshman which a lot of
11 folks don't do. So you do have a way of dealing with
12 people very well, and we appreciate that with you --
13 about you.

14 JUDGE BAXLEY: Thank you for your kind
15 words, Representative Mack.

16 SENATOR McCONNELL: Anyone else?

17 Yes, sir, Professor Freeman.

18 PROFESSOR FREEMAN: This has turned into a
19 lovefest here. But I just wanted to say this, that you
20 expect a lot of yourself and -- and that's what's being
21 pondered here, but you also expect quality out of those
22 that appear before you. And when people act out, you
23 take appropriate action, and I wanted to salute that.

24 JUDGE BAXLEY: Thank you, Professor
25 Freeman, for teaching me how to do that, sir.

1 SENATOR McCONNELL: Anyone else?

2 I want to tell you that the answers to some
3 of the questions were very well written. Well done.

4 JUDGE BAXLEY: Thank you, Mr. Chairman.

5 SENATOR McCONNELL: All right. With that
6 then, this concludes this stage of the screening
7 process. As you know, the record will be closed today,
8 but we reserve the right to reopen it should any matter
9 come before the Commission that we feel needs to be
10 pursued.

11 Also I want to remind you of the 48-hour
12 rule, ask you to be so mindful of it that if anyone
13 offers to assist in any way prior to that 48 hours that
14 you remind them also about the rule.

15 JUDGE BAXLEY: Yes, sir.

16 SENATOR McCONNELL: With that, we want to
17 thank you for offering and for your past service to the
18 people of South Carolina and have a great day.

19 JUDGE BAXLEY: Thank you, Mr. Chairman.

20 Have a good day, ladies and gentlemen.

21 SENATOR McCONNELL: All right. We'll go
22 off the record at this time pending the arrival of the
23 next candidate.

24 (Off the record.)

25 SENATOR McCONNELL: All right. We'll go

1 back on the record at this time.

2 We have before us The Honorable Lee Casey
3 Manning who is offering for the Circuit Court, Fifth
4 Circuit, seat number two.

5 If you'd be so kind as to raise your right
6 hand.

7 (The Honorable Lee Casey Manning was duly
8 sworn, after which testimony commenced at 11:30 a.m.)

9 SENATOR McCONNELL: Thank you.

10 Have you had an opportunity to review the
11 Personal Data Questionnaire?

12 JUDGE MANNING: Yes, sir.

13 SENATOR McCONNELL: Is it correct or is
14 there a need for any additions, deletions thereto?

15 JUDGE MANNING: Correct.

16 SENATOR McCONNELL: All right. Do you have
17 any objection to our making that a part of your sworn
18 testimony today as part of the record just as if you
19 were under oath and had been asked those questions and
20 given those answers?

21 JUDGE MANNING: No, sir.

22 SENATOR McCONNELL: Without objection then,
23 it will be done so in the transcript.

24 (EXH. 12, Personal Data Questionnaire of
25 Mr. Lee Casey Manning, marked for identification.)

1 SENATOR McCONNELL: The Judicial Merit
2 Selection Commission has thoroughly investigated your
3 qualifications for the bench. Our inquires focused on
4 our nine evaluative criteria. It has included a survey
5 of the bench and the bar, a thorough study of your
6 application materials, a verification with your
7 compliance with state ethics laws, a search of newspaper
8 articles in which your name appears, a study of the
9 previous screenings, and a check for economic conflicts
10 of interest.

11 We have received no affidavits filed in
12 opposition to your election. No witnesses are present
13 to testify.

14 So I'd ask you if you have any brief
15 opening statements you wish to make to the commissioners
16 before I turn you over to counsel for just a few
17 questions, and then we'll see if any commissioners have
18 any questions.

19 JUDGE MANNING: No, sir.

20 SENATOR McCONNELL: All right. With that,
21 please answer counsel's questions.

22 MR. DENNIS: Good morning, Your Honor.

23 You also have before you a copy of your
24 Sworn Statement which you submitted to the Commission
25 staff.

1 JUDGE MANNING: Yes, sir.

2 MR. DENNIS: Do you have any amendments
3 that you'd like to make to that at this time?

4 JUDGE MANNING: No, sir.

5 MR. DENNIS: Mr. Chairman, I'd ask that
6 Judge Manning's Sworn Statement be made a part of the
7 record.

8 SENATOR McCONNELL: Is there objection?
9 There being none, so ordered.

10 (EXH. 13, Sworn Statement of L. Casey
11 Manning, marked for identification.)

12 MR. DENNIS: Judge Manning, can you please
13 explain to the Commission why you would like to continue
14 to serve as a Circuit Court judge.

15 JUDGE MANNING: Well, I'm in fairly good
16 health for a guy that's 60. When I started this job, I
17 didn't have gray hair and I didn't need glasses. So I'm
18 in fairly good health and I'd like to continue for
19 another six years. I like the job I guess is the best
20 way to put it. Enjoyed it over the years.

21 MR. DENNIS: Thank you, Judge.

22 You address this in your Sworn Statement,
23 but would you mind detailing for the Commission what you
24 feel the appropriate demeanor for a judge is,
25 specifically a trial court judge.

1 JUDGE MANNING: I think I said firm but
2 fair, if I remember correctly. And you have to be firm
3 sometimes, but the most important thing is for
4 litigants, people that appear in front of you to leave
5 with the feeling that they've been treated fairly. And
6 fairness I think trumps every other thing a judge can
7 do.

8 If someone appears before you and they
9 leave with a sense that they have been -- have not been
10 treated fairly or have not been listened to, then it's
11 not good for anyone. So I think fairness is -- is the
12 bottom line. And you want anyone that appears in front
13 of you to leave with the sense that they've been treated
14 fairly, that you listen, that you care about -- whether
15 you rule for them or against them. The most important
16 is someone leaves feeling they've been treated fairly.

17 MR. DENNIS: Judge, are there any changes
18 to the docket, civil or criminal that you have helped
19 implement in the Fifth Circuit, and what exactly are
20 those changes in an effort to clear the docket?

21 JUDGE MANNING: That's -- that's a good
22 question. I'm trying to think off the top of my head.

23 There's numerous things -- let me point to
24 something on the criminal side before I go to the civil
25 side, and that -- that has to do with variety. I

1 remember years ago whenever you had a sentencing sheet,
2 lawyers tend to not write their names where you can
3 determine who represented the defendant, who represented
4 the state.

5 And starting about six years ago I
6 suggested through the Circuit Court Judges Advisory
7 Committee that we include the bar number, first for
8 defense lawyers, then for solicitors. So now for about
9 the last three or four years if you get a sentencing
10 sheet that's three to five to ten years old, you can
11 determine who the lawyers were that represented the
12 state and represented the defendant.

13 But in terms of like the civil side which
14 goes to your question, off the top of my head I can't
15 think of anything personally except you go every day and
16 you grind and you try to be, let's say -- you try not to
17 waste time I guess. But there's no policy or program
18 I've implemented I can think of off the top of my head
19 that moved the docket along above and beyond what
20 anybody else has done.

21 MR. DENNIS: Thank you, Judge.

22 I have just a few housekeeping matters I'm
23 going to run through very quickly.

24 Have you sought or received the pledge of
25 any legislator prior to this date?

1 JUDGE MANNING: No, sir.

2 MR. DENNIS: Have you sought or have you
3 been offered a conditional pledge of support of any
4 legislator pending the outcome of your screening?

5 JUDGE MANNING: I don't think I've even
6 talked to any legislators, so the answer would be no.

7 MR. DENNIS: Have you asked third parties
8 to contact members of the General Assembly on your
9 behalf?

10 JUDGE MANNING: No, sir.

11 MR. DENNIS: Have you contacted any members
12 of this commission?

13 JUDGE MANNING: No, sir.

14 MR. DENNIS: Do you understand that you are
15 prohibited from seeking a pledge or commitment until 48
16 hours after the formal release of the Commission's
17 report?

18 JUDGE MANNING: Yes, sir.

19 MR. DENNIS: Have you reviewed the
20 Commission's guidelines on pledging?

21 JUDGE MANNING: Yes, sir.

22 MR. DENNIS: And are you aware that the
23 penalty for violating those rules is that you are -- you
24 have been accused of a misdemeanor and upon a conviction
25 you are to be fined a thousand dollars and imprisoned

1 not more than 90 days?

2 JUDGE MANNING: Yes, sir, keenly aware of
3 that.

4 MR. DENNIS: Thank you, sir.

5 I would add as a note that the Citizens
6 Committee found Judge Manning well-qualified on all nine
7 of the evaluative criteria and stated that "We believe
8 he is most eminently qualified to continue his
9 outstanding leadership on the Circuit Court."

10 Mr. Chairman, I would also note for the
11 record that any concerns raised during the investigation
12 regarding this candidate were incorporated into the
13 questioning of the candidate today.

14 And, Mr. Chairman, I have nothing further.

15 SENATOR McCONNELL: Thank you. Any member
16 of the Commission have a question?

17 All right. If not, that's -- this
18 concludes this stage of the screening process. Although
19 we close the record, we reserve the right to reopen it
20 should a question or matter come up that the Commission
21 feels it needs to look further into. That's not to
22 indicate that there's anything pending at this
23 particular time.

24 Secondly, I would like to remind you about
25 the 48-hour rule and remind you that if anyone so much

1 as approaches you and says they'd like to assist, that
2 you remind them about the 48-hour rule.

3 With that, thank you for offering, and,
4 secondly, we want to thank you for your past service to
5 the people of South Carolina.

6 JUDGE MANNING: Well, thank you, ladies and
7 gentlemen and members of this committee.

8 SENATOR McCONNELL: We'll go off the record
9 at this time until the next candidate gets here.

10 (Off the record.)

11 SENATOR McCONNELL: All right. We'll go
12 back on the record.

13 At this time we have before us The
14 Honorable Roger Lynn Couch who is offering for Circuit
15 Court, Seventh Circuit, seat number two.

16 If you would raise your right hand, please,
17 sir.

18 (The Honorable Roger Lynn Couch was duly
19 sworn, after which testimony commenced at 11:38 a.m.)

20 SENATOR McCONNELL: Thank you.

21 Have you had an opportunity to review the
22 Personal Data Questionnaire?

23 JUDGE COUCH: Yes, sir, I have.

24 SENATOR McCONNELL: Is it correct or does
25 it need any additions, deletions thereto?

1 JUDGE COUCH: It's correct.

2 SENATOR McCONNELL: All right. Do you
3 object to our making this summary a part of the record
4 of your sworn testimony as if we'd asked you those
5 questions --

6 JUDGE COUCH: No, sir.

7 SENATOR McCONNELL: -- and you'd given us
8 those answers under oath?

9 JUDGE COUCH: No, sir, I don't object.

10 SENATOR McCONNELL: All right. Is there
11 objection? This being so in the transcript at this time
12 without objection. So ordered.

13 (EXH. 14, Personal Data Questionnaire of
14 Mr. Roger L. Couch, marked for identification.)

15 (EXH. 15, Amendment to the Personal Data
16 Questionnaire of Mr. Roger L. Couch, marked for
17 identification.)

18 SENATOR McCONNELL: The Judicial Merit
19 Selection Commission has thoroughly investigated your
20 qualifications for the bench. Our inquires focused on
21 our nine evaluative criteria. This included a survey of
22 the bench and the bar, a thorough study of your
23 application materials, a verification of your compliance
24 with state ethics laws, a search of newspaper articles
25 in which your name appears, the study of previous

1 screenings, a check for economic conflicts of interest.

2 We received no affidavits filed in
3 opposition to your election. No witnesses are present
4 to testify.

5 So I'd ask you if you have any opening
6 statements you wish to make, which is purely optional,
7 before I turn you over to counsel for just a few
8 questions.

9 JUDGE COUCH: Well, no. I'd just like to
10 thank you for your work on the Commission and the
11 courtesy with which I've been shown in this process.
12 And I appreciate the time you spend and the efforts you
13 spend on behalf of the state and the judiciary.

14 SENATOR McCONNELL: Thank you, sir. I know
15 all -- everybody works real hard and we've got a good
16 panel.

17 And with that, I'll turn you over to
18 counsel for a few questions.

19 MR. DENNIS: Judge Couch, good morning.

20 JUDGE COUCH: Morning.

21 MR. DENNIS: You also should have before
22 you a copy of your Sworn Statement which covers your
23 answers to a variety of questions. Do you have any
24 amendments that you'd like to make to that statement at
25 this time?

1 JUDGE COUCH: No, sir.

2 MR. DENNIS: All right. Mr. Chairman, I
3 would ask that that -- Judge Couch's Sworn Statement be
4 made a part of the transcript.

5 SENATOR McCONNELL: Is there an objection?
6 There being none, so ordered.

7 (EXH. 16, Sworn Statement of Roger L.
8 Couch, marked for identification.)

9 MR. DENNIS: Judge, after serving as both a
10 Master-in-Equity and a Circuit Court judge for sometime,
11 why would you like to continue to serve as a Circuit
12 Court judge?

13 JUDGE COUCH: Well, it's been I guess the
14 greatest honor of my life to serve on the bench and
15 serve the bar and the people of the state of South
16 Carolina. I've enjoyed my time doing that and would
17 like to continue doing that. It's -- it's a challenge
18 every day. It's something new every day. And I can
19 tell you that I come to work every day to do my best to
20 serve the people and the judicial system.

21 So I've enjoyed the process. I've enjoyed
22 being involved in it and would like to continue.

23 MR. DENNIS: Judge, though you address this
24 in your Sworn Statement, would you please explain again
25 to the members of the Commission what you feel the

1 appropriate demeanor for a judge is, particularly a
2 trial court judge.

3 JUDGE COUCH: Well, I think the appropriate
4 demeanor is to -- is to be calm, to be reflective, to
5 take your time in ruling on the matters while at the
6 same time you do have to maintain courtroom decorum, and
7 you have to see that the process is followed properly.
8 So you have to be firm in that regard.

9 But I think you should be one who
10 encourages litigants to come forward to express
11 themselves, to express their positions, and so I think
12 it's a calm firmness I guess would be the best way I
13 would describe that.

14 MR. DENNIS: Judge, are there any changes
15 to the docket or the docketing system in your circuit
16 that you have undertaken, civil or criminal, in an
17 effort to move the docket a little quicker?

18 JUDGE COUCH: I had the -- I guess the good
19 fortune a couple of years ago being asked by the Chief
20 Justice and specifically Justice Pleicones to assume the
21 control of the criminal docket in Spartanburg County, so
22 for the last two and a half years up until this
23 particular six-month period I served as the chief
24 administrative judge for General Sessions.

25 I have been able to institute a judge-run

1 docket where I control the docket in the cases that are
2 placed on the docket. I was able to get some staff in
3 the clerk's office when they have coordinators for the
4 criminal docket just like you do for the civil docket.

5 And so instituting that was somewhat
6 difficult. There was resistance both from the -- the
7 bar and the prosecutors as well as the attorneys
8 involved, but we've been able to do it. It's continuing
9 to run under Judge Cole. So a great deal of my time and
10 effort over the last two and a half years has been
11 getting that system running in such a fashion that it --
12 it's been of assistance.

13 We were able to dispose of about 8,000
14 cases the first year that I ran that particular docket,
15 but it -- a lot of it was dead wood, things that had
16 been around. We had one case on the docket when I took
17 over from 1913, and obviously that was one that was a
18 little beyond the time it should have been on the
19 docket, so we got rid of that one. But it tells you a
20 little bit about how the docket had I guess gotten a
21 little rusty or there had been some misuse or whatever
22 of the right to call cases.

23 But in any rate, that docket is operating,
24 and I'm currently serving on a commission with the
25 Supreme Court on the General Sessions docketing

1 questions. There's several other judges and attorneys,
2 so I'm continuing to work on that issue.

3 MR. DENNIS: Thank you, Judge.

4 I have just a few housekeeping issues to
5 run through with you real quickly.

6 JUDGE COUCH: Certainly.

7 MR. DENNIS: Have you sought or received
8 the pledge of any legislator prior to this date?

9 JUDGE COUCH: No.

10 MR. DENNIS: Have you sought or have you
11 been offered a conditional pledge of support of any
12 legislator pending the outcome of your screening?

13 JUDGE COUCH: No.

14 MR. DENNIS: Have you asked any third
15 parties to contact members of the General Assembly on
16 your behalf?

17 JUDGE COUCH: No, I have not.

18 MR. DENNIS: Have you contacted any members
19 of this Commission?

20 JUDGE COUCH: No, I have not.

21 MR. DENNIS: Do you understand that you are
22 prohibited from seeking a pledge or commitment until 48
23 hours after the formal release of the Commission's
24 report?

25 JUDGE COUCH: Absolutely.

1 MR. DENNIS: Have you reviewed the
2 Commission's guidelines on pledging?

3 JUDGE COUCH: Yes, I have.

4 MR. DENNIS: And as a follow-up, are you
5 aware of the penalties for violating the pledging rules;
6 that is, it is a misdemeanor and upon conviction the
7 violator must be fined not more than \$1,000 or
8 imprisoned not more than 90 days?

9 JUDGE COUCH: I understand that.

10 MR. DENNIS: Thank you, Your Honor.

11 As a -- as a final note, I would add that
12 the Upstate Citizens Committee found Judge Couch
13 qualified in the areas of constitutional qualifications,
14 physical health, mental stability, and well-qualified in
15 the remaining six evaluative criteria.

16 I would also note for the record that any
17 concerns raised during the investigation into Judge
18 Couch's candidacy regarding this candidate were
19 incorporated into the questioning of the candidate
20 today.

21 And, Mr. Chairman, I have nothing further
22 for Judge Couch.

23 SENATOR McCONNELL: All right. Does any
24 member of the Commission have any questions?

25 All right. Since there are no questions,

1 this concludes this stage of the screening process.
2 Although we'll be closing the record, we reserve the
3 right to reopen it should some matter come up which
4 deserves or we feel needs our attention.

5 We ask you to remind yourself and others of
6 the 48-hour rule, so much so that if anyone approaches
7 you offering to help, that you remind them also of the
8 48-hour rule.

9 With that, we thank you for offering and
10 also for your previous service to the people of South
11 Carolina and have a great day.

12 JUDGE COUCH: You thank you very much.

13 SENATOR McCONNELL: Thank you, sir.

14 We'll go off the record pending the arrival
15 of the next candidate.

16 (Off the record.)

17 SENATOR McCONNELL: All right. We'll go
18 back on the record.

19 At this time we have before us The
20 Honorable Eugene Cannon Griffith, Jr., who is offering
21 for Circuit Court, Eighth Circuit, seat number two.

22 Please raise your right hand.

23 (The Honorable Eugene Cannon Griffith, Jr.,
24 was duly sworn, after which testimony commenced at
25 11:47 a.m.)

1 SENATOR McCONNELL: Thank you.

2 Have you had an opportunity to review the
3 Personal Data Questionnaire?

4 JUDGE GRIFFITH: Yes, sir, I have.

5 SENATOR McCONNELL: Is it correct or does
6 it need any additions or deletions thereto?

7 JUDGE GRIFFITH: The only addition I can
8 see is I've been to a CLE -- or the annual judicial
9 conference in August that was about two weeks after the
10 day I filed it. So other than that, I don't think
11 anything substantial.

12 SENATOR McCONNELL: All right. With that
13 addition, do you have any objection to our making this
14 summary a part of the record of your sworn testimony as
15 if you had been asked these questions under oath and
16 given these answers to us?

17 JUDGE GRIFFITH: No, sir, no objection.

18 SENATOR McCONNELL: Okay. Is there any
19 objection to it being done so at this point in the
20 transcript? Being none, so ordered.

21 (EXH. 17, Personal Data Questionnaire of
22 Eugene Cannon Griffith, Jr., marked for identification.)

23 SENATOR McCONNELL: The Judicial Merit
24 Selection Commission has thoroughly investigated your
25 qualifications for the bench. Our inquires focused on

1 our nine evaluative criteria, and it has included a
2 survey of the bench and the bar, a thorough study of
3 your application and materials, a verification of your
4 compliance with state ethics laws, a search of newspaper
5 articles in which your name appears, a study of previous
6 screenings, and a check for economic conflicts of
7 interest.

8 We have received no affidavits filed in
9 opposition to your election. No witnesses are present
10 to testify.

11 So I'd ask you if you have any brief
12 opening statement you wish to make at this time -- it's
13 purely optional -- before I turn you over to counsel for
14 a few brief questions. It will be followed by any
15 questions the Commission may have.

16 JUDGE GRIFFITH: No opening statement.

17 SENATOR McCONNELL: With that, please
18 answer counsel's questions.

19 MS. SHULER: Judge Griffith, you have
20 before you the Sworn Statement you provided with
21 detailed answers to over 30 questions regarding judicial
22 conduct, statutory qualifications, office
23 administration, and temperament. Are there any
24 amendments you would like to make at this time to your
25 Sworn Statement?

1 JUDGE GRIFFITH: No, ma'am.

2 MS. SHULER: Mr. Chairman, I would ask that
3 Judge Griffith's Sworn Statement be entered into the
4 record as an exhibit.

5 SENATOR McCONNELL: Is there an objection?
6 There being none, so ordered.

7 (EXH. 18, Sworn Statement of Eugene Cannon
8 Griffith, Jr., marked for identification.)

9 MS. SHULER: Judge Griffith, why would do
10 you want to continue serving as a Circuit Court judge?

11 JUDGE GRIFFITH: Being elected three years
12 or so ago, it's been a great honor to serve as a judge,
13 and I've thoroughly enjoyed the challenges presented by
14 sitting on the bench, serving as a judge. And it was a
15 life-long dream to become a judge, and I would just like
16 to continue doing so because it's -- it is a -- thus far
17 seems to be a job well-suited for my skills, and so I've
18 enjoyed it and I would like to continue doing it.

19 MS. SHULER: Thank you, Judge.

20 Although you address this in your Sworn
21 Affidavit, could you please explain to the Commission
22 members what you think is the appropriate demeanor for a
23 judge.

24 JUDGE GRIFFITH: I think the appropriate
25 demeanor would be one who is calm, deliberate and a very

1 good listener. I think I would expand upon my statement
2 that being able to listen and continually listen even
3 when the lawyers are presenting positions that are
4 probably different than your initial ruling is probably
5 a good component that I think all judges should embrace,
6 those that can make a decision quickly and listen
7 because it's a -- patience is a key, calm, deliberate
8 patience, good listening skills. That's what I
9 appreciated when I was a trial lawyer.

10 MS. SHULER: Thank you, Judge Griffith.

11 Are there any suggestions that you would --
12 that you have implemented for the criminal or civil
13 docket in the Eighth Circuit Court where you serve in
14 order to clear the docket, and if so, could you explain
15 the nature of those changes?

16 JUDGE GRIFFITH: Yes, I -- I have
17 implemented as being -- I've been chief administrative
18 judge in the Eighth Circuit now for 19 months. And one
19 of the practices I've done is the court of General
20 Sessions generally have dwindled down late in the week
21 of General Sessions, and so I work with the clerk of
22 court for the civil docket and ask her about two weeks
23 in advance to set a motions roster on Friday afternoons
24 of General Sessions weeks.

25 And many times on the motions rosters the

1 civil attorneys will have an issue that they can't
2 resolve, but sitting there on Friday afternoon when
3 there's generally available court time, court personnel
4 is available, it's my observation that lawyers are
5 generally procrastinators and they get put on the roster
6 and many of those matters get resolved because they
7 don't want to come to court on Friday afternoon.

8 And the ones that come at two o'clock on
9 Friday have an issue that needs to be resolved and we
10 hear it, and Judge Addy has implemented the same system
11 and so we're kind of working in the Eighth Circuit.
12 Every Friday afternoon in General Sessions Court we have
13 a nonjury motions roster continually going, and our
14 clerks continually keep that filled backfilling the
15 week.

16 I think it's allowed the motions roster in
17 the Eighth Circuit to be dramatically reduced, and so
18 that's one of the things we've implemented in the Eighth
19 Circuit.

20 MS. SHULER: Thank you, Judge.

21 Some housekeeping issues to cover with you.

22 Have you sought or received the pledge of
23 any legislator prior to this date?

24 JUDGE GRIFFITH: No, ma'am.

25 MS. SHULER: Have you sought or have you

1 been offered a conditional pledge of support of any
2 legislator pending the outcome of your screening?

3 JUDGE GRIFFITH: No, ma'am.

4 MS. SHULER: Have you asked any third party
5 to contact members of the General Assembly on your
6 behalf?

7 JUDGE GRIFFITH: No, ma'am.

8 MS. SHULER: Have you contacted any members
9 of the Commission?

10 JUDGE GRIFFITH: No, ma'am.

11 MS. SHULER: Do you understand that you're
12 prohibited from seeking a pledge or commitment until 48
13 hours after the formal release of the Commission's
14 report?

15 JUDGE GRIFFITH: Yes, ma'am.

16 MS. SHULER: Have you reviewed the
17 Commission's guidelines on pledging?

18 JUDGE GRIFFITH: I have.

19 MS. SHULER: As a follow-up, are you aware
20 the penalties for violating the pledging rules? If
21 convicted, it's a misdemeanor and you can be fined not
22 more than a thousand dollars or imprisoned not more than
23 90 days?

24 JUDGE GRIFFITH: Yes, ma'am. I'm -- I've
25 reviewed those penalties.

1 MS. SHULER: Thank you.

2 I would note that the Piedmont Citizens
3 Committee found Judge Griffith qualified with respect to
4 the following evaluative criteria: constitutional
5 qualifications, physical health, and professional
6 academic availability. The Committee found Judge
7 Griffith well-qualified with respect to the following
8 criteria: ethical fitness, character, reputation,
9 experience, and judicial temperament.

10 The Committee stated, "In summary, Judge
11 Griffith is eminently qualified to be reelected a
12 circuit judge."

13 I would note that I have covered with the
14 candidate any questions that were raised during the
15 investigation of this candidate today in my questioning.

16 And I have no further questions,
17 Mr. Chairman.

18 SENATOR McCONNELL: All right. Does any
19 member of the Commission have a question?

20 SENATOR NICHOLSON: Mr. Chairman.

21 SENATOR McCONNELL: Yes, sir.

22 SENATOR NICHOLSON: Not really a question,
23 just a statement. I've known Judge Griffith for a
24 while. He serves up in our area and I tell you he's
25 done a tremendous job. He's also very well-informed.

1 He's willing to listen to both sides and he makes good,
2 sound judgment, and he's an asset to the people up in
3 the Eighth District.

4 SENATOR McCONNELL: Thank you, sir.

5 Any other comments?

6 If not, that concludes this stage of the
7 screening process. We will be closing the record, but
8 we reserve the right to reopen it should anything come
9 up that we need to further look into.

10 I want to remind you of the 48-hour rule
11 and ask you to be mindful of that, and if anyone
12 inquires with you about whether or not they may advocate
13 for you in the event you're screened out, that you
14 describe to them the 48-hour rule and remind them of it.

15 JUDGE GRIFFITH: I will do that.

16 SENATOR McCONNELL: All right. With that,
17 we want to thank you for offering and also for your
18 previous service, and have a good day, sir.

19 JUDGE GRIFFITH: Thank you very much.

20 (Off the record.)

21 (The following hearing for The Honorable
22 Michael G. Nettles commenced at 11:55 a.m.)

23 SENATOR McCONNELL: We'll go back on the
24 record for the next candidate.

25 Let me explain this circumstance as best I

1 can. Judge Nettles, we would be -- at this point we
2 would have before us, if he were here, The Honorable
3 Michael G. Nettles, Circuit Court, Twelfth Circuit, seat
4 one. He has what I would describe as a family emergency
5 with great extenuating circumstances that made his
6 attendance here today virtually impossible and really
7 speaks highly to him that his first obligation was to
8 his family under the circumstances.

9 I explained to staff counsel who explained
10 to him that under the law that there could be no formal
11 grant of a waiver of a hearing without this body acting
12 of course in open session. And the law says that if
13 seven members of this commission recommend to the
14 chairman, that the chairman may waive the hearing.

15 All of you have been provided a copy of the
16 letter explaining the extenuating circumstances. Should
17 you decide to make that recommendation -- and as a
18 chairman I gave the waiver. He understands that the
19 waiver is not something that we do very lightly. We
20 will need to put his PDQ and his questionnaire sworn
21 testimony in.

22 Staff went on at my direction and -- and
23 sat down and interviewed him just like we would have
24 interviewed him here today to make all of the
25 information available to you. It's my understanding

1 everybody had that information in advance of this
2 hearing.

3 So I would ask you if there's seven of you
4 or more who wish to make any recommendations pursuant to
5 the statute.

6 SENATOR KNOTTS: Mr. Chairman.

7 SENATOR McCONNELL: Yes, sir, the senator
8 from Lexington.

9 SENATOR KNOTTS: Thank you, Mr. Chairman.

10 Pursuant to the provisions of South
11 Carolina Code 219-40, I would make a recommendation that
12 we waive Circuit Judge Michael Nettles' appearance at
13 the public hearing today. I make the special request
14 due to the grave circumstances Judge Nettles' family is
15 undergoing.

16 As you know, Judge Nettles is with his wife
17 today in -- for her cancer treatment at M. D. Anderson,
18 one of the foremost medical facilities for the treatment
19 of cancer. Judge Nettles informed the Commission by
20 letter dated November the 9th, 2011, that they have
21 tried for 93 days to obtain an appointment at M. D.
22 Anderson, as his wife's options for treatment for her
23 cancer have become more limited as her cancer has
24 progressed.

25 I also make this motion based upon the fact

1 that no complaints have been filed against Judge
2 Nettles. He's been found well-qualified by the Pee Dee
3 Citizens Committee and the South Carolina Bar Judicial
4 Qualification Committee, and no requests have been made
5 by at least six members at this time of the Commission
6 for a public hearing concerning Judge Nettles' election
7 to the judicial seat in which he serves.

8 My motion for -- is to waive Judge Nettles
9 appearance today. It is not to be considered as the
10 basis for a general waiver for other incumbent judicial
11 candidates, and I would make that recommendation to the
12 Committee and ask that he be -- be waived under these
13 particular circumstances.

14 PROFESSOR FREEMAN: Second.

15 SENATOR McCONNELL: All right. If each of
16 you will just state your name for the record to the
17 court reporter because we need seven members under the
18 statute to make the recommendation.

19 So we have Professor Freeman started out.

20 PROFESSOR FREEMAN: John Freeman. I vote
21 in favor of the waiver.

22 REPRESENTATIVE CLEMMONS: Alan Clemmons. I
23 concur.

24 REPRESENTATIVE DELLENEY: Greg Delaney. I
25 vote for the waiver.

1 MS. McLESTER: Amy McLester. I vote for
2 the waiver.

3 SENATOR NICHOLSON: Floyd Nicholson.

4 SENATOR McCONNELL: The recommendation --
5 just so we have it clear on the record, it has to be a
6 recommendation. Go ahead.

7 SENATOR NICHOLSON: Floyd Nicholson. I
8 vote for recommendation for the waiver.

9 SENATOR KNOTTS: Jake Knotts. I vote for
10 the recommendation of the waiver.

11 REPRESENTATIVE MACK: David Mack, III. I
12 vote for recommendation of the waiver.

13 MR. SELLERS: Donald Sellers. I vote to
14 recommend the waiver.

15 MR. HARRELL: John Harrell. I vote for
16 recommendation of the waiver.

17 SENATOR McCONNELL: All right. That
18 concludes all of the members in attendance.

19 Mr. Chairman, pursuant to the statute, the
20 recommendations are accepted and the waiver is granted
21 for the hearing.

22 Now, pursuant to that having been done, we
23 will need to go -- and first you wish to have the --

24 MS. SHULER: I'd like to offer Judge
25 Nettles' Personal Data Questionnaire and his Sworn

1 Statement, as well as his November 9, 2011, letter as
2 exhibits into the public hearing record.

3 SENATOR McCONNELL: Is there objection?
4 There being none, so ordered.

5 (EXH. 19, Sworn Statement of Michael G.
6 Nettles, marked for identification.)

7 (EXH. 20, Personal Data Questionnaire of
8 Mr. Michael Nettles, marked for identification.)

9 (EXH. 21, November 9, 2011, Letter to
10 Ms. Jane Shuler From Michael G. Nettles, marked for
11 identification.)

12 SENATOR McCONNELL: Anything else?

13 Any comments from the commissioners on
14 anything?

15 If not, then the record will be closed at
16 this point on this candidate subject to the same terms
17 as the others, that we reserve the right to reopen it
18 should any matter come before us. And he has been
19 reminded about the 48-hour rule and also thanked for his
20 previous service.

21 With that, we'll move to the next
22 candidate, and we'll stay off -- we'll stand off the
23 record pending the arrival of the next candidate.

24 (Off the record.)

25 SENATOR McCONNELL: All right. We'll go

1 back on the record at this time.

2 And we have before us The Honorable
3 Alexander Stephens Macaulay, Circuit Court, Tenth
4 Circuit, seat number two.

5 If you'd be kind enough as to raise your
6 right hand.

7 (The Honorable Alexander Stephens Macaulay
8 was duly sworn, after which testimony commenced at
9 12:02 p.m.)

10 SENATOR McCONNELL: Thank you.

11 Have you had an opportunity to review the
12 Personal Data Questionnaire?

13 JUDGE MACAULAY: I'm doing it at this time,
14 and it looks like the one that I submitted.

15 SENATOR McCONNELL: All right. Then you
16 know of no additions or deletions thereto?

17 JUDGE MACAULAY: I have none whatsoever.

18 SENATOR McCONNELL: All right. Do you have
19 any objection to our making this summary a part of the
20 record of your sworn testimony as if you had given those
21 answers in response to the questions today under oath?

22 JUDGE MACAULAY: Not at all.

23 SENATOR McCONNELL: Without objection, be
24 done at this point in the transcript.

25 (EXH. 22, Personal Data Questionnaire of

1 Mr. Alexander Stephens Macaulay, marked for
2 identification.)

3 SENATOR McCONNELL: The Judicial Merit
4 Selection Commission has thoroughly investigated your
5 qualifications for the bench. Our inquiries focused on
6 our nine evaluative criteria. It has included a survey
7 of the bench and the bar, a thorough study of your
8 application materials, a verification of your compliance
9 with state ethics laws, a search of newspaper articles
10 in which your name appears, the study of previous
11 screenings, and a check for economic conflicts of
12 interest.

13 We've received no affidavits filed in
14 opposition to your election. No witnesses are present
15 to testify.

16 So I'd ask you if you have any brief
17 opening statement you'd wish to make, which is purely
18 optional, before I turn you over to counsel for a few
19 questions followed by any the commissioners might have.

20 JUDGE MACAULAY: I have nothing to add
21 to -- what is it -- the chairman's observations.

22 SENATOR McCONNELL: All right. Then with
23 that, I'll turn you over to counsel for some questions.

24 MS. SHULER: Good afternoon, Judge
25 Macaulay.

1 You have before you the Sworn Statement you
2 provided with detailed answers to over 30 questions
3 regarding judicial conduct, statutory qualifications,
4 office administration, and temperament. Are there any
5 additional amendments you would like to make to your
6 Sworn Statement at this time?

7 JUDGE MACAULAY: No, ma'am.

8 MS. SHULER: Mr. Chairman, I would ask that
9 Judge Macaulay's Sworn Statement be entered as an
10 exhibit into the hearing record.

11 SENATOR McCONNELL: Is there objection?
12 Being none, so ordered.

13 (EXH. 23, Sworn Statement of Alexander
14 Stephens Macaulay, marked for identification.)

15 MS. SHULER: Judge Macaulay, after serving
16 16 years on the Circuit Court, why do you want to
17 continue to serve as a Circuit Court judge?

18 JUDGE MACAULAY: My dear wife said that she
19 married me for better or worse, sickness and in health,
20 richer or poorer, but not retirement. I have two more
21 years before I quit.

22 MS. SHULER: Judge Macaulay, although you
23 address this in your Sworn Affidavit, could you please
24 explain to members of the Commission what you believe to
25 be the appropriate demeanor for a judge.

