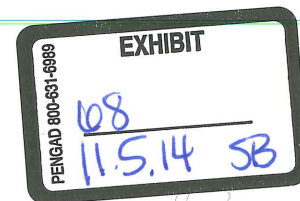


**JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE**

Court, Position, and Seat # for which you are applying:
Administrative Law Court, Seat 3

1. NAME: Mr. H. W. Funderburk, Jr.
BUSINESS ADDRESS: 944 Broad Street, Camden, SC 29020
TELEPHONE NUMBER: (office): 803-713-7323
2. Date of Birth: 1949
Place of Birth: Camden, SC
3. Are you a citizen of South Carolina? Yes
Have you been a resident of this state for at least the immediate past five years? Yes
5. Family Status: Married on September 11, 1999, to Laurie Slade Funderburk. Divorced in March 1994 from Kathryn Funderburk, Kershaw County Family Court, one-year separation. Divorced in October 1978 from H.W. Funderburk, Richland County Family Court, one-year separation. Four children.
6. Have you served in the military? Commissioned June 6, 1970; Active Duty, Sept. 1973-Dec. 1973, US. Army, Captain; Honorable Discharge, 21 August 1985
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.
 - (a) Davidson College, 1966-70, AB;
 - (b) USC, 1970-78, Ph.D. (English);
 - (c) USC School of Law, 1982-85, JD.
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.

SC, 21 Nov. 1985
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.
 - (a) Davidson College:
Student Union Board, Secretary, 1969-70
Residence Hall Council, Vice, President, 1968-69
Intramural Athletic Council, 1968-70
Eumenean Literary Society, 1969-70
Army ROTC, 1968-1970
Rifle Team, 1967-68;
 - (b) USC, English Graduate School
NDEA Fellowship, 1970-1973
Graduate Teaching Assistantship, 1971-73; 1974-78
Freshman English Committee, Graduate student member;
 - (c) USC School of Law
Moot Court Bar, International Moot Court Team, 1984-85.



10. Describe your continuing legal or judicial education during the past five years.
- | <u>Conference/CLE Name</u> | <u>Date</u> |
|--|---------------|
| (a) US Court of Appeals | 10/15/2009; |
| (b) SC Local Government Attorneys | 12/11/2009; |
| (c) Administrative Law and Ethics | 1/29/2010; |
| (d) National Assoc. of Unemployment Insurance Appellate Boards | 6/13-17/2010; |
| (e) Internet for Lawyers | 8/19/2011; |
| (f) SCAARLA 2011 Ethics Seminar | 10/7/2011; |
| (g) Second Annual Everything You Need to Know about Ethics | 1/18/2013; |
| (h) Changes to the SC Probate Code | 11/19/2013; |
| (i) Top Trial Lawyers Tackle Evidence | 2/21/2014; |
| (j) Protecting Attorney-Client Privilege & Work Product | 2/28/2014; |
| (k) Voir Dire: Finding and Ferreting out Good and Bad Jurors | 2/28/2014; |
| (l) Legal Ethics and the Law of Lawyering | 2/28/2014; |
| (m) Social Media and Ethics | 2/28/2014; |
| (n) How to Cross-Examine an Expert Witness | 2/28/2014. |
11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs?
- (a) I have presented on the ethical dangers of social media to the National Association of Unemployment Appellate Boards Annual Conference, 2010;
- (b) I have made presentations on SC Unemployment Law and Practice at various CLE seminars and to employer groups.
12. List all published books and articles you have written and give citations and the dates of publication for each.
- (a) "Independent Contractors, Temporary Workers: More Myth than Reality," SC Lawyer, 11 (January/February 2000): 15–19;
- (b) "Dracula and Vlad Tepes: Fictional and Historical Discontinuities in Character," 1 Journal of American Romanian Christian Literary Studies 116 (1980);
- (c) Ambition and Monomania: A Study of Moral Degeneration in the Plays of Christopher Marlowe, Dissertation: USC, 1978.
13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.
- (a) Admitted to practice before the State Courts of SC in 1985;
- (b) Admitted to practice before the Federal District Court of SC in 1988;
- (c) Admitted to practice before the Fourth Circuit Court of Appeals in 1986;
- (d) Also admitted to practice before the United States Supreme Court in 2006.
14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated. Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.
- (a) After my graduation law school in 1985, I worked for the SC Supreme Court as a staff attorney. My task was to draft memoranda of law as related to the facts of the cases on appeal or motions presented to the Court. I learned a great deal about trials (reading transcripts) and the law of SC as I honed my skills in legal research;

