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JUDICIAL MERIT SELECTION  
COMMITTEE

EVALUATION OF CANDIDATES  
BY COMMITTEE MEMBERS

PUBLIC HEARINGS ON JUDICIAL QUALIFICATIONS

EXCERPTS OF CANDIDATES

THE HONORABLE HAROLD W. FUNDERBURK, JR.

and

THE HONORABLE CAROLYN C. MATTHEWS

WEDNESDAY, NOVEMBER 5, 2014

ROOM 516, BLATT BUILDING

COLUMBIA, SOUTH CAROLINA

REPORTED BY: SHERI L. BYERS,  
REGISTERED PROFESSIONAL REPORTER



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1 MEMBERS IN ATTENDANCE:

2 REPRESENTATIVE ALAN D. CLEMMONS, CHAIRMAN

3 SENATOR LARRY MARTIN, VICE CHAIRMAN

4 SENATOR GERALD MALLOY

5 SENATOR GEORGE E. "CHIP" CAMPSEN

6 REPRESENTATIVE BRUCE BANNISTER

7 REPRESENTATIVE DAVID MACK

8 JOSEPH P. "PETE" STROM

9 KRISTIAN C. BELL

10 SUSAN WALL

11 DEAN WILCOX

12

13 COUNSEL PRESENT:

14 JANE O. SHULER, CHIEF COUNSEL

15 PATRICK G. DENNIS

16 ANDREW T. FIFFICK, IV

17 J.J. GENTRY

18 BRETT HUBLER

19 BOB MALDONADO

20 EDWARD BENDER

21 EMMA DEAN

22 JAMIE GOLDIN

23 STEVE DAVIDSON

24

25 (INDEX AT REAR OF TRANSCRIPT)

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REPRESENTATIVE CLEMMONS: Ladies and gentlemen, the next candidate is the Honorable Harold W. Funderburk, Jr.

(The Honorable Harold W. Funderburk, Jr. is present in the room.)

REPRESENTATIVE CLEMMONS: Commission members, we have before us the Honorable Harold W. Funderburk, Jr., who is seeking nomination to Administrative Law Court, Seat 3.

Judge Funderburk, thank you for your patience with us on our schedule that has gone way over.

JUDGE FUNDERBURK: You all have been working all day. We appreciate that, too.

REPRESENTATIVE CLEMMONS: Thank you. It has been a long day. It's not over yet.

Will you please raise your right hand to be sworn.

Do you swear to tell the truth, the whole truth and nothing but the truth, so help you God?

JUDGE FUNDERBURK: I do.

REPRESENTATIVE CLEMMONS: Thank you, sir. Have you had an opportunity to review your responses to the personal data questionnaire?

JUDGE FUNDERBURK: Well, actually several

1 times.

2 REPRESENTATIVE CLEMMONS: Okay.

3 JUDGE FUNDERBURK: But that doesn't mean I  
4 remember them all. But I'll look at them if you want  
5 me to.

6 REPRESENTATIVE CLEMMONS: Is it correct?

7 JUDGE FUNDERBURK: Yes, sir. I think we have  
8 it correct at this point, yes, sir.

9 REPRESENTATIVE CLEMMONS: Does anything need  
10 to be changed or amended?

11 JUDGE FUNDERBURK: I think we've done all  
12 those. Thank you, sir.

13 REPRESENTATIVE CLEMMONS: Thank you.

14 Do your object to our making this summary a  
15 part of the record of your sworn testimony tonight?

16 JUDGE FUNDERBURK: I do not.

17 REPRESENTATIVE CLEMMONS: Thank you. It is  
18 so ordered.

19 (EXHIBIT 68, Personal Data Questionnaire of  
20 The Honorable Harold W. Funderburk, Jr., admitted.)

21 REPRESENTATIVE CLEMMONS: The Judicial Merit  
22 Selection Commission has thoroughly investigated your  
23 qualifications for the bench. We have received no  
24 affidavits filed in opposition to your election, and  
25 there are no witnesses present to testify other than

1 yourself.

2 Do you have a brief opening statement that  
3 you would like to share with the commission?

4 JUDGE FUNDERBURK: Well, I have about a  
5 20-page statement I would like to read, but I think in  
6 view of the hour, I'll defer. Let's go ahead with the  
7 questions.