1 JUDGE MACAULAY: Well, I think I can go
2 back to the original amenity that I had with the
3 representative of the South Carolina Bar back in 1994.
4 And he asked -- one of the questions was was there
5 anyone on -- any particular judge that I admired or
6 would want to emulate, and I said that yes, there was
7 and that would be the late James A. Spruill, Sr., and
8 not -- junior is a classmate of mine, but the senior was
9 then on the bench.

10 And I did that because he was first a
11 gentleman, first a lawyer and a scholar, and I think
12 those two things are perhaps the most important thing
13 that a judge can be, one -- of course aware what's going
14 on and what his positions are and -- not his position,
15 but what his position requires, but also that he shows a
16 certain civility and, in fact, instills a certain
17 civility in the process because it's -- as I remind some
18 people, that what judges do is to ask the most sensitive
19 of all things because we truly deal with life, property
20 and sometimes we find people's concept of the pursuit of
21 happiness.

22 MS. SHULER: Thank you, Judge Macaulay.

23 Are there any changes to the criminal or
24 civil docket you have assisted in implementing for the
25 Tenth Judicial Circuit in order to clear the docket, and

1 if so, what were the nature of those changes?

2 JUDGE MACAULAY: Well, we adopted a case
3 management system. We were having a little difficulty
4 implementing it because we are somewhat limited in our
5 magistrates and also having enough attorneys to do it.
6 It -- it is a beginning point. We had -- and we did
7 circuit-wide, in other words, the administrative law for
8 the Tenth Circuit docket and our Supreme Court's
9 concepts.

10 And so I would like to see it implemented
11 more fully, but I think that is a step forward.

12 MS. SHULER: Thank you, Judge.

13 And, Mr. Chairman, at this time I would
14 like to request that we go into executive session.

15 SENATOR McCONNELL: All right. Counsel has
16 requested that we go into executive session.

17 SENATOR KNOTTS: So moved.

18 SENATOR McCONNELL: It's been moved.

19 SENATOR NICHOLSON: Second.

20 SENATOR McCONNELL: Seconded.

21 Is there any objection?

22 There being none, unanimous vote.

23 (The Judicial Merit Selection Commission
24 went into executive session from 12:07 p.m. to
25 12:22 p.m.)

1 SENATOR McCONNELL: All right. We're back
2 in open session.

3 Any other questions?

4 No formal action was taken.

5 MS. SHULER: I have some housekeeping
6 issues to cover with you, Judge Macaulay.

7 JUDGE MACAULAY: Yes, ma'am.

8 MS. SHULER: Have you sought or received
9 the pledge of any legislator prior to this date?

10 JUDGE MACAULAY: No, ma'am.

11 MS. SHULER: Have you sought or been
12 offered a conditional pledge of support of any
13 legislator pending the outcome of your screening?

14 JUDGE MACAULAY: No, ma'am.

15 MS. SHULER: Have you asked any third
16 parties to contact members of the General Assembly on
17 your behalf?

18 JUDGE MACAULAY: No, ma'am.

19 MS. SHULER: Have you contacted any members
20 of the Commission?

21 JUDGE MACAULAY: Senator Alexander and I
22 are in the same Sunday school class. He teaches the
23 second Sunday. I teach the first Sunday.

24 MS. SHULER: But you haven't asked him
25 for --

1 JUDGE MACAULAY: No, ma'am. If I -- no,
2 ma'am. I didn't. I have not.

3 MS. SHULER: Do you understand that you're
4 prohibited from seeking a pledge or commitment until 48
5 hours after the formal release of the Commission's
6 report?

7 JUDGE MACAULAY: Yes, ma'am.

8 MS. SHULER: Have you reviewed the
9 Commission's guidelines on pledging?

10 JUDGE MACAULAY: Yes, ma'am. I have, but I
11 can't say that I want to be quizzed on them right now.

12 MS. SHULER: I'm not going to quiz you on
13 it right now.

14 Just as a follow-up, just so you know if
15 you violate those guidelines, it's a misdemeanor
16 conviction and you can be fined not more than a thousand
17 dollars or imprisoned not more than 90 days.

18 I would note that the Upstate Citizens
19 Committee found Judge Macaulay qualified with respect to
20 the criteria of constitutional qualifications, physical
21 health, and mental stability. The Committee found Judge
22 Macaulay well-qualified with respect to the following
23 evaluative criteria: ethical fitness, professional and
24 academic ability, character, reputation, experience, and
25 judicial temperament.

1 I would just note for the record that any
2 concerns raised during the investigation regarding this
3 candidate were incorporated into my questioning of the
4 candidate today.

5 And, Mr. Chairman, those are all the
6 questions I have for Judge Macaulay.

7 SENATOR McCONNELL: All right. Does any
8 member of the Commission have a question?

9 SENATOR KNOTTS: Mr. Chairman, I just got a
10 statement.

11 SENATOR McCONNELL: The senator from
12 Lexington.

13 SENATOR KNOTTS: Judge, are you that
14 thorough in court as you were trying to explain
15 something that you wasn't at fault at?

16 JUDGE MACAULAY: I hope so, because to be
17 honest with you --

18 SENATOR KNOTTS: I notice you're very
19 thorough.

20 JUDGE MACAULAY: The thing is the parties
21 who come to court -- my senior partners told me one
22 time, that's their most important case, and that's the
23 most important case that you have. If somebody has an
24 inquiry, yes, I would want to be as thorough as
25 possible. The last thing I think our judicial system

1 would need is unanswered questions and things that might
2 not be clear.

3 SENATOR McCONNELL: Any other questions?

4 Senator Knotts, I might add, he was that
5 thorough in the Senate when he served there.

6 SENATOR KNOTTS: Yes, sir.

7 JUDGE MACAULAY: It took me a lot longer to
8 get my point across.

9 SENATOR KNOTTS: I'm sure he's probably got
10 a backlog too.

11 SENATOR McCONNELL: All right. With that,
12 that concludes this stage of the screening process.
13 We'll be closing the record. We reserve the right to
14 reopen should any matter come up that deserves the
15 attention of the Commission and they feel that they need
16 to review it.

17 I would remind you of the 48-hour rule and
18 ask you to be mindful of that, and if anyone that
19 inquires with you about whether they may or may not
20 advocate for you in the event that you're screened out,
21 that you remind them of the 48-hour rule.

22 Thank you for offering and thank you for
23 your past service to the people of South Carolina.

24 JUDGE MACAULAY: Thank you very much,
25 Mr. Chairman.

1 SENATOR McCONNELL: Have a great day.

2 SENATOR KNOTTS: Thank you, Judge.

3 SENATOR McCONNELL: We'll stand at
4 recess -- stand off the record pending arrival of the
5 next candidate.

6 (Off the record.)

7 SENATOR McCONNELL: All right. We'll go
8 back on the record at this time.

9 We have before us The Honorable William
10 Paul Keesley offering for Eleventh Circuit, seat number
11 one.

12 Good to have you with us today.

13 JUDGE KEESLEY: Thank you.

14 SENATOR McCONNELL: If you'd be so kind as
15 to raise your right hand.

16 (The Honorable William Paul Keesley was
17 duly sworn, after which testimony began at 12:27 p.m.)

18 SENATOR McCONNELL: Thank you.

19 Have you had an opportunity to review the
20 Personal Data Questionnaire?

21 JUDGE KEESLEY: Yes, sir.

22 SENATOR McCONNELL: Is it correct or does
23 it need any additions or deletions thereto?

24 JUDGE KEESLEY: It's correct.

25 SENATOR McCONNELL: All right. Do you

1 object to our making this summary a part of the record
2 of your sworn testimony as if we'd asked you those
3 questions and you'd given us those responses today under
4 oath?

5 JUDGE KEESLEY: No, sir.

6 SENATOR McCONNELL: It will be done at this
7 point in the transcript without objection.

8 (EXH. 24, Personal Data Questionnaire of
9 Mr. William Paul Keesley, marked for identification.)

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

20 We have received no affidavits filed in
21 opposition to your election. No witnesses are present
22 to testify.

23 So I'd ask you if you have any brief
24 opening statements you'd like to give us, which is
25 purely optional, at this time before I turn you over to

1 counsel for a few questions. It will be followed by any
2 follow-up questions by the Commission.

3 JUDGE KEESLEY: I appreciate the
4 opportunity to appear before you.

5 SENATOR McCONNELL: Thank you.
6 Counsel.

7 MR. GENTRY: Judge Keesley, you have before
8 you the Sworn Statement you provided with detailed
9 answers to over 30 questions regarding judicial conduct,
10 statutory qualifications, office administration, and
11 temperament. Are there any additional amendments you'd
12 like to make at this time to your Sworn Statement?

13 JUDGE KEESLEY: No, sir.

14 MR. GENTRY: At this time, Mr. Chairman,
15 I'd ask that Judge Keesley's Sworn Statement be entered
16 as an exhibit into the hearing record.

17 SENATOR McCONNELL: Is there any objection?
18 There being none, so ordered.

19 (EXH. 25, Sworn Statement of William Paul
20 Keesley, marked for identification.)

21 MR. GENTRY: Judge Keesley, why do you want
22 to continue to serve as a Circuit Court judge?

23 JUDGE KEESLEY: I feel like that it's a
24 challenging position. I feel like I learn something
25 every day. I'm exposed to a lot of different

1 disciplines, and I've had a lot of training for it.

2 I've enjoyed my work.

3 MR. GENTRY: Judge Keesley, although you
4 address this in your Sworn Affidavit, can you explain to
5 the members of the Commission what you think is the
6 appropriate demeanor for a judge.

7 JUDGE KEESLEY: Professional, reserved. I
8 don't remember the exact words I put down. Calm.
9 Patient.

10 MR. GENTRY: Are there any changes to the
11 docket you've assisted in implementing to the Circuit
12 Court in order to clear the docket, and if so, could you
13 explain the changes?

14 JUDGE KEESLEY: When I was chief judge in
15 criminal in different circuits, we would have meetings
16 each -- each week or month depending on which circuit I
17 was in and what status the docket was in. We would
18 bring all the key players there. We would have
19 obviously the solicitor, the Public Defender's Office
20 representing the bar, police officers, jail, probation,
21 on and on. And we would sit there and we would go
22 through the old cases to try and determine why they were
23 old and what we could do to move them along.

24 And in that area where the docket had
25 gotten in worse shape than others, we would actually

1 take each case one by one and go through it, and I asked
2 for an explanation. It wasn't to try to get anyone
3 else's job. It was to try to get everyone focused on
4 how we could bring those cases to assist them in what
5 problems might be addressed.

6 On the civil side we began focusing a lot
7 on mediation, particularly in Lexington County. I think
8 we're getting that system up and running fairly well.
9 It's taken a while to get it jump started, but the
10 notices are going out now and we're getting a real good
11 response. We try to do status conferences, but right
12 now I think the real push is we're getting the lawyers
13 to pick up the file and move the cases more so
14 necessarily.

15 Judges kind of guide and focus, but the
16 lawyers are the ones who really need to see the case.

17 MR. GENTRY: Judge Keesley, the SLED report
18 received by the Commission indicated that since your
19 last screening you have been sued twice. Can you just
20 explain the nature and disposition of those lawsuits.

21 JUDGE KEESLEY: The case with
22 Mr. McQuatters is addressed in the written materials
23 that I gave to you all. Ms. McQuatters has sued a lot
24 of people. He -- he adds -- if I rule in a case, I will
25 find that my name is added to the caption. They removed

1 this case to Federal court. I was told by the attorneys
2 for the Insurance Reserve Fund that the case had been
3 dismissed, that he is now trying to file billion dollar
4 liens against judges and other officials. I -- I hope
5 that's not true, but that's what it is.

6 The other case of Mr. Jones, I have no
7 knowledge of that case. I apologize to you all, but I
8 don't think he's ever served me with the case, and I
9 don't recall him. I don't know why, unless I was just a
10 sentencing judge. I can try to look it up and get you
11 information if you want me to, but I don't ever recall
12 being served.

13 MR. GENTRY: Thank you, Judge Keesley.

14 Have you sought or received the pledge of
15 any legislator prior to this date?

16 JUDGE KEESLEY: No.

17 MR. GENTRY: Have you sought or have you
18 been offered a conditional pledge of support of any
19 legislator pending the outcome of your screening?

20 JUDGE KEESLEY: No.

21 MR. GENTRY: Have you asked any third
22 parties to contact members of the General Assembly on
23 your behalf?

24 JUDGE KEESLEY: No.

25 MR. GENTRY: Have you contacted any members

1 of the Commission?

2 JUDGE KEESLEY: No.

3 MR. GENTRY: Do you understand that you're
4 prohibited from seeking a pledge or commitment until 48
5 hours after the formal release of the Commission's
6 report?

7 JUDGE KEESLEY: I do.

8 MR. GENTRY: Have you reviewed the
9 Commission's guidelines on pledging?

10 JUDGE KEESLEY: Yes.

11 MR. GENTRY: As a follow-up, are you aware
12 of the penalties for violating the pledging rules; that
13 is, it is a misdemeanor and upon conviction the violator
14 must be fined not more than a thousand dollars or
15 imprisoned not more than 90 days?

16 JUDGE KEESLEY: I am aware of that.

17 MR. GENTRY: I would note that the Midlands
18 Citizens Committee found Judge Keesley well-qualified in
19 all nine evaluative criteria. The Committee felt Judge
20 Keesley to be an asset to our state and our judiciary.
21 The Committee believed Judge Keesley to be most
22 eminently qualified to continue service on the Circuit
23 Court.

24 I'd also note for the record that any
25 concerns raised during the investigation regarding the

1 candidate were incorporated into the questioning today.

2 Mr. Chairman, I have no further questions.

3 SENATOR McCONNELL: All right. Thank you.

4 Does any member of the Commission have a
5 question?

6 SENATOR KNOTTS: Mr. Chairman.

7 SENATOR McCONNELL: Yes, sir, the Senator
8 from Lexington.

9 SENATOR KNOTTS: I would -- I was sort of
10 smiling whenever he was reading -- or when he was asked
11 about a question about his temperament and stuff like
12 that because when he walked in the door, I wrote down
13 some notes, and the thing I said about him -- it's in my
14 county and I go to the courthouse quite a bit and
15 observe my judges. And the thing I wrote down was "very
16 gentle, calm and patient." And that's exactly the words
17 that came out of his mouth when he sat down.

18 Judge Keesley is an excellent judge for
19 South Carolina, and, you know, I think we -- he's an
20 asset for Lexington County.

21 JUDGE KEESLEY: Thank you, Senator.

22 SENATOR McCONNELL: Any other members of
23 the Commission?

24 If not, this concludes this portion of the
25 screening process. As you know, the record will be

1 closed, but we reserve the right to reopen it at any
2 time if we find that it is necessary. I want to remind
3 you of the 48-hour rule and ask you to be mindful of it,
4 so mindful that if anyone inquires about whether or not
5 they may advocate for you in that event that you're
6 screened out, that you remind them of the 48-hour rule.

7 With that, we thank you for your offering
8 and also for your past service to the people of South
9 Carolina.

10 JUDGE KEESLEY: Thank you, Mr. Chairman,
11 members of the Committee.

12 (Off the record.)

13 SENATOR McCONNELL: All right. We'll go
14 back on the record.

15 At this time we have before us The
16 Honorable R. Knox McMahon who is offering for the
17 Circuit Court, Eleventh Circuit, seat number one.

18 Good afternoon.

19 JUDGE McMAHON: Good afternoon, Senator,
20 members of the Commission.

21 SENATOR McCONNELL: If you'd be kind enough
22 to raise your right hand.

23 (The Honorable R. Knox McMahon was duly
24 sworn, after which testimony began at 12:37 p.m.)

25 SENATOR McCONNELL: Thank you.

1 Have you had an opportunity to review the
2 Personal Data Questionnaire?

3 JUDGE McMAHON: Yes, sir, I have.

4 SENATOR McCONNELL: Is it correct or does
5 it need any additions or deletions thereto?

6 JUDGE McMAHON: It is correct. No
7 additions, no deletions.

8 SENATOR McCONNELL: Do you object to our
9 making this summary a part of the record of your sworn
10 testimony as if we had asked you those questions here
11 today and you had given us those responses under oath?

12 JUDGE McMAHON: I do not object.

13 SENATOR McCONNELL: All right. Without
14 objection, it will be done at this point in the
15 transcript.

16 (EXH. 26, Personal Data Questionnaire of
17 Mr. Royce Knox McMahan, marked for identification.)

18 SENATOR McCONNELL: The Judicial Merit
19 Selection Commission has thoroughly investigated your
20 qualifications for the bench. Our inquiries focused on
21 our nine evaluative criteria. These included a survey
22 of the bench and the bar, a thorough study of your
23 application materials, a verification of your compliance
24 with state ethics laws, a search of newspaper articles
25 in which your name appears, a study of previous

1 screenings, and a check for economic conflicts of
2 interest.

3 We have received no affidavits filed in
4 opposition to your election. No witnesses are present
5 to testify.

6 So I'd ask you if you have any brief
7 opening statements you'd like to make, which is purely
8 optional, before I turn you over to counsel for a few
9 questions.

10 JUDGE McMAHON: No, sir. I have no opening
11 statements. Thank you for allowing me to appear before
12 the Committee.

13 SENATOR McCONNELL: All right. Please
14 answer counsel's questions.

15 JUDGE McMAHON: Yes, sir.

16 MS. SHULER: Before I examine Judge
17 McMahon, I want to make the Commission members aware
18 that there is a research memorandum that's been prepared
19 with judiciary -- judicial advisory opinions, as well as
20 a research article from the American Judicature Society
21 Judicial Conduct Reporter just for your information that
22 you might want to look at.

23 I'm going to examine Judge McMahon on a
24 series of questions related to an issue dealing with his
25 daughter and son-in-law being assistant solicitors in

1 the Eleventh Judicial Circuit where he resides. So I
2 just want to make you aware that that is in the
3 materials.

4 Judge McMahon, you have before you the
5 Sworn Statement you've provided with detailed answers to
6 over 30 questions regarding judicial conduct, statutory
7 qualifications, office administration, and temperament.
8 Are there any amendments that you would like to make at
9 this time?

10 JUDGE McMAHON: No, ma'am.

11 MS. SHULER: Mr. Chairman, I would ask that
12 Judge McMahon's Sworn Statement be entered into the
13 hearing record as an exhibit.

14 SENATOR McCONNELL: Is there objection?
15 There being none, so ordered.

16 (EXH. 27, Sworn Statement of Royce Knox
17 McMahon, marked for identification.)

18 MS. SHULER: Judge McMahon, after serving
19 almost six years on the Circuit Court, why do you want
20 to continue serving as a Circuit Court judge?

21 JUDGE McMAHON: Well, I feel like I've
22 learned a lot in those six years, but in the criminal
23 and specifically in the civil arena. I feel like I have
24 served the citizens of the Eleventh Circuit and the
25 state in the various locations I've been assigned in

1 those six years and would like to continue to do so.

2 MS. SHULER: Although you address this in
3 your Sworn Affidavit, could you please explain to the
4 Commission members what you think is the appropriate
5 demeanor for a judge.

6 JUDGE McMAHON: I think a judge should
7 always be dignified, respectful to all the parties,
8 attorneys, court staff, members of the public that come
9 before the judge, whether a plaintiff or a defendant, in
10 a civil case or the state or a criminal defendant. So I
11 think you should always treat everyone with respect and
12 with dignity in court.

13 MS. SHULER: Thank you.

14 Judge McMahon, are there any changes to the
15 docket, either the criminal docket or civil docket, you
16 have assisted in implementing for the Eleventh Circuit
17 in order to clear the docket? And explain the nature of
18 those changes.

19 JUDGE McMAHON: Sure. I -- well, there's
20 several things I -- I've done or I've been a part of
21 since I've been on the Circuit Court bench.

22 In '07 or '08 in Lexington County we did
23 what we call the Jail Overcrowding Committee, and it
24 brought together all the parties, clerk of court,
25 probation, public defender, solicitor, jail personnel in

1 an attempt to try to identify individuals that could
2 have some type of alternative to incarceration to keep
3 the jail population down. We wanted to make sure that
4 those individuals that were in the local jails were
5 individuals that -- that should be in jail because of
6 violent crimes or violent past, violent histories.

7 That committee has -- well, in 2008
8 actually that committee won the J. Mitchell Graham
9 Memorial Award from the South Carolina Association of
10 Counties because the jail population went from a little
11 bit over 1,000 to 783 within the Lexington County jail.
12 That's the '08 numbers.

13 That committee has now evolved into what is
14 known as the Lexington County Criminal Justice
15 Coordinating Committee. We've expanded out to the
16 criminal defense bar. We also have members of LRADAC,
17 mental health. We tried to get those parties into the
18 jail, even while someone is waiting, whether it's a
19 Celebrate Recovery or U-Turn for Christ, LRADAC and
20 other types of programs in the jail that inmates can
21 take advantage of while they're awaiting the disposition
22 of their charges.

23 I believe and I think members of the
24 committee believe that gangs should have turf wars, but
25 public servants shouldn't. So it's been really a

1 collaborative effort in Lexington County.

2 I'm also a member of the -- appointed by
3 the Chief Justice of the Alternate Dispute Resolution
4 Committee chaired by Judge Howell, and I'm also a member
5 of the committee chaired by Justice Hearn, the
6 subcommittee on General Sessions which is chaired by
7 Justice Pleicones. And I'm a subcommittee chairman on
8 that, trying to look at ways to address the General
9 Sessions docket to make it move more efficiently, the
10 number of cases and try to really get some type of
11 policies in place to identify cases that could be moved
12 quicker and some type of alternate to incarceration.

13 MS. SHULER: Thank you, Judge McMahon.

14 Since your last screening you have been
15 sued by Donald Gay in 2010. Please explain the nature
16 and status of that lawsuit.

17 JUDGE McMAHON: Mr. Gay is a criminal
18 defendant that was convicted of a homicide, a murder
19 in -- in Richland County. I prosecuted it along with
20 another assistant solicitor at the time with the Fifth
21 Judicial Circuit. The case has been upheld on appeal.
22 To my knowledge his postconviction relief has been
23 denied. He then brought a civil suit. I believe he's
24 suing myself, Assistant Solicitor Campbell, former
25 Solicitor Barney Giese. I'm not sure if the caption

1 also included the trial judge in that case or not.

2 He's alleging various violations of his
3 rights as a result of that prosecution. There is a
4 motion pending for a summary judgment in Richland County
5 Five on behalf of the defendants that has not yet been
6 resolved. I checked on that yesterday to see if the
7 motion had yet been resolved. It has not.

8 MS. SHULER: Thank you.

9 Judge McMahon, in 2008 your youngest
10 daughter was hired by the Eleventh Circuit Solicitor's
11 Office as an assistant solicitor. Please explain to the
12 Commission what court your daughter is assigned as an
13 attorney for the Solicitor's Office and the types of
14 matters she handles.

15 JUDGE McMAHON: Yes. My -- my daughter was
16 an assistant solicitor in Charleston prior to moving
17 back to -- to Lexington, and she went in private
18 practice for a period of time and was hired by the
19 Eleventh Judicial Circuit Solicitor's Office. She is
20 assigned to Family Court primarily in Lexington County.
21 I think she does work some in Saluda County. Also she
22 only appears before the Family Court judges on juvenile
23 disposition matters as an assistant solicitor.

24 MS. SHULER: As a follow-up, what is your
25 current policy with regards to a criminal case of a

1 defendant if one of the codefendants is a juvenile?

2 JUDGE McMAHON: I do not -- I do not handle
3 any cases in which there is a juvenile codefendant with
4 a possibility that my daughter might have been involved
5 in the -- you call it an adjudication I believe in
6 Family Court as opposed to a prosecution, but that my
7 daughter may have been involved in the adjudication of
8 the case in Family Court. So I recuse myself from any
9 cases that have a -- a juvenile codefendant.

10 MS. SHULER: Judge McMahan, when your
11 daughter was first hired, she served in General Sessions
12 Court, and what action did you take in order not to hear
13 matters that she might be working on as an assistant
14 solicitor?

15 JUDGE McMAHON: I of course notified the
16 bar, and the bar knew it before I notified them quite
17 frankly. Lex -- there may be lawyers there in some of
18 the other counties in our circuit, but the bar itself
19 was -- is not that large. If there was ever any
20 objections, I would recuse myself.

21 There had been no objections whatsoever
22 from any of the criminal attorneys -- not criminal
23 attorneys, -- the defense bar representing defendants in
24 Lexington County or any other counties in the circuit
25 based on the fact that my daughter was employed with the

1 Solicitor's Office.

2 MS. SHULER: At that time did you write the
3 Advisory Committee on standards of judicial conduct for
4 an opinion regarding your daughter's employment with the
5 Eleventh Circuit Solicitor's Office?

6 JUDGE McMAHON: I did. I wrote -- I wrote
7 them I know it was prior to February 8th of '08 which
8 was prior to her time of employment. I received a
9 response from them dated February 8th of '08 just
10 referring me to an opinion of the -- the Advisory
11 Committee opinion number 11-1999 where a magistrate had
12 asked a question concerning the fact that his
13 daughter-in-law was an assistant solicitor in the county
14 in which he had Magistrate's Court. And that was the
15 response.

16 I didn't get a formal opinion -- I asked
17 for a formal opinion. All I got back was a letter from
18 the committee referring me to that 1999 opinion that
19 they had previously issued.

20 MS. SHULER: In that opinion the Advisory
21 Committee concludes, "A county magistrate may preside
22 over criminal matters in the same county where his
23 daughter-in-law is assistant solicitor as long as he
24 disclosed the relationship and disqualifies himself if
25 any part objects.

1 At that point when your daughter was
2 serving in General Sessions Court, did you -- when you
3 received that opinion as a reference to follow, what
4 procedure did you implement?

5 JUDGE McMAHON: Well, at that time I
6 actually developed a form for the parties to sign,
7 whether both the solicitor and the defense attorney
8 and/or the defendant, to make sure that all the parties
9 were aware of that.

10 That 1999 opinion of course stated that in
11 that particular situation the committee didn't even
12 envision that there was a potential for the appearance
13 of impropriety. However, I did -- I did disclose that
14 to the -- to the defense bar for them to review that
15 with their client, and no one ever objected during that
16 time.

17 MS. SHULER: And then when she -- your
18 daughter I guess transferred to Family Court, did you
19 discontinue using that form?

20 JUDGE McMAHON: I -- I did discontinue
21 using that form. I will say that the bar was fully and
22 completely aware of -- of that relationship. Many of
23 the members of the bar that appeared before General
24 Sessions Court also appeared before the Family Court
25 representing juveniles in Family Court and may handle

1 cases against my daughter. I don't know that they do or
2 don't, but they're certainly aware of her position with
3 the Solicitor's Office and appearing in Family Court.

4 MS. SHULER: Judge McMahon, in April 2011,
5 your youngest daughter's husband, Ricardo, was hired as
6 a solicitor for the Eleventh Circuit. Please explain
7 what types of matters Ricardo handles for the
8 Solicitor's Office as an attorney.

9 JUDGE McMAHON: Yes, sir -- yes, ma'am.
10 My -- my daughter -- her husbandry Ricardo is employed
11 with the Lexington County Solicitor's Office. He
12 appears in Transfer Court, and he handles felony DUI
13 cases.

14 MS. SHULER: What is your policy now
15 regarding handling bench warrants that require those
16 staff as an assistant solicitor?

17 JUDGE McMAHON: Well, typically in
18 Lexington, when there are appearances for defendants to
19 appear in court, many times a number of defendants may
20 not appear. I would be requested to issue a bench
21 warrant for their arrest for their failure to appear and
22 comply with the bonds.

23 I instituted a policy where they would
24 place the initials of the assistant solicitors that were
25 assigned to the case, and of course if Ricardo's

1 initials are on there, I would not issue a bench
2 warrant. I've tried to make sure that that does not
3 occur. I would imagine now the solicitor being aware of
4 that I never get a document that has Ricardo's initials
5 on it.

6 MS. SHULER: Judge McMahon, you became
7 concerned after you read the Advisory Committee on the
8 Standards of Judicial Conduct Opinion Number 4-2011.
9 Please explain to the Commission what about that opinion
10 concerns you in regards to having your youngest daughter
11 and son-in-law working as solicitors in the circuit in
12 which you reside.

13 JUDGE McMAHON: I think that 4-11 opinion
14 concerned a magistrate and the magistrate's spouse that
15 was a primary investigator for a local Solicitor's
16 Office, and the opinion I believe indicated that that
17 magistrate could not hold criminal court if her spouse
18 was the primary investigator for the Solicitor's Office
19 and would appear before her.

20 I do not disagree with that opinion.
21 However, I wrote an opinion -- I wrote for another
22 opinion to the Judicial Advisory Committee both
23 addressing my daughter being assigned to Family Court
24 and my son-in-law being assigned to Transfer Court and
25 those limited cases that he's assigned to General

1 Sessions Court.

2 MS. SHULER: On July 15th, 2011, the
3 Advisory Committee issued an opinion in response to your
4 request. It's opinion number 8-2011. The committee
5 stated, "A Circuit Court judge may preside in criminal
6 matters where the judge's daughter and son-in-law are
7 employed by the Solicitor's Office as long as the judge
8 discloses the relationship and disqualifies
9 himself/herself if any party objects."

10 What actions have you taken after this
11 advisory opinion was issued with regard to handling
12 criminal matters in the Eleventh Circuit?

13 JUDGE McMAHON: I -- I notify all the
14 parties on the record and ask the defendant or the
15 Solicitor's Office and then the defense attorney and the
16 defendant specifically if they have any objections to my
17 hearing their case or resolving the matter. That's both
18 on trials and guilty pleas.

19 As far as the trial roster, it is usually
20 prepared by -- by statute it's supposed to be published
21 seven days in advance, but it's usually prepared more
22 than that in advance. What I would generally do is a
23 week or two before my week assigned there for trial
24 court, I'd bring in the defense attorneys, the
25 defendants and the solicitors and do that on the record

1 at that time.

2 I also do that as far as taking pleas. I'm
3 sure the criminal defense attorneys have already
4 discussed that with the defendants prior to them
5 standing up in front of me. However, I make it a part
6 of my plea colloquy. I explain to them that I have a
7 daughter and son-in-law employed with the Solicitor's
8 Office and ask the individual if they have any
9 objections to me hearing their case or taking their
10 plea.

11 MS. SHULER: Judge McMahan, since the
12 advisory opinion was issued, how many criminal trials,
13 including death penalty trials, have you -- has it been
14 requested that you disqualify yourself from?

15 JUDGE McMAHON: I've had one -- one death
16 penalty trial that requested I recuse myself. I would
17 point out that they had already -- had previously
18 requested I recuse myself on a -- for another matter
19 unrelated to my daughter, and one of those attorneys was
20 well-aware my daughter was employed and my son-in-law
21 employed with the Solicitor's Office.

22 When the advisory opinion came out, I
23 believe it was a Wednesday. On that Friday I had a
24 hearing with the Solicitor's Office, the attorneys for
25 the defendant in that death penalty case, and I advised

1 them that the opinion had come -- came out. They
2 requested I recuse myself after conferring with their
3 client. That case has been reassigned. As a result of
4 that, I was reassigned a death penalty case in -- in
5 Richland County.

6 There was one other murder case that the
7 defendant asked that I be recused. It -- there's
8 generally always two circuit judges, generally, in
9 General Sessions in Lexington County when we have
10 General Sessions Court. Judge Cottingham was there.
11 We -- we just switched from trial to -- I say we
12 switched. Court administration switched us from -- from
13 trial to pleading. Judge Cottingham resolved that.

14 There have been I think four others. None
15 of the others were murder cases. In fact, when I was
16 scheduled to try a murder case, I've already reviewed
17 that with the defense lawyer, with the defendant the
18 week of the -- I believe it's the 12th of December.
19 Whatever that second month is in December in Lexington
20 in that regard.

21 So it's been -- it's been very few. I
22 believe it's an average about one a month since the
23 opinion has been out.

24 MS. SHULER: Judge McMahon, is there
25 anything additionally we should share with the

1 Commission regarding the disqualification of a judge
2 when a judge's relative is a prosecutor?

3 JUDGE McMAHON: Well, I -- I've done some
4 research. Of course I -- when -- as far as the -- the
5 judge's relative being a prosecutor, but I think this
6 shows that I complied with the system and it shows the
7 system is designed to address and resolve an issue like
8 this. I've asked for the opinions and opinions have
9 been rendered and I -- I follow the opinion, both the --
10 to the letter and to the spirit of the opinion.

11 As I say, the defense bar has been
12 well-aware of -- of my daughter being an assistant
13 solicitor in the Eleventh Circuit and in other circuits
14 before she moved back to Lexington. There was never a
15 motion for me to recuse myself based on my daughter
16 being an assistant solicitor. Of course I -- they have
17 never appeared before me in any manner in any case
18 they've ever been a part of.

19 MS. SHULER: Thank you.

20 SENATOR McCONNELL: All right. Does any
21 member of the Commission have any questions on this
22 issue? If not, I think we got a couple matters that we
23 just need to go in executive session.

24 So with that, is there a motion regarding
25 executive session?

1 (Multiple speakers wherein there was a
2 motion and second made to go into executive session.)

3 SENATOR McCONNELL: Moved and seconded.

4 Is there objection?

5 Being none, let it show it was a unanimous
6 vote.

7 Sergeant, please secure the chambers.

8 (The Judicial Merit Selection Commission
9 went into executive session from 12:55 p.m. to
10 1:04 p.m.)

11 SENATOR McCONNELL: We have come out of
12 executive session.

13 No formal actions have been taken.

14 And we're back on the record.

15 MS. SHULER: Judge McMahan, some
16 housekeeping issues to cover with you.

17 Have you sought or received the pledge of
18 any legislator prior to this date?

19 JUDGE McMAHON: No, ma'am.

20 MS. SHULER: Have you sought or have you
21 been offered a conditional pledge of support of any
22 legislator pending the outcome of your screening?

23 JUDGE McMAHON: No, ma'am.

24 MS. SHULER: Have you asked any third
25 parties to contact members of the General Assembly on

1 your behalf?

2 JUDGE McMAHON: No, ma'am.

3 MS. SHULER: Have you contacted any members
4 of the Commission?

5 JUDGE McMAHON: No, ma'am.

6 MS. SHULER: Do you understand that you are
7 prohibited from seeking a pledge or commitment until 48
8 hours after the formal release of the Commission's
9 report?

10 JUDGE McMAHON: Yes, ma'am.

11 MS. SHULER: Have you reviewed the
12 Commission's guidelines on pledging?

13 JUDGE McMAHON: Yes, ma'am.

14 MS. SHULER: As a follow-up, are you aware
15 that the penalties for violating the pledging rules are
16 that it's a misdemeanor and, if convicted, a thousand
17 dollar fine and 90 days of imprisonment?

18 JUDGE McMAHON: Yes, ma'am.

19 MS. SHULER: I would note that the Midlands
20 Citizens Committee found Judge McMahan well-qualified
21 for each of the nine evaluative criteria:
22 constitutional qualifications, ethical fitness,
23 professional and academic ability, character,
24 reputation, physical health, mental stability,
25 experience, and judicial temperament.

1 The Committee stated in summary, "We are
2 honored to interview Judge McMahon and thoroughly
3 enjoyed our interview. We are all very proud he is one
4 of the state's judges. He is truly an asset to our
5 state judiciary, and his service to our state has been
6 outstanding and honorable in every way. He is most
7 eminently qualified to continue his service on the
8 Circuit Court bench."

9 I would just note for the record that any
10 concerns raised during the investigation regarding this
11 candidate were incorporated into the questioning of the
12 candidate today.

13 Mr. Chairman, I have no further questions.

14 SENATOR McCONNELL: Thank you.

15 Any member of the Commission have a
16 question?

17 The senator from Lexington.

18 SENATOR KNOTTS: Judge -- I just have a
19 comment for Judge McMahon. He is an asset to Lexington
20 County. He is very, very consciencial -- conscience
21 about recusing himself whenever a possible conflict --
22 not a conflict, but a possible conflict.