- (b) I left the Court in May 1987 when I accepted a position with Harvey and Battey, P.A. in Beaufort, SC. I was engaged in general practice working with most of the members of the firm. Because of some local issues, I was asked by Mr. Brantley Harvey to assist the DSS county office when the incumbent attorney resigned. I spent approximately half or a bit more of my time over the next seven months handling new cases and cleaning up the backlog. In spite of the emotional stress I saw in the families whose children had been removed, I found it to be a very rewarding experience. I learned a great deal about litigation (even without a jury), I learned to think on my feet, and developed techniques of examining and cross-examining witness;
- (c) Because of family issues, we decided to return to the midlands. I accepted a job with the SC Employment Security Commission and began work there in late June 1988. As staff attorney, I handled Bankruptcy claims, mortgage foreclosures, probate claims, and tax appeals. Eventually, I also began reviewing and preparing benefit cases for commission action. In 1995, the chief attorney was promoted out of the Legal Department, and I was selected to replace him as General Counsel, a position I held until shortly before my retirement in January 2011;
- (d) Since then, I have volunteered with the Guardian ad Litem office in Camden representing guardians in abuse and neglect cases. I have also been appointed to represent other parties in Family Court.

If you are a candidate for Administrative Law Judge, please provide a brief written description of your experience before an Administrative Law Judge, including any issues discussed and the frequency of your appearances before the Administrative Law Judge Court.

Most of my career as an attorney was in the area of administrative law, and about 75% of the cases I handled over twenty-five years involved cases that are now heard by the Administrative Law Court. Prior to my retiring from the Dept. of Employment and Workforce, I handled several cases before the ALC and one as a private attorney since my leaving.

15. What is your rating, if any, by any legal rating organization, such as, Best Lawyers, Chambers, Legal 500, Martindale-Hubbell, Who's Who Legal, Super Lawyers, etc.? If you are currently a member of the judiciary, list your last available rating, if any.
Martindale-Hubbell: BV Distinguished 4.4 out of 5.
16. What was the frequency of your court appearances during the past five years?
 - (a) federal: 5% Mostly filing claims for my agency against debtors and supporting those claims as necessary;
 - (b) state: 95%.
17. What percentage of your practice involved civil, criminal, domestic, and other matters during the past five years?
 - (a) civil: 60% Representing the Dept. of Employment and Workforce (and its predecessor agency) on civil appeals to circuit court and to the ALC;
 - (b) criminal: 1% prosecuting benefits fraud and unpaid taxes;
 - (c) domestic: 49% (Mostly as advocate for guardians in abuse and neglect cases).
18. What percentage of your practice in trial court during the past five years involved matters that went to a jury, including those that settled prior to trial?

- (a) jury: I prosecuted cases in Magistrate's Court for my former employer when jury trials were requested;
- (b) non-jury: 99%.
- Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters? Always as sole counsel for the party I represented.
19. List five of the most significant litigated matters you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.
See Question 20
20. List up to five civil appeals you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported.
- (a) Pee Dee Nursing Home v. SC Employment Security Commission, 303 SC 232, 399 SE2d 777 (1990). The case involved whether a successor employer inherited the unemployment tax rate of the predecessor. This case established the criteria which should be considered when determining that 90% of a business had been acquired;
- (b) Kilgore Group. v. SC Employment Security Commission, 313 SC 65, 437 SE2d 48 (1993). This is a leading case on the classification of workers (employees or independent contractors). Pivotal issue is that employee leasing company who contracted with the worker essential transferred that right of control to its client for whom the work was performed;
- (c) Murphy v. SC Employment Security Commission, 328 SC 542, 492 SE2d 625 (Ct. App. 1997). This case established that a worker who had worked a limited schedule could not qualify for unemployment benefits when she restricted the jobs she would accept to the limited schedule she had previously enjoyed;
- (d) Professional Samplers v. SC Employment Security Commission, 334 SC 392, 513 SE2d 374 (Ct. App. 1999). Rejected a claim that a company's treatment of workers as independent contractors, protected under an IRS "safe haven" rule could continue in the face of contrary state law. Appellant argued that the "safe haven" rule preempted SC law and prevented the workers from being reclassified as employees;
- (e) McEachern v. SC Employment Security Commission, 370 SC 553, 635 SE2d 644 (Ct. App. 2006). This case clarified the definition of unemployed. A person employed by his own business and who continued to work full-time or more was not unemployed so as to qualify for unemployment benefits even when he did not draw any salary (by his own choice).
21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported.
I have not handled any criminal appeals.
22. Have you ever held judicial office?
Not at this time.
24. Have you ever held public office other than judicial office?
N/A
25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor.
N/A
26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office?

I ran for Kershaw County School Board in 1989.