8 REPRESENTATIVE CLEMMONS: That's very  
9 prudent. Thank you.

10 Would you please answer counsel's questions.

11 MS. SHULER: Judge Funderburk, you have  
12 before you the sworn statement you provided with  
13 detailed answers to over 30 questions regarding  
14 judicial conduct, statutory qualifications, office  
15 administration, and temperament.

16 Are there any additional amendments you would  
17 like to make at this time to your sworn statement?

18 JUDGE FUNDERBURK: I don't think so.

19 MS. SHULER: Mr. Chairman, I would ask that  
20 Judge Funderburk's sworn statement be entered into the  
21 hearing record as an exhibit.

22 REPRESENTATIVE CLEMMONS: Thank you,  
23 Ms. Shuler.

24 Are there any objections?

25 Hearing none, so ordered.

1 (EXHIBIT 69, Sworn Statement of The Honorable  
2 Harold W. Funderburk, Jr., admitted.)

3 MS. SHULER: I would note for the record that  
4 based on the candidate's PDQ, Judge Funderburk meets  
5 the statutory requirements for this position regarding  
6 age, residence, and years of practice.

7 Judge Funderburk, briefly, after practicing  
8 law since 1985 and currently serving as a part-time  
9 municipal court judge for the City of Camden, why do  
10 you now want to serve as an Administrative Law Court  
11 judge?

12 JUDGE FUNDERBURK: Well, most of my career  
13 has been in the practice of administrative and  
14 regulatory law for -- actually for a state agency. So  
15 I feel that this would be an opportunity to continue  
16 that service with that knowledge. And, also, I have  
17 a -- I think that as a judge you have the opportunity  
18 to present your view of what the law is rather than  
19 what somebody wants the law to be. And I'm looking  
20 forward to approaching it from that standpoint in this  
21 seat.

22 REPRESENTATIVE CLEMMONS: Can you explain to  
23 the commission how you feel your legal and professional  
24 experience thus far will assist you in serving as an  
25 effective judge.

1 JUDGE FUNDERBURK: Well, it's not just my  
2 legal experience. I have a broad experience in  
3 teaching, running retail businesses, and then working  
4 various aspects of the law. I've done not as much  
5 criminal practice, but I understand that that's not a  
6 big part of the Administrative Law Court.

7 But it's a chance to bring my variety of  
8 experience and knowledge to bear on circumstances that  
9 range from the renewal of a nuclear power license to  
10 just about anything that could come up from the  
11 Employment Security Commission, now the Department of  
12 Employment Workforce, where I used to work.

13 MS. SHULER: Thank you.

14 Judge Funderburk, while not required by the  
15 South Carolina Bar, do you currently carry malpractice  
16 insurance in your small part-time law practice, and if  
17 so, how long have you carried malpractice insurance?

18 JUDGE FUNDERBURK: I do not. My practice is  
19 so limited. In fact, most of my recent work has been  
20 as a volunteer attorney for the guardian ad litem  
21 program, and as such, they cover me if I were to need  
22 any. But I don't do anything that would put my --  
23 would invoke the need, in my opinion, for malpractice  
24 insurance.

25 MS. SHULER: Judge Funderburk, the commission

1 received 15 ballot box surveys regarding you with three  
2 additional comments. The ballot box survey contained,  
3 for example, the following positive comments:

4 "Conscientious, intelligent, and a pleasure to deal  
5 with. I have known Bill Funderburk since law school,  
6 and I believe he is well qualified to be a judge."

7 One of the written comments expressed a  
8 concern. The comment indicated that you may not have  
9 enough experience to be an administrative law judge.

10 I note that in the ballot box survey, 15  
11 people responded to a question regarding evaluative  
12 criteria of the experience. In this criteria, nine  
13 respondents found you well qualified, two found you  
14 qualified, zero found you unqualified, and four  
15 respondents have no opinion.

16 What response would you offer to this concern  
17 regarding insufficient experience?

18 JUDGE FUNDERBURK: Well, I really -- I don't  
19 know that I have a response to insufficient experience  
20 except to point out that I have been in the  
21 administrative law area, working in that area for  
22 almost 25 years.

23 MS. SHULER: Thank you.

24 Judge Funderburk, I'm going to cover your  
25 SLED report with you now. It reflected several matters



1 filed against you. First, it indicated that there was  
2 a lawsuit filed against you in 1992 in the Kershaw  
3 County Magistrate's Court by City Drug Company. This  
4 lawsuit was settled on January 20th, 1993. Please  
5 explain the nature and confirm the disposition of this  
6 lawsuit.