23 He -- this situation with his daughter and
24 son-in-law working for the Solicitor's Office was not --
25 he in no way -- I checked into it whenever I first heard

1 of it. And he in no way encouraged it or tried to get a
2 job for either the assistant -- his brother --
3 son-in-law or daughter. And, you know, it has not
4 created any conflicts or problems for Lexington.

5 SENATOR McCONNELL: All right. Does any
6 other member of the Commission have any other questions
7 or comments?

8 If not, this concludes this stage of the
9 screening process. We will be closing the record, but
10 we reserve the right to reopen it should there be any
11 other matters that come up that we need to look at.

12 Let me remind you again of the 48-hour rule
13 and ask you to be so mindful of it that if someone
14 approaches you inquiring about whether they may or may
15 not advocate for you in the event that you're screened
16 out, that you of course would tell them that -- about
17 the 48-hour rule.

18 With that, we thank you for your previous
19 service to the people of South Carolina and for
20 offering. Have a nice day.

21 JUDGE McMAHON: Thank you, Senator. Thank
22 you, Committee.

23 (Off the record.)

24 SENATOR McCONNELL: All right. We have
25 before us The Honorable Kristi Lea Harrington who is

1 offering for the Circuit Court, Ninth Circuit, seat
2 number two.

3 If you would raise your right hand.

4 (The Honorable Kristi Lea Harrington was
5 duly sworn, after which testimony began at 1:09 p.m.)

6 SENATOR McCONNELL: Thank you.

7 Have you had an opportunity to review the
8 Personal Data Questionnaire?

9 JUDGE HARRINGTON: I have it here in front
10 of me.

11 SENATOR McCONNELL: All right. Is there
12 any correction or addition or deletion thereto?

13 JUDGE HARRINGTON: They appear to be in
14 perfect order.

15 SENATOR McCONNELL: All right. Do you have
16 any objection to our making that summary a part of the
17 record of your sworn testimony as if we had asked those
18 questions and you had given us those responses under
19 oath today?

20 JUDGE HARRINGTON: I do not.

21 SENATOR McCONNELL: All right. Without
22 objection, it will be done so at this point in the
23 transcript.

24 (EXH. 28, Personal Data Questionnaire of
25 Ms. Kristi Lea Harrington, marked for identification.)

1 SENATOR McCONNELL: The Judicial Merit
2 Selection Commission has thoroughly investigated your
3 qualifications for the bench. Our inquires focused on
4 the nine evaluative criteria. It has included a survey
5 of the bench and the bar, a thorough study of your
6 application materials, a verification of your compliance
7 with state ethics laws, a search of newspaper articles
8 in which your name appears, a study of previous
9 screenings, and a check for economic conflicts of
10 interest.

11 We have received no affidavits filed in
12 opposition to your election. No witnesses are present
13 to testify.

14 I'd ask you if you have any brief opening
15 statement you wish to give, which is purely optional,
16 before I turn you over to counsel for a few questions
17 which will be followed by some questions possibly from
18 the Commission.

19 JUDGE HARRINGTON: I know that I'm the last
20 judge before your lunch break, so I'll keep it short.
21 Thank you for allowing me the opportunity. I appeared
22 in front of most of you four years ago. The last four
23 years on the bench have been personally, professionally
24 the most rewarding that I've had.

25 SENATOR McCONNELL: Thank you. Please

1 answer counsel's questions.

2 MR. DENNIS: Thank you, Judge. Good
3 afternoon.

4 You also have before you your Sworn
5 Statement that covers a variety of topics including
6 judicial conduct, statutory qualification, office
7 administration, et cetera. Do you have any amendments
8 or additions or deletions you'd like to make to that
9 statement at this time?

10 JUDGE HARRINGTON: I do not have any
11 amendments or additions or corrections.

12 MR. DENNIS: Mr. Chairman, I'd ask that
13 Judge Harrington's Sworn Statement be made a part of the
14 record.

15 SENATOR McCONNELL: All right. Is there
16 objection? There being none, so ordered.

17 (EXH. 29, Sworn Statement of Kristi Lea
18 Harrington, marked for identification.)

19 MR. DENNIS: Judge Harrington, after four
20 years on the Court of Appeals -- or on the Circuit
21 Court -- I'm sorry. I gave you a promotion.

22 JUDGE HARRINGTON: Thank you.

23 MR. DENNIS: After four years on the
24 Circuit Court -- and -- and you touched on this just a
25 little bit in your opening comments. Why do you want to

1 continue to serve as a Circuit Court judge?

2 JUDGE HARRINGTON: When I began on the
3 bench -- prior to that I had been in the Solicitor's
4 Office and prior to that had interned in the Solicitor's
5 Office. My life has been dedicated to public service,
6 and this has given me an opportunity not only to do that
7 but to extend my legal career and be able to impact many
8 lives, influence -- and I had an opportunity to
9 develop -- I was a charter member of the End of Court
10 through the Charleston Law School, so I had an
11 opportunity being a judge that I did not have as an
12 attorney.

13 MR. DENNIS: Judge, you address this
14 somewhat in your Sworn Statement, but would you please
15 detail for the Commission what you feel the appropriate
16 demeanor for a judge is, specifically a trial court
17 judge.

18 JUDGE HARRINGTON: Patience, humility. You
19 have to have a sense of humor, and you never know what
20 is going to go wrong or go right. You have to have
21 temperance. You have to be able to understand what is
22 happening before you, the purpose of the hearing, the
23 individuals themselves, the ability to look into the
24 litigant and to the litigant's background to be able to
25 make sure that that person understands what you're

1 indicating to that individual, the ability to be able to
2 articulate your ruling not only to the attorneys who do
3 this every day but to a pro se litigant that may not
4 have an understanding of really what is going on.

5 MR. DENNIS: Judge, I understand that you
6 have served as chief administrative judge for the Court
7 of Common Pleas in your circuit. Have you instituted
8 any changes to the docket or the docketing system in
9 either the Court of Common Pleas or the Court of General
10 Sessions in the Ninth Circuit that are designed to speed
11 up the docket?

12 JUDGE HARRINGTON: What I have done -- last
13 year in Charleston County alone there were over 10,000
14 cases filed in the civil docket. So that's a tremendous
15 caseload for any individual. What I have done that has
16 substantially, I believe, sped up the docket as chief
17 admin of civil in Charleston is I was noticing that
18 there was a delay in being able to call cases for trial
19 because of certain motions that were still pending. So
20 I implemented a Friday afternoon motions to compel
21 docket just to deal with discovery issues that may be
22 holding up a trial that gets to court.

23 We had a backlog of what I call those types
24 of motions, motions that I can address without any
25 witnesses or anything of that nature and have been

1 seeing a substantial amount of trying cases at the
2 13-month mark in Charleston County.

3 MR. DENNIS: Judge, there are a couple of
4 parts to this next question, so you can handle them in
5 any way that you see fit.

6 As you're well-aware, the South Carolina
7 Bar Association put together a report on you on your
8 qualifications that included a footnote that reads in
9 pertinent part, "A portion of those surveyed had
10 concerns regarding Judge Harrington's ability and
11 experience regarding civil procedures."

12 The Commission staff is not in possession
13 of anything more specific than that footnote. Would you
14 please comment on the bar's finding, offer your own
15 assessment of your ability and experience as it relates
16 to the Court of Common Pleas, and explain what state --
17 steps you have or will take to deal with this
18 perception.

19 JUDGE HARRINGTON: I knew taking the bench
20 that the perception of my legal background was that I
21 was a criminal attorney and that I did not have
22 sufficient civil experience, but I assured the
23 Commission when I came before it that I would devote to
24 my civil practice the same dedication in learning that I
25 had to -- to criminal.

1 I had prior to taking the bench been
2 teaching business law which is of course civil law and
3 continued to do that now at a graduate level.

4 I was concerned when I went to -- to the
5 bar and there was an indication. My understanding of
6 the concerns -- it was about six or seven individuals
7 out of the individuals that they had called that
8 expressed concerns about that -- my level of experience
9 in the civil arena. I understand that. I understand
10 that the perception is still that I came from the
11 Solicitor's Office and that I may not have that basis of
12 knowledge that perhaps other judges have when they
13 perhaps took the bench or have at this point.

14 It is concerning to me. I do not find that
15 to be true. I have from day one from the very first day
16 I took the bench made that a priority to immerse myself
17 in the civil area of the law. I'm very aware that my
18 background was primarily in criminal. I have -- I'm
19 continuing -- I'm getting -- working on my master's in
20 judicial studies through The National Judicial College.
21 I am considered an adjunct faculty now at The National
22 Judicial College. I am implementing with several other
23 judges nationwide an online training program for new
24 judges. And continue to, again, teach at the graduate
25 level.

1 I am constantly made -- monitoring the
2 advance sheets. I embrace myself in the cases. I am
3 ready, prepared when cases are called, and I am doing
4 everything that I know to do to allay that small
5 percentage that get -- that noted a footnote. Just as
6 a -- as a footnote to the footnote, when I inquired as
7 to the percentage, there was -- the response was that
8 the -- 80 percent or more of the individuals surveyed
9 had comments to say, "She is an excellent judge. We
10 wish we had more like her, hard working, fair,
11 thoroughly prepared."

12 And so I am working very, very diligently.
13 I think that in 40 months I have tried 115 jury trials
14 to completion. 52 percent have been in the civil side,
15 which is a reflection of this year being civil, and I
16 guarantee you if guaranteed another term that I will be
17 nothing -- that there will be no footnote next time
18 because I am continuing to immerse myself in civil law
19 to make sure that no one has concerns, founded or
20 unfounded.

21 MR. DENNIS: Thank you, Your Honor.

22 Mr. Chairman, I think we need a very brief
23 executive session to take up one additional matter.

24 SENATOR McCONNELL: All right. Is there a
25 motion we go into executive session?

1 (Multiple speakers wherein there was a
2 motion and second made to go into executive session.)

3 SENATOR McCONNELL: Moved and seconded.

4 Is there any objection?

5 There being no objection, we will go into
6 executive session.

7 Sergeant, please secure the chamber.

8 (The Judicial Merit Selection Commission
9 went into executive session from 1:18 p.m. to 1:20 p.m.)

10 SENATOR McCONNELL: We've taken no formal
11 actions in executive session. We're back in open
12 session.

13 And get the back door opened.

14 All right. We're back on the record.

15 Counsel.

16 MR. DENNIS: Thank you, Judge Harrington.
17 I have just a couple housekeeping issues to go through
18 with you, please.

19 Have you sought or received the pledge of
20 any legislator prior to this date?

21 JUDGE HARRINGTON: I have not.

22 MR. DENNIS: Have you see sought or have
23 you been offered a conditional pledge of support of any
24 legislator pending the outcome of your screening?

25 JUDGE HARRINGTON: I have not.

1 MR. DENNIS: Have you asked any third
2 parties to contact members of the General Assembly on
3 your behalf?

4 JUDGE HARRINGTON: I have not.

5 MR. DENNIS: Have you contacted any members
6 of this commission?

7 JUDGE HARRINGTON: I have -- except for
8 yourself.

9 MR. DENNIS: I'm not a member thankfully.
10 Do you understand that you are prohibited
11 from seeking a pledge or commitment until 48 hours after
12 the formal release of the Commission's report?

13 JUDGE HARRINGTON: I understand that.

14 MR. DENNIS: Have you reviewed the
15 Commission's guidelines on pledging?

16 JUDGE HARRINGTON: I have.

17 MR. DENNIS: As a follow-up, are you aware
18 of the penalties for violating the pledging rules; that
19 is, it is a misdemeanor and upon conviction the violator
20 will be fined not more than a thousand dollars and
21 imprisoned not more than 90 days?

22 JUDGE HARRINGTON: I understand.

23 MR. DENNIS: As an additional note, I would
24 add that the Low Country Citizens Committee found Judge
25 Harrington well-qualified in all nine evaluative

1 criteria and stated that she had done an excellent job
2 for the Ninth Circuit.

3 I would just note for the record that any
4 concerns raised during the investigation regarding this
5 candidate were incorporated in the questioning of the
6 candidate today.

7 And, Mr. Chairman, that is all I have.

8 SENATOR McCONNELL: All right. Does any
9 member of the Commission have a question?

10 If not, then that will conclude this stage
11 of the screening process. The record is technically
12 closed, but we do reserve the right to reopen it if
13 something comes up that we need some additional
14 information.

15 Additionally, we remind you about the
16 48-hour rule. Please be very mindful of it, and should
17 anyone inquire with you about whether or not they may
18 assist you in the event that you've been screened out,
19 please remind them of the 48-hour rule.

20 JUDGE HARRINGTON: I will.

21 SENATOR McCONNELL: Thank you for your past
22 service and also thank you for offering and have a great
23 day.

24 JUDGE HARRINGTON: Y'all as well. Thank
25 you.

1 SENATOR McCONNELL: Thank you.

2 All right. We'll stand in recess without
3 objection.

4 (A lunch recess transpired.)

5 SENATOR McCONNELL: All right. We'll go
6 back on the record at this time. We're running a little
7 bit behind because of the length this morning.

8 We have before us The Honorable John Davis
9 McLeod, who -- and he is offering for Administrative Law
10 Court, seat number two.

11 If you would be so kind as to raise your
12 right hand, please, sir.

13 (The Honorable John Davis McLeod was duly
14 sworn, after which testimony began at 2:02 p.m.)

15 SENATOR McCONNELL: Thank you.

16 Have you had an opportunity to review the
17 Personal Data Questionnaire?

18 JUDGE McLEOD: Yes, sir.

19 SENATOR McCONNELL: Is it correct?

20 JUDGE McLEOD: It is.

21 SENATOR McCONNELL: It needs no additions
22 or deletions thereto?

23 JUDGE McLEOD: The only change in anything
24 I submitted would have to do with a case in Federal
25 District Court in which I was named as a party. I don't

1 know whether this is -- it's in this particular document
2 or not. Because I was named as a party, never served,
3 and it's been dismissed. William C. McKinney versus
4 John D. McLeod.

5 SENATOR McCONNELL: All right.

6 JUDGE McLEOD: It was summarily dismissed.

7 SENATOR McCONNELL: All right. With that
8 change made, would you have any objection to our making
9 the summary a part of the record of your sworn testimony
10 as if we had asked you all of those questions today
11 under oath and you had given us those answers?

12 JUDGE McLEOD: I would have no objection.

13 SENATOR McCONNELL: All right. It will be
14 done so at this point in the transcript.

15 (EXH. 30, Personal Data Questionnaire of
16 Mr. John Davis McLeod, marked for identification.)

17 (EXH. 31, Amendment to the Personal Data
18 Questionnaire of Mr. John Davis McLeod, marked for
19 identification.)

20 SENATOR McCONNELL: The Judicial Merit
21 Selection Commission has thoroughly investigated your
22 qualifications for the bench. Our inquires focused on
23 the nine evaluative criteria and has included a survey
24 of the bench and the bar, a thorough study of your
25 application materials, a verification of your compliance

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

5 We have received no affidavits filed in
6 opposition to your election. No witnesses are present
7 to testify.

8 So I'd ask you if have any brief opening
9 statement you would like to make, which is purely
10 optional, before I turn you over to counsel for a few
11 questions to be followed by some questions possibly from
12 this panel.

13 JUDGE McLEOD: I waive opening statement.

14 SENATOR McCONNELL: All right.

15 Counsel.

16 MS. PARRISH: Thank you, Mr. Chairman.

17 Hi, Judge McLeod.

18 You have before you the Sworn Statement you
19 provided with detailed answers to over 30 questions
20 regarding judicial conduct, statutory qualifications,
21 office -- office administration, and temperament. Are
22 there any amendments you would like to make at this time
23 to your Sworn Statement?

24 JUDGE McLEOD: There are none unless it
25 involves that lawsuit I mentioned. I forget which one

1 it's in.

2 MS. PARRISH: At this time, Mr. Chairman, I
3 would like to ask that Judge McLeod's Sworn Statement be
4 entered as an exhibit.

5 SENATOR McCONNELL: All right. Is there
6 any objection? There being none, so ordered.

7 (EXH. 32, Sworn Statement of John Davis
8 McLeod, marked for identification.)

9 MS. PARRISH: Judge McLeod, why do you want
10 to continue serving as an Administrative Law Court
11 judge?

12 JUDGE McLEOD: Well, first of all, I
13 believe everybody ought to do some public service.
14 Secondly, I've spent the better part of the last 50
15 years preparing to serve in the position like this.
16 And, thirdly, I don't think I'd like retirement.

17 MS. PARRISH: Judge McLeod, although you
18 address this in your Sworn Affidavit, could you please
19 explain to the members of the Commission what you think
20 is the appropriate demeanor for a judge.

21 JUDGE McLEOD: Firm, but polite.

22 MS. PARRISH: Are there any changes to the
23 docket you have assisted in implementing for the
24 Administrative Law Court in order to clear the docket,
25 and could you explain the nature of these changes?

1 JUDGE McLEOD: I've done nothing
2 personally, but I think we keep a pretty clean docket.

3 MS. PARRISH: Judge McLeod, you've
4 mentioned the lawsuit. Could you please explain that a
5 little a little more and the disposition?

6 JUDGE McLEOD: It was a suit involving an
7 inmate. I have no idea what it was about because I
8 never received any suit papers. The first I heard about
9 it was when you folks notified me a week or so ago that
10 my name was -- had showed up as a result of a SLED
11 investigation.

12 MS. PARRISH: I just have a few
13 housekeeping issues. I know we talked about this in our
14 interview, but I just want to go over them again.

15 Have you sought or received the pledge of
16 any legislator prior to this date?

17 JUDGE McLEOD: I have not.

18 MS. PARRISH: Have you sought or have
19 you -- have you been offered a conditional pledge of
20 support of any legislator pending the outcome of your
21 screening?

22 JUDGE McLEOD: I have not.

23 MS. PARRISH: Have you asked any third
24 parties to contact members of the General Assembly on
25 your behalf?

1 JUDGE McLEOD: I have not.

2 MS. PARRISH: Have you contacted any
3 members of the Commission?

4 JUDGE McLEOD: No, ma'am.

5 MS. PARRISH: Do you understand that you
6 are prohibited from seeking a pledge or commitment until
7 48 hours after the formal release of the Commission's
8 report?

9 JUDGE McLEOD: Absolutely. I understand
10 that.

11 MS. PARRISH: Have you reviewed the
12 Commission's guidelines on pledging?

13 JUDGE McLEOD: I have.

14 MS. PARRISH: As a follow-up, are you aware
15 of the penalties for violating the pledging rules; that
16 is, it is a misdemeanor and upon conviction the violator
17 must be fined not more than a thousand dollars or
18 imprisoned not more than 90 days?

19 JUDGE McLEOD: I am aware.

20 MS. PARRISH: I'd like to add the
21 Citizens -- Citizens Committee report summary. I would
22 note that the Piedmont Citizens Committee found that
23 Judge McLeod is well-qualified for four of the
24 evaluative criteria. Those criteria are ethical
25 fitness, reputation, experience, and judicial

1 temperament. The Committee found Judge McLeod qualified
2 for the remaining five evaluative criteria.

3 They also stated in summary that the
4 Committee finds Judge McLeod to be very qualified for
5 reappointment.

6 I'd just note for the record that any
7 concerns raised during the investigation regarding the
8 candidate were incorporated into the questioning of the
9 candidate today.

10 And, Mr. Chairman, I have no further
11 questions.

12 SENATOR McCONNELL: Thank you.

13 Does any member of the Commission have a
14 question?

15 If not, then we will close this part of the
16 hearing at this time. The record is technically closed,
17 but we reserve the right to reopen should something come
18 up that we need any additional information for.

19 Lastly, I need to remind you about the
20 48-hour rule, so much so that if anyone inquires with
21 you about whether they may or may not advocate to you --
22 for you in the event that you are screened out, that you
23 would remind them of the 48-hour rule.

24 We want to thank you for offering and also
25 thank you for your past service to the people of South

1 Carolina.

2 JUDGE McLEOD: Thank you, sir. Thanks to
3 all of you.

4 SENATOR McCONNELL: Have a great day, sir.
5 All right. We'll stand at ease until we
6 get the next candidate in.

7 (Off the record.)

8 SENATOR McCONNELL: All right. We'll go
9 back on the record.

10 At this time we have before us The
11 Honorable James Edward Moore who is retired from the
12 Supreme Court.

13 It's good to have you with us. Good to see
14 you again.

15 JUSTICE MOORE: Thank you, Mr. Chairman.

16 SENATOR McCONNELL: If you would just raise
17 your right hand.

18 (The Honorable James Edward Moore was duly
19 sworn, after which testimony began at 2:09 p.m.)

20 SENATOR McCONNELL: Thank you.

21 Have you had an opportunity to review the
22 Personal Data Questionnaire?

23 JUSTICE MOORE: To be honest, I haven't
24 reviewed it since I prepared it, but I was --

25 SENATOR McCONNELL: Do you know of any

1 additions or deletions that need to be done to it?

2 JUSTICE MOORE: I am not aware of any.

3 SENATOR McCONNELL: All right. Do you any
4 objection to our making that a summary of the part of
5 the record of your sworn testimony as if you had been
6 asked those questions under oath and given those
7 answers?

8 JUSTICE MOORE: No objection.

9 SENATOR McCONNELL: All right. It will be
10 done so at this point in the transcript.

11 (EXH. 33, Personal Data Questionnaire of
12 James Edward Moore, marked for identification.)

13 SENATOR McCONNELL: The Judicial Merit
14 Selection Commission has thoroughly investigated your
15 qualifications. Our inquiry is focused on our nine
16 evaluative criteria. This includes a survey of the
17 bench and bar, a thorough study of your application
18 materials, a verification of your compliance with state
19 ethics laws, a search of newspapers in which your name
20 appears, the study of previous screenings, and a check
21 for economic conflicts of interest.

22 We received no affidavits in opposition to
23 your service, and we have received no witnesses who have
24 asked to be present to testify.

25 So I'd ask if you have any brief opening

1 statement you wish to give this commission. It's purely
2 optional. And with that I'll turn you over to counsel
3 for some quick questions, and then we'll see if the
4 commissioners have any.

5 JUSTICE MOORE: Thank you very much,
6 Mr. Chairman.

7 Since my retirement I have been called to
8 fill in at the Supreme Court on a rather regular basis,
9 and I have enjoyed that because it keeps me active and
10 it gives me something to do, and it's been surprising
11 the number of times I get called because each time
12 there's a recusal, I'm usually available. So that's
13 usually -- been kind to call on me, and I sat in two
14 cases this morning and I sat with them again tomorrow.
15 So I've enjoyed my part-time work, even though sometimes
16 it feels like full-time work.

17 SENATOR McCONNELL: Thank you for your
18 service.

19 JUSTICE MOORE: Thank you, sir. Yes, sir.

20 SENATOR McCONNELL: Counsel.

21 MS. SHULER: Good afternoon, Justice Moore.

22 You have before you your Sworn Statement.

23 You provided detailed answers to over 30 questions
24 regarding judicial conduct, statutory qualifications,
25 office administration, and temperament. Are there any

1 amendments you would like to make now to your Sworn
2 Statement?

3 JUSTICE MOORE: None that I'm aware of.

4 MS. SHULER: Mr. Chairman, I would ask that
5 Justice Moore's Sworn Statement be offered into the
6 hearing record as an exhibit.

7 SENATOR McCONNELL: Is there any objection?
8 Being none, so ordered.

9 (EXH. 34, Sworn Statement of James Edward
10 Moore, marked for identification.)

11 MS. SHULER: Justice Moore, as said, you're
12 being screened for reappointment as a retired justice on
13 the Supreme Court bench. Why do you want to continue
14 serving as a retired Supreme Court justice?

15 JUSTICE MOORE: My health has been
16 generally good, and to be completely honest, I don't
17 think I'm a very good retiree. I never developed the
18 hobbies that a lot of people developed, and I did
19 nothing but practice law and be a judge for 30 something
20 years. And I'd like to stay in touch and I'd like to
21 feel that I have contributed to the process, and it's
22 been good for me and I think I hope for the Court.

23 MS. SHULER: Thank you, sir.

24 Although you address this in your Sworn
25 Affidavit, could you please explain to members of the

1 Commission what do you think is appropriate demeanor for
2 a justice?

3 JUSTICE MOORE: A justice -- the demeanor
4 of a justice would be the same in my opinion as any
5 judge. It's necessary that the judge not only be
6 knowledgeable concerning the case that he or she is
7 hearing, but the judge would have to be -- have the
8 right demeanor and conduct himself or herself in the
9 proper manner at all times. The judge would have to be
10 patient and -- and consider the law and the facts in
11 every decision.

12 MS. SHULER: Thank you, Justice Moore.

13 How much time do you spend per month in
14 your capacity as a retired justice?

15 JUSTICE MOORE: That varies depending on
16 how often the Court may call me to sit. To give you an
17 example, during this month of November, I sat with them
18 on November the 1st and November the 2nd and sat with
19 them today and tomorrow, and then I will sit again on a
20 case on November the 30th. So the month of November
21 it's been real full, just as much as a full-time sitting
22 justice.

23 On other occasions it may be only once a
24 month or it may be a month or two that they don't call
25 me at all, but it's on an irregular basis. And I don't

1 keep track of the hours, but the procedure is always the
2 same. The briefs and the transcripts are furnished to
3 me several weeks before the scheduled hearing in which I
4 review and receive the memos from the law clerks that
5 may be preparing them and then come to Columbia to
6 conduct the hearings. And then the circulation of the
7 opinions occur after that, and that requires some time
8 to read and consider the various decisions or opinions
9 if there's a dissent.

10 MS. SHULER: It sounds like you've been
11 busy.

12 Do you wish to alter this workload if
13 you're reappointed as a retired justice or stay as it
14 is?

15 JUSTICE MOORE: I would not care to alter
16 it. If I was -- if I had a preference, I would wish
17 that they would call me more.

18 MS. SHULER: Thank you.

19 Some housekeeping issues, Justice Moore.

20 Have you sought or received the pledge of
21 any legislator prior to this day?

22 JUSTICE MOORE: I have not.

23 MS. SHULER: Have you sought or have you
24 been offered a conditional pledge of support of any
25 legislator pending the outcome of your screening?

1 JUSTICE MOORE: I have not.

2 MS. SHULER: Have you asked any third
3 parties to contact members of the General Assembly on
4 your behalf?

5 JUSTICE MOORE: I have not.

6 MS. SHULER: Have you contacted any members
7 of the Commission?

8 JUSTICE MOORE: I have not.

9 MS. SHULER: And -- and you're aware of the
10 Commission's pledging rules, that if you are found to
11 violate them, it's a misdemeanor and a fine of a
12 thousand dollars or imprisonment of not more than 90
13 days?

14 JUSTICE MOORE: I am aware.

15 MS. SHULER: Thank you, sir.

16 I would note that the Piedmont Citizens
17 Committee found Justice Moore is qualified in the
18 evaluative criteria of constitutional qualifications,
19 physical health, and mental stability. The Committee
20 found Justice Moore to be well-qualified in the
21 remaining evaluative criteria of ethical fitness,
22 professional and academic ability, character,
23 reputation, experience, and judicial temperament.

24 The Committee further stated in summary,
25 "Our committee finds Justice Moore to be eminently

1 qualified and the Committee holds him in high regard."

2 Mr. Chairman, that will conclude my
3 questioning of this candidate today.

4 SENATOR McCONNELL: All right. Let me see
5 if any members of the Committee have any questions.

6 SENATOR NICHOLSON: Mr. Chairman.

7 SENATOR McCONNELL: Yes, sir.

8 SENATOR NICHOLSON: I don't have a
9 question. I just have a statement.

10 I can tell you that Judge Moore is
11 well-respected as an attorney, as a Circuit Court judge,
12 as a Supreme Court judge. His reputation is eminent.
13 He's well-respected in the community. He's very active
14 in the community. If you come to Greenwood, go by the Y
15 early in the morning about 5:30, you'll probably --
16 might catch him in the swimming pool swimming his laps
17 and everything.

18 You know, two weeks before his retirement
19 he told me -- when we were having a reception for him,
20 he said, "McCain is 72 and running for president and I
21 have to retire." So he is very dedicated to working and
22 he is a great individual. And I just commend him for
23 the great service you've given to our state over the
24 past year, Judge Moore.

25 JUSTICE MOORE: Thank you, Senator.

1 SENATOR McCONNELL: Yes, sir, Ms. McLester.

2 MS. McLESTER: Judge Moore --

3 JUSTICE MOORE: Yes, ma'am.

4 MS. McLESTER: -- since you don't have
5 anything special in retirement, I suggest that you visit
6 an elementary school. They would love to have you
7 volunteer, and I know you could give a lot of service.

8 JUSTICE MOORE: Thank you for the
9 suggestion. I have done that and I spoke with the
10 constitutional law class a few weeks ago at Lander.
11 Although I haven't gone to it in many capacities, that
12 is always a good option, yes, ma'am. Thank you.

13 MS. McLESTER: Thank you.

14 SENATOR McCONNELL: The senator from
15 Lexington. Senator Knotts.

16 SENATOR KNOTTS: Judge Moore, how long were
17 you a judge before becoming -- going to the Supreme
18 Court? When did you start being a judge?

19 JUSTICE MOORE: I was on the Circuit bench
20 for 15 years. I was elected in 1976 and served until I
21 was elected to the Supreme Court in 1991.

22 SENATOR KNOTTS: You served as a Circuit
23 Court judge when I was with the Solicitor's Office,
24 right?

25 JUSTICE MOORE: That is correct, yes, sir.

1 SENATOR KNOTTS: And you served on the
2 Supreme Court?

3 JUSTICE MOORE: For 17 years.

4 SENATOR KNOTTS: 17 years. Thank you.

5 SENATOR McCONNELL: Any others?

6 I just have one which I didn't see in the
7 questionnaire and I thought particularly with Supreme
8 Court we needed.

9 What is your philosophy on judicial
10 activism and what position should judges have in setting
11 or promoting judicial policy?

12 JUSTICE MOORE: Well, a judge on any
13 Supreme Court or any appellate court should not be in
14 any way a judicial activist. Naturally there are some
15 cases in which there may be a public policy decision,
16 not necessarily as part of the issue that's on appeal,
17 but it may be essential for the Court to decide whether
18 it would be a good public policy to go a certain
19 direction or not. But as a general rule, the Court is
20 not involved in that because that is always a matter for
21 the legislature as to what the public policy should be.

22 SENATOR McCONNELL: Any other questions?

23 All right. That concludes this stage of
24 the process. We of course will close the record, but we
25 are -- reserve the right to reopen it if for any reason

1 we should find that we need to get some additional
2 information.

3 Other than that, I don't need to tell you
4 about the 48-hour rule because you won't be out
5 soliciting for commitments.

6 With that, thank you for your past service.
7 Thank you for offering to continue to serve. And have a
8 great day. And we apologize for being a little bit
9 behind, but we had a heavy morning.

10 JUSTICE MOORE: That's fine. Thank you,
11 Mr. Chairman. Thank you, ladies and gentlemen.

12 (Off the record.)

13 SENATOR McCONNELL: All right. We'll go
14 back on the record.

15 We have before us The Honorable Edward B.
16 Cottingham who is a retired Circuit Court judge.

17 If you'd be so kind as to raise your right
18 hand.

19 (The Honorable Edward B. Cottingham was
20 duly sworn, after which testimony began at 2:21 p.m.)

21 SENATOR McCONNELL: Have you had an
22 opportunity to review the Personal Data Questionnaire,
23 that form you filled out?

24 JUDGE COTTINGHAM: I have. Yes.

25 SENATOR McCONNELL: Is it correct? Does it

1 need any additions or deletions thereto?

2 JUDGE COTTINGHAM: No, sir, it is correct.

3 SENATOR McCONNELL: All right. Do you
4 object to our making this summary a part of the record
5 of your sworn testimony as if you had sat there and
6 answered the questions under oath?

7 JUDGE COTTINGHAM: I do not.

8 SENATOR McCONNELL: All right. It will be
9 done at this point in the transcript.

10 (EXH. 35, Personal Data Questionnaire of
11 Edward B. Cottingham, marked for identification.)

12 (EXH. 36, Amendment to the Personal Data
13 Questionnaire of Edward B. Cottingham, marked for
14 identification.)

15 SENATOR McCONNELL: The Judicial Merit
16 Selection Commission has thoroughly investigated your
17 qualifications for the bench. Our inquires focused on
18 our nine evaluative criteria. It has included a survey
19 of the bench and bar, a thorough study of your
20 application materials, a verification of your compliance
21 with state ethics laws, a search of newspaper articles
22 in which your name appears, the study of previous
23 screenings, and a check for economic conflicts of
24 interest.

25 We received no affidavits filed in

1 opposition to your continued service, and we have no
2 witnesses who are present to testify regarding your
3 continued service.

4 Do you have any brief opening statement you
5 wish to make, which is complete -- completely optional,
6 before I turn you over to staff counsel in just a few
7 moments?

8 JUDGE COTTINGHAM: No, sir, except to say
9 that it's my pleasure to be here and to see some old
10 friends that I haven't seen in a good time. Thank you.

11 SENATOR McCONNELL: Thank you.

12 JUDGE COTTINGHAM: And I want to thank you
13 for permitting me to be here.

14 SENATOR McCONNELL: Please answer any
15 questions counsel has for you.

16 MS. SHULER: Good afternoon, Judge
17 Cottingham.

18 JUDGE COTTINGHAM: I appreciate it.

19 MS. SHULER: I understand that you have
20 your law clerk with you. Would you like to introduce
21 him?

22 JUDGE COTTINGHAM: Yes, that's Josh
23 Holbrook, my law clerk. He -- I make it a policy to
24 take my law clerk with me everywhere I go so that he can
25 understand the process of the judicial system, and I ask

1 that he be here today for that purpose too. I hope you
2 don't mind him coming.

3 MS. SHULER: He's welcome to come.

4 Judge Cottingham, you have before you the
5 Sworn Statement you provided with detailed answers to
6 over 30 questions regarding judicial conduct, statutory
7 qualifications, office administration, and temperament.
8 Are there any additional amendments that you would like
9 to make to your Sworn Statement?

10 JUDGE COTTINGHAM: I think not. It was
11 pretty thorough I believe.

12 MS. SHULER: Thank you.

13 Mr. Chairman, I'd like to offer Judge
14 Cottingham's Sworn Statement as an exhibit into the
15 public hearing record at this time.

16 SENATOR McCONNELL: All right. Is there
17 any objection? There being none, so ordered.

18 (EXH. 37, Sworn Statement of Edward B.
19 Cottingham, marked for identification.)

20 MS. SHULER: Judge Cottingham, you are
21 being screened for reappointment as a retired judge on
22 the Circuit Court bench. Why do you want to continue
23 serving as a retired Circuit Court judge?

24 JUDGE COTTINGHAM: I'm often asked that
25 question. Well, first, I enjoy serving as a judge. I

1 feel like I can make some contribution to the system.
2 And the Chief Justice asked me to serve. But I think
3 primarily I just enjoy being a circuit judge, and I feel
4 like I can contribute.

5 MS. SHULER: Thank you, sir.

6 Although you've addressed this in your
7 Sworn Affidavit, Judge Cottingham, could you explain to
8 the Commission members what you believe to be the
9 appropriate demeanor for a judge.

10 JUDGE COTTINGHAM: I've often thought about
11 that. I think a circuit judge first has to have
12 patience. Then I think he's got to be prepared. And,
13 finally, he's got to be fair. Those would be my three
14 criteria for circuit judge.

15 MS. SHULER: Thank you, Judge Cottingham.

16 Judge Cottingham, how much time do you
17 spend per month in your capacity as a retired judge?

18 JUDGE COTTINGHAM: I serve three weeks a
19 month, and then of course in that other week that I'm
20 off, I have orders and judicial matters to attend to.
21 So I'm pretty well-occupied for the full month --

22 MS. SHULER: Okay. Thank you, sir.

23 JUDGE COTTINGHAM: -- though I actually
24 serve on the bench three weeks a month.

25 MS. SHULER: Thank you.

1 Do you wish to alter this workload if
2 you're reappointed as a retired judge?

3 JUDGE COTTINGHAM: No. As long as I feel
4 good and feel competent to do the work, I propose to
5 continue working full time as long as this committee and
6 the Chief Justice will have me.