27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office?

I was an English professor at Campbell University from 1978-82 and served as the chairman of the English Department for the last three years. I have taught English for USC as a graduate student (1971-73; 1974-78) and continue to teach as an adjunct professor (1988-present). In addition, I worked as a television technician at Hall Radio and TV in Camden for three years (1982-85) and was a partner in the business for the last two.

Since I "retired," my wife and I started an independent bookstore in Camden, Books on Broad, which opened in June 2012, and I work there as time permits.

28. Are you now an officer or director or involved in the management of any business enterprise? Explain the nature of the business, your duties, and the term of your service.

As stated above, my wife and I started an independent bookstore, Books on Broad, in June 2012. We sell new and used books. My wife orders new books and associated items. I provide daily operational management and buy and sell used and collectible books. We added a coffee bar last year and hired a full-time manager. That has freed me to be more active in the community and return to the practice of law.

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

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

I don't believe that any of my past financial or business relationships would cause a conflict of interest in the position I seek. Of course, should an individual or entity with whom I have had a relationship, business or personal, I would assess the impact on the matter before me, alert the parties, and step aside if I or one of the parties thought my hearing the case might result in an appearance of impropriety.

31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law?

No.

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

No.

33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities?

Yes, settled.

Have you ever defaulted on a student loan? Have you ever filed for bankruptcy?

No.

34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law?

See divorces, question 5 (b)

During my separation from my second wife and prior to our divorce (1991-94), there was a foreclosure action and two magistrate's court cases to collect overdue bills. I took the responsibility to reinstate the loan, and pay the bills so these cases never went to court.

35. Have you ever, in SC or any other jurisdiction, as a lawyer, judge, or other professional, been sanctioned for lawyer, judicial, or other professional misconduct or been found to have committed such misconduct?

No.

36. Have you ever been investigated by the Department of Social Services?

No.

37. If you are in private practice, are you covered by malpractice insurance and, if so, how long have you carried malpractice insurance? If applicable, have you ever been covered by a tail policy?

Not currently. My private practice is limited to representing guardians in DSS cases brought in family court. I have had a case in the Administrative Law Court. I also draft POAs and simple wills.

38. Are you active on or a member of a social media or Internet site or have you, to your knowledge, been featured or depicted on a social media or Internet site, such as, Facebook, LinkedIn, Twitter, etc.?

I am not a member of any social media network. I co-own a business that has a social media presence, and pictures of events at our store have probably shown me assisting customers or conversing with visiting authors.

39. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)?

No.

40. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal?

No.

41. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions.

I have no knowledge of any such charges or allegations against me or any other candidate.

42. S.C. Code § 8-13-765 provides, in part, that "[n]o person may use government personnel, equipment, materials, or an office building in an election campaign." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions.

I have done nothing contrary to this provision, and I have no knowledge of any such charges or allegations against me or any other candidate.

43. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek.

None as yet.

44. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship.
None.
45. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened?
No.
46. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf?
No, and I am not aware of any contacts made on my behalf.
47. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy?
No.
48. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate?
No.
49. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.
- (a) SC Bar. I have held no office in the Bar but served on the publications committee in the early to mid 90s;
 - (b) In conjunction with my work at the SC Employment Security Commission (now the Dept. of Employment and Workforce), I was a member of the National Association of Unemployment Insurance Appellate Boards from 1996 to 2010, served on its Board of Governors, and was its President from 2009 to 2010.
50. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.
- (a) Kershaw County Library Board of Trustees, 2011–Present, Secretary;
 - (b) Kershaw County Historical Society, Board Member, President, 2010-12;
 - (c) Lyttleton Street United Methodist Church, Church Council, President, 2009-10.
51. Provide any other information that may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek.

I have done many different things in my life and worked in jobs that brought me into contact with all kinds of people. I believe these experiences have made me sensitive to the struggles that people have, especially the difficulty that some have in communicating with others. I have also been fortunate to have learned from some very bright teachers and to have worked with individuals who cared deeply about their jobs, the organizations that employed them, and the people they served. I would hope to bring the skills I have learned and the examples of dedication and professionalism to which I have been exposed to any job. I understand the value of hard work and diligence. However, it is also important to be

an active listener and to treat those who come into a courtroom with civility and respect. The best judges I have seen combine those characteristics with a humanity so genuine that even those ruled against know that they have been heard and understood. I hope to earn and maintain that respect for both myself and the court system I represent.