7 JUDGE FUNDERBURK: That's a long time ago,  
8 and I'm a little bit fuzzy on some of the issues there.  
9 But what happened, I believe, is my daughter, who was  
10 living with my mother at the time, charged a lot of  
11 things at that business. And in the process of that  
12 business going out of business, they wanted to clear up  
13 their books. So I paid whatever the bill was. I don't  
14 recall for sure that that lawsuit was actually served  
15 on me. But I accepted responsibility for it and paid  
16 the bill.

17 MS. SHULER: All right. Thank you.

18 Your SLED report also reflected that there  
19 was a 1993 foreclosure action filed against your second  
20 wife, Kathryn, and you in the Kershaw County Court of  
21 Common Pleas. This lawsuit was dismissed on March 8,  
22 1993. Please explain the circumstances regarding this  
23 matter and confirm the disposition of this lawsuit.

24 JUDGE FUNDERBURK: That gets back in to some  
25 kind of complex but a perfect storm sort of situation.

1 My wife and I at the time were separated. I was paying  
2 child support to her. I was also paying part of my  
3 mother's care costs in a nursing home. And the  
4 mortgage got a little bit behind. I was able to get it  
5 reinstated. And my goal in that situation was to make  
6 sure that my wife and my son were able to stay in the  
7 family home.

8 MS. SHULER: Thank you.

9 Judge Funderburk, your SLED report indicated  
10 a 1995 warrant issued by the South Carolina Department  
11 of Revenue against you in the amount \$860.06 for  
12 individual income tax.

13 The warrant was satisfied on October 15,  
14 1998, in a lesser amount, that is, 165.73.

15 Please explain what occurred with respect to  
16 this warrant for the South Carolina Department of  
17 Revenue.

18 JUDGE FUNDERBURK: Okay. As best I can tell,  
19 and I was not able to find my business records and  
20 checks from that period, but as best I can determine, I  
21 was -- I underpaid my estimated tax for 1995. And when  
22 I submitted my tax return, the program that I use  
23 computed the interest and penalties. And so when I  
24 paid with the tax return, the amount, it was less than  
25 the 860 that is shown there. And it was less by that

1 165 plus -- actually 153 plus a filing fee.

2 So I paid that when I got the bill. Although  
3 I thought about -- I thought for about that long about  
4 contesting it and trying to figure out why my program  
5 didn't provide the right amount to the Department of  
6 Revenue. But for \$150, I thought it was easier to  
7 write the check, so I did.

8 MS. SHULER: Thank you.

9 Mr. Chairman, I would like to request that we  
10 now go into executive session to handle one brief  
11 matter.

12 REPRESENTATIVE CLEMMONS: Thank you very  
13 much.

14 Do we have a motion?

15 SENATOR MALLOY: So moved.

16 SENATOR MARTIN: Second.

17 REPRESENTATIVE CLEMMONS: Senator Malloy  
18 moves, Senator Martin seconds.

19 Those in favor say "aye."

20 (Members respond.)

21 REPRESENTATIVE CLEMMONS: Those opposed, nay.

22 The ayes have it.

23 We are in executive session.

24 (The members went into executive session.)

25 \* \* \* \* \*

1 (The members came out of executive session.)

2 REPRESENTATIVE CLEMMONS: We're back on the  
3 record.

4 Ms. Shuler.

5 MS. SHULER: Judge Funderburk, some  
6 housekeeping issues to cover with you. Have you sought  
7 or received the pledge of any legislator including your  
8 wife, Representative Laurie Funderburk, prior to this  
9 date?

10 JUDGE FUNDERBURK: No, ma'am, I haven't.

11 MS. SHULER: Have you sought or have you been  
12 offered a conditional pledge of support of any  
13 legislator, including your wife, Representative Laurie  
14 Funderburk, pending the outcome of your screening?

15 JUDGE FUNDERBURK: No, ma'am, I haven't.

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

19 JUDGE FUNDERBURK: No, ma'am, I haven't.

20 MS. SHULER: Are you aware of anyone  
21 attempting to intervene in any part of this process on  
22 your behalf?

23 JUDGE FUNDERBURK: I'm not aware of any.

24 MS. SHULER: Have you contacted any members  
25 of the commission?

1 JUDGE FUNDERBURK: No, ma'am. Except I had  
2 some conversation with you about the process. That's  
3 the only one.

4 MS. SHULER: And I'm not -- I understand  
5 that. I'm commission staff. Not official commission.

6 JUDGE FUNDERBURK: Otherwise, no.

7 MS. SHULER: Thank you.

8 Do you understand that you are prohibited  
9 from seeking a pledge or commitment until 48 hours  
10 after the formal release of the commission's report?