7 MS. SHULER: Thank you, sir.

8 Judge Cottingham, your SLED report
9 indicated that since your last screening a prisoner
10 Antonio Townsend brought a civil rights action in 2008
11 against Warden Robert Stevenson and you in the U.S.
12 District Court, District of South Carolina. Can you
13 state the disposition of this lawsuit?

14 JUDGE COTTINGHAM: I was not aware of, nor
15 was I served of that lawsuit. Since I was informed of
16 it, I made further inquiry. It was dismissed 30 days
17 later. The substance of his complaint was that the
18 warden had not given him appropriate credit for time
19 served. I don't understand why he sued me too, but it
20 was dismissed 30 days later.

21 MS. SHULER: Thank you, sir.

22 I'd like to cover --

23 JUDGE COTTINGHAM: And I of course was not
24 aware of it at the time I filled out the form.

25 MS. SHULER: Right. In fact, the SLED

1 report indicated it to us, and I shared it with you.

2 JUDGE COTTINGHAM: Yes, ma'am.

3 MS. SHULER: Some housekeeping issues to
4 cover with you.

5 Have you sought or received the pledge of
6 any legislator prior to this date?

7 JUDGE COTTINGHAM: I have not.

8 MS. SHULER: Have you sought or been
9 offered a conditional pledge of support of any
10 legislator prior to this date?

11 JUDGE COTTINGHAM: I have not.

12 MS. SHULER: Have you asked any third
13 parties to contact members of the General Assembly or
14 the members of the Commission?

15 JUDGE COTTINGHAM: I have not.

16 MS. SHULER: And are you aware of the
17 Commission's guidelines on pledging? It's -- the
18 penalty is a thousand dollar fine or 90 days
19 imprisonment?

20 JUDGE COTTINGHAM: I am aware of that.

21 MS. SHULER: Thank you.

22 I would note that the Pee Dee Citizens
23 Committee found Judge Cottingham as qualified in the
24 evaluative criteria of constitutional qualifications,
25 physical health, and mental stability. The Committee

1 found Judge Cottingham is well-qualified in the
2 remaining evaluative criteria of ethical fitness,
3 professional and academic ability, character,
4 reputation, experience, and judicial temperament.

5 The Committee further stated in summary,
6 "Judge Cottingham is a true statesman and a credit to
7 the bench."

8 And, Mr. Chairman, that concludes my
9 questioning of this candidate today.

10 SENATOR McCONNELL: Thank you.

11 Any member of the Commission have any
12 questions?

13 Most of us I think are familiar with you.

14 JUDGE COTTINGHAM: Yes, sir.

15 SENATOR McCONNELL: We want to thank you
16 for your service.

17 This concludes this stage of the screening
18 process, and we of course will close the record. We
19 reserve the right to reopen it if some question should
20 come up.

21 Other than that, I would -- I tell all the
22 candidates about the 48-hour rule, but you're not
23 soliciting commitments.

24 So with that, we thank you for your service
25 and have a great day.

1 JUDGE COTTINGHAM: And I thank you for the
2 opportunity of appearing here today, and I want to thank
3 Ms. Shuler for her patience in this process with me.
4 Thank you so much for this opportunity.

5 SENATOR McCONNELL: Thank you.

6 (Off the record.)

7 SENATOR McCONNELL: We'll go back on the
8 record at this time.

9 And we have before us The Honorable Charles
10 Victor Pyle who is a retired Circuit Court judge.

11 We apologize for running behind. We had a
12 heavy morning.

13 JUDGE PYLE: I'm retired.

14 SENATOR McCONNELL: If you'd be so kind as
15 to raise your right hand.

16 (The Honorable Charles Victor Pyle, Jr.,
17 was duly sworn, after which testimony began at
18 2:29 p.m.)

19 SENATOR McCONNELL: Thank you.

20 Have you had an opportunity to review the
21 Personal Data Questionnaire?

22 JUDGE PYLE: No, I haven't. This --

23 SENATOR McCONNELL: It's the one that you
24 filled out.

25 JUDGE PYLE: Yeah. Right.

1 SENATOR McCONNELL: Any additions or
2 deletions that you know of that need to be made?

3 JUDGE PYLE: No. No.

4 SENATOR McCONNELL: Would you object to our
5 making the summary then a part of the record of your
6 sworn testimony as if we'd asked you all those questions
7 and you'd responded verbatim to them?

8 JUDGE PYLE: No. Not at all.

9 SENATOR McCONNELL: All right. It will be
10 done at this point in the transcript.

11 JUDGE PYLE: All right.

12 (EXH. 38, Personal Data Questionnaire of
13 Charles Victor Pyle, Jr., marked for identification.)

14 SENATOR McCONNELL: The Judicial Merit
15 Selection Commission has thoroughly investigated your
16 qualifications for the bench. Our inquiries focused on
17 our nine evaluative criteria including a survey of the
18 bench and the bar, a thorough study of your application
19 materials, a verification of your compliance with state
20 ethics laws, a search of newspaper articles in which
21 your name appears, a study of previous screenings, and a
22 check for economic conflicts of interest.

23 We've received no affidavits filed in
24 opposition to your continued service, and we have no
25 witnesses who are present to testify on that matter.

1 So I'd ask you if you have any brief
2 opening statement you might wish to make, which is
3 purely optional, before I turn you over to counsel for a
4 few brief questions and then we'll see if any
5 commissioners have anything.

6 JUDGE PYLE: Nothing.

7 SENATOR McCONNELL: All right. Please
8 answer any of counsel's question.

9 MR. DENNIS: Judge Pyle, good afternoon.

10 You also have before you -- excuse me -- a
11 Sworn Statement that you filled out and submitted that
12 contains answers to over 30 questions on a variety of
13 subjects. Do you have any amendments or additions that
14 you need to make to that statement?

15 JUDGE PYLE: No.

16 MR. DENNIS: Mr. Chairman, I'd ask that
17 that be made a part of the record at this time.

18 SENATOR McCONNELL: Without objection, so
19 ordered.

20 (EXH. 39, Sworn Statement of Charles Victor
21 Pyle, Jr., marked for identification.)

22 MR. DENNIS: Judge Pyle, you are being
23 screened for reappointment as a retired judge to the
24 Circuit Court bench. Why do you want to continue to
25 serve as a Circuit Court judge?

1 JUDGE PYLE: Well, I enjoy what I do. I'd
2 like to stay active. I'm holding court one week a
3 month, and I try to reside only over civil and criminal
4 jury trials. And I work only in Greenville, so I don't
5 have to travel anymore, home every night. So I -- I do
6 it because I want to keep -- keep working.

7 MR. DENNIS: Thank you, Judge.

8 And though you address this in the Sworn
9 Statement that was entered into the record earlier,
10 would you please explain to the Commission members what
11 you feel the appropriate demeanor for a judge,
12 particularly a trial court judge is.

13 JUDGE PYLE: Well, I think the demeanor
14 for -- a trial court judge has got to have patience. I
15 think that's the primary attribute for a trial judge.
16 It's difficult sometimes when you have some lawyers who
17 don't know how to try cases. You get angry, but you
18 have to hold that anger back, so I think -- I think we
19 can -- what I try to do is I have a good even sense of
20 humor, but at the same time the ability to hold back and
21 not -- not let go.

22 MR. DENNIS: Judge, you indicated that
23 you're currently holding court one week out of the
24 month.

25 JUDGE PYLE: Yes.

1 MR. DENNIS: Do you wish to alter this
2 schedule in any way should be you be reappointed?

3 JUDGE PYLE: The only way I might alter, I
4 started this morning a murder case that I tried and
5 mistried it about a month ago and -- a three-day trial.
6 After I had selected the jury, it was not long before
7 one of the jurors wanted to talk to me. I brought her
8 in the courtroom, and she said she had a problem. She
9 felt that she knew one of the people in the courtroom,
10 and I asked her who that was. And she pointed him out.

11 I said, you know, "Why didn't you tell me
12 that when I sounded the case for trial and the
13 witnesses?" And she said, "Well, she's a neighbor, and
14 I don't really know her name." And I said, "Well, would
15 that in any way give you any problem continuing as a
16 juror on this case?" She said, well, she really didn't
17 know. What concerned her was she didn't want the
18 witnesses to know her name. And I had to excuse her.

19 Fortunately I had selected two alternates.
20 The foreperson that I appointed came in and she asked to
21 be excused, that she knew one of the witnesses in the
22 case. I asked why, and she said, well, her cousin
23 dates -- is the boyfriend for one of the witnesses for
24 the state. So I had to excuse her. So I was down to 12
25 and I hope I can get through three days. So I'm a

1 little frustrated.

2 MR. DENNIS: Thank you, Judge.

3 I have just a very few housekeeping matters
4 to go over with you.

5 Have you asked any third parties to contact
6 members of the General Assembly on your behalf
7 concerning your screening?

8 JUDGE PYLE: Absolutely not.

9 MR. DENNIS: Have you contacted any members
10 of this commission?

11 JUDGE PYLE: Absolutely not.

12 MR. DENNIS: Thank you, Judge.

13 I would note for the record that the
14 Upstate Citizens Committee found Judge Powell -- Pyle
15 qualified as to constitutional qualifications physical
16 health and mental stability and well-qualified as to all
17 other evaluative criteria.

18 I would also note for the record that any
19 concerns raised during the investigation regarding this
20 candidate were incorporated into the questioning today.

21 And, Mr. Chairman, that's all I have.

22 SENATOR McCONNELL: Thank you.

23 Does any member of the Commission have any
24 questions?

25 Well, then with that, with no questions,

1 that concludes this stage of the screening process. We
2 will be closing the file. We -- or the record I should
3 say, but we do keep it open if any new matter comes up.

4 With that, I don't need to tell you about
5 the 48-hour rule because you have no commitments to get.

6 So we thank you for your past service.

7 Thank you for offering to continue to serve.

8 JUDGE PYLE: Thank you.

9 SENATOR McCONNELL: Have a great day.

10 JUDGE PYLE: Thank you.

11 SENATOR McCONNELL: We'll stand at ease.

12 (Off the record.)

13 SENATOR McCONNELL: We'll go back on the
14 record.

15 We have before us The Honorable Wylie H.
16 Caldwell, Family Court judge, retired.

17 If you'd be kind enough to raise your right
18 hand.

19 JUDGE CALDWELL: Yes, sir.

20 (The Honorable Wylie H. Caldwell, Jr., was
21 duly sworn, after which testimony began at 2:36 p.m.)

22 SENATOR McCONNELL: Thank you, sir.

23 Have you had an opportunity to review the
24 Personal Data Questionnaire? That's that questionnaire
25 you filled out.

1 JUDGE CALDWELL: Yes, sir.

2 SENATOR McCONNELL: Is there any
3 corrections, additions or deletions that need to be made
4 to it that you're aware of?

5 JUDGE CALDWELL: Not that I know of,
6 Senator.

7 SENATOR McCONNELL: All right. Would you
8 have any objection to our making the summary a part of
9 the record of your sworn testimony as if we had
10 propounded the questions to you and you had given those
11 responses here today?

12 JUDGE CALDWELL: I have no objection.

13 SENATOR McCONNELL: All right. It will be
14 done so at this point in the transcript.

15 (EXH. 40, Personal Data Questionnaire of
16 Wylie H. Caldwell, Jr., marked for identification.)

17 SENATOR McCONNELL: The Judicial Merit
18 Selection Commission has thoroughly investigated your
19 qualifications for the bench. Our inquiries focused on
20 the nine evaluative criteria. It has included a survey
21 of the bench and the bar, a thorough study of your
22 application materials, verification with your compliance
23 of state ethics laws, a search of newspaper articles in
24 which your name appears, a study of previous screenings,
25 and a check for economic conflicts of interests.

1 We received no affidavits filed in
2 opposition to your continued services. We have no
3 witnesses who are present to testify.

4 So I'd ask you if you have any brief
5 opening statement you may wish to make, which is purely
6 optional, before I turn you over to counsel for some
7 questions and then we'll see if the Commission has got
8 any.

9 JUDGE CALDWELL: I have no statement to
10 make, Senator.

11 SENATOR McCONNELL: All right, thank you,
12 sir.

13 Please answer counsel's questions.

14 MR. DENNIS: Good afternoon, Judge.

15 Briefly you also have before you a Sworn
16 Statement that contains the answers to about 30
17 questions on a variety of subjects that you submitted
18 along with your Personal Data Questionnaire.

19 JUDGE CALDWELL: Yes, sir.

20 MR. DENNIS: Do you have any additions,
21 deletions, amendments to make to that statement at this
22 time?

23 JUDGE CALDWELL: I don't think so.

24 MR. DENNIS: Thank you, sir.

25 Mr. Chairman, I would ask that Judge

1 Caldwell's Sworn Statement be entered into the record at
2 this point in time.

3 SENATOR McCONNELL: Without objection, so
4 ordered.

5 (EXH. 41, Sworn Statement of Wylie H.
6 Caldwell, Jr., marked for identification.)

7 MR. DENNIS: Judge Caldwell, you are being
8 screened for reappointment as a retired judge in the
9 Family Court bench. Why do you want to continue to
10 serve in that capacity?

11 JUDGE CALDWELL: Well, I -- I enjoy it. I
12 look forward to working. I only work one week a month,
13 and I look forward to it. And then about Friday morning
14 I'm happy not to have to do the following week, so I
15 think that probably works out about right. But I -- as
16 I say, I look forward to it and I enjoy it. I only work
17 in Conway in Horry County, and I've gotten to know the
18 lawyers there, and I enjoy working with them, so...

19 MR. DENNIS: Judge, you address this in
20 your Sworn Statement, but what do you feel is the
21 appropriate demeanor for a judge, particularly a Family
22 Court judge such as yourself?

23 JUDGE CALDWELL: Well, I think for a Family
24 Court judge patience is one of the biggest attributes
25 that a judge needs to work very hard at. And I say that

1 because so many of our cases involve factual issues from
2 the outside looking in. It can at times appear to be
3 not so important. For -- to the people whose lives are
4 involve those factual circumstances it's the most
5 important thing happening at the time. And so when you
6 listen to 15 or 20 in a day, you -- you just have to --
7 you have to go in patiently and you have to remind
8 yourself -- or periodically during the day you need to
9 continue that patient attitude. So from demeanor --
10 from a demeanor standpoint, patience is number one.

11 Number two, I think you need to display an
12 interest in what's being presented to you. I think -- I
13 think it's disheartening to litigants especially and to
14 lawyers as well if they suspect the judge isn't paying
15 attention. We -- we aren't in Family Court like the
16 Circuit Court where the people know that they have the
17 jury listening to them too. And the judge can at times
18 be doing paperwork and at the same time listening, but
19 they know the jury is still listening.

20 I think the judge needs to -- in Family
21 Court needs to appear to be interested in what's going
22 on, and so I would say to be patient and be interested
23 in the issues that the people have for you to decide and
24 I think to be of a mind-set that assumes you can get
25 those issues resolved for those people, the better off

1 they are and the better off the judge is as well in
2 terms of being able to do his job appropriately rather
3 than having two or three back up on him in a day's time
4 that he hadn't decided. He or she can tend to them as
5 soon as you can and get it done and people can get on
6 with their life.

7 And so interest, patience and a mind-set of
8 getting those issues resolved.

9 MR. DENNIS: Judge, you mentioned that you
10 work one month -- or one week out of the month.

11 JUDGE CALDWELL: Yes, sir.

12 MR. DENNIS: And I think you may have also
13 answered the second part of this question in those
14 opening comments, but do you have any desire to alter
15 your schedule either up or down?

16 JUDGE CALDWELL: Not at this time I do not.

17 MR. DENNIS: All right. Thank you, Judge.
18 Just a few more real quick questions.

19 JUDGE CALDWELL: Yes, sir.

20 MR. DENNIS: Have you asked any third
21 parties to contact members of the General Assembly on
22 your behalf concerning your screening?

23 JUDGE CALDWELL: No, sir.

24 MR. DENNIS: Have you contacted any members
25 of this commission?

1 JUDGE CALDWELL: No, sir.

2 MR. DENNIS: Thank you, Judge.

3 I would note that the Pee Dee Citizens
4 Committee found Judge Pyle qualified --

5 JUDGE CALDWELL: Caldwell.

6 MR. DENNIS: I apologize. Bad typing.

7 The Citizens Committee found Judge Caldwell
8 qualified on -- in -- and actually I'm going to read
9 straight from your Citizens Committee report to make
10 sure I don't mess it up a second time, sir.

11 Found him qualified as to constitutional
12 qualifications, physical health, mental stability, and
13 well-qualified as to the remaining evaluative criteria.
14 And in summary, the Citizens Committee found that Judge
15 Caldwell provides a strong knowledge of the law with a
16 kind, caring demeanor that is well suited for the family
17 courtroom.

18 And, Mr. Chairman, I have nothing further.

19 SENATOR McCONNELL: Thank you.

20 Any member of the Commission have any
21 questions?

22 Yes, sir, Senator Clemmons.

23 SENATOR CLEMMONS: Thank you, Senator.

24 Judge, I just wanted to -- I really don't
25 have a question, just a comment. You have done an

1 admirable job in Horry County in helping us deal with
2 our backlog of cases in Family Court. Your -- your work
3 ethic precedes you. The lawyers respect you in Horry
4 County, and I appreciate the work that you're doing.

5 JUDGE CALDWELL: Thank you.

6 REPRESENTATIVE CLEMMONS: Thank you very
7 much.

8 SENATOR McCONNELL: Judge, I just want to
9 say that the Citizens Committee, that -- that is really
10 a strong statement and speaks very highly of you.

11 JUDGE CALDWELL: Thank you, Senator.

12 SENATOR McCONNELL: Very nice compliment.

13 With that, that concludes this stage of the
14 screening process. We will be closing the record. We
15 reserve the right to open it should something come up.
16 We know of nothing really on the horizon.

17 I would tell you about the 48-hour rule,
18 but you're not out getting commitments.

19 So we thank you for your past service and
20 we thank you for your willingness to continue to serve.
21 Thank you.

22 JUDGE CALDWELL: Thank you very much.

23 SENATOR McCONNELL: Have a great day.

24 JUDGE CALDWELL: Thank you, sir.

25 SENATOR McCONNELL: All right. We'll stand

1 at ease while we change here.

2 (Off the record.)

3 REPRESENTATIVE DELLENEY: Okay. We'll call
4 the Commission back to order.

5 We have before us this morning Mr. Joey
6 Randell Floyd.

7 Good afternoon, Mr. Floyd.

8 MR. FLOYD: Good afternoon.

9 REPRESENTATIVE DELLENEY: Appreciate you
10 being here today.

11 Mr. Floyd seeks the position on the Circuit
12 Court, Fifth Circuit, seat number three.

13 If you would raise your right hand to be
14 sworn.

15 (Joey Randell Floyd was duly sworn, after
16 which testimony began at 2:47 p.m.)

17 REPRESENTATIVE DELLENEY: Thank you, sir.

18 Have you had an opportunity to review your
19 Personal Data Questionnaire?

20 MR. FLOYD: I have just looked over it,
21 yes, sir.

22 REPRESENTATIVE DELLENEY: Is it correct?

23 MR. FLOYD: Yes, sir, it seems to be
24 correct.

25 REPRESENTATIVE DELLENEY: Does anything at

1 all need to be changed?

2 MR. FLOYD: Not that I'm aware of.

3 REPRESENTATIVE DELLENEY: Do you object to
4 our making that summary a part of the record of your
5 sworn testimony?

6 MR. FLOYD: I have no objection.

7 REPRESENTATIVE DELLENEY: Without
8 objection, it will be made part of the sworn testimony
9 at this point in the transcript.

10 (EXH. 42, Personal Data Questionnaire of
11 Mr. Joey R. Floyd, marked for identification.)

12 REPRESENTATIVE DELLENEY: The Judicial
13 Merit Selection Commission has thoroughly investigated
14 your qualifications for service on the bench. Our
15 inquiry has primarily focused on our nine evaluative
16 criteria which have included a survey of the bench and
17 bar, a thorough study of your application materials, a
18 verification of your compliance with state ethics laws,
19 a search of any newspaper articles in which your name
20 may have appeared, a study of any previous screenings,
21 and a check for economic conflicts of interest.

22 We do not have any affidavits filed in
23 opposition to your election, nor are there any witnesses
24 here to testify.

25 Do you have a brief optional opening

1 statement you'd like to make?

2 MR. FLOYD: I don't care to make any
3 opening statements, Representative.

4 REPRESENTATIVE DELLENEY: Thank you, sir.
5 If you would, answer any questions our
6 counsel Ms. Shuler might have for you.

7 And I would put on the record at this point
8 that Senator McConnell and Senator Knotts have recused
9 themselves for not only this -- Mr. Floyd's screening,
10 but also all of the candidates -- I believe there are
11 nine -- eight candidates following Mr. Floyd because of
12 Ms. Faltas' involvement in one of the candidate
13 screening, and she requested that they recuse themselves
14 and they did so. And because of that, they have been
15 asked to recuse themselves in all of the candidates'
16 screening for the Fifth -- Fifth Judicial Circuit.

17 MS. SHULER: Good afternoon, Mr. Floyd.

18 MR. FLOYD: Good afternoon.

19 MS. SHULER: You have before you the Sworn
20 Statement. You've provided detailed answers to over 30
21 questions regarding judicial conduct, statutory
22 qualifications, office administration, and temperament.
23 Are there any amendments that you would like to make at
24 this time to your Sworn Statement?

25 MR. FLOYD: Not that I'm aware of,

1 Ms. Shuler.

2 MS. SHULER: Thank you.

3 Mr. Chairman, I would ask that Mr. Floyd's
4 Sworn Statement be entered as an exhibit into the
5 hearing record at this time.

6 REPRESENTATIVE DELLENEY: Without
7 objection, it will be done so at this point in the
8 transcript.

9 (EXH. 43, Sworn Statement of Joey Randell
10 Floyd, marked for identification.)

11 MS. SHULER: One final procedural matter.
12 I note for the record that based on the testimony that
13 is contained in the candidate's PDQ included in the
14 record, Mr. Floyd meets the statutory requirements for
15 this position regarding age, residence, and years of
16 practice.

17 Mr. Floyd, after practicing law for ten
18 years, why do you now want to serve as a Circuit Court
19 judge?

20 MR. FLOYD: In my own perspective service
21 as a -- any judge for that matter -- a judge -- Circuit
22 Court judge or any judge is the pinnacle of one's legal
23 career to some people. In other people's perspective,
24 it may be they want to be a managing partner, a managing
25 member of some firm. It's just my own personal

1 perspective, my own opinion. I believe that -- that is
2 the pinnacle of one's legal career because it not only
3 requires hard work, it also requires the respect of
4 fellow members of the bar.

5 Before I entered this process, I was not
6 certain that the bar had an opportunity for its voice to
7 be heard, but I have slowly come to realize that the bar
8 does have a voice in this process. And for those
9 reasons that's why I'm seeking to be a Circuit Court
10 judge.

11 MS. SHULER: Mr. Floyd, can you explain to
12 the Commission how you feel your legal and professional
13 experience thus far will assist you to be an effective
14 judge.

15 MR. FLOYD: I have practiced -- my entire
16 tenure practiced law at a smaller firm, and when you
17 practice law at a smaller firm, for lack of a better
18 term, I call it the meat grinder. You find yourself
19 being ground up pretty quickly and understanding how to
20 deal with clients and how to deal with members of the
21 public and the pro se people.

22 For the past ten years I haven't been
23 exclusively pigeonholed in research or anything to that
24 effect. I've had the opportunity to meet a lot of
25 different people and deal with a lot of different

1 lawyers, across the spectrum from small firms to larger,
2 to mega firms and that sort of stuff. I think it's
3 helped me to grow and understand the practice of law
4 better than most attorneys with my years of practice.

5 MS. SHULER: Thank you.

6 Mr. Floyd, since your practice of the law
7 is about 99 percent civil matters, are there any areas,
8 including subjective areas of the law, that you would
9 need to additionally prepare for?

10 MR. FLOYD: Absolutely.

11 MS. SHULER: And how would you handle that
12 prepping?

13 MR. FLOYD: I have already signed up for
14 the bar conventions, criminal law CLEs coming up. I've
15 been trying to keep my eyes open for these criminal law
16 CLEs. I do spend more time in reviewing the advanced
17 sheet for the criminal law cases. When you practice a
18 civil law practice -- mostly a civil law practice, you
19 spend most of your time focusing on those advanced
20 sheets of laws that could affect or could have some
21 bearing on the case that you're working on.

22 As I have over the years developed an
23 interest in being a Circuit Court judge, I've started
24 trying to pay more attention, and I've already learned
25 more about criminal law than I ever thought I would know

1 over the course of the past two, three years.

2 MS. SHULER: Mr. Floyd, could you explain
3 to the Commission what you think is the appropriate
4 demeanor for a Circuit Court judge.

5 MR. FLOYD: Certainly. The appropriate
6 demeanor -- over the years I've also had an opportunity
7 to appear in front of a number of judges, and in life in
8 general, I've found that there's no reason why you can't
9 be nice to everyone in front of you regardless of their
10 demeanor and their attitudes towards you.

11 I've had the opportunity over the years to
12 have been confronted with some persons who have less
13 than nice personalities and I've had to deal with those,
14 and actually one of the guys who has trained me --
15 Bruner Powell has taught me that his mother told him
16 this and I -- I still hold true to it. Make your words
17 sweeter because one day you may have to eat them, and
18 there's a lot of truth in that because you never know
19 what or who you might be dealing with. Not only that,
20 but there's just no reason why you shouldn't be nice to
21 everyone.

22 But generally speaking, to be generally
23 nice to everyone who appears in front of you whether it
24 be a lawyer or pro se litigant, that's my demeanor in
25 general.

1 MS. SHULER: All right. Mr. Floyd, is
2 there any Circuit Court judge currently serving on the
3 bench that you would like to model yourself out or
4 particularly exemplifies the characteristics that a
5 Circuit Court judge should have?

6 MR. FLOYD: The judge that's sitting in
7 this seat now, I believe, Judge Cooper, he has a
8 reputation of being the reasonable man and amongst the
9 bar, and I think that rings true. He's -- every time
10 I've appeared in front of him he's always been very
11 reasonable. He's always been accommodating to lawyers.
12 I think those are two genuine characteristics that
13 lawyers who are practicing law look for in a judge,
14 someone who is accommodating, who understanding the
15 difficulties that lawyers face in their day-to-day
16 practice, and I think he exemplifies a good circuit
17 judge.

18 MS. SHULER: Mr. Floyd, if you're selected
19 to the Circuit Court bench and serve and then you leave
20 the bench upon retirement, what would you like your
21 legacy to be as a judge on the Circuit Court?

22 MR. FLOYD: Fair and reasonable. Beyond
23 that, those are -- those two words I think exemplify
24 what I'd like to be remembered as being, fair and
25 reasonable.

1 MS. SHULER: Thank you.

2 What suggestions would you offer for
3 improving the backlog of cases on the docket both for
4 General Sessions and Common Pleas?

5 MR. FLOYD: I think one of the only
6 solutions involves a funding issue, and I'm not sure I
7 know of any other solutions how to -- not getting the
8 full picture, it's hard for me really to pass judgment.
9 I do know that there -- there are some funding issues,
10 but beyond that, you need more judges and that sort of
11 stuff. But I really don't have a good handle on the
12 situation, but that's all that I know.

13 MS. SHULER: Thank you, sir.

14 Mr. Floyd, you were sued in 2005 in U.S.
15 District Court, District of South Carolina by Bishop
16 Reuben Duane Taylor. Please explain the circumstances
17 surrounding that lawsuit and the disposition of the
18 suit.

19 MR. FLOYD: Sure. I -- I represented a
20 client in a claim and delivery action being that my
21 client owned tobacco, and it was part of an asset
22 purchase agreement, and my client asked me to go
23 repossess -- procure the bond, go repossess the machine
24 using the aid of the sheriff's department -- of
25 course with the sheriff's department.

1 We filed the action, obtained possession,
2 and Mr. Taylor was a disgruntled litigant. He didn't
3 like the outcome. He did challenge the claim of
4 delivery. It was decided by the Court that we should
5 have possession, and ultimately he sued me in District
6 Court. He -- he -- I found myself in fine company. If
7 you look at the caption, a number of judges were sued in
8 Circuit Court, along with clerk of court.

9 One of the allegations, as I recall, was
10 that he paid his filing fee and the clerk of court did
11 not give him a jury trial, and he felt there was a
12 breach of contract by the clerk of court. So I found
13 myself in fine company with that. It was ultimately
14 dismissed by way of a summary judgment motion, as I
15 recall.

16 MS. SHULER: Thank you, Mr. Floyd.

17 I would like to cover some housekeeping
18 issues with you.

19 Have you sought or received the pledge of
20 any legislator prior to this date?

21 MR. FLOYD: I have not.

22 MS. SHULER: Have you sought or have you
23 been offered a conditional pledge of support of any
24 legislator pending the outcome of your screening?

25 MR. FLOYD: I have not.

1 MS. SHULER: Have you asked any third
2 parties to contact members of the General Assembly on
3 your behalf?

4 MR. FLOYD: I have not.

5 MS. SHULER: Have you contacted any members
6 of the Commission?

7 MR. FLOYD: I have not.

8 MS. SHULER: Do you understand that you're
9 prohibited from seeking a pledge or commitment until 48
10 hours after the formal release of the Commission's
11 report?

12 MR. FLOYD: I do.

13 MS. SHULER: Have you reviewed the
14 Commission's guidelines on pledging?

15 MR. FLOYD: I have.

16 MS. SHULER: Are you aware of the penalties
17 for violating the pledging rules; that is, it's
18 considered a misdemeanor and upon conviction you could
19 be fined not more than a thousand dollars or imprisoned
20 not more than 90 days?

21 MR. FLOYD: I am aware of that.

22 MS. SHULER: I would note that the Midlands
23 Citizens Committee found Mr. Floyd well-qualified in
24 seven of the nine evaluative criteria: constitutional
25 qualifications, physical health, mental stability,

1 ethical fitness, character, reputation, and judicial
2 temperament. The Committee found him qualified in the
3 remaining two criteria of professional and academic
4 ability and experience.

5 The Committee stated in summary, "The
6 Committee was very impressed with Mr. Floyd and we
7 enjoyed his interview. We found him to be sincere,
8 energetic, and committed to public service. We feel
9 certain that is he very qualified to serve our state on
10 the Circuit Court, and we know that he would serve in an
11 outstanding manner."

12 I would just note for the record that any
13 concerns raised during the investigation regarding this
14 candidate were incorporated into the questioning of the
15 candidate today.

16 Mr. Chairman, I have no further questions.

17 REPRESENTATIVE DELLENEY: Does any member
18 of the Commission have any questions for Mr. Floyd?

19 Yes, sir, Mr. Harrell.

20 MR. HARRELL: Mr. Floyd, can you tell me
21 some of the criminal matters that you've worked on.

22 MR. FLOYD: The only criminal matters that
23 I've worked on have been for family which I have found
24 never to represent family again. But beyond that, the
25 only case -- the only two cases that I recall --

1 actually one case, my mother -- excuse me, my brother's
2 wife was accused of violating a dog statute here in
3 South -- actually I did two cases -- a dog statute here
4 in Richland County, and my partner -- which that was the
5 other, my partner had a dog statute violation in the
6 city of Columbia. So those are the two criminal
7 matters.

8 MR. HARRELL: Any PCRs?

9 MR. FLOYD: No, sir. No, sir.

10 MR. HARRELL: I don't have any more
11 questions.

12 REPRESENTATIVE DELLENEY: Anyone else have
13 any questions of Mr. Floyd? Anyone on the Commission?

14 All right. Thank you, Mr. Floyd. We
15 appreciate you appearing before us today.

16 MR. FLOYD: Thank y'all.

17 REPRESENTATIVE DELLENEY: We would like to
18 thank you for -- for offering yourself as a candidate
19 for the Circuit Court.

20 This concludes this portion of the
21 screening process. We will close the record today.
22 However, that doesn't prohibit us from reopening the
23 record up until we issue a report.

24 And I remind you about the 48-hour rule
25 when we issue the report and then 48 hours later it

1 becomes a report. Once it becomes a report, the
2 screening proces is over. It's closed out and can't be
3 reopened. But up until that time it can be reopened.
4 We can call you back down here should something arise
5 and ask you questions about it.

6 In any event, I would remind you about the
7 48-hour rule, and thank you again for being here, and
8 tell Warren I said hello.

9 MR. FLOYD: I'll do that.

10 Thank you for your time and your service.

11 (Off the record.)

12 REPRESENTATIVE DELLENEY: Good afternoon,
13 Ms. Glover.

14 MS. GLOVER: Good afternoon. How are you?

15 REPRESENTATIVE DELLENEY: We have today
16 with us Ms. Lisa C. Glover who seeks the position for
17 the Circuit Court, Fifth Judicial Circuit, seat number
18 three.

19 If you'd raise your right hand to be sworn.

20 (Lisa C. Glover was duly sworn, after which
21 testimony began at 3:02 p.m.)

22 REPRESENTATIVE DELLENEY: Thank you, ma'am.

23 Have you had an opportunity to review your
24 Personal Data Questionnaire?

25 MS. GLOVER: Yes, I have.

1 REPRESENTATIVE DELLENEY: And is it
2 correct, need any corrections made?

3 MS. GLOVER: No, it doesn't need any.

4 REPRESENTATIVE DELLENEY: Do you object to
5 making that part of the record to your sworn testimony?

6 MS. GLOVER: No, I do not.

7 REPRESENTATIVE DELLENEY: It will be done
8 at this point in the transcript.

9 (EXH. 44, Personal Data Questionnaire of
10 Mrs. Lisa C. Glover, marked for identification.)

11 REPRESENTATIVE DELLENEY: The Judicial
12 Merit Selection Commission has thoroughly investigated
13 your qualifications for service on the bench. Our
14 inquiry has primarily focused on nine evaluative
15 criteria which have included a survey of the bench and
16 bar, a thorough study of your application materials,
17 verification of your compliance with state ethics law,
18 the search of any newspaper articles in which your name
19 may have appeared, and a study of any previous
20 screenings, and a check for economic conflicts of
21 interest.

22 We do not have any affidavits filed in
23 opposition to your candidacy, nor do we have any
24 witnesses here to testify.

25 Do you have a brief opening statement you'd

1 like to make?

2 MS. GLOVER: Yes. I'd like to thank you
3 all for having me here this afternoon, and, once again,
4 I enjoy coming before you in my efforts to seek a
5 Circuit Court judge position. Thank you.

6 REPRESENTATIVE DELLENEY: Thank you, ma'am.
7 If you would answer any questions our able
8 counsel might have for you.

9 MR. DENNIS: Ms. Glover, you should also
10 have before you your Sworn Statement that contains the
11 answers to approximately 30 questions that deal with a
12 variety of subjects. Do you have any amendments that
13 you'd like to make to that statement at this time?

14 MS. GLOVER: No, I do not.

15 MR. DENNIS: Mr. Chairman, I'd ask that
16 Ms. Glover's sworn statement be made a part of the
17 record at this point.

18 REPRESENTATIVE DELLENEY: It would be done
19 so at this point in the transcript.

20 (EXH. 45, Sworn Statement of Lisa C.
21 Glover, marked for identification.)

22 (EXH. 46, Amendment to the Sworn Statement
23 of Lisa C. Glover, marked for identification.)

24 MR. DENNIS: One final procedural matter.
25 I do note for the record that based on the testimony

1 contained in the candidate's PDQ which has been included
2 in the record with the candidate's consent, Ms. Glover
3 meets the statutory requirements for this position
4 regarding age, residence, and years of practice.

5 Ms. Glover, why do you want to serve as a
6 Circuit Court judge?

7 MS. GLOVER: I'd like to serve as a Circuit
8 Court judge because I believe I can have an impact in
9 the legal community.