52. References:

- (a) Gene Wise, Chairman
Kershaw County Council
1500 Walnut Street
Camden, SC 29020
- (b) CH(COL) J. Maddox Woodbery, Jr.
PSC 704 Box 3563
APO AP 96338-0016
- (c) Dennis J. Stuber
Senior Vice President
First Citizens
PO Box 308
Camden, SC 29020
- (d) Rev. Frank Griffith, Jr.
1415 Mill Street
Camden, SC 29020
- (e) Penny Pullum Anderson
518 Hampton Street
Camden, SC 29020

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

Signature: Harold W. Funderburk, Jr.

Date: 6 August 2014

Harold W. Funderburk, Jr.
Attorney at Law
1804 Broad Street
Camden, South Carolina 29020
803.427.4687 (cell)
803.432.4597 (fax)

August 19, 2014

Jane O. Shuler, Esquire
Chief Counsel
Judicial Merit Selection Commission
Post Office Box 142
Columbia, South Carolina 29202

Dear Ms. Shuler:

As we discussed, I am amending my answers to the following questions to reflect a change in my status that occurred after the submission deadline.

The answers are attached as a supplement to the form.

Sincerely,

A handwritten signature in blue ink that reads "Harold W. Funderburk, Jr." in a cursive style.

Harold W. Funderburk, Jr.

**JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE**

Supplement

Subsequent to submitting my application, I accepted a position as a part-time municipal judge for the City of Camden, effective August 13, 2014. Therefore, I have amended my answers to the two questions below:

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

I was sworn in on August 12, 2014, and signed a contract to begin my term of service on August 13, 2014. I was appointed by the Camden City Council. The jurisdiction of this court includes misdemeanors, traffic offenses, and violations of city ordinances occurring within the city limits of Camden, SC. It also includes bond hearings for these and other criminal charges arising within the city.

23. If the answer to question 22 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported. Also list citations to any appellate review of these orders or opinions.

Since I am still in training, I have not issued any orders or tried any cases. Accordingly, there has been no appellate review of anything I have done.

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

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

Signature:



Date: 19 August 2014

Harold W. Funderburk, Jr.
Attorney at Law
1804 Broad Street
Camden, South Carolina 29020
803.427.4687 (cell)
803.432.4597 (fax)

October 23, 2014

JANE O. SHULER, ESQUIRE
CHIEF COUNSEL
JUDICIAL MERIT SELECTION COMMISSION
POST OFFICE BOX 142
COLUMBIA, SOUTH CAROLINA 29202

Dear Ms. Shuler:

As we discussed, I am amending my answers to the following questions to correct discrepancies that you called to my attention and to provide additional information concerning a matter revealed by the records check done by SLED.

These corrections are attached as supplements to the forms and documents previously submitted.

Sincerely,

A handwritten signature in cursive script that reads "Harold W. Funderburk, Jr." with a stylized flourish at the end.

Harold W. Funderburk, Jr.

In addition, I am correcting the Personal Data Questionnaire as follows:

**JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE**

Supplements

17. What percentage of your practice involved civil, criminal, domestic, and other matters during the last five years?
- (a) civil: 60% Representing the Dept. of Employment and Workforce (and its predecessor agency) on civil appeals to circuit court and to the ALC
 - (b) criminal: 1% prosecuting cases of benefit fraud and unpaid taxes
 - (c) domestic: 39% (Mostly as advocate for guardians in abuse and neglect cases)
 - (d) other:
18. What percentage of your practice in trial court during the last five years involved matters that went to a jury, including those that settled prior to trial?
- (a) jury: I have prosecuted a few cases on behalf of my former agency in Magistrate 's Court when jury trials were requested (*1% or less*).
 - (b) non-jury: 99%
- Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters?
- Always as sole counsel for the agency or party I represented.
33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Yes, settled.

In addition, one other matter has been called to my attention. I believe there was an underpayment of estimated taxes on my 1995 return. My software calculated the penalties and interest owed and added it to the amount remitted. Typically, DOR sends a Notice of Adjustment detailing how the payment is allocated to taxes, penalties, and interest. I did not review those details against the amount paid with the return. Had I done so, I would have realized that the payment left another \$153.08 due. When I subsequently received a bill, I intended to question DOR about it. However, I decided instead to pay the discrepancy and put the matter to rest. I do not recall whether my payment and the warrant for distraint passed in the mail or whether I wrote the check after receiving the warrant. Either way, I paid the amount owed shortly after receiving the demand.

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

I HEREBY CERTIFY THAT MY ANSWERS ARE TRUE AND COMPLETE TO THE BEST OF
MY KNOWLEDGE (*INCLUDING THE INFORMATION ON THE ATTACHED CORRECTED
PAGE 3 OF THE STATEMENT OF ECONOMIC INTERESTS*).

Signature: Harold W. Jundt

Date: 23 October 2014