11 JUDGE FUNDERBURK: Yes, ma'am.

12 MS. SHULER: Have you reviewed the  
13 commission's guidelines on pledging?

14 JUDGE FUNDERBURK: Yes, ma'am.

15 MS. SHULER: As a follow-up, are you aware of  
16 the penalties for violating the pledging rules, that  
17 is, it is a misdemeanor and upon conviction, you could  
18 be fined not more than a thousand dollars or imprisoned  
19 not more than 90 days?

20 JUDGE FUNDERBURK: Yes, ma'am.

21 REPRESENTATIVE CLEMMONS: I would note that  
22 the Midlands Citizens Committee found Judge Funderburk  
23 was qualified in the evaluative criteria of character.  
24 The committee found Judge Funderburk to be well  
25 qualified in the remaining evaluative criteria of

1 constitutional qualification, ethical fitness,  
2 professional and academic ability, reputation, physical  
3 health, mental stability, experience, and judicial  
4 temperament.

5 The committee's related comment stated,  
6 "Mr. Funderburk has an impressive breadth of knowledge  
7 and experience. His direct dealings with  
8 administrative law over a long public service career  
9 should qualify him for this position."

10 This committee had questions about the tax  
11 lien and foreclosures.

12 The committee stated in summary, "Mr.  
13 Funderburk is qualified to serve as administrative law  
14 judge."

15 Mr. Funderburk, would you like to offer any  
16 additional response at this time regarding the Midlands  
17 Citizens Committee comment concerning your tax lien or  
18 foreclosure?

19 JUDGE FUNDERBURK: No, ma'am. The only thing  
20 I can say about that is there were some issues that  
21 came up and eventually I was able to resolve the  
22 matters, pay the tax owed. And that's what I -- you  
23 know, I discharge my responsibility.

24 MS. SHULER: I would just note for the record  
25 that any concerns raised during the investigation

1 concerning the candidate were incorporated in my  
2 questioning of this candidate today. And I have no  
3 further questions for this candidate, Mr. Chairman.

4 REPRESENTATIVE CLEMMONS: Thank you very  
5 much.

6 Do any members of the commission have any  
7 questions?

8 Yes, Ms. Bell.

9 MS. BELL: Thank you for your service, and  
10 thank you being here so late this evening. I just have  
11 a quick question for you.

12 I noticed in question 37 of your PDQ, you've  
13 indicated that you don't currently have legal  
14 malpractice insurance. So my question is, when was the  
15 last time you carried insurance and why do you  
16 currently not have legal malpractice insurance?

17 JUDGE FUNDERBURK: Ma'am, the only time I've  
18 ever had malpractice insurance was when I was in  
19 private practice in Beaufort with the law firm of  
20 Harvey & Battey. Since then, I've worked for a state  
21 agency until 2010. 2011 actually. And I haven't done  
22 anything since then that I felt would jeopardize my  
23 resources, so I haven't.

24 MS. BELL: Thank you.

25 JUDGE FUNDERBURK: Yes.

1 REPRESENTATIVE CLEMMONS: Yes, Dean Wilcox.

2 DEAN WILCOX: Judge, I first want to  
3 congratulate you on your use of math in the Yogi Berra  
4 style. 110 percent of your work.

5 JUDGE FUNDERBURK: I think we got this fixed.  
6 Apparently I sent the wrong response form.

7 DEAN WILCOX: I understand.

8 I understand you spent most of your career as  
9 general counsel for an agency or as working your way up  
10 to that role.

11 JUDGE FUNDERBURK: Yes, sir.

12 DEAN WILCOX: Did that include work in the  
13 Administrative Law Courts actually?

14 JUDGE FUNDERBURK: Just until recently, our  
15 cases went to circuit court. But they were -- they  
16 were reviewed on the grounds -- in the standards of the  
17 administrative law. The APA, Administrative Procedures  
18 Act.

19 We had a few cases, such as tax offsets, that  
20 went directly to the Administrative Law Court once that  
21 court was established. We had a few cases after the  
22 statutory appeals process was changed that did go  
23 through the Administrative Law Court.