10 As of probably a week or so ago, I've been
11 practicing law now for 20 years. I've enjoyed my
12 service as a lawyer. It was a goal of mine to become a
13 lawyer as a child. And I believe that I can serve the
14 community well.

15 I have eight and a half years experience as
16 an assistant solicitor. From that position I gained a
17 vast amount of trial experience, and I was able to watch
18 other Circuit Court judges in the way they ran their
19 courtrooms, other court personnel, such as clerks of
20 court, bailiffs and such in the courtroom.

21 Additionally I served six years on the
22 Workers' Comp Commission. I believe the skills I
23 further gained in being a commissioner could be
24 transferred to the Circuit Court bench in that I would
25 be making some of the same types of rulings. I would be

1 listening to testimony, possibly making findings of
2 facts; if it were not the situation where a jury was
3 involved, making evidentiary rulings. So I believe that
4 I would fulfill the position.

5 MR. DENNIS: Ms. Glover, are there any
6 areas, including subjective areas of the law, that you
7 feel you would need additional preparation for before
8 taking the bench, and how would you go about gaining
9 that additional preparation?

10 MS. GLOVER: I believe that I would need
11 some additional training in the areas of civil law. I
12 have not had any extensive experience in the Court of
13 Common Pleas. My experience in the Court of Common
14 Pleas has been limited to the appellate work. Right now
15 in my capacity as an attorney for the second injury fund
16 I handle workers' compensation claims. Some of those
17 claims get appealed to -- out of the Circuit Court of
18 Appeals or the Supreme Court, and I have appeared in
19 those three courts in an appellate matter.

20 That is the extent of my civil experience.
21 In an effort to gain further experience, what I would do
22 is undertake to study the law. By focusing on attending
23 CLEs that are geared toward similar matters and just
24 buying publications from the bar which I've done thus
25 far and just learning the law as I did when I became a

1 workers' compensation commissioner.

2 MR. DENNIS: Ms. Glover, you address this
3 in your Sworn Affidavit, but will you please explain to
4 members of the Commission what you feel the appropriate
5 demeanor for a judge is, particularly a trial court
6 judge.

7 MS. GLOVER: I believe that the appropriate
8 demeanor is one of respect to all the litigants
9 involved. I believe that a Circuit Court judge should
10 exercise restraint in dealing with all of the parties
11 involved. Sometimes people just want to have their say.
12 I think that that should be done but in a manner to, you
13 know -- a manner in which that the Court's time is not
14 bogged down. I think that a Circuit Court judge has to
15 keep things moving in order to -- for the court to run
16 smoothly.

17 MR. DENNIS: Is there a Circuit Court judge
18 currently on the bench that you would like to model
19 yourself after?

20 MS. GLOVER: I'm not quite sure. I think
21 the one that I -- comes to mind has already -- has moved
22 up to the Federal Court and that's former Circuit Court
23 Judge Michelle Childs.

24 The other judges that I can think that I
25 would like to try and model myself after that is not a

1 current judge, that would be a The Honorable Ralph C.
2 King Anderson. I had the opportunity to appear before
3 him when I was working as an assistant solicitor, and I
4 like the way that he ran his court. He got started on
5 time. He stayed on track. He stayed focused, and he
6 was respectful to all the parties involved, including
7 the litigants and the attorneys.

8 MR. DENNIS: If you were to be elected,
9 when you left the bench, what would you like your legacy
10 as a judge to be?

11 MS. GLOVER: I would like my legacy to be
12 that I was fair to all the parties involved.

13 MR. DENNIS: Ms. Glover, do you have any
14 suggestions for improving the backlog of cases on the
15 docket for both General Sessions and Common Pleas Court?

16 MS. GLOVER: I think to clear up the
17 backlog in General Sessions Court would be to somehow
18 have a better docketing system between the -- between
19 the Solicitor's Office and the clerk of court's office.
20 Having -- coming together with the Public Defender's
21 Office and the Solicitor's Office and getting those
22 cases where both of those parties are involved, maybe
23 doing status conferences to see exactly where the cases
24 are in regards to your jail cases, making time for
25 possibly the public defenders that are representing

1 those clients to get down to the jail to talk to their
2 client versus having the public defenders -- when I was
3 there, sometimes the public defenders would put people
4 on the jail list to have them brought to the courthouse
5 so they could talk to them. There needs to be some sort
6 of mechanism where they can be able to go down to the
7 jail and talk to those clients in a timely manner and
8 have them ready for either trial or for guilty plea.

9 We have to make sure that all the parties
10 involved in the criminal prosecution have everything in
11 place that we need to have in place. All the discovery
12 needs to be done in a timely manner. Grand jury
13 indictments need to be done in a timely manner. I
14 believe you have 90 days from the time a warrant is
15 issued or served on -- on a criminal defendant to have
16 an indictment if that's going to happen. Everybody that
17 works in the system needs to be working together to make
18 sure you have a well-oiled machine.

19 In regards to Common Pleas, I think that
20 status conferences are good. Motions calendars. I
21 can't think of what I wanted to say. In regards to
22 docketing cases, a scheduling order -- a scheduling
23 order in Common cases to make sure that discovery is
24 flowing as it should and everything that needs to be
25 done gets done in a timely manner.

1 MR. DENNIS: Thank you, Ms. Glover.

2 As you're aware, the South Carolina Bar
3 Association included in its report on your
4 qualifications a footnote, and the footnote read in
5 part, "A significant portion of those surveyed have
6 concerns regarding Ms. Glover's professional and
7 academic ability, experience, and reputation."

8 Understanding that the staff or the
9 Commission has not received any specific information
10 on -- on these findings, would you please react to the
11 statement contained in the bar's report.

12 MS. GLOVER: Well, I was a little surprised
13 by that. When I -- when I had my interview with the
14 bar, I asked them what was said about me. Of course I
15 have no way of knowing who was contacted and what was
16 said. And what they were able to relay to me is they
17 said that sometimes during my hearings or when I was on
18 the Commission, I kept a stone face, that I seemed
19 disinterested in what was going on with the parties.

20 And my explanation for that was that I
21 can't as a commissioner can't sit there and cry with the
22 claimant or be angry with the employer if that's the
23 case. I have to remain fair and impartial. I have to
24 listen to both sides carefully and make a decision or
25 rulings based on that.

1 They also made mention of that I did not
2 ask questions sometimes during full Commission hearings,
3 on the Workers' Compensation Commission or it appealed.
4 The parties have a right to go before a three-person
5 panel in the Commission, and they said I didn't ask
6 questions enough. I asked -- my explanation for that
7 was I -- the parties prepare briefs and submit them to
8 the Commission in a timely fashion. The commissioners
9 are giving those briefs a week before the hearings. I
10 had an opportunity to review the hearings, and if I had
11 questions during those hearings, I asked questions.

12 Typically the lawyers have ten minutes to
13 basically say why they felt the Commission may have --
14 why they felt the Commission -- the commissioner order
15 should be affirmed. If I did not have a question, if I
16 understood the issues, I did not ask questions so I
17 would not eat up the lawyer's time in trying to get
18 their point across to the Commission -- to the panel.

19 MR. DENNIS: Thank you, Ms. Glover.

20 Mr. Chairman, I believe we need an
21 executive session at this point for questioning.

22 REPRESENTATIVE DELLENEY: Counsel, advises
23 that we need a short executive session. Do I hear a
24 motion?

25 MR. HARRELL: So moved.

1 REPRESENTATIVE MACK: Second.

2 SENATOR NICHOLSON: Second.

3 REPRESENTATIVE DELLENEY: All in favor,
4 aye.

5 (The Judicial Merit Selection Commission
6 went into executive session from 3:12 p.m. to 3:15 p.m.)

7 REPRESENTATIVE DELLENEY: Okay. We're back
8 in open session.

9 MR. DENNIS: Finally, Ms. Glover, I just
10 have some housekeeping issues to go over with you.

11 Have you sought or received the pledge of
12 any legislator prior to this date?

13 MS. GLOVER: No, I have not.

14 MR. DENNIS: Have you sought or have you
15 been offered a conditional pledge of support of any
16 legislator pending the outcome of your screening?

17 MS. GLOVER: No, I have not.

18 MR. DENNIS: Have you asked any third
19 parties to contact members of the General Assembly on
20 your behalf?

21 MS. GLOVER: No, I have not.

22 MR. DENNIS: Have you contacted any members
23 of this commission?

24 MS. GLOVER: No, I have not.

25 MR. DENNIS: Do you understand that you are

1 prohibited from seeking a pledge or commitment until 48
2 hours after the formal release of the Commission's
3 report?

4 MS. GLOVER: Yes, I do.

5 MR. DENNIS: Have you reviewed the
6 Commission's guidelines on pledging?

7 MS. GLOVER: Yes, I have.

8 MR. DENNIS: As a follow-up, are you aware
9 of the penalties for violating the pledging rules; that
10 is, is a misdemeanor and upon conviction the violator
11 must be fined not more than \$1,000 or imprisoned not
12 more than 90 days?

13 MS. GLOVER: Yes, I have.

14 MR. DENNIS: Thank you, ma'am.

15 I would note that the Midlands Citizens
16 Committee reported that Ms. Glover was well-qualified in
17 each of the nine evaluative criteria with the exception
18 of experience for which they found her qualified. The
19 Committee commented that they felt Ms. Glover would
20 serve in an outstanding manner if selected for the
21 Circuit Court bench.

22 And I would also note for the record that
23 any concerns raised during the investigation of
24 Ms. Glover were incorporated into the questioning of the
25 candidate today.

1 And, Mr. Chairman, I do not have anything
2 further.

3 REPRESENTATIVE DELLENEY: Thank you, sir.

4 Does any other member -- does any member of
5 the Commission have any questions for Ms. Glover?

6 Mr. Clemmons.

7 REPRESENTATIVE CLEMMONS: Thank you,
8 Mr. Chairman.

9 Ms. Glover, for clarification, please, I
10 see on our recap sheet that it's reported that your
11 practice is ten percent civil, zero percent criminal,
12 zero percent domestic matters over the last five years.
13 Is that a typo, the ten percent? Is it -- is your
14 practice a hundred percent?

15 MS. GLOVER: I practice primarily workers'
16 comp.

17 REPRESENTATIVE CLEMMONS: Workers' comp.

18 MS. GLOVER: That's all I do is workers'
19 comp. And I guess as far as ten percent on civil when I
20 have to go into the court on an appellate -- as I stated
21 earlier, either the Circuit Court, Court of Appeals or
22 the Supreme Court.

23 REPRESENTATIVE CLEMMONS: Thank you for
24 that clarification.

25 I don't believe I have any other questions.

1 REPRESENTATIVE DELLENEY: Any other member
2 of the Commission have any questions of Ms. Glover?

3 We need a clarification from counsel.

4 MR. DENNIS: Just to make sure that the
5 record is clean, Ms. Glover, would you please state for
6 the record what percentages comprise your practice.
7 That is, is it 100 percent civil, zero percent criminal,
8 whatever those percentages may be as they seem to be
9 listed incorrectly in the record. We want to make sure
10 we've got it straight going forward. You --

11 MS. GLOVER: I would say it's a hundred
12 percent workers' comp. Workers' comp is administrative
13 regulatory, and I go into the Court of Common Pleas or
14 the Court of Appeals or the Supreme Court on an
15 appellate basis only.

16 MR. DENNIS: That -- that's perfectly
17 sufficient. Thank you, ma'am.

18 REPRESENTATIVE DELLENEY: Does any other
19 member of the Commission have any questions?

20 There being none, Ms. Glover, we'd like to
21 thank you for appearing before us today and for offering
22 to serve as a circuit judge, and as you know, this
23 concludes this portion of your screening, and the record
24 will be closed at this point, but we can reopen the
25 record and bring you back for testimony should something

1 appear or should we want to inquire further, but it's
2 not very likely.

3 And I would remind you about the 48-hour
4 rule. And thank you for being here, thank you for
5 offering. And I hope you have a safe trip home.

6 MS. GLOVER: Thank you very much.

7 REPRESENTATIVE DELLENEY: Thank you, ma'am.
8 (Off the record.)

9 REPRESENTATIVE DELLENEY: Good afternoon,
10 sir.

11 MR. HOOD: Good afternoon, Mr. Vice
12 Chairman.

13 REPRESENTATIVE DELLENEY: All right. We
14 have before us today Mr. Robert Eldon Hood.

15 Mr. Hood, have a seat there if you'd like.

16 MR. HOOD: Thank you, sir.

17 REPRESENTATIVE DELLENEY: We have before us
18 today Mr. Robert Eldon Hood who seeks a position on the
19 Circuit Court, Fifth Judicial Circuit, seat number
20 three.

21 Mr. Hood, if you'd raise your right hand to
22 be sworn.

23 (Robert Eldon Hood was duly sworn, after
24 which testimony began at 3:20 p.m.)

25 REPRESENTATIVE DELLENEY: Thank you, sir.

1 Did you bring anybody with you today --

2 MR. HOOD: Yes, sir.

3 REPRESENTATIVE DELLENEY: -- that you'd
4 like to introduce to us?

5 MR. HOOD: Thank you. This is -- my wife
6 is here present. Her name is Christie Hood here on the
7 front row. Thank you very much.

8 REPRESENTATIVE DELLENEY: Well, we're glad
9 to see you all too.

10 Have you had an opportunity to review your
11 Personal Data Questionnaire?

12 MR. HOOD: Yes, sir.

13 REPRESENTATIVE DELLENEY: Is it correct or
14 does anything need to be changed?

15 MR. HOOD: No amendments, sir.

16 REPRESENTATIVE DELLENEY: All right. It
17 will be -- do you have -- make -- do you have any
18 objection to our making that summary a part of the
19 record of your sworn testimony?

20 MR. HOOD: Not at all.

21 REPRESENTATIVE DELLENEY: Without
22 objection, it will be done at this point in the
23 transcript.

24 (EXH. 47, Personal Data Questionnaire of
25 Mr. Robert Eldon Hood, marked for identification.)

1 REPRESENTATIVE DELLENEY: The Judicial
2 Merit Selection Commission has thoroughly investigated
3 your qualifications for service on the bench. Our
4 inquiry has primarily focused on nine evaluative
5 criteria which have included a survey of the bench and
6 bar, a thorough study of your application materials, a
7 verification of your compliance with state ethics law, a
8 search of any newspaper articles in which your name may
9 have appeared, a study of any previous screenings, and a
10 check for economic conflicts of interest.

11 There are no affidavits filed in opposition
12 to your candidacy or election, and there are no
13 witnesses here to testify.

14 Do you have a brief opening statement you'd
15 like to make which is entirely optional?

16 MR. HOOD: I would just like you to say
17 thank you for giving me the opportunity to appear here
18 today, Mr. Vice Chairman.

19 REPRESENTATIVE DELLENEY: Thank you,
20 Mr. Hood.

21 If you would, answer any questions our able
22 counsel might be before you.

23 MR. GENTRY: Mr. Hood, you have before you
24 the Sworn Statement you provided with detailed answers
25 to over 30 questions regarding judicial conduct,

1 statutory qualifications, office administration, and
2 temperament. Are there any additional amendments you'd
3 like to make at this time to your Sworn Statement?

4 MR. HOOD: No, sir.

5 MR. GENTRY: At this time, Mr. Chairman,
6 I'd ask that Mr. Hood's sworn statement be entered as an
7 exhibit into the record.

8 REPRESENTATIVE DELLENEY: Without
9 objection, it will be done at this point in the
10 transcript.

11 (EXH. 48, Sworn Statement of Robert Eldon
12 Hood, marked for identification.)

13 MR. GENTRY: One final procedural matter.
14 I note for the record that based on the testimony
15 contained in the candidate's PDQ which has been included
16 in the record with the candidate's content, Mr. Hood
17 meets the statutory requirements for this position
18 regarding age, residence, and years of practice.

19 Mr. Hood, why do you want to serve as a
20 Circuit Court judge?

21 MR. HOOD: Well, let me begin by saying
22 that I take the role as serving as a Circuit Court judge
23 with great humility. In this state we give our Circuit
24 Court judges a wide latitude and discretion, and really
25 our Circuit Court judges are the face of our judiciary

1 to the citizens of this state.

2 So as I approach this position, I look at
3 it as one that gives me the opportunity to uphold the
4 laws of the Constitution of this state and the United
5 States. It gives me the ability to protect individual
6 liberties, and it also gives me the ability to promote
7 the fair administration of justice to all who appear
8 before the Court.

9 MR. GENTRY: Mr. Hood, can you explain to
10 the Commission how your legal and professional
11 experience thus far have prepared you to be a judge.

12 MR. HOOD: Well, I've spent the past ten
13 years in my practice of law in the courtroom really not
14 much in the office. I started off as a law clerk to the
15 deputy solicitor and solicitor to the Fifth Judicial
16 Circuit where I was the head law clerk. I then moved on
17 to being assistant solicitor here in Richland County.

18 At that time I had worked on over four
19 death penalty cases. At the same day that I was sworn
20 in to be a lawyer, I was literally standing in front of
21 Judge Barber that afternoon doing a guilty plea. Within
22 60 days of that date, I was trying a murder case that
23 involved two defendants before the then Judge Henry
24 McKellar.

25 Upon leaving the Solicitor's Office, I was

1 chosen by Attorney General Henry McMaster to come to the
2 Attorney General's Office and work on the statewide
3 grand jury division of that office. At that point in
4 time I travelled -- literally travelled all over the
5 state prosecuting the largest drug trafficking cases in
6 the state and worked on the largest financial crime
7 that's ever occurred in South Carolina. The last year I
8 was at the Attorney General's Office I spent almost 90
9 nights away from home preparing and trying cases
10 literally all over the state in different counties
11 before different judges.

12 While at the Attorney General's Office, the
13 then United States Attorney J. Strom Thurmond, Jr.,
14 selected me and chose me thankfully to be assigned as a
15 special assistant and United States attorney to aid the
16 U.S. attorney's office in federal prosecutions.

17 Upon leaving the Attorney General's Office
18 I was hired by J.P. Strom, Jr., to come to his firm and
19 be in private practice wherein I've been for almost
20 seven years now. And during that time I've had the
21 opportunity to work on criminal cases and civil cases
22 throughout this state. I've worked on complex
23 litigation, class action cases. I've worked on wreck
24 cases, mainly plaintiff's work on the civil side. And
25 I've handled all levels of criminal defense throughout

1 this state.

2 I've appeared before Municipal Court
3 judges, Magistrate judges, Circuit Court judges, Federal
4 Magistrate judges, United States District Court judges,
5 and the Fourth Circuit Court of Appeals in Richmond,
6 Virginia. And I believe this significant courtroom
7 experience over my ten years gives me the opportunity to
8 have a skill-set that is needed in our Circuit Court
9 bench with significant courtroom and trial experience.

10 MR. GENTRY: Are there any areas, including
11 subjective areas of the law, that you need to
12 additionally prepare for in order to serve as a judge,
13 and if so, how would you go about that preparation?

14 MR. HOOD: I've been thinking about this
15 issue in the sense of the last time that I appeared
16 before this commission, and I really believe -- and it
17 really became more apparent to me that as I studied for
18 the test this year that the practice of law is just
19 that. In keeping up to date with what's going on with
20 our case law, our jurist prudence and the legislation
21 has got to be a role of the Circuit Court judge.

22 And I believe that there should be a
23 designated time set aside throughout the week for a
24 sitting Circuit Court judge to spend an hour, read the
25 advanced sheets, get up to speed on what's going on with

1 the Supreme Court and the Court of Appeals and stay up
2 on the pending legislation before the Court. So it's
3 almost an ever-evolving process that you have to
4 constantly stay on top of to be up to speed on what's
5 going on to be fully prepared to hold court that week or
6 the next week.

7 MR. GENTRY: Although you address this in
8 your Sworn Affidavit, can you please explain to the
9 members of the Commission what you think is the
10 appropriate demeanor of a judge.

11 MR. HOOD: I believe that the appropriate
12 demeanor of a judge is fair, attentive, impartial,
13 courteous, kind and respectful. Not only to the
14 lawyers, to the litigants, to the witnesses, to the
15 jurors and to the court staff that you come in contact
16 with every day, and I believe just as important as this
17 demeanor is a judge's work ethic.

18 A judge needs to be decisive. He needs to
19 be prompt. He needs to be efficient, and he needs to
20 show not only respect to the individuals that appear
21 before him, but he needs to show respect of those people
22 and those citizens' time for the time that they are
23 taking away from their families and their jobs to appear
24 in the courtroom.

25 MR. GENTRY: Is there any Circuit Court

1 judge currently on the bench that you would like to
2 model yourself after that particularly exemplifies the
3 characteristics of a Circuit Court judge?

4 MR. HOOD: Well, the main judge that comes
5 to mind that is on the bench right now is Judge Cooper
6 from Manning. He is the quintessential, in my opinion,
7 Circuit Court judge that is on the bench as we sit here
8 right now. His demeanor, his words literally sitting in
9 court before him and just watching him, just his words,
10 the way that he carries himself and the way that he
11 deals with difficult situations I believe is almost
12 unmatched.

13 As to former judges, I had the opportunity
14 to spend about six weeks of my life in trial in front of
15 the late Jim Johnson who is from Clinton, South
16 Carolina, and his testimony and his ability, his
17 knowledge and literally his patience was something for
18 me to really set the bar very high as to what a Circuit
19 Court judge should be and how they should behave.

20 MR. GENTRY: What would you like for your
21 legacy to be as a Circuit Court judge?

22 MR. HOOD: Well, right now I'd just like to
23 get on the bench, but I hadn't really thought too much
24 about my legacy. But I would say on first reaction I
25 would want it to be somebody that is knowledgeable,

1 someone that is fair but firm, and someone that when --
2 thought of everybody regardless of who they are or what
3 firm they're from or anything about them, they all stood
4 on equal ground.

5 MR. GENTRY: What suggestions would you
6 offer for improving the backlog of cases on the docket
7 both for the General Sessions and Common Pleas in
8 Circuit Court?

9 MR. HOOD: The biggest thing with the
10 Common Pleas right now -- and my understanding based on
11 talking to some judges and seeing this work is that the
12 bigger circuits are catching up with the Common Pleas
13 docket. It really is working a lot better.

14 The biggest thing that we need with Common
15 Pleas is motion -- motion hearings more than anything.
16 We -- and we need some form of -- I don't want to say
17 hard and fast deadline, but some form of guideline of
18 getting motions decided. There's a significant amount
19 of nonjury work that's going on in the civil case -- the
20 civil arena that's taking six months, eight months, 12
21 months, 24 months to be decided, and while that's
22 happening, the case is just staying there until those
23 issues are decided.

24 In the criminal system I believe the
25 solution to the docket issue is very simple, and it's a

1 discovery issue. It's a relationship between law
2 enforcement and the Solicitor's Office to provide the
3 Solicitor's Office with the proper documentation to
4 provide to the defense counsel.

5 It doesn't matter if you're a criminal
6 defense attorney that's retained or he's a public
7 defender. The bottom line is he can't do anything with
8 his case and he can't do anything with his client until
9 he has the discovery. No judge is going to make him do
10 anything.

11 So if we're sitting here with cases that
12 are six months, eight months, nine months, a year old
13 and no discovery has been provided, that's not the
14 defense attorney's delay of the system. That's not the
15 individual's delay of the system. That's an issue of
16 getting the materials from the police to the Solicitor's
17 Office to the defense attorney.

18 People in major counties right now are
19 getting lawyers within 72 hours of being arrested. So
20 it's not an issue of you having a lawyer. It's an issue
21 of having the documentation necessary to adequately
22 represent your client to do the investigation you need
23 to do and to have meaningful plea negotiations to move
24 the cases forward.

25 MR. GENTRY: Thank you, Mr. Hood.

1 I have a few more housekeeping questions.

2 Have you sought or received the pledge of
3 any legislator prior to this date?

4 MR. HOOD: No, sir.

5 MR. GENTRY: Have you sought or have you
6 been offered a conditional pledge of support of any
7 legislator pending the outcome of your screening?

8 MR. HOOD: No, sir.

9 MR. GENTRY: Have you asked any third
10 parties to contact members of the General Assembly on
11 your behalf?

12 MR. HOOD: No, sir.

13 MR. GENTRY: Have you contacted any members
14 of the Commission?

15 MR. HOOD: No, sir.

16 MR. GENTRY: Do you understand that you're
17 prohibited from seeking a pledge or commitment until 48
18 hours after the formal release of the Commission's
19 report?

20 MR. HOOD: Yes, sir.

21 MR. GENTRY: Have you reviewed the
22 Commission's guidelines on pledging?

23 MR. HOOD: I have.

24 MR. GENTRY: As a follow-up, are you aware
25 that the penalties for violating the pledging rules is a

1 misdemeanor and upon conviction the violator must be
2 fined not more than a thousand dollars or imprisoned not
3 more than 90 days?

4 MR. HOOD: Yes, sir.

5 MR. GENTRY: I would note that the Midlands
6 Citizens Committee reported that Mr. Hood is
7 well-qualified in all nine evaluative criteria. The
8 Committee stated they were impressed with his
9 professional abilities and his extensive criminal and
10 civil experience. The Committee believed Mr. Hood to be
11 highly ethical with outstanding character.

12 I'd just note for the record that any
13 concerns raised during the investigation regarding the
14 candidate were incorporated into his questioning today.

15 Mr. Chairman, I have no further questions.

16 REPRESENTATIVE DELLENEY: Does any members
17 of the Commission have any questions of Mr. Hood?

18 Mr. Clemmons.

19 REPRESENTATIVE CLEMMONS: Thank you,
20 Mr. Chairman.

21 Thank you for being with us and offering
22 yourself up for consideration today.

23 I -- you touched on this a little -- a bit.
24 I'd like for you to elaborate, if you would. I note
25 that the bulk of your experience is in the criminal

1 court system. Do you consider yourself prepared from a
2 nuts and bolts standpoint to try cases in civil court?

3 MR. HOOD: Absolutely. Let me tell you
4 why. Our firm has -- I will lose count, but I think
5 it's about five or six lawyers in it. And those
6 lawyers -- I'm really one of the only ones that does the
7 criminal business. So everybody is working on civil
8 matters.

9 But the way we work in our office is these
10 cases are collaborative efforts. And when we get
11 together about a case, when we discuss a case, when it's
12 time to go argue a case, when it's time to prepare the
13 motions, when it's time to take the depositions, working
14 the discovery and getting ready for what needs to happen
15 in the civil cases, I'm involved in that. So therefore
16 I understand what's going on. I know what's going on.

17 And, you know, the bulk of civil cases this
18 day in our state I believe are being settled outside of
19 court. I understand that. Certainly not all of them.
20 But I have been actively participating in civil
21 litigation, and I will admit mainly on the plaintiff's
22 side for the past seven years, so I believe that I'm
23 very aware of the system and what's going on with it and
24 how it would proceed.

25 REPRESENTATIVE CLEMMONS: Thank you very

1 much.

2 MR. HOOD: Yes, sir.

3 REPRESENTATIVE DELLENEY: Mr. Harrell.

4 MR. HARRELL: Mr. Hood, at your firm what
5 kind of civil cases do you directly participate in?

6 MR. HOOD: I have worked on --

7 MR. HARRELL: Not -- not collaborate. That
8 are filed in your office.

9 MR. HOOD: I have a case right now in York
10 County where I represent the Campbell Soup Corporation
11 against a former employee. The Ridgeland class action
12 case which is pending in Federal Court in Charleston,
13 South Carolina, I have actively participated on. I've
14 actively taken depositions in the GE deposition case
15 which is pending in this state.

16 We have a case -- we have a civil case
17 against a restaurant in Columbia known as Rockaway's
18 which I have been actively participating on since the
19 day it was created and the day it was done, and I argue
20 the motions -- the summary judgment motions in that, and
21 we are actually set for trial here in the next few
22 months before Judge Lee here in Richland County.

23 Those are the cases that come to mind off
24 the top of my head.

25 MR. HARRELL: That's great. Thanks for

1 letting me know.

2 MR. HOOD: Yes, sir.

3 REPRESENTATIVE DELLENEY: Before we let
4 Mr. Hood go, I need to advise Mr. Hood that Senator
5 McConnell and Senator Knotts have recused themselves
6 from -- not just from your race, but from all candidates
7 in your race because of a particular issue that one
8 witness had -- has against a -- one of the other
9 candidates in your race, so he has to recuse himself
10 from that, so he has to recuse himself from all
11 candidates in the race.

12 MR. HOOD: Yes, sir.

13 REPRESENTATIVE DELLENEY: So I wanted to
14 make that clear to you that's why they're not here.

15 MR. HOOD: Yes, sir.

16 REPRESENTATIVE DELLENEY: Are there any
17 other questions for Mr. Hood?

18 There being no further questions, we'd like
19 to thank you, Mr. Hood, for appearing before us today
20 for your willingness to offer yourself as a candidate
21 for the Circuit Court.

22 This concludes this portion of your
23 screening process. We will close the record at this
24 point. However, as you well know, we could reopen the
25 record at any point up until the report gets past the

1 48-hour period. It becomes the report of this
2 committee. Once that happens, you know, the screening
3 process is over. It can't be -- we can't call you back
4 to testify or ask you for further questions, but up
5 until that time we could reconvene the public hearing
6 and bring you back if we felt such a need.

7 And, there again, I would like to remind
8 you about the 48-hour rule which you're well-aware of.

9 And thank you for being here with us today,
10 and I know hope you and your wife have a safe trip back
11 home.

12 MR. HOOD: Thank you, Mr. Delleney.

13 (Off the record.)

14 REPRESENTATIVE DELLENEY: We have with us
15 today Mr. Robert Marshall Paul Masella.

16 Mr. Masella, at the outset, I'd like to
17 advise you that Senator McConnell and Senator Knotts are
18 not here because they have recused themselves in all the
19 candidates screening for the Circuit Court, Fifth
20 Circuit, seat number three, the one that you're running
21 for, and that was done because they had -- they felt it
22 necessary to recuse themselves because of a witness in
23 one of the other candidates screening. Therefore they
24 couldn't vote in any of the -- any of the -- for any of
25 you, and so they recused themselves for all the

1 screenings.

2 But with that said, we have with us today
3 Mr. Masella.

4 And do you have anybody with us you'd like
5 to interduct -- introduce?

6 MR. MASELLA: I would, Chairman. If I may,
7 I'd like to introduce my wife Mia.

8 MRS. MASELLA: Thank you.

9 MR. MASELLA: She just finished the
10 marathon in the leukemia last weekend. Our eldest
11 daughter Mallory, she's here. She's 16. And our
12 youngest Fran, she's here with us. She's 13.

13 REPRESENTATIVE DELLENEY: We're glad to
14 have all of y'all with us here today.

15 If you would, Mr. Masella, raise your right
16 hand to be sworn.

17 (Robert Marshall Paul Masella was duly
18 sworn, after which testimony began at 3:39 p.m.)

19 REPRESENTATIVE DELLENEY: Thank you, sir.

20 Have you had an opportunity to review your
21 Personal Data Questionnaire?

22 MR. MASELLA: Yes.

23 REPRESENTATIVE DELLENEY: Is it correct or
24 does anything need to be changed?

25 MR. MASELLA: It's correct.

1 REPRESENTATIVE DELLENEY: Do you object to
2 our making that summary a part of the record in your
3 sworn testimony?

4 MR. MASELLA: I do not.

5 REPRESENTATIVE DELLENEY: Without
6 objection, it will be done at this point in the
7 transcript.

8 (EXH. 49, Personal Data Questionnaire of
9 Mr. Robert M.P. Masella, marked for identification.)

10 REPRESENTATIVE DELLENEY: The Judicial
11 Merit Selection Commission has thoroughly investigated
12 your qualifications for service on the bench. Our
13 inquiry has primarily focused on nine evaluative
14 criteria which have included a survey of the bench and
15 bar, a thorough study of your application materials, a
16 verification of your compliance with state ethics laws,
17 a search of any newspaper articles in which your name
18 may have appeared, a study of any previous screenings,
19 and a check for economic conflicts of interest.

20 We have not received any affidavits in
21 opposition to your candidacy or application, and there
22 aren't any witnesses here to testify.

23 Do you have a brief opening statement that
24 you'd like to make? It's entirely optional.

25 MR. MASELLA: Thank you, Chairman. I

1 believe I'll waive my opening statement. I know it's
2 been a long day, and I appreciate the work that you've
3 done.

4 REPRESENTATIVE DELLENEY: Thank you, sir.

5 MR. MASELLA: Thank you.

6 REPRESENTATIVE DELLENEY: If you would,
7 answer any questions legal counsel has for you.

8 MS. SHULER: Good afternoon, Mr. Masella.

9 MR. MASELLA: Afternoon.

10 MS. SHULER: You have before you your Sworn
11 Statement that you provided detailed answers that relate
12 to the evaluative criteria. Do you have any additional
13 amendments you would like to make at this time to your
14 Sworn Statement?

15 MR. MASELLA: No, ma'am.

16 MS. SHULER: Mr. Chairman, I would ask that
17 Mr. Masella's Sworn Statement be entered into the record
18 as an exhibit today.

19 REPRESENTATIVE DELLENEY: Without
20 objection, it will be done at this point in the
21 transcript.

22 (EXH. 50, Sworn Statement of Robert
23 Marshall Paul Masella, marked for identification.)

24 MS. SHULER: One final procedural matter.
25 I note for the record that based on the testimony

1 contained in the candidate's PDQ which has been included
2 in the record, Mr. Masella meets the statutory
3 requirements for this position regarding age, residence,
4 and years of practice.

5 Mr. Masella, you've been practicing law
6 since 1995. So now why do you want to serve as a
7 Circuit Court judge?

8 MR. MASELLA: Ma'am, I believe that my
9 experience and the work that -- ethic that I have would
10 give me the opportunity to be an excellent Circuit Court
11 judge. I believe that since beginning practice in 1995
12 I have worked with the Court of Appeals. I worked at
13 the Solicitor's Office. I've had my own firm. I've
14 done both civil and criminal work. I've done a
15 Municipal Court judge, and I believe that all of the
16 experience that I have would benefit me as a Circuit
17 Court judge.

18 MS. SHULER: Mr. Masella, I think you just
19 touched on this in your answer, but what specifically in
20 your legal and professional experience thus far will
21 assist you in serving on the Circuit Court bench?

22 MR. MASELLA: Well, I know that I know how
23 to find the answer. I know that I will be able to
24 handle the people that are before me properly with
25 kindness, with a firmness and with understanding. I

1 know that my experience has given me the opportunity to
2 learn the law, and as I stated before, if I don't know
3 what it is that I need to know, I can go find it.

4 MS. SHULER: Thank you, Mr. Masella.

5 MR. MASELLA: Yes, ma'am.

6 MS. SHULER: Are there any areas, including
7 subjective areas of the law, that you would need
8 additional preparation for in order to serve on the
9 bench, and if so, how would you undergo that additional
10 preparation?

11 MR. MASELLA: Well, I think that there's --
12 I don't think that there's anybody that would know
13 everything they need when they take the bench or when
14 they involve themselves in any case. I think that with
15 the ability to find the answer and to know what it is
16 that you need to know at the time, that's one of the
17 things that I have.

18 I don't think that there's anything that I
19 cannot learn, but I will obviously -- the laws are there
20 for that reason. The statutes are there, and I'll know
21 where to go to find the statute. If not a statute, I'll
22 know what case law to find and how to apply it.

23 MS. SHULER: Thank you, Mr. Masella.

24 Although you address this in your Sworn
25 Affidavit, could you explain to the members of the

1 Commission what you believe to be the appropriate
2 demeanor of a judge?

3 MR. MASELLA: First off, the judge needs to
4 be patient. People to have their day in court, and if
5 I'm the person that's they're before, I need to give
6 them that opportunity. Of course there are rules that
7 apply to every case, and once I'm -- once they have
8 their day in court and they settle their difference with
9 the other side, then -- then they can go on.