24 DEAN WILCOX: Were you substantially involved  
25 in those cases?



1 JUDGE FUNDERBURK: Yes, sir.

2 DEAN WILCOX: Thank you.

3 REPRESENTATIVE CLEMMONS: Thank you, Dean.

4 Any other questions?

5 Hearing none, Judge Funderburk, thank you so  
6 much for offering and being a part of this process.

7 This concludes this portion of our screening process.

8 As you know, the record will remain open  
9 until a report is published. And you may be called  
10 back at such time if that need should arise. We remind  
11 you of the 48-hour rule and ask you to be mindful of it  
12 and to remind anyone that should inquire about whether  
13 or not they may advocate on your behalf of the 48-hour  
14 rule and its implications.

15 We thank you for offering, and we thank you  
16 for your service to South Carolina.

17 JUDGE FUNDERBURK: Thank you for doing what  
18 you're doing today for all of us.

19 REPRESENTATIVE CLEMMONS: Thank you. Have a  
20 good night.

21 (The Honorable Harold W. Funderburk exits the  
22 room.)

23 (The Honorable Carolyn C. Matthews enters the  
24 room.)

25 JUDGE MATTHEWS: Good evening, folks. Is

1 this where I'm supposed to be?

2 REPRESENTATIVE CLEMMONS: This is the right  
3 place.

4 Ladies and gentlemen of the commission, we  
5 have before us the Honorable Carolyn C. Matthews, who  
6 is seeking renomination and reappointment -- excuse me,  
7 reelection to the Administrative Law Court, Seat 3.

8 Judge Matthews, would you raise your right  
9 hand, please --

10 JUDGE MATTHEWS: Yes.

11 REPRESENTATIVE CLEMMONS: -- and be sworn.

12 Do you swear to tell the truth, the whole  
13 truth and nothing but the truth, so help you God?

14 JUDGE MATTHEWS: I do.

15 REPRESENTATIVE CLEMMONS: Thank you.

16 Do you have someone with you today that you  
17 would like to introduce?

18 JUDGE MATTHEWS: Yes. I have with me my  
19 husband, John McAllister, and my daughter, Austin  
20 Bruner, who drove up from Charleston. She works in the  
21 Charleston County Attorney's Office down there.

22 REPRESENTATIVE CLEMMONS: Tremendous. It's  
23 good to have your family with us.

24 JUDGE MATTHEWS: It always is.

25 REPRESENTATIVE CLEMMONS: Judge Matthews,

1 have you had an opportunity to review your responses to  
2 the personal data questionnaire?

3 JUDGE MATTHEWS: Yes, sir, I have.

4 REPRESENTATIVE CLEMMONS: Is it correct?

5 JUDGE MATTHEWS: All is correct with the  
6 minor amendments that I mailed in to committee and that  
7 were taken care of.

8 REPRESENTATIVE CLEMMONS: Thank you. Those  
9 amendments should be incorporated.

10 Does there need to be any changes to update  
11 on the record today?

12 JUDGE MATTHEWS: No, sir.

13 REPRESENTATIVE CLEMMONS: Thank you.

14 Do you object to our making this summary a  
15 part of the record of your sworn testimony?

16 JUDGE MATTHEWS: Certainly not.

17 REPRESENTATIVE CLEMMONS: Thank you. It is  
18 so ordered.

19 The Judicial Merit Selection Commission has  
20 thoroughly investigated your qualifications for the  
21 bench. We have received no affidavits filed in  
22 opposition to your election, and there are no witnesses  
23 present to testify.

24 Do you have a brief opening statement you  
25 would like to make at this time?

1 JUDGE MATTHEWS: I'm sorry?

2 REPRESENTATIVE CLEMMONS: Judge Matthews, do  
3 you have a brief opening statement you would like to  
4 make?

5 JUDGE MATTHEWS: Well, I would just like to  
6 say that after having been a lawyer for 36 years and a  
7 judge for the Administrative Law Court for the past 16,  
8 I have enjoyed it. I think I'm finally getting pretty  
9 good at it. I believe I move my docket very, very  
10 quickly. And I believe I understand what it's like to  
11 be in private practice from ten years of private  
12 practice.

13 I think I am very kind to all lawyers,  
14 litigants, and others. And I said I have a 30-day rule  
15 where I get all orders out within 30 days after a  
16 hearing or 30 days after proposed orders are submitted  
17 to me. So I think I'm being efficient. I think I'm  
18 being a good ambassador for the court and for the  
19 state. And I would like to serve another term and  
20 possibly two.

21 REPRESENTATIVE CLEMMONS: Thank you,  
22 Judge Matthews.

23 Would you please answer counsel's questions.

24 JUDGE MATTHEWS: Yes, sir.

25 MS. SHULER: Good evening, Judge Matthews.

1 You submitted as an amendment to your PDQ your resume,  
2 is that correct, that you want to make a part of the  
3 record?

4 JUDGE MATTHEWS: That is correct. And I  
5 would appreciate that, if you make that part of the  
6 record.

7 MS. SHULER: And it has just been handed out  
8 to the commission. It's not on the electronic  
9 documents on your folder.

10 Judge Matthews, you have before you the sworn  
11 statement you provided the detailed answers to over 30  
12 questions regarding judicial --

13 REPRESENTATIVE CLEMMONS: Commission members,  
14 is there an objection to having judge Matthews' resume  
15 added as an amendment to her PDQ?

16 Hearing none, it's so ordered. Thank you.

17 (EXHIBIT 70, Personal Data Questionnaire of  
18 The Honorable Carolyn C. Matthews, admitted.)

19 Please excuse the interruption.

20 MS. SHULER: -- 30 questions regarding  
21 judicial conduct, statutory qualifications, office  
22 administration, and temperament.

23 Are there any amendments you would like to  
24 make at this time to your sworn statement?

25 JUDGE MATTHEWS: There are not.

1 MS. SHULER: Mr. Chairman, I would like to  
2 ask Judge Matthews' sworn statement be entered into the  
3 record as exhibit at this time.

4 REPRESENTATIVE CLEMMONS: Are there any  
5 objections?

6 Hearing none, so ordered.

7 (EXHIBIT 71, Sworn Statement of The Honorable  
8 Carolyn C. Matthews, admitted.)

9 MS. SHULER: Judge Matthews, you alluded to  
10 this in your opening statement, but why do you want to  
11 continue serving as an Administrative Law Court judge  
12 on the administrative law court.

13 JUDGE MATTHEWS: Well, since I became a  
14 lawyer in 1978 and was admitted to the bar, I've served  
15 in various positions as shown on my resume. From the  
16 Supreme Court to the Attorney General's Office to in  
17 this very room working for David Wilkins as counsel for  
18 the House Judiciary Committee for two years. Then in  
19 private practice for ten years where I became a partner  
20 at the largest law firm in the state. And then being  
21 elected to the bench in 1999.

22 And I believe that that position is the  
23 culmination of everything I've learned over the years  
24 from law school, from working for the legislature,  
25 Attorney General's Office, it's given me an extremely

1 broad, diverse background. And I believe I bring that  
2 to the court. And I think I can process cases as  
3 efficiently as anyone in the system, and I would like  
4 to continue to do so.

5 MS. SHULER: Thank you.

6 Judge Matthews, please explain one or two  
7 brief accomplishments that you feel you have completed  
8 during your tenure and then a goal you would like to  
9 accomplish if reelected to the court.

10 JUDGE MATTHEWS: Well, I believe during my  
11 tenure I looked very closely at the docket and the  
12 numbers that we had and the backlog. And I implemented  
13 about six years ago what I call my "30-Day Rule." And  
14 I alluded to it before, but essentially I promise  
15 lawyers who are in front of me in a contested case  
16 hearing or in an appellate case or an injunction that I  
17 will get all orders out within 30 days after the  
18 hearing or within 30 days after proposed orders are  
19 submitted.

20 And if not, if it's not done within 30 days,  
21 I will contact them and tell them why. And I think  
22 that is -- I'm the only judge over there that does  
23 that, and I think it's very important.

24 Another accomplishment is while during this  
25 time I have managed to be what I think is very good

1 ambassador for the court. I have served at the  
2 Richland County Bar, the state bar at all different  
3 levels and still on several committees. I have been  
4 very active with the Women Lawyers Association in  
5 South Carolina. On that board for almost 15 years and  
6 served as the president in 2012-2013. Increased  
7 membership there tremendously.

8 I am a frequent speaker at all sorts of  
9 judicial conferences, continuing legal education  
10 matters, et cetera. And I really like to contribute in  
11 that fashion.

12 Something that I would like to accomplish is  
13 to see the court move toward e-filing, which would make  
14 it simpler for all of our litigants and lawyers. And  
15 we are moving in that direction.