10 The judge isn't supposed to be the center
11 of the attention. The judge is just supposed to be the
12 referee and apply the court [sic] and make sure that
13 litigants do that, and that would be what I think the
14 Circuit judge would -- would do, yes, ma'am.

15 MS. SHULER: Is there any Circuit Court
16 judge currently on the bench that you would like to
17 model yourself after or particularly exemplifies the
18 characteristics that you just outlined that a Circuit
19 Court judge should have?

20 MR. MASELLA: This seat is held by Judge
21 Cooper. I've been before Judge Cooper in both civil and
22 criminal court. Judge Cooper has the demeanor that I
23 think is what a Circuit Court judge should have. He
24 never makes you feel as though you are incorrect. If
25 you make a mistake, he lets you know what the mistake

1 was without letting everybody else know you have made a
2 mistake. He has a good sense of humor. He has the
3 ability to treat people very kindly. He's also very
4 firm, and you know if Judge Cooper says something, he
5 means it.

6 So although practicing in the Fifth Circuit
7 I want you all to know that all the judges here in the
8 Fifth Circuit are very talented and very good judges.
9 That would be the judge that I would want to model
10 myself after.

11 MS. SHULER: Thank you.

12 If you're selected to the bench and you
13 serve your time as Circuit Court judge and then retire,
14 what would you like your legacy to be known as?

15 MR. MASELLA: Thank you. My legacy I would
16 like to be known as fair. I would like to be known that
17 I knew -- knew the law and followed the law as written.
18 I would like everybody to know that I was evenhanded,
19 that I have good temperament, and that I treated
20 everybody fairly.

21 MS. SHULER: Thank you.

22 Mr. Masella, what suggestions would you
23 offer for both improving the backlog of cases on the
24 civil and criminal docket?

25 MR. MASELLA: Which side would you like me

1 to do first, ma'am?

2 MS. SHULER: Either side you may pick.

3 MR. MASELLA: Well, there's the -- I did
4 some research on this. The deferential case management
5 system seems to be the big thing. Right now on our
6 cover sheets we can just click off the type of cases,
7 but we don't tell the Court if it's easy or standard or
8 if it's a difficult case. What I think we should do is
9 we should first off increase the magistrate jurisdiction
10 to about \$25,000. That would get rid of a lot of cases
11 in the Circuit Court.

12 I think that if we were able to put in
13 there an expedited section, then a case can be handled
14 within six months. Then they could kick that off. If
15 they click it off and the judge receives the
16 pleadings -- the administrative judge receives the
17 pleadings, he can look at it and see if it needs to be
18 moved up or if it needs to be not the standard case but
19 to be expedited.

20 If it's a standard case, I think there
21 needs to be a pretrial -- pretrial orders similar to
22 what the Federal courts do and I think the parties need
23 to be held to that. For that purpose -- and if there
24 are sanctions that would be appropriate, that they would
25 be enforced.

1 I think that some of the cases, the complex
2 cases need to have a judge assigned to that case so that
3 if the parties are coming back in front of a judge who
4 already knows the case, you don't have to start over
5 again and teach that judge everything. I think it will
6 move the case along fast. So I think that would be a --
7 a key to move the civil cases quicker.

8 As far as the Circuit -- I mean, General
9 Sessions cases, I believe that the track system that we
10 have works if you hold the solicitor to the tracking
11 system. I think that -- I know that the solicitors is
12 in control of the docket. Some of them have
13 relinquished that control to the courts. I believe that
14 you need to have, as Judge Childs was doing here in the
15 Fifth Circuit, a status conference with the attorneys
16 and figure out when the case can be tried.

17 And I also believe that there are a lot
18 of -- the diversionary programs here that at least has
19 been put in place that are going to help the backlog.

20 So it -- criminal cases are different. It
21 depends on the discovery. It depends on getting the
22 information. And there should be times and schedules
23 set so that matters can be handled in an efficient
24 manner.

25 MS. SHULER: Thank you, Mr. Masella.

1 Mr. Masella, you reported your receipt of a
2 letter of caution from the Office of Disciplinary
3 Counsel on May 6th, 2009, for violating Rules 4.5 and
4 8.4(e) of the Rules of Professional Conduct. Rule 4.5
5 states that a lawyer shall not present, participate in
6 presenting, or threaten to present criminal or
7 professional disciplinary charges solely to get -- to
8 obtain an advantage in a civil matter. Rule 8.4(e)
9 provides it is professional misconduct for a lawyer to
10 engage in conduct that is prejudicial to the
11 administration of justice.

12 Mr. Masella, would you please explain the
13 circumstances that gave rise to your letter of caution
14 and the final disposition of the matter.

15 And I would say to the Commission members
16 all that information is in your notebook under
17 Mr. Masella's tab.

18 MR. MASELLA: Yes, ma'am, I believe I
19 supplied the letter that I sent to my client.

20 Actually I should have known better. I
21 was -- I had been -- this happened in 2004. This has
22 never happened before, never happened since. I learned
23 my lesson. I -- I was an attorney to assist the Supreme
24 Court, so I handled lawyer matters -- lawyers'
25 misconduct, so I should have known better. And I did it

1 for a number of years after, I believe another five
2 years after this letter of caution came out. So I
3 should have appreciated what was going on and what I was
4 doing, but I didn't at the time.

5 The -- my -- my packet shows the reason
6 that I wrote the letter. I thought it was -- I handled
7 it best for my client. I thought this was what I was
8 doing, but I understand the rule and I know that I
9 violated the rule. It was found that my misconduct was
10 minor. However, it was misconduct. And if you do not
11 abide by the laws -- abide by the rules, then that's
12 what happened, and I received a letter of caution.

13 MS. SHULER: Mr. Masella, let me follow up
14 a little bit. And I know you have -- you have provided
15 us with a letter from your client reporting it to the
16 ODC, and then your response to the letter of caution.
17 Can you briefly explain the circumstances that gave rise
18 to that, why she reported you to the ODC.

19 MR. MASELLA: Yes, ma'am. Well,
20 initially -- just so the Commission knows, they didn't
21 know about the letter until I supplied it. I gave it to
22 them. She never received the letter either. It doesn't
23 excuse the fact that the letter was sent.

24 MS. SHULER: And that is the letter that
25 said that you would turn her over for criminal

1 prosecution?

2 MR. MASELLA: Well, I don't want to make it
3 sound like it's an excuse --

4 MS. SHULER: Right.

5 MR. MASELLA: -- so I'm answering the
6 question.

7 MS. SHULER: Right.

8 MR. MASELLA: I didn't want to -- I
9 represented this client. Things -- our relationship
10 wasn't good and I actually filed a motion to be relieved
11 for various -- for various reasons. She didn't want to
12 pay her bill, whatever it was. I just thought it would
13 be best if we just parted ways.

14 She had been ruled in by the guardian ad
15 litem because she kept bringing her children around her
16 boyfriend. I worked that out for her, and I was able to
17 actually get her divorce done. She gave me a check to
18 finish the case. I finished the case. Well, she
19 stopped payment on that check. I had gone to the bank
20 the day after the hearing just to certify it so we could
21 deposit it, no problem. And she had stopped payment.

22 That's a crime in South Carolina, and as I
23 said, I'm not making an excuse. It's my fault. But
24 it's a two-year -- she could go to jail for two years
25 for this thing, and I didn't want -- I didn't think it

1 best for my client for me as her attorney to turn her in
2 to law enforcement. So I just sent her a note, "This is
3 a -- this is a crime. Please. Let's get this thing
4 straightened out."

5 And as I said, I turned it over. You can
6 see the letter. They would have never known about it,
7 but it doesn't excuse the behavior. And I'm not asking
8 you to excuse it. I accept my responsibility.

9 MS. SHULER: Mr. Masella, you were sued in
10 1999 by a client who you were appointed to represent in
11 a postconviction matter. Please share the nature and
12 status of this lawsuit.

13 MR. MASELLA: Yes, ma'am. I was appointed
14 on February 11th, 1999, to represent a gentleman who had
15 been -- his probation had been violated. He sent me a
16 letter. I sent him back a letter telling him that "I'm
17 waiting for the Attorney General's packet, and once I
18 get it, I'll come back to you and talk to you about
19 everything."

20 I probably didn't get the letter till the
21 16th. On March 1st he sued me. Judge Lee dismissed
22 that case. He said that I along with the Attorney
23 General was conspiring to violate his civil rights, and
24 she dismissed the case.

25 MS. SHULER: Thank you, Mr. Masella.

1 MR. MASELLA: Yes, ma'am.

2 MS. SHULER: A complaint was filed by a
3 building supplier against the contractor who was
4 constructing your home, and you were named along with
5 the mortgage company in the suit. What is the status of
6 that lawsuit?

7 MR. MASELLA: Ma'am, I was never served
8 with that action. I didn't even know about it until the
9 SLED check -- until this came about. I -- this actually
10 was dismissed as well as my mortgage company and myself
11 as parties because of the -- the contractor didn't pay
12 the subcontractor, and the subcontractor was suing us
13 all, but still maintained the lawsuit against the
14 contractor, and that's why.

15 MS. SHULER: Mr. Masella, on March 15th,
16 1999, three tax liens were filed against you by the
17 South Carolina Department of Revenue. There was one
18 lien for \$135.88 for the period ending December 1997.
19 There was one for \$119.06 for the period ending December
20 1997, and one for \$1,447.62 for the period ending
21 December 1986. What is the status of those liens and
22 you want to describe what gave rise to those liens?

23 MR. MASELLA: Yes, sir. I had a tax person
24 who assisted me with all threes of these matters.

25 Just initially a little background, my

1 parents passed away when I was -- when I was 14 my
2 mother passed away and then my father passed away at 17.
3 And in 1986 -- '86 actually. So the dispute was -- my
4 CPA told me that the South Carolina tax authority didn't
5 have -- shouldn't have been asking for taxes because it
6 was a distribution from my father's retirement. It was
7 a \$15,000 distribution. I gave you the paperwork on
8 that. And that there was a dispute between my CPA and
9 the tax Commission. The tax Commission disagreed with
10 my CPA's position on the amount or if there should be a
11 tax at all. And in negotiations the tax authority filed
12 the SLED amount. So I paid it.

13 With regard to the 1987 issue, there was --
14 I'm entitled to -- was -- the homestead exemption, and
15 this, my wife and I believe this is from an automobile
16 that is the property tax for the automobile. And
17 that -- I didn't get the exemption in soon enough. So
18 we paid it. Now I have the exemption. I don't have
19 that problem anymore.

20 And with regard to the other income tax,
21 I -- I had a North Carolina -- I gave you this
22 documentation as well -- taxes in North Carolina, New
23 York and South Carolina, and South Carolina wanted my
24 notice from North Carolina so they could apply a credit
25 towards the South Carolina tax return. I don't ever do

1 taxes, so I rely on my CPA to do it. But, nonetheless,
2 he told me that the -- once we filed the taxes,
3 apparently I didn't put the check in there. So once he
4 did some research on it, he found it and that was the
5 \$109 and I paid it.

6 MS. SHULER: Thank you, Mr. Masella.

7 MR. MASELLA: Yes, ma'am.

8 MS. SHULER: I have some housekeeping
9 matters to cover with you.

10 Have you sought or received the pledge of
11 any legislator prior to this date?

12 MR. MASELLA: No.

13 MS. SHULER: Have you sought or been
14 offered a conditional pledge of support of any
15 legislator pending the outcome of your screening?

16 MR. MASELLA: No.

17 MS. SHULER: Have you asked any third
18 parties to contact members of the General Assembly?

19 MR. MASELLA: No.

20 MS. SHULER: Have you contacted any members
21 of the Commission?

22 MR. MASELLA: No, ma'am.

23 MS. SHULER: Do you understand that you are
24 prohibited from seeking a pledge or commitment until 48
25 hours after the formal release of the Commission's

1 report?

2 MR. MASELLA: Yes, ma'am.

3 MS. SHULER: Have you reviewed the
4 Commission's guidelines on pledging?

5 MR. MASELLA: I have.

6 MS. SHULER: Are you aware of the penalties
7 for violating the pledging rules; that is, it's a
8 misdemeanor and upon conviction a violator must be fined
9 not more than a thousand dollars and imprisoned not more
10 than 90 days?

11 MR. MASELLA: Correct. Yes, ma'am.

12 MS. SHULER: I would note that the Midlands
13 Citizens Committee found Mr. Masella well-qualified in
14 all of the nine evaluative criteria: constitutional
15 qualifications, ethical fitness, professional and
16 academic ability, character, reputation, physical
17 health, mental stability, experience, and judicial
18 temperament.

19 The Committee stated in summary that "The
20 Committee was honored to interview Mr. Masella, and we
21 enjoyed our interview. We were inspired by his
22 commitment to service, his dedication to his family and
23 the community and his outstanding experience. We
24 believe that he is eminently qualified to serve on the
25 Circuit Court bench, and we are very confident he would

1 serve our state in the most outstanding matter."

2 I would note for the record that any
3 concerns raised during the investigation regarding this
4 candidate were incorporated into my questions of the
5 candidate today.

6 And, Mr. Chairman, I have no further
7 questions.

8 REPRESENTATIVE DELLENEY: Does any member
9 of the Commission have any questions for Mr. Masella?

10 There being none, I want to thank you,
11 Mr. Masella, for being with us here today and for
12 bringing your family.

13 And this concludes this portion of the
14 screening process. We will close the record of your
15 screening at this point. However, up until the report
16 is issued, at the conclusion of the final report of this
17 commission, after the 48 hour -- expiration of the
18 48-hour period, we reserve the right to reopen the
19 screening hearing and bring you back and ask you further
20 questions should something arise or we want to explore
21 something else, which is not likely.

22 But in any event, I will remind you about
23 the 48-hour rule. And, again, thank you for offering
24 your service and hope you and your family have a safe
25 trip back home.

1 MR. MASELLA: Thank you, Mr. Chairman.

2 REPRESENTATIVE DELLENEY: Thank you, sir.

3 (Off the record.)

4 REPRESENTATIVE DELLENEY: Good afternoon,
5 Mr. Meadors.

6 MR. MEADORS: Good afternoon, Mr. Chairman.

7 REPRESENTATIVE DELLENEY: Do you have
8 anybody you'd like to introduce us to here today?

9 MR. MEADORS: Very briefly. And, thank
10 you, Mr. Chairman, members of the Judicial Merit
11 Selection Commission. It's an honor to be with here.
12 And I do have with me my wife Tricia and my dad -- this
13 is Jack Meadors.

14 REPRESENTATIVE DELLENEY: We're glad to
15 have you all with us here today.

16 We have with us Mr. John P. Meadors who
17 seeks a judicial position on Circuit Court seat number
18 five -- excuse me, Circuit -- the Fifth Circuit, Circuit
19 Court, seat number three.

20 And before we get any further I'd like to
21 place on the record that the chairman, Senator
22 McConnell, and Mr. Knotts have recused themselves from
23 the -- all -- screening of all candidates in Circuit
24 Court, Fifth Circuit, seat number three which includes
25 your screening, Mr. Meadors, because Ms. Faltas --

1 Dr. Faltas had an objection to them serving and so they
2 recused themselves and that's why they're not here
3 today.

4 MR. MEADORS: I understand. Thank you.

5 REPRESENTATIVE DELLENEY: All right. And
6 if you would at this time, please raise your right hand
7 to be sworn.

8 (John P. Meadors was duly sworn, after
9 which testimony began at 4:01 p.m.)

10 REPRESENTATIVE DELLENEY: Thank you, sir.

11 The Judicial Merit Selection Commission has
12 thoroughly investigated your qualifications for service
13 on the bench. Our inquiry has primarily focused on nine
14 evaluative criteria which has included a survey of the
15 bench and bar, a thorough study of your application
16 materials, a verification of your compliance with state
17 ethics laws, a search of newspaper articles in which
18 your name may have appeared, a study of previous
19 screenings, a check for economic conflicts of interest.

20 We have one affidavit filed in opposition
21 to your election. One witness is here to testify today,
22 Dr. Faltas.

23 And before we go any further, do you have a
24 brief opening statement you'd like to make, which is
25 entirely optional.

1 MR. MEADORS: I am just honored to be here
2 again. Thank you.

3 REPRESENTATIVE DELLENEY: Thank you, sir.
4 If you would at this time ask any
5 questions -- answer any questions that our able counsel
6 Ms. Shuler might have for you.

7 MS. SHULER: Good afternoon, Mr. Meadors.

8 MR. MEADORS: Good afternoon.

9 MS. SHULER: You have before you the Sworn
10 Statement you provided with detailed answers to over 30
11 questions related to the evaluative criteria. Do you
12 have any additional amendments that you would like to
13 make at this time to your Sworn Statement?

14 MR. MEADORS: As I discussed with you, if
15 it pleases the Commission, I have an amendment regarding
16 my criminal -- CLEs, continuing legal education, number
17 ten, adding a civil trial from start to finish and also
18 the 2010, '11 Solicitor's Conference. In addition to
19 that, an amendment also to my PDQ regarding speaking
20 engagements. I spoke at the 20th Annual Criminal
21 Practice in South Carolina in February of this year.

22 MS. SHULER: At this time I would like to
23 offer into evidence Mr. Meadors' PDQ, his amendment and
24 his Sworn Statement.

25 REPRESENTATIVE DELLENEY: Without

1 objection, it will be done at this point in the
2 transcript.

3 (EXH. 51, Personal Data Questionnaire of
4 John Paschal Meadors, marked for identification.)

5 (EXH. 52, Sworn Statement of Mr. John
6 Paschal Meadors, marked for identification.)

7 (EXH. 53, Amendment to the Personal Data
8 Questionnaire of John Paschal Meadors, marked for
9 identification.)

10 MS. SHULER: One final procedural matter.
11 I note for the record that based on the testimony
12 contained in the candidate's PDQ which has just been
13 entered into the record, Mr. Meadors meets the statutory
14 requirements for this position regarding age, residence,
15 and years of practice.

16 Mr. Meadors, after practicing law for 23
17 years, why do you now want to serve as a Circuit Court
18 judge?

19 MR. MEADORS: Ms. Shuler, I talked to you
20 about it and I think told this commission last year. I
21 really enjoy -- truly enjoy being in the court. I love
22 being a part of resolving disputes, being a part of that
23 process.

24 In a quasi judicial role I have been most
25 of my career as a solicitor. In some of my openings, I

1 actually tell the jury this is my office. I know it's
2 not, but I tell them that. I truly really enjoy being
3 in the courtroom. And I love the excitement. I love
4 the decision making that has to be made, and I think and
5 I do believe I prepared myself with what I think
6 respectfully is extensive trial room work that has
7 prepared me for the bench, and I would like the
8 opportunity to take that next step.

9 MS. SHULER: Mr. Meadors, I think you've
10 partly explained this, but what in your legal
11 professional experience thus far will assist you to be
12 an effective judge besides your courtroom experience?

13 MR. MEADORS: Well, I think it's part and
14 parcel -- it's hard to answer that without saying I --
15 for the most part, the more you do something, the better
16 you get at it. I think there are exceptions, and I
17 think reputation and truly trying issues has prepared me
18 for objections and how to handle different types of
19 evidence and working with witnesses and working with
20 victims now in the private practice part time working
21 with defendants.

22 I think all of those over my 24 year career
23 have prepared me to act in the courtroom whereas most
24 of -- for the Circuit Court is -- you, I mean, there are
25 other tremendous responsibilities, but I think my years

1 of experience in and out of courtroom have prepared me.

2 MS. SHULER: Mr. Meadors -- and I recognize
3 that you have served mostly as a assistant --
4 solicitor -- assistant solicitor, deputy solicitor. Are
5 there any areas, or perhaps maybe the civil areas of the
6 law, that you would need to additionally prepare for in
7 order to serve as a judge, and how would you handle that
8 additional preparation?

9 MR. MEADORS: Yes, ma'am. And I have been
10 doing that since I've met with y'all last year. I'm now
11 currently solicitor the assistant prosecutor for
12 Solicitor Finney in the Third Circuit, and I'm also
13 working for the McWhirter Bellinger law firm part time.
14 That has given me the opportunity and exposure to -- to
15 the civil world, if you will.

16 And I have also defended a civil client in
17 Orangeburg Magistrate Court. And I'm involved with some
18 civil cases with Mr. McWhirter at the McWhirter firm.

19 Obviously CLEs I've been taking. I do
20 believe the Rules of -- Rules of Evidence are key to
21 criminal and civil court. I am -- I do feel comfortable
22 with those, and I do think that will be an easy
23 transition into the civil world.

24 If I'm lucky today and if I get the
25 opportunity in February, another I think positive about

1 this position is it won't come open until a year from
2 January. I think Judge Cooper is actually going to stay
3 in from a year till January and which will allow me to
4 further prepare for civil court.

5 MS. SHULER: Thank you.

6 Mr. Meadors, although you address this in
7 your Sworn Affidavit, could you explain to members of
8 the Commission what you believe to be the appropriate
9 demeanor for a judge?

10 MR. MEADORS: Yes, ma'am. I think it's
11 fairness. I think what everybody is looking for in a
12 judge is fairness, to be treated how you want to be
13 treated. I think a judge still has to be firm and
14 respectful, but I do believe you can be firm and
15 respectful and still make people feel like they're being
16 listened to and they're having their day in court or
17 hour in court.

18 And I think those are the primary
19 attributes a judge should have, and you have to be in --
20 truly listen, but I think the fact that people know you
21 care and that you're fair and consistent is what I think
22 is most important.

23 MS. SHULER: Thank you.

24 Is there any Circuit Court judge currently
25 on the bench that you would model yourself after or

1 particularly exemplifies the characteristics you just
2 outlined that a Circuit Court judge should have?

3 MR. MEADORS: There's a tough answer
4 because I know a lot of them very well. This
5 transcript -- and the ones I know are very fine judges
6 and I've appeared in front of a lot of them. Of course
7 this position I'm trying to fill, Judge Cooper, I think
8 a lot of Judge Cooper. Also the other Judge Cooper from
9 Manning comes to mind I think that has some mis --
10 characteristics, that I've seen and tried cases in front
11 of him. I would like to be a judge like them and others
12 of course.

13 MS. SHULER: Thank you.

14 Mr. Meadors, if you're selected to the
15 Circuit Court bench and serve your time and then retire,
16 what would you like your legacy to be known as?

17 MR. MEADORS: You know, "He was a pretty
18 good fellow. He was a good judge. He was fair. And
19 then I think he gave me a fair hearing." I think that
20 I'd be fair and consistent is what I'd like to be
21 remembered by.

22 MS. SHULER: Thank you.

23 Mr. Meadors, can you describe the methods
24 you use in meeting deadlines?

25 MR. MEADORS: I'm still a spiral notebook

1 person. I use the computer also. I have a calendar --
2 a hard calendar, and now with the smart phones with the
3 calendars on Outlook, I'm using those to keep up with
4 deadlines, both with Solicitor Finney and at
5 Mr. McWhirter's law firm.

6 MS. SHULER: Thank you.

7 Mr. Chairman, a complaint has been filed by
8 Mr. Meadors for the Circuit Court seat.

9 At this time I would ask that Dr. Faltas
10 please take the podium so we can address her complaint.

11 And, Mr. Meadors, if you would step aside.

12 REPRESENTATIVE DELLENEY: Mr. Meadors, you
13 might sit with your wife.

14 MR. MEADORS: Thank you, sir.

15 MS. SHULER: Before Dr. Faltas is sworn in,
16 I would like to offer as exhibits to the public hearing
17 record Dr. Faltas's complaint, Mr. Meadors' response,
18 and then the public hearing transcript from fall 2010
19 relating to Mr. Meadors' testimony and Dr. Faltas's
20 testimony.

21 (EXH. 54, Transcript of Proceedings, marked
22 for identification.)

23 (EXH. 55, Witness Affidavit Form of
24 Marie-Therese H. Assa'ad-Faltas, MD, MPH, marked for
25 identification.)

1 MS. SHULER: And, Dr. Faltas, this is
2 solely -- Laurie is furnishing you with a copy of
3 everything.

4 DR. FALTAS: Okay. I don't -- thank you.
5 I still consider myself under affirmation.

6 REPRESENTATIVE DELLENEY: I think we need
7 to reaffirm because this is a different --

8 DR. FALTAS: That's fine.

9 REPRESENTATIVE DELLENEY: -- different
10 screening for a different --

11 DR. FALTAS: That's fine.

12 REPRESENTATIVE DELLENEY: -- a different
13 candidacy.

14 DR. FALTAS: Okay.

15 REPRESENTATIVE DELLENEY: Okay, if you
16 would -- I know you don't want to swear. You want to
17 affirm.

18 DR. FALTAS: Yes. For religious reasons.

19 (Marie-Therese H. Assa'ad-Faltas, duly
20 affirmed, after which testimony commenced at 4:10 p.m.)

21 REPRESENTATIVE DELLENEY: Thank you very
22 much. You can be seated.

23 DR. FALTAS: Thank you. I wanted to just
24 after this morning -- that I realized that there is an
25 error. I used last year's form, so obviously this year

1 I'm a year older. So this is one -- one correction.
2 The other is I understand the information I've provided
3 here is confidential. I really provided a lot of public
4 information, so I can't go back and make it
5 confidential.

6 Did I misunderstand what I was supposed to
7 do? I mean --

8 MS. SHULER: I have not offered all the
9 transcripts that you sent me yesterday and the pictures
10 as exhibits in the public hearing record. If they're
11 not offered by the Commission, then they will be
12 shredded and destroyed after this. So they will remain
13 confidential.

14 DR. FALTAS: Okay. But I'm saying they
15 have been in the public domain before and there is no
16 way I can retract them. I just want to make clear that
17 the transcripts that I provided to you had been in the
18 public domain before.

19 MS. SHULER: Thank you, Dr. Faltas.

20 DR. FALTAS: And the third thing which
21 slipped my mind is that Representative Mack is my
22 Facebook friend. We have never discussed this I don't
23 think. He and I ever communicated on Facebook. So that
24 was something that -- that slipped my mind this morning.

25 REPRESENTATIVE DELLENEY: So do you want

1 Representative Mack to recuse himself also?

2 DR. FALTAS: No. No, I don't --

3 REPRESENTATIVE DELLENEY: Okay.

4 DR. FALTAS: -- because this -- in fact, I
5 don't think we ever communicated on Facebook.

6 REPRESENTATIVE DELLENEY: Okay. All right.

7 DR. FALTAS: But one time I run into him
8 somewhere and we greeted. Nothing about --

9 REPRESENTATIVE DELLENEY: Okay. That's not
10 a problem.

11 DR. FALTAS: -- anyone's candidacy.

12 REPRESENTATIVE DELLENEY: Thank you for
13 bringing it on our attention.

14 DR. FALTAS: And I'm sorry, I forgot to
15 mention it this morning.

16 REPRESENTATIVE DELLENEY: That's okay.

17 DR. FALTAS: I didn't have my glasses on.

18 MS. SHULER: Thank you, Dr. Faltas.

19 Dr. Faltas, you have filed a complaint in
20 which you reassert your allegation you made against
21 Mr. Meadors last fall in the screening, but the
22 Commission today only wants to hear from you briefly
23 what your new allegation is and what evidence you have
24 to support that allegation.

25 DR. FALTAS: Thank you.

1 MS. SHULER: If you could briefly explain
2 that to the Commission.

3 DR. FALTAS: My new allegation is that he
4 continued -- or went back to the Solicitor's Office and
5 at the time he appeared before you that he was with the
6 Solicitor's Office or had temporarily resigned for the
7 candidacy. Either way, he served again at the first
8 Solicitor's Office, and he had all the information that
9 I had provided that perjury was used at my trial, and he
10 was still in supervisory position.

11 And just as I said this morning, it's the
12 sin of omission. Since last two years -- as opposed to
13 the sin of commission which I had talked about last
14 year, that he knew -- as opposed to the testimony this
15 morning, it was -- there is no doubt in my mind that the
16 Solicitor's Office knew in 2009 and 2010 that they were
17 actually fabricating, coaching witness witnesses and all
18 that.

19 Now, you told me just to keep it, and what
20 I'm saying is from November 2010 to -- the Solicitor's
21 office -- and really today because I just learned that
22 he's with another circuit solicitor at least part time.
23 He did nothing to prevent that grand jury forgery and
24 fabrication that was used against me, and he has had an
25 opportunity to do so.

1 In addition, I don't know if you consider
2 that you are not because I became very concerned when he
3 testified last time, he said that he had not heard about
4 me until after my trial or something to that effect.
5 And I got Mr. Briggs (phonetics) had testified several
6 times before my trial and I also, you know, after that
7 had the distinct recollection that I spoke to him before
8 my trial and my recollection was confirmed because I
9 remember he told me that the entire office talks about
10 how smart I am, and I answered with it -- it wasn't
11 pride. I -- I view my intellectual gifts with a sense
12 of responsibility to him or her. To much is given, much
13 is expected. And so when he told me that the whole
14 office talks about how smart I am, I thought he had
15 knowledge.

16 And I really want to tell you that this is
17 not fantastical imagination. People have been on the
18 verge of decimal (phonetic). People have been locked
19 for 17 years and 24 years and were almost executed for
20 things they did not do. Please, please take very
21 seriously. Let it all come out from here. And I don't
22 mean rule as a law, but that no one should even think
23 about offering for a judge if that person knew of
24 perjury and false witness and framing of an innocent
25 person and did nothing about it after several, several

1 opportunities. You know --

2 REPRESENTATIVE DELLENEY: Professor
3 Freeman.

4 PROFESSOR FREEMAN: I listened attentively
5 last time you were here and also this time, and as I
6 understand it, you're supplementing what you said last
7 time and basically saying that he is further culpable,
8 additionally culpable because he still does nothing
9 about this perjury.

10 DR. FALTAS: Yes.

11 PROFESSOR FREEMAN: Do I understand your
12 position correctly?

13 DR. FALTAS: Yes, sir.

14 PROFESSOR FREEMAN: Thank you.

15 REPRESENTATIVE DELLENEY: Is that -- is
16 that the new complaint? The last time it was commission
17 and this time it was omission because he hadn't done
18 anything about what you understand to be perjury?

19 DR. FALTAS: Yes. But there is also the
20 commission of what I regard as perjury by him before you
21 when he said that he had not heard of me before my
22 trial.

23 REPRESENTATIVE DELLENEY: So there -- you
24 have two complaints --

25 DR. FALTAS: Yes.

1 REPRESENTATIVE DELLENEY: -- at this point?

2 DR. FALTAS: Yes.

3 REPRESENTATIVE DELLENEY: And those are the
4 two?

5 DR. FALTAS: Yes. And I just want to tell
6 you, nothing will happen bad to Mr. Meadors if he
7 doesn't get elected or nominated judge. But a whole lot
8 bad will happen to people who are innocent -- who are
9 innocent and are framed, and a whole lot bad has
10 happened to my family and to me.

11 And, you know, I want to tell you in North
12 Carolina the -- the solicitor or the -- I think she's
13 the district attorney Mike Nifong who tried to
14 forcefully frame the Duke lacrosse players. He lost his
15 license. Here in South Carolina someone who frames an
16 innocent person becomes a judge? I mean, really.

17 REPRESENTATIVE DELLENEY: Thank -- thank
18 you. Ms. -- Dr. Faltas, do you have any other
19 complaints other than the ones you've spoken about
20 today?

21 DR. FALTAS: Any complaint in general or --

22 REPRESENTATIVE DELLENEY: No, no, no.
23 Specifically -- specifically about Mr. Meadors.

24 DR. FALTAS: Yes. I think that the entire
25 court management --

1 REPRESENTATIVE DELLENEY: Well, that --
2 that's not a complaint about him. That's a complaint
3 about the management of the system.

4 DR. FALTAS: Yes. His -- his management of
5 the -- of the criminal docket when he was --

6 REPRESENTATIVE DELLENEY: That's not part
7 of your complaint.

8 DR. FALTAS: All right. Fine.

9 REPRESENTATIVE DELLENEY: Okay.

10 DR. FALTAS: I mean, it wasn't then, but
11 I --

12 REPRESENTATIVE DELLENEY: I think we've got
13 a clear picture of your complaints.

14 DR. FALTAS: All right. Thank you.

15 REPRESENTATIVE DELLENEY: Thank you.

16 DR. FALTAS: May I stay and --

17 REPRESENTATIVE DELLENEY: Yes, ma'am.

18 DR. FALTAS: Thank you.

19 REPRESENTATIVE DELLENEY: If you would,
20 Mr. Meadors, if you would resume the witness chair.

21 Ms. Shuler.

22 MS. SHULER: Mr. Meadors, what response
23 would you offer to Dr. Faltas's newest allegation?

24 MR. MEADORS: Yes, ma'am. It's my
25 understanding it's for not acting from the time of her

1 testimony in this Commission until today -- or to the
2 Solicitor's Office.

3 She cites Riddle versus Ozmint which was a
4 postconviction -- postconviction relief hearing before
5 the Court. Actually I went back and looked at the guilt
6 phase of the first phase -- and there's been two or
7 three trials after this postconviction relief. I went
8 back and looked at the guilt phase, and in that original
9 guilt phase proceeding, the solicitor put up the
10 testimony by the codefendant. It was just an awful,
11 awful murder.

12 But had put a testifying codefendant who
13 had given one statement and that's all the defense knew.
14 Unknown to the defense the codefendant had given another
15 written statement about four days prior to trial, and
16 two days prior to trial -- and I'm just trying to
17 distinguish this case. I don't mean to -- two days
18 prior to trial he had actually been out to the scene
19 with the codefendant.

20 That codefendant testified, and it was
21 clearly perjury as far as the state knew. The defense
22 didn't know, and clearly the state should and disclosed
23 that. And I think Riddle v. Ozmint deals with clearly
24 if there's known perjury that the prosecution must act
25 and must disclose that. And I clearly agree with that.

1 There was no question the state was wrong in that case.

2 In the matter here to get to the point,
3 when I learned about it, at that point the case had
4 already been remanded to the city court I believe in
5 August of last year.

6 Every case is in effect a swearing contest
7 to an extent. We had a system in place at the
8 Solicitor's Office where as a prosecutor, in this case
9 Assistant Solicitor Weiss prosecuted the case. Above
10 her was Assistant Solicitor Ross, David Ross, and we had
11 a system where we would meet every week, and if there
12 were any ethical issues, it was brought up during the
13 meeting.

14 None of this was brought up during the
15 preparation for that -- for that trial -- Dr. Faltas's
16 trial that I'm aware of, or I would have been aware of
17 it. So that was not a discussion then about this
18 potential perjury.

19 After I became aware of it at this hearing,
20 her allegations that the case had been remanded, I don't
21 think at that point 3.8 -- I don't know what I could
22 have done. The case had been tried. She was -- she
23 wasn't found guilty. It was a mistrial. It was
24 remanded back to the city. Arguably it might have been
25 a collateral matter that -- I think it was dealing with

1 where a witness against Dr. Faltas had stated her
2 residence, had said she worked somewhere and then
3 Dr. Faltas alleging -- alleging she hadn't worked there.

4 That wasn't the issue of harassment I don't
5 believe, but I believe at that point respectively -- and
6 I don't think I had a duty to go back and look into the
7 prior testimony in that matter. And I don't know how to
8 answer. And I thought about it and gone back and
9 studied Riddle, and clearly no perjury or prosecute --
10 any time that a prosecutor knows perjury you have to
11 bring it. I mean, there's no question of that under
12 3.8.

13 In a case like this -- there could be
14 allegations of perjury in any case, and it might be
15 difficult after the fact to go back and investigate
16 that.

17 REPRESENTATIVE DELLENEY: Does any member
18 of the Commission have any questions for Mr. Meadors?

19 Mr. Clemmons.

20 REPRESENTATIVE CLEMMONS: Mr. Meadors,
21 thank you for being here and offering yourself for
22 service on the bench.

23 I have a question with regard to your
24 practice -- your -- your areas of practice of law, and I
25 note from my recap that you consider your practice to be

1 about 80 percent criminal law, ten percent juvenile
2 prosecution, about ten percent civil law. Would you
3 consider yourself prepared to try a case involving civil
4 law?

5 MR. MEADORS: I think so, and I think --
6 and that number is changing now that I am a -- with
7 McWhirter, Bellinger & Associates. I would actually
8 move that figure down now.

9 REPRESENTATIVE CLEMMONS: What would you
10 range that down?

11 MR. MEADORS: Probably -- and I'm in the
12 middle of a murder case right now quite frankly in
13 Sumter. But our term ends and I don't have criminal
14 court again till the first of year. So I'll be doing
15 nothing but civil court -- until January civil matters
16 with the McWhirter firm.

17 So I would -- I would put it more down
18 towards -- I think most of my bosses would like 50/50.
19 I would probably think it would be more 60/40
20 practically right now. Since I've been in front of
21 y'all last time I've tried about seven or eight murder
22 cases. I tried a civil case, involved in many civil
23 cases. So that is coming back toward -- towards the
24 middle through the years.

25 And I'm potentially trying to do that with

1 these -- keep courtroom experience going and at the same
2 time trying to learn civil representing. So I -- I do
3 think that's getting closer and I do think, again, if
4 I'm honored enough to have the opportunity from a year
5 from January, I do believe I'll be ready. Thank you.

6 REPRESENTATIVE CLEMMONS: Thank you very
7 much, Mr. Meadors.

8 MR. MEADORS: Yes, sir.

9 REPRESENTATIVE DELLENEY: Anyone else have
10 any questions of Mr. Meadors?

11 There being no further questions,
12 Mr. Meadors, if you could resume your seat back there
13 with your wife, and we'll ask Dr. Faltas to come back to
14 the witness stand for a -- any reply.

15 DR. FALTAS: Yes. Mr. Chairman, I'm afraid
16 I have to give a very specific reply and to say that
17 Mr. Meadors did it again. He -- he did not learn of the
18 perjury only in August or after my trial was remanded.
19 Remember, last time I told you -- and that's now in the
20 record.

21 I told you that in March of 2010 when my
22 case was still before his office, I went with the actual
23 and -- with the actual documents, and I clearly
24 explained it's not I say, they say. It's that woman's
25 testimony from sworn testimony and I took to him the

1 deposition and later I took to him the transcript of
2 that woman's trial. So --

3 REPRESENTATIVE DELLENEY: That was last
4 time, correct?

5 DR. FALTAS: What I'm saying is he just
6 said he didn't learn about the allegations of perjury
7 until after my case was remanded.

8 REPRESENTATIVE DELLENEY: Right.

9 DR. FALTAS: He just lied to you. And I am
10 sorry, I know that he might become a judge, but -- and
11 then he will take all kinds of retributions on me, but I
12 owe it to everybody to tell you that he just lied to
13 you.

14 Because after that, he told -- and I
15 remember from last time he ran to Judge Cooper and said,
16 "Oh, Dr. Faltas harass me. Dr. Faltas harass me."

17 Then I want to tell you something very
18 important, which I did not know at the time I testified
19 before you last time. Okay? There was another hearing
20 other than that case where the first witness against me
21 had sued another lady for another traffic accident. In
22 my own case before the magistrate that same false
23 witness against me testified in it, and I had
24 transcribed it by hand.

25 Assistant Solicitor Weiss took the tapes

1 and gave them incidentally to CompuScripts and they
2 transcribed it for her. And she had that entire
3 transcript which I sent to Mrs. Shuler of -- and that
4 was from the November 10, 2009, hearing. The transcript
5 was completed, and given to Ms. Weiss on February 22nd,
6 2010, the day -- the first day of my trial.

7 REPRESENTATIVE DELLENEY: Professor
8 Freeman.

9 PROFESSOR FREEMAN: If I understand
10 correctly, she's contending that he perjured himself
11 here again. Is there anything else?

12 DR. FALTAS: Yes. I'm just trying to -- to
13 explain to you. That wasn't incidental to the charge of
14 harassment. For example, the first witness against me
15 in my trial, she said that I had gone out and taken so
16 many pictures that they --

17 PROFESSOR FREEMAN: Mr. Chairman, may I
18 just say this. I thought that we had invited her back
19 just purely to respond to what he said as opposed to
20 making all kinds of additional charges and talking
21 about --

22 REPRESENTATIVE DELLENEY: You can only --
23 you can only comment on -- about his response to your
24 charges.

25 DR. FALTAS: Well, his response is that the

1 solicitor didn't know at the beginning of my trial that
2 there was going to be false evidence. And I'm trying to
3 tell you, because the solicitor had obtained the
4 transcript of the sworn testimony of the alleged victim,
5 she knew that the alleged victim was going to present
6 false testimony, and it is not in a collateral matter.

7 The main thing they were falsely claiming
8 is that I took --

9 REPRESENTATIVE DELLENEY: That's okay. We
10 understand that you're claiming false -- more false
11 testimony. We understand that.

12 DR. FALTAS: Not more. I am trying to
13 respond to him -- to reply to his response to my opening
14 argument which he is saying that yes, it would be awful
15 if the prosecutor knew at the beginning.

16 REPRESENTATIVE DELLENEY: And you're saying
17 they knew?

18 DR. FALTAS: Absolutely.

19 REPRESENTATIVE DELLENEY: Because you
20 provided them evidence that they should have been?

21 DR. FALTAS: No, no, no, no. Because they
22 themselves went to the magistrate, got the tapes, got
23 CompuScripts to transcribe them, and in them
24 additionally -- and one important thing -- and please
25 let me finish this sentence --

1 REPRESENTATIVE DELLENEY: Well, you need to
2 wind this up.

3 DR. FALTAS: Yes, sir. Yes, sir.

4 The alleged harassment that she claims is
5 that I had gone out and taken so many pictures of a
6 child that the child cried, and in my trial she claimed
7 that the child was so close to her that she calls her
8 aunt. In the magistrate's hearing the same picture was
9 shown to her and I asked her, "Do you know this child?"
10 She said no. And that was -- that transcript was
11 available to the solicitor the first day of my trial at
12 the latest.

13 REPRESENTATIVE DELLENEY: Well, thank you,
14 Dr. Faltas.

15 DR. FALTAS: Thank you.

16 REPRESENTATIVE DELLENEY: Mr. Meadors,
17 would you resume the witness stand.

18 MS. SHULER: Mr. Chairman, I have a matter
19 that I'd like to go into executive session with.

20 REPRESENTATIVE DELLENEY: All right. Do we
21 have a motion?

22 SENATOR NICHOLSON: So moved.

23 REPRESENTATIVE DELLENEY: Second?

24 (Multiple speakers wherein there was a
25 motion and a second made to go into executive session.)

1 REPRESENTATIVE DELLENEY: All in favor aye.
2 At this point we'll be in executive
3 session.

4 (The Judicial Merit Selection Commission
5 went into executive session from 4:31 p.m. to 4:36 p.m.)

6 MS. SHULER: Mr. Meadors, I have some
7 housekeeping matters to cover with you.

8 Have you sought or received the pledge of
9 any legislator prior to this day?

10 MR. MEADORS: No, ma'am.

11 MS. SHULER: Have you sought or have you
12 been offered a conditional pledge of support of any
13 legislator pending the outcome your screening?

14 MR. MEADORS: No, ma'am.

15 MS. SHULER: Have you asked any third
16 parties to contact members of the General Assembly on
17 your behalf?

18 MR. MEADORS: No, ma'am.

19 MS. SHULER: Have you contacted any members
20 of the Commission?

21 MR. MEADORS: No, ma'am.

22 MS. SHULER: And do you understand that
23 you're prohibited from seeking a pledge or commitment
24 until 48 hours after the formal release of the
25 Commission's report?

1 MR. MEADORS: Yes, ma'am.

2 MS. SHULER: Have you reviewed the
3 Commission's guidelines on pledging?

4 MR. MEADORS: Yes, ma'am.

5 MS. SHULER: Are you aware of the penalty
6 if you violate the pledging guidelines, that it's a
7 misdemeanor and upon conviction you could be fined not
8 more than a thousand dollars or imprisoned not more than
9 90 days?

10 MR. MEADORS: Yes, ma'am.

11 MS. SHULER: I would note that the Midlands
12 Citizens Committee found Mr. Meadors to be
13 well-qualified in each of the nine evaluative criteria:
14 constitutional qualifications, ethical fitness,
15 professional and academic ability, character,
16 reputation, physical fitness, mental stability,
17 experience, and judicial temperament.

18 The Committee further stated in summary,
19 "The Committee was honored to interview Mr. Meadors
20 again. He is by far the most experienced and
21 well-rounded candidate we interviewed. We strongly
22 believe that Mr. Meadors is most eminently qualified to
23 serve on the Circuit Court. We are most confident he
24 would serve our state in an outstanding manner."

25 We would just note for the record that any

1 concerns raised during the investigation regarding this
2 candidate were incorporated into the questioning of the
3 candidate today.

4 And, Mr. Chairman, I have no further
5 questions.

6 REPRESENTATIVE DELLENEY: Did any member of
7 the Commission have any questions of Mr. Meadors?

8 There being none, Mr. Meadors, we'd like to
9 thank you for appearing before us today and hope you and
10 your family have a safe trip back home.

11 And this ends this portion of the screening
12 process. We will close the record, and of course if we
13 were of such a mind, we could bring you back and reopen
14 the screening and ask you more questions if the need
15 arises, but we don't anticipate that happening. But
16 once the report reaches the 24-hour period and clears
17 that, then it becomes the report of the Commission, then
18 we're through with the screening. We can't reopen it.

19 And with that, I'd like to thank you for
20 your service and thank you for offering your service.

21 MR. MEADORS: Can I say in conclusion that
22 I thank you, Mr. Chairman, and, members. And I also
23 want to thank the Citizens Committee and the Bar
24 Committee for their finding and, again, Ms. Shuler and
25 her staff for their kindness they've shown me. And,

1 again, my dad and my wife are here. Thank you.

2 REPRESENTATIVE DELLENEY: Thank you.

3 And we'll be in recess for ten minutes.

4 (A recess transpired.)

5 REPRESENTATIVE DELLENEY: Mr. Patterson,
6 you may have a seat.

7 GENERAL PATTERSON: Thank you.

8 REPRESENTATIVE DELLENEY: We have with this
9 us this evening Mr. Grady L. Patterson, III, who seeks
10 the position of Circuit Court, Fifth Judicial Circuit,
11 seat number three.

12 If you would, please raise your right hand
13 to be sworn.

14 (Grady L. Patterson, III was duly sworn,
15 after which testimony began at 4:52 p.m.)

16 REPRESENTATIVE DELLENEY: Mr. Patterson,
17 have you had an opportunity to review your Personal Data
18 Questionnaire?

19 GENERAL PATTERSON: Yes, sir.

20 REPRESENTATIVE DELLENEY: Is it correct or
21 does it need anything -- any corrections, changes made?

22 GENERAL PATTERSON: It is correct with the
23 amendment I filed on August the 16th, Mr. Chairman.

24 REPRESENTATIVE DELLENEY: And we have that.
25 Do you have an objection to our making this

1 summary part of the record of your sworn testimony?

2 GENERAL PATTERSON: I do not.

3 REPRESENTATIVE DELLENEY: It will be done
4 at this point in the transcript.

5 (EXH. 56, Personal Data Questionnaire of
6 Mr. Grady L. Patterson, III, marked for identification.)

7 (EXH. 57, Amendment to the Personal Data
8 Questionnaire of Mr. Grady L. Patterson, III, marked for
9 identification.)

10 REPRESENTATIVE DELLENEY: The Judicial
11 Merit Selection Commission has thoroughly investigated
12 your qualifications for service on the bench. Our
13 inquiry has focused primarily on nine evaluative
14 criteria which have included a survey of the bench and
15 bar, a thorough study of your application materials, a
16 verification of your compliance with state ethics laws,
17 a search of any newspaper articles in which your name
18 may have appeared, a search of any screen -- previous
19 screenings, and a check for economic conflicts of
20 interest.

21 We have no affidavits filed in opposition
22 to your election, and we have no witnesses here to
23 testify.

24 Do you have a brief opening statement you'd
25 like to make, which is entirely option.

1 GENERAL PATTERSON: I would like to say,
2 Mr. Chairman, I'm pleased to be here and I'm looking
3 forward to answering questions that the Commission has
4 concerning my qualifications for the judicial seat.

5 REPRESENTATIVE DELLENEY: Thank you, sir.

6 If you would, answer any questions our able
7 counsel may have.

8 MR. WRIGHT: Good evening, General
9 Patterson.

10 GENERAL PATTERSON: Evening.

11 MR. WRIGHT: You have before you the Sworn
12 Statement you provided with detailed answers to over 30
13 questions regarding judicial conduct, statutory
14 qualifications, office administration, and temperament.
15 Are there any additional amendments you would like to
16 make at this time to your Sworn Statement?

17 GENERAL PATTERSON: No.

18 MR. WRIGHT: Mr. Chairman, I would ask that
19 General Patterson's Sworn Statement be entered as an
20 exhibit into the hearing record.

21 REPRESENTATIVE DELLENEY: Without
22 objection, it will be made at this point in time in
23 the -- in the transcript.

24 (EXH. 58, Sworn Statement of Grady L.
25 Patterson, III, marked for identification.)

1 MR. WRIGHT: I note for the record that
2 based on the testimony contained in the candidate's PDQ
3 which has been included in the record with the
4 candidate's consent, General Patterson meets the
5 statutory requirements for this position regarding age,
6 residence, and years of practice.

7 General Patterson, why do you now want to
8 serve as a Circuit Court judge?

9 GENERAL PATTERSON: I want to serve because
10 of my experience. I've enjoyed the practice of law. I
11 have particularly enjoyed practicing in the courtroom.
12 I believe in our system of justice, and I believe that I
13 can make a contribution to it.

14 MR. WRIGHT: General Patterson, can you
15 explain to the Commission how you feel your legal and
16 professional experience thus far will assist you to be
17 an effective judge?

18 GENERAL PATTERSON: As I indicated, I have
19 enjoyed practicing in the courtroom. I have -- began my
20 practice in the Attorney General's Office after law
21 school where young lawyers get a chance to go in the
22 courtroom. You can read about how to try a case. You
23 can talk about it. But until you actually take the
24 witness, that's when you really learn, and I was
25 fortunate to have the opportunity to learn early. We

1 did types of work all the way from agency enforcement
2 actions through tort claims and condemnation cases, and
3 that's where I got my initial start, tort claims against
4 the government and condemnation cases.

5 After the Attorney General's Office, I went
6 into private practice. Most of mine was a litigation
7 practice. It is heavily involved with business-type
8 torts and construction law. And I've been in private
9 practice since leaving the Attorney General's Office in
10 1985.

11 In addition to these two areas of my
12 experience, I've also been a military lawyer. I'm a
13 member of the South Carolina Air Guard and have been
14 since 1981. I was a judge advocate after going to Air
15 Force law school, and I learned of course military
16 justice which is the military criminal system, also
17 administrative matters. So I had experience in that
18 area as well.

19 You had the laws of competing -- they're
20 competing interests. For example, you may have freedom
21 of contract doctrine versus the doctrine of
22 unconscionability. You have the desire to resolve
23 matters on the merits versus the default rules. You
24 have the proposition that for every wrong there's a
25 remedy versus the statute of limitations. So you have

1 these competing interests.

2 And I feel like the years of experience
3 I've had, the very nature of the experience, gives me an
4 ability to make those fine distinctions and those
5 fine -- and exercise those fine degrees of judgment that
6 are necessary in an area that have so many competing
7 interests.

8 MR. WRIGHT: Are there any -- any areas of
9 the law that you would need to additionally prepare for
10 in order to serve as a judge, and how would you handle
11 that additional preparation?

12 GENERAL PATTERSON: I will need additional
13 preparation in the criminal area. My experience in the
14 criminal area has been in magistrate's courts, lower
15 courts, and in the military justice summary
16 courts-martials. My plan to limit to that issue is --
17 well, I've actually already spoken to a couple lawyers
18 who handle criminal matters and I've asked if I can
19 associate on the cases they have. One I've already
20 got -- I've actually said yes. I've got a case that I
21 I've been asked to associate on.

22 And there will be some period of time
23 between this election and the actual taking of office,
24 as I understand it. That will give me a period to work
25 on these cases with experienced lawyers. I've asked

1 them to try and include me on cases that will actually
2 go to trial, and I think it will be a plus for
3 everybody. They'll get some work out of me, and I'll
4 get that learning experience. So I look forward to
5 that. I think it's going to be a great experience.

6 MR. WRIGHT: General Patterson, although
7 you address this in your Sworn Affidavit, could you
8 please explain to the members of the Commission what you
9 think is the appropriate demeanor for a judge?

10 GENERAL PATTERSON: A judge is courteous.
11 A judge is dignified, thoughtful. On the other hand, a
12 judge has to be firm at times. A judge sets the tone in
13 the courtroom. A judge controls the courtroom. So it's
14 very important that the judge makes it clear to everyone
15 that he is there to hear their position. And it's not
16 just the lawyers you're talking about.

17 Most of our citizens have no exposures in
18 courtroom. During a trial you've got the jury. You've
19 got the witnesses. You've got the litigants. This may
20 be there their one exposure to the courtroom. It's very
21 important, I believe, that they leave the courtroom with
22 a firm conviction that the judicial system is fair.
23 It's impartial. It's open to all litigants and that
24 people that come to our court system in the state get
25 justice.

1 So I think the judge's demeanor plays a big
2 role in that.

3 MR. WRIGHT: Is there any Circuit Court
4 judge currently on the bench that you would like to
5 model yourself after or particularly exemplifies the
6 characteristics that a Circuit Court judge should have?

7 GENERAL PATTERSON: There's several. One
8 immediately comes to mind is Judge John Hayes. His
9 demeanor I believe exemplifies the proper demeanor of a
10 Circuit Court judge. Judge Kittredge who is not on the
11 bench anymore, but Judge Kittredge had an excellent
12 demeanor and of course knew the law very well. Those
13 two come to mind immediately. Judge Cole is another
14 judge I believe who has an excellent demeanor.

15 MR. WRIGHT: If elected and after having
16 served, when you leave the bench, what would you like
17 your legacy to be as a judge on the Circuit Court bench?

18 GENERAL PATTERSON: I'd like for people to
19 say that he knew the law. He listened. He was
20 prepared, and he was fair.

21 MR. WRIGHT: General Patterson, what
22 suggestions would you offer for improving the backlog of
23 cases on the docket, both for General Sessions and
24 Common Pleas in Circuit Court?

25 GENERAL PATTERSON: You've got a certain

1 number of cases you're trying to feed through a system.
2 So you've either got to divert some of those cases out
3 of the system or increase the efficiency of the system
4 or the size. I'm assuming we're not going to increase
5 the size because that would be increasing court
6 personnel, and meaning dollars.

7 The civil side already has a diversion
8 program in the mediation and arbitration program which
9 has been a tremendous help. Mediation I think has been
10 a great asset for moving the cases on the Common Pleas
11 side.

12 As far as increasing efficiency, I think I
13 would be more inclined to use the complex case
14 designation. Therefore in that case you get a judge
15 that would retain jurisdiction over a case, and I think
16 that would permit you to keep up with the case and keep
17 the case on schedule. Also I think that I would be more
18 inclined to do status conferences on a regular basis
19 than just right before the trial. Those I believe would
20 increase the -- of course being available. Being in the
21 office all the time increases efficiency too. Being
22 available to hear matters.

23 On the criminal side, which I don't have
24 the same level of experience, I understand that while
25 the solicitor controls the docket, the judge can ask the

1 solicitor for a list of cases. He can have status
2 conferences, and encourage plea negotiations and have a
3 roster of cases prepared similar to on the civil side.
4 Those are things that I would like to explore in terms
5 of increasing the efficiency on the criminal side.

6 MR. WRIGHT: Thank you, General Patterson.
7 I have a few housekeeping issues.

8 Have you sought or received the pledge of
9 any legislator prior to this date?

10 GENERAL PATTERSON: No.

11 MR. WRIGHT: Have you sought or have you
12 been offered a conditional pledge of support of any
13 legislator pending the outcome of your screening?

14 GENERAL PATTERSON: No.

15 MR. WRIGHT: Have you asked any third
16 parties to contact members of the General Assembly on
17 your behalf?

18 GENERAL PATTERSON: No.

19 MR. WRIGHT: Have you contacted any members
20 of the Commission?

21 GENERAL PATTERSON: No.

22 MR. WRIGHT: Do you understand that you are
23 prohibited from seeking a pledge or commitment until 48
24 hours after the formal release of the Commission's
25 report?

1 GENERAL PATTERSON: Yes.

2 MR. WRIGHT: Have you reviewed the
3 Commission's guidelines on pledging?

4 GENERAL PATTERSON: Yes.

5 MR. WRIGHT: As a follow-up, are you aware
6 of the penalties for violating the pledging rules; that
7 is, it is a misdemeanor and upon conviction the violator
8 must be fined not more than \$1,000 or imprisoned not
9 more than 90 days?

10 GENERAL PATTERSON: Yes.

11 MR. WRIGHT: I would note that the Midlands
12 Citizens Committee reported that General Patterson is
13 well-qualified and is a most eminently qualified
14 candidate and he would serve in the Circuit Court in a
15 most outstanding manner.

16 I would just note for the record that any
17 concerns raised during the investigation regarding the
18 candidate were incorporated into the questioning of the
19 candidate today.

20 Mr. Chairman, I have no further questions.

21 REPRESENTATIVE DELLENEY: Does any member
22 of the Commission have any questions for the General?

23 Yes, sir, Mr. Clemmons.

24 REPRESENTATIVE CLEMMONS: Thank you,
25 Mr. Chairman.

1 General Patterson, thank you for being here
2 and offering for service on the bench. I just have a
3 question with regard to your criminal law background.
4 I -- I note in the materials we've been provided that
5 you've listed your criminal law practice over the last
6 five years as constituting approximately two percent of
7 your practice. Do you consider yourself to be prepared
8 today to -- to try a civil case --

9 GENERAL PATTERSON: Criminal case?

10 REPRESENTATIVE CLEMMONS: -- a criminal
11 case, excuse me, and if you feel that you're not quite
12 prepared, what would your actions be to become so
13 prepared if you were elected?

14 GENERAL PATTERSON: Two-part answer to
15 that, if I may.

16 REPRESENTATIVE CLEMMONS: Yes, sir.

17 GENERAL PATTERSON: Certain parts I
18 certainly feel prepared. For example, criminal case is
19 going to be just like a civil case in terms of elements,
20 elements of the crime. Like when I go to a civil case,
21 I have a trial notebook. The first section is each
22 cause of action and each element of the cause of action
23 and my listing of my proof next to it. The criminal
24 case would be a similar type undertaking in terms of the
25 elements of the crime.

1 The Rules of Evidence I'm familiar with.
2 Obviously they apply just as well in the criminal case.

3 The actual taking and calling of witnesses,
4 the exchange, I think I'm ready. The specific
5 procedures I need some additional training. That's why
6 I mentioned earlier I've already contacted a couple of
7 lawyers, and my plan is to actually try as many as I can
8 between now and actually taking office if I were
9 elected. The best way to do is to do it. You can read
10 about it. You can talk about it. You can be briefed.

11 I've met -- I met with the circuit judge
12 earlier just to ask how the week goes on a criminal week
13 to get -- to begin learning those details. What I want
14 to do is I want to be at the counsel table so that I can
15 learn how the criminal trial works. I think that will
16 quickly remedy any areas that I need to -- some
17 education on.

18 REPRESENTATIVE CLEMMONS: Thank you.

19 That's all I have, Mr. Chairman.

20 REPRESENTATIVE DELLENEY: Anybody else have
21 any questions for General Patterson?

22 There being no further questions, General
23 Patterson, we thank you so much for appearing before us
24 today and thank you for your willingness to offer to
25 serve as the Circuit Court judge, and this concludes

1 this portion of the screening process.

2 At this time the record will be closed, but
3 if we were of such a mind up until the end of the
4 48-hour period when the Committee's report becomes final
5 and we -- and the screening process is over, we could
6 reconvene a public hearing and bring you down to ask you
7 more questions if we felt the need which is very
8 unlikely.

9 But in any event, with that, I would remind
10 you about the 48-hour rule and thank you again and hope
11 you have a safe trip home.

12 And I would also like to put on the record
13 at this time that the reason that Senator McConnell and
14 Senator Knotts are not a part of your screening is
15 because they recused themselves because a witness
16 against another candidate had asked them to recuse
17 themselves for whatever reason, and they have obliged
18 them. And that is the reason that they are not here,
19 because when they recuse themselves in that situation,
20 they have to recuse themselves in participating in any
21 of the screenings for the circuit -- for this Circuit
22 Court seat, Fifth Circuit, seat number three.

23 GENERAL PATTERSON: Yes, sir.

24 REPRESENTATIVE DELLENEY: Thank you, sir.

25 GENERAL PATTERSON: Thank you. Thank you

1 to the Commission too.

2 (Off the record.)

3 REPRESENTATIVE DELLENEY: We have before us
4 today Mr. Robert L. Reibold --

5 MR. REIBOLD: Reibold.

6 REPRESENTATIVE DELLENEY: -- Reibold -- I'm
7 sorry, I apologize -- Mr. Robert L. Reibold who seeks
8 the position on Circuit Court Fifth Circuit, seat number
9 three.

10 If you would at this time, Mr. Reibold,
11 would you raise your hand and be sworn.

12 (Robert L. Reibold was duly sworn, after
13 which testimony began at 5:08 p.m.)

14 REPRESENTATIVE DELLENEY: Thank you, sir.

15 Have you had an opportunity to review the
16 personnel questionnaire -- Personal Data Questionnaire?

17 MR. REIBOLD: Yes. Yes.

18 REPRESENTATIVE DELLENEY: And is it
19 correct? Is there anything that needs to be changed?

20 MR. REIBOLD: No.

21 REPRESENTATIVE DELLENEY: Do you object to
22 us making that summary a part of the record of your
23 sworn testimony?

24 MR. REIBOLD: No, I do not.

25 REPRESENTATIVE DELLENEY: It will be done

1 at this point in the transcript.

2 (EXH. 59, Personal Data Questionnaire of
3 Mr. Robert L. Reibold, marked for identification.)

4 REPRESENTATIVE DELLENEY: The Judicial
5 Merit Selection Commission has thoroughly investigated
6 your qualifications for service on the bench. Our
7 inquiry has primarily focused on nine evaluative
8 criteria which have included a study of the bench -- a
9 survey of the bench and bar, a thorough study of your
10 application materials, a search of any newspaper
11 articles which your name has appeared, your compliance
12 with state ethics laws, a search of any previous
13 screenings, and a check for any economic conflicts of
14 interest.

15 There are no affidavits filed in opposition
16 to your election, and there are no witnesses here to
17 testify.

18 Do you have a brief opening statement,
19 which is purely optional, you'd like to make at this
20 time?

21 MR. REIBOLD: It's been a long day.
22 Everyone here is tired. I'd just thank you for having
23 me and thank you to your staff and let's get to it.

24 REPRESENTATIVE DELLENEY: Thank you, sir.

25 If you would, answer any questions our able

1 counsel might have.

2 MR. GENTRY: Mr. Reibold, you have before
3 you the Sworn Statement and amendment you provided with
4 detailed answers to over 30 questions regarding judicial
5 conduct, statutory qualifications, office
6 administration, and temperament. Are there any
7 additional amendments that you would like to make to the
8 Sworn Statement at this time?

9 MR. REIBOLD: No, there are not.

10 MR. GENTRY: At this time, Mr. Chairman, I
11 would ask that Mr. Reibold's sworn statement and
12 amendment be entered into -- an exhibit into the record.

13 REPRESENTATIVE DELLENEY: Without
14 objection, it will be done at this point in the
15 transcript.

16 (EXH. 60, Amendment to the Sworn Statement
17 of Robert L. Reibold, marked for identification.)

18 (EXH. 61, Sworn Statement of Robert L.
19 Reibold, marked for identification.)

20 MR. GENTRY: One final procedural matter.
21 I note for the regard that based on the testimony
22 contained in the candidate's PDQ which has been included
23 in the record with the candidate's consent, Mr. Reibold
24 meets the statutory qualifications and requirements for
25 this position regarding age, residence, and years of

1 practice.

2 Mr. Reibold, why do you want to serve as a
3 Circuit Court judge?

4 MR. REIBOLD: Well, there are a few reasons
5 I want to serve as a Circuit Court judge. The first is
6 I -- I do honestly believe in the legal system and the
7 law, and I think that's one of the things that makes
8 this country the great country that it is. And when I
9 look around, I unfortunately see a lot of people who are
10 losing faith in the system, whether it's people camped
11 out on the Statehouse lawn or whether it's people who
12 are concerned about judicial activism.

13 I'm afraid that people are losing faith in
14 the system. And I can think of no better way to be a
15 good public servant and to uphold the commitment to law
16 that we all -- that we all endear than to be a Circuit
17 Court judge and apply the law fair and -- and respect
18 people coming before the courts.

19 There are some other personal reasons too.
20 I -- I'm very intellectually curious about the law. I
21 have written several articles, coauthored a book. So
22 that's a personal reason.

23 And, finally, in my practice as an
24 advocate, my job is to get the Court to come to the
25 position my client desires, and as a -- I think would be

1 a little bit of a luxury to have the freedom to come to
2 the right decision instead of the decision that one of
3 the parties is trying to push. So for all those reasons
4 I would serve as a Circuit Court judge.

5 MR. GENTRY: Can you explain to the
6 Commission how you feel your legal and professional
7 experience thus far have prepared you to be a Circuit
8 Court judge.

9 MR. REIBOLD: Yes, sir. The first thing is
10 that I when I got out of law school, my first job was a
11 law clerk for The Honorable Ernest Pattern, and as that
12 law clerk, I got to see back stage, so to speak, about
13 what a Circuit Court judge does and the various aspects
14 of the job that's required, and that experience I think
15 is a good insight into what would be required for the
16 job.

17 My private practice has been predominantly
18 civil. But I've been lucky. I've had a very broad
19 variety of cases. I've handled everything from a simple
20 car wreck to sexual harassment cases, even -- even one
21 international theft trade secrets case. And I think the
22 fact that I've had such a broad experience will help
23 prepare me for the bench.

24 I've represented both plaintiffs and
25 defendants. So I have both sides of that spectrum

1 covered, and I've been in Magistrate Court, Circuit
2 Court, Court of Appeals. So I do think the breadth --
3 breadth of my experience would prepare me for the bench.

4 MR. GENTRY: Are there any areas, including
5 subjective areas of the law, that you would need to
6 additionally prepare for in order to serve on the bench,
7 and how would you go about that preparation?

8 MR. REIBOLD: Well, where I believe I would
9 need some additional training or support would be
10 criminal law. I do have some experience. As I
11 mentioned, I was a Circuit Court judge's law clerk, and
12 I sat through many criminal trials, participated in many
13 trials as the law clerk.

14 I helped with expungement orders for many
15 things. I sat through numerous, numerous guilty pleas.
16 Judge Pattern moves them very quickly. So all the
17 solicitors try to line it up to do that.

18 I've recently done a PCR. So I do have
19 some -- some experience, but predominantly my practice
20 has been civil. So I understand I would need to do the
21 work to get that, and there is no substitute. Hard work
22 is the answer. I would go to CLEs, seminars. There are
23 a number of good textbooks that the Bar Association puts
24 out that I would review, and I would even be willing to
25 and would observe some more criminal trials to be

1 prepared.

2 MR. GENTRY: Although you address this in
3 your Sworn Affidavit, could you please explain to the
4 Commission what you believe is the appropriate demeanor
5 for a Circuit Court judge.

6 MR. REIBOLD: Certainly. To me the Circuit
7 Court judge has more than one role. Obviously there
8 would be the refereated [sic] trial, so to speak, but a
9 Circuit Court judge is also an ambassador. I think that
10 the judge more than anyone else is the face of the
11 judicial system. When people come into the courtroom,
12 that's who they look at. That's who they see. And
13 that's the representative of the -- of the court system.

14 And I think it's very important for the
15 judge to be conscious of that role as well, and then to
16 treat everybody in the courtroom in a calm manner, in a
17 patient manner, and in a respectful matter.

18 MR. GENTRY: Is there any Circuit Court
19 judge currently on the bench that you would like to
20 model yourself after or that you believe particularly
21 exemplifies the characteristics of a Circuit Court
22 judge?

23 MR. REIBOLD: Yes, there are. I previously
24 clerked for Judge Pattern. I obviously do look up to
25 him, and he is still currently on the bench although

1 retired status. I also particularly do respect Judge
2 Cooper who's seat -- who currently fills the seat that
3 I'm seeking.

4 MR. GENTRY: What would you like for your
5 legacy to be as a judge in the Circuit Court?

6 MR. REIBOLD: It's simple. I would hope
7 that when I was through serving as a judge that people
8 would say, "Mr. Reibold was fair and respectful."

9 MR. GENTRY: What suggestions would you
10 offer for improving the backlog of cases in the Circuit
11 Court including both General Session and Common Pleas?

12 MR. REIBOLD: Well, the Common Pleas side,
13 one thing I find in my practice -- and it's a simple
14 discovery issue, but I'll serve discovery requests which
15 have a 30-day time period to respond to. Very
16 frequently I get nothing within that time period. As a
17 result, I have to file a motion to compel which then
18 gets docketed for a nonjury term. Several months later
19 the motion gets heard.

20 And typically the trial court gives the
21 other party an additional period of time in which to
22 respond to discovery. What that means for my practice
23 and what that means for the backlogged cases is that
24 it's sometimes six to nine months before I have even the
25 most basic information I need to begin preparing that

1 case for trial.

2 And I -- what I would suggest is a
3 different rule that would allow the clerk of court to
4 issue an order requiring discovery responses to be
5 served in the case of a complete and total failure to
6 answer. Obviously we'd need a judge's interaction if
7 there was an objection that required a ruling. But if
8 the clerk would issue that order right away, you can
9 save five, six, seven months in every case. And so
10 that -- that would be definitely one suggestion I have.

11 MR. GENTRY: Thank you, Mr. Reibold.

12 I have a few housekeeping questions.

13 Have you sought or received the pledge of
14 any legislator prior to this date?

15 MR. REIBOLD: I have not.

16 MR. GENTRY: Have you sought or have you
17 been offered a conditional pledge of support of any
18 legislator pending the outcome of your screening?

19 MR. REIBOLD: No, I have not.

20 MR. GENTRY: Have you asked any third
21 parties to contact members of the General Assembly on
22 your behalf?

23 MR. REIBOLD: No, I haven't.

24 MR. GENTRY: Have you contacted any members
25 of the Commission?

1 MR. REIBOLD: I did send a resumé to all
2 members of the legislature, but otherwise I've done no
3 attempts to contact members of the legislation.

4 MR. GENTRY: Do you understand that you're
5 prohibited from seeking a pledge or commitment until 48
6 hours after the formal release of the Commission's
7 report?

8 MR. REIBOLD: Yes, I do.

9 MR. GENTRY: Have you reviewed the
10 Commission's guidelines on pledging?

11 MR. REIBOLD: Yes, I have.

12 MR. GENTRY: As a follow-up, are you aware
13 of the penalties for violating the pledging rules; that
14 is, it is a misdemeanor and upon conviction the violator
15 must be fined not more than a thousand dollars and
16 imprisoned not more than 90 days?

17 MR. REIBOLD: Yes, I'm aware.

18 MR. GENTRY: I would note that the Midlands
19 Citizens Committee reported Mr. Reibold as qualified in
20 the area of professional and academic ability, as well
21 as in experience. In all other areas he was found
22 well-qualified. The Committee was impressed by
23 Mr. Reibold's intelligence, sincerity, and commitment.

24 I would just note for the record that any
25 concerns raised during the investigation regarding the

1 candidate were incorporated in the questioning of the
2 candidate today.