16 MS. SHULER: Thank you, Judge Matthews.

17 Your SLED report indicated that since your  
18 last screening, Edwin Bryan filed a civil rights  
19 lawsuit against you in 2012 in the U.S. District Court,  
20 District of South Carolina. This case was dismissed on  
21 November 28, 2012, without prejudice and without  
22 issuance and service of process.

23 Is that your understanding of the disposition  
24 of this matter?

25 JUDGE MATTHEWS: Yes, Ms. Shuler, it is. And



1 I thank you for bringing that to my attention when the  
2 SLED check was run because, again, I had never been  
3 served with process so I had no notion that this  
4 prisoner had filed apparently a blanket lawsuit against  
5 several people.

6 MS. SHULER: Judge Matthews, the commission  
7 received 145 ballot box surveys regarding you with 22  
8 additional comments.

9 The ballot box survey, for example, contained  
10 the following positive comments: "Judge Matthews is  
11 fair, intelligent, and an asset to the bench. She has  
12 done an excellent job in her service as a Judge. She  
13 deserves to remain on the bench. Carolyn's court is  
14 always the most organized, civilized, and intelligent  
15 courtrooms I encounter. She is the fairest and most  
16 impartial judge that I have practiced in front of. She  
17 is respectful to all that enter the courtroom."

18 Five of the written comments expressed  
19 concern. One line of comment alleged that you are not  
20 timely in handling your cases. What response would you  
21 offer those?

22 JUDGE MATTHEWS: I would offer as a response  
23 that my staff and I are diligent about keeping up with  
24 the caseload and timeliness of orders. And we check at  
25 the end of each month and at the end of each quarter,

1 we do an audit. And normally my caseload is the lowest  
2 of any of the six judges over there. In one instance  
3 in the past year, it has been off by one. One judge  
4 had one case less than I did.

5 But I physically counted before I came over  
6 here the cases which are non-Department of Correction  
7 cases. Those are the more routine cases that we  
8 normally dismiss, and we don't hear any arguments on  
9 the merits. We just dismiss them normally or often on  
10 the pleadings. But I had 42 in there. That is by a  
11 factor of 2 and 3, in some instances, the lowest  
12 caseload over there. So I don't understand that.

13 And I thank you very much for relaying those  
14 nice, kind comments to me.

15 MS. SHULER: Judge Matthews, another comment  
16 alleged that you work less than 30 percent of the time.  
17 What response would you offer to this allegation?

18 JUDGE MATTHEWS: I would say that's  
19 preposterous. I mean, if you just look at the caseload  
20 that we have in a year, obviously we're physically in  
21 court more than that. I would assume that's some  
22 disgruntled litigant.

23 But I will say that our court is peculiar in  
24 that the Administrative Procedures Act requires that we  
25 always give 30 days' notice of any hearing. And so we

1 can't -- if a case just drops off because of settlement  
2 or because of a consent order or because I give a  
3 continuance or some other procedural matter intervenes,  
4 we can't just pick up the phone and say, "Hey, you're  
5 up for trial in the next, we have an open day on that  
6 day."

7 So I often work from home, and it's just as  
8 easy to take a file home and work on a laptop,  
9 communicate with my office. And there's certainly no  
10 requirement that we be there all the time.

11 I would say that some of our judges seem to  
12 think that just physically being there is the most  
13 important thing. From 8:30 to 6:00 every day. And  
14 there are at least two of the other judges who do not  
15 basically come into the office unless they have a  
16 trial.

17 MS. SHULER: Thank you, Judge Matthews.

18 Other comments allege that you are  
19 temperamental, short with litigants, and transparently  
20 bias. What response would you offer to these  
21 allegations?

22 JUDGE MATTHEWS: I would say that is the most  
23 ludicrous thing I have ever heard. I am the least  
24 temperamental and probably the nicest to all litigants,  
25 witnesses, everyone who comes near my courtroom.

1 I mean, I've done everything from offer them  
2 Advil if they had a headache. Temperamental, no bias.  
3 I don't know of any bias going into any courtroom ever.  
4 So I would say that's just obviously someone who is  
5 very disgruntled and unhappy.