3 Mr. Chairman, I have no further questions.

4 REPRESENTATIVE DELLENEY: Does any member
5 of the Commission have any questions for Mr. Reibold?

6 There being no further questions, I need to
7 put something on the record. Senator McConnell and
8 Senator Knotts are not here because they had to recuse
9 themselves in the race for the Circuit Court, Fifth
10 Judicial Circuit, seat number three because in a
11 previous screening a complaining witness had asked them
12 to recuse themselves. So they obliged and did out of an
13 abundance of caution. And that is why they're not here.

14 Having said that, Mr. Reibold, I'd like to
15 thank you so much for being with us today for offering
16 yourself as a -- a candidate for the Circuit Court. And
17 this concludes our portion of the screening -- or this
18 portion of the screening.

19 And the record will be closed. However, we
20 could reopen the record and recall you for a further
21 public hearing if we -- if matters came before us that
22 we thought we need to explore. That's very unlikely.
23 And that condition would exist up until the expiration
24 of the 24-hour period. Once we issued the report, the
25 24-hour period expires. The report becomes a permanent

1 final report of this screening process, and we can't
2 reopen the screening at this point.

3 Having said that, I'd just like to remind
4 you about the 48-hour rules as it applies to
5 commitments, and thank you again for offering to serve
6 and I hope you have a safe trip home.

7 MR. REIBOLD: Thank you very much.

8 (Off the record.)

9 REPRESENTATIVE DELLENEY: Next we have
10 Clifford Scott.

11 Good evening, Mr. Scott.

12 MR. SCOTT: Good evening.

13 REPRESENTATIVE DELLENEY: We're glad to
14 have you with us today.

15 We have Mr. Clifford Scott who seeks the
16 Circuit Court, Fifth Judicial Circuit, seat number
17 three.

18 Before I go any further, I'd like to put on
19 the record that Senator McConnell is not here nor is
20 Senator Knotts because they have recused themselves from
21 this race, Circuit Court, Fifth Judicial Circuit, seat
22 number three because a complaining witness against
23 another candidate had requested that they recuse
24 themselves, and for whatever reason out of an abundance
25 of caution they obliged and did recuse themselves of

1 this race, so they will not be participating in the
2 screening or the voting for this particular race.

3 And having said that, I'd like for you to
4 raise your right hand so you can be sworn.

5 (Clifford Scott was duly sworn, after which
6 testimony began at 5:20 p.m.)

7 REPRESENTATIVE DELLENEY: Thank you, sir.

8 Have you had an opportunity to review your
9 Personal Data Questionnaire?

10 MR. SCOTT: Yes, sir, I looked over it
11 again today before I came over.

12 REPRESENTATIVE DELLENEY: Is it correct?
13 Anything need to be changed?

14 MR. SCOTT: Let's see. I don't believe so,
15 sir. No, sir.

16 REPRESENTATIVE DELLENEY: Thank you, sir.

17 Do you object to our making that summary a
18 part of the record of your sworn testimony?

19 MR. SCOTT: No, sir, I don't.

20 REPRESENTATIVE DELLENEY: It will be done
21 at this point in the testimony.

22 (EXH. 62, Personal Data Questionnaire of
23 Clifford Scott, marked for identification.)

24 (EXH. 63, Amendment to the Personal Data
25 Questionnaire of Clifford Scott, marked for

1 identification.)

2 REPRESENTATIVE DELLENEY: The Judicial
3 Merit Selection Commission has thoroughly investigated
4 your qualification for service on the bench. Our
5 inquiry primarily focused on nine evaluative criteria
6 which included a survey of the bench and bar, a thorough
7 study of your application materials, verification of
8 your compliance with state ethics laws, a search of any
9 newspaper articles in which your name may have appeared,
10 and a study of any previous screenings, and a check for
11 economic conflicts of interest.

12 We have not received any affidavits in
13 op -- affidavits in opposition to your election of
14 candidacy, nor do we have any witnesses here to testify.

15 Do you have a brief opening statement you
16 would like to make? It's purely optional.

17 MR. SCOTT: Well, yes, sir, I know it's
18 late in the day. If y'all would indulge me.

19 Pretty much I just would like to say I
20 appreciate the opportunity to appear before this
21 commission. It is indeed an honor, and while it may
22 sound horribly sappy or trite or cliché to say so, being
23 a judge is indeed an honor. It's one that I recognize a
24 lot of people aspire to, including myself. To the
25 extent of which I have that opportunity of course rests

1 with you and other members of the legislator.

2 But a lot of people have asked me why I
3 have decided to throw my hat in the ring. I have been
4 considering doing this for quite some time, and it just
5 dawned on me that I have -- I used to work at the
6 University of South Carolina, and I was a tutor for
7 first year students. I see some of my kids, I call
8 them, come up and become judges.

9 So I decided that if I'm going to do this,
10 now is a good time to do it. I feel like that the --
11 the background and the experience that would enable me
12 to -- I think at least, to be a good judge, because I
13 like people. I think I have the kind of demeanor that
14 allows me to get along with almost anybody, and I still
15 have half a brain. So I think I'll be a pretty good
16 judge.

17 REPRESENTATIVE DELLENEY: Thank you, sir.

18 At this time would you answer any questions
19 our able counsel Ms. Parrish might have for you.

20 MR. SCOTT: Yes, sir.

21 MS. PARRISH: Hey, Mr. Scott. How are you?

22 MR. SCOTT: Just fine, Sara.

23 MS. PARRISH: Mr. Scott, you have before
24 you the Sworn Statement you provided with detailed
25 answers for over 30 questions regarding judicial

1 conduct, statutory qualifications, office
2 administration, and temperament. Are there any
3 additional statements or amendments you would like to
4 make at this time?

5 MR. SCOTT: I don't believe so,
6 Ms. Parrish.

7 MS. PARRISH: Okay. At this time,
8 Mr. Chairman, I would like to ask that Mr. Scott's Sworn
9 Statement be entered as an exhibit into the hearing
10 record.

11 REPRESENTATIVE DELLENEY: It will made part
12 of the transcript at this point.

13 (EXH. 64, Sworn Statement of Clifford
14 Scott, marked for identification.)

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

21 Mr. Scott, can you explain to the
22 Commission how you feel that your professional and legal
23 experience thus far will assist you to be an effective
24 judge.

25 MR. SCOTT: Well, I guess I alluded to that

1 earlier during that brief opening statement that I made.
2 I graduated from law school in 1981, went to the Army
3 General Corps for about five and a half years, came out,
4 worked with a small private practice firm, later on went
5 to work for the Department of Mental Retardation which
6 is now of course the Department of Disabilities and
7 Special Needs, and then I worked for the University of
8 South Carolina for about four and a half years, after
9 which in '94 I went in private practice and have been
10 doing that ever since. I still get some contract work
11 for the university.

12 During the course of the approximately 30
13 years I've been a lawyer, I've handled -- I've
14 represented people in court-martial and defended the
15 country. I've represented people in criminal courts.
16 I've represented agencies. I've represented state
17 agencies.

18 I don't do quite as much criminal work as I
19 used to, but there was a time when I actually served as
20 a part-time public defender for about four years in
21 Newberry County. When I worked with Johnson, Toal &
22 Battiste law firm years ago, I actually got a chance to
23 do quite a bit of criminal and civil work and actually
24 had a chance to argue before the Fourth Circuit Court of
25 Appeals and also during that period of time argued for

1 our Court of Appeals and the Supreme Court.

2 You know, a lot of people would probably
3 say, "Well, gee, it sounds like you have done a lot, but
4 you are probably not a master of anything." That may
5 very well be true, but I think that the breadth of my
6 experience gives me the ability to grasp the issues that
7 are likely to be presented to any Circuit Court judge
8 and would enable me to, I think at least, be able to in
9 trying to fashion a remedy rely on the experience that I
10 acquired during these last 30 years or so to enable me
11 to, I think, become a judge.

12 MS. PARRISH: I know we discussed this some
13 when -- when we met. Are there any areas that you feel
14 like you need additional information on in preparation?

15 MR. SCOTT: Well, like I said, I don't -- I
16 probably tried over a hundred cases when I was in the
17 military. These are court-martial, which pretty much
18 follows the Rules of Evidence that we find in the
19 Federal Court system, and then after that, as I said, I
20 did some work as a public defender and even before that
21 working in a private firm I did quite a bit of criminal
22 work.

23 I don't try as many cases now as I used to,
24 and that's probably by choice. But this is going to
25 sound like I'm tooting my own horn. I know it will.

1 But I'm a pretty good trial lawyer, and I have a pretty
2 good grasp of courtroom procedure. If there's any one
3 area that I would -- I guess I'm being asked to judge my
4 strengths and weaknesses.

5 I don't really do a lot of corporate law
6 and business law. But I -- again, it sounds like I'm
7 tooting my own horn. I'm a pretty quick study. So if
8 it ever were to come before me arcane or esoteric areas
9 of the law that would engage in study, I don't think
10 that would cause a problem for me at all. And I
11 think -- I think I'm pretty well rounded to be quite
12 honest with you.

13 MS. PARRISH: Okay. You also address this
14 in your opening statement a bit and in your Sworn
15 Statement. But could you please explain to members of
16 the Commission just briefly what you think the
17 appropriate demeanor for a judge is.

18 MR. SCOTT: Well, a judge should, first of
19 all, be respectful of the people who appear before him.
20 Even though a judge wears the black robe and controls
21 the courtroom and is the dispenser of justice, a judge
22 is very much a representative of the government. And
23 when in doubt with the kind of power that a judge
24 possesses, some people -- and I would think that I would
25 not be that kind of judge -- allow the power that they

1 possess to dictate or -- I guess dictate is the right
2 word -- dictate the manner in which they act.

3 I think that a judge first and foremost has
4 to realize that everyone who appears before that judge
5 is there for a reason. They either have -- it's
6 criminal -- if it's a criminal matter, obviously their
7 liberty is at stake. In some instances their lives are
8 at stake. If it's a civil matter, normally that
9 involves some fundamental right as well, primarily
10 property or a monetary one. So a judge has to
11 understand that even though he may see a hundred people
12 before him in the course of one week, he has to
13 understand that this case that he is hearing now is the
14 most important case to that individual, and he has to
15 conduct himself in that manner.

16 I think I'd be able to empathize with
17 everyone -- every litigant that appears before me and
18 recognize that, yes, I'm the judge, but my -- my role as
19 a judge there is to serve them, and by that I mean
20 providing the kind of forum for the individuals that are
21 before you that makes them think at least and hopefully
22 conclude that they've been given a fair day in court.

23 MS. PARRISH: Is there any Circuit Court
24 judge currently on the bench that you would like to
25 model yourself after or particularly exemplifies the

1 characteristics that a Circuit Court judge should have?

2 MR. SCOTT: Well, I'll be quite honest with
3 you, my favorite Circuit Court judge was not with us
4 anymore. That was Judge James Johnson. When I worked
5 up in Newberry, I appeared probably 200 times or more
6 before James Johnson. Judge Johnson was a very
7 personable judge. He was a very intelligent judge.
8 He -- when called upon to do so, he didn't hesitate to
9 weed out justice as he deemed appropriate. Some of that
10 justice was weeded at some of my client.

11 But he was respectful of every litigant
12 that appeared before him, and I can't think of a time
13 when I saw Judge Johnson lose his temper except one
14 time, one occasion. That was actually one of my clients
15 who appeared before the judge. He was in jail I think
16 and he was -- we petitioned the judge to reduce his bail
17 so he could get out of jail, and the judge wasn't
18 predisposed to do that, and as we were about to walk
19 away from the bench, this client uttered an expletive,
20 and the judge said, "Wait a minute. Did I hear you
21 right?"

22 And he called him back before him and he
23 gave him some additional time to think on his own. But
24 that was the only time I think I remember Judge
25 Johnson -- Judge Johnson ever losing his temper. He was

1 a -- in my opinion a class act, and I would like to be
2 that kind of judge.

3 MS. PARRISH: In addition to that, when you
4 leave the bench, what would you like your legacy to be
5 as a judge?

6 MR. SCOTT: I would like people to say
7 about me as a judge the same thing I think most people
8 who know me say now. "Cliff, is a good person. He was
9 a fair person. He tried to do the right thing."

10 MS. PARRISH: Do you have any suggestions
11 that you could offer for improving the backlog of cases
12 on the docket both in General Sessions and Common Pleas
13 in Circuit Court?

14 MR. SCOTT: General Sessions? Well, any
15 realistic recommendations? Not having been on the other
16 side of the bar and having to move cases along -- well,
17 yeah, I do have a suggestion. This may rub some people
18 the wrong way.

19 But to the extent I think that judges can
20 be given control over the criminal docket, that would
21 help. I know there are lawyers on this committee, and
22 if you ever practice in -- in General Sessions Court,
23 sometimes things get a little dicey because of the fact
24 that the judge doesn't necessarily control the docket.
25 So I think that to the extent the judge can be given

1 more say-so or more input in how the docket is actually
2 handled, that would certainly help.

3 With respect to civil cases or Common
4 Pleas, I -- people -- we just have a lot of lawsuits
5 people file these days to be quite honest with you. And
6 absent limiting the extent -- I should say the number of
7 cases that we allow to be filed in the court, I'm not
8 quite sure what else can you do with that.

9 And that may not be the answer you're
10 looking for. I don't know.

11 MS. PARRISH: There's no right answer. We
12 just want your thoughts.

13 MR. SCOTT: Okay.

14 MS. PARRISH: We need your wisdom.

15 I have a couple things we wanted to ask you
16 about that we discussed in our interview together.

17 MR. SCOTT: Yes, ma'am.

18 MS. PARRISH: The first of which, you
19 reported on your PDQ two tax liens.

20 MR. SCOTT: Uh-huh.

21 MS. PARRISH: Can you please explain the
22 circumstances for those and their disposition.

23 MR. SCOTT: All right. When I left the
24 university in 1994, having been used to working and
25 having all my taxes taken out at the time, I didn't

1 withhold enough and send to Uncle Sam, as I should
2 have -- throughout the year as I should have. And so
3 the end of the year I ended up owing some money. I
4 entered into an installment agreement with the IRS. But
5 because of the amount owed, the IRS filed a lien against
6 us, and that lien remained until the taxes were paid
7 off, which they were paid off. That was in '94, '95 I
8 think shortly after I went into private practice.

9 The other one happened as a result of our
10 getting in the mail from the Department of Revenue --
11 this is probably nine or ten years ago -- an adjustment
12 to our tax bill saying, "Y'all owe \$200." I said,
13 "Okay, I need to pay this." I put it aside and just
14 completely forgot about it, and when it was brought to
15 our attention again, it was by a letter from the
16 Department of Revenue saying, "We've taken this money
17 out of your wife's -- or we're going to take it out of
18 your wife's --" she was working at Palmetto Health at
19 the time which was not yet a private institution. And
20 so I just paid it immediately.

21 I mean, that was just a something that
22 resulted on our being negligent.

23 MS. PARRISH: We also discussed that you
24 reported two lawsuits.

25 MR. SCOTT: Right.

1 MS. PARRISH: Could you please briefly
2 touch on those and their outcomes.

3 MR. SCOTT: I think some of you may be
4 familiar with one of the litigants in one of the
5 lawsuits. It is a Dr. Maria Faltas. And I worked at
6 University of South Carolina as associate general
7 counsel from 1989 to early 1994. I am the general
8 counsel, provided the legal advice to the School of
9 Medicine. Specifically Dean Humphries who -- O'Neal
10 Humphries was the dean at the time.

11 I provided some advice to Dean Humphries
12 that he was inclined to follow, but as it turned out, a
13 member of the medical school staff convinced the dean to
14 make a different decision, and as a result of that,
15 other things happened. Dr. Faltas was dissatisfied.
16 She ended up suing not just me, but the general counsel
17 to the University -- of the University of South
18 Carolina, the dean, the medical school professor that I
19 mentioned, the president, the chairman of the board of
20 trustees, every member of the board of trustees, the
21 secretary of the member of the board of trustees, and I
22 can't remember who else she sued. And I think she filed
23 several lawsuits against us.

24 All of those lawsuits were found to be
25 without merit and they were dismissed. Interestingly

1 enough, when I went to private practice, Dr. Faltas
2 actually called me to represent her. Of course I
3 refused the opportunity to do that.

4 But the other lawsuit was probably about
5 ten or 15 years ago, probably closer to 15 because I
6 think my son was probably about ten at the time.
7 Somebody ran into my wife's car and they sued us and we
8 won the lawsuit. Those were the two lawsuits involved.

9 MS. PARRISH: Okay. We also discussed
10 Pedro Brown.

11 MR. SCOTT: Pedro Brown, yes.

12 MS. PARRISH: Pedro Brown, can you please
13 explain to the Commission what Pedro Brown is, and can
14 you tell them what you decided to do with that site.

15 MR. SCOTT: Pedro Brown is the nickname of
16 my maternal great grandfather. Years ago I actually
17 wrote a little story about a leopard and I named him
18 Pedro Brown, the luckiest leopard alive. And I actually
19 had -- this was intended for kids actually. And I
20 actually had a little stuffed animal character made. He
21 was a leopard. He was -- he was very dapper. He wore a
22 red top hat. He wore red and black shoes for Carolina
23 colors. And not to offend any Clemson fans, please.

24 But -- and as a joke -- and as I told
25 Ms. Parrish, I had forgotten I had even done that. I

1 think earlier this year I just started to do the website
2 and it said, "Pedro Brown for president 2012. Vote for
3 me because I'm a leopard, not a wolf and I won't eat
4 you." And it was just something silly. It was a joke.

5 And when Ms. Parrish saw that online, she
6 said, "You can't run for office," meaning Pedro Brown.
7 And so I just locked that website so that it's not
8 accessible to anyone other than close -- so that's Pedro
9 Brown.

10 MS. PARRISH: Mr. Chairman, at this time
11 I'd like ask that we go into executive session.

12 REPRESENTATIVE DELLENEY: Okay. Do I have
13 a motion that we go into executive session?

14 MR. SELLERS: So moved.

15 SENATOR NICHOLSON: Second.

16 REPRESENTATIVE DELLENEY: All in favor.

17 (The Judicial Merit Selection Commission
18 went into executive session from 5:39 p.m. to 5:44 p.m.)

19 REPRESENTATIVE DELLENEY: Do you have any
20 more questions?

21 MS. PARRISH: Just some housekeeping.

22 REPRESENTATIVE DELLENEY: All right.

23 MS. PARRISH: Just some general
24 housekeeping.

25 Have you sought or received the pledge of

1 any legislator prior to this date?

2 MR. SCOTT: No, ma'am.

3 MS. PARRISH: Have you sought or have you
4 been offered a conditional pledge of support of any
5 legislator pending the outcome of your screening?

6 MR. SCOTT: I have not.

7 MS. PARRISH: Have you asked any third
8 parties to contact members of the General Assembly on
9 your behalf?

10 MR. SCOTT: No.

11 MS. PARRISH: Have you contacted any
12 members of the Commission?

13 MR. SCOTT: No, ma'am.

14 MS. PARRISH: Do you understand that you
15 are prohibited from seeking a pledge or commitment until
16 after 48 hours of the formal report?

17 MR. SCOTT: Yes, ma'am, I do understand.

18 MS. PARRISH: Have you reviewed the
19 Commission's guidelines on pledging?

20 MR. SCOTT: I have.

21 MS. PARRISH: As a follow-up, are you aware
22 of the penalties for violating the pledging rules; that
23 is, it is a misdemeanor and upon conviction the violator
24 must be fined not more than a thousand dollars or
25 imprisoned not more than 90 days?

1 MR. SCOTT: I am familiar with the rules,
2 yes, ma'am.

3 MS. PARRISH: I would also like to note
4 that the Midlands Citizens Committee reported that
5 Mr. Scott is well-qualified for each of the nine
6 evaluative criteria. The Committee stated in summary
7 that they find Mr. Scott to be highly regarded and
8 eminently qualified for the office he is seeking. The
9 decision was unanimous.

10 REPRESENTATIVE DELLENEY: Does any member
11 of the Commission have any further questions of
12 Mr. Scott?

13 There being none, Mr. Scott, we thank you
14 for appearing before us today, and this ends this
15 portion of your -- the screening process. We'll close
16 the record at this point. However, up until the
17 maturation of the 48-hour period when the report becomes
18 a final report of the Committee -- of the Commission,
19 which we cannot go behind, we can reconvene a public
20 hearing if we so desire to inquire into other matters
21 that may have come up, although that's very unlikely.

22 With that, I would remind you about the
23 48-hour rule as it applies to commitments, and thank you
24 for offering to serve as a circuit judge, and I hope you
25 have a safe trip back home.

1 MR. SCOTT: Thank you. Thank everybody.
2 Thank you very much.

3 (Off the record.)

4 SENATOR McCONNELL: We'll go back on the
5 record now.

6 We have before us The Honorable Kaye G.
7 Hearn, Supreme Court, seat number four.

8 If you'd be kind enough to raise your right
9 hand.

10 (The Honorable Kaye G. Hearn was duly
11 sworn, after which testimony began at 5:48 p.m.)

12 SENATOR McCONNELL: Thank you.

13 Have you had an opportunity to review the
14 Personal Data Questionnaire?

15 JUSTICE HEARN: I have.

16 SENATOR McCONNELL: Is it correct or does
17 it need any additions or deletions thereto?

18 JUSTICE HEARN: I believe it's correct.

19 SENATOR McCONNELL: All right. Would you
20 have any objection to our making this summary a part of
21 the record of your sworn testimony as if we had given
22 you those questions and you had responded to them today?

23 JUSTICE HEARN: I would have no objection.

24 SENATOR McCONNELL: All right. Then it
25 will be done at this point in the transcript.

1 (EXH. 65, Personal Data Questionnaire of
2 Ms. Kaye G. Hearn, marked for identification.)

3 (EXH. 66, Amendment to the Personal Data
4 Questionnaire of Ms. Kaye G. Hearn, marked for
5 identification.)

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

16 We received no affidavits filed in
17 opposition to your election. No witnesses are present
18 to testify.

19 So I'd ask you if you have any brief
20 opening statement you wish to make before I turn you
21 over to counsel for a few questions, and then we'll see
22 if the Commission has any.

23 JUSTICE HEARN: I have no statement other
24 than to thank you all for -- for being here and staying
25 so late today. Thank you.

1 SENATOR McCONNELL: Thank you.

2 All right. Counsel.

3 MS. SHULER: Justice Hearn, you have before
4 you your Sworn Statement. You've provided the detailed
5 answers related to the evaluative criteria. Are there
6 any amendments you'd like to make at this time to your
7 Sworn Statement?

8 JUSTICE HEARN: No.

9 MS. SHULER: Mr. Chairman, I'd ask that
10 Justice Hearn's Sworn Statement be entered into the
11 hearing record as an exhibit.

12 SENATOR McCONNELL: Without objection, so
13 ordered.

14 (EXH. 67, Sworn Statement of Kaye Gorenflo
15 Hearn, marked for identification.)

16 MS. SHULER: Justice Hearn, after serving
17 for almost two years on the Supreme Court, why do you
18 want to continue serving as a Supreme Court justice?

19 JUSTICE HEARN: Well, Jan, I think I'm
20 really just starting to get the hang of it after two
21 years, so I hope I can continue to serve for a while.

22 MS. SHULER: Thank you.

23 Would you share with the Commission members
24 what you believe to be the appropriate demeanor for a
25 justice.

1 JUSTICE HEARN: I think being attentive to
2 oral arguments is very important. Most of the lawyers
3 who argue in front of us have maybe 15, 20 minutes at
4 most to express their position, and I think first of
5 all, a judge should be very attentive to them. I think
6 a judge should always be courteous and cordial and
7 should ask those questions in which the judge is
8 legitimately interested, but should not pepper the oral
9 advocate with questions. I think oral argument is the
10 opportunity for the lawyer to make his or her argument
11 to the Court.

12 MS. SHULER: Justice Hearn, you've been
13 sued five times in your official capacity since your
14 last screening. The first two lawsuits named you as a
15 defendant in your capacity as a Supreme Court justice.
16 In 2010 you were named as a defendant in the case of
17 McKenzie Leroy versus C.J. Toal, et al. You were also a
18 named defendant in the case of Simmons Vincent versus
19 the Supreme Court of South Carolina. What's the status
20 of those two cases?

21 JUSTICE HEARN: It's my understanding
22 they've been dismissed. I was never even served with
23 any pleadings in those cases.

24 MS. SHULER: Thank you, Justice Hearn.
25 The third lawsuit names you as a defendant

1 in the capacity as chief judge of the Court of Appeals.
2 In 2011 you were a named defendant in the case of
3 Lawrence L. Crawford a/k/a Jonah Gabriel Tishbite. What
4 is the status of this case?

5 JUSTICE HEARN: Again, I was never served
6 with that action, so I'm really not aware. I believe it
7 may have been dismissed, but I'm not sure.

8 MS. SHULER: Justice Hearn, your SLED
9 report indicated two additional lawsuits, civil rights
10 cases filed in 2009 in District Court, District of South
11 Carolina by defendant Gary Wise. The first was filed
12 against Justice James E. Moore, Jean Toal, and Kaye G.
13 Hearn. The second suit was filed against United States
14 of America, Kenneth Richstad and Judge Kaye G. Hearn.
15 And, Justice Hearn, what is the status of those
16 lawsuits?

17 JUSTICE HEARN: Yet again, I was never
18 served with those lawsuits, and I really only found out
19 about them as I was going through this election process
20 as a result of the SLED report. So I honestly don't
21 know if they're still ongoing. I believe they may have
22 been dismissed as well.

23 MS. SHULER: Thank you, Justice Hearn.

24 Please explain to the members of the
25 Commission what your experience has been like

1 transitioning from serving as chief judge of the Court
2 of Appeals to serving as a justice on the Supreme Court.

3 JUSTICE HEARN: You know, it's been harder
4 and more demanding than I thought it would be. I'm
5 really enjoying it. It's very nice at this point in my
6 life to have a challenge. And I do find the seven
7 categories of cases that bypass the Court of Appeals and
8 go directly to the Supreme Court to be challenging
9 because they're new to me.

10 I had been an appellate judge for 14 years
11 when I went on the Supreme Court, and I -- I don't
12 believe I -- I appreciated the complexity of the cases
13 the Supreme Court hears, nor the -- the additional
14 pressure that's put on the justices because, in fact, in
15 most cases our decision is final. And until I became a
16 member of the Supreme Court, I don't think I really
17 appreciated what additional pressure that puts on a
18 judge.

19 So I like to say that this position is
20 similar enough to my time on the Court of Appeals for me
21 to be comfortable there, but it's certainly challenging
22 enough to make me very -- be very interested in it at
23 this point in my career. So it's kind of funny to be
24 the baby judge on a court because I've been a judge
25 longer than anybody else, any of the other justices,

1 so -- but in a way I think that's been good for me
2 because it's given me a little more confidence.

3 MS. SHULER: Thank you, Justice Hearn.

4 Have you sought or received the pledge of
5 any legislator prior to this date?

6 JUSTICE HEARN: I have not.

7 MS. SHULER: Have you sought or have you
8 been offered a conditional pledge of support of any
9 legislator, including your husband, pending the outcome
10 of your screening?

11 JUSTICE HEARN: I have not.

12 MS. SHULER: Have you asked any third
13 parties to contact members of the General Assembly on
14 your behalf?

15 JUSTICE HEARN: No.

16 MS. SHULER: Have you contacted any members
17 of the Commission?

18 JUSTICE HEARN: No.

19 MS. SHULER: Do you understand that you're
20 prohibited from seeking a pledge or commitment until 48
21 hours after the formal release of the Commission's
22 report?

23 JUSTICE HEARN: I do.

24 MS. SHULER: Have you reviewed the
25 Commission's guidelines on pledging?

1 JUSTICE HEARN: I have.

2 MS. SHULER: Were you aware of those
3 penalties?

4 JUSTICE HEARN: Yes.

5 MS. SHULER: I would note that the Pee Dee
6 Citizens Committee found Justice Hearn qualified in the
7 areas of constitutional qualifications, physical health,
8 and mental stability. The Committee found Justice Hearn
9 well-qualified in the areas of ethical fitness,
10 professional and academic ability, character,
11 reputation, experience, and judicial temperament.

12 They stated in summary, "Justice Hearn has
13 an impressive legal background and well-qualified to
14 serve as a justice on the South Carolina Supreme Court."

15 I would just note for the record that any
16 concerns raised during the investigation regarding this
17 candidate were incorporated into the questioning of the
18 candidate today.

19 And, Mr. Chairman, I have no further
20 questions for Justice Hearn.

21 SENATOR McCONNELL: Thank you.

22 Any member of the Commission have any
23 questions?

24 All right. I would just say I read your
25 answers to the questions. They were very well

1 articulated, the answers.

2 JUSTICE HEARN: Thank you very much. Thank
3 y'all for your time today.

4 SENATOR McCONNELL: Thank you.

5 This will conclude. We will close the
6 record. We of course reserve the right to reopen it
7 should some matter come before us.

8 I will remind you of the 48-hour rule, and
9 if anyone should approach you and say that they wish to
10 advocate in -- we would appreciate you reminding them of
11 the 48-hour rule.

12 JUSTICE HEARN: Thank you very much,
13 Senator.

14 SENATOR McCONNELL: Thank you for your
15 offering and thank you for your past service to the
16 people of South Carolina.

17 JUSTICE HEARN: Thank you so much for
18 allowing me to serve. It has been the great pleasure of
19 my life. Thank you.

20 SENATOR McCONNELL: All right. That
21 concludes all of today's hearings.

22 I would like to suggest that since the two
23 of us are -- we do not wish to -- we would prefer for
24 recusal purposes not to be here when you discuss those
25 five candidates so that it's very clear. So if that's

1 okay with y'all as to go through the other ones and then
2 we will depart and leave y'all to make those decisions
3 with us not in the room either in executive or open
4 session if that's okay, if that's acceptable to
5 everyone.

6 So with that -- I guess we will need to
7 go --

8 MS. SHULER: Executive session for
9 comments.

10 SENATOR McCONNELL: All right. We will
11 then -- do I hear a motion we go into executive session
12 for comments?

13 MR. SELLERS: So moved.

14 SENATOR NICHOLSON: Second.

15 SENATOR McCONNELL: All right. Is there an
16 objection to going into executive session? There being
17 none, go into executive session.

18 (The Committee went into executive session
19 from 5:57 p.m. to 6:12 p.m.)

20 SENATOR McCONNELL: No formal action has
21 been taken.

22 We're going back on the record, and we have
23 come out of executive session.

24 No formal actions have been taken by the
25 Commission as a result of that executive session.

1 Representative Clemmons.

2 REPRESENTATIVE CLEMMONS: Senator
3 McConnell, I would move that all of those candidates
4 that are uncontested incumbents with the exception of
5 Judge James be found nominated and -- excuse me, be
6 found qualified and nominated.

7 MR. SELLERS: Second.

8 SENATOR McCONNELL: That would be all of
9 the judges that all of us could vote on that there have
10 been no recusals on; is that correct?

11 REPRESENTATIVE CLEMMONS: That's right.

12 MS. SHULER: Right.

13 SENATOR McCONNELL: All right. Is there
14 any further discussion on the motion?

15 I've heard a motion and a second.

16 All in favor please raise your right hand.

17 Thank you.

18 Opposed by a like sign.

19 And it is a ten to zero vote.

20 REPRESENTATIVE CLEMMONS: Senator, for the
21 sake of clarity, that also includes the retired judges.

22 SENATOR McCONNELL: That does, and the
23 retired judges, absolutely.

24 All right. Let me put on the record, the
25 remaining decisions that have to be done are all races

1 where Senator Knotts and I have recused ourselves. So
2 at this point we will leave and I will turn you back
3 over to Representative Delleney.

4 (Off the record.)

5 REPRESENTATIVE DELLENEY: Okay. Do I have
6 a motion that we return to executive session?

7 MR. SELLERS: So moved.

8 (Multiple speakers wherein there was a
9 second to go into executive session.)

10 REPRESENTATIVE DELLENEY: All in favor --
11 wait a minute.

12 All in favor of executive session raise
13 your hand.

14 We're now in executive session.

15 (The Judicial Merit Selection Commission
16 went into executive session from 6:18 p.m. to 6:28 p.m.)

17 REPRESENTATIVE DELLENEY: Okay. Each of us
18 has three votes, and in order for a candidate to be
19 nominated, they must receive five votes. So with that
20 being said, does everybody understand that? You can
21 only vote for three candidates and the candidates that
22 receives at least five votes are qualified and
23 nominated.

24 The first one being Joey Randell Floyd.

25 (Multiple speakers.)

1 MR. SELLERS: I move we find him qualified
2 and nominated.

3 MR. HARRELL: Second.

4 REPRESENTATIVE MACK: Second.

5 SENATOR McCONNELL: All in favor? Anything
6 further?

7 I don't have a sheet on him.

8 MS. SHULER: You should.

9 REPRESENTATIVE DELLENEY: Does anybody --
10 why don't we start out this way. Does anybody find any
11 of the candidates unqualified? There's Floyd, Glover,
12 Hood, Masella, Hood, Meadors, Patterson, Reibold, and
13 Scott. Not nominated but just qualified.

14 Do we all agree they're all qualified?

15 (Multiple speakers.)

16 REPRESENTATIVE DELLENEY: All right. So --
17 everybody who thinks everybody is qualified raise your
18 hand.

19 All right. So they're all qualified.

20 All right. So now we're going to qualified
21 but nominated.

22 The first one is Joey Randell Floyd.

23 SENATOR NICHOLSON: How many can we vote
24 for?

25 MS. SHULER: Three.

1 REPRESENTATIVE DELLENEY: Three.

2 MS. SHULER: Two.

3 REPRESENTATIVE DELLENEY: Lisa C. Glover,
4 nominated.

5 MS. SHULER: Zero.

6 REPRESENTATIVE DELLENEY: Robert Eldon
7 Hood.

8 MS. SHULER: Seven. Seven.

9 REPRESENTATIVE DELLENEY: Robert Masella.

10 MS. SHULER: Zero.

11 REPRESENTATIVE DELLENEY: John P. Meadors.

12 MS. SHULER: Five, six, seven, eight.

13 REPRESENTATIVE DELLENEY: Grady L.
14 Patterson, III.

15 MS. SHULER: Three.

16 REPRESENTATIVE DELLENEY: Robert L.
17 Reibold.

18 MS. SHULER: Zero.

19 REPRESENTATIVE DELLENEY: Clifford Scott.

20 MS. SHULER: One, two, three, four.

21 Okay. So Lisa Glover got zero votes,
22 Robert Masella got zero, and Robert Reibold got zero.

23 The two that are qualified and nominated are Robert Hood
24 and John Meadors. So it leaves Floyd, Patterson and
25 Scott.

1 REPRESENTATIVE DELLENEY: All right. We've
2 got three candidates and we each get one vote, and the
3 three candidates are --

4 MS. SHULER: We start with Joey Floyd.

5 REPRESENTATIVE DELLENEY: Joey Floyd.
6 Everybody for Joey Floyd.

7 MS. SHULER: Two.

8 And the next is Grady Patterson.

9 REPRESENTATIVE DELLENEY: Grady Patterson.

10 MS. SHULER: One.

11 And Clifford Scott.

12 REPRESENTATIVE DELLENEY: Clifford Scott.

13 MS. SHULER: Five. Is the third
14 candidate -- Clifford Scott is the third candidate. So
15 it's Hood, Meadors and Scott.

16 Thanks everybody.

17 (The hearings were concluded at 6:33 p.m.)

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CERTIFICATE OF REPORTER

I, Yvonne R. Bohannon, Registered Merit Reporter, Certified Realtime Reporter, and Notary Public for the State of South Carolina at Large, do hereby certify:

That the foregoing transcript was taken before me on the date and at the time and location stated on page 1 of this transcript; that all statements made on the record at the time of the proceeding were recorded stenographically by me and were thereafter transcribed; that the foregoing proceeding as typed is a true, accurate and complete record of the proceeding to the best of my ability.

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

Witness my hand, I have hereunto affixed my official seal this 13th day of August, 2011, at Columbia, Richland County, South Carolina.



Yvonne R. Bohannon

Yvonne R. Bohannon
Registered Merit
Reporter, CRR
My Commission expires
April 11, 2015

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