6 MS. SHULER: Thank you, Judge Matthews.

7 Mr. Chairman, I would like to request that we  
8 now go into executive session to handle a matter.

9 REPRESENTATIVE CLEMMONS: Thank you.

10 Do we have a motion to go into executive  
11 session?

12 REPRESENTATIVE CLEMMONS: So moved by  
13 Representative Bannister. Seconded by Senator Campsen.

14 All those in favor say "aye."

15 (Members respond.)

16 REPRESENTATIVE CLEMMONS: Those opposed, nay.  
17 The ayes have it.

18 We are in executive session.

19 (The members went into executive session.)

20 \* \* \* \* \*

21 (The members came out of executive session.)

22 REPRESENTATIVE CLEMMONS: We are back in the  
23 open record.

24 Ms. Shuler.

25 MS. SHULER: Judge Matthews --

1 JUDGE MATTHEWS: Yes.

2 MS. SHULER: -- some housekeeping issues to  
3 cover with you.

4 Have you sought or received the pledge of any  
5 legislator prior to this date?

6 JUDGE MATTHEWS: No.

7 MS. SHULER: Have you sought or have you been  
8 offered conditional pledge of support of any legislator  
9 pending the outcome of your screening?

10 JUDGE MATTHEWS: No.

11 MS. SHULER: Have you asked any third parties  
12 to contact members of the General Assembly on your  
13 behalf?

14 JUDGE MATTHEWS: No.

15 MS. SHULER: Are you aware of anyone  
16 attempting to intervene in any part of this process on  
17 your behalf?

18 JUDGE MATTHEWS: No.

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

21 JUDGE MATTHEWS: No.

22 MS. SHULER: Do you understand that you're  
23 prohibited from seeking a pledge or commitment for 48  
24 hours after the formal release of the commission's  
25 report?

1 JUDGE MATTHEWS: Yes, I do.

2 MS. SHULER: Have you reviewed the  
3 commission's guidelines on pledging?

4 JUDGE MATTHEWS: Yes, I have.

5 MS. SHULER: Are you aware that if you  
6 violate those guidelines, the penalties are a  
7 misdemeanor, and upon conviction, you could be fined  
8 not more than a thousand dollars or imprisoned not more  
9 than 90 days.

10 JUDGE MATTHEWS: Yes, I am.

11 MS. SHULER: I would note that the Midlands  
12 Citizens Committee reported that Judge Matthews is well  
13 qualified in the evaluative criteria of constitutional  
14 qualifications, ethical fitness, professional and  
15 academic ability, character, reputation, physical  
16 health, mental stability, experience, and judicial  
17 temperament.

18 The committee's related comments stated,  
19 "Judge Matthews is well respected amongst both bench  
20 and bar. She has all the necessary qualifications to  
21 be an outstanding judge."

22 The committee stated in summary, "Judge  
23 Matthews is imminently qualified to serve as an  
24 administrative law judge."

25 I would just note for the record that any

1 concerns raised during the investigation regarding this  
2 candidate were incorporated in my questioning of the  
3 candidate today.

4 Mr. Chairman, I have no further questions at  
5 this time.

6 REPRESENTATIVE CLEMMONS: Thank you very  
7 much.

8 Are there any questions by commission  
9 members?

10 The commission will stand in recess for a  
11 moment. Judge Matthews, feel free to have a seat if  
12 you like.

13 JUDGE MATTHEWS: Thank you, sir.

14 (A recess transpired.)

15 REPRESENTATIVE CLEMMONS: We're back on the  
16 record.

17 Thank you for being here today. This  
18 concludes this portion of our screening process. As  
19 you know, the record will remain open until the report  
20 is published. And you may be called back at such time  
21 if that need should arise.

22 I remind you of the 48-hour rule and ask that  
23 you be mindful of it. And I would also ask you to  
24 remind or instruct any others that should you be  
25 screened out and they ask about advocating on your

1       behalf, remind them of the 48-hour rule and its  
2       implications.

3                       With that, thank you for offering. And we  
4       thank you for your service to South Carolina.

5                       JUDGE MATTHEWS: Thank you all very much for  
6       your time. I appreciate it.

7                       (The Honorable Carolyn C. Matthews exits the  
8       room.)

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CERTIFICATE OF REPORTER

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

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

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

Witness my hand, I have hereunto affixed my official seal this 13th day of November, 2014, at Columbia, Richland County, South Carolina.

*Sheri L Byers*



Sheri L. Byers,  
Registered Professional Reporter,  
Notary Public  
State of South Carolina at Large  
My Commission expires:  
October 30, 